
FROM OFF THE DAIS TO ON THE DAIS: NO FAST LANE TO JUDGESHIP

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ABSTRACT

In the historic ruling *All India Judges Association v. Union of India*¹, the Supreme Court of India instituted a significant change by requiring at least three years of legal practice as a requirement for applicants hoping to become Civil Judges (Junior Division) in the lower judiciary. This judicial directive seeks to enhance the professional competence and courtroom preparedness of judicial officers at the entry level. This article undertakes a doctrinal analysis of the judgment, examining the legal reasoning adopted by the Court, the historical context of judicial recruitment in India, and the comparative practices in other common law jurisdictions. Further, it explores the potential impact of this reform on legal education, young graduates, and judicial vacancies. This study undertakes a detailed examination of whether a judicial recruitment model that emphasizes prior legal practice and professional experience effectively advances the broader objectives of the justice system, including ensuring judicial accountability, improving institutional efficiency, and reinforcing public confidence in the fairness and reliability of judicial decision-making.

¹ *All India Judges Association v. Union of India* 2025 INSC 735

Introduction

The process of recruiting judicial officers is central to safeguarding the quality, integrity, and effectiveness of the justice delivery system, as it directly determines the competence and character of those entrusted with interpreting the law, evaluating evidence, and delivering decisions that carry binding legal authority. A well-structured and merit-based recruitment process ensures that judicial officers possess not only sound legal knowledge but also the ethical grounding necessary to uphold impartiality and fairness—cornerstones of judicial integrity. Furthermore, when judges are equipped with both academic proficiency and practical courtroom experience, they are better positioned to manage cases efficiently, reduce delays, and deliver reasoned judgments, thereby strengthening the overall functioning, credibility, and effectiveness of the justice system as a whole.

Since the subordinate judiciary is often the first point of contact for the common citizen and serves as the foundational tier from which higher judiciary members are drawn, the importance of recruiting capable and principled individuals at this level cannot be overstated. Thus, judicial recruitment is not merely a procedural formality but a critical mechanism for maintaining public trust, ensuring access to justice, and strengthening the rule of law. In this regard, the public trust **doctrine** also finds relevance, as public confidence in the judiciary depends on the competence, preparedness, and integrity of its officers.

This reform also aligns with the broader framework of **judicial accountability theory**, which holds that judges, while independent, must be adequately equipped and experienced to discharge their duties fairly and efficiently. Competence through experience is a core pillar of accountability, particularly at the trial court level where most citizens first engage with the justice system.

Traditionally, a number of Indian states have permitted freshly graduated law students to enter the judicial service at the Civil Judge (Junior Division) level solely through competitive examinations. However, in a significant recent judgment, the Supreme Court of India directed that applicants for this entry-level post must possess a minimum of three years of active legal practice at the Bar. This requirement, grounded in the broader constitutional conversation on strengthening the judiciary, seeks to create a balanced framework in which academic legal training is complemented by essential practical experience. By mandating prior exposure to courtroom processes, client interaction, and procedural law, the Court aims to ensure that newly

appointed judges possess the maturity and professional grounding needed to perform judicial functions effectively. The central rationale advanced by the Court lies in enhancing the competence and maturity of judicial officers by ensuring that they have first-hand exposure to the courtroom and procedural nuances of law. The judgment invites a broader examination of the evolving standards for judicial appointments, the constitutional framework under Articles 233 and 234, and the role of legal education institutions in preparing candidates for judicial service. While the decision aligns with earlier observations made in the *All India Judges' Association v. Union of India* cases, it also raises constitutional, pedagogical, and practical questions. Critics argue that this shift could potentially restrict access for meritorious fresh graduates, widen inequality among aspirants from different socio-economic backgrounds, and delay the entry of young and dynamic minds into the judiciary—thereby challenging the balance between experience and inclusivity in judicial recruitment.

Literature review

The 'Bar before Bench' principle has traditionally been recognized as a foundational norm in judicial appointments across common law jurisdictions. The idea rests on the belief that meaningful practice at the Bar is indispensable before one assumes judicial office. Such hands-on experience not only broadens a lawyer's professional understanding of courtroom dynamics, but also refines analytical abilities, enhances procedural awareness, and cultivates the temperament necessary for sound judicial decision-making. The utility of it as a formal requirement for judgeship has been argued by academics and the judiciary alike in light of newer legal order being evolved in India. The Shetty Commission Report², as part of its focus on judicial reforms, highlighted the necessity of prior legal practice for judicial officers within the subordinate judiciary. The Commission noted that prior courtroom, client advocacy, and adversarial system exposure (including participation) enables future judges to appreciate and empathize with litigants. Understanding of law and procedure is already a given, and exposure to such advocacy adds to it. To guarantee professional maturity, the Commission prescribed a

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² First National Judicial Pay Commission Report (Justice Shetty Commission, 1999)

³ *ibid*

Understanding of law and procedure is already a given, and exposure to such advocacy adds to it. To guarantee professional maturity, the Commission prescribed a minimum number of years of practice within the Bar prior to appointment to the judiciary⁴. This position was further reinforced in *All India Judges Association v. Union of India*, where the Supreme Court reiterated the centrality of practical legal experience in shaping judicial competence. The Court affirmed that prior practice at the Bar significantly contributes to a judge's professional confidence, courtroom familiarity, and overall ability to discharge judicial duties effectively. The Court noted that judges who had previously practiced as advocates tend to appreciate the plight of litigants and the nuanced legal arguments made⁵. The Third Judges Case⁶ formally In re Presidential Reference under, though primarily dealing with judicial appointments emphasized the doctrine of judicial self-restraint and institutional self-restraint. The opinion highlighted that while merit and integrity stand as non-negotiable, experience at the Bar adds significantly to the "merit" component⁷. The above-described case law stamp directly impacts the appointing mechanisms of the judges and the prerequisite they possess and the independence factors which are critical to constitutional governance. Even though the judges' mandatory practice wasn't policy which emerged as a result of the decision, the decision brought to the forefront how in the professional world a judges practice is important in maintaining the upholding standards of the judiciary⁸. The above-described case law stamp directly impacts the appointing mechanisms of the judges and the prerequisite they possess and the independence factors which are critical to the constitutional governance. Even though the judges' mandatory practice wasn't policy which emerged as a result of the decision, the decision brought to the forefront how in the professional world a judges practice is important in maintaining the upholding standards of the judiciary⁹. While moving towards the rest of the world, international jurisdictions such as America and Britain do not offer judicial positions without significant Bar practice. Many Indian scholars have cited these examples to advocate for the inclusion of such protections in Indian law¹⁰¹¹. On the other side of the spectrum, there is a criticism which states that too much focus on Bar practice might result in the loss of gifted

⁴ *ibid*

⁵ *ibid*

⁶ Third Judges Case (2002) Special Reference Case 1 of 1998

⁷ *ibid*

⁸ Supreme Court Advocates-On-Record ... vs Union Of India WRIT PETITION (CIVIL) NO. 13 OF 2015

⁹ *ibid*

¹⁰ ML Dhavan, *Philosophy of Education* (Isha Books 2005).

¹¹ Upendra Baxi, 'Human Rights Education: The Promise of the Twenty-First Century?' in George Andreopoulos and Richard Pierre Claude (eds), *Human Rights Education* (University of Pennsylvania Press 1997) 142.

judicial applicants from civil service or academic careers. To summarize, judicial autonomy and independence taken as a given, the prevailing perspective appears to be that, supported by a variety of judicial decisions, council reports, and academic analyses, the lack of barrister qualifications is not a significant issue for judicial candidates. It does, however, contain the concern of how to achieve a candidate as thoroughly experienced for the position as deemed necessary while having a broad, diverse workforce.

Background of Judicial Recruitment in India

Prior to tracking the junior division civil judge recruiting process immediately following the Indian Constitution's implementation, we need to understand the former functioning of the judiciary. How were the judges chosen? Judicial and executive responsibilities were not properly separated during British rule, when district judges were mostly chosen from the Indian Civil Service (ICS), a generalist administrative service. Depending on administrative convenience, the ICS officials frequently held the positions of district collector, district judge, and district magistrate; this undermined judicial independence and resulted in a lack of separation of powers.

Following independence and constitutional enforcement, the framers included a separate clause in Article 50 to guarantee the independence of the judiciary. In the state's public service, "the state shall take steps to separate the judiciary from the executive." According to Article 234, "the Governor of the state shall appoint persons other than district judges to the judicial service of the state in accordance with the public service commission." In other words, each High Court has its own recruitment guidelines, and as a result, each state has two distinct policy paths for hiring Civil Judges (Junior Division).

In several states, this disparity caused the judicial service to become fractured, with young, inexperienced graduates appointed as judges. In other cases, only tested practitioners were eligible to serve on the bench because, according to Rule 5(3) of the Maharashtra Judicial Service Rules, 2008 (as amended as of June 14, 2017), in order to nominate a Civil Judge, Junior Division, the following requirements must be met: (a) the total score on a competitive exam; (i) the candidate must have a law degree; (ii) the candidate must have practiced as an advocate in the High Court or court subordinate thereto for at least three years on the date of the advertisement; or be a recent law graduate. However, many states shared the characteristic that new law graduates could sit for the judicial service exam as soon as they finished their

LL.B. degree, with no need for prior legal experience. The main goal was to recruit bright young people to the judicial service at an early stage in their careers.

But over time, this open-door policy came under fire for failing to align legal theory with practical knowledge and court craft. Despite this, the approach presented a number of significant obstacles, including: Judges, particularly at the trial court level, are expected to handle complex procedural problems, evaluate witness attitude, and conduct dynamic adversarial litigation, although they often lack real courtroom experience. Despite their academic prowess, law graduates sometimes lack experience in the complexities of procedural law, practical knowledge of evidentiary rules, as well as sophisticated writing, judgment, and courtroom management abilities. This disparity frequently caused newly hired judges to struggle during their first few years of service, which had an impact on litigant satisfaction and court efficiency.

Furthermore, many new judges lacked the maturity that comes from juggling competing interests and professional pressure because they frequently relied heavily on clerks or precedent without deeper reasoning, which demonstrates a lack of training. New graduates entering the judiciary may also lack adequate exposure to the ethical dilemmas of the legal profession, bar-bench dynamics, and the responsibilities of impartial adjudication in a socially diverse society without having ever practiced law. This situation challenges the ideals of the **rule of law**, which relies on the consistent, transparent, and competent application of legal principles—something more likely ensured when judges possess practical insight and procedural familiarity.

This new era in judicial recruitment signals a more practical, experience-based approach to judicial appointment, ensuring that those who don the robe have seen the system from the inside of the courtroom before presiding over it. This evolution reflects the philosophy of **legal realism**, which posits that the law must be understood not just as an abstract system of rules, but in the context of real-world human behavior, courtroom dynamics, and lived experiences of justice.

However, the brief training programs (4–6 months) were insufficient; training could not completely replace years of experiential learning. This validates **experiential learning theory**, which holds that the deepest understanding arises from doing—through direct involvement, reflection, and iterative practice. Thus, years of legal practice serve not merely as a credential but as a formative educational process essential for judicial effectiveness.

All India Judges Association Cases: Background and Procedural History

The litigation series initiated by the All India Judges Association has played a transformative role in reshaping the service conditions of the subordinate judiciary in India. The process began with the landmark 1991 judgment, in which the Supreme Court issued comprehensive directions concerning pay structures, judicial infrastructure, working environments, and the larger framework necessary to safeguard judicial independence. The reform trajectory continued with the 1993 Review Petition, wherein the Court scrutinized the lack of uniformity among states regarding eligibility criteria for entry-level judicial posts such as Civil Judge (Junior Division) and Munsiff Magistrate. The Court noted significant disparities across jurisdictions—some states mandated a minimum of three years of legal practice for applicants, while others permitted fresh law graduates to enter the judicial service directly. This inconsistency prompted the Court to reconsider the foundational qualifications necessary to ensure competence at the initial tier of the judiciary. Recognizing the crucial nature of judicial responsibilities from day one, the Court held that:

“The recruitment of law graduates as judicial officers without any training or background of lawyering has not proved to be a successful experiment.”¹²

It strongly emphasized that practical courtroom exposure was essential for a judicial officer to dispense justice effectively, and directed that:

“All States shall take immediate steps to prescribe three years’ practice as a lawyer as one of the essential qualifications for recruitment as the judicial officer at the lowest rung.”

This marked a pivotal moment in judicial service reform, grounding the requirement in constitutional parity under Articles 233(2), 217(2)(b), and 124(3)(b) of the Constitution, which require a minimum number of years in legal practice for appointment to higher judicial offices such as District Judges, High Court Judges, and Supreme Court Judges respectively¹³. The 1993 Review judgment, therefore, directed that all states must prescribe a minimum of three

¹² ‘3-Year Rule: a Setback to Judiciary Aspirants’ *The Hindu* (New Delhi, 21 May 2025) (online), <https://www.thehindu.com/news/national/3-year-rule-a-setback-to-judiciary-aspirants/article69597321.ece> (accessed 30 July 2025).

¹³ Supreme Court Observer, ‘Three Years of Practice Must for Civil Judge (Junior Division) Eligibility – *All India Judges Association v Union of India*’ (SCO.LR, 24 May 2025) <https://www.scobserver.in/supreme-court-observer-law-reports-scolr/three-years-of-practice-must-for-civil-judge-junior-division-eligibility-all-india-judges-association-v-union-of-india-eligibility-judicial-officers/> (accessed 30 July 2025).

years' practice as a lawyer as a mandatory eligibility criterion for recruitment to the lowest rung of the judiciary, i.e., Civil Judge (Junior Division). However, this position did not remain static. The issue was revisited in the *Third Judges Case*¹⁴, formally titled *Supreme Court Advocates-on-Record Association v. Union of India*, in light of the recommendations made by the Justice Shetty Commission¹⁵, which was constituted to examine the service conditions of the subordinate judiciary.

The Shetty Commission¹⁶ recommended doing away with the mandatory three-year practice requirement, reasoning that bright and academically qualified law graduates should not be excluded from entering the judicial service merely because they lacked courtroom practice. The Commission emphasized that with rigorous pre-service and in-service training, fresh law graduates could be equipped to handle judicial responsibilities effectively. The Supreme Court accepted this recommendation in the later phase of the litigation, effectively revisiting and reversing its earlier mandate. In doing so, the Court directed all High Courts and State Governments to amend their respective service rules to allow fresh law graduates irrespective of prior practical legal experience—to participate in judicial service examinations and qualify for appointment. To address concerns regarding preparedness, the Court further recommended that newly selected judicial officers should undergo a minimum of one year of structured judicial training, ideally extended to two years, before assuming independent charge of a courtroom.

When the matter was heard in *All India Judges Association v. Union of India*¹⁷, the Supreme Court revisited the implications of allowing fresh law graduates into the subordinate judiciary without any prior practice at the Bar. Both the learned amicus curiae and the counsel appearing for various High Courts submitted that the time had come to re-evaluate the earlier relaxation introduced post the *Second Judges Case*¹⁸ and the Shetty Commission's¹⁹ recommendations. They emphasized that the original requirement of prior legal practice had a well-established rationale grounded in judicial preparedness, professional maturity, and practical competence.

Pursuant to the directions of the Court dated 25th April 2023 and 18th May 2023, multiple

¹⁴ Third Judges Case (2002) Special Reference Case 1 of 1998

¹⁵ First National Judicial Pay Commission Report (Justice Shetty Commission, 1999)

¹⁶ *ibid*

¹⁷ All India Judges Association v. Union of India 2025 INSC 735

¹⁸ Supreme Court Advocates-On-Record ... vs Union Of India AIR 1994 SUPREME COURT 268

¹⁹ First National Judicial Pay Commission Report (Justice Shetty Commission, 1999)

High Courts submitted affidavits expressing their institutional views on the matter²⁰. An examination of these affidavits revealed a broad consensus among the High Courts that restoring a minimum requirement of three years of practice at the Bar for entry into the post of Civil Judge (Junior Division) is both necessary and justified. The submissions emphasized that courtroom experience equips prospective judicial officers with essential familiarity with procedural law, improves their ability to interact effectively with litigants and court personnel, and cultivates maturity in legal reasoning attributes that are indispensable from the very first day of judicial service.

State and High Court Recommendations on Minimum Bar Practice for Civil Judge (Junior Division)²¹

State / High Court	Years of Practice Recommended	Reason Provided
Andhra Pradesh	2 years	Officers appointed directly from college mishandled procedural issues and showed poor behavior toward Bar and staff; recommending continuation of 2-year training (1 year practical + 1 year institutional).
Guwahati	2 years	No specific reason recorded.
Patna / Bihar Government	3 years	Would help appoint experienced lawyers, enhancing judicial service and standards.
Karnataka	2 years	Lack of experience causes problems in urgent orders and day-to-day functioning.
Kerala / State of Kerala	3 years	No detailed reasoning, but supports reinstatement.
Madhya Pradesh	Not specified (implied 3 years)	Academic brilliance without Bar experience leads to poor handling of courts; complaints about attitude toward advocates and staff.
Manipur / State of Manipur	3 years	Practical experience is essential to understand courtroom realities and challenges.
Orissa	3 years	Fresh graduates unfamiliar with court decorum, causing disruptions; practical knowledge essential before appointment.
Madras	3 years	No specific reasoning provided.
Uttarakhand / State of Uttarakhand	3 years	Freshers lack court etiquette and judicial temperament; complaints of misbehavior from Bar.
Allahabad	Some prior practice (duration not specified)	General support for prior experience before appointment.
Calcutta	Some prior practice	General support for reinstating experience

²⁰ All India Judges Association v. Union of India 2025 INSC 735

²¹ ibid

	(duration not specified)	requirements.
Delhi	1 year	No detailed reason, but favors limited experience requirements.
J&K and Ladakh	2 years	No specific reason recorded.
Gujarat	2 years	No specific reason recorded.
Chhattisgarh (High Court)	3 years	Supports experience requirements.
Chhattisgarh (Govt.)	Opposed	No reason provided.
Punjab & Haryana (High Court)	2 years	Also recommended experience to be counted from the date of provisional Bar registration.
Haryana (State Govt.)	Opposed	No reason provided.
Nagaland (State Govt.)	Opposed	No reason provided.
Tripura (State Govt.)	Opposed	No reason provided.
Rajasthan (High Court)	Opposed	No reason specified.
Sikkim (High Court)	Opposed	No reason specified.

The Court also took cognizance of the extensive institutional feedback submitted during the proceedings, observing that with the exception of the High Courts of Rajasthan and Sikkim no other High Court opposed the reinstatement of a minimum experience requirement. This near-unanimous endorsement reflected the challenges repeatedly reported across states over the past two decades, particularly concerning the professional immaturity, inadequate grasp of procedural law, and frequent behavioral and administrative issues exhibited by fresh law graduates directly inducted into the judicial service. These systemic difficulties underscored the need for a more experience-driven approach to judicial recruitment.

In light of these considerations, the Supreme Court, in its judgment, restored the mandatory requirement of at least three years of practice at the Bar as a prerequisite for appearing in the Civil Judge (Junior Division) examination. The Court further directed all High Courts and State Governments to amend their respective service rules to ensure that candidates submit a valid practice certificate issued by a senior advocate or a Principal Judicial Officer. The Court also clarified that experience gained while working as Law Clerks or Judicial Assistants may be counted toward fulfilling the three-year requirement, thereby acknowledging the value of

structured exposure to judicial work.

In addition, the Court mandated that every candidate selected for judicial service must undergo at least one year of comprehensive judicial training preferably extended to two years before assuming independent charge of a courtroom. This emphasis on rigorous pre-service training seeks to enhance judicial preparedness, strengthen institutional professionalism, and uphold the dignity and integrity of the subordinate judiciary. By ensuring that new entrants are fortified with both legal competence and essential human experience, the ruling aims to advance the quality, accountability, and credibility of justice delivery at the grassroots level.

Judicial Appointment Models across Jurisdictions

The hiring of judges in common law jurisdictions is firmly based on the values of professional competence, experience, and real-world courtroom exposure. Although models differ slightly from one jurisdiction to the next, it is common for candidates for judicial appointments to have proven legal practice experience, especially in advocacy positions. The Indian setting, where mandated practice before the judiciary is emerging as a recommended baseline, benefits greatly from this comparative study.

Recruitment procedure in United Kingdom

There are several distinct judicial roles within the United Kingdom's justice system, each characterized by different responsibilities, jurisdictional scope, and the complexity of cases they handle. Alongside the traditional court hierarchy, the UK also operates a comprehensive tribunal system, which deals with specialized disputes such as immigration, employment, and tax matters. The Courts and Tribunals Service provides detailed guidance on these roles, offering prospective judicial candidates a clear understanding of available career pathways.

One of the initial entry points into the judicial hierarchy is the position of Recorder. Recorders are part-time judges who typically continue their practice as barristers or solicitors while sitting in both the Crown Court and County Court. This role is often regarded as a probationary or transitional stage, enabling legal practitioners to gain judicial experience before seeking full-time appointments.

District Judges (Magistrates' Courts) primarily preside over criminal matters, although they may also hear certain civil or regulatory cases. These judges operate independently, without

lay magistrates, and their appointments generally follow prior service as Deputy District Judges.

District Judges (County Courts) handle a broader range of civil and family law matters, including property disputes, child custody cases, domestic violence injunctions, and insolvency proceedings. As full-time judicial officers, they shoulder a significant portion of the civil caseload. Their appointments typically come after years of experience as Deputy District Judges, ensuring that they possess substantial courtroom exposure and decision-making competence.

At a higher level sits the Circuit Judges, who hear criminal, civil, and in many cases, family matters within the Crown Courts and County Courts of their assigned geographical circuits. Some Circuit Judges may also be appointed to specialist courts such as the Technology and Construction Court or designated Chancery lists. Eligibility for this position ordinarily requires that candidates have practiced law with a right of audience for a minimum of ten years and have prior experience serving as Recorders or District Judges, reflecting the advanced expertise and maturity required for this judicial office.

Judges of the High Court handle the more challenging and complex issues, such as significant criminal and civil trials. Judges of the High Court are allocated to either the Chancery Division, the Family Division, or the Queen's Bench Division. High Court judges usually sit in London, but they also travel to major court centers around the country as well²².

A judge's job is a complicated one. Essential duties include: Examine the documents pertaining to a case that is being presented to them. Pay attention to the people making the presentation or arguing the case, and make sure that everything is done in accordance with the applicable court rules and regulations. Provide legal advice and make decisions regarding the case's resolution when necessary. Give the parties involved a sentence or any other kind of punishment or duty. All of this will obviously depend on the case that is being presented to the judge, such as a request for an injunction or a criminal trial with a jury.

To become a judge, one must fulfill two fundamental requirements: Legal credentials as a solicitor, barrister, or occasionally a chartered legal executive Five years or more of experience

²² "High Court Judges" (Courts and Tribunals Judiciary) <https://www.judiciary.uk/about-the-judiciary/who-are-the-judiciary/judges/high-court-judges/> (online information page, accessed 30 July 2025)

in the legal field, though this may vary depending on the position. At the very least, those who aspire to become judges must possess the necessary legal credentials to enter their chosen field of work. Although solicitors can apply for judicial positions, most judges were once barristers. Slowly, this is changing²³

Recruitment procedure in South Africa

Getting the required credentials A person must first have the required credentials in order to start the process of becoming a judge. Usually, this entails earning a Bachelor of Laws (LLB) degree from an accredited university. Aspiring judges are prepared for their future professions with the fundamental legal knowledge and abilities that the LLB degree provides. Prospective judges must get substantial practical legal experience after earning an LLB degree. Working as an advocate or lawyer, taking part in legal clinics, doing pro bono work, or advising governmental entities or organizations on legal matters are all ways to gain this expertise. Accredited schools that provide paralegal and lawyer practical training, such as the Gawie le Roux Institute of Law, are another way to gain experience. Aspiring judges have a deeper comprehension of how legal ideas are applied in practice during this phase. People can apply for judge jobs after gaining enough legal experience. The Judge Service Commission, which is in charge of recommending applicants for judge appointments, usually requires the submission of a thorough application. The Judicial Service Commission evaluates the applications according to a number of criteria, such as integrity, ethical behavior, legal expertise, and academic credentials. The Judicial Service Commission conducts interviews with shortlisted candidates as part of a stringent screening procedure. Candidates' legal expertise, judicial decision-making skills, moral principles, and character traits are evaluated throughout the interviews. Candidates may also go through physical and mental health tests to make sure they are capable of handling the rigorous duties of a judge. The President of South Africa appoints judges in accordance with the recommendations made by the Judicial Service Commission following the review process. After being appointed, the new judges swear to obey the Constitution and carry out their responsibilities with diligence and objectivity. After being appointed, judges continue to get additional training and development. Throughout their tenure, judges are kept abreast of the most recent legal developments and best practices through

²³ University of Law, How to become a Judge in the UK, Career Finder <https://www.law.ac.uk/employability/career-finder/judge/> (online information page, accessed 30 July 2025)

ongoing legal education and training programs.²⁴

Recruitment procedures in Ukraine

Judges in Ukraine are appointed in accordance with the provisions of the Ukrainian Constitution and are entrusted with the professional duty of administering justice. Under Article 52 of the Ukrainian Law “On the Judiciary and the Status of Judges,” all judges—regardless of the court’s level within the system of courts of general jurisdiction or any administrative position they may hold—enjoy equal legal status. This principle ensures uniformity, institutional integrity, and parity across the Ukrainian judiciary.

In the Ukrainian judicial framework, judges act as state officials vested with constitutional authority to perform judicial functions and ensure the fair and impartial resolution of disputes. To be eligible for appointment to the bench, a candidate must possess a higher legal education and demonstrate professional competence. Additionally, Ukrainian law requires that an applicant have a minimum of five years of professional legal experience, ensuring that prospective judges bring adequate practical knowledge, maturity, and professional grounding to the role. five years old, speaks the state language at a level established by the National Commission on State Language Standards, is capable, and is honest²⁵.

Recruitment procedures in Poland

Under Article 61 of the Law of the Republic of Poland “*On the Organization of Courts of General Jurisdiction*,” the qualifications for appointment as a district court judge are defined through a detailed set of statutory requirements. To begin with, a candidate must be a Polish citizen who enjoys full civil and public rights and has not been convicted of any intentional criminal offense, fiscal (tax-related) violation, or conduct amounting to public disorder.²⁶ The law also excludes individuals whose mental or physical condition prevents them from performing judicial duties. Beyond these foundational legal prerequisites, the candidate must possess an impeccable reputation, reflecting the high ethical expectations placed upon

²⁴George Seruwagi, ‘A Guide to Becoming a Judge in South Africa’ Gawie Le Roux Institute of Law <https://www.gawieleroux.co.za/blog/guide-becoming-judge-south-africa> (blog, accessed 30 July 2025)

²⁵Law of Ukraine ‘On the Judiciary and the Status of Judges’ (adopted 2 June 2016, as amended 26 February 2025) (UN-translated version, OHCHR Issue Library PDF, accessed 30 July 2025) https://adatabase.ohchr.org/IssueLibrary/UKRAINE_Law%20of%20Ukraine%20On%20Judiciary%20and%20the%20Status%20of%20Judges.pdf

²⁶Law of the Republic of Poland of 27 July 2001 on the Organization of Courts of General Jurisdiction, art. 61, Dz. U. 2001, No. 98, item 1070 (Pol.).

members of the judiciary.

In addition to these character-based requirements, the statute mandates strong academic and professional credentials. A prospective judge must hold a master's degree in law obtained from a recognized Polish institution, or an equivalent foreign qualification that has been officially accepted within Poland. The candidate must also be medically certified as capable of carrying out judicial responsibilities and must have reached a minimum age of twenty-nine. Further, the law requires successful completion of the judge's or prosecutor's examination, ensuring a solid understanding of legal doctrine and procedure. Finally, the candidate must have served as an assessor or performed the duties of a judge for at least three years, thereby gaining essential practical experience in adjudication, legal reasoning, and courtroom management. Collectively, these requirements highlight Poland's commitment to a judiciary grounded in legal expertise, ethical integrity, and meaningful professional exposure.

Critical Evaluation and impact Assessment

If this duration truly provides a candidate with the breadth of legal knowledge, ethical character, and temperament necessary for judicial service. Unlike the UK and US where judges typically ascend from the senior Bar after a career's worth of practice often spanning decades this time period might feel simplistic. Possible Negative Effects or Inadvertent Consequences Of primary concern is the potential increased strain on trial courts. Recruitment slowdowns might worsen vacant positions in the lower judiciary, impacting the rate of case disposal and access to justice as only after a substantial period of pre-judicial practice are candidates eligible to sit for judicial examinations. In addition, if this is not properly administered, the opposite might happen where candidates sign up and 'work' for the mandated three years, barely doing any actual legal practice. This would undermine the intent of the reform and dilute its substance. Increased disparity where only the resourceful or well-connected can afford to sustain them through years of underpaid early career litigation work might be yet another unanticipated adjustment. Support at the institutional level is critical if the policy is to yield any tangible results. Young solicitors entering the profession often contend with irregular compensation, sparse mentoring, and minimal exposure to significant professional work. If the mandatory bar apprenticeship is to evolve into a genuine incubator for judicial competence, then support structures must be in place. These might be in the form of basic stipends to young advocates, CLE sessions at the Bar, and structured apprenticeship programs with senior counsel

supervised by the Bar Councils. Without these, the reform is at risk of becoming a hollow, inaccessible spectacle instead of a transformative initiative. There is a collective responsibility of law schools, bar associations, and sitting judges to ensure that the aspiring litigators are practicing and growing into their roles.

Impact on legal education

Legal education in India has been in the spotlight for its heavy focus on doctrinal education, leaning towards theory over practice. However, there has been some recent exposure to practice driven theory that has rekindled calls for a curriculum that covers courtroom practice. This includes classes on advocacy, procedural legislation with real-life simulations, and advanced analytical reasoning in adversarial situations. Legal education needs to diversify its scope by integrating essential practical skills such as ethical reasoning, effective communication, negotiation, and active participation in the legal profession to prepare students for the bar. Schools should develop aspiring judges and advocates. The efforts by The Bar Council of India along with the National Education Policy 2020²⁷ in improving clinical legal education initiate this change, but there needs to be more institutional initiative to bridge the gap between the classroom and the courtroom. Moot courts and internships have shifted from being side academic activities to critical functions for every graduate entering the working world. Internships enrich students with invaluable experiential knowledge of the legal system with hands-on assistance, observing court trials, and working with seniors. These internships serve as the initial contact with the ethos of the courts for students who aspire to become judges. Students are equipped with the skills and knowledge necessary for advocacy and judicial deliberation by means of moot courts which simulate the posing of legal disputes. Participants are able to develop qualities such as mental concentration, eloquence, legal expertise, and sound reasoning which are requisite for the bar and bench. There is a paradigmatic change from rote learning to experiential learning evidenced by the growing focus on the strength of an institution's internship and moot court networks. The "bar before bench" principle underscores the interdependence of legal education, practice, and judicial mastery. It stems from the law practice side of the legal profession, and the law schools are equally obliged to reshape their pedagogic aims in light of the evolving professional landscape as the judiciary moves toward

²⁷Law-making body: Ministry of Education (formerly Ministry of Human Resource Development), National Education Policy 2020 https://www.education.gov.in/sites/upload_files/mhrd/files/NEP_Final_English_0.pdf (Government of India, approved by Union Cabinet on 29 July 2020, uploaded as PDF, accessed 30 July 2025)

the functional embedding of practice prerequisites, a tendency noted in cases like *All India Judges Association v. Union of India*²⁸. Legal education in this manner can facilitate the transition from student to advocate and eventually to judge.

Impact on law graduate and young aspirants

The institutionalization of practice at the Bar as a mandatory precondition for judicial appointment significantly reshapes the career trajectories of fresh law graduates and aspiring judges. While the reform aligns with the larger objective of strengthening judicial competence, it introduces new challenges and opportunities for early-career professionals.

Female candidates: The ruling will raise the students' eligibility age to 26–27 years old. This is a crucial time when strong family and social pressures, especially those related to marriage, might affect a woman's career and cause her to shy away from challenging occupations. At the same time, women without family financial assistance find continued practice unfeasible due to the financial unviability of junior litigation combined with university loans. Gender bias in the legal profession exacerbates this.

Children from middle-class families: Students from low-income families are disproportionately affected by the step. Many of these candidates view the years immediately following graduation as a time to support their families financially in addition to developing their careers. Such applicants are severely burdened by the requirement of three years of litigation practice, an area that is frequently characterized by poor initial earnings and significant unpredictability. It requires them to spend three crucial years just to be qualified to take the Judicial Service Examination, with no guarantee that they will pass. Since they never meant to view litigation as a backup career option, they will be at risk of wasting their valuable years if they are not eligible. It might already be "too late" to change course by then.

First-generation law school graduates: Recent law school graduates The Supreme Court's ruling has elevated recent law school grads. Now, aspirants must postpone their desire to become judges, join State Bar Councils, and actively pursue litigation often without adequate funding or access to qualified mentors. Due to the hefty fees, which were only recently lowered following judicial intervention, many had previously avoided enrolling in the bar. Career planning is made more difficult by the erratic announcement of openings. Applying the

²⁸ *All India Judges Association v. Union of India* 2025 INSC 735

regulation prospectively, impacting those graduating in 2024 or 2025 onwards, but excluding previous batches particularly those who failed to enroll at the Bar because of expense or ambiguity would have been a more reasonable course of action. In the absence of such a change, the decision could jeopardize the careers of numerous worthy applicants.²⁹

Impact on the judiciary

The judiciary stands to gain significantly in the long term from the institutional requirement of prior practice at the Bar. However, this reform also brings short-term administrative and logistical challenges that must be addressed proactively to ensure a smooth transition.

Long-term benefits of maturity and experience on the bench

The Benefits of Experience and Maturity on the Bench Acquiring a judicial position requires a grasp of the law and specialized knowledge of human behaviors, the courtroom, and the workings of the legal system, all of which stems from prior litigation experience. Judges who are practitioners at the Bar have more legal reality, procedural sensitivity, and empathy. Such a background encourages rational choices, better management of the courtroom, and greater esteem from the Bar. The Supreme Court, in landmark decisions like the Third Judges Case³⁰ and Supreme Court Advocates-on-Record Association v. Union of India, has highlighted the importance of independence and judicial competence and institutional integrity. These values are better balanced when judges have practical advocacy experience. Also, these older and more mature appointees to the bench tend to demonstrate greater patience, level-headedness, and balanced judgment. These traits are essential to building a credible judiciary.

Challenges in the filling vacancies in the short term

Short-Term Challenges in Filling Vacant Positions Enforcement of mandatory practice periods may affect very entry-level courts, as filling judicial openings is already a significant concern. The vacancy rate in courts might worsen if new law graduates are required to practice law for a number of years before being considered for judicial positions. This will add to the already existing backlog of cases resulting in increased judicial delays, particularly in understaffed

²⁹ A Mehak and A A Khan, 'The Three-Year Practice Mandate and Its Impact on Judicial Aspirants' *The Companion* (16 June 2025) (online), para 1 <https://thecompanion.in/the-three-year-practice-mandate-and-its-impact-on-judicial-aspirants> (accessed 30 July 2025).

³⁰ Third Judges Case (2002) Special Reference Case 1 of 1998

courts. Moreover, the sudden surge of new, untrained practitioners may flood the legal job market, overwhelming the existing firms. In the absence of structured guidance, the quality of bar experience might differ significantly, leading to gaps in judicial candidates' preparedness. To mitigate these effects, institutional reforms are needed. Judiciary services commissions could consider tiered entry options, litigation fellowships, or fast-track programs for meritorious candidates who demonstrate both academic and practical competence. Simultaneously, improving the working conditions of junior judges both in terms of workload and remuneration may help retain experienced judicial officers and reduce attrition.

Conclusion and Way Forward

The reinstatement of the "Bar before Bench" principle by the Supreme Court in *All India Judges Association v. Union of India*³¹ signifies a critical recalibration of judicial recruitment in India. This reform requiring a minimum of three years of legal practice as a prerequisite for eligibility to become a Civil Judge (Junior Division) is designed to strengthen the quality of entrants to the judicial service. Its central objective is to ensure that prospective judges possess not only strong academic foundations but also substantial hands-on exposure to the realities of legal practice. By insisting on prior courtroom experience, the measure aims to cultivate judges who are better equipped to understand procedural nuances, engage effectively with litigants and lawyers, and exercise sound judicial discretion from the very beginning of their careers. Ultimately, this shift reinforces the notion that judicial competence is shaped not merely in classrooms, but through the lived practice of law, thereby fostering a more efficient, confident, and responsive judiciary.

The analysis presented throughout this article confirms that this shift aligns with long-standing recommendations from expert bodies like the Shetty Commission³², judicial precedents, and practices in other mature legal systems such as the United Kingdom, South Africa, and Poland. These jurisdictions underscore the importance of professional maturity, ethical grounding, and hands-on procedural knowledge as prerequisites for effective judicial service.

While the reform promises long-term benefits in strengthening judicial accountability, independence, and competence, it also introduces significant short-term challenges—particularly for fresh graduates, women, first-generation professionals, and those from

³¹ All India Judges Association v. Union of India 2025 INSC 735

³² First National Judicial Pay Commission Report (Justice Shetty Commission, 1999)

economically weaker sections. If left unaddressed, these issues may unintentionally deepen inequalities in access to judicial careers.

To truly achieve the intended objectives of this reform, a supportive ecosystem is essential. This includes restructured legal education that emphasizes experiential learning, institutional mechanisms for mentoring and supporting junior advocates, financial assistance to sustain early legal practice, and transparent judicial vacancy notifications. The judiciary, bar councils, law schools, and governments must collaboratively bridge the transition from classroom to courtroom.

Ultimately, the road from "off the dais to on the dais" must not be a race of endurance but a guided path of learning, growth, and preparation. Only then can the judiciary earn the confidence of the people it serves and uphold the constitutional promise of justice—competently, efficiently, and equitably.