

The Institution of An Empirical Overview of India's Supreme Court

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Abstract :

A billion or more people fall within the jurisdiction of the Indian Supreme Court, making it "the most powerful court in the world" due to its extensive jurisdiction, broad knowledge of its own powers, and these factors. However, researchers and decision-makers have quite different perspectives on how the court operates: they know a lot about the more well-known, "high-profile" Very less is known about the less important but far more frequent and maybe equally important judgements. through address this imbalance, this chapter covers the Court's decisions from 2010 through 2015. We use the most extensive original dataset of Indian Supreme Court opinions that has yet to be created to provide a thorough, quantitative overview of the social identity of the litigants who approach the court, the types of matters they bring to the court, the levels of success that various groups of litigants have before the Court, and the opinion-writing patterns of the various Supreme Court judges. This investigation provides the crucial data for understanding the Court and its role in fostering societal change.

Keywords : Supreme court , empirical , institution , overview

1.0.Introduction

A billion or more people fall within the jurisdiction of the Indian Supreme Court, making it "the most powerful court in the world" due to its extensive jurisdiction, broad knowledge of its own powers, and these factors. However, there is no comprehensive list of who approaches the Court, for what reasons, and with what degrees. Despite the institution's considerable public influence and high level of legitimacy, there is a low likelihood of success. Due to the court's fragmented bench structure (where cases are typically decided by only two or three of the court's thirty-one judges) and high volume of cases, scholars and policymakers have very different perspectives on how the court operates. They have a great deal of knowledge about the court's more prominent, "high-profile" cases but almost no information about less publicised, but frequently just as significant, cases.

How much does the Indian Supreme Court support progressive social change (or how much support is possible)? is the main question this book tries to address. In addition to high-profile cases establishing or extending rights for the underprivileged, observers of the Court believe that the Court consciously seeks to serve the common person by exercising its discretionary jurisdiction to admit and decide thousands of low-profile cases each year, typically involving individuals making unremarkable legal claims. Therefore, a significant portion of the Court's present practise cannot be grasped by just reviewing its seminal rulings. The Court focuses the majority of its attention on smaller cases, and these smaller cases are a crucial part of its strategy to give the poor access to justice.

How effective is the Court in this aspect of its work, though? Greater criticism has been levelled at the Indian judiciary as a whole and the Supreme Court in particular for failing to fulfil their responsibility to guarantee that the common person has access to justice. There have been requests for structural reforms as a result of worries about significant backlogs, protracted delays, and access restrictions that have damaged the legal system's credibility. There is, however, little consensus about the nature of the judicial dysfunction, its causes, and reformation techniques. While some claim that the Supreme Court has experienced a "docket explosion" that has made it more difficult for the Court to provide prompt and fair dispute resolution, others assert that the main problem with the Court's operations is "docket exclusion," whereby the Court is increasingly only accessible to the wealthy and powerful.

However, both narratives—that of explosion and that of exclusion—agree that the Court's capacity to uphold the lofty objectives of offering support and justice to "the butcher, the baker, and the candle-stick maker... the bonded labour and pavement dweller" is becoming progressively more constrained.

Numerous suggestions for improving the leadership and operations of the Supreme Court have been made in order to allay these worries. These include suggestions to do away with two-judge benches; the establishment of regional benches, the creation of specialised benches like the recently established social justice bench, the division of the Court's constitutional court and appellate court powers, and more. However, due to the lack of a comprehensive empirical analysis of the Court, many of the current reform ideas are based on impressionistic and anecdotal evidence of how the Court functions.

On how the Supreme Court functions, there aren't many empirical research. George Gadbois carried out such a duty at an early stage in the Court's existence. Nicholas Robinson has more recently offered empirical insights into the Court's operation. Empirical research on the Court has also started at the Vidhi Centre for Legal Policy. However, there is still more to be done to sketch out how the Court operates.

In order to provide a comprehensive description of the Court's operations, we perform an empirical analysis of all cases that the Supreme Court decided between 2010 and 2015 in this article. The objectives of this article are to comprehend the social identities of the litigants who approach the court, the sorts of matters they present, the degrees of success that distinct groups of litigants have before the Court, and the decision-making methodologies of the various Supreme Court judges. Our method is quantitative and thorough, and it is based on data collected from all Supreme Court decisions made between the years of 2010 and 2015. Our collection includes data on decisions made in more than 6000 instances that were the subject of more than 5000 published opinions throughout this time period. We created the largest and most extensive dataset on the Court's rulings ever gathered by manually coding each of the Court's decisions for data on a variety of characteristics.

This information provides information on every case decided by a Supreme Court decision during this time period (as reported in the Supreme Court Cases reporter),

including specifics on the parties involved, the context in which the cases were brought, the claims at issue, the type of legal counsel each party has, how the Court hears the cases, how long it takes to reach a decision, the result, and the justices who wrote the opinions. In order to develop a set of fundamental facts concerning the Court, we sum together this wealth of knowledge in this chapter. We anticipate that these findings will spark fresh research inquiries and contribute to ongoing descriptive and normative discussions on the Court's function in fostering positive social change. The chapters in this book will at the very least benefit from the background information provided in this chapter, which is experimentally supported.

Before presenting our findings, we give a brief history of the Supreme Court of India and an explanation of how our dataset was made in the parts that follow. Although the aim of this chapter is descriptive rather than normative, we provide some first ideas regarding potential implications of the data we present in a brief, closing section.

2.0. History of the Indian Supreme Court

The Indian Supreme Court is the top court of the largest common law system in the world. According to the Indian Constitution, the Court was created in 1950, and it initially comprised 8 justices. The Court has grown significantly in both size and organisational structure throughout time. Currently, 31 seats are available. It hears more than 60,000 petitions and appeals each year, and it renders around 1,000 judgements. Judges are not required to convene en banc under court rules. Judges often sit in groups of two or three, albeit occasionally—and vanishingly rarely—in bigger groups. All subordinate courts operating within the boundaries of India must abide by the judgements of all of the Court's benches.

Judges are appointed to the court by the President following "consultation" with the Chief Justice of India. According to legal interpretations, in reality, the Court's new members are selected by a "collegium" of the Court's most senior justices. The bulk of appointments are senior judges from the high courts, occasionally chief justices. Justices of the Supreme Court are obligated to retire at age 65. Because of this, the majority of Supreme Court judges only serve for a short period of time—usually no more than five years. The Court has had more than 230 judges serve on it during the span of its 68-year existence. The Chief Justice of India is the court

member with the greatest experience, according to the date of his or her nomination to the Supreme Court.

The Supreme Court has a lot of power. In some situations, such as those involving the enforcement of fundamental rights, it operates as both a court of original jurisdiction and a final court of appeals against decisions and decrees rendered by lower courts and tribunals.

Under Article 32 of the Constitution, the right to petition the Supreme Court for the enforcement of fundamental rights is unassailable. This jurisdiction has a strong focus on public interest litigation ("PIL"), a judicial innovation from the 1970s. PILs allowed members of the public to ask the Court for relief on behalf of a person or people whose fundamental rights had been violated but who were unable to do so themselves "due to poverty, helplessness, disability, or socially or economically disadvantaged position."

The Court also has the authority to appeal any decision made by a court or tribunal anywhere in the nation. A Special Leave Petition (SLP) is submitted by the party requesting such a discretionary review. In recent years, the Supreme Court has received roughly 68,000 cases yearly on average, the majority of which are SLPs.

The Court may take into account appeals that high courts have certified in addition to SLPs. A number of laws also provide for the legal right to appeal to the Court. Appellations as of right are specified by statute for some claims heard by lower courts as well as for reviews of decisions rendered by specialised tribunals—judicial bodies separate from the Indian judicial system that deal with statutory claims in areas like electricity regulation, customs and excise, or statutory consumer protection.

A regular (merits) hearing is held after the first admissions stage, which determines whether cases should be admitted for hearing. Every Monday and Friday, judges convene in benches of two to select which cases to hear. The Court often rejects SLPs at the admissions stage since An ex parte procedure is the admissions hearing. The Court, however, frequently refuses to hear a matter unless the opposing party has been given notice to appear. In order to prevent a petition in which it is a respondent from being approved without such party's attendance, a party may also proactively file a "caveat" with the court. A topic may only be nominated for

admission in some circumstances following notice to the opposing party. The Court seldom ever accepts an ex parte case. The Court may decide a subject that has been given notice at the admissions stage itself (these are known as "final disposal" cases). If the Court admits the issue in such situations following a brief hearing, it will grant or deny the SLP as part of the same ruling. When the Court decides a longer hearing is required, the matter is set for a "regular" merits hearing.

3.0.Processing data

Based on a comprehensive dataset of all Court decisions from 2010 to 2015 as published in the Supreme Court Cases (SCC) case reporter, our research. The collection contains 5699 decisions from 6857 cases between 2010 and 2015. The initial development of a hand-coding template, its pilot testing, review, and revision; the thorough hand-coding of all cases within the sample frame; the processing and quality control; and the creation of the final database for analysis were the five steps in our process, which were nearly consecutive.

We picked the Supreme Court of Canada as the source for our information because it is the court that is most frequently cited by and before the Supreme Court. SCC is a private reporter, thus it is not obligated to publish every decision the Supreme Court makes. The report is easily accessible, includes extensive headnotes, and records a number of details, including the names and positions of the pertinent lawyers, unlike previous reports.

At Cornell Law School, we piloted the initiative as a starting point for our investigation. At this point, Cornell Law School students coded cases using a basic template. The template was updated after an evaluation of the pilot project. The outcomes of the pilot coding step were removed in order to guarantee internal consistency within the final dataset.

The duty of coding cases was subsequently assigned to a group of about two dozen Delhi-based National Law University ("NLU") students that we had organised. The group produced Excel templates and reviewed judicial decisions from the SCC Reporter. All cases reported in SCC in its volumes for the years 2010 to 2015 were manually coded by the NLU, Delhi team. Cases that were decided in these volumes' reported cases before 2010 were disregarded. Although we do not include all 66 programmed variables here, each example was coded for them.

4.0.A statistical analysis of judicial

We provide several descriptive studies that closely resemble the progression of a court case in this section. The sections that follow address the following subjects: the details of the cases, such as their subject matter, procedural history, and amount of time spent in the legal system; the parties who took the cases to court; their counsel; the judges who rendered judgements in the cases; and lastly, the trends and patterns of the decisions themselves.

We begin by looking at the subjects covered by the cases the Court is hearing. The distribution of subjects is shown in Table 1 using the classifications the Court itself has determined. Criminal proceedings make up the single biggest category, but civil cases are spread across several categories and none receives the lion's share of the Court's attention. The largest category of civil cases is "Service Matters," which comprises employment-related disputes in government service.

Remember that 3.1% of the total output of the judiciary is made up of PIL cases, and 5.3% is made up of constitutional problems. Thus, the case categories most closely related to the defence of human rights and the interests of the underprivileged get less than 10% of the Court's attention (as assessed by the number of cases). Obviously, despite the fact that there aren't many of these cases, the Court nevertheless expends a lot of time, effort, and energy on them. Additionally, a sizable amount of the Court's output is comprised of criminal issues, which disproportionately affect the most disadvantaged people.

TABLE1.CATEGORIES OF SUBJECT MATTER

Category of Subjects	Share
Criminal Offences	28.1%
Service Counts	10.2%
Common Civil Issues	11.4%
Acquisition and Requisition of Land	6.1%

constitution-related issues	5.2%
Direct Taxes Have An Impact	3.7%
PIL & Letter Petition Matters	3.2%
Direct Taxes Are Important	2.6%
Paying Equally Matters	2.5%
Family Legal Issues	1.8%
Issues Concerning the Judiciary	1.8%
Laws governing commerce, business transactions, etc.	1.8%
Work Matters	1.7%
Concerns with Arbitration	1.7%
Laws governing land and agricultural leases	1.4%
Environmentally Relevant	1.2%
Concerns with Contempt of Court	1.4%
Education Matters	1.3%
Appeal Against Statutory Body Orders	1.3%
What Rent Act Means	1.0%
Voting Matters	1.2%
Lease-related issues, government contracts, etc.	1.3%
Concerns with Consumer Protection	1.1%
Minerals, mining leases, and mines	1.2%
Company Law, MRTP, and Related Issues	0.9%

Transfer and Admission to Engineering and Medical Schools	0.7%
Armed Forces-Related Matters	0.5%
Admission to Educational Institutions Other Than Medical and Engineering	0.5%
Establishment and Recognition of Educ. Inst.	0.5%
Personal Legal Issues	0.4%
Simple Financial and Mortgage Issues, etc.	0.5%
The Habeas Corpus Procedure	0.3%
Legitimate Appointments	0.3%
State Excise—Liquor Trading	0.4%
charitable endowments and religion	0.3%
Human Rights Are Important	0.2%
Maritime and Admiralty Laws	0.3%
Citation Under the Right to Information	0.2%
Other(3categories)	0.0%

We can track the procedural history of instances thanks to our data. The majority of matters that are resolved by the Court are appeals from other courts and tribunals. Only roughly 12% of judgements relate to cases that fell under the Court's original (as opposed to appellate) jurisdiction. Look at Table 2.

TABLE2.ORIGIN OF THE CASE: NATURE OF PROCEEDING

Variable	All	Civil	Criminal
Appeal/SLP	87.1%	85.2%	91.7%
Petition for Writ	8.1%	9.6%	4.8%
Additionally Original Jurisdiction	3.1%	3.3%	2.0%
Review or therapeutic	0.5%	0.6%	0.34%

Courts rather than tribunals were the source of around 85% of the cases that were brought before the Court via appeal or special leave petition (SLP). It's noteworthy to note that interlocutory appeals, which are appeals from orders rather than the court's final decision, made up 6.2% of the appeals. Observe Table 3.

TABLE3:ORIGIN OF THE CASE: SOURCE OF CASE

Variable	Count	PercentofT otal	N
from Smaller Bench referred	132	1.8%	6816
originated in a tribunal as opposed to a court	5816	84.4%	6699
Appeal Interlocutory	418	6.32%	6754
Mandamus continues	373	5.6%	6734

When we examine the cases that high courts appeal to the Supreme Court, we

discover that high courts are unequally represented in our dataset, with over 600 cases from the High Court of Punjab and Haryana and no cases from the High Court of Manipur or the High Court of Tripura (which may not be surprising given that these courts were only established in 2013). View Table 4. These patterns considerably match what we should have expected based on factors like the per capita GDP of the states under the jurisdiction of each high court, the size of the individual courts' jurisdictions, and their closeness to the Supreme Court (See Figure).

TABLE4.Origin of the case: High Court Appeal from

Rank	HighCourt	Number
1	Punjab&HaryanaHighCourt	646
2	BombayHighCourt	607
3	DelhiHighCourt	530
4	AllahabadHighCourt	502
5	MadrasHighCourt	368
6	KarnatakaHighCourt	367
7	AndhraPradesh HighCourt	301
8	MadhyaPradeshHighCourt	289
9	RajasthanHighCourt	262
10	CalcuttaHighCourt	261
11	KeralaHighCourt	233
12	GujaratHighCourt	198
13	PatnaHighCourt	171

14	UttarakhandHighCourt	121
15	OrissaHighCourt	94
16	GauhatiHighCourt	91
17	JharkhandHighCourt	88
18	HimachalPradeshHighCourt	73
19	ChhattisgarhHighCourt	56
20	Jammu&KashmirHighCourt	39
21	SikkimHighCourt	8
22	MeghalayaHighCourt	1
23	ManipurHighCourt	0
24	TripuraHighCourt	0
	Total	5306

5.0.Conclusion :

Our analysis of the largest dataset of Supreme Court of India decisions to date led us to a variety of findings. These findings ought to help establish essential facts about the Court that might direct and potentially motivate future research. To evaluate the Supreme Court of India's ability to affect social change, it is vital to understand the strengths and weaknesses of its current practises. Our chapter has unearthed several facts about the Court that may be important in this regard. Here, we will just discuss a few of them, speculating on their relevance for the larger task of understanding how the Court functions and which potential reform pathways seem to have the most promise.

Firstly, the Court's large workload, which includes a significant number of criminal cases and cases involving particular appellants, is consistent with the Court's frequently repeated self-description as a "people's court" committed to providing litigants with a

broad variety of access. The Court's time and resources, which could be used to concentrate on high-profile cases or the creation of broad principles to guide Indian society, are unquestionably diverted by the need to manage the flood of thousands of routine matters. Obviously, there are compromises to be made. Due to the Court's increasing reliance on two-judge benches, it is now able to handle more cases, to the point where during the study period, only two judges are deciding about 90% of the cases. Although, as we noted, this clause tends to be respected in practise, substantial constitutional challenges must be assessed by benches of five or more justices, and decisions reversing prior precedent must be heard by benches of three or more judges. The Court's ability to speak with a single voice (or at least to speak in groups greater than two) on issues of jurisprudential or constitutional importance declines as its resources are pushed thinner and thinner to consider more and more cases. Therefore, a crucial question is whether the Court would benefit by establishing a new equilibrium. In other publications, we explore this subject further.

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