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CIVIL SERVICES ACHIEVERS' POINT

A ONE STOP SOLUTION FOR UPSC/APSC/SSC & BANKING

EDITORIAL ANALYSIS

of

THE HINDU

DATE – 6th July, 2021

For Preliminary and Mains examination

(Also useful for APSC and other government examinations)

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Leadership through knowledge...

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EDITORIALS

- *Will a national judiciary work? (GS 2 – Polity and Governance)*
- *Crafting a unique partnership with Africa (GS 2 – India – Africa relations)*

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Will a national judiciary work?

Context

- The Union government appears to be steadfast in its resolve to implement reforms in recruitment and appointment to the subordinate judicial services.
- In 2019, it spearheaded a consultative process for the creation of the All India Judicial Service (AIJS). Initially, only four States and two High Courts supported the proposal. Eight States rejected it, five suggested changes, and 11 are yet to respond.
- Recently, the Centre took the ordinance route to effect changes in the appointment of members to various tribunals.
- In a single stroke, it **abolished several tribunals.** The manner of appointment of members to the remaining tribunals underwent a sea change. It is likely that the ordinance may not pass judicial scrutiny in light of the Supreme Court's judgment in Rojer Mathew v. South Indian Bank (2019).

Constitutional perspective

- Article 233(1) of the Constitution lays down that "appointments of persons to be, and the posting and promotion of, district judges in any State shall be made by the Governor of the State in consultation with the High Court exercising jurisdiction in relation to such State".
- The 42nd Constitutional amendment in 1976 amended Article 312 (1) empowering Parliament to make laws for the creation of one or more All-India Services, including an AIJS, common to the Union and the States.
- However, Clause 3 of Article 312 places a restriction that such a service shall not include a post inferior to that of a district judge. The amendment also brought about a significant change in the Seventh Schedule — Entry 3 of List II in its entirety was placed as Entry 11A in List III.

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- This paves the way for Parliament to enact laws with regard to 'Administration of Justice; constitution and organisation of all courts, except the Supreme Court and the High Courts'.
- Post-Emergency, amendment to Article 312 (1) has escaped parliamentary scrutiny.
- A dichotomy exists with regard to Articles 233 and 312. What was essentially intended to be the prerogative of the State will now be the prerogative of the Union.
- If the fundamental power of the States to make such rules and govern the appointment of district judges is taken away, it may be against the principle of federalism and the basic structure doctrine.
- The First Law Commission deliberated upon this, but it was only in 1972 that the issue gained momentum. The views of the Chief Justice of India and the Law Commission reports perhaps paved the way to bring in the 42nd constitutional amendment.
- It was only in 1986 that the Law Commission resurrected the issue and deliberated upon the objections. The primary fear was that promotional avenues of the subordinate judiciary would be severely curtailed. Fifty per cent of the posts of district judges are to be filled by promotion from the subordinate judicial service, thus leaving open the remaining for direct recruitment.
- Another fundamental concern was the **language barrier**. The Union Law Minister has extolled AIJS to be an ideal solution for equal representation of the marginalised and deprived sections of society.
- Most **States already have a reservation policy in force**. Tamil Nadu provides for a roster-based reservation of 69%, of which 30% is for women. Uttar Pradesh merely provides 20% reservation for women and the AIJS may therefore benefit States like U.P. Arguments that the AIJS will reduce judicial delays do not hold water as the subordinate courts are the crucial point of delays owing to the existence of large vacancies.
- In the early 1960s, the issue was debated during the Chief Justices Conference and was favoured by the eminent body, but many States and High Courts opposed it.
- The First National Judicial Pay Commission found that it would be in the interest and the health of the judiciary to form an AIJS. The report supported and reiterated the recommendations of the 14th Law Commission.

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- In the **All-India Judges case in 1992** the apex court had opined that the recommendations of the Law Commission should be examined and implemented. The issue was again discussed in **All India Judges Association Vs. Union of India (2002)**.
- The court accepted most recommendations of the **Shetty Commission** and **directed the government to implement the judgment**.
- Any groundbreaking reform is bound to receive criticism. The National Commission constituted for review of the Constitution headed by luminaries including Justice H.R. Khanna, Justice B.P. Jeevan Reddy and K. Parasaran, the then Attorney General, had **suggested a paradigm shift in the approach of the Union**.
- The feasibility of the AIJS in the current context requires to be studied, especially when reliance is placed upon archaic reports of the Law Commission. It is for the Union to dispel doubts and at the same time give wings to the aspirations of all stakeholders when implementing the proposal. It, however, remains to be seen if the AIJS would be like the proverbial curate's egg.



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Crafting a unique partnership with Africa (GS 2 - India - Africa relations)

Context

- “A historical solidarity is today a modern partnership,” tweeted External Affairs Minister S. Jaishankar during his recent trip to Kenya.
- Critical to its foreign policy matrix, **New Delhi's engagement with the African continent has been multifaceted, with projects implemented under Indian lines of credit, capacity-building initiatives, and cooperation in a range of sectors.**
- As an **importer of fruits, nuts, grains and pulses from the continent**, Indian congruence with African countries in the **agriculture sector is expanding.**
- With 65% of the world's uncultivated arable land, employing over 60% of the workforce, and accounting for almost 20% of Sub-Saharan Africa's GDP, agriculture is critical to Africa's economy. **The African Continental Free Trade Area agreement is expected to improve cost competitiveness by removing tariffs.**
- As this relationship enters the post-pandemic world, it is **vital to prioritise and channel resources into augmenting partnership in agriculture.**
- This is crucial given its unexplored potential, centrality to global food security, business prospects and to provide credible alternatives to the increasing involvement of Chinese stakeholders in the sector.

Analysing Chinese engagement

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- Evaluating the approaches that Chinese corporations, small and medium-sized enterprises and entrepreneurs adopt has provided a layered perspective of the sociopolitical, economic and environmental impact of Chinese engagement.

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- Today, China is among Africa's largest trading partners. It is also Africa's single biggest creditor.
- Its corporations **dominate the region's infrastructure market** and are now entering the **agri-infra sector**. Increasingly critical to China's global aspirations, its engagement in African agriculture is taking on a strategic quality.
- Therefore, dismissing Beijing's engagement in African agriculture as inconsequential for New Delhi would be unwise. While **access to Africa's natural resources, its untapped markets and support for 'One China Policy' are primary drivers of Chinese engagement with the region**, there are other factors at play.
- Chinese-built **industrial parks and economic zones in Africa** are attracting **low-cost, labour intensive manufacturing units** that are relocating from China.
- Chinese engineers interviewed spoke of how their operations in Africa are important to accumulate global experience in management, risk and capital investments. Not only are they willing to overlook short-term profits in order to build 'brand China', but they want to **dominate the market in the long term**, which includes pushing Chinese standards in host countries.
- Chinese tech companies are laying **critical telecommunications infrastructure, venture capital funds are investing in African fintech firms**, while other smaller enterprises are expanding across the region.
- While many Chinese entities have been **active in Africa's agricultural landscape** for decades now, the nature, form and actors involved have undergone substantial change. In **Zambia**, Chinese firms are introducing **agri-tech to combat traditional challenges**, such as **using drone technology** to control the fall armyworm infestation.
- They have set up over 20 Agricultural Technology Demonstration Centers (ATDCS) in the continent where Chinese agronomists work on developing new crop varieties and increasing crop yields. These ATDCs **partner with local universities, conduct workshops and classes for officials and provide training and lease equipment to small holder farmers.**
- Chinese companies with no prior experience in agriculture are setting out to build futuristic ecological parks while others are purchasing large-scale commercial farms. Furthermore, African agriculture experts, officials and farmers are provided opportunities to augment skills and be trained in China.

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- The **exponential growth in the China-Africa economic ties** and the emergence of Beijing as an alternate to traditional western powers has motivated change in perceptions across groups.
- Also Africa-China relations are **becoming complex with a growing, insular diaspora, lopsided trade, looming debt, competition with local businesses and a negative perception accompanied by greater political and socioeconomic interlinkages.**
- **Examining Chinese interactions also provides cues on what not to do.** The Chinese and African experts working in ATDCs seemingly operate in silos. On occasion, there seems to be a **gap between skills transferred in China and the ground realities in Africa.**
- In some cases, the technology taught in China is not available locally and in others, there is inability to implement lessons learnt **due to the absence of supporting resources.** Larger commercial farms run by Mandarin-speaking managers and the presence of small-scale Chinese farmers in local markets aggravates socio-cultural stresses.

Takeaways for India

- **India-Africa agricultural cooperation** currently includes **institutional and individual capacity-building initiatives** such as the India-Africa Institute of Agriculture and Rural development in Malawi, **extension of soft loans, supply of machinery, acquisition of farmlands and the presence of Indian entrepreneurs in the African agricultural ecosystem.**
- Indian farmers have purchased over 6,00,000 hectares of **land for commercial farming in Africa.** Sub-national actors are providing another model of cooperation in agriculture.
- Consider the case of the **Kerala government trying to meet its steep requirement for raw cashew nuts amounting to 8 lakh tonnes a year with imports from countries in Africa** to complement its production capacity currently limited to 0.83 lakh tonnes.
- There are also proposals to create a jointly-owned brand of **Africa-Kollam cashews.** Similar ideas could encourage State governments and civil society organisations to identify opportunities and invest directly.
- There is also promise in **incentivising Indian industries to tap into African agri-business value chains and connecting Indian technology firms and startups with partners in Africa.** The transformative power of innovative and disruptive technology has been evident in the African

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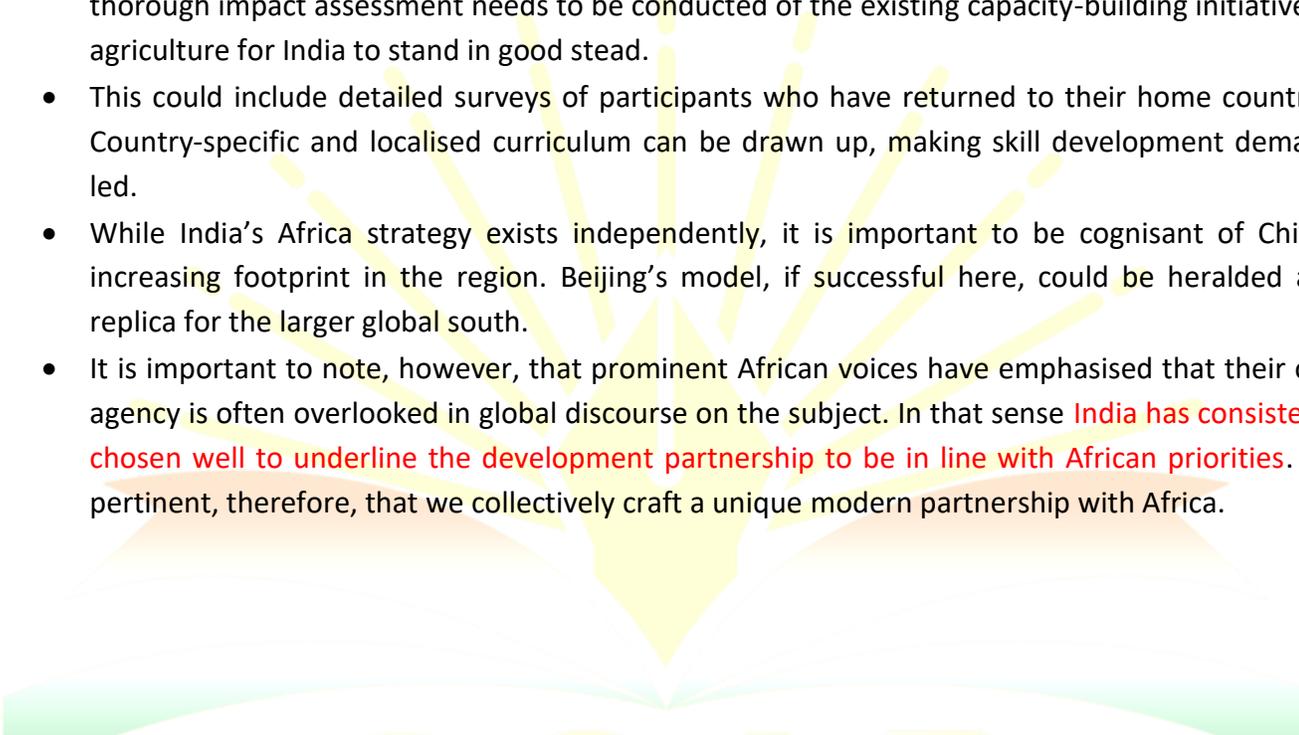
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agri-tech sector as the startup ecosystem in the continent enjoyed a 110% growth between 2016 and 2018.

- In the past year, despite the pandemic, the sector witnessed a record increase in investments. A thorough impact assessment needs to be conducted of the existing capacity-building initiatives in agriculture for India to stand in good stead.
- This could include detailed surveys of participants who have returned to their home countries. Country-specific and localised curriculum can be drawn up, making skill development demand-led.
- While India's Africa strategy exists independently, it is important to be cognisant of China's increasing footprint in the region. Beijing's model, if successful here, could be heralded as a replica for the larger global south.
- It is important to note, however, that prominent African voices have emphasised that their own agency is often overlooked in global discourse on the subject. In that sense **India has consistently chosen well to underline the development partnership to be in line with African priorities**. It is pertinent, therefore, that we collectively craft a unique modern partnership with Africa.



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