The State Judicial Selection Process

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## The Constitution of the U.S. has defined a clear line of authority between the Federal Government and the states. United States Constitution protects the right of states to form laws related to any matter which is encompassed by their jurisdiction. The states form their laws according to their own needs and crime rate. However, the states are not entirely sovereign as the Constitution places certain limits too.

As much as the judicial system is significant for the country, the transparent and reasonable selection of the judicial system is equally important. For judicial selection, two methods commonly used include election and appointment. Some of the states of the U.S. adopt the election method, while most states choose a hybrid of elective and appointive positions (Behrens & Silverman, 2001). It is observed that some states only carry out elections for the appointment of judges, while others select some of the judges through the merit selection procedure.

****The Judicial Selection Process of Georgia****

Georgia has three federal district courts, one state Supreme Court and one state court of appeals, and multiple trial courts. There is a lot of changes being made in the Georgian judiciary to improve. Numerous laws are amended after the intensive reforms. While the judicial system is undergoing several changes, analysis of the current standing of the judiciary is significant so that the extent ad impact of reforms can be evaluated.

****Different Kinds of Courts in Ga****

The state of Georgia conducts the judicial election every even-numbered year, which takes place on a primary date. 23 states of America conduct the non-partisan or partisan judicial election, and Georgia is one of those states. The Supreme Court conducts a Non-partisan election for the judge appointment who serves for six years. For the Judge of the Court of Appeals, Non-partisan elections are conducted, and the Judge serves for six years at the office. The judges of the superior court as well State court are appointed through the non-partisan elections and serve for four years.

The candidate for the superior court must be at least thirty years old and have experience of a minimum of seven years. The Judge must also be a resident of the circuit he or she wants to join and a state resident for three years.

The runner for the Supreme Court judge must be a Georgian resident and should have practiced law for a minimum of seven years.

The condition for appointment of a judge is that he or she must be a Georgia resident and possess relevant experience of no less than seven years.

However, the Probate Court selects it to judge through the Partisan election, which is selected for a four-year term. For this court, the retention of a judge can be made through the reelection. The qualification for this post includes U.S. citizenship, residency in the country for 2 years. Moreover, the Judge must complete an initial training course and, when also required the additional training as required. The academic qualification required is a high school diploma. The candidate must be a minimum age 25 and must be a registered voter.

 The individual who runs in the election of State Court must be a state resident for minimum three years and should have the practiced law for at least seven years. For retention, the reelection is conducted. The minimum age limit for this post is twenty-five years.

# **Removal Procedure of Judge in Georgia**

In state of Georgia, one of the two ways are implemented to remove a judge from the post. Firstly, the Judge can take retirement, be disciplined, or removed from the office by the judicial qualifications commission. The Commission was formed by a Constitutional Amendment of 1972. This Constitutional Amendment was revised in 2016, which empowered the Commission to launch investigations and conduct hearings related to complaints filed against the Georgia Judges under the ethical misconduct allegations. It can also release Advisory Opinions related to judicial misconduct. The Commission has ten members, out of which seven are appointed on the Investigative Panel, which investigates and impeaches the judges regarding misconduct. The other three on the Hearing Panel, act as a referee when the investigative panel co duct the investigation.

The other method to remove a judge is through voting. The house of Representatives can impeach Judge and if two-thirds of votes of the Senate are in favor of removal of a judge, the Judge is removed.

****The Judicial Selection Process Of New York****

The judicial system of New York is known to be one of the most intricate amongst fifty states of America. The courts including the family court, the surrogate's court, the court of claims, the supreme court, appellate division of the supreme court and the court of appeals operate through the state of New York. The courts in which the only function in the city are criminal and civil courts of New York. New York refers to the major trial court as the supreme court, however, most of the states consider it as a court of last resort.

****Different Kinds Of Courts In New York****

In the majority of the court, judges are selected through partisan elections, however, the appellate courts and other limited jurisdiction courts choose Judge through the assisted appointment method.

# **Court of Appeals**

In the Court of Appeals, seven judges are selected by recommendation of the Governor who chooses from a list made by a judicial nominating commission which is then pending for the affirmation of state Senate. The condition for appointment includes state residency, ten years’ experience in law and age less than seventy years.

****Supreme Court, Appellate Division****

In the Supreme Court, Appellate Division, the chief justice is selected through the gubernatorial appointment. The Judge must be state resident as well as have ten years of experience in the law field. The retirement age is fixed at seventy years.

****Supreme Court****

The judges of the Supreme Court are nominated through Partisan election. The Judge must be first selected at partisan nominating conventions so that he or she can appear on the ballot. Two supreme court chief administrative judges are appointed by the court of appeals chief judge. The judges requiring performing an additional term should apply for the reelection. For this post, the Judge must be of age seventy and have served for at least ten years within the state.

****County Courts****

County courts also conduct partisan elections to nominate their judges. The requirement includes the minimum experience of ten years of practicing law in the state and at the age of seventy, the Judge has to retire.

****Court of Claims****

With approval from the state senate, the Governor appoints the Judge in courts of the claim. The application for this post requires the Judge to be at least 18 years old and a state resident. He should have practiced for a minimum of ten years within the state. At seventy years of age, the Judge must retire.

****Family Courts****

The judges at family courts are selected through Partisan elections outside Of New York, however, within New York City, they are selected by the mayor. Family court judge must be at least eighteen years old and has experience of ten years in the law field for a minimum of ten years. The Judge must retire when he or she reaches the age of seventy.

****Surrogates' Courts****

Judges of Surrogates' Courts in New York are designated through partisan elections. For this position, the Judge must have partied law within the state for ten years and should be a resident of the state.

****New York City Civil Court****

New York Civil Court judges are appointed through the Partisan elections. The exception lies here that the New York City Housing Court judges are nominated by the Chief Administrative Judge. Judge for this post requires to have experience in the field of law for minimum ten years and should be at least eighteen years old. The retirement age condition for it is seventy years.

****Criminal Court****

For the criminal court of New York, the Judge must be a state and city resident and should have practiced law for ten years in the state. The compulsory retirement age for the Judge is 70 years old.

# **District Courts**

District Court judges are selected through the partisan elections for a service of six years. At the end of each term, they can be reappointed. The necessary conditions for running in elections for District Court, the candidate must be resident of state and county for a minimum of eighteen years and has practiced law for ten years within the state. The mandatory retirement age is seventy years for this position.

# **City Courts**

The judges for the City Court are nominated according to the municipality. The conditions for serving on this court include state and city residency for at least 18 years old and have practiced law in the state for a minimum of ten years. The obligatory retirement age is seventy years. The judges who are appointed for fill-time service perform for ten years. On the other hand, judges on part-time appointments serve for five or six years.

****Town and Village Courts****

Partisan contested elections are conducted to nominate the judges of Town and Village Courts of New York State. The service period is four years. The Judge should be resident of state and, town or village for minimum eighteen years.

# **Removal Procedure of Judge in New York**

In the judicial system of New York, the Judge can be removed in three ways. Firstly, the Judge can be reprimanded, condemned retired or the Commission on judicial conduct reserves the right to remove the Judge. However, any action taken by the Commission has to be reviewed by the court of appeals. The Commission which is dedicated to supervising judicial conduct has to investigate complaints filed against the Judge. If they find that Judge was involved in unethical practice of hi powers, the Commission can determine if to reprimand or remove the Judge from office. There are total 11 member in the Commission who are appointed by the governor, Chief Judge and each of four Senate Legislature Leaders. The members, without compensation, serve for four years. The offices of Commission are situated in New York City, Rochester and Albany. The Judge who receives any such punishment has the right to request the Court of Appeal to review his case.

The second method to remove a Judge of either supreme court or Court of Appeals is to cast votes. If the two-thirds of both houses of Legislatures vote to remove, the Judge will be removed. Other judges of the state can be removed if the governor recommends and the removal decision receives two-thirds of the votes by senate.

Thirdly, if the assembly casts popular vote in favor of removing the Judge, the Judge can be prosecuted and sent for trial of impeachment if two-thirds votes are cast against him or her.

**Comparison**

The appointment of judges into the office for practice of justice can be effective only when the procedure to select the judges is transparent and reasonable.

Judicial selection in Georgia primarily based on gubernatorial method of selection which is more inclined to political influence (Geyh, 2008). It is because judiciary of Georgia is selected or removed according to direction of the Governor and judicial committee. Selection and appointment procedure of judges in the Supreme Court of Georgia currently seems to lack transparency and liability (Warsaw, 2019). On the other hand, the judicial system of New York conducts the partisan elections to nominate the judges which involves public, which reduces the chances of biased decision. But the selection procedure of New York varies on different levels.

The criminal and civil courts are separate unlike the judicial system of Georgia. Thus, a greater number of judges are appointed in New York as compared to Georgia. New York refers major trial court as the Supreme Court, however most of the states consider it as court of last resort. It is evident that the judicial selection system of Georgia is much simpler than that of New York.

The procedure for the removal of Judge is almost similar in both states. Both either require the Commission or the votes cast against them to remove them. The conditions for the removal however differ a little in both. However, both the state allows the judges to request the Court of Appeal to review any decision made against them.

Four out of five types of court in Georgia conduct non-partisan elections. While nearly half of the courts in New York conduct partisan elections. In my view, the judicial selection system of New York is much better. Even though it does have flaws, but the necessary amendments can make it a model system for other states.

****Conclusion****

The procedure through which the judges are selected is of great significance to unbiased implementation of Constitution and it eventually forms a high-quality judicial system (Flango & Ducat, 1979). Such producers should be implemented for the selection of judiciary which would guarantee the integrity of courts and separate those who are selected due to political pressure, to gain personal benefit or any other way which can induce partiality and prejudice in the justice system. Unfortunately, this basic requirement of an autonomous judiciary could not be implemented completely anywhere yet (Geyh, 2008). However, states try to improve and amend the law for better judicial system. In this paper, the judicial system of New York State and Georgia state are discussed and compared. Both of the states have an almost similar structure for judicial selection.

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