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You're in a room you don't want to be in. Something bad has happened, there's a stranger in a suit with your future in their hands, a judge four years ago that judge was me. The people looking up at me then had no choice but to trust me. But what had I done to deserve it? Australia's judicial system operates under a shroud of mystique which fends off tough questions like this, but you will have the right to ask how people like me prepare for the job of judging. And you may not feel comfortable with the answers the system needs to change. To set the scene first, let's think about public confidence judges in Australia are not elected yet. The power they wield is immense. Ultimately, we trust the system because we believe that judges generally get it right. If we lose that belief, we risk unbalancing the whole constitution. But we live in a time when blind faith in elites is eroding fast. Judges are increasingly vulnerable to the why question why do you deserve the power we have given you? And so they should be. Second, it's fundamental that judges have to be seen as independent, doing their jobs without fear or favor to avoid any pressure from the government of the day. Judges have high salaries, which can never be cut, and they can't be fired for what they say or do unless they're obviously corrupt or mad. In exchange, judges agree to be OGX for restraint, both in and out of court. A kind of veau comes down when a judge is appointed. It's a lonely way to live, and it feeds into the sense that judges are somehow different from the rest of us. Finally, I can tell you that all judges are in theory appointed on merit. That sounds good. And in theory it is. Judges are chosen in a confidential process which relies heavily on advice from senior judges. The people chosen are all experienced lawyers, traditionally top courtroom lawyers or barristers who spend their days appearing in front of judges. They're all personally shoulder tapped for the job, and the results are in general, pretty impressive. But what do we really mean when we talk about merit? For one thing, barristers are historically Milah, Pela and Stila then are the lawyers, which is really saying something. It's been argued that the people who get chosen as judges are above all, the ones who remind existing judges of themselves. Diversity on the bench is an issue that's become impossible to ignore, and judges are essentially picked based on how well they argue cases in front of judges. But that doesn't really make sense. Let's compare a courtroom and an operating theatre. Barristers and judges both play essential roles in court, just like anaesthetise insurgents in an operation. But you don't hand an anaesthetist a scalpel just because he's been putting people to sleep for the surgeon for 10 years. The underlying skill set may be the same in law as in medicine, but the jobs are fundamentally different. The strange truth about judging in countries like Australia is that even though judges are such an important part of government, we've basically privatised the system of making them that work is done if it's done at all, within the private legal profession. And here's the thing, there is no judge school for wannabe judges, judicial appointment is seen as a badge of honor, not as a professional milestone that a lawyer builds up to the way that a doctor works towards specialization. Judges are just lawyers until the day they take the judicial oath. And from that day it is sink or swim, except they can't be fired for incompetence. How do you think it would feel to know your life was on the line in a judge's first ever case? And how do you think that judge would feel the transition to the bench can be a baptism by fire? I had never run a criminal trial as a lawyer, and there I was in a magistrate's court in the Seychelles being asked to hand down 12 year prison sentences in my first month on the job. It was terrifying. Is it any easier to make that transition as a top courtroom lawyer? Well, in some ways, definitely.

Barristers do know a lot of law and the years of watching judges in action do give them a head start on how the process works. But as society changes, our expectations of judges are changing, too. Judges are increasingly called on for a whole range of extra non-legal skills. They have to be managers and leaders, politically and culturally savvy, able to handle relentless scrutiny and social isolation. We don't necessarily expect or even value those skills in a barrister. And when we aim for a more diverse judiciary, the problem actually gets worse. If we want less male, less PAYO judges, we're not likely to find them all in barristers chambers. And people who haven't spent their working lives in court can't possibly be expected to just know how judging works, no matter how excellent they may be in other ways. So what you end up with is a situation where no new judge is actually likely to have every piece of the merit puzzle. But the number and shape of those missing pieces varies hugely from judge to judge. How is this OK? Why does our system assume that anyone comes ready made for such a demanding job? It turns out there are some pretty strong cultural reasons why people who study judiciaries, that's me now are traditionally reluctant to talk about behind the scenes issues like making judges for fear of being seen as interfering with judicial independence. I think this has gone too far. Independence depends on public confidence, and we can no longer be expected to trust what can't be explained and justified. But the legal elite have an obvious interest in maintaining the status quo. As a lawyer, it feels uncomfortable to criticize a process that my barrister friends say is a natural progression, even a kind of right. And getting any lawyer to talk openly about learning how to judge is hard. People like me learn quickly that admitting to judicial ambitions is out of order. You can aim to be a barrister, which puts you in the running, but you can't be seen as angling for an appointment. The contrast with a profession like medicine couldn't be more stark. The incentives in law are all backwards. I came to realize that it was only in confronting these culture barriers that I would have any hope of breaking through from the Y to the how so how do we talk about making judges? It starts with government taking more responsibility for its own processes and not just in explaining why it picks one person over another, although that would help. At the top of my list is ongoing education for judges, judges in Australia to actually go to judge school now. Kind of, but only behind closed doors once they're already on the job, it's labeled as CPD continuing professional development, which is totally routine and compulsory for lawyers and other modern professionals. But because no one is supposed to tell a judge what to do or how to think in case that undermines their independence. It's all voluntary. In principle, a judge like me could just say no, and that CPD label neatly avoids the elephant in the room, the fact that every modern lawyer needs at least some help learning how to be a good judge in the first place. There's actually some amazing work starting to happen in judicial education, but it is nowhere near enough and in any case, it's those pre appointment years that matter the most. Government has taken no responsibility at all here. And to get past that stigma on wannabe judges, the profession itself has to change, whether it happens formally or informally. We need to be thinking about a judicial career path and actively creating judicial merit. We need to support young lawyers like me, particularly the diverse ones, to do things that will make them great judges, not just great lawyers, especially when those things are not likely to get them promoted as lawyers. In hindsight, I wish I'd had way more experience in things like community justice, technology and management, and I so wish I could have gone to judge school. Better prepared lawyers would mean better inputs for those people who choose and manage judges and ultimately better

evidence that those judges deserve your trust. And that's what it all comes back to, any of us any day could find our future in the hands of a judge in that moment. We need to be able to look each other in the eye and know we can trust the system. Thank you.