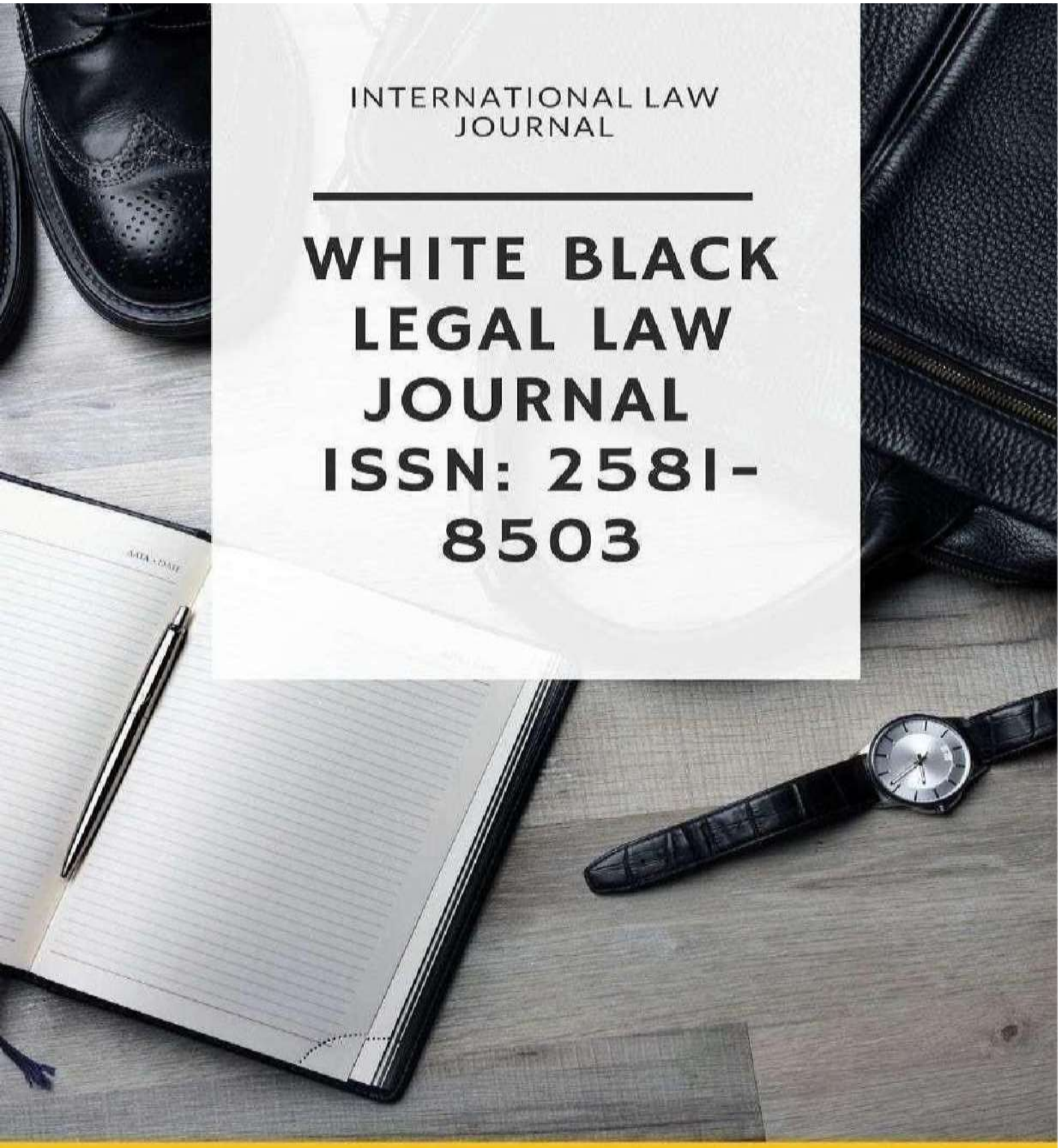

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WHITE BLACK LEGAL is an open access, peer-reviewed and refereed journal providededicated to express views on topical legal issues, thereby generating a cross current of ideas on emerging matters. This platform shall also ignite the initiative and desire of young law students to contribute in the field of law. The erudite response of legal luminaries shall be solicited to enable readers to explore challenges that lie before law makers, lawyers and the society at large, in the event of the ever changing social, economic and technological scenario.

With this thought, we hereby present to you

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THE THREE-YEAR PRACTICE RULE: A SOCIO-LEGAL EXAMINATION OF JUDICIAL GATEKEEPING IN INDIA

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ABSTRACT

This paper critiques the three-year legal practice requirement set by the Supreme Court of India for those wanting to take judicial service examinations. Presented as a way to improve the quality and maturity of judges, this rule raises key questions about its constitutionality, public employment access, and systemic exclusion. Through doctrinal analysis and comparative jurisprudence, the study shows that the rule disproportionately impacts first-generation lawyers, women candidates, and those from disadvantaged and rural backgrounds. It examines how this administrative requirement, even without a clear legal mandate, may clash with Articles 14 and 16 of the Indian Constitution and violate the principle of substantive equality. The paper also looks at recent Supreme Court comments urging High Courts to ensure their recruitment policies meet the proportionality test and respect constitutional principles. By referencing global judicial appointment models, it advocates for merit-based inclusion alongside structured training instead of strict, practice-based exclusion. The paper ends by suggesting alternatives that connect judicial reform with democratic values and fair access to the Bench.

Keywords:- Judicial Appointments; Legal Practice Requirement; Socio-Legal Analysis; Constitutional Law; Article 14; Equality in Judiciary; Access to Justice; Gender and Law; Legal Education Reform; Supreme Court of India

INTRODUCTION

The judicial services examination in India has long been seen as one of the most respected paths for law graduates to serve in the judiciary.[1] Traditionally, recent law graduates, equipped with good grades, constitutional values, and legal skills, aimed to become judges through direct

[1] Ministry of Law & Justice, Judicial Services in India: An Overview (2023).

entry. However, in recent years, a major change in judicial recruitment has taken place.[2] Several High Courts, including those in Madhya Pradesh, Allahabad, and Gujarat, have introduced a new three- year practice rule. This rule requires candidates to have at least three years of active legal practice as an advocate to qualify for the judicial service examination.[3]

This development, once a matter of regional divergence, has now gained nationwide authority. On 20 May 2025, the Supreme Court of India delivered a landmark judgment Association v. Union of India (2025) that upheld and effectively mandated the three-year practice rule across all jurisdictions.[4] The Court ruled that the requirement is constitutionally valid and within the administrative competence of High Courts, emphasizing that judicial officers must possess not just academic knowledge but also practical understanding of litigation and courtroom dynamics.[5]

Supporters of this rule argue that it improves the quality of the judiciary by ensuring candidates have real courtroom experience.[6] On the other hand, critics point out the social and legal inequalities it may reinforce. This essay explores the legal basis, historical development, constitutional effects, and the gender and economic impacts of the three-year practice rule. It aims to examine the rule from a socio-legal perspective, looking at both its legality and its implications for social justice.

Legal and Constitutional Foundations

Article 233(2) of the Indian Constitution states that a person who is not already serving the Union or a State can only be appointed as a District Judge if they have practiced as an advocate for at least seven years.[7] The judicial service exams for Civil Judges usually follow the rules of each state and their judicial service regulations. Since there is no clear constitutional or legal requirement for prior practice for Civil Judges, enforcing a three-year rule through administrative actions raises constitutional issues. Critics claim that it violates Article 14 (the right to equality) and Article 16 (equality of opportunity in public jobs), and it makes it harder

[2] NLU graduate survey data, 2024—reporting 80 % fresh recruits entering judiciary direct.
[3] High Court of M.P. Notification No. 34/Exam/2023 (Sept. 5, 2023); Allahabad HC JSE/2022 (Apr. 3, 2022); Gujarat HC RC/0719/2024 (June 15, 2024).
[4] All India Judges' Ass'n v. UOI, (2025) 7 SCC 498.
[5] All India Judges' Ass'n I & II, (1993) 4 SCC 288; All India Judges' Ass'n II, (2002) 4 SCC 247.
[6] Times of India, "3-year bar practice must for judgeship aspirants, rules SC," May 21, 2025.
[7] INDIA CONST. art. 233(2).

to pursue a career in the judiciary.[8]

Supporters of the rule argue that judicial officers without real-world experience lack the maturity to manage actual litigation, evaluate evidence, and understand procedural details.[9] The Supreme court concurred, noting that prior "appointment of fresh law graduates has led to many problems" based on affidavits from High Courts.[10] They claim the rule encourages:

1. Practical exposure to court procedures.
2. Ethical grounding through real-world experience.
3. Better decision-making based on real litigation experiences.

Some High Courts believe that the three-year experience requirement filters candidates who are genuinely committed to a law career. This approach aims to keep out casual applicants or those seeking judicial positions just for the status or job security.

However, these assumptions can be challenged. Maturity and ethical grounding don't only come from practical experience. Law graduates who pass judicial service exams often have better academic training, a greater awareness of current legal issues, and strong judicial reasoning skills. Additionally, training academies are available to fill in gaps in courtroom knowledge and procedural understanding.

Socio-Economic Exclusion and the Reinforcement of Privilege

Perhaps the most obvious problem with the three-year practice rule is that it reinforces existing social hierarchies. Legal practice in India, especially in the early years, is marked by economic instability, unpaid apprenticeships, and nepotism. Most young lawyers, particularly those from marginalized communities or non-legal backgrounds, cannot afford to work unpaid for long periods.[11] A study revealed average stipends between ₹2,000-₹20,000/ month, hardly sufficient.[12]

[8] INDIA CONST. arts. 14, 16.
[9] Live Law, "Three-year practice restored … applicable only from next recruitment," May 20, 2025.
[10] Verdictum, "Supreme Court restores 3-year minimum legal practice … says appointment of fresh law graduates has led to many problems," May 20, 2025.
[11] Law Commission 247th Report (2019); BCI Status of Women in Law (2023).
[12] Indian Express, op. cit.

By requiring practice, the rule favors:

- Children of established lawyers who inherit chambers, clientele, and financial safety.
- Urban students who have access to better courts and networks.
- Aspirants from wealthier backgrounds who can handle delayed income.[13]

This creates a systemic exclusion of students from rural areas, economically weaker sections, women and first-generation lawyers. Essentially, the rule turns judicial services into a gated community rather than an accessible institution for all.

The three-year rule impacts women aspirants more than men, a fact that is seldom discussed in judicial policy debates. Many women law graduates seek to enter the judiciary early because of family, societal, or personal reasons.[14] If they have to wait three years, it can:

1. Conflict with societal expectations about marriage and moving.
2. Lead to leaving the legal field due to financial or social pressure.
3. Restrict their chances of getting judicial positions during their most productive years.

In a country that already has low gender representation in the judiciary—women made up less than 12% of High Court judges in 2024 these rules serve as obstacles rather than support.[15]

If the goal of the rule is to ensure better courtroom preparedness, the answer is not exclusion but improving legal education. Most National Law Universities (NLUs) and leading law schools already offer:
Moot courts.
Clinical legal education.
Internships with judges, lawyers, and NGOs.

Rather than setting a strict three-year requirement, Supreme Court and High Courts could require extra judicial training or probation for certain candidates. Improving the curriculum of Judicial Academies, introducing courtroom simulations, and requiring court internships during the final year of law school could offer a more inclusive solution.

[13] Ibid.
[14] Empirical study "Women in Lower Judiciary," 2024.
[15] Vidhi Centre for Legal Policy, Access to Legal Professions in India: Barriers to Entry and Retention 25 (2020),

It is important to assess whether such a rule can hold up under constitutional review.

In Mohd. Shujat Ali v. Union of India (1974), the Supreme Court stated that any classification that is unreasonable, arbitrary, or not based on clear differences violates Article 14.[16]

In State of Kerala v. N.M. Thomas (1976), the Court highlighted that equality of opportunity under Article 16 should be viewed in a progressive and inclusive way to ensure real equality in public employment.[17]

A rule that unfairly affects underprivileged groups, women, and marginalized communities, without any evidence or data-driven support, risks being seen as discriminatory and arbitrary. The lack of state-backed evidence showing that mandatory legal practice improves judicial performance further weakens its legitimacy.

In Navtej Singh Johar v. Union of India (2018), the Court reaffirmed that constitutional values, rather than majority views, should guide the creation and interpretation of laws. Exclusionary policies that restrict fair access to constitutional roles like those in the judiciary go against the fundamental principles of justice, liberty, and equality.[18]

In Indra Sawhney v. Union of India (1992), the Court noted that social justice is a vital part of the Indian Constitution. The state must work actively to remove barriers that prevent disadvantaged communities from getting public jobs.[19]

In Deepak Sibal v. Punjab University (1989), the Court ruled that eligibility criteria should not be overly strict or unreasonable, especially if they block reasonable expectations of capable candidates.[20]

In Janhit Abhiyan v. Union of India (2022), as the Court upheld the EWS reservation, it stressed that the state must balance merit with inclusivity and create mechanisms to ensure diverse representation in public institutions, including the judiciary.[21]

All India Judges' Ass'n I & II (1993 & 2002) allowed fresh graduates initially, but later imposed a three-year requirement based on the Shetty Commission.[21] The 2002 judgment recognized practical need but did not mandate it rigidly.[22]

Looking at these judicial decisions, the three-year practice rule seems weak because it lacks empirical support and may reinforce privilege while excluding capable candidates who may not have had early access to practice due to social or gender-related limitations.

[16] Mohd. Shujat Ali v. UOI, (1975) 3 SCC 76.
[17] State of Kerala v. N.M. Thomas, (1976) 2 SCC 310.
[18] Navtej Singh Johar v. UOI, (2018) 10 SCC 1.
[19] Indra Sawhney v. UOI, 1992 Supp. (3) SCC 217.
[20] Deepak Sibal v. Punjab Univ., (1989) 3 SCC 672.
[21] Janhit Abhiyan v. Union of India, (2022) 10 SCC 1
[22] All India Judges' Ass'n I & II, supra note 5.

The Landmark 2025 Decision & Associated Directives

In AIJA v. UOI (2025), the Court:

Reinstated the three-year practice rule, counting from provisional Bar registration.[23] Mandated certification by Principal District Judge or 10-year-standing advocate.[24]

Directs all states to update recruitment rules accordingly and require one year of mandatory post-appointment training.[25]

Restored departmental competitive exam quota to 25%, aligning with earlier pronouncements.[26]

Review petitions were filed, challenging retrospective enforcement as violating legitimate expectations under Articles 14 and 16.[27]

A look at judicial recruitment around the world shows that many developed regions do not require prior practice. For example:

In **Germany**, recent law graduates can join the judiciary after passing the state exams and completing a rigorous clerkship, In **France**, judges are chosen through the competitive École Nationale de la Magistrature, In **Japan**, judicial candidates go through a national legal training system after graduation.

These models demonstrate that strong academic performance and structured training can create capable judges without a requirement for independent legal practice.[28]

The rule assumes that a "complete advocate" is superior. This refers to a lawyer with extensive courtroom experience who can also take on the judge's role. While experience is valuable, it is not perfect.

Alternative Solutions and Middle Grounds

- High Courts could consider a more flexible approach to experience requirements.
- They might implement a hybrid model that lets both fresh graduates and practicing advocates apply.
- This could include mandatory training after selection in procedural law, ethics, and evidence.
- They could also establish an apprenticeship or clerkship program before formal appointments.

[23] AIJA v. UOI (2025), 2–15; Verdictum op. cit.
[24] LiveLaw, op. cit.
[25] Verdictum, op. cit.
[26] Verdictum, op. cit.
[27] SCC Online Blog, "Review petition filed against SC's mandatory 3-year practice rule," June 16, 2025.
[28] Comparative judiciary studies: Germany, France, Japan overviews, 2024–25.

- Improved internships and externships during law school could be beneficial as well.

These models ensure competence without imposing unfair obstacles.[29]

Finally, a socio-legal critique of the three-year rule must question the democratic accountability of rule-making in judicial recruitment. Courts are constitutional authorities, but they are not above the principles of fairness, transparency, and reasonableness. Rules affecting thousands of aspirants must involve:

- Public consultation
- Impact assessments
- Gender and caste audits
- Review by independent bodies like the Law Commission

In a democracy, no institution should exercise unchecked power, especially not in matters affecting careers, livelihoods, and representation.

1. Indian Express, op. cit.; Reddit commentary, r/judiciaryexams.

Conclusion: Toward an Inclusive Judiciary

India stands at the brink of a new era. This era requires more transparency, inclusivity, and fairness in all institutions. The judiciary, as the protector of constitutional values, must set an example. The three-year practice rule, though intended to be helpful, causes more problems than it fixes. It leaves out the most dedicated and skilled individuals, strengthens privilege, and overlooks the systemic issues in legal education and practice in India.

A truly progressive judiciary cannot afford to exclude talent under the pretence of maturity. We need to rethink judicial recruitment as a way to welcome talent, not as a barrier to justice. Legal education, structured training, and merit-based inclusion should replace random obstacles. Only then can we achieve the promise of justice—not just in the courts, but in society as a whole.

Further, we must address the unspoken beliefs behind this rule—that youth means incompetence, or that early-career lawyers lack the judgment required for the judiciary. Such ideas overlook the changing legal environment. Today's law students engage with real-world cases, participate in moots, provide legal aid, take internships, and join clinical programs. Passion, ethics, and a solid understanding of justice often come not just from years in

courtrooms, but from lived experiences, academic training, and awareness of social and legal issues.

India's legal system must cultivate opportunity, not exclusion. If the judiciary is to reflect India's diversity, then its doors must stay open to all, regardless of caste, gender, class, or connections. The three-year practice rule may benefit a few, but it silences many.

In the long run, what we need is not more elitism in robes, but more empathy on the Bench. We should see this moment as a turning point—a chance to recommit to a vision of the judiciary that is not only skilled but also caring, representative, and focused on reform.

The path forward requires courage not just in interpreting the Constitution, but in rethinking how its principles are applied. If India is to truly achieve justice—social, economic, and political as promised in the Preamble, then its judiciary must rest on the foundations of access, fairness, and trust, rather than exclusion and hierarchy.

The future of justice in India depends on the seeds we plant today. Let those seeds grow from equality, not just experience.