

BALANCING SCALES: IS THE THREE-YEAR BAR RULE A SHIELD OR A SHACKLE?

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Abstract:

The Supreme Court of India's recent ruling to reinstate a three-year practice requirement for entry into lower judiciary, has led to a heated discussion regarding its efficiency and fairness. This article brings to the fore the concern about the rationale behind the mandate and in what way it effects women, first-generation lawyers, and marginalised communities, who already face too many systemic barriers in this field. With significant underrepresentation of different groups, the article explores how this rule threatens to exacerbate the situation by excluding capable candidates by reinforcing current hierarchies. The article condemns the assumption that private practice uniformly equips candidates to become a finer judge, highlighting its uneven quality and inaccessibility. It promotes a reformed, and more robust post-selection training by State Judicial Academies to achieve judicial competence without perpetuating hierarchies. These would promote inclusivity with competence, being in consonance with the constitutional promise of equal opportunity and generating a diverse, competent judiciary which is representative of the population of India.

Keywords: Bar Council of India, Judiciary examinations, Supreme Court, Three-year Practice.

INTRODUCTION

On May 20, 2025, the Supreme Court of India reconsidered and reversed¹ its 2002 ruling², reinstating the three-year minimum practice requirement for admission to the subordinate judiciary. The bench noted that judicial officers, responsible for issues concerning the "life, liberty, property, and reputation of litigants," necessitate not only academic knowledge but also courtroom experience, mentorship from senior advocates, and familiarity with legal practice to perform their duties effectively. The bench instructed states to revise regulations accordingly, requiring candidates' practice to be certified by a senior advocate with a minimum of ten years of experience.

In 1993, the Supreme Court, in the 2nd All India Judges Association case, first established the prerequisite of three years of practice at the Bar as a criterion for admittance into the lower judiciary. The objective was to standardise the selection procedure nationwide, as certain states mandated merely a law degree for candidacy for the position of Civil Judge, without any prerequisite practice or post-selection training. In 2002, the Supreme Court, in the 3rd All India Judges Association case, overturned its previous ruling. The court admitted that: "... With the passage of time, experience has shown that the best talent which is available is not attracted to the judicial service. A bright young law graduate after 3 years of practice finds the judicial service not attractive enough." The court also observed that, "...after taking into consideration the views expressed before it by various authorities, that the need for an applicant to have been an advocate for at least 3 years should be done away with. After taking all the circumstances into consideration, we accept this recommendation of the Shetty Commission and the argument of the learned amicus curiae that it should be

¹ All India Judges Association and Ors. vs. Union of India and Ors. (20.05.2025 - SC) : MANU/SC/0750/2025.

² All India Judges' Association and Others Versus Union of India (UOI) and Ors. (21.03.2002 - SC) : MANU/SC/0251/2002

no longer mandatory for an applicant desirous of entering the judicial service to be an advocate of at least three years' standing... We, however, recommend that a fresh recruit into the judicial service should be imparted training of not less than one year, preferably two years."

Reinstating the 1993 stance in the All India Judges Association Case, 2025, is predicated on the erroneous notion that judicial experience uniformly endows candidates with requisite skills. The calibre of legal practice significantly differs throughout India, particularly in Tier 2 and Tier 3 cities, where access to substantial litigation prospects is constrained. A multitude of young solicitors, especially women, encounter systemic obstacles including undercompensated clerkships, insufficient mentorship, and hazardous job conditions. The Bar Council of India's data reveals that merely 15% of registered advocates are women³, highlighting the obstacles females have in establishing a practice. Mandating three years of experience may exclude qualified candidates who lack the resources to overcome these obstacles, especially women and those from marginalised communities. In summary, however well-meaning, the regulation may perpetuate existing hierarchies without ensuring improved judgement.

CHALLENGES TO FIRST-GENERATION LAWYERS

The weight of a three-year apprenticeship is most significant for first-generation law graduates who lack familial ties to the legal profession. Advocate Mathews J Nedumpara, a petitioner-in-person, presented a report to a five-judge constitutional bench reviewing petitions contesting the NJAC Act 2020. The report indicates that approximately 50% of High Court judges and 33% of Supreme Court judges originate from families with legal backgrounds, highlighting the prevalence of legal dynasties within the judiciary.⁴ According to Vidhi Centre for Legal Policy (2018), the lower judiciary exhibits a little more diversified composition compared to upper courts.⁵ Nevertheless, the law profession, being inherently network-oriented, results in newly admitted lawyers lacking connections at the Bar facing difficulties in securing a substantial mentorship opportunity. They may labour in nondescript offices on trivial filings or draughting affidavits, rather than participating in substantive courtroom activities. Conversely, individuals from affluent homes may only endure this three-year interval or utilise it for coaching or similar endeavours, which many cannot financially support. Furthermore, the certification method disproportionately affects access: seniors may reject endorsements from outsiders or require unreasonable compliance in exchange. The outcome is a glass ceiling, where deserving first-generation candidates may be excluded, while the judiciary increasingly remains the domain of privileged elites.

Advocates may contend that courtroom exposure fosters resilience and practical knowledge; nevertheless, a significant portion of this "experience" comprises duties (e.g., scanning/printing, filing, mailing, draughting affidavits) that do not cultivate the requisite judicial abilities in practice. Systematic and focused training in judicial responsibilities (e.g., case management, evidence assessment) following selection could cultivate these skills more equally, guaranteeing competency without dependence on inconsistent private practice.

MARGINALISED COMMUNITIES

Marginalised communities (SC/ST/OBC) have, to some degree, gained from state-level judicial services as a reliable employment option; yet, they remain significantly under-represented in the judicial sphere. Among the 279 judges in the history of India's supreme court, hardly 27 have originated from OBC, SC, or

³ Government of India Ministry of Law and Justice, Department of Justice, Proportion and Strength of Women Judges and Lawyers, (2023), Rajya Sabha, <https://sansad.in/getFile/annex/259/AU123.pdf?source=pqars>.

⁴ Mathews J. Nedumpara, Shri Mathews J. Nedumpara & Ors. versus Hon'ble The Chief Justice of India & Ors. (WRIT PETITION (CIVIL) D. NO. 35794 OF 2022) (2024), <https://nedumpara.com/wp-content/uploads/2024/09/MJN-FINAL-FILED-APPEAL-SCAN-29.05.2024.pdf>.

⁵ Arijeet Ghosh, Diksha Sanyal & Nitika Khaitan Khaitan, Tilting the Scale: Gender Imbalance in the Lower Judiciary, <https://vidhilegalpolicy.in/> (2018), https://vidhilegalpolicy.in/wp-content/uploads/2019/05/180212_TiltingtheScale_Final.pdf.

ST backgrounds.⁶ The Ministry of Law & Justice reports that from 2018 to 2024, just 21 judges of the 684 appointed to High Courts were from Scheduled Castes (SC), 14 from Scheduled Tribes (ST), 82 from Other Backward Classes (OBC), and 37 from Minorities.⁷

In 2002, the objective of reducing entry restrictions was to expand the applicant pool to encompass talented law graduates from rural and under-represented populations. Reinstating the practice requirement may further diminish the already limited pool. It inadvertently advantages individuals with superior social capital and financial resources. This extends the judiciary's "entry gate" beyond the reach of those it is intended to serve, contravening the constitutional guarantee of equal opportunity.

DISPROPORTIONATE IMPACT ON WOMEN

The three-year mandate creates an extended employment hiatus post-graduation, constituting a substantial impediment for women, who already encounter systemic challenges in society. A five-year integrated law program, succeeded by three years of practice, followed by the judicial selection procedure, and an additional year of compulsory training, provided the candidate is successful on their initial attempt. Even with an optimistic estimation of the lowest time needed, it is undoubtedly a decade-long journey that leads applicants into their late 20s or 30s. For numerous Indian women, this aligns with familial expectations to marry or initiate a family. The National Family Health Survey (NFHS) 2019–21 indicates that the median age of first marriage for women in India is 19.2 years.⁸ Social norms provide a rigid timeframe for women, perhaps dissuading them from pursuing judicial careers due to prolonged training requirements. Consequently, this intensifies the preexisting deficiency of diversity, rendering the judiciary even less reflective of the demographic it is intended to serve.

Women encounter significant obstacles in the legal profession. They represent a minuscule fraction of practicing attorneys (about 15%) and frequently face prejudice, insufficient mentorship, and financial instability in entry-level positions. Inadequate or nonexistent remuneration, notwithstanding the Bar Council's stipend recommendations⁹ (₹20,000/month, which remains an unreasonable expectation), renders three years of legal practice a financial burden, particularly in costly urban areas. Obtaining the necessary certification can be more challenging for women who lack the professional networks available to men; reports indicate that influential supporters may be reluctant to certify subordinates they cannot leverage, so exacerbating obstacles. The Supreme Court's "State of the Judiciary" report (2023) indicates that 36.3% of district-level judges are women, but their representation decreases to 13.4% in High Courts and 9.3% in the Supreme Court, with only 11 female judges having served on the highest court.¹⁰ The new rule, by postponing entry, jeopardises the encouragement of women, diminishes judicial diversity, and illustrates a funnel effect that excludes women from ascending to higher levels. The three-year practice requirement jeopardises the pool of women qualified for entry-level judicial positions, hence constraining their

⁶ Nishant Ranjan, The Skewed Social and Legal Pool of Supreme Court Judges | Number Theory, Hindustan Times, May 16, 2025, <https://www.hindustantimes.com/editors-pick/the-skewed-social-and-legal-pool-of-supreme-court-judges-number-theory-101747278115551.html>.

⁷ Government of India Ministry of Law and Justice, Department of Justice, Representation of Judges of Weaker Section in Supreme Court and High Courts, (2024), Lok Sabha, [https://sansad.in/getFile/loksabhaquestions/annex/183/AU3117_uf5ioo.pdf?source=pqals#:~:text=Based%20on%20the%20information%20provided%20by%20the,belong%20to%20Minorities%20\(As%20on%2009.12.%202024\).](https://sansad.in/getFile/loksabhaquestions/annex/183/AU3117_uf5ioo.pdf?source=pqals#:~:text=Based%20on%20the%20information%20provided%20by%20the,belong%20to%20Minorities%20(As%20on%2009.12.%202024).)

⁸ UNFPA India, Child Marriage in India: Key Insights from the NFHS-5 (2019-21), Analytical Paper Series # 1 (2022), https://india.unfpa.org/sites/default/files/pub-pdf/analytical_series_1_-_child_marriage_in_india_-_insights_from_nfhs-5_final_0.pdf.

⁹ Bar Council of India, BCID-5383-2024-Circular to All State Bar Council and Bar Association for Minimum Stipend for Junior Advocates, <https://www.barcouncilofindia.org/home> (2024), <https://www.barcouncilofindia.org/info/bcid-5383--bz6uy6>.

¹⁰ Centre For Research & Planning SUPREME COURT OF INDIA, STATE OF THE JUDICIARY: A Report on Infrastructure, Budgeting, Human Resources, and ICT, 13 (2023), https://cdnbbsr.s3waas.gov.in/s3ec0490f1f4972d133619a60c30f3559e/documents/misc/state_of_the_judiciary.pdf.

advancement to higher judicial jobs.

INTERSECTIONAL CHALLENGES FOR WOMEN

The mandate's effect is not consistent among all women; it intersects with additional forms of marginalisation, including caste, class, and geography. Women belonging to Scheduled Castes, Scheduled Tribes, Other Backward Classes, and Economically Weaker Sections encounter multifaceted obstacles. For first-generation women lawyers from these backgrounds, navigating this field is far more challenging. Women in rural areas have greater challenges. The court facilities in smaller towns frequently lack essential amenities, such as designated women's washrooms, as highlighted by a 2019 survey conducted by the Vidhi Centre, which reported that approximately 100 district courts were without these facilities.¹¹ Safety apprehensions in male-dominated judicial environments further dissuade women from following this career trajectory.

COMPARATIVE ANALYSIS WITH OTHER BRANCHES OF GOVERNMENT

The admission standards of the lower judiciary markedly differ from those in the legislative and executive. Legislators, such as Members of Parliament and Members of Legislative Assemblies, are permitted to assume office and enact legislation for a nation of 1.4 billion inhabitants at the age of 25, without any prerequisite qualifications. IAS, IPS, and IFS officers can commence their careers at the age of 21, assuming significant duties such as district administration, police administration, or foreign diplomacy in their early twenties. The NITI Aayog has proposed reducing the maximum age restriction for civil services from 30 (32 with relaxations) to about 27, so indicating a persistent confidence in younger individuals.¹²

Young bureaucrats, including District Collectors and Magistrates, perform quasi-judicial functions related to law and order, revenue courts, elections, and disaster management, akin to judicial duties. They also represent India at international forums concerning significant economic, United Nations, or climate-related concerns. The Supreme Court's new order mandates prior experience and significant practice, which contradicts the objective of empowering young leaders.

RECOMMENDATIONS

Rather than prolonging access to the judiciary through connections and resources, which may exclude women, first-generation attorneys, and individuals from marginalised groups, we must rectify the deficiencies present in the post-selection training paradigm. State Judicial Academies (SJAs) are regulated by laws established by the High Courts of the respective states, with governing councils generally comprising High Court judges and, occasionally, state officials. This 1986 approach, recommended by the Chief Justice of India, restricts the academic autonomy of SJAs by subjecting them to stringent judicial oversight.¹³ Professor Geeta Oberoi has criticised this arrangement, noting that the SJA's "umbilical cord" to High Courts positions SJAs as a subordinate extension of the judiciary rather than as educational institutions.¹⁴ Directors oversee the daily operations of the SJAs, the bulk of whom are District Judges, with the exception of Chandigarh, Delhi, and Jharkhand, which are managed by academicians.¹⁵ Moreover, SJAs in numerous states do not possess permanent professors, depending instead on District Judges or visiting

¹¹ Sumathi Chandrashekar, Diksha Sanyal & Reshma Sekhar, Building Better Courts - Surveying the Infrastructure of India's District Courts, <https://vidhilegalpolicy.in/> (2019), https://vidhilegalpolicy.in/wp-content/uploads/2019/08/National-report_single_Aug-1.pdf.

¹² NITI Aayog, Strategy for New India @ 75, <https://niti.gov.in/> 199 (2018), https://www.niti.gov.in/sites/default/files/2019-01/Strategy_for_New_India_0.pdf.

¹³ Law Commission of India, One Hundred Seventeenth Report on Training of Judicial Officers, (1986), <https://cdnbbsr.s3waas.gov.in/s3ca0daec69b5adc880fb464895726dbdf/uploads/2022/08/2022080883-2.pdf>.

¹⁴ Geeta Oberoi, Limitations of Induction Trainings Offered to Magistrates by State Judicial Educators in India, 4 Athens Journal of Law 301 (2018).

¹⁵ Reshma Sekhar & Vagda Galhotra, Schooling the Judges: The Selection and Training of Civil Judges and Judicial Magistrates, <https://vidhilegalpolicy.in/> (2019), <https://vidhilegalpolicy.in/wp-content/uploads/2019/12/JudicialAcademies.pdf>.

teachers. The judge directors and guest faculty, often judges themselves, may lack proficiency in educational theories pertinent to adult professional training and exhibit reluctance to embrace innovative pedagogical approaches, so obstructing necessary advancement. The induction training for newly appointed Civil Judges and Judicial Magistrates necessitates standardisation and proficient instruction. Faculty cultivate good pedagogical skills through repetition, achievable solely when they possess permanent roles. Augmented post-selection training with specialised, experienced faculty could convey judicial abilities more efficiently and fairly than the disparate experiences acquired in private practice.

The inadequacy of clinical legal education in Indian law institutions, especially National Law Universities, results in most graduates entering judicial service devoid of practical skills. In its 117th report in 1986, the Law Commission deemed the idea that several years of practice at the bar equips an individual to be an effective judge as “wholly unsustainable.”¹⁶ The report stated that “rendering justice is an art form, and mastering its fundamentals requires training.” This notable deviation from the previous model, which required prior legal experience, was predicated on the premise that systematic, pre-service judicial training in SJAs could convey practical skills. The existing curriculum emphasises the reiteration of legal theory previously addressed in law school and assessed in judicial examinations, but the practical component of training is inadequate. Trainer evaluators, encumbered by substantial caseloads, lack the time and direction necessary to deliver substantive feedback, while trainees’ logs, intended to monitor activities, are infrequently examined. Field training with revenue, police, or forensic departments is frequently unstructured, sometimes referred to as ‘picnics’, with little briefings, particularly in places such as Karnataka. A systematic post-selection training program, featuring judicial shadowing (similar to the UK’s Judicial Work Shadowing Scheme¹⁷) and standardised feedback sessions, could impart practical skills more equitably than the inconsistent quality of private practice, which frequently relies on access to mentorship and resources.

Nine SJAs evaluate trainee judges, with seven (Andhra Pradesh, Jharkhand, Karnataka, Kerala, Manipur, Tripura, and Uttarakhand) providing comprehensive measures such as grading, counselling, supplementary examinations, intense training, or prolonged probation to mitigate inadequate performance. Seven additional SJAs, such as Gujarat and Delhi, lack an evaluation procedure, jeopardising uniform judicial competence.¹⁸ In accordance with the 1986 Law Commission’s vision for intensive training, a thorough post-selection training system featuring stringent, standardised evaluations and flexible support could guarantee that all appointed judges achieve elevated standards, without disadvantaging candidates who lack access to quality practice opportunities, as currently mandated. This technique would surpass the advantages of previous practices, promoting proficiency among various candidates.

The three-year practice requirement disproportionately impacts women, first-generation attorneys, and marginalised communities (e.g., SC/ST/OBC), who encounter structural obstacles such as low-paying clerkships, insufficient mentorship, and hazardous work conditions. The report indicates that merely 15% of registered advocates are female, and first-generation attorneys frequently lack the necessary networks for substantial practice. The evidence regarding SJAs advocates substituting this need with improved training, as it would establish equity. In contrast to private practice, where social capital provides advantages, a structured SJA training program involving simulations, mentorship, and practical exercises would facilitate standardised skill enhancement. The UK’s shadowing plan permits trainees and prospective candidates interested in the court to study judges in a structured environment, a model that India may emulate. Two

¹⁶ Law Commission of India, One Hundred Seventeenth Report on Training of Judicial Officers, (1986),

<https://cdnbbsr.s3waas.gov.in/s3ca0daec69b5adc880fb464895726dbdf/uploads/2022/08/2022080883-2.pdf>.

¹⁷ Judicial Work Shadowing Scheme, Courts and Tribunals Judiciary (2014), <https://www.judiciary.uk/about-the-judiciary/judges-career-paths/information-about-shadowing-a-judge/>.

¹⁸ Reshma Sekhar & Vagda Galhotra, Schooling the Judges: The Selection and Training of Civil Judges and Judicial Magistrates, <https://vidhilegalpolicy.in/> (2019), <https://vidhilegalpolicy.in/wp-content/uploads/2019/12/JudicialAcademies.pdf>.



years of rigorous instruction, as advocated by the 1986 Law Commission and endorsed by the National Judicial Academy, can guarantee proficiency without disqualifying applicants unable to manage the difficulties of private practice.

CONCLUSION

The Supreme Court's ruling to re-establish the three-year practice rule intends to guarantee judges are adequately equipped for their responsibilities; nonetheless, it effectively fosters the exclusion of those groups need the most support. The Court, instead of rectifying the deficiencies in the existing system, reinstated a criterion it had earlier dismissed in 2002 for being exclusionary and rendering the judiciary “insufficiently appealing” to recent graduates. The deficiency in expertise and competence among young judges arises not from insufficient prior courtroom exposure but from improperly structured and poorly executed post-selection training methodologies. Revamping post-selection training programs would more effectively equip proficient judges than prolonged periods of erratic private practice. An increased post-selection training program featuring permanent instructors, advanced clinical initiatives, and stringent evaluations would provide a systematic approach to skill development without imposing unnecessary obstacles, thereby fostering greater inclusivity within the court. This would guarantee that India's judiciary is both proficient and representative of the nation's variety, thereby upholding both excellence and the constitutional duty for equality.