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*Discretion and Delay:
Challenges in Becoming a District and Civil Judge*

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Errors, if any, in the Report are the authors’ alone.

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A transparent judicial appointment system capable of attracting meritorious candidates is one of the priorities of a constitutional democracy. Appointments to the higher judiciary have been scrutinized extensively; however, reforms to the appointment process in the lower judiciary have barely moved beyond the usual prescription for an All India Judicial Service ('AIJS'), and more recently a 'Central Selection Mechanism ('CSM').¹ Both these examinations essentially aim at centralising the recruitment process for District Judges to varying degrees.

The proposal of an AIJS was made first in 14th Law Commission report in 1958 as a way to attract talented candidates to the lower judiciary.² Many Law Commission reports thereafter have discussed this proposal. Notable among this is the 116th Law Commission Report. There, it was argued that AIJS would create a competent cadre of District Judges which would be recruited centrally through a national level examination.³ Thereafter, they would be allocated to each state, much like the central civil service examinations. Judges below the level of District Judges, would be part of the state judicial service.⁴

A slightly different proposal for reform is the CSM. A CSM is meant for the recruitment of District Judges who enter the judicial service laterally from the Bar.⁵ These posts constitute twenty-five percent of entrants into the higher rungs of the lower judiciary. Thus, unlike an AIJS, which is an examination process for all those who wish to become District Judges, CSM is a national examination only for a small percentage of posts within the cadre of District Judges.⁶ The proposal for CSM arose in the context of

¹ "SC to Consider "A Common Examination to Select Judicial Officers", Livemint, 10th August, 2017, last accessed on 24th February, 2018.

² Law Commission of India, "Reform of Judicial Administration", Vol 1, 14th Report, September, 1958, page 161.

³ Law Commission of India, "Formation of an All-India Judicial Service", 116th Report, November 1986, page 7.

⁴ *Ibid.*

⁵ *In Re Central Selection Mechanism for Subordinate Judiciary* (W.P (C) No 1/2017). The PIL arose out of a letter issued by the Law Ministry to the SC Secretary General in May 2017. The letter proposed creating a CSM for the appointment of subordinate judges across the country. The Concept Note on CSM can be accessed at, Apoorva Mandhani, "Amicus Arvind Datar Submits Concept Note in Favour of an All-India District Judges Recruitment Exam", Live Law, August 6th, 2017, available at <<http://www.livelaw.in/amicus-arvind-datar-submits-concept-note-favor-all-india-district-judges-recruitment-exam/>>, last accessed on 1st July, 2018.

⁶ *Ibid.*

the suo motu public interest litigation ('PIL') in the Supreme Court filed in August, 2017.⁷

The common argument in favour of CSM and AIJS is that an examination process organized at a national level would attract a better, more talented pool of candidates and encourage fresh graduates to join the lower judiciary.⁸ Further, it would bring about a degree of uniformity and regularity in the examination process.⁹ Finally, such a process would also be transparent and an efficient mode of recruitment.¹⁰

However, some authors have pointed out that centralizing examinations would not address the underlying problems that plague the system. For instance, centralising appointments does not address the larger questions of quality of candidates appointed or the fact that the judicial services do not attract the best talent.¹¹

What emerges from this public discourse is the lack of empirical data to throw better light on these issues. To understand the problems with the appointment system in the lower courts, Vidhi Centre for Legal Policy collated publicly-available data on the recruitment cycles carried out by each state between 2007 till 2017. It is important to note here that the examination for Civil Judges (Junior Division) entails a preliminary exam which is objective in nature since it is in the form of multiple choice questions; a mains or written examination which is subjective in nature and entails writing answers to legal questions; and lastly, a viva-voce. This is also the structure for the District Judges (Direct recruitment from the bar) examination. However, some states have done away with the preliminary examination for the District Judge exam. Based on studying these recruitment cycles over the last ten years, we published a brief report titled *Ranking Lower Court Appointment* in November 2017.¹² In this report, we studied the manner in which recruitment takes place for District Judges via direct recruitment from the bar and Civil Judges (Junior Division).

In the *Ranking Lower Court Appointment* report, we measured the performance of states on the timeliness or the average number of days taken to complete a recruitment cycle, and percentage of vacancies potentially filled. We argued that centralising the current recruitment mechanism would not resolve all the problems inherent in the

⁷ *Ibid.*

⁸ Law Commission of India, 116th Report, page 18-19.

⁹ *Ibid.*

¹⁰ *Ibid.*

¹¹ Alok Prasanna Kumar, "No Case for an All-India Judicial Service", The Hindu, August 16th, 2018.

¹² Diksha Sanyal, Nitika Khaitan, Shalini Seetharam and Shriyam Gupta, *Ranking Lower Court Appointments*, October 2017, Vidhi Centre for Legal Policy, available at <<https://vidhilegalpolicy.in/reports/2017/11/29/report-on-ranking-lower-judiciary-appointments>> last accessed on 9th February, 2018.

system. Such a claim is at best an oversimplification. While it may solve the administrative problems in conducting such an examination, it cannot solve problems pertaining to the lack of good quality candidates and persistent vacancies.¹³ Instead, an approach attuned to state-specific contexts would be more appropriate.

This need to develop tailor-made, nuanced solutions prompted us to undertake a study of the judicial service rules ('rules') that govern the recruitment process of the recruitment of Civil Judges (Junior Division) and District Judges (Direct Recruitment from Bar) in each state. Alongside mapping these rules, we also interviewed some stakeholders involved in the recruitment to understand some of the overarching challenges of conducting such recruitments.

The objective of this report is to identify ambiguities in rule-drafting that could point to uncontrolled discretion and lack of clear processes that is leading to ad-hocism, lack of clarity, and uncertainty in the judicial service examination process. Further, studying the patterns in such rules can reveal problems with the recruitment process peculiar to each state. We argue that better drafted rules can ensure greater clarity and transparency in the recruitment process.

¹³Diksha Sanyal and Shriyam Gupta, "*What is to Blame for the Mounting Shortage of District Court Judges in India*", Scroll.in, January 13th, 2018, available at <<https://scroll.in/article/862475/what-is-to-blame-for-the-mounting-shortage-of-district-court-judges-in-india>> last accessed on 9th February, 2018.

I. Data Collection

Between November 2017 and February 2018, we collated the latest judicial service rules for direct recruitment of Civil Judge (Junior Division) and District Judge from across states in India. We did so in three ways:

- Firstly, we secured rules from each website of each High Court. To ensure that we had access to the latest rules, we got telephonic confirmation from 18 states¹⁴ and email confirmation from three states.¹⁵
- Secondly, we filed Right to Information requests to secure latest rules from seven states.¹⁶
- Thirdly, for one state - Kerala - we used the latest rules available in 'Kerala High Court Rules and Practices 2016'.

In this manner, we secured rules for 29 states in India, except Jammu and Kashmir. Another component of our research comprised of interviews with some candidates appearing for judicial service examinations, retired members of the judiciary, members of Public Service Commissions and law professors closely associated with the direct recruitment process.

II. Mapping Judicial Service Rules

We identified metrics to understand the accountability, transparency and efficiency across the entire recruitment cycle. Thus, for each rule, we mapped the following metrics for recruitment process for Civil Judge (Junior Division) and District Judge:

- The identification of a clearly-designated authority for conduct of examination
- Provisions for examination timelines
- Designated 'zone of consideration' after each stage of examination. A zone of consideration is a prescribed ratio of available seats to candidates. The conducting authority is supposed to shortlist candidates at each stage of the examination as per this prescribed ratio since they would fall under the 'zone of consideration'.

¹⁴ These include: Andhra Pradesh, Telangana, Arunachal Pradesh, Bihar, Chhattisgarh, Goa, Uttar Pradesh, Jharkhand, Madhya Pradesh, Manipur, Tamil Nadu, Rajasthan, Assam, Maharashtra, Punjab, Haryana, Himachal Pradesh and Odisha

¹⁵ These include: Mizoram, Tripura and Nagaland

¹⁶ These include: Gujarat, West-Bengal, Karnataka, Uttarakhand, Sikkim, Meghalaya and Delhi

- Provisions for the syllabus for the recruitment process.
- Provisions for grievance redressal, re-evaluation and recusal of members who conduct the examination in case of conflict of interest.
- Details on the composition of interview panels

Table 1 provides an explanation of why these metrics were chosen.

Metric	Justification
Clearly designated authority for the conduct of the examination	Having a designated authority mentioned within the rules with clearly defined roles, functions and responsibilities will help ensure accountability since a candidate would know who to approach in case of problems with the recruitment process.
Timelines for the completion of the examination	In <i>Malik Mazhar v. U.P Public Service Commission (2008)</i> , ¹⁷ the Supreme Court emphasised the importance of having a prescribed time-schedule for conducting judicial service examinations, since completing the examination in a time bound manner is a marker of an efficient, transparent and accountable recruitment process.
Designated Zone of Consideration	The <i>Malik Mazhar</i> ¹⁸ case also specified the requirement of having an appropriate zone of consideration in which candidates for every stage of the examination would be shortlisted. Having such a requirement helps the Recruiting Authority ensure that a minimum number of candidates are selected at every stage such that the advertised vacancies are filled. Such guidelines make the process more accountable and transparent in nature.
Syllabus	A basic outline of a syllabus helps ensure transparency regarding the manner and content of testing. Having a syllabus outline in the rules ensures that candidates can plan and prepare for such examinations even before the examination notification is released.
Grievance redressal, re-evaluation, and recusal	Without a clearly specified mechanism for grievance redressal, candidates are forced to approach courts in any grievance with the examination process. This can potentially delay the entire recruitment schedule. Such mechanisms provides greater transparency in the recruitment process. Similarly, provisions for re-evaluation of answer scripts promotes confidence in the examination process by improving transparency. Sometimes, allegations of bias are made

¹⁷ (2006) 9 SCC 507 read with (2008) 17 SCC 703, order dated 04.01.2007.

¹⁸ (2008) 17 SCC 703, order dated 04.01.2007.

	<p>against the conduct of the examination. If a candidate is known personally to any of the authorities responsible for the conduct of the examination, rules of fair play would demand that such the concerned authority recuse themselves from the examination process. Such a requirement is the sine qua non of a fair recruitment process.</p>
<p>Details on composition of interview panel</p>	<p>The interview is an important component of the examination, and one where candidates have least amount of clarity on how to prepare. Having a provision that requires disclosure of the authorities who would constitute the interview panel would bring some clarity to candidates on how to prepare for it thus ensuring transparency.</p>

Table 1: Mapping judicial service rules

I. Authority for conducting judicial recruitment

Our Constitution vests the High Courts with overarching power and control over matters relating to the subordinate judiciary. Articles 233 and 234 accords powers to High Courts in matters of appointments to the subordinate judiciary while Article 235 places control over the district courts and courts subordinate thereto with the High Court. Article 227 vests High Courts with powers of administrative superintendence of subordinate courts. The Governor of each state is authorized to enact the judicial service rules for both the district judges as well as other judges in the subordinate judiciary. This power is derived from a combined reading of Article 309 and Article 233 of the Indian Constitution in case of District Judges and Article 309 and 234 in case of other judges in the subordinate judiciary.

Art. 233 of the Constitution states that the appointments, selection and conditions of service, such as posting and promotion, regulating District Judges will be carried out by the Governor in consultation with the High Court of the respective state judiciary. According to this provision, there are two sources of recruitment, namely, (i) service of the Union or of the State, and (ii) members of the Bar. Judges from the first source are appointed in consultation with the High Court and those from the second source are appointed on the recommendation of the High Court.¹⁹

In a similar vein, the appointment of other officers of the subordinate judiciary (aside from the District Judge) is governed by Art. 234. Under this, the Governor, in consultation with the High Court and State Public Service Commission, will exercise the power of appointment of such officers. Article 234 of the Constitution provides that the recruitment to the judicial service apart from district judges will be made by the Governor based on the rules s/he framed, after consultation with the State Public Service Commission and the State High Court. Consultation with the High Court under Art. 234 is also mandatory and rules made by the State Government without consulting the High Court are *ultra vires*.²⁰ The reason underlying Art. 234 remains one of insulating judicial service from executive influence. As the constitutional scheme aims at securing an independent judiciary,²¹ judicial service has been placed on a pedestal different from other services under the State.

¹⁹ *Chandramohan v. State of Uttar Pradesh*, AIR 1966 SC 1987.

²⁰ *State of Bihar & Anr. v. Bal Mukund Sah & Ors.*, AIR 2000 SC 1296.

²¹ *A.C. Thalwal v. High Court of Himachal Pradesh*, AIR 2000 SC 2732.

Article 309 recognizes the power of the Governor of each state to make rules regulating the recruitment, and the conditions of service of persons appointed to public services. These provisions read together empower the Governor to enact state judicial service that regulate the appointment and conditions of service of judges in the lower judiciary.

For District Judges (Direct Recruitment from Bar) in a state, the recruiting authority is the corresponding state High Court. In case of Civil Judges (Junior Division), the recruiting authority can be either the High Court or the State Public Service Commission. Beyond this preliminary information, most rules do not specify clearly the offices within each of these institutions that have overall responsibility for conducting these examinations. Further, the rules do not clarify the roles, functions and responsibilities of the officers of these organizations who conduct the examination. On an analysis of all the state judicial service rules we found:

District Judge: Of the twenty-nine state judicial service rules analyzed, only Uttar Pradesh and Uttarakhand had a clearly designated authority responsible for the entire recruitment process. Rule 16 of the Higher Judicial Service Rules for Uttar Pradesh notes that the Chief Justice shall appointment a selection committee of not less than three judges for each recruitment to the service.²² Similarly, in Uttarakhand, the rules designate a Committee appointed by the Chief Justice to consider vacancy lists and promotions to the post of District Judge.²³

Other states mention the High Court as the designated authority to conduct the examination. However, there is no detail on how the responsibility is designated within the court. In practice, it can be noted that the Chief Justice does appoint a Committee to overlook the recruitment process.²⁴

Civil Judge (Junior Division): Ten states²⁵ have designated their public service commissions to conduct the recruitment for Civil Judge (Junior Division), while in others the High Court is responsible. In the states that have designated High Courts, only Delhi

²² It further notes “No proceeding of the Selection Committee shall be invalid merely by of a reason vacancy occurring in it, or by a member or members being not present at one or more of its meeting, provide that a majority of the members of the Committee have been present at each meeting.

²³ Rule 8 and Rule 20 of the Uttarakhand Higher Judicial Service Rules

²⁴ See for instance, the composition of the Examination and Appointment Committee in the Madhya Pradesh High Court, available at <https://mphc.gov.in/PDF/web_pdf/CO/calendar-04-01-2018.PDF> last accessed on 2nd July, 2018.

²⁵ Orissa, Uttarakhand, Tamil Nadu, Arunachal Pradesh, Himachal Pradesh, Haryana, Punjab, Jharkhand, Chhattisgarh and Uttar Pradesh

and Chhattisgarh have clearly defined a committee to oversee the recruitment process.²⁶

Interviews with candidates appearing for these examinations revealed how a lack of clarity regarding the authority conducting these examinations facilitates a culture of a lack of accountability. For instance, in disputes about the conduct of an examination, a candidate does not know how or whom to approach within either the High Courts or State Public Service Commissions. Often, there are unexplained delays in publishing results or in between the various stages of the examination itself. In such situations, candidates cannot approach anyone within these recruiting authorities for clarification since the roles and functions of these authorities or the procedure to approach them is not clear.

Even if a High Court has a full time designated committee conducting the recruitment, the composition, tenure and functions of such committee members are never clearly specified in the rules. Instead, these decisions are left to everyday administrative practices. For instance, a former High Court judge told us that the Delhi High Court has a special Registrar for Examination who heads the Examination Committee. However, such a designation is not clarified in the rules nor specified on the state High Court website.

Moreover, these administrative roles are only held temporarily by individuals and is subject to frequent rotation, as is the case with any administrative function in High Courts. This means that there is no binding requirement of having a full-time, dedicated staff responsible for conducting the examination. This is part of the larger problem of the lack of administrative capacity of High Courts and Subordinate Courts²⁷ In a 2016 report published by the Supreme Court it noted that subordinate courts were short of manpower by at least 20%.²⁸

Registry officials are generally judges drawn from the lower judiciary. Their primary skill set is that of a judge and adjudicator and not that of an administrator. This gives

²⁶ Haryana also mentions setting up of Selection Committee consisting of three High Court Judges, Chief Secretary of Haryana, Chairperson of the Haryana Public Service Commission & Advocate General. However, it has not been considered because from the rules it seems that it is a special committee appointed to fill the pending vacancy of 108 vacancies in the state. (See Rule 7 (b), Punjab Service Rules as applicable to State of Haryana). In Delhi it comprises of the Chief Justice, two judges, Chief Secretary of Delhi and a Secretary along with Registrar General. In Chhattisgarh, the Committee consists one or more judges of the High Court nominated by the Chief Justice for the supervision of the recruitment process conducted by the Commission.

²⁷ Harish Narasappa, *“Maximising Judicial Time: Measures to Combat Delay and Pendency in Subordinate Courts”*, p 118, Section 2, chapter 2, in Daksh, *Approaches to Justice in India*, 2017.

²⁸ Centre for Research and Planning, Supreme Court of India, *“Subordinate Courts of India: A Report on Access to Justice”*, 2016.

rise to certain specific kinds of problems, such as not having the necessary skills to administer a complex judicial system, resulting in poor day-to-day administration of the examination system.²⁹

II. Timelines

Completing the examination in a time bound manner is a marker of an efficient recruitment process. In *Malik Mazhar v. U.P Public Service Commission*³⁰ the Supreme Court emphasised the importance of having a prescribed time-schedule for conducting the judicial service examinations. It highlighted the need for having a fixed timeline for each step of the examination process. In a later case,³¹ the Supreme Court went ahead and provided the timelines for all recruitment cycles itself. We found that while some states have adopted these timelines within their rules, others have incorporated a different, more flexible time limit. A few states do not have any prescribed timelines.

District Judge: Seven out of the twenty-nine states specified a timeline for conducting a District Judge (Direct Recruitment from Bar) examination.³² These timelines are borrowed directly from the verbatim from *Malik Mazhar v. U.P Public Service Commission*. The timeline for the entire recruitment process has been noted in Table 2. Other states do not mention timelines in which the recruitment cycle needs to be completed.

Activity	Timeline
Notification of vacancies	31st March
Advertisement inviting applications	15st April
Last date for receipt of application	30th April
Publication of list of eligible applicants	15th May
Despatch of admit cards	16th May to 15th June
Written Examination	30th June

²⁹*Ibid.*

³⁰(2006) 9 SCC 507.

³¹(2008) 17 SCC 703, order dated 04.01.2007.

³² These include Nagaland, Tripura, Chhattisgarh, Mizoram, Meghalaya, Rajasthan and Manipur.

Declaration of result of written examination	16th August
Viva Voce	1st to 7th September
Declaration of final select list and communication to the appointing authority	15th September
Issue of appointment letter by the competent authority for all existing vacant posts as on date	30th September
Last date for joining	31st October

Table 2: Timeline for District Judge (Direct Recruitment from Bar) as prescribed by Malik Mazhar v. U.P Public Service Commission (2008)

Civil Judge (Junior Division): Nine out of the twenty-eight states have a prescribed timeline for the conduct of the examination. These are Rajasthan, Himachal Pradesh, Meghalaya, Mizoram, Tripura, Chhattisgarh, Odisha, Nagaland and Manipur. Besides Odisha, all 7 states that prescribe the timelines for examination as per the *Malik Mazhar v. U.P Public Service Commission* (see table 3 for details). In case of Odisha, the rules recommend that the recruitment process should be completed within a period of 10 months. In the case of Tamil Nadu, although there is no specified timeline, there is a requirement on the Tamil Nadu Public Service Commission to arrive at a tentative time schedule in consultation with the High Court.

Activity	Timeline
Notification of vacancies	15th January
Advertisement inviting applications	1st February
Last date for receipt of application	1st March
Publication of list of eligible applicants	2nd April
Preliminary written examination	15th May
Declaration of result of preliminary examination	15 th June
Final Written Examination	15th July
Declaration of result of written examination	30th August

Viva Voce	1st to 15th October
Declaration of final select list and communication to the appointing authority	1st November
Issue of appointment letter by the competent authority for all existing vacant posts as on date	1st December
Last date for joining	2nd January of the following year

Table 3: Timeline for Civil Judge recruitment process as prescribed by Malik Mazhar v. U.P Public Service Commission (2008)

The total number of days taken for the fulfilment of an examination cycle for Civil Judge (Junior Division) starting from when vacancies are notified to the time when an appointment letter is issued is 321 days. Similarly, the time taken to conclude the exam for District Judge (Direct Recruitment from Bar) from the date of notifying vacancies to the date when an appointment letter is issued takes a total of 183 days. The concept note submitted in the CSM case suggested a similar timeline based on the Supreme court guidelines.³³

In the *Ranking Lower Court Appointments* report, the authors were able to track the average number of days taken to complete a recruitment cycle for some of the states where there was availability of online data. It was found that the the average recruitment cycle for Civil Judges (Junior Division) calculated for 18 states exceeded the Supreme Court prescribed time limit.³⁴ This was also true for District Judge (Direct recruitment from bar) where the average recruitment cycle calculated for 15 states exceeded the Supreme Court prescribed time limit.³⁵

³³ Apoorva Mandhani, “Amicus Arvind Datar Submits Concept Note in Favour of an All-India District Judges Recruitment Exam”, Live Law, August 6th, 2017, available at <<http://www.livelaw.in/amicus-arvind-datar-submits-concept-note-favor-all-india-district-judges-recruitment-exam/>>, last accessed on 1st July, 2018.

³⁴ Diksha Sanyal, Nitika Khaitan, Shalini Seetharam and Shriyam Gupta, *Ranking Lower Court Appointments*, Supra note 12, page 13. The Supreme Court prescribed timeline from the date of the publication of advertisement to the publication of a final select list for Civil Judges (Junior Division) examination is 273 days. Whereas as per the study, the average number of days taken by 18 states over the last ten years (2007-2017) to complete a recruitment cycle for Civil Judges (Junior Division) examinations was approximately 326 days.

³⁵See, Diksha Sanyal, Nitika Khaitan, Shalini Seetharam and Shriyam Gupta, *Ranking Lower Court Appointments*, Supra note 12, page 18.

In fact, no positive correlation was found between states that prescribed timelines and those that conducted their recruitment cycles on time. Therefore, though it cannot be said that having a prescribed timeline in the rules is a guarantee for the timely conduct of examinations. A timeline, at best, functions as a benchmark against which the actions of the recruiting authority can be measured. It must be specified here that while incorporating a timeline is important, incorporating the Supreme Court standard is *necessarily not*. This is because there is very little scientific rationale of how the Supreme Court itself arrived at this benchmark without taking into consideration that every state has different cadre sizes and resources at their disposal.³⁶

The importance of having set timelines for the conduct of examinations was revealed through various interviews with candidates. Candidates reported that uncertainty in timelines hampered preparation. Recruiting authorities do not release an ‘Annual Calendar’ in the beginning of the year detailing the timeline for the examination. An Annual Calendar would help candidates plan well ahead in time. Often, candidates are left waiting for the announcement of the judicial service examinations and cannot plan adequately in advance. Sometimes, recruitments are not conducted at all in a given year due to shortage of critical infrastructure such as courtrooms.³⁷ This leads to a situation of uncertainty for candidates appearing for such examinations since there is no way of knowing whether examinations would be held at all or not in a particular year.

An Annual Calendar would also enable the public recruitment authority to organize its resource planning. The Judicial Appointments Commission in the United Kingdom, for instance, releases a “Forward Programme for Judicial Recruitment”.³⁸ In this, recruitment exercises are mapped out for the next five years.³⁹ A candidate therefore has the time to plan out his/her applications process over the course of the next half a decade.

³⁶ Diksha Sanyal and Rangin Tripathy, “In Need of a Practical Plan: On Judicial Appointments”, *The Hindu*, July 10th, 2018.

³⁷ See, *Gaurav Mehta & Anr. Vs High Court of Delhi*, Delhi High Court, W.P (C) 1701/2014, decided on 14th March, 2014. In this case, the petitioners complained that since recruitment to Delhi Judicial Services were not held in the year 2012 and 2013 due to lack of courtroom infrastructure, they had lost out on the opportunity to appear for this examination since they were past the maximum qualifying age.

³⁸ See, “Forward Programme for Judicial Recruitment 2017 to 2022”, available at <<https://www.judicialappointments.gov.uk/forward-programme-judicial-recruitment-2017-2022>>, last accessed on 25th February 2018; See also, Sumathi Chandrashekar, *Plan ahead for future judiciary*, Feb 14, 2018, available at <<http://www.tribuneindia.com/news/comment/plan-ahead-for-future-judiciary/543457.html>> last accessed on 25th February, 2018.

³⁹ *Ibid*.

Closer home, the Union Public Service Commission publishes an Annual Calendar every year.⁴⁰ This Calendar informs candidates of the dates of the various examinations at the very beginning of the year or sometimes six months prior.⁴¹ This brings in a degree of certainty in the examination procedure since candidates know how to devote their resources to preparation

Candidates also complained about the lack of transparency in the process. Delays in the publication of results or the conduct of examinations sometimes led to situations where dates for examinations held one or more states clashed with each other. Such administrative lapses forced candidates to choose between states, thus compromising their chances at final selection. Even though states are not obliged to ensure that their examination dates do not clash, a well-designed and co-ordinated system would require that such clashes are avoided as far as administrative exigencies would allow. Even after the examination was over and the Final Selection list was published, there was sometimes considerable delay in conducting the medical and police verification of selected candidates. All of these factors lead to candidates losing out on significant time. Further, as one candidate interviewed pointed out, uncertainty in the timelines of the examination was particularly problematic given that there are strict age limits prescribed for these posts and thus every missed chance or opportunity has huge opportunity costs.

III. Designated zone of consideration after each stage of the examination

The 2008 *Malik Mazhar* case also specified the requirement of having an appropriate zone of consideration in which candidates for every stage of the examination would be shortlisted.⁴² A zone of consideration is a prescribed ratio of available seats to candidates; the conducting authority is supposed to shortlist candidates at each stage of the examination as per this prescribed ratio.

Having such a requirement helps the recruiting authority ensure that a minimum number of candidates are selected at every stage such that the vacancies advertised for are filled. The zone of consideration plays an important role in the determination of the minimum qualifying marks, especially where the minimum qualifying mark is not specified in the rules. For instance, sometimes, to maintain the zone of consideration, certain minimum qualifying marks are prescribed at a later stage once the examination has already commenced. The reverse may also happen when far too many candidates

⁴⁰ For instance, see, <<http://www.upsc.gov.in/examinations/exam-calendar>> last accessed on 1st July, 2018.

⁴¹ *Ibid.*

⁴² (2008) 17 SCC 703, order dated 04.01.2007.

obtain marks in a similar range, thus making them all fall under the zone of consideration. In such situations too, qualifying marks may be varied to eliminate certain candidates.

Such problems may also arise where no zone of consideration is specified in the rules. In these situations, recruiting authorities have complete discretion in shortlisting candidates and thus may come up with *ad hoc* procedures, which may unfairly disadvantage some candidates since the rules of the game would be changed halfway through the process. Such practices routinely give rise to conflict, and lead to actions of the recruiting authority being challenged in the High Court. From our mapping of the rules, we found:

District Judge: There are two zones of considerations in each recruitment process: after the preliminary examination, and after the mains examinations. With regards to the former, only four states have listed a zone of consideration of 1:10 (i.e. 10 candidates to qualify for each listed vacancy) (See Table 4 for a list of such states). With regards to the latter, 13 states list a zone of consideration of 1:3 (i.e. 3 candidates to qualify for each listed vacancy) (see Table 4).

While qualifying zones of consideration, states often designate additional requirements. Some states require candidates to obtain minimum marks to secure a place in the interview stage. These includes states such as Nagaland, Mizoram, Chhattisgarh, which require that candidates who obtain sixty percent or more marks, or corresponding grades in the written examination, shall be eligible for viva voce examination. Similarly, Assam notes that “candidates who obtain 60% marks or more marks, subject to securing 45% individually... [in each paper] and minimum of 35% marks in the official language paper shall be eligible for viva-voce”⁴³ Only Maharashtra, Telangana, Goa and Assam have listed zone of consideration for both states of the recruitment.

Civil Judge (Junior Division): In case of Civil Judge (Junior Division), 12 states (see table 4) have prescribed a zone of consideration of 1:10 from preliminary to main and in case of Rajasthan the zone of consideration is 1:15. In case of mains to interview stage, eleven states (see table 4) prescribe a zone of consideration of 1:3, while Karnataka prescribes a zone of consideration of 1:7.

In some cases, states have prescribed minimum qualifying marks in the mains examination to be eligible for the interview. The minimum marks vary from state to

⁴³ Minimum qualification marks are different for reserved category students.

state, for example, in Haryana, the aggregate marks of all papers are required to be 50%, while in Telangana it is 55% for each paper, and 60% in aggregate score.⁴⁴

District Judge	Prelims to Mains (1:10)	Assam, Goa, Maharashtra and Telangana
	Mains to Interview (1:3)	Maharashtra, Telangana, Karnataka, Rajasthan, Goa, Assam, Meghalaya, Mizoram, Tripura, Chhattisgarh, Uttarakhand and Nagaland Manipur.
Civil Judge (Junior Division)	Prelims to Mains (1:10)	Delhi, Nagaland, Chhattisgarh, Tripura, Mizoram, Meghalaya, Assam, Goa, Haryana, Telangana, Maharashtra, Karnataka
	Mains to Interview (1:3)	Nagaland, Tripura, Mizoram, Meghalaya, Assam, Goa, Rajasthan, Haryana, Telangana, Maharashtra and Manipur

Table 4: Zone of consideration for District Judge and Civil Judge (Junior Division) Recruitment Process

The act of retrospectively introducing qualifying marks has become a contentious issue. For instance, in April 2017, candidates who were unsuccessful in clearing the District Judge exam in Kerala approached the Supreme Court under a writ petition alleging that the examination rules were changed post facto.⁴⁵ Neither the Kerala State Higher Judicial Service Rules, 1961, nor any subsequent notification prescribed minimum qualifying marks for interview. The candidates were not made aware of such criteria before the commencement of the exam and therefore, when the petitioners did not get the requisite marks and were disqualified, they felt their rights had been infringed.⁴⁶ It was argued that changing the norms of selection in this manner was impermissible. In August 2017, a similar petition challenging the Kerala District Judge Exam was brought before the Supreme Court.⁴⁷ Significantly, Kerala judicial service rules does not prescribe a zone of consideration or minimum qualifying marks.

⁴⁴ Minimum qualification marks are different for reserved category students.

⁴⁵ *Sivanandan C.T vs. High Court of Kerala & Ors*, W.P (Civil) No. 229 of 2017.

⁴⁶ *Ibid.*

⁴⁷ (2013) 4 SCC 540 has now been referred to a higher judge bench decision. *Salam Samarjeet Singh v. High Court of Manipur At Imphal and Anr* which dealt with almost a similar issue was heard by a three Judge Bench in view of the difference of opinion and it has also since been posted along with Tej Prakash by order dated 10.08.2017.

This matter is further complicated by the fact that the Supreme Court itself has been divided on the issue. In *Samarjeet Singh v. High Court of Manipal at Imphal & Anr*⁴⁸ a two-judge bench had both judges - of Justice R. Banumathi and Justice Shiva Kirti Singh - give conflicting opinions on whether a recruiting authority could, after the commencement of the examination, introduce qualifying marks that was not previously mentioned either in the rules or in the in the notifications. While Justice Singh held it could not, Justice Banumathi took the opposite position, holding that the High Court had the power to do so. This issue is currently pending before the Supreme Court.⁴⁹

Such litigation could have been avoided if state judicial service rules were clear about the zone of consideration at each stage, the minimum qualifying marks and the course of action that would be adopted when either too many candidates fell into the zone of consideration or when enough candidates did not qualify at a particular stage.

IV. Provisions for Syllabus during the Mains Stage of the Recruitment Process

The objective for having a basic outline of the syllabus along with a tentative breakdown of marks and mode of evaluation in the rules is to ensure clarity regarding the manner and content of testing. Even though advertisements or notifications released at the beginning of recruitment cycles usually provide the syllabus and weightage of marks for each paper every year, there is merit in having an outline of the syllabus and mode of evaluation clearly prescribed in the rules. This ensures transparency and would enable candidates preparing for such examinations to prepare in advance.

District Judge: Twelve states have prescribed specific syllabus for the Mains stage of the recruitment examination. These include Nagaland, Odisha, Uttarakhand, Chhattisgarh, Tripura, Mizoram, Uttar Pradesh, Sikkim, Meghalaya, Assam, Arunachal Pradesh and Manipur. (See Table 5)

Amongst these, while covering the same academic content, states distribute the syllabus over two, three or five papers. In most of these states, the syllabus covers topics relating to Civil and Criminal Procedures, Indian Penal Code, Evidence Act,

⁴⁸ W.P (Civil) No. 294 of 2015.

⁴⁹ M.A Rashid, “Exclusive- Prescribing Minimum Marks For Viva Voce In District Judges’ Selection After Exam: Matter Referred To Constitution Bench.”, LiveLaw 14th August, 2017, available at <<http://www.livelaw.in/exclusive-prescribing-minimum-marks-viva-voce-district-judges-selection-exam-matter-referred-constitution-bench/>> last accessed on February 25th, 2018.

Prevention of Corruption Act and Law of Limitation, Constitution of India. Along with this, there is a paper (or sub-part of a paper) on judgment writing. In states with three or more papers, an additional paper covering includes subjects of general knowledge, aptitude, English precis writing and essay writing on general legal or information technology along with some translation (as the case may be). In Odisha, Chhattisgarh and Sikkim, special emphasis is placed on local laws of the states, with Sikkim providing a list of local laws that will be covered in the examination. Uttar Pradesh is the only state which requires candidates to appear for five papers covering general knowledge, language, substantive law, procedural and evidence law and local laws.

Civil Judge (Junior Division): Nineteen states have specified the syllabus for the Civil Judge (Junior Division) Mains stage of the recruitment process (See Table 4). The number of papers prescribed for each exam varies significantly, and ranges from one to five. The syllabus remains similar to the ones prescribed for District Judges, except that the distribution of content to be tested in each paper changes from state to state. Chhattisgarh has one paper on framing of issues and translation. It covers other course material including substantive and procedural laws in its preliminary examination. Sikkim divides its two papers into substantive law (covering Constitution of India, Hindu and Mohammedan Law, laws related to contract, transfer of property, partnership and Indian Penal Code amongst others) and procedural law (Code of Civil Procedure, Code of Criminal Procedure, evidence and limitation act along with a list of local laws). Similar to Sikkim, Odisha has two papers covering aspects of law and an additional one on language (grammar, essay writing and reading passage).

Ten states prescribe four papers but the content is split in different ways. Six states have one general knowledge paper, one language paper and two law papers, while the other four states have three law papers (two on civil laws with the same subject matter like other states) and one that combines general knowledge and language paper. States that prescribe five papers have two papers on civil law and one paper on criminal law. The other two papers can either be on general knowledge and language, including translation, (Uttarakhand and Uttar Pradesh) or one paper on language and the other on translation. Table 5 provides the details of pattern of syllabus provided for in the judicial service rules.

District Judge⁵⁰	Number of papers	2 papers	Sikkim, Orissa, Nagaland and Chhattisgarh
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⁵⁰ States where rules do not prescribe the syllabus include: Maharashtra, Andhra Pradesh, Telangana, Karnataka, Jharkhand, Punjab, Haryana, Rajasthan, Himachal Pradesh, Goa, Gujarat, Tamil Nadu, West Bengal, Madhya Pradesh, Kerala, Delhi.

		3 papers	Assam, Arunachal Pradesh, Meghalaya, Mizoram, Manipur, Tripura and Uttarakhand
		5 papers	Uttar Pradesh
Civil Judge (Junior Division) ⁵¹	Number of papers	1 paper	Chhattisgarh
		2 papers	Sikkim
		3 papers	Odisha
		4 papers	Nagaland, Meghalaya, Tripura, Mizoram, Manipur, Assam, Arunachal Pradesh, Karnataka, Jharkhand, Tamil Nadu and Delhi
		5 papers	Uttarakhand, Uttar Pradesh, Punjab, Haryana and Himachal Pradesh

Table 5: Syllabus for District Judge and Civil Judge (Junior Division) at the Mains stage of the Recruitment cycle.

Candidates we interviewed who have appeared for District Judge or Civil Judge (Junior Division) examinations across multiple states found that the syllabus and the pattern of the examination do not effectively test their ability to be competent judges. While some states such as Uttar Pradesh required rote learning of the law, Delhi Judicial Service Examinations, through the use of application based questions and judgment writing, focused more on the ability of the candidates to analyse the law critically.

V. Provisions on grievance redressal and reevaluation

⁵¹ States where rules do not prescribe the syllabus include: Maharashtra, Andhra Pradesh, Telangana, Rajasthan, Goa, Gujarat, West Bengal, Madhya Pradesh, Kerala, Bihar.

A crucial component of a well-organized examination is how efficiently and fairly it is able to redress the grievances of candidates. These grievances may range from problems with the questions asked in the examination to more complex ones challenging the fairness and neutrality of the examination as a whole. Based on our interviews with candidates and a perusal of some cases on the recruitment process, we identified some of the common problems that tend to arise (see Table 6).

Type of Issue	Description
a) Age Cut-offs	Age limits are prescribed in the rules. However, because recruitment may not be conducted annually, some otherwise eligible candidates lose out on the opportunity for appearing in these exams. ⁵²
b) General qualifications prescribed	For District Judges, the requirement of having seven years' <i>continuous</i> practice proves onerous and disqualifies several potentially good candidates. ⁵³
c) Faulty question papers	Errors in the questions in the question papers leads to avoidable litigation. ⁵⁴
d) Out of syllabus questions	Sometimes certain subject matters are tested despite not being a part of the prescribed syllabus.
e) Qualifying Marks	Minimum qualifying marks are sometimes introduced after the commencement of the examination. This amounts to changing the rules of the game after it has already begun. ⁵⁵
f) Moderation/ Scaling procedures adopted	In order to bring parity between various answer scripts that might have been evaluated by different examiners, certain moderation techniques are employed. These techniques are not prescribed in the rules and therefore get challenged as being arbitrary. ⁵⁶
f) Re-evaluation and demand for answer scripts	Sometimes candidates want to self-evaluate the marks obtained by them in their answer-scripts since they fear they have been given low marks or that there may be totalling mistakes. For getting access to their answer scripts they have to file a Right to

⁵²*Bhola Nath and Ors vs. Jharkhand Public Service Commission*, Jharkhand High Court, W.P (S) No. 7526 Of 2013, dated 16th January, 2014.

⁵³*Dheeraj Mor vs The Hon'ble High Court of Delhi*, Delhi High Court, W.P (Civil) No. 9303/2014, dated 19th February, 2015.

⁵⁴*Dharmender Rana & Ors. vs High Court Of Delhi Through Registrar*, Delhi High Court, W.P.(C) 8629/2016, September 30th, 2016; *Gunjan Sinha Jain vs Registrar General, High Court Of Delhi*, Delhi High Court, W.P. (C) 449/2012 on 9th April, 2012.

⁵⁵ *Kunal Kishor & Anr. Vs. Lt. Governor & Anr.*, Delhi High Court, WP (C) No.10787/2009, 21st May, 2010.

⁵⁶*Dhanpat Mali vs. State of Rajasthan & Ors*, Rajasthan High Court, D.B. Civil Writ Petition NO.3942/2007, 27th October, 2009.

	Information application. When the same is rejected by the requisite authorities, they have to approach the courts. ⁵⁷
g) Non-filing of vacancies	Certain seats are reserved for candidates who are disabled, or belong to the Scheduled Caste/ Scheduled Tribe/ Other Backward Castes. On occasion, when these seats go unfilled in a particular recruitment cycle, there are demands to de-reserve the seats to make them available to general category candidates. ⁵⁸ Similarly, when certain seats are repeatedly carried over multiple recruitment cycles there are demands to make those seats available to others who may have qualified but do not belong to the category for whom the seats are reserved.
h) Vacancies not notified correctly	Candidates have challenged the manner of notifying vacancies since they feel that they are often not calculated keeping in mind future anticipated vacancies. Thus, there is underreporting of the number of actual vacancies. ⁵⁹

Table 6: Types of Grievances that Tend to Arise in Recruitments

Table 6 shows us that some very avoidable problems are reaching the High Courts for adjudication. For instance, problems such as faulty question paper or out of syllabus questions involve a determination of whether the questions and prescribed answers are indeed correct and/or out of syllabus. Arguably, such processes should have been taken care of by the recruiting authority itself in the form of an established grievance redressal mechanism. Further, candidates should not have to approach the High Court for demanding their answer-scripts for the purposes of re-evaluation. A procedure for doing so should be prescribed in the rules itself. In addition, clearly prescribed norms on qualifying marks, moderation procedures and the manner of carrying forward vacancies and de-reservation should find mention in the rules such that there is clarity and transparency for candidates and they are not challenged frequently. Having a mechanism for grievance redressal is a must, since, without such a clearly specified mechanism, candidates are forced to approach courts. Litigation, in turn, has the potential of delaying of the entire examination schedule.⁶⁰

⁵⁷ *Kiranlal M. Mani Bhavan vs High Court Of Kerala*, Kerala High Court, WP(C).No. 17185 of 2014, on 12 August, 2014.

⁵⁸ *Dibyendu Das v. The Hon'ble High Court At Calcutta*, Calcutta High Court, F.M.A 60 of 2010, on 11th March, 2011.

⁵⁹ *Sanjeet Singh v. High Court of Delhi*, Delhi High Court, W.P.(C)1435 Of 2011, 11th May, 2011.

⁶⁰ See for instance, *Sharwan Kumar v. Rajasthan Public Service Commission*, D.B. Civil Writ Petition No.825/2010, dated May 10th, 2010. In this case, candidate-petitioners sought to be included in the merit list nearly two years after the examination process had begun in 2008 due to a flawed formula of scaling

In the United Kingdom, the Judicial Appointments Commission ('JAC') is responsible for judicial recruitments.⁶¹ The JAC has a well-established process of grievance redressal. Candidates can make a complaint in the first instance to a 'Complaints Manager' in the JAC.⁶² This Complaints Manager is to notify the receipt of the complaint within two working days.⁶³ The complaint is thereafter investigated by personnel who are not involved in the selection process of candidates.⁶⁴ Thereafter, the JAC is mandated to process the complaint within 20 days.⁶⁵ The JAC is supposed to pass reasoned orders when responding to the complaint.⁶⁶

If candidates are thereafter not satisfied by the resolution of the Complaint Manager they can approach the Judicial Appointments and Conduct Ombudsman who has the authority to investigate the complaint further.⁶⁷ Candidates are entitled to compensation in case of proven maladministration.⁶⁸ Further, the Ombudsman not only advises the manner in which the JAC can address the complaint but also recommends changes in procedure to avoid similar cases of maladministration.⁶⁹ Diagram 1 illustrates this process.

adopted by the Rajasthan Public Service Commission in conducting the Rajasthan Judicial Service Examination, 2008.

⁶¹Judicial Appointments Commission, "Making a Complaint", available at <<https://jac.judiciary.gov.uk/making-complaint>>, last accessed on February 24th, 2018.

⁶² *Ibid.*

⁶³ *Ibid.*

⁶⁴ *Ibid.*

⁶⁵ *Ibid.*

⁶⁶ *Ibid.*

⁶⁷Judicial Appointments & Conduct Ombudsman, "About Us", available at <<https://www.gov.uk/government/organisations/judicial-appointments-and-conduct-ombudsman/about>>, last accessed on February 24th, 2018.

⁶⁸ *Ibid.*

⁶⁹ *Ibid.*

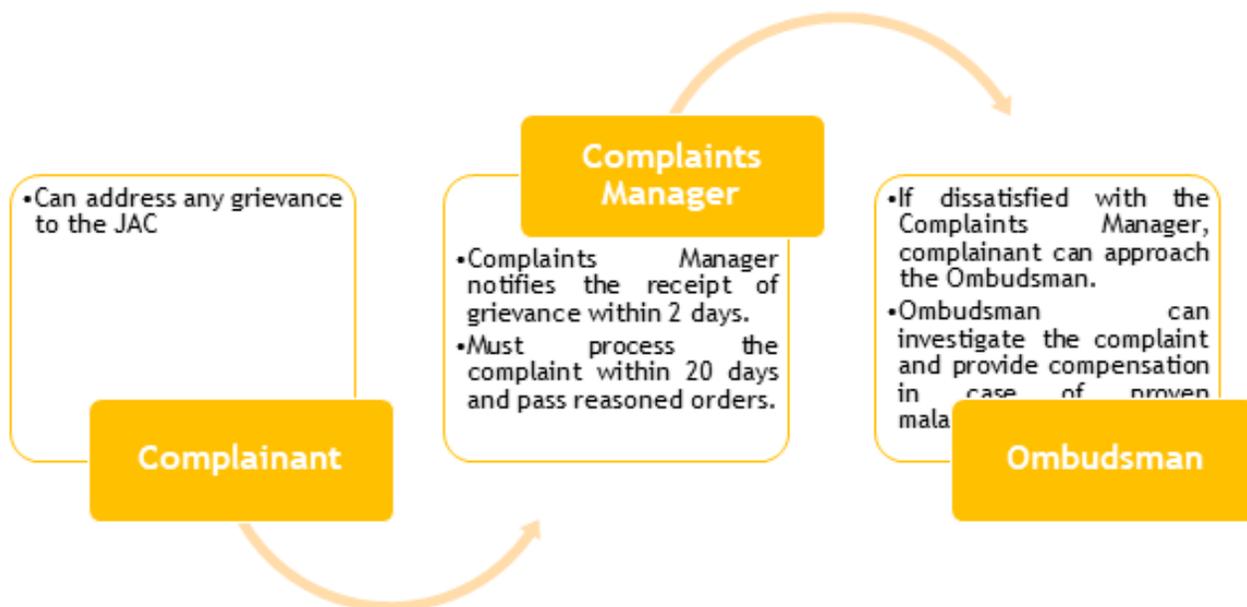


Diagram 1: Complaint Procedure Followed by the Judicial Appointments Commission, United Kingdom

The fact that there are two distinguishable level of authorities that candidates can approach and that such authorities are mandated to respond in a quick, time-bound manner greatly improves the credibility enjoyed by such examinations and the experience of the candidates appearing for them. It saves them the trouble of approaching courts except as a measure of last resort.

In India, certain public examinations conducted by the Union Public Service Commission in India provide candidates an opportunity for making representations against questions asked in the examination paper within seven days of the examination.⁷⁰ Though limited in scope, this form of grievance redressal provides candidates an opportunity to address some of the concerns they may face with incorrect questions or similar problems in the question paper. Moreover, given that demands for re-evaluation and RTI have been a source of much controversy. None of the state judicial service rules had any provision on re-evaluation. Further, there is no prescribed procedure for candidates to get access to their answer-scripts post the examination. For this, the only route is the filing of Right to Information applications. The lack of both re-evaluation provisions and an

⁷⁰ Union Public Service Commission, “Time-Frame for Representation”, available at <http://www.upsc.gov.in/examination/time-frame-representation>, last accessed on 12th December, 2018.

application procedure for obtaining the necessary answer scripts, has negative implications on the transparency of such a process.

Interestingly, anticipating such criticisms, the UPSC recently appointed a ‘Transparency Officer’. This Transparency Officer holds the rank of a Joint Secretary and looks into the implementation of the Right to Information Act in the UPSC. Such officers are required to “help promote congenial conditions for positive and timely response to RTI requests” and must be the contact point for the public in all RTI related queries.⁷¹

No state, for either District Judge or Civil Judge (Junior Division), has any rules or provisions to deal with regards to grievance redressal, recusal and re-evaluation of question paper. Haryana has provisions that provide that the designated Selection Committee for the examination shall be the one to address any incidental step during the process of the examination. This means that, if candidates have any grievances regarding the manner in which the examination is conducted, they have to approach the Registrar General of the concerned High Court or the Chairman of the State Public Service Commission. However, since there is no prescribed timeline or manner within which they have to respond to complaints, the manner in which complaints are addressed lies completely at the discretion of the Registrar General. This compromises the transparency of the process of the judicial service examinations.

For instance, our interaction with the Chairman of a State Public Service Commission revealed to us that though in the rules and regulation governing the recruitment process, there is no provision for grievance redressal, there is nonetheless a procedure available to address grievances. In case of any grievances in general, the candidate can approach the Secretary or Chairperson as well and they try to resolve all complaints within 24 hours. Discussions with the administrative staff conducting the examination process revealed that the greatest challenge faced in conducting the examinations is when objections to the question paper are invited. In such cases, the grievance is sent by email or letter. These objections are sent to the secrecy department, the very department that was responsible in setting the paper via a panel of experts. However, although there seems to be some established procedure, such a procedure, is only *ad hoc* and dependent on the whims and fancies of the Chairperson and the Secretary.

VI. Details about the composition of the interview panel

⁷¹ Union Public Service Commission, order F.No.A-60011/17/2017- RTI Cell (Admn.), dated 9th May, 2017, available at < <http://www.upsc.gov.in/sites/default/files/RTI-TransparecyOfcr.pdf>>, last accessed on 12th December, 2018.

Providing information on the designation of officers likely to sit in an interview panel would contribute to bringing in greater transparency in the system by enabling candidates to plan their preparation.

However, we found that no state, with the exception of Jharkhand, has any rule or provisions detailing the composition of the interview panel to conduct the viva voce of the candidates. In case of Jharkhand, for recruitment of Civil Judge (Junior Division), the rules note that the interview board shall consist of “three members, two of whom shall be sitting judges of the High Court nominated by the Chief Justice and the Chairman of the commission or anyone member of the commission as may be nominated by the Chairman.”

Further, we noted that none of the state judicial service rules had provisions on recusal. If a candidate is known personally to any of the authorities responsible for the conduct of the examination, rules of fair play would demand that such a person recuse themselves from the examination process.

Candidates we interviewed recounted anecdotes of alleged nepotism and regional biases that play out during interviews.⁷² As a solution to this problem, a former High Court judge we interviewed suggested that given the subjectivity of interviews, it should be given the least weightage among all the stages of the examination. Further, the judge also suggested that the interview panel should incorporate psychometric tests. This was echoed by the Chairperson of a Public Service Commission whom we interviewed. Such psychometric tests are a part of the tests for hiring candidates in the Armed Forces and are employed for selecting judges as well. This, they argued would rule out any elements of favouritism. However, given that interviews play a critical role in assessing potential candidates suitable for the role of adjudication, it is unlikely that such an examination component can be easily substituted or be given less weightage than due. Moreover, many have even critiqued psychometric tests as a method of evaluation as being unreliable and easily manipulated.⁷³

While there may be no easy solution to this problem, one way to ease apprehensions of candidates against such processes could be to ensure greater transparency in the

⁷² Fawaz Shaheen, “Aspiring Delhi judges investigate, find out 4 suspicious things about the dodgy Delhi Judicial Service (DJS) exam”, Legally India, 13th July, 2015 available at <<https://www.legallyindia.com/the-bench-and-the-bar/4-things-suspicious-about-djs-exam-20150713-6268>> last accessed on 11th December, 2018.

⁷³ Gill Pilmmer, “How to Cheat a Psychometric Test”, The Financial Times, April 3rd, 2014, available at <<https://www.ft.com/content/eeda84e4-b4f6-11e3-9166-00144feabdc0>>, last accessed on 11th December, 2018.

process. This could be done by laying out certain guidelines that could assist candidates with the preparation.

IV. CONCLUSION

The central purpose of this report was to study the patterns across multiple state judicial service rules. This was done with the aim of identifying best practices and certain overarching lacunae that affect the recruitment process. We compared the rules across three metrics: accountability, transparency and efficiency.

The lack of clearly prescribed timelines, evaluation patterns, clearly specified roles of responsibility of members of the Recruiting Authority translates into a lack of adequate norms on transparency and accountability. Additionally, not having an institutionalised process of grievance redressal is also an extension of this lack of transparency and clarity within the rules. Further, not having clearly specified qualifying marks for mains and interviews, mode of evaluation of written examinations and the manner in which an interview process should be conducted has resulted in ad-hoc measures being adopted which can damage the credibility of the examination process itself.

Given that clearly established procedures, mechanisms and guidelines are lacking, any model judicial service rules must place norms of accountability, transparency and efficiency at its centre. Not only must the authority directly responsible for conducting the examination be clearly mentioned, but the roles and responsibilities of the members of such an Examination Committee/Conducting Authority should also be specified. All judicial service rules must contain the method of determining qualifying marks, process of moderation employed and the composition of the interview panel to ensure transparency for candidates. State judicial service rules must also contain a provision on re-evaluation and conditions under which candidates may obtain their answer scripts. This will increase the public confidence in the examination process. Instituting a grievance redressal mechanism is also a fundamental necessity. Such a process should ideally function as a first order filter for candidates who would otherwise approach the courts. Further, as explained above, some grievances are better addressed by a specialised body dealing with the examination than courts of adjudication. Incorporating some of these provisions would help in ensuring that principles of accountability, transparency and efficiency are woven into of the judicial recruitment process.