

To deliver justice well, we need judges who have lived it too: In defence of the SC's 3 year practice mandate for judicial exams

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A RECENT DECISION OF THE SUPREME COURT has barred fresh law graduates from judicial exams, mandating three years of practice, and has come at a time when India's judicial system is under intense scrutiny for delays, inconsistencies, and backlogs, underscoring the urgent need for reform. Several solutions have been proposed, from digitisation and tribunalisation, to improving judicial efficiency. However, one foundational issue is often ignored: the importance of real courtroom experience for prospective judges.

It needs to be reemphasised that practical court experience in arguing cases and examining witnesses builds the competence for the well-rounded development of prospective judges.

Most law students have a grasp of constitutional principles, landmark judgments, and statutory interpretation, which builds the foundation for students who wish to develop their careers in the judiciary. This theoretical knowledge, supplemented with courtroom experience, may enable future judges to understand how legal arguments play out in practice.

To illustrate, there is a frequent misuse of adjournments in trial courts, wherein a judge who has practiced law may be able to analyse when a delay is being sought to frustrate the process rather than for a valid reason. Such insights can lead to faster disposal of cases. Moreover, judges with courtroom experience are more likely to understand the issues faced by those from underprivileged backgrounds who have waited months for bail or cannot afford to appeal a lower court's verdict. In times when Indian courts are overburdened, this kind of personal insight is vital.

At the same time, judges with prior litigation or trial experience are often better at managing dockets, enforcing discipline, and ensuring that cases move forward without unnecessary obstacles. Ultimately, the judiciary derives its authority from the Constitution and public trust. Citizens need to believe that the person deciding their fate understands what they are going through and is equipped to deliver fair outcomes.

Simply stated, a judge who has navigated the courtroom as a lawyer inspires more trust than one who has had limited or no exposure to the ground realities of legal practice. For litigants, particularly those with limited or little knowledge of legal intricacies, such experience becomes necessary to affirm credibility.

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Surely, the three year practice mandate is not equitable

The existing judicial system does not always facilitate practical court experience, especially in cases of higher judicial appointments. A mandatory three-year practice requirement may also not be equitable in light of various structural and systemic barriers faced by women, first-generation law students, and students from marginalised backgrounds. Despite measures to ensure gender equality, women are underrepresented in the judiciary on account of various factors, not limited to discriminatory practices, gender bias in courtrooms, and other challenges relating to work-life balance.

Senior Advocate Anitha Shenoy has noted that women lawyers continue to lack equal status despite being an essential component of the legal profession, further stating that “women lawyers still have to battle condescension, patronising attitude, and patriarchal mindsets from male lawyers and, in some cases, the Judges.”



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These systemic barriers and biases may have a disproportionately negative impact on women's entry into litigation, denying them this crucial experience. Apart from the access to litigation roles, the change may have a significant financial burden, as many junior advocates are paid little to nothing.

The certification process may also be riddled with bureaucratic hurdles, favouring the individual with networks and legacies who may easily get these certifications. This rule assumes that a level playing field exists for lawyers aspiring for litigation opportunities; hence, the courts must ensure that a minimum of three years of courtroom experience does not exclude women, first-generation lawyers, and lawyers from rural and marginalised backgrounds.

Specific structural reforms are needed

Thus, the change brought through the judgment will need specific structural reforms to be implemented, that prioritise courtroom experience in the appointment and training of judges which includes revamping the collegium criteria for appointments to higher judiciary by including a mandatory minimum threshold of courtroom practice, case handling, or trial experience, particularly in complex civil or criminal matters.

Furthermore, similar to the U.S. and other jurisdictions, long-term clerkship programs with High Court and Supreme Court judges could be made mandatory for aspiring judges, helping them gain firsthand insight into judicial reasoning and courtroom management. There should be more research internships, clerkships, and fellowship opportunities, focusing on inclusivity and fostering supportive environments within the legal field and judiciary. There is a need to create networks and support systems for women lawyers and

lawyers from marginalised backgrounds, facilitate mentorship and sharing experiences, and establish law school-based legal service clinics that may provide necessary training to lawyers.

Going forward, the discussion around judicial reform must extend beyond infrastructure and backlog reduction.

Finally, judges, especially those elevated to higher courts, should undergo periodic Continuing Legal Education programs, including simulations, workshops, and case-study-based learning, focusing on contemporary trial practices and evolving procedural norms. All these steps would ensure that a transparent system for tracking and evaluating judges' exposure to and handling of complex courtroom situations could be used to inform decisions around promotions and elevations.

Going forward, the discussion around judicial reform must extend beyond infrastructure and backlog reduction. We need judges who are not only learned in the law but also seasoned by its practice. Practical court experience builds judicial intuition, empathy, and legitimacy essential to justice delivery in a complex, diverse, and often unequal society. As the saying goes, justice is not an abstract principle but a lived experience. To deliver it well, we need judges who have lived it too.