

Semester 2 MJC 2

Appointment of Judges in Supreme Court of India

The appointment of judges to the Supreme Court of India is a crucial process that ensures the independence and integrity of the judiciary. The process is governed by the Constitution of India, specifically Articles 124 and 217, and the Supreme Court (Number of Judges) Act, 1956.

Eligibility Criteria

To be eligible for appointment as a judge of the Supreme Court, a person must:

- Be a citizen of India
- Have been a judge of a High Court or two or more High Courts in succession for at least five years, or
- Have been an advocate of a High Court or two or more High Courts in succession for at least ten years, or
- Be a distinguished jurist in the opinion of the President

Appointment Process

The appointment process involves the following steps:

1. Recommendation by Collegium: The Chief Justice of India (CJI) and four senior-most judges of the Supreme Court recommend names for appointment as judges. This collegium system was introduced in 1993 to ensure that the appointment process is transparent and consultative.

2. Consultation with the President: The CJI forwards the recommended names to the President of India, who is the appointing authority.

3. Verification and Appointment: The President verifies the credentials of the recommended candidates and appoints them as judges of the Supreme Court.

Key Features of the Collegium System

- Primacy of the CJI: The CJI has a significant role in the appointment process, and the President is bound by the CJI's recommendations.

- Collective Decision-Making: The collegium system ensures that the appointment process is a collective decision-making process, reducing the possibility of individual bias.

- Transparency: The collegium system has brought transparency to the appointment process, reducing the scope for executive interference.

Challenges and Controversies

- Lack of Transparency: Despite the collegium system, the appointment process remains opaque, with no clear criteria for selection.

- Executive Interference: There have been instances of executive interference in the appointment process, undermining the independence of the judiciary.

- Pendency of Appointments: The appointment process is often delayed, leading to a backlog of vacancies in the Supreme Court.

Reforms and Recommendations

- National Judicial Appointments Commission (NJAC): The NJAC was proposed to replace the collegium system, but it was struck down by the Supreme Court as unconstitutional.
- Memorandum of Procedure (MoP): The MoP is a draft document that outlines the procedure for appointing judges to the Supreme Court and High Courts. However, its implementation has been delayed.

Conclusion

The appointment of judges to the Supreme Court of India is a critical process that requires transparency, accountability, and independence. While the collegium system has its limitations, it has ensured the independence of the judiciary to a large extent. There is a need for further reforms to make the appointment process more transparent and accountable.

