

ARTICLE

DESIGNATION OF SENIOR ADVOCATES IN INDIA

Submitted by

Aravind

ABSTRACT

The legal profession plays a vital role in the administration of justice, and within it, the designation of Senior Advocates represents a mark of excellence, experience, and professional distinction. This system, rooted in statutory provisions and judicial discretion, aims to recognize advocates who have demonstrated exceptional legal acumen, integrity, and contribution to the field of law. However, over time, the process of designation has been subject to criticism due to concerns regarding transparency, subjectivity, and fairness.

Designation of Senior Advocates in India, governed by Section 16 of the Advocates Act, 1961, is a legal distinction based on ability, standing at the Bar, and experience, providing elite status and pre-audience in courts. Following the landmark *Indira Jaising v. Union of India* case, the process, updated in 2023 and 2026, emphasizes merit through a permanent secretariat and strict, qualitative evaluation, moving away from purely secret ballot, points-based systems to enhance transparency and equity.

This article examines the legal framework governing the designation of Senior Advocates in India, the evolution of judicial guidelines, and the contemporary challenges associated with the process. It also highlights significant judicial pronouncements that have attempted to reform and standardize the system. By analyzing both the strengths and shortcomings of the designation process, the article seeks to present a balanced perspective and suggests reforms to ensure greater accountability, inclusivity, and merit-based recognition within the legal profession.

Keywords: Senior Advocates, Advocates Act, 1961, Legal Profession in India, Judicial Discretion, Bar Council of India, Professional Ethics, Courtroom Advocacy, Legal Expertise, Merit-Based Recognition, Indira Jaising Case

1. INTRODUCTION

The legal profession in India is structured in a manner that acknowledges experience and expertise through hierarchical recognition. One of the most prestigious titles conferred upon advocates is that of a Senior Advocate. This designation is not merely honorary but reflects a lawyer's standing at the Bar, legal proficiency, and contribution to jurisprudence.

The concept of Senior Advocates is derived from the need to distinguish advocates who possess exceptional skill and knowledge in law. However, the process of designation has often raised questions about transparency, objectivity, and accessibility, leading to judicial intervention and reforms. Designation of an advocate as a "Senior Advocate" is undoubtedly seen as a matter of immense pride and also assures a sense of authority upon the designated advocate.

In the legal fraternity, advocates who have completed certain years of practice before the particular High Court or the Supreme Court are considered for being conferred the title of "Senior Advocate" of that High Court or the Supreme Court. The particular court exercise discretion in such matter on the basis of the prevalent rules or guidelines.

The designated senior advocate is awarded this privilege as a mark of excellence for significant contribution to the legal profession. It also stands as a testimony to the assurance that they can provide outstanding services as advocates and builds the faith of the client, litigants, judiciary, junior advocates and the public.

2. SENIOR ADVOCATES

The Advocates Act, 1961, establishes a dichotomy within the legal profession, categorizing advocates into two distinct classes: senior advocates and other advocates. The designation of senior advocate may be conferred upon an advocate, with their consent, by either the Supreme Court or a High Court, based on the advocate's ability, standing at the Bar, or specialized knowledge and experience in law.

The Bar Council of India is empowered to prescribe certain restrictions on the practice of senior advocates in the interest of the legal profession. Advocates who held the status of senior advocate in the Supreme Court immediately prior to the appointed day are grandfathered into this designation under the Act. A provision was made allowing such grandfathered senior advocates to relinquish their senior status by application to the relevant Bar Council before 31 December 1965.

Justice Kaul in a May 2023 judgment, the senior advocate designation serves as a mark of professional excellence and significant contribution to the legal field. Senior advocates designated by the Supreme Court are subject to additional restrictions as per the Supreme Court Rules, 2013, including prohibitions on filing vakalatnamas, appearing in court without junior counsel, engaging in drafting work, and directly accepting briefs from clients.

3. LEGAL FRAMEWORK FOR DESIGNATION

Section 16 deals with Senior and other advocates. Section 16(2) states that an advocate may, with his consent, be designated as senior advocate if the Supreme Court or a High Court is of the opinion that under his ability, standing at the Bar, or special knowledge or experience in law he is deserving of such distinction.

Section 16(3) senior advocates shall, in the matter of their practice, be subject to such restrictions as the Bar Council of India may, in the interests of the legal profession, prescribe.

Section 16 (4) an advocate of the Supreme Court who was a senior advocate of that Court immediately before the appointed day shall, for this section's purposes, be deemed a senior advocate.

Section 16 classifies advocates into two categories:

1. Senior Advocates
2. Other Advocates

Under this provision, the Supreme Court or High Courts may designate an advocate as a Senior Advocate if, in their opinion, the advocate possesses:

- Ability
- Standing at the Bar
- Special knowledge or experience in law

Once designated, Senior Advocates are subject to certain restrictions under the Bar Council of India Rules.

GUIDELINES FOR SENIOR ADVOCATE

Prior to the 2018 Guidelines

Before this, Section 16 of the Advocates Act 1961 governed the appointment of the Senior Advocates.

Section 16 (1) stated that there shall be two classes of advocates, namely, senior advocates and other advocates.

Section 16 (2) allowed an advocate to be designated as a senior advocate if the Supreme Court or a High Court was of the opinion that by virtue of his ability, standing at the Bar, or special knowledge or experience in law, he is deserving of such distinction.

2018 Guidelines

The Supreme Court issued 'Guidelines to Regulate the Conferment of Designation of Senior Advocates' in October 2018, following a 2017 verdict on a plea by Senior Advocate Indira Jaising.

These guidelines established a 'Committee for Designation of Senior Advocates', chaired by the Chief Justice of India and including other senior judges and legal professionals.

The guidelines discouraged voting by secret ballot except when unavoidable.

A 'permanent secretariat' was created to evaluate applications based on criteria including years of legal practice.

The process involved publishing proposals on court websites, inviting suggestions, and conducting interviews.

A point-based system was introduced for overall evaluation of candidates.

The Full Court retained the final decision-making power, based on majority vote

The CJI or any other judge could recommend the name of an advocate for the designation of senior lawyers.

Advocates could also submit their applications to the committee, after which the committee members would evaluate them on several criteria like 10-20 years of legal practice, be it as an advocate, district judge, or judicial member of an Indian tribunal where qualification for eligibility is not less than that prescribed for a district judge.

2023 Guidelines (proposed changes):

In February 2023, the Centre filed an application to modify the 2018 guidelines.

The Centre challenged the point-based system, arguing it was subjective and ineffective.

The application sought to reinstate the rule of simple majority by secret ballot.

The Centre argued that the 2018 requirements were "extraneous" and potentially excluded eligible candidates.

The proposed changes aimed to minimize campaigning for votes by lawyers and allow judges to express views without embarrassment.

Eligibility Criteria:

Age Requirement: The minimum age to apply is set at 45 years. However, this criterion can be waived if the candidate is recommended by the Chief Justice of India (CJI) or a Supreme Court judge.

The Supreme Court Committee responsible for senior designations also has the discretion to relax this age requirement.

Experience: Candidates must have at least 10 years of standing as an advocate. Alternatively, they may have a combined standing of 10 years, which can include experience as an advocate plus time served as a District and Sessions Judge or as a Judicial Member of a Tribunal.

The eligibility criteria for such Tribunal appointments should be no less stringent than those for a District Judge.

Practice Focus: The candidate's legal practice should be primarily before the Supreme Court.

Point-based Evaluation System:

The Supreme Court has revised the point system for evaluating candidates, with a total of 100 points distributed as follows:

- a. Years of Practice (20 points): Points are awarded based on the number of years the candidate has practiced law since their enrolment as an advocate.
- b. Judgments (50 points): This category has seen an increase from the previous 40 points. Points are awarded for both reported and unreported judgments. However, orders that do not establish any principle of law are excluded from consideration.
- c. Academic and Teaching Contributions (5 points): This category has been reduced from the previous 15 points. It includes points for publishing academic articles, teaching experience in law, and delivering guest lectures at law schools and professional legal institutions.
- d. Personality and Suitability (25 points): These points are awarded based on an interview designed to provide a holistic assessment of the applicant.

Annual Application Process:

- a. The Secretariat of the Committee is required to initiate the process for designating Senior Advocates at least once every year.

This involves inviting applications from Advocates-on-Record and other Advocates who wish to be considered for the senior designation.

b. Transparency Measures: To ensure transparency, the Secretariat is required to publish all received proposals for senior designation on the official website of the Supreme Court.

This publication is intended to invite suggestions and views from other stakeholders regarding the proposed designations.

Committee for Designation of Senior Advocates:

a. Composition: The Committee consists of five members:

The Chief Justice of India (who serves as the Chairperson)

The two most senior Supreme Court judges

The Attorney General for India

One member from the Bar, nominated by the other four members of the committee

b. Operations: The Committee is scheduled to meet twice a year to consider applications and make decisions on senior advocate designations.

c. Permanent Secretariat: The Committee is supported by a permanent secretariat. The members of this secretariat are appointed by the Chief Justice of India in consultation with the other Committee members. This secretariat plays a crucial role in managing the application process, conducting initial evaluations, and preparing materials for the Committee's consideration.

4. COMPARATIVE PRESPECTIVE

India

In India, the designation of Senior Advocate is based on Section 16 of the Advocates Act, 1961, which recognises two classes of advocates: Senior Advocates and other advocates. The Supreme Court or high courts confer designation to lawyers who, in their opinion, possess “ability, standing at the Bar or specialised knowledge or experience in law.”

According to the Bar Council of India Rules (1965), Senior Advocates are subject to certain restrictions—they cannot file vakalatnamas, draft pleadings, or appear without an Advocate-on-Record. These “restrictions” actually work as privileges, the idea harking back to the old colonial distinction between solicitors taking care of the paperwork and barristers arguing the matter in front of benches. In a more obvious sign

of the Senior Advocate's exalted position, their black gowns have a flap at the back to distinguish them from other counsels.

In its ruling in *Indira Jaising v Supreme Court of India*¹ in 2017, the Court introduced structured guidelines to streamline the designation process. A Permanent Committee comprising the CJI, two senior-most judges, the Attorney General and a nominated member of the Bar, screens applications through a point-based evaluation system.

The considerations include: years of practice, number of reported and unreported judgements, publications, pro bono work and interview performance. A full court makes the final decision based on a majority vote. In *Indira Jaising v Supreme Court of India* (2023), the process was further fine-tuned by modifying the weightage assigned to judgements and publications.

The March 2025 case emerged amid allegations of opacity and lobbying in the designation process. Over two days, a Special Bench led by Justice A.S. Oka heard arguments from a battery of lawyers. Jaising, the petitioner in the original case, pushed for scrapping the senior-junior distinction altogether, calling it discriminatory and hierarchical. She highlighted that Bar Council rules do not mandate separate attire and criticised the culture of lobbying for designation.

The Court is now weighing whether the existing system—point-based screening followed by a full-court vote—needs an overhaul or should be abolished entirely.

United Kingdom

In the UK, counsel may be designated as King's Counsel (KC) or Queen's Counsel (QC), depending on who the monarch is. The practice dates back to 1597, making it one of the oldest title designations in the world.

The designation is symbolically referred to as “taking silk” due to the distinctive silk gowns worn by KCs in the courts. It is awarded to barristers and solicitor-advocates who demonstrate excellence in advocacy. Since 1995, solicitors who have obtained higher rights of audience—qualifying them as solicitor-advocates—are also eligible to apply for appointment as KCs.

The process for selecting KCs is overseen by the Selection Panel, an independent body comprising members from the judiciary, senior barristers, solicitors and laymen. The

¹ *Indira Jaising v. Supreme Court of India*, (2017) 9 SCC 766.

process involves a written application, client and judicial references and a rigorous interview round.

The Selection Panel then recommends qualifying applicants to the Lord Chancellor (equivalent to a law minister), who advises the King or Queen to confirm the appointments.

As of January 2025, the appointment of 105 new KCs in England and Wales was approved by King Charles III. The total number of appointments this year was the highest in four years.

Australia

Depending on the state or territory, the titles of Senior Counsel (SC) and King's Counsel (KC) are used in Australia. Since the early 1990s, several federated states like New South Wales (1993), Queensland (1994), Victoria (2000), Tasmania (2005) adopted the SC title to reflect an independent Australian legal identity. The Australian Capital Territory adopted the title in 1995.

Notably, in 2013, Queensland reinstated the QC title (it had recognised QC for nearly 150 years before switching to SC in 1994), as it is more widely recognisable and Victoria followed suit in 2014. In 2024, South Australia abolished the KC title in favour of SC.

In Australia, the appointment of SCs or KCs varies by state and territory. In New South Wales, the Selection Committee comprises the President and Senior Vice President of the Bar Association, four Senior Counsels nominated by the President and approved by the Bar Council, one non-practising legal professional and one non-lawyer community member who oversees the appointment process. Once the Committee makes its final selection, it informs the Chief Justice for approval.

In Victoria, the appointment of Senior Counsel is overseen by the Chief Justice of the Supreme Court, assisted first by a Preliminary Evaluation Committee comprising Bar Council leaders, up to 10 Senior Counsels, a retired superior court judge and three solicitors from diverse practice areas. This Committee assesses all applicants and prepares a confidential shortlist.

A second body, the Silks Advisory Committee—composed of judges from the Supreme Court, Federal Court, County Court and relevant tribunals—then considers this shortlist alongside application materials and extensive consultations. The Chief Justice also seeks input from heads of key legal bodies and prosecutorial offices.

In Queensland, the appointment of KC involves deliberations between the Bar Association and the judiciary, culminating in recommendations by the Chief Justice. Since 2013, appointments have been made by the Governor in Council and announced by the Attorney-General.

In 2024, New South Wales named 26 new Senior Counsel, Victoria appointed 25, South Australia appointed three and Queensland designated eight new KCs.

Singapore

Singapore's SC system, introduced in 1989, was initially modelled on the UK's KC/QC framework. However, the composition of the Selection Committee changed over time. At present, the Selection Committee does not have any representation from outside the legal profession. Appointments are made by a Committee comprising the Chief Justice, the Attorney-General and the Justices of the Court of Appeal who may appoint an advocate and solicitor, a Judicial Service Officer or a Legal Service Officer as Senior Counsel if they are "of the opinion that the person's ability, standing at the Bar, or special knowledge or experience in law, merits such distinction."

In January 2024, the Chief Justice of Singapore announced no appointments for the year, citing a refined selection criteria as the reason, with "greater emphasis on the applicants' work that has tangibly contributed to the development of Singapore law, and on their contributions to the profession."

As of January this year, Singapore has 100 senior counsel among 6438 legal practitioners and 82 of them are still in practice. In terms of court attire, SCs in Singapore may wear a silk gown styled like the UK's KC/QCs.

Hong Kong

In June 2022, Andrew Cheung Kui-nung, the Chief Justice of Hong Kong, stated that their legal system "is designed on the premise that successful senior counsel... would one day become judges, thereby contributing their excellence to the judiciary for the benefit of a legal system by which they have been given so much."

Following the handover of sovereignty from the UK to China in 1997, Hong Kong replaced QC with the title of SC. Previously, the "appointments were made under the Governor's prerogative power on the recommendation of the Chief Justice." Since 1997, the appointments have been made under Section 31A of the Legal Practitioners

Ordinance, which lays down the eligibility requirements and confers on the Chief Justice the discretionary power to make the appointments “after consultation with the Chairman of the Bar Council and the President of the Law Society.”

As of January 2025, there are approximately 108 Senior Counsel among Hong Kong’s 1700 practising barristers.

Hong Kong’s judges and barristers still wear traditional black gowns and wigs—a colonial custom that even the UK is moving away from. Senior Counsel wear silk gowns, as in the UK and Singapore.

Ireland

In Ireland, appointment as Senior Counsel is also referred to as being “called to the Inner Bar”.

The title of Senior Counsel in Ireland has its origins in the early 20th century, following the nation’s independence. After the establishment of the Irish Free State, the Courts of Justice Act 1924 came into being, as part of a broader effort to create an independent legal system. After this, the formalised practice of electing Senior Counsel has been that the Chief Justice calls members to the Inner Bar, who are described as Senior Counsel.

As was the case in the UK, only barristers could be appointed as Senior Counsel in Ireland. However, in 2020, Ireland allowed solicitors to apply. Ireland’s scheme is “also open to transactional and advisory lawyers.”

The process for appointing Senior Counsel in Ireland involves an Advisory Committee composed of the Chief Justice, the Presidents of the Court of Appeal and High Court, the Attorney General, chairperson of the Bar Council, president of the Law Society and a lay member of the Legal Services Regulatory Authority who is nominated by the Minister of Justice. The Advisory Committee assesses applications and makes recommendations to the Government, which then confers the title of Senior Counsel.

In 2022, for the first time, more women than men were appointed as Senior Counsel: 20 of the 34 appointees were women. In October 2024, the Bar of Ireland called 27 members to the Inner Bar, bringing the total number of Senior Counsels to 389, of whom 21 percent are women.

Nigeria

The title of Senior Advocate of Nigeria (SAN) is conferred by the Legal Practitioners' Privileges Committee (LPPC), which includes:

- The Chief Justice (as chairperson)
- The next senior-most Supreme Court judge,
- President of the Court of Appeal,
- Attorney-General of the Federation,
- Chief Judges of the Federal High Court and the High Court of the Federal Capital Territory and
- Five Senior Advocates of Nigeria.

The LPPC “exercises full control and management” of the entire appointment process, with no role for the executive. Applicants are assessed based on their case records, integrity, professional conduct and consistent evidence of excellence.

SANs enjoy the privilege of sitting in the ‘Inner Bar’, the front row of seats in a courtroom. Junior advocates sit in the ‘Outer Bar’ behind the front row. Customarily, SANs can also have their cases called first or whenever they step into court.

As of May 2022, only 693 lawyers had received the title since it was introduced in 1975.

Sri Lanka

The title President’s Counsel (PC) replaced the Queen’s Counsel title when Sri Lanka became a republic in 1972. PCs are appointed by the President under Article 33 of the Constitution, which gives the President unfettered discretion in making these appointments. While recommendations are typically made by the Chief Justice, Attorney General and the President of the Bar Association of Sri Lanka and four President’s Counsels, these are purely advisory. The President can accept, reject or return these recommendations.

In 2021, then-President Gotabaya Rajapaksa issued new guidelines in relation to the appointment of the President’s Counsel. It stated that candidates applying for the post must have been enrolled for a minimum period of 20 years as an Attorney-at-Law of the Supreme Court of Sri Lanka. In exceptional cases, those with at least 15 years of experience may be considered.

In December 2023, President Ranil Wickremesinghe appointed ten lawyers as President's Counsel.

A common thread in Senior Advocate designations across common law jurisdictions is that while these titles are seen as markers of legal distinction and professional excellence, they also serve to concentrate power and privilege. The appointment itself elevates an individual within the legal community, bringing both greater influence and responsibility.

While some common law countries like Ireland have moved towards hybrid panels comprising judges, lawyers and laypersons— insulating the process from undue influence—others like Sri Lanka vest the final say in the executive, who may override recommendations from the judiciary and the Bar.

In the UK, the judiciary does not directly appoint KCs. The independent selection panel handles appointments which are then formally bestowed by a cabinet minister, reinforcing public confidence that selections are merit-based.

Nigeria's system, while also judicially-led, is institutionalised through a structured committee with representation from various tiers of the judiciary and several experienced members of the Bar.

Comparatively, India's system is too heavily skewed towards the judiciary. For Supreme Court designations, a full court votes on candidates shortlisted by a committee comprising three judges and only two lawyers (one of whom is the Attorney General). Eight years ago, Indira Jaising cracked open the doors of a process long shrouded in secrecy. Now, as we wait for the Supreme Court's verdict again, the question is not just who gets in, but whether the system has changed enough to let merit speak louder than legacy.

5. CONCLUSION

The designation of Senior Advocates remains a vital institution within the Indian legal system, symbolizing excellence and professional achievement. While significant progress has been made through judicial reforms, challenges related to transparency, inclusivity, and objectivity continue to persist. A balanced approach that combines structured evaluation with judicial discretion is essential for maintaining the integrity of the process. Ultimately, the goal should be to ensure that the designation truly reflects merit, competence, and contribution to the development of law, thereby strengthening

public confidence in the legal system. The designation of senior advocate in India is a mark of professional excellence governed by the Advocates Act, 1961, and subsequent guidelines. The process has evolved from the original Act through the 2018 guidelines and the recent 2023 modifications, aiming to balance objectivity and merit in the selection process. The changes reflect ongoing efforts to refine the system, with a shift towards giving more weight to courtroom performance and legal acumen rather than academic pursuits. These developments underscore the legal community's commitment to maintaining the prestige of the senior advocate designation while adapting to changing professional landscapes.

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