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People Power

**Briefing on The Representation of The People
(Amendment) Bill, 2002**

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What is Disclosure About?

- It is people's fundamental right to know about their candidates
 - The right is derived from Art 19 (freedom of speech and expression)
 - It is not a right granted by a law or decree
 - A natural right flowing from the very concepts of democracy and popular sovereignty
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Is the Candidate's Right to Privacy Affected?

- Two competing rights – candidate's right to privacy vs and citizens' right to be informed
 - Candidates seek public office to exercise power on people's behalf
 - The citizens' and the community rights will prevail over those of a candidate
 - Right to privacy is an individual right, but public figures have an obligation to disclose
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Disclosures in the Bill

- All charges framed by a competent court entailing imprisonment of 2 years or more
- All convictions with imprisonment of a term of 1 year or more
- All convictions for offences listed under section 8 of RP Act 1951
- Financial disclosure statement of members to be filed with the presiding officer within 90 days

What does this Law Mean?

- Provides for satisfactory criminal disclosures
 - Financial disclosures of members only after the elections and not of candidates – violative of the SC judgment
 - Section 33 B explicitly prohibits any further disclosures, which is unconstitutional
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Is this Going to End Criminalization?

- Criminalization process will be arrested but not reversed
- Established criminals will continue
- New criminals will be prevented
- Parties will tend to avoid nominating new candidates with unsatisfactory record

What's the Effect of Financial Disclosures?

- Does not seek to embarrass honest elements with legitimate sources of income and accountable wealth
- The public debate generated about the candidates antecedents, the comparison between the lifestyles and known assets will force political parties to look for candidates with clean record

Disclosure vs Disqualification

- This whole debate is about disclosure and not disqualification
- Only non-disclosure can be made a ground for rejection
- False disclosure can be made ground for subsequent prosecution and for election petition
- Para 14(4) of EC's order can be amended through Rule 4 of Conduct of Election Rules
- Judicial reforms
- Separation of powers at state and local level

Case for Judicial Reforms

- Self-appointment of judges
- Unaccountable judiciary and failure of impeachment process
- Growing encroachment of executive jurisdiction
- Arbitrary and perverse orders
- 25 million cases pending
- No enthusiasm for procedural and judicial reforms

Is this a Legislature vs Judiciary Battle?

- Primacy of legislature is supreme.
- This is a wrong case to assert legislative supremacy.
- The court has a right to interpret fundamental rights

People's Ballot

- 850,000 people participated
- 98.09% voted for full disclosures
- Public opinion is fully in favour of disclosures
- Parties should respect public opinion even if disclosure is not a fundamental right

Practices in Other Democracies

- Done as a custom and not mandated by law
- Strong media and public opinion compel full disclosures by all serious candidates
- In US candidates for both the Congress and the Senate candidates have to file personal financial disclosure statements
- US Ethics Committee censures or expels members for violations
 - Eg: Sen. Robert Torricelli Of NJ had to withdraw after censure

What More Needs to be Done?

- Funding Reform
- Proportional Representation
- Voter registration through post offices
- Inner party democracy