



A review of Recent trends in Supreme Court and Indian Parliament

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Abstract:

There are many different types of legal proceedings that fall under the judicial procedure umbrella. The judiciary is one of the pillars that support the structure of the constitution. It is the cornerstone of a democratic society. The term "judicial process" refers to everything a judge does in the course of delivering justice. The evolving social order confronts India's Parliament, which embodies a heritage of actual historical processes and is rooted in and emanates from it. It has not only done its job of expressing people shifting desires, but it has also responded to citizens' collective claims to citizenship in the state. As a result, the Parliament is becoming more democratic as a public institution in the process. Understanding how the institution of Parliament becomes a place where the meaning of citizenship is contested when it faces demands from below is the goal of the study. The study also shows that how to demonstrate how the compulsions of democracy force representative institutions to respond to the needs of people as soon as they stop being passive and start becoming active. Social citizenship is used as a theoretical framework and a citizenship of practice to push the concept that it is being extended from the bottom up in India and is being acted out in the legislative chambers.

Keywords: Legislature, Parliament, Social Movements, Social Citizenship, Representative democracy.

Introduction:

The fascinating story of the Indian Parliament is told via a study of institutions as the legacy of "critical junctures." The period immediately before the establishment of a new institution and immediately after its inception is known as the "critical juncture," and it is during this time that the organization gains strength and stability. When India gained its independence from British control, it entered a period of rapid transition, which set the course for its institutions in ways that were impossible to reverse. The establishment of the Parliament, created as an auxiliary to the nationalist discourse's quest for representation, almost propelled India into representative democracy. These institutions (Provincial legislature under the British rule) were supposed to



perpetuate colonial tyranny, but little did they comprehend that the anti-colonial movements were influenced by groups such as the Congress or Sabha, which functioned analogous to parliaments. For Rodrigues, these groups were not only incubators for future political leaders, but they also promoted a civic culture of rights, debates, and critical thinking. There were some hints of the concept of representation in the Indian mind, though. The concept of continuity from the past is not impossible in retrospect, even if democracy was formed after a deep historical rupture that made the glories of the past seem inadequate to deal with the future. It is said in ancient Indian texts that people's bodies have elected their monarch ruler under participatory forms of administration. With regard to public interest cases, which lowered numerous procedural hurdles to entering the Court and acquired broad remedial powers to address a variety of social inequalities, the Court has a very clear self-aware pro-poor discursion. Critics of the Court, on the other hand, contend that the Court has shifted away from this commitment to the interests of underrepresented groups at least since the 1990s. It has absorbed the state's Neoliberal worldview and moved toward more business-friendly jurisprudence at the expense of underprivileged groups, who no longer "had Court on their side" in this period of economic liberalization. This change has been dubbed "Structural Adjustment of Judicial Activism" by Upendra Basi to mimic the structural adjustment of the Indian economy after the turn of the millennium. Supreme Court advocate Prashant Bhushan condemns the Court's "veneration of free market virtue and undercutting of the state role in providing education, employment, and the basic necessities for life to its population.

The court and structure of the judiciary

On July 14, 1947 the country of India achieved independence from British colonial authority and set out to create its own constitution. Liberation struggles, constitutional advances across the globe, and the legacy of colonial administration all had a role in shaping this document. A federal, democratic, secular, and rights-oriented state is envisioned in the Indian constitution. In a Westminster-style parliament, the legislative branch is separated from the executive and judicial wings, which ensures a balance of power. The founders included a bill of rights and judicial review into the constitution after learning from the American experience. This endeavour is not only to describe the structure of government and establish the interaction between citizens and government. Instead, the constitution declares itself to be a tool for social change. As with all post-colonial constitutions, the Indian constitution has the goal of creating a more equal society through changing the political, social, and economic landscapes. A core



set of rights to life, liberty, and the pursuit of happiness are guaranteed by our constitution, but there are also a number of exceptions. State policy must be guided by binding but non-enforceable directive principles of state policy in order to achieve socio-economic fairness. As a result, a welfare state is envisioned in the constitution. This constitutional ideal cannot be furthered without the involvement of the court. With the constitution, we have a three-tiered judicial system, with district courts handling civil cases, higher courts hearing felony cases, and the Supreme Court hearing appeals from lower courts. Constitutional tribunals, such as the Supreme Court, have the ability to issue writs for the enforcement of constitutional rights and requirements. In addition to being trial courts, they serve as appeal courts in both civil and criminal cases. As stated in the constitution, all courts have the authority to review and rule on both state and federal legislation. All subordinate courts in India must follow the Supreme Court's rulings. In 1950, the Supreme Court was established. As a result, the Court's size and structure have radically altered. At its inception in 1950, the Court consisted of eight justices who deliberated on whether or not to accept 1037 cases and rendered decisions. As the need for justice grows, the Court has grown in size. With 31 judges and 60,000 appeals and petitions before it each year, the Supreme Court has the capacity to hear and rule on more than 1,000 cases. Despite the fact that sitting En banc has never been mandated under Court rules, it was common practice in the early years of the Court.

Review of literature

(Neupane 2018) studied “Emerging Trends of Judicial Review in India” Judicial process, on the other hand, refers to any judicial action undertaken by any court of competent jurisdiction in order to carry out the administration of justice. The judiciary is one of the pillars that support the structure of the constitution. It is the cornerstone of a democratic society. The term "judicial process" refers to everything a judge does in the course of delivering justice. What went wrong with the judicial process is the focus of this research paper's study of the "whole complicated phenomena of court functioning, and what went wrong with this process is the focus of this research paper's study."

(Balagopal 1994) studied “In Defence of India: Supreme Court and Terrorism” as well as *RIGHTEOUSNESS Karter Singh vs. State of Punjab vs. Rat navel Pandian's decision* (on behalf of the majority) has established the Constitutional salon TADA. It's a badly drafted decision, lacking in reasoning and reluctant to follow the road set up by the Supreme Court in



Manuka Gandhi versus Union of India in 1978, not only because to the judge's poor mastery of English. "If they are adopted," Justice Sahai writes in dissent, "it would lead to returning the law back to A K Gopalan," referring to the Supreme Court's stance in K Gopalan versus State of Madras, 1950," in defense of TADA. The judge is too courteous to say the same of 'brother Pandian's' logic, which he lavishly compliments for its erudition (though there is no evidence of this in the verdict). However, he makes the same point about the majority decision, with which he also agrees to a large extent. It goes back to the days before 1978 without saying anything, although to be fair, this isn't the first time the Supreme Court has done this.

(Neuborne 1973) studied “sections of the foundational text be treated as final and binding by both the legislature and the executive . Each walks a tightrope between rights as a transformative force capable of sheltering and assisting the weak , and rights as a preservative force” this language should be recognized as final and binding by both legislative and executive branches of government. Everyone has to balance between using rights as a force for positive change and using them as a means of protecting and helping those who are most vulnerable. The Supreme Court of India has been chosen to launch the series. In the world's most populous democracy, the Supreme Court of India has produced more than half a century of constitutional jurisprudence. Among its many responsibilities is the ability to strike down proposed constitutional modifications. 3 An enormously complex civilization with a wide range of tough issues and conflicts is served by this tool. In the meanwhile, we plan to concentrate on South Africa's Constitutional Court in our upcoming feature. The editors are eager to hear from readers on the project as a whole, as well as individual biographies.

(Aney, Dam, and Ko 2017) studied “Institutional Knowledge at Singapore Management University Jobs for justice: Corruption in the Supreme Court of India Jobs for Justice Corruption in the Supreme Court of India” discovered this and Two issues lead us to analyse whether judges' worries about their professional futures influence their judicial decisions: Upon retiring from the Court, would justices who have been influenced by political pressure rule in favour of the government? Is it true that the government rewards judges who have ruled in its favor with high-profile positions? These questions may be answered by compiling all Supreme Court of India cases involving the government from 1999 to 2014, with an indication for the outcome of each case. Judiciary decision-making is affected by pandering incentives, according to our research. If the case is politically significant (exogenously decided by a system of random distribution of cases) and if the judge departs with enough time remaining in a government's term to be rewarded with a prominent post, then the judge is exposed to pandering



incentives (date of retirement is exogenously determined by law to be their 65th birthday). Rather than just sitting on a bench and deciding cases in favor of the government, we've found that pandering takes place when judges actively write favorable judgments. In addition, we find that justices who rule in favor of the government are more likely and faster to be nominated to high-profile post-Supreme Court positions. According to these results, political influence on judicial decision-making substantially harms judicial independence by corrupting the process.

Conclusion

The Supreme Court of India's jurisprudence represents the full breadth of constitutional law. As a case study of the conflict between judicially enforced constitutional rights and public desires for wealth redistribution, the fight between the Supreme Court and Parliament over the Constitution's property sections is instructive. Constitutional rights are known for their "preservative" character, and this case is no exception. It is an innovative endeavour to combine the concepts of equality and individual rights into a rudimentary synthesis via the creation of an affirmative action jurisprudence. It is a typical example of constitutional law being used as a method of bringing together opposing views. When it comes to judicial activism, the PIL movement stands out as one of the most amazing mobilizations of judicial resources for the underprivileged that judicial history has seen. A novel paradigm for courts attempting to make the rule of law relevant to society's most vulnerable groups, PIL is contentious. This shows that judicial scrutiny and independence do not always lead to human rights-based jurisprudence, as shown by the Court's poor decision on preventative detention. One thing is apparent, no matter how one feels about various features of the Supreme Court throughout India's fifty-two-year history of constitutional adjudication. Aside from its undeniable role in safeguarding and sustaining democratic governance and the rule of law in India, the Supreme Court's jurisprudence and institutional history are both rich and dramatic, making it a contender for the title of "most interesting and important constitutional court in the world."

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