Polity & Governance · GS - II

Discuss the evolution of collegium system in India. Critically examine the advantages and disadvantages of the system of appointment of the Judges of the Supreme Court of India and that of the USA.

EXAM YEAR	PAPER	SUBJECT
2025	GS - II	Polity & Governance

MARKS	WORD LIMIT
15	~250 words

Answer Hint

Article 124, First Judges Case, Second Judges Case, Third Judges Case, collegium, NJAC, judicial independence, transparency, Senate confirmation, separation of powers, checks and balances

Model Answer

Introduction

Judicial appointments reflect the constitutional tension between judicial independence and democratic accountability. India and the USA adopt substantially different mechanisms to resolve this tension.

1. Evolution of India's collegium

Initially, Article 124 envisaged appointment of Supreme Court judges by the President after consultation with specified judges. In the First Judges Case (1981), executive primacy prevailed.

The Second Judges Case (1993) reversed this position and established judicial primacy, creating the collegium. The Third Judges Case (1998) expanded the collegium to the Chief Justice of India and four senior-most Supreme Court judges for Supreme Court appointments.

The 99th Constitutional Amendment and NJAC Act, 2014 sought to replace the collegium with a broader body involving the executive and eminent persons. In 2015, the Supreme Court struck down the NJAC framework, reaffirming judicial independence.

2. India: merits and concerns

The collegium reduces direct political influence and protects judicial independence. However, concerns include opacity, limited public criteria, perceived nepotism, delayed appointments and inadequate institutional accountability.

3. USA: contrasting model

In the USA, the President nominates Supreme Court judges and the Senate provides advice and consent. This introduces democratic and political accountability through an openly contested confirmation process.

However, confirmation hearings can become highly politicised, making judicial appointments closely associated with ideological and political preferences.

Conclusion

India prioritises judicial independence through judicial primacy, whereas the USA emphasises institutional checks through executive nomination and legislative confirmation. India's challenge is to improve transparency and accountability without compromising judicial autonomy. The Supreme Court recognises judicial independence as a basic constitutional feature.

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