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ELECTORAL REFORMS IN INDIA: A ROLE OF JUDICIARY

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Abstract: The motto of India's highest court, "Yato Dharma Tato Jaya," may be translated as "where there is the truth, there will be triumph," and it is often seen as the final hope of the ordinary people. The Supreme Court of India is often referred to as "the guardian of the Indian Constitution." As the highest court in the land, it sets the standard for all other courts to follow. The Indian Supreme Court is vested with a wide range of authority; they include the ability to legislate, to oversee government operations, and to conduct judicial reviews. The electoral process in India is heavily influenced by the affluent entrepreneurs and politicians who control the party via either financial or physical means. The Supreme Court and Election Commission have played critical roles in limiting the influence of money and muscle in the electoral process. They both worked to ensure fair and open polling in India's last election. Even Nevertheless, the electoral process and the legislature both require a number of changes. They also made an effort to sabotage the upcoming discussion on electoral reform in this article.

Keywords: Changes to the Electoral Process, the Supreme Court, Elections that are Challenging, and Judicial Principles

INTRODUCTION

Elections are of critical importance in democracies. Every democratic state need a reliable and impartial election commission. The Indian Constitution establishes a number of independent branches of government, including an Executive, a Legislature, and a Judiciary¹. This should go hand in hand with a robust and autonomous constitutional process for holding elections throughout the country and ensuring that every voter has a fair opportunity to choose the candidate of their choice. John Locke argued that decisions about government

should be made with the support of all citizens. Elections

should be carried out in open and democratic circumstances with a neutral organization ensuring that all parties' rights are respected. The electoral clause in India's constitution is the most extensive of any constitution in the world. This provides information on the several branches of government and the many additional constitutional machinery that supports them, such as the Election Commission of India.

Part XV of the Indian constitution addresses the supervision, guidance, and control of electoral matters, as well as the preparation and administration of electoral rolls and elections. Article 324 of the Indian Constitution outlines the country's electoral framework. In India, elections are overseen by a commission made up of a Chief Election Commissioner and many other Commissioners, as established under Article 324 of the Indian Constitution. It is the responsibility of the Commission to organize and run elections in the nation. In advance of the general election, they compile a list of eligible voters. The panel is establishing rules for the behaviour of those who want to run for office. Candidates are required to abide by the code of conduct set by the commission, and the Election Commission has the authority to take disciplinary action against a candidate who violates this code, including disqualifying them from the election.

1 PURPOSE OF VOTING CHANGES

Elections are held to choose who will lead democratic nations. Since India's constitution is a federal one, both the federal and state governments have important roles to play in the country's growth and development⁴. It is critical that competent and well-qualified individuals be chosen as representatives if the nation is to make the growth and development envisioned by its constitution and its citizens. Voters shouldn't feel obligated to support a certain candidate. India's current voting system, however, has to be changed.

To amend the Electoral Laws: A Report of the Law Commission (1999)

3- VENKATESAN, V. (n.d.).

ELECTORAL REFORMS: A forceful reiteration.

We were able to get this information from <https://www.frontline.in/static/html/fl2007/stories/20030411004203000.htm>.

No. 4 India, L. S. (n.d.). Legal Services India, Article 1614, "Electoral Reforms Towards Decriminalizing Politics," Online at <http://www.legalservicesindia.com/article/1614/>.

The people of India are misguided, leading them to vote for a politician that is not to their liking.

This is because many Indians still lack basic reading skills, resulting in a low literacy rate overall. Few Indians understand their constitutionally guaranteed right to vote. The Indian election mechanism was written in 1940, and since then, the country's socioeconomic and political climate have seen profound changes. It's embarrassing for India's democracy that so many candidates use loopholes to cheat at the polls using tactics like booth capture, misinformation, and poor management. However, the election commission is working to improve the electoral process by implementing a number of changes. Money and brute might are the obvious determinants of who wins elections in India. In addition to its original jurisdiction, the Supreme Court of India also has the power of Judicial Review of Administrative, Legislative, and Judicial Actions⁷. This makes the Supreme Court of India both the guardian of India's constitution and its ultimate arbiter of any disputes that may arise from electoral reforms. The Supreme Court has the authority to uphold the rights guaranteed by Article 32 of the Constitution. The Supreme Court would maintain a level playing field amongst the other constitutional bodies⁸ via its judicial review authority. A number of petitions had been filed with the Supreme Court by individuals seeking redress, and the Court had ordered the Elections Commission to implement a number of changes. Therefore, the function of the courts is crucial. Second, the Supreme Court of India has issued guidelines for electoral reform. The Supreme Court of India is critical to the nation's growth and prosperity. The Supreme Court's role as "keeper of the Constitution" requires it to guide the other branches of government in a way that keeps checks and balances in place. Among

Five- The Goswami Committee's Report on Electoral Reforms (1990)

6-The Indrajit Gupta Committee's Report on State Funding for Elections (1998) Review of Constitutional Functioning: 7- Report of the National Commission (2001) Electoral Commission of India, 8th Report, Proposed

Electoral Reforms (2004) The Supreme Court of India established vital rules in the case *Union of India v. Association for Democratic Reform*, which mandate that all candidates for state legislature or parliament must submit an affidavit with the specified information. The electoral commission has been granted the authority to request this information from the candidates in order to complete the nomination papers. Some of the data might include

2.1 The candidate's criminal history, including any convictions, acquittals, or charges, and the outcomes of those proceedings, if any, and the candidate's continued eligibility to run for office in the event of a conviction. The candidate's punishment (if any) including any jail time, fines, or both. An affidavit detailing the candidate's criminal history must be submitted to the Election Commission in accordance with Supreme Court regulations. To help voters make an informed decision, the public collects this data about the candidates. People have the power to determine the destiny of a candidate who has a criminal record if one of the two representatives has one. If the candidate has been charged with a crime in the last 6 months, they must declare it here. The crime must carry a potential sentence of 2 years in prison or more for the court to take notice of the case and issue an arrest warrant. The Supreme Court has ordered the Election Commission to gather details regarding any criminal charges against a candidate because such a person has no place in politics. A citizen has the right to know whether or not a candidate has any criminal histories. This will be useful in maintaining a free and fair political system and safeguarding our democratic institutions. To proceed to Step 2.3, the applicant must provide details about their financial situation, including their movable and immovable assets, bank balance, property, etc. All of this information about the applicant, together with his or her spouse and any dependents, must be provided. A major danger to democracy and India itself is posed by the fact that politicians there are considered to get wealthy following elections. As a result, investigating their financial stability is essential.

This doesn't imply the applicant can't own any real estate, but rather that their holdings should be reasonable in relation to their means. right method. The Supreme Court first adopted the rules, and then the rest of the nation followed suit. According to many, this is a major improvement to India's voting procedures.

The applicant must disclose any debt owed to a government or financial institution under Section 2.4. Due to a Supreme Court ruling, candidates must now disclose any outstanding debts in an affidavit submitted with their nomination paperwork. Everyone who wants to apply for nomination must have a certificate stating they owe no dues.

A candidate's educational history is an important 2.5 factor to consider. Specifics about their credentials. However, the Indian constitution makes no mention of educational requirements for voting. Prospective employees should just provide their educational history. However, no specific qualifications are required by law in order to be a nominee for an election. If the people have access to this data, they will have a greater chance of electing competent officials to positions of national authority⁹.

FOUR HISTORIC SUPREME COURT DECISIONS IN THE 2016 ELECTION INDIAN REFORMS

The Supreme Court of India has only ever issued one really ground-breaking ruling, and that came in the 2002 case "*Union of India (UOI) versus Association for Democratic Reform(ADR)*". If an Indian citizen wants to run for parliament or a state legislature, the country's highest court has ordered the country's election commission to require them to submit an affidavit detailing the candidate's financial situation, criminal history, and educational background along with proof of their qualification¹⁰. The public will benefit from this judgment since they will have access to detailed information about candidates' histories. Report of the Second Commission on Administrative Reforms 9 (2008)

10- www.adrindia.org, the home page of the Association for Democratic Reforms. Union of

India v. Respondent Association for Democratic Reforms and Another, Together with People's Union for Civil Liberties and Another (<https://www.right2info.org/cases/r2i-union-of-india-uo-i-v.-respondent>) As a result of this ruling, political parties are more compelled than ever to choose only the most qualified candidates for party tickets during nomination time. To ensure that its instruction is carried out, the Supreme Court has stepped in after parliament attempted to circumvent the judgement by introducing an ordinance to add Section 33-B to The Representation of the People Act, 1951 and then passing the modification in parliament. The Supreme Court ruled that the amendment was unconstitutional because it attempted to overturn their ruling in the "UOI versus ADR (2002)" case, in violation of article 19(1)(a). As stated by the Supreme Court in the case "Resurgence India v Election Commission of India (2013)," "returning officers may reject nomination papers of a candidate for non-disclosure and concealment of information, including that of assets and their criminal record." 12. In the case "Union of India versus Ramesh Dalal (2005)," the Supreme Court ruled that an MP or MLA would be disqualified from office if they were convicted of a felony and sentenced to jail for 2 years or more. A condemned individual is not automatically excluded from further participation in the electoral process¹³ provided they file an appeal within the required three-month time frame. According to the Supreme Court's decision in "Lily Thomas vs. Union of India (2013)," Section 8(4), which exempted the candidates from being disqualified, is null and invalid. So, the guilty (MP) or (MLA) would lose their position immediately. Eleven or so legislators (so far) have lost their seats as a result of this. There's optimism that this will eventually result in improved behavior on the part of representatives¹⁴.

Case No. 12- Resurgence India v. Election Commission of India and Others (n.d.). LawNotes.in. Resurgence India v. Election Commission of India & Another. Photo Credit: TheHindu The Supreme Court's rulings on

electoral reform, at number 13. 21 September 2017. Supreme Court's Electoral Reform Decisions, which may be retrieved at <https://www.civildaily.com/>

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<http://www.legalservicesindia.com/article/1614/Electoral-Reforms-Towards-Decriminalizing-Politics.html>

Because of a writ suit filed by the People's Union for Civil Liberties (PUCL) at the Supreme Court, a new option, "None of the above," has been added to ballots (NOTA). If a voter doesn't approve of any of the candidates, they may indicate their displeasure by clicking this button. By using the NOTA button, voters may express their displeasure with the election's choices without actually casting a ballot for anybody. However, not all voters want to have their input shown in this way. Because of this, even if the majority of voters choose the "NOTA" option, the candidate will still win. There have been several instances when this button has received more votes than the major parties. Voter participation has increased as a result. Therefore, political parties¹⁵ get the message for candidate promotion and empowerment.

The Role of the Judiciary in Electoral Reforms: A Critical Analysis

Many Indian residents are unaware of the rights guaranteed to them by the constitution, however the Supreme Court provided crucial instructions in the case "Union of India v. Association for Democratic Reform, AIR 2002 delivered on 2nd may 2002"¹⁶. This country's general elections should be fair and free now that the electoral commission has adopted these principles. The responsibility for conducting fair and orderly elections rests with the electoral commission. Since elections depend on adhering to this standard, a breach of it should lead to their cancellation. It is necessary to take firm action against candidates who are found to have provided false or misleading information in response to the aforementioned requirements, such as those who fail to disclose any relevant criminal records, financial irregularities, or lack of

appropriate academic credentials. The country's citizens would be encouraged by such decisive action, which might lead to significant shifts in the next elections. Conclusion To some extent, the adage that "elections become the game of scoundrels" is correct.

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<https://globalfreedomofexpression.columbia.edu/cases/peoples-union-of-civil-liberties-pucl-v-union-of-india/>

Ten. https://globalfreedomofexpression.columbia.edu/cases/union-india_uoi_v_respondent_association_democratic_reforms_another_v_peoples_union_civil_liberties_pucl_another_v_union_india_uoi_another.

There is now a daily increase in political crime. In India, candidates win elections with the assistance of their supporters' muscle and financial might, while the average voter has little say in the matter. Supreme Court justices are the only ones with the power to create lasting change for the American people by way of establishing uniformly effective norms.

As a result of the lengthy time commitment involved in the trial of an election petition, disgruntled parties seldom bring them. "The common belief that an election petition drags on for a long time is mostly accurate. A person who has unfairly won an election may still continue as a Legislator, and maybe even a minister, or other roles, until the next election comes around and the matter is decided. This is like to a criminal being free throughout his lifetime, only to have a life sentence imposed on him after death by someone in their sixties ". In the interest of the public, a swift resolution of a petition under scrutiny is essential. To ensure that the people of a given constituency are properly represented, it is imperative that any official who has not been elected through free and fair means be removed from office as soon as possible, whether that be through the declaration of another candidate who claims to be duly elected or through the holding of a new election. The EC should be given the power of electoral adjudication so that election petitions may be quickly resolved. In order to make decisions on petitions, an EC with many

members should be given the resources and authority of a tribunal. Already, in cases like electoral symbol disputes, EC acts in a quasi-judicial capacity. Appeals from EC's rulings on such petitions should be heard by the Supreme Court. Mr. Seshan has often emphasized that his workload in the EC was light. If the Commission is responsible for electoral adjudication, its Commissioners may be kept busy enough in the downtime between elections to make a fair decision based on a simple majority vote. The ultimate appeal for every election petition must be decided by EC within six months of the petition being filed. The remuneration received by a member of a legislature up to the date of such disqualification shall be recovered from him when such member is disqualified by a court of law for engaging in corrupt activities or for having committed an electoral violation.

A Supreme Court ruling in Rambabu Singh Thakur v. Sunil Arora (2020)¹⁷ notes that political parties must make public information about their candidates' criminal histories in order to conduct fair elections. Included in these specifics are the Site: <https://www.scobserver.in/court-in-review/criminalisation-of-politics?slug=rambabu-singh-thakur-v-sunil-arora> Date: 13 February, 2020

information pertaining to criminal activity (e.g., arrest records, criminal charges, case numbers, etc.). Such information must also be made available on the Facebook and Twitter pages run by political parties. These must be made accessible as soon as possible, preferably within 48 hours, and certainly no later than 2 weeks after the applicant has been chosen.

5 CONCLUSION

Since the end of the Emergency, the Supreme Court has gradually amassed more and more authority, sometimes even overstepping the bounds of the executive branch and the legislature. To explain its decision to the public, the Supreme Court said it was "compelled" to intervene due to the ineffectiveness of the legislature and the government. India is the world's biggest democracy, yet the quality of its

legislature and government is less than ideal. No one can dispute the role that the Indian court has played in reforming the nation on all fronts, whether those fronts be social, moral, or electoral, and there is no appropriate record in history to suggest otherwise. However, the Judiciary should not be pushed to become too activist. The Supreme Court had stepped in on several occasions, although the problem might have been resolved between the legislative and executive branches if the Court had been competent. Legislators and the administration need to pick up their game because doing their jobs with honesty and integrity is more vital to the nation than playing politics, and it would prevent the Supreme Court from having to step in and make choices for them.