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## INDIA | Court Rules Using Religion to Win Votes Corrupt

The Supreme Court of India delivered a decision Jan. 2 that an appeal by a political candidate to vote or refrain from voting on grounds of caste, race, community or religion amounts to corrupt practices.

In a 4:3 verdict, the seven-judge bench examined the relationship between candidates standing for public office and Section 123(3) of the Representation of People Act, 1951 (as amended in 1956), which bars a candidate standing for elections, either directly or through their agents, from appealing to any person to vote or refrain from voting on the grounds of their caste, race, community or religion.

Chief Justice T.S. Thakur observed, “The State being secular in character will not identify itself with any one of the religions or religious denominations. This necessarily implies that religion will not play any role in the governance of the country which must at all times be secular in nature....electoral processes are doubtless secular activities of the State. Religion can have no place in such activities for religion is a matter personal to the individual with which neither the State nor any other individual has anything to do.”

Tariq Adeeb, an Indian Supreme Court lawyer, said, “This is a welcome decision by the Supreme Court and a big blow to the politicians and their parties who play politics in the name of religion by using their most favored tool – hate speech and propaganda to polarize votes. The Supreme Court once again has come forward to rescue ‘secular India’ which is under threat of being hijacked by right wing Hindu extremist groups.”

While a landmark decision, the apex court did not reconsider the legal definition of Hindutva. In 1996, a three-judge bench led by the late Chief Justice J.S Verma ruled that Hindutva was a way of life and a state of mind, not a religion, overturning a decision by the Bombay High Court, which had nullified Shiv Sena (an Indian far-right political party that promotes Hindutva ideology)

leader Manohar Joshi's election results. Joshi campaigned promising to turn the state of Maharashtra into India's first Hindu State and the Bombay High Court had ruled that Joshi had violated his constitutional commitment to secularism by using religion to seek votes.

Dr. John Dayal the former National President of the All India Catholic Union, while welcoming the 2017 decision, noted, "The BJP and the Sangh and their allies are the main groups that are guilty of invoking religious arguments and hate speech although it is unlikely they will comply with the 2017 Supreme Court judgment in their election campaigns. This judgment also seems incomplete as it has not reversed or closed the Hindutva issue delivered by the late Chief Justice J.S. Verma, which effectively removed the Hindu rhetoric out of the election commission's scrutiny. Elections were never meant to be fought on grounds of religion."

CSW's Chief Executive Mervyn Thomas said, "CSW welcomes this landmark decision by the Supreme Court. We hope this decision will bring an end to religiously divisive words and actions being used for political advancement, especially during elections, and that the decision will challenge the legitimacy of far right divisive groups using communal propaganda to gain political support. CSW calls on the government of India to uphold the Court's decision in the upcoming Assembly elections in five states in India."