75th Anniversary of Supreme Court Part II

Why in news?

Recently Chief Justice of India DY Chandrachud addressed a unique ceremonial bench as the country's highest court turned 75 years.

To know about Part I - Click here

What are the issues associated with the collegium system?

Original Constitution has not mentioned collegium

- The collegium consists of CJI and 4 senior most judges of the Supreme Court.
- **First Judge Case, 1981**- The Supreme Court ruled that the word "consultation" could not be interpreted as "concurrence".
    - Accordingly the CJI's opinion was not binding on the executive.
- **Second Judges Case, 1993**- The court overruled its earlier decisions and held that "consultation" meant "concurrence".
    - This means that the advice rendered by the CJI on matters of appointments is binding on the President.
- **Third Judges Case, 1998-** The court clarified that the collegium would comprise
    - CJI and 4 senior-most colleagues - Appointments to Supreme Court
    - CJI and 2 senior-most colleagues - Appointments to High Courts
- **NJAC-** The government, through ***99th constitutional amendment***, sought to replace the collegium with the National Judicial Appointments Commission (NJAC).

NJAC included the Union Minister for Law and Justice and two eminent persons, besides the CJI and next two senior most SC judges.

- **Fourth Judges Case, 2015**- The court ruled that the primacy of the judiciary in judges' appointments was embedded in the basic structure of the Constitution.
    - NJAC was declared as *unconstitutional and void* by the Supreme Court.

To know about judicial selection click here

What are the structural issues affecting the judiciary?

- **Pendency of cases**- As of 2022, over 4.7 crore cases are pending in courts across different levels of the judiciary.

- **Archaic procedures**- Some procedural norms may be outdated and cumbersome, modernizing these procedures can enhance efficiency and accessibility.
- **Judicial vacancies**- The pendency of cases in the judiciary is due to judicial vacancies.
- **Culture of adjournments**- Frequent adjournments can delay justice delivery, this should me minimized to reduce unnecessary delays.
- **Lack of diversity** - The absence of an institutional mechanism to ensure diversity on the Bench in the judiciary is a problem.

  There has never been a woman Chief Justice of the Supreme Court of our country.

- **Lack of transparency**- Collegium is seen as a closed-door affair with no prescribed norms regarding eligibility criteria, or even the selection procedure.
- **Long court vacations**- The court takes a week-long break each for Dussehra and Diwali, and 2 weeks at the end of December which impact the functioning of judiciary.

What are the key takeaways from the Diamond Jubilee Celebration of Supreme Court?

- **Principles**- The Chief Justice of India emphasised three principles that are necessary for the Supreme Court to function according to the constitutional mandate.
- **Independent judiciary**- The Supreme Court must be independent of the legislature and executive.

  Article 50 says that the State is directed to take measures to ensure the separation of the judiciary from the executive within the public services of the State.

- **Constitutional interpretation**- The Supreme Court must interpret the Constitution not as a rigid body of rules, but as a living organism.
- **Citizen's respect**- The Supreme Court must secure the respect of citizens for it to establish itself as a legitimate institution.
- **Enhance faith in justice delivery system**-
  - **Dynamic Jurisprudence**- The court recognizes that the law is not static but constantly evolving. It deliberately avoids conferring permanence upon judicial decisions, allowing space for disagreement.
  - **Increase access to Courts**- This would reduce the judicial burden as currently 65,915 registered cases are pending in the Supreme Court.

To know about revamping Indian judiciary click here

What are the steps taken to promote the functioning of Indian judiciary?

- **Digital Supreme Court Reports (Digi SCR)**- It has 36,308 cases of SC since 1950,

accessible to the public in the digital format.

- **Digital Courts 2.0** -It enables access of court records to the Judges of the district courts in digital form, it is coupled with the use of AI for transcribing speech to text on a real-time basis.
- **New website of the SC**-It will be in bilingual format in English and Hindi and has been redesigned with a user-friendly interface.
- **Suswagatam**- It is an online app launched in 2023 that allows users to register and request e-passes to attend court proceedings or meet lawyers, among other activity.
- **Jan vishwas bill**- The bill proposed appointing adjudicating officers which would reduce pressure on the justice system.
- **eCourts**- It is a mission mode pan-India project, monitored and funded by Department of Justice, Ministry of Law and Justice, for the District Courts across the country.

References

1. Indian Express- 75th anniversary Supreme Court
2. The Hindu- PM addresses 75th anniversary celebrations of the Supreme Court
3. SCI- History of Supreme Court of India

SHANKAR IAS PARLIAMENT
Information is Empowering