

INTERNATIONAL JOURNAL OF LAW  
MANAGEMENT & HUMANITIES  
[ISSN 2581-5369]

---

Volume 8 | Issue 3

---

2025

© 2025 International Journal of Law Management & Humanities

Follow this and additional works at: <https://www.ijlmh.com/>

Under the aegis of VidhiAagaz – Inking Your Brain (<https://www.vidhiaagaz.com/>)

---

This article is brought to you for “free” and “open access” by the International Journal of Law Management & Humanities at VidhiAagaz. It has been accepted for inclusion in the International Journal of Law Management & Humanities after due review.

In case of any suggestions or complaints, kindly contact [support@vidhiaagaz.com](mailto:support@vidhiaagaz.com).

---

To submit your Manuscript for Publication in the International Journal of Law Management & Humanities, kindly email your Manuscript to [submission@ijlmh.com](mailto:submission@ijlmh.com).

---

# Three – Year Practice Requirement: Constitutional Validity and Policy Implications

---

BOOPATHY V<sup>1</sup> AND KARTHIKA P<sup>2</sup>

## ABSTRACT

*The introduction of a mandatory three-year litigation experience for judicial aspirants has sparked widespread debate among stakeholders. While the primary intent behind this policy is to improve judicial appointments through practical legal exposure, it has also attracted criticism for being exclusionary, arbitrary, and potentially unconstitutional. This paper critically evaluates the historical development, policy rationale, constitutional concerns, and judicial interpretations surrounding the three-year requirement. Using a doctrinal and analytical framework, it assesses the rule's strengths and shortcomings, its impact on judicial recruitment and access to justice, and proposes reforms that reconcile merit-based selection with fairness and inclusivity.*

## I. INTRODUCTION

As a cornerstone of democracy, the judiciary's responsibility to uphold law and rights underscores the need for competent judges.” The integrity, competence, and impartiality of judges are critical to sustaining public confidence in the justice delivery system. Historically, entry into the subordinate judiciary in India has been through competitive examinations conducted by State Public Service Commissions or High Courts, often with eligibility limited to holding a law degree.

However, a significant policy shift emerged with the imposition of a three-year minimum practice requirement for candidates applying for entry-level judicial posts, such as Civil Judge (Junior Division). This move, backed by judicial pronouncements, aimed to address concerns regarding the lack of practical legal knowledge among freshly graduated judicial officers. Yet, the policy has raised important constitutional and administrative issues—particularly concerning equality under Article 14, the distribution of powers under Article 233, and the broader implications for judicial access and diversity. This paper undertakes a critical and holistic analysis of the issue from constitutional, judicial, and comparative

---

<sup>1</sup> Author is a Student at Government Law College, Karaikudi, India.

<sup>2</sup> Author is a Student at Government Law College, Karaikudi, India.

perspectives.

### Historical Background

The evolution of judicial appointments in India traces back to colonial structures where British civil servants held dominant roles. Post-independence, the Constitution created a decentralized system for subordinate judicial appointments through Articles<sup>3</sup> 233 to 237, empowering High Courts and State Governments. Initially, possession of a law degree sufficed for eligibility to the lower judiciary.

Concerns about inadequate courtroom preparedness among newly appointed judges prompted calls for reform. The Shetty Commission Report (2002)<sup>4</sup> and earlier rulings in the All India Judges' Association cases<sup>5</sup> recommended minimum practice requirements to improve judicial competence. In response, several states amended their rules to incorporate experiential prerequisites. While some welcomed the move as a step toward professionalism and efficiency, others opposed it on constitutional and equity grounds.

## II. ALL INDIA JUDGES' ASSOCIATION AND ORS. V. UNION OF INDIA AND ORS. (2025):

### A. Judgment and Broader Perspectives

“Restored the Requirements of three years minimum Practice as an advocate for Entry – level Judicial Appointments, applicable only to future recruitments. A Certificate from a senior advocate, duly endorsed, will serve as a proof of experience.”<sup>6</sup>

- **Chief Justice of India BR Gavai, Justice AG Masih and Justice K Vinod Chandran.**

In the landmark 2025 judgment of All India Judges' Association and Ors. v. Union of India and Ors.<sup>7</sup>, the Supreme Court revisited a deeply debated issue—the mandatory requirement that candidates must have **at least three years** of litigation experience to be eligible for direct recruitment into the subordinate judiciary<sup>8</sup>. The petitioners challenged this rule, arguing that it violated fundamental rights under Articles 14<sup>9</sup> (Right to Equality),

---

<sup>3</sup> Constitution of India, 1950. Arts. 233–237. chapter VI – Subordinate Courts

<sup>4</sup> Shetty Commission Report, Ministry of Law and Justice, 2002.

<sup>5</sup> All India Judges' Association & Ors. V. Union of India & Ors., Supreme Court of India, Writ Petition (Civil) No. 1022 of 1989 decided on May 20/2025 (2025).

<sup>6</sup> Drishti Judiciary. See also: <https://www.drishtijudiciary.com> (Last Visited May 26/2025 at 11:00 PM).

<sup>7</sup> (2002) 4 SCC 247.

<sup>8</sup> <https://economictimes.indiatimes.com> (last accessed 25 may 2025, 12:00 PM).

<sup>9</sup> Indian Constitution, 1950. Art.14.

16<sup>10</sup>(Equality of Opportunity in Public Employment), and 21<sup>11</sup> (Right to Life and Personal Liberty). They claimed that this experience criterion unfairly excluded fresh law graduates, depriving the judiciary of youthful talent and unnecessarily delaying entry into judicial service. According to them, a merit-based examination should suffice to assess a candidate's suitability.

However, the Court disagreed with these arguments and upheld the constitutional validity of the three-year practice requirement. It reasoned that judicial work demands more than theoretical knowledge; it requires practical skills, mature judgment, and hands-on experience—qualities that develop through real-world litigation. The Court emphasized that the judiciary handles complex tasks like evaluating evidence, managing courtroom proceedings, and interacting with diverse litigants—challenges that cannot be fully mastered through academic learning or written tests alone.

Building on principles from earlier rulings, especially the 1992 judgment<sup>12</sup> on this subject, the Court elaborated on the broader constitutional and structural context. It stressed that the judiciary plays a critical role in preserving constitutional governance, which calls for the highest standards of integrity, responsibility, and wisdom. The three-year experience rule, the Court observed, is a reasonable and necessary classification designed to ensure that judicial officers are adequately prepared to shoulder these responsibilities. While acknowledging improvements in legal education—such as internships and moot courts—the Court noted these cannot replace the depth of understanding that comes only from practicing law independently.

The judgment also struck a balance between protecting individual rights and addressing the judiciary's institutional needs. Although it accepted that the experience requirement may delay the careers of some aspiring judges, the Court found this delay justified by the need to maintain the judiciary's quality and public trust. It cautioned against rushed reforms that might weaken judicial standards and suggested that any modifications to recruitment criteria should be based on solid empirical evidence, taking into account the unique demands of judicial work.

Additionally, the Court addressed concerns about uniformity and the application of this rule across different states. It encouraged adopting consistent standards nationwide, while also allowing for some flexibility to respect regional differences. The judgment recommended

---

<sup>10</sup>Indian Constitution, 1950. Art.16.

<sup>11</sup>Indian Constitution, 1950. Art.21.

<sup>12</sup>(1992) 1 SCC 119.

periodic reviews of the experience requirement to ensure it remains fair and effective amid evolving legal education and practice.

In 2025 ruling reaffirmed<sup>13</sup> that requiring practical litigation experience is not an arbitrary barrier but a vital safeguard for maintaining judicial excellence and integrity. By carefully balancing constitutional principles with practical realities, the Supreme Court upheld the three-year practice mandate as a legitimate and necessary condition for judicial appointments. This decision continues to influence judicial recruitment policies throughout India and shapes ongoing debates about the best ways to prepare future judges.

### **III. JUDICIAL REASONING BEHIND THE POLICY AND ITS CONSTITUTIONAL VALIDITY**

The judicial rationale underlying the three-year practice requirement for aspiring judges stems from a nuanced understanding of the multifaceted role of the judiciary. Courts have consistently underscored that the duties of a judge extend far beyond the theoretical knowledge acquired in law school. Judicial responsibilities demand a deep grasp of procedural nuances, courtroom dynamics, client interactions, and practical problem-solving—all of which are cultivated through real-world legal practice.

Judicial experience is viewed as instrumental in nurturing legal acumen and ethical sensitivity, both of which are essential to impartial adjudication. Through practical exposure, candidates are believed to develop the maturity and professional competence necessary to manage complex litigation effectively. This, in turn, is seen as a mechanism to enhance the quality, reliability, and efficiency of the judiciary—reducing the likelihood of judicial errors and reinforcing public confidence in the system.

From a constitutional standpoint, courts have upheld the practice requirement as a form of reasonable classification under Article 14<sup>14</sup> of the Constitution. They have held that differentiating candidates based on legal experience serves a legitimate state interest—namely, ensuring that judicial officers are adequately equipped to discharge their responsibilities. The classification has been deemed rational, non-arbitrary, and proportionate, aligning with the broader objectives of judicial reform and institutional integrity.

Nonetheless, the policy has not been immune from constitutional challenges, especially with

---

<sup>13</sup>(2025) INSC 735 by Chief Justice of India B.R. Gavai, Justice A.G. Masih and Justice K. Vinod Chandran.

<sup>14</sup>*E.P. Royappa v. State of Tamil Nadu*, (1974) 4 SCC 3: The Supreme Court held that Article 14 strikes at arbitrariness in state action and ensures fairness and equality in all governmental actions. Also see: *Maneka Gandhi v. Union of India*, (1978) 1 SCC 248.

respect to Articles 14, 16<sup>15</sup>, and 19(1) (g)<sup>16</sup>. Critics contend that the mandatory experience requirement places an undue burden on recent law graduates by curtailing their immediate access to public employment opportunities and infringing upon their right to pursue a profession of their choice. There are also concerns about indirect discrimination, particularly affecting individuals from socio-economically disadvantaged backgrounds, women, and others who may face structural barriers to sustained legal practice. Factors such as financial hardship, limited access to mentorship, and familial obligations often delay their ability to fulfil the experience condition.

Despite these objections, the Supreme Court has consistently upheld the constitutional validity of the requirement, framing it as a reasonable restriction in the interest of maintaining judicial standards and public trust. At the same time, the Court has called for fairness and adaptability in implementing such policies. It has suggested that accommodations should be considered for those who genuinely struggle to meet the requirement due to systemic challenges.

In sum, while the three-year practice mandate has been deemed constitutionally sound, its practical enforcement must be guided by principles of equity and inclusiveness to ensure that it does not inadvertently exclude deserving candidates

#### **IV. COMPARATIVE JURISPRUDENCE AND POLICY MODELS**

Across the world, judicial recruitment systems vary widely, shaped by distinct legal traditions, governance structures, and policy priorities. Broadly, these models can be grouped into two categories: the career judiciary system, common in civil law countries, and the lateral entry system, typically followed in common law jurisdictions.

In the United States, there is no uniform federal rule mandating prior legal practice for judicial appointments. Nevertheless, in actual practice, most states and the federal system prefer candidates with significant legal experience<sup>17</sup>. Typically, judicial nominees have between five to ten years of professional practice, which often includes trial work, appellate advocacy, or academic roles. This preference reflects the American legal system's emphasis on courtroom exposure, advocacy skills, and hands-on legal expertise—qualities considered essential for effective judicial decision-making. At the federal level, judicial appointments are inherently political, involving nomination by the President and confirmation by the

---

<sup>15</sup>Indian Constitution, 1950. Art.16 – Equality of opportunity in matters of public employment. See also *State of Kerala v. N.M. Thomas*, (1976) 2 SCC 129 and *M. Nagaraj v. Union of India*, (2006) 8 SCC 212, *Indra Sawhney v. Union of India*, (1992) Suppl. (3) SCC 217.

<sup>16</sup>Indian Constitution, 1950. Art.19 (1) (g). See also: *P.A. Inamdar v. State of Maharashtra*, (2005) 6 SCC 537.

<sup>17</sup>American Bar Association, *Judicial Selection in the States* (2020).

Senate. At the state level, appointments may occur through elections, gubernatorial selections, or merit-based mechanisms like the Missouri Plan<sup>18</sup>.

The United Kingdom<sup>19</sup> follows a similar trajectory. Aspiring judges are usually required to have five to seven years of post-qualification legal experience. The Judicial Appointments Commission (JAC)<sup>20</sup> oversees the recruitment process in England and Wales, assessing candidates not only on legal proficiency but also on attributes such as impartiality, integrity, sound judgment, and judicial temperament. The JAC ensures a transparent and competitive selection process, with a strong focus on merit, independence, and diversity.

On the other hand, civil law countries such as Germany and France adopt a career judiciary model, where individuals are trained to become judges early in their legal careers. In these countries, law graduates enter the judicial stream directly after completing their academic education and undergo intensive, specialized training tailored for judicial service.

In Germany<sup>21</sup>, prospective judges must pass two rigorous state examinations and complete a mandatory Referendariat<sup>22</sup>—a structured legal clerkship. Successful candidates are then inducted into the judiciary and follow a well-defined career path that includes regular evaluations and continuous professional development.

France operates a similar system through the prestigious École Nationale de la Magistrature<sup>23</sup>(ENM). Selected law graduates undertake a highly competitive entrance exam and, upon selection, go through a rigorous program that blends theoretical learning with practical placements in courts and administrative offices. The ENM ensures a centralized and merit-based training system aimed at cultivating well-rounded judicial officers.

Japan also mirrors the career model of civil law jurisdictions. Judicial aspirants are trained at the Legal Training and Research Institute, an institution run under the supervision of the Supreme Court. Here, law graduates undertake a structured curriculum that combines academic instruction with hands-on clinical training. This standardized approach ensures uniformity in skill, competence, and ethical conduct among future judges, prosecutors, and lawyers.

---

<sup>18</sup>See American Judicature Society. The Missouri plan: The Best Method of Selecting Judges: <https://web.archive.org/web/20140714000000/https://www.judicialselection.us/uploads/documents/Missouri-plan-1189832533813.pdf> (Last accessed May26, 2025 at 3:00 PM).

<sup>19</sup>Judicial Appointments Commission, UK, Eligibility Criteria for Judges (2023).

<sup>20</sup>Judicial Appointments Commission, About Us, <https://judicialappointments.gov.uk/about-us/> (Last visited May 26, 2025 at 7:00 PM).

<sup>21</sup>Federal Ministry of Justice, Legal Training in Germany, <https://www.bmj.de> (Last Visited May25,2025 at 10:00 PM).

<sup>22</sup>Available at : <https://www.bmj.de> (Last Visited May25,2025 at 10:02 PM).

<sup>23</sup>École Nationale de la Magistrature, France, Training Curriculum.

In comparison, India's approach to judicial recruitment can be described as a hybrid model, blending elements from both common and civil law systems. While it shares the emphasis on prior legal practice found in countries like the US and UK, it lacks the institutionalized and structured training seen in civil law jurisdictions. The three-year practice requirement, introduced following the Supreme Court's judgment in *All India Judges' Association v. Union of India*, was meant to ensure that candidates entering the judiciary have some practical courtroom exposure.

However, unlike France's ENM<sup>24</sup> or Japan's centralized training institute<sup>25</sup>, India does not offer a uniform or systematic post-selection training framework. This gap may inadvertently exclude capable fresh graduates who, with adequate training and mentorship, could perform well on the bench. At the same time, those who meet the practice requirement are not guaranteed a standardized process for further professional development.

As a result, India's current recruitment model raises important concerns regarding accessibility, equity, and the effectiveness of judicial preparation in a complex and rapidly evolving legal landscape.

## **V. SUGGESTIONS AND REFORMS**

To ensure that the judiciary remains both competent and accessible, it is essential to revisit and reform the eligibility criteria for judicial appointments with a balanced and forward-thinking approach. While the current requirement of three years of litigation experience aims to instil practical exposure, it risks sidelining many deserving candidates who may have acquired substantial legal competence through non-litigation pathways. A more inclusive framework should recognize diverse forms of legal training and engagement as valid indicators of judicial readiness.

Experiences such as judicial internships, law clerkships, and active involvement in moot court competitions, client counselling contests, legal aid programs, and academic or policy-oriented research can all foster critical judicial skills. These avenues, though outside the adversarial litigation process, contribute significantly to developing legal reasoning, drafting proficiency, procedural awareness, and ethical sensitivity—qualities that are essential for a judge.

Furthermore, the focus on building judicial competence should not be confined to pre-entry experience alone. Instead, greater emphasis should be placed on rigorous post-selection

---

<sup>24</sup>École Nationale de la Magistrature (ENM).

<sup>25</sup>Legal Training and Research Institute, Japan, Annual Report (2022).

training. Judicial academies must be empowered and standardized across jurisdictions to deliver intensive and well-structured induction programs. These programs should comprehensively address both the theoretical and practical dimensions of judicial work, including case management, courtroom demeanour, judicial ethics, evidence appreciation, and technological integration in the justice system. Such training would ensure that all new judges, irrespective of their prior background, are fully prepared to shoulder their responsibilities with competence and integrity.

To protect the sanctity of the recruitment process, there must also be a credible and transparent mechanism to verify claims of legal practice. Growing concerns about candidates securing bar enrolments without engaging in actual practice—merely to fulfil eligibility norms—undermine the authenticity of the process. Establishing an independent certifying authority, perhaps jointly overseen by the judiciary and the Bar Council of India, could help address this issue. This body should be tasked with validating legal practice through sworn affidavits, verified case appearances, and supporting documentation to ensure only genuine practitioners qualify.

In addition, the creation of a standardized national framework for judicial recruitment is long overdue. Currently, the diversity in recruitment norms across different states and courts leads to inconsistencies and perceptions of arbitrariness. A coordinated consultation process involving the Supreme Court, High Courts, the Bar Council of India, law schools, and state governments should be initiated to develop a transparent and uniform recruitment policy. Such a framework must uphold the constitutional principles of equality and fairness in public employment, while also accommodating the judiciary's need for practical capability.

Lastly, to ensure that reforms remain relevant in a dynamic socio-legal environment, an institutionalized mechanism for periodic review is essential. An independent expert committee should be established to evaluate the ongoing impact of eligibility criteria on the judiciary's diversity, accessibility, and efficiency. Special consideration must be given to how these requirements affect gender representation, rural and regional inclusion, and opportunities for first-generation legal professionals. These evaluations will provide a data-driven basis for policy updates and help align the judiciary with the broader goals of justice, equity, and constitutional values.

## **VI. CONCLUSION**

The three-year practice requirement reflects a sincere effort to enhance the standards of judicial appointments through practical legal exposure. While its constitutional basis has

been upheld, its implementation must be sensitive to India's diverse social and educational landscape. Over-reliance on rigid practice requirements may curtail judicial diversity and limit entry for deserving candidates, particularly those from disadvantaged backgrounds.

To achieve a truly competent and inclusive judiciary, India must explore hybrid models that combine legal education, structured training, and fair experiential benchmarks. A progressive, merit-oriented system—grounded in constitutional values—can ensure that the judiciary remains not only efficient and knowledgeable but also accessible and representative of all sections of society.

\*\*\*\*\*

**VII. REFERENCES**

1. M.P. Jain, Indian Constitutional Law (LexisNexis, 8<sup>th</sup> Edition, 2018).
2. All India Judges Association and Ors v. Union of India and Ors, (2002) 4 SCC 247.
3. Anuj Bhunia, "Judicial Appointments and the Bar – Bench Divide," Economic and political weekly, Vol. 51, No. 13, 2016.
4. Shetty Commission Report, Ministry of Law and Justice, Government of India, 2002.
5. Legal Training and Research Institute, Japan, Annual Report 2022.
6. T.M.A. Pai Foundation v. State of Karnataka, (2002) 8 SCC 481.
7. Law Commission of India, 117<sup>th</sup> Report on Training of Judicial Officers (1986).
8. Marc Galanter, Law and Society in Modern India (Oxford University Press, 2001).
9. <https://www.barandbench.com> (Last Visited May 26/2025 at 3:42 PM).
10. See also: <https://indiankanoon.org> (Last Visited May 26/2025 at 4:00 PM).
11. Supreme Court Observer. <https://www.scobserver.in> (Last Visited May 26/2025 at 8:00 PM).
12. Drishti Judiciary. See also: <https://www.drishtijudiciary.com> (Last Visited May 26/2025 at 11:00 PM).

\*\*\*\*\*