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The Supreme Court of India: An Empirical Overview[*]

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The Indian Supreme Court has been called "the most powerful court in the world" for its wide jurisdiction, its expansive understanding of its own powers, and the billion plus people under its authority. Yet no up-to-date, empirical account exists of who is being heard by the Court, for what purposes, and with what levels of success. Both due to its fragmented bench structure (where cases are usually decided by only two or three out of thirty-one judges) as well as the large volume of cases (nearly 1000 merits judgments per year), scholars and policy makers have a very uneven picture of the court's functioning: deep knowledge about the more visible, "high-profile" cases, and near-absolute silence about more mundane, but potentially equally important, decisions. This paper aims to fill this gap with a rigorous, empirical account of the functioning of the Court. We have collected, hand-coded, and analyzed data on over 5000 Indian Supreme Court opinions rendered from 2010 to 2015. This is the most extensive original dataset on the Indian Supreme Court yet created. In this paper, we use this data to provide a broad, quantitative overview of the social identity of the litigants that approach the court, the types of matters they bring to the court, the levels of success that different groups of litigants have before the Court, and the opinion-writing patterns of the various judges of the Supreme Court. This analysis provides foundational facts about the Court for future studies on the role of the Court in the Indian polity.

I. INTRODUCTION

The Indian Supreme Court has been called "the most powerful court in the world" for its wide jurisdiction, its expansive understanding of its own powers, and the billion plus people under its authority.[1] Yet, for an institution that exercises immense public power and enjoys a high degree of legitimacy, no account exists of who approaches the Court, for what purposes, and with what levels of success.[2] Both due to its fragmented bench structure (where cases are usually decided by only two or three out of thirty-one judges) as well as the large volume of cases, scholars and policy makers have a very uneven picture of the court's functioning: deep knowledge about the more visible, "high-profile" cases, and near-absolute silence about more mundane, below the radar, but often equally important, decisions.[3]

At the same time, the Indian judiciary as a whole, and the Supreme Court in particular, has come under increased attack for being unable to fulfill its mandate of providing access to justice for the common person. Concerns about large backlogs, long delays, and barriers to access have eroded the legitimacy of the judicial system and have led to calls for systemic reforms. However, there is little consensus on the nature of the judicial dysfunction, its causes, and paths to reform. While some believe that the Supreme Court has witnessed a "docket explosion" which has limited the Court's ability to provide timely and just resolution of disputes,[4] others argue that the core concern with the Court's functioning is "docket exclusion," whereby the Court is increasingly accessible only for the rich and powerful.[5] Both narratives—that of explosion and exclusion—agree, however, that the Court is increasingly limited in its ability to achieve the lofty ideals of providing succor and justice to "the butcher, the

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[1] *See* George Gadbois, *Supreme Court Decisionmaking*, BANARAS LAW JOURNAL 10 (1974); V. R. KRISHNA IYER, OUR COURTS ON TRIAL 18 (1987). This assessment has been widely echoed in subsequent academic works on the Indian Supreme Court. *See e.g.*, Shylashri Shankar, *India's Judiciary:* Imperium in Imperio*?*, *in* PAUL BRASS ED., ROUTLEDGE HANDBOOK OF SOUTH ASIAN POLITICS 165 (2010); Alexander Fischer, *Higher Lawmaking as a Political Resource*, *in* MIODRAG JOVANOVIĆ & KRISTIN HENRARD EDS., SOVEREIGNTY AND DIVERSITY 186 (2008).

[2] An initial effort to flesh out this picture was made in Nicholas Robinson, A Quantitative Analysis of the Indian Supreme Court's Workload, 10 JOURNAL OF EMPIRICAL LEGAL STUDIES 570 (2013) (using "the hodgepodge of data that is either publicly available or that can be acquired from the Supreme Court").

[3] See generally Nicholas Robinson, Structure Matters: The Impact of Court Structure on the Indian and U.S. Supreme Courts, 61 AMERICAN JOURNAL OF COMPARATIVE LAW 101 (2013).

[4] Rajeev Dhavan, Litigation Explosion in India, N.M. Tripathi Pvt. Ltd., 1986.

[5] G. Mohan Gopal, Justice and the Two Ideas of India, FRONTLINE, May 27, 2016 http://www.frontline.in/cover-story/justice-and-the-two-ideas-of-india/article8581178.ece

baker and the candle-stick maker . . . the bonded labour and pavement dweller."[6]

To address these concerns, various proposals for reforming the direction and functioning of the Supreme Court have been advocated. These include proposals to abolish two-judge benches;[7] to set up special benches like the recently established social justice bench;[8] to set up regional benches;[9] to bifurcate the Court's constitutional court function from its appellate court function;[10] and so on. However, in the absence of rigorous empirical study of the Court, many of the current reform proposals are based on impressionistic and anecdotal evidence of the Court's functioning.

Little empirical data exists on the functioning of the Supreme Court. In the early years of the Court George Gadbois undertook such an exercise.[11] More recently, Nicholas Robinson has provided empirical insights into the functioning of the Court.[12] The Vidhi Centre for Legal Policy has also recently begun empirical studies of the Court.[13] However, much remains to be done in mapping the functioning of the Court.

In this paper, we provide a descriptive account of the functioning of the Court through an empirical analysis of all cases decided by the Supreme Court between 2010–2015. The objective of this paper is to understand the social

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[6] Moti Ram v. State of Madhya Pradesh, (1978) 4 SCC 47.

[7] Abolish Two Judge Benches: Fali Nariman, INDIAN EXPRESS, April 10, 2014.

[8] *See Supreme Court of India,* http://supremecourtofindia.nic.in/outtoday/ Social%20Justice%20Bench.pdf (notice issued by the Supreme Court on establishing the social justice bench); Utkarsh Anand, *Allocate more time to Social Justice Bench, say experts*, INDIAN EXPRESS, December 13, 2014.

[9] See Law Commission of India, 229th Report on Need for division of the Supreme Court into a Constitution Bench at Delhi and Cassation Benches in four regions at Delhi, Chennai/Hyderabad, Kolkata and Mumbai, August 2009, http://lawcommissionofindia.nic.in/ reports/report229.pdf

[10] Id.

[11] George H. Gadbois, Jr., *The Supreme Court of India: A Preliminary Report of an Empirical Study,* 4 J. CONST. & PARLIAMENTARY STUD. 34 (1970). Nonetheless, several authors have used empirical data generated largely by the Court itself to identify trends and the workings of the Court. Rajiv Dhavan used data extensively to observe the litigation explosion in Indian courts. *See, e.g.*, RAJEEV DHAVAN, LITIGATION EXPLOSION IN INDIA 60–61 (1986). In 1965, these cases were 60% of admitted cases and it 1982, they were 42% of admitted cases. *Id.* at 83.

[12] *See, e.g.*, Nick Robinson, *A Court Adrift*, FRONTLINE, May 3, 2013, http://www.frontline.in/cover-story/a-court-adrift/article4613892.ece.

[13] *See, e.g.*, Alok Prasanna Kumar, Faiza Rahman & Ameen Jauhar, Vidhi Ctr. for Legal Pol'y, Consultation Paper: The Supreme Court of India's Burgeoning Backlog Problem and Regional Disparities in Access to the Supreme Court (2015), http://vidhilegalpolicy.in/reports-1/2015/10/1/consultation-paper-on-the-supreme-courts-burgeoning-backlog.

identity of the litigants that approach the court, the types of matter they bring to the court, the levels of success that different groups of litigants have before the Court, and the decision patterns of the various judges of the Supreme Court. Our approach is quantitative and comprehensive, based on a dataset of information drawn from all judgments rendered by the Supreme Court during the years from 2010 through 2015. Our dataset contains information on judgments in over 6000 cases, decided in over 5000 separate, published opinions issued during this time period. Each of the Court's opinions was hand-coded for information on a wide range of variables, allowing us to compile the largest and most detailed dataset on the Court's judgments ever collected.

This data provides information about all of the cases decided by Supreme Court judgments during this period (as reported in the *Supreme Court Cases* reporter), including facts about the parties before the Court, where the cases arose, what claims are at issue, what kind of legal representation the parties have, how the Court hears the cases and how long the Court takes to decide, who wins, and which justices write the opinions of the Court. In this paper, we summarize this treasure trove of information with the goal of establishing a set of basic facts about the Court. These facts, we hope, will prompt new research questions and inform existing descriptive and normative debates about the Court.

In the sections that follow, we provide a brief background on the Supreme Court of India and a description of the creation of our dataset before presenting our findings. While the aspiration of this paper is descriptive, not normative, we offer in a short, concluding section some initial thoughts about potential implications of the findings we report.

II. BACKGROUND ON THE SUPREME COURT OF INDIA

The Indian Supreme Court is the apex court for the largest common law judicial system in the world. Set up in 1950 under the Constitution of India, the Court began its existence with a panel of 8 judges. Over the years, the Court has changed dramatically in size and structure. At present it has 31 seats.[14] It entertains over 60,000 appeals and petitions[15] and issues approximately 1,000 judgments per year.[16] Court rules do not require judges to sit *en banc*. Judges ordinarily sit in benches of 2 or 3, and sometimes—

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[14] INDIA CONST. art. 124, § 1.

[15] Supreme Court of India, Annual Report 2014, at 79.

[16] JUDIS, the official e-reporter of the Supreme Court of India records 900 judgments for 2014.

increasingly rarely—in larger benches.[17] Decisions of all benches of the Court are binding on all lower courts within the territory of India.[18]

Judges of the Court are technically appointed by the President in "consultation" with Chief Justice of India.[19] In practice, as a result of judicial interpretations, appointments to the Court are made by a "collegium" of the four senior-most judges of the Court, who choose the Court's new members.[20] Appointees tend to be senior judges, often chief justices, from the high courts.[21] Judges of the Supreme Court must retire at 65 years of age.[22] Consequently, most judges serve on the Supreme Court for short durations, and generally for not more than five years.[23] In its 66 years of existence, 224 judges have served on the Court.[24] The Chief Justice of India is the senior most judge of the Supreme Court as measured by the date s/he was appointed to the Court.[25]

The Supreme Court has broad jurisdiction. It performs a dual function: as a court of original jurisdiction on certain matters such as those relating to the enforcement of fundamental rights; [26] and as a final court of appeals against decisions and orders passed by subordinate courts and tribunals.

Article 32 of the Constitution guarantees the right to move the Supreme Court for enforcement of fundamental rights. A distinctive component of this jurisdiction is public interest litigation ("PIL"), a judicially created innovation of the 1970s. Through PILs the Court reformulated standing rules to allow any member of the public to seek relief from the Court on behalf of a person or

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[17] Nick Robinson et al., *Interpreting the Constitution: Supreme Court Constitution Benches since Independence*, 46 ECON. & POL. WKLY. 27, 28 (2011). (Finding that the number of cases heard and disposed of by five judge benches has decreased from 15.5% in the 1950s to 0.12% in the 2000s.) A single judge sits for "chamber matters", a set of designated procedural matters, such as bail applications pending appeal.

[18] INDIA CONST. art. 141.

[19] INDIA CONST. art. 124, § 2.

[20] Special Reference No. 1 of 1998, (1998) 7 SCC 739; Supreme Court Advocates on Record Ass'n v. Union of India, (1993) 4 SCC 441; S. P. Gupta v. Union of India, AIR 1982 SC 149.

[21] The high courts are the next-highest courts to the Supreme Court in the hierarchy of Indian court system.

[22] INDIA CONST. art 124, § 2.

[23] *See* T. R Andhyarujina, *The Age of Judicial Reform*, THE HINDU, Sept. 1, 2012, http://www.thehindu.com/opinion/lead/the-age-of-judicial-reform/article3845041.ece.

[24] SUPREME COURT OF INDIA, www.supremecourtofindia.nic.in (last visited August 30, 2016) (data gathered from adding up the lists of sitting and retired justices).
[25] *See* Abhinav Chandrachud, *Supreme Court's Seniority Norm: Historical Origins*, 47 ECON. & POL. WKLY. 26, 26 (2012).

[26] This is not the limit of the Court's jurisdiction. The Supreme Court has original jurisdiction with respect to inter-state disputes and over certain election matters. INDIA CONST. art. 132 & 711. The President may also refer any matter to the Court for its advisory (non-binding) opinion. INDIA CONST. art. 143.

people whose fundamental rights had been violated but who could not, "by reason of poverty, helplessness or disability or socially or economically disadvantaged position," come before the Court for relief themselves.[27]

The Court also has discretionary appellate jurisdiction over any order passed by any court or tribunal across the country.[28] A party seeking such discretionary review files a Special Leave Petition ("SLP"). In recent years, on average about 68,000 cases are filed annually before the Supreme Court,[29] most of which are SLPs.

Apart from SLPs, the Court can also hear cases certified for appeal by high courts.[30] Further, many statutes provide for a statutory right to appeal to the Court.[31] Appeals as of right are defined by statute for certain claims heard by lower courts and well as for review of decisions by specialized tribunals— adjudicatory bodies separate from the Indian court system that resolve statutory claims in specialized fields, such as electricity regulation, customs and excise, or statutory consumer protection.

Cases filed before the Court are processed in two stages: an initial admissions stage to decide which cases to admit for hearing; and a regular (merits) hearing. Judges sit in benches of two every Monday and Friday to decide which cases to hear.[32] The admissions hearing is an *ex parte* proceeding, and the Court denies most SLPs at the admissions stage. However, if the Court is inclined to admit a case, it ordinarily does so only after issuing notice to the other side to appear. A party can also preemptively file a "caveat" in the Court, requesting that no petition be admitted in which it is a respondent without the

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[27] S.P. Gupta v. Union of India, AIR 1982 SC 149. The Court's own data reveals, however, that even among cases admitted for merits hearing, PILs constitute only 1% of the Court's cases. Nick Robinson, *A Quantitative Analysis of the Indian Supreme Court's Workload*, 10 J. EMPIRICAL LEGAL STUD. 570, 590, 598 (2013).

[28] INDIA CONST. art. 136 ("Special leave to appeal by the Supreme Court. (1) Notwithstanding anything in this Chapter, the Supreme Court may, in its discretion, grant special leave to appeal from any judgment, decree, determination, sentence or order in any cause or matter passed or made by any court or tribunal in the territory of India.").

[29] Supreme Court of India, Annual Report 2014, at 76–79 (average of cases filed in 2010–14).

[30] INDIA CONST. art. 132, 133, 134. Although the Court's jurisdiction can be invoked through procuring a certificate of appeal from the high court, this practice is rarely used. One possible reason for the low use of the "Certificate of Appeal" jurisdiction is that while ordinarily a petitioner has 90 days to file a SLP, the limitation for filing a SLP after the high court has refused a certificate of appeal is 60 days. Some experts suggested during interviews and interactions with us that lawyers do not invoke the certificate of appeal process so as to give themselves more time to file in the Supreme Court.

[31] Supreme Court of India, Annual Report 2014, at 59–63.

[32] Supreme Court of India, Practice and Procedure: A Handbook of Information 35 (2010).

presence of such party. In such cases, a matter is listed for admission only after notice is served to the other party. Very rarely does the Court admit a matter *ex parte*. Of the matters in which notice is issued, the Court may dispose of the matter at the admissions stage itself (called "final disposal" matters). In such cases, after a brief hearing, if the Court admits the matter, it allows or denies the SLP as part of the same order. Where the Court finds the need for a more extensive hearing, the case is listed for a "regular" merits hearing.

III. DATA PROCESSING

Our study is based on a comprehensive dataset of all opinions of the Court from 2010 to 2015, as published in the case reporter *Supreme Court Cases* (SCC). The dataset of Court judgments currently stands at 5699 judgments from 2010 to 2015 (dealing with 6857 cases).[33] Our methodology for creating this dataset involved five roughly sequential elements: (1) selection of source material for Court opinions; (2) initial development of a template for hand-coding, and pilot testing, review, and revision of the template; (3) comprehensive hand-coding of all cases within the sample frame; (4) processing and quality control; and (5) creation of the final database for analysis.

First, we selected SCC as the source material for our dataset because it is the most cited reporter by and before the Supreme Court.[34] Since SCC is a private reporter, it is under no obligation to publish every decision given by the Supreme Court. However, it is easily accessible, has extensive headnotes, and unlike other reporters, records many details, including the names and designations of lawyers involved.

We began our research by running a pilot of the project at Cornell Law School. At this stage, students at Cornell Law School coded cases based on an initial template. After review of the pilot effort, the template was overhauled. To ensure internal consistency within the final dataset, we discarded the results of the pilot coding phase.

We then assembled a team of nearly two-dozen students from National Law University ("NLU"), Delhi, who then took up the task of coding cases. The team read judicial opinions from the SCC Reporter and completed Excel templates. The NLU, Delhi team hand-coded all cases reported in SCC in its volumes for the years 2010 to 2015. Cases reported in these volumes that were decided prior to 2010 were excluded from consideration. Each case was coded for 66 variables (although we do not use all coded variables in this paper).

The team of coders at NLU, Delhi then worked with a team of researchers at the University of Chicago Coase-Sandor Institute for Law and Economics to

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[33] Cases that raise similar issues, or revolve around the same facts are tagged and heard together by the Court. Hence, one judgment may dispose of more than one case.

[34] Rakesh Kumar Srivastava, *A Guide to India's Legal Research and Legal System*, GLOBALEX (April 2014), http://www.nyulawglobal.org/globalex/india_legal_research. htm#_10._Law_Reporting (Chief Librarian of the Supreme Court, stating that this reporter is used around 60% of the time before the Supreme Court itself).

identify coding errors and variables that required recoding. This iterative process involved statistical analysis of the coded data to identify inconsistencies in coding patterns across variables. This primarily consisted of items being entered inconsistently by coders, due to spelling errors or the use of abbreviations by some coders but not others.[35] These inconsistencies were documented by the research team and corrected through an automated recoding process to make codes consistent across cases.[36]

Finally, the cleaned and processed data was converted to the Stata database format for statistical analysis. The dataset includes all Court judgments from 2010 through 2015 that have been published in the SCC, with the exception of orders from one-judge benches.[37]

IV. A QUANTITATIVE OVERVIEW OF THE COURT, 2010–2015

In this part, we present a series of descriptive analyses roughly corresponding to the sequence of events in the life of a case decided by the Court. In the sections below, we answer, in sequence, the following questions: The characteristics of the cases, including their subject matter, procedural history and the time elapsed in the judicial process; characteristics of the litigants bringing the cases, or being brought to court; characteristics of their attorneys; characteristics of judges deciding these cases; and finally trends and patterns of the decisions themselves.

A. Case Characteristics

1. Subject Matter Categories

We begin by looking at the subject matter of the cases that the Court is deciding. Table 1 shows the distribution of subject matters, using the categories employed by the Court itself.[38] Criminal cases are the single largest category, while civil cases are spread over 40 separate categories, none of which consume the lion's share of the Court's attention. The largest category among civil cases is "Service Matters," which covers employment related disputes in government service.

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[35] For most variables, such discrepancies were avoided through use of pre-filled drop-down menus that allowed coders to choose among multiple options. Some variables needed to have an option for coders to enter unique text, however.

[36] Computer code documenting these corrections is available upon request.

[37] We excluded one-judge benches because they generally deal with procedural matters, such as certain types of minor interim applications, which do not generate merits judgments (although they occasionally generate orders that appear in SCC).

[38] See, SC Handbook. However, the judgments themselves do not indicate under which subject matter category the Court registry has placed individual cases. We have therefore used the Court's categories, but categorized the cases ourselves.

Note that Constitutional Matters comprise 5.3% of the entire output of the judiciary, and PIL matters comprise an additional 3.1%. Of course, while the volume of these cases is relatively low, this says nothing about the time, effort and energy of the Court that these matters take.[39]

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[39] In future work, we will be plotting the number of hearings and orders in various types of subject matter categories to arrive at a more robust picture of how the time of the Court is spent.

TABLE 1. SUBJECT MATTER CATEGORIES

Subject Matter Category	Share
Criminal Matters	29.1%
Service Matters	11.2%
Ordinary Civil Matters	10.4%
Land Acquisition & Requisition Matter	6.2%
Constitutional Matters	5.3%
Indirect Taxes Matters	3.8%
Letter Petition & PIL Matters	3.1%
Direct Taxes Matters	2.7%
Compensation Matters	2.6%
Family Law Matters	1.9%
Matters Relating To Judiciary	1.9%
Mercantile Laws, Commercial Transactions, etc.	1.9%
Labour Matters	1.8%
Arbitration Matters	1.8%
Land Laws And Agricultural Tenancies	1.5%
Environmental Matters	1.3%
Contempt of Court Matters	1.3%
Academic Matters	1.2%
Appeal Against Orders of Statutory Body	1.2%
Rent Act Matters	1.1%
Election Matters	1.1%
Matters Relating To Leases, Govt. Contracts, etc.	1.1%
Matters Relating To Consumer Protection	1.0%
Mines, Minerals And Mining Leases	1.0%
Company Law, MRTP & Allied Matters	0.8%
Admission/Transfer To Engineering And Medical Colleges	0.8%
Matters Pertaining To Armed Forces	0.6%
Admission To Educ. Inst. Other Than Med. & Eng'g	0.4%
Establishment And Recognition Of Educ. Inst.	0.4%
Personal Law Matters	0.3%
Simple Money & Mortgage Matters, etc.	0.3%
Habeas Corpus Matters	0.2%
Statutory Appointments	0.2%
State Excise—Trading In Liquor	0.2%
Religious & Charitable Endowments	0.2%
Human Rights Matters	0.1%
Admiralty And Maritime Laws	0.1%
Reference Under Right to Information	0.1%
Other (3 categories)	0.0%
Total	100.0%

2. Procedural history

Our data enables us to trace the procedural history of cases. Most cases decided by the Court come to it as appeals from lower courts and tribunals. Only about 12 percent of judgments are for proceedings within the Court's original (rather than appellate) jurisdiction. See Table 2.

TABLE 2. CASE ORIGINS: NATURE OF PROCEEDING

Variable	All	Civil	Criminal
Appeal/SLP	88.1%	86.2%	92.7%
Writ Petition	8.2%	9.7%	4.9%
Other Original Jurisdiction	3.2%	3.4%	2.0%
Review or Curative	0.6%	0.7%	0.4%
N	6850	4659	2174

Of those cases that came to the court through appeal or special leave petition (SLP), the vast majority (about 85 percent) came from courts rather than tribunals. Interestingly, 6.2% of the appeals involved an interlocutory appeal, that is, an appeal from an order other than the final decision of a court below. See Table 3.

TABLE 3: CASE ORIGINS: SOURCE OF CASE

Variable	Count	Percent of Total	N
Referred from Smaller Bench	131	1.9%	6806
Originated in Court Rather than Tribunal	5806	85.4%	6799
Interlocutory Appeal	428	6.2%	6854
Continuing Mandamus	383	5.7%	6724

Examining the cases coming up to the Supreme Court on appeal from high courts, we find that high courts are unevenly 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, since these courts were created only in 2013). See Table 4. These patterns largely track what we might expect, based on factors such as the per capita GDP of the states within the jurisdiction of each high court (See Figure

1), the size of the various courts' jurisdictions and their geographical proximity to the Supreme Court.[40]

TABLE 4. CASE ORIGINS: HIGH COURT APPEALED FROM

Rank	High Court	Number	Reversal Rate (%)
1	High Court of Punjab & Haryana	646	62
2	High Court of Bombay	607	56
3	High Court of Delhi	530	55
4	High Court of Allahabad	502	54
5	High Court of Madras	368	60
6	High Court of Karnataka	367	61
7	High Court of Andhra Pradesh	301	59
8	High Court of Madhya Pradesh	289	64
9	High Court of Rajasthan	262	62
10	High Court of Calcutta	261	60
11	High Court of Kerala	233	49
12	High Court of Gujarat	198	61
13	High Court of Patna	171	64
14	High Court of Uttarakhand	121	63
15	High Court of Orissa	94	73
16	High Court of Gauhati	91	54
17	High Court of Jharkhand	88	65
18	High Court of Himachal Pradesh	73	56
19	High Court of Chhattisgarh	56	65
20	High Court of Jammu & Kashmir	39	44
21	High Court of Sikkim	8	75
22	High Court of Meghalaya	1	62
23	High Court of Manipur	0	0
24	High Court of Tripura	0	0
	Total	5306	59

[40] [Cite Nick Robinson's work on proximity of courts and admissions.]

FIGURE 1. TOTAL CASES DECIDED AND PER CAPITA GDP,
BY HIGH COURT JURISDICTION
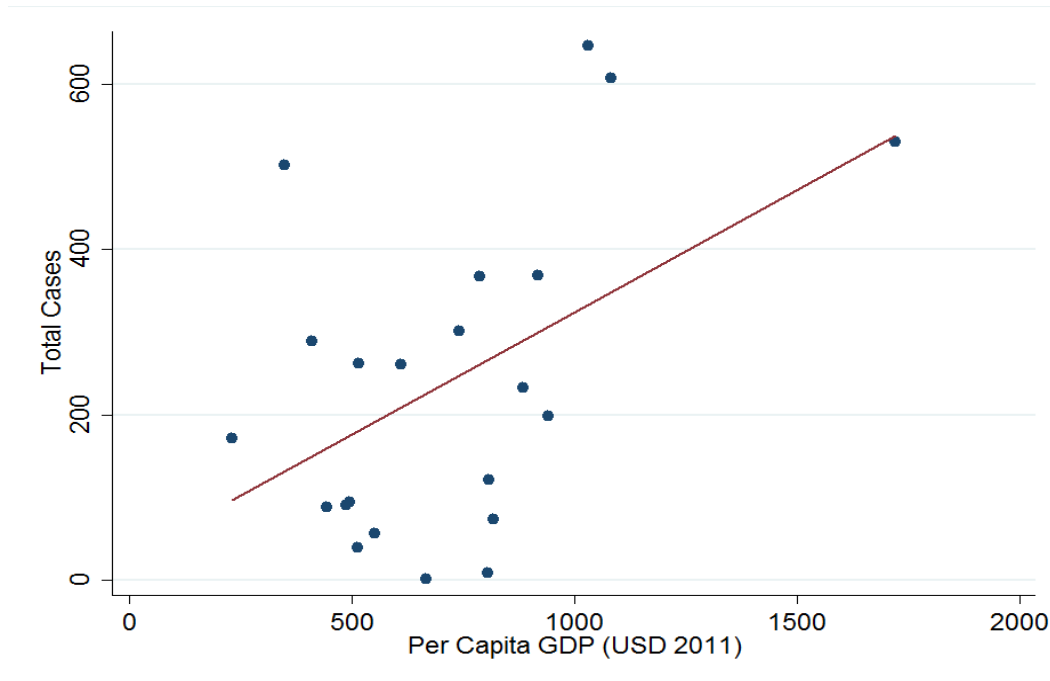
3. Case Duration

Next, we examine how long the cases in our data took to reach judgment. Litigation in India (like litigation just about anywhere) is notoriously slow. Our data allow us to quantify how long cases remain pending in the Supreme Court before the Court hands down judgment. See Table 5. On average, cases take about 10 years from filing in the court of first instance to judgment in the Supreme Court. About one-third of that time was spent in the Supreme Court itself.

The data also permit, to a limited extent, a comparison of case duration in the Supreme Court, the high courts, and courts of first instance. For 170 cases, we have detailed information on filing and judgment dates for all three levels of the court system, which allows us to compare, for the very same cases, how much time they spent in each level of the court system. Table 6 indicates that on average, cases that travel all the way to the Supreme Court are likely to take longer in the Supreme Court than in the lower courts, including the court of first instance where the case was tried. Although a significant amount of energy is devoted to resolving delays in the trial courts, our data indicates that the problem is present throughout the system, and in fact may be more acute in the higher levels of the judiciary.

TABLE 5. DATE AND DURATION

Variable	Mean	Median	Max	Min	N
Year Filed in Court of First Instance	2002	2004	2015	1905	3937
Year Decided in Court of First Instance	2003	2005	2014	1964	1381
Year of Decision Appealed From	2008	2008	2015	1976	5500
Year Filed in Supreme Court	2009	2010	2015	1968	6853
Year Decided by Supreme Court	2012	2012	2015	2010	6856
Duration in Court of First Instance (Days)	1466	858	9372	1	180
Duration in Court Below (Days)	1784	987	16574	5	1278
Duration in Supreme Court (Days)	1569	1296	12404	0	5461

TABLE 6. CASES WITH COMPLETE DURATION DATA

Variable	Mean	Median	Max	Min
Duration in Court of First Instance (Days)	1424	847	9372	0
Duration in Court Below (Days)	2082	880	11966	18
Duration in Supreme Court (Days)	1456	1207	4372	30

Table 7 indicates that at the Supreme Court itself, civil and criminal cases take on average approximately the same amount of time to be decided. Writ petitions to the Court take longer—as is to be expected given that they court has to hear the case afresh, and cannot rely on case records from the courts below. Interestingly, cases originating in tribunals take longer for disposal in the Supreme Court as compared to cases originating in courts. One of the goals behind setting up tribunals is to speed up the disposal of cases. If such cases

are likely to face long pendency in the Supreme Court, this purpose gets defeated.

TABLE 7. DURATION (DAYS) IN THE SUPREME COURT, BY CASE TYPE

Variable	Mean	Median	Max	Min	N
Civil	1582	1212	12404	0	3440
Criminal	1533	1411.5	8993	0	1812
Constitutional Challenge	1610	1140.5	12404	0	194
Writ Petition	1937	1492.5	12404	81	34
Case Originated in Court	1541	1277.5	12404	0	4542
Case Originated in Tribunal	1721	1441	11078	0	909

Breaking down case durations by subject matters reveals wide variation in the speed with which different types of cases are resolved by the Court. Table 8 shows that some (albeit small) categories of cases take upwards of 7 or 8 years on average, while others take much less. Only one category, habeas corpus, averages resolution in less than one year.

TABLE 8. AVERAGE DURATION (DAYS) IN THE SUPREME COURT, BY SUBJECT

Rank	Subject Matter Category	Duration
1	Admiralty And Maritime Laws	3050
2	Religious & Charitable Endowments	2776
3	Indirect Taxes Matters	2261
4	State Excise—Trading In Liquor	2133
5	Direct Taxes Matters	2116
6	Land Acquisition & Requisition Matter	2021
7	Land Laws And Agricultural Tenancies	1990
8	Human Rights Matters	1801
9	Family Law Matters	1796
10	Matters Relating To Commissions Of Enquiry	1763
11	Matters Pertaining To Armed Forces	1691
12	Labour Matters	1663
13	Environmental Matters	1651
14	Simple Money & Mortgage Matters, etc.	1643
15	Contempt of Court Matters	1610
16	Constitutional Matters	1593
17	Mercantile Laws, Commercial Transactions, etc.	1546
18	Criminal Matters	1544
19	Matters Relating To Consumer Protection	1526
20	Ordinary Civil Matters	1499
21	Service Matters	1469
22	Appeal Against Orders of Statutory Body	1460
23	Arbitration Matters	1450
24	Compensation Matters	1438
25	Rent Act Matters	1378
26	Company Law, MRTP & Allied Matters	1356
27	Personal Law Matters	1343
28	Mines, Minerals And Mining Leases	1284
29	Letter Petition & PIL Matters	1280
30	Academic Matters	1193
31	Matters Relating To Judiciary	1188
32	Matters Relating To Leases, Govt. Contracts, etc.	1077
33	Establishment And Recognition Of Educ. Inst.	888
34	Statutory Appointments	863
35	Election Matters	735
36	Admission To Educ. Inst. Other Than Med. and Eng'g	631
37	Eviction Under The Public Premises	592
38	Reference Under Right to Information	538
39	Admission/Transfer To Eng'g And Med. Colleges	390
40	Habeas Corpus Matters	190

B. Litigant characteristics

Next, we consider the configuration of the parties in the cases in our data. We use the terms plaintiffs and defendants to refer to the original status of parties in the court of first instance. Plaintiffs and defendants are about evenly represented among appellants.[41] A large fraction of cases involves multiple plaintiffs or multiple defendants (or both). To the extent that the lead plaintiff or defendant is a natural person, parties are overwhelmingly male. See Table 9. (Males are a higher share of defendants than plaintiffs because in our data criminal defendants are about 95 percent male.) Perhaps the most notable statistics in Table 9, though, are the shares of all parties (including natural persons, governments, and institutional entities) who are Indian. Unlike the United States Supreme Court, which like the United States court system as a whole, entertains a substantial number of claims by or against foreign parties, the Supreme Court of India appears to be a forum almost exclusively engaged with disputes between Indian nationals.

TABLE 9. PLAINTIFFS AND DEFENDANTS: SUMMARY STATISTICS

Variable	Mean	N
Appellant is Plaintiff	46.3%	5894
More than One Plaintiff	38.2%	5892
More than One Defendant	55.9%	5890
Plaintiff is Male (among Individual Plaintiffs)	83.2%	2756
Defendant is Male (among Individual Defendants)	90.9%	2475
Plaintiff is Indian	99.7%	5888
Defendant is Indian	99.8%	5887

Focusing specifically on civil cases, the majority of plaintiffs are individuals (i.e., natural persons), and government is the defendant more often than not. Not surprisingly, then, the most common configuration of parties in our dataset is an individual plaintiff versus a government defendant. See Table 10.

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[41] For simplicity, we use "appellant" to refer to the party who sought review in the Supreme Court, regardless of whether by special leave petition or appeal.

(We do not separately present results for criminal cases, where the configuration is usually the government against an individual defendant.)

TABLE 10. PAIRINGS OF PARTIES IN CIVIL CASES, SHARES BY STATUS

Defendant / Plaintiff	Individual	Government	Institution
Individual	17.0% (N=662)	32.9% (N=1284)	11.6% (N=453)
Government	4.4% (N=172)	0.9% (N=34)	3.4% (N=131)
Institution	2.7% (N=104)	20.1% (N=783)	7.1% (N=277)

Looking instead at the appellant/appellee relationship rather than the plaintiff/defendant relationship, we find that individuals make up the largest group of appellants in both the civil and criminal context. In criminal appeals this implies that the vast majority of the Court's criminal judgments involve individuals appealing against conviction and/or sentence, rather than the state appealing an acquittal.

TABLE 11. APPELLANTS IN CIVIL AND CRIMINAL CASES

Share of Appellants	Civil Cases	Criminal Cases	Total
Individual	46.1%	84.9%	58.4%
Government	23.9%	10.9%	19.8%
Institution	30.0%	4.2%	21.8%

As Table 11 indicates, before the Supreme Court the Government is the appellant in roughly 20% of the cases. Of these, service matters, tax matters and criminal matters form the largest share of the cases that the government brings to Court. See Table 12. Interestingly, in tax matters, the government wins in only half the cases that the Court admits. This might indicate both over-appealing by the Government, and relaxed admission scrutiny for such cases by the Court. Paired with the finding in Table 11 above, that tax matters take amongst the longest to dispose of, these statistics point to the need for the Court and the Government to review their approach to tax litigation.

TABLE 12. GOVERNMENT APPELLANTS, TOP SUBJECT MATTER AND REVERSAL RATES

Rank	Subject Matter Category	Share	Reversal Rate
1	Service Matters	19.2%	67.3%
2	Criminal Matters	17.3%	56.8%
3	Indirect Taxes Matters	10.8%	50.3%
4	Ordinary Civil Matters	8.9%	66.4%
5	Direct Taxes Matters	6.9%	48.4%
6	Land Acquisition & Requisition Matters	6.4%	74.1%
7	Constitutional Matters[42]	5.5%	100%
8	Academic Matters	2.3%	13.8%
9	Arbitration Matters	2.1%	65.5%
10	Appeal Against Orders of Statutory Body	2.1%	72.4%

C. Attorneys

There are two tiers in the Supreme Court bar in India: advocates and senior advocates. "Senior advocate" is a status conferred upon an attorney the Court itself. Senior advocates are an exclusive group. As of April 2015, there were 349 senior advocates designated by the Supreme Court of India,[43] but these lawyers obtain a great share of the advocacy work at the Court. As Table 13 indicates, advocates and senior advocates are about evenly represented in our dataset, (with only a tiny number of unrepresented parties). In criminal cases, most attorneys (for both sides) are advocates, while in civil cases, a majority are senior advocates.

[42] Note that the reversal rate for constitutional matters is 100% due to there being only one observation with nonmissing information on reversal.

[43] *List of Senior Advocates Designated by Supreme Court (as on 23/04/2015)*, SUPREME COURT OF INDIA, http://www.sci.nic.in/outtoday/List%20of%20Sr.%20Advocates%20 Designated%20by%20Supreme%20Court%20as%20on%2023%2004%202015.pdf (last visited Aug. 30, 2016).

TABLE 13. COUNSEL, BY PARTY AND CASE TYPE

Counsel	Appellant			Respondent		
	Total	Criminal	Civil	Total	Criminal	Civil
Advocates	51.1%	64.0%	45.1%	46.9%	58.5%	41.4%
Senior Advocates	47.5%	35.2%	53.3%	52.9%	41.2%	58.3%
Other[44]	1.4%	0.8%	1.6%	0.3%	0.4%	0.3%
N	6041	1960	4058	5978	1956	3999

Notably, cases where the appellant is represented by a senior advocate tend to be cases where the respondent is also represented by a senior advocate, and vice versa. See Table 14.

TABLE 14. PAIRINGS OF COUNSEL FOR APPELLANT AND RESPONDENT, CIVIL CASES

Respondent / Appellant	Advocate	Senior Advocate
Advocate	1098 (28.5%)	659 (17.1%)
Senior Advocate	513 (13.3%)	1582 (41.1%)

Further, in a small fraction of cases (3.9 percent) the Court appoints amicus curie — typically a senior or otherwise well-respected lawyer, to act as a friend of the court, and assist the Court in the matter. The Amicus does not represent either party. S/he is supposed to assist the court in an impartial manner. Amicus curie are generally appointed in Public Interest Litigations or in criminal appeals where the defendant is represented where the Court feels the need for additional assistance over and above what the defence lawyer can provide.

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[44] "Other" refers to "party in person" (i.e., *pro se* party) or legal aid representation.

D. Decision Characteristics

1. Bench Size

We now turn from the characteristics of the cases to how the Court decides them. First, we examine bench size. Nearly 90 percent of cases in our dataset were decided by a two-judge bench, and nearly all the rest were decided by three-judge benches. Only 91 cases out of 6856 cases in our data were decided by a five-judge bench—and in this six-year period, there was no benches larger than five judges. See Table 15.

TABLE 15. SUMMARY STATISTICS, BY BENCH SIZE

Bench Size	2	3	5	All
Total Cases	5971	794	91	6856
Share of Total	87.1%	11.6%	1.3%	100.0%
Number with PIL	187	71	4	262
Share with PIL	3.1%	9.0%	4.4%	3.8%
Share of PIL	71.4%	27.1%	1.5%	100%
Number with Const. Challenge	349	65	32	446
Share with Const. Challenge	5.8%	8.2%	36.4%	6.5%
Share of Const. Challenge	78.3%	14.6%	7.2%	100%

As one would expect, to the extent we see five-judge benches in the data, they are disproportionately devoted to cases within the original jurisdiction of the Court. While over 90 percent of decisions from two-judge benches arose out of appeals and SLPs, only about half from five-judge benches did. See Table 16.

TABLE 16. SUMMARY STATISTICS, CASE CATEGORIES, BY BENCH SIZE

Case Category	2	3	5
Appeal/SLP	91.4%	66.4%	56.7%
Writ Petition	5.7%	24.2%	28.9%
Other Original Jurisdiction	2.3%	8.8%	12.2%
Review or Curative	0.6%	0.5%	2.2%
Total	100%	100%	100%

More surprising is the distribution of cases involving challenges to the constitutionality of laws or government action. Given that substantial questions of law as to the interpretation of the constitution are required by law to be decided by constitution benches of five or more judges,[45] one would expect cases involving challenges to the constitutionality of legislation or government action to be concentrated in five-judge benches. However, as Table 15 shows, more than 78% of all such questions are decided by 2 judge benches. Less than 8% of constitutional challenges are decided by benches of 5 or more. As Nick Robinson as found before, there has been a general decline in the number of constitution benches set up by the Supreme Court.[46]

A similar pattern appears for public interest litigations (PILs). Given their broad reach, intended social impact, and fundamental rights implications, one might expect the Court to decide such cases in larger benches. Yet over 71% of all PILs are heard by two-judge benches.

2. Outcomes

We turn now to outcomes: how does the Court resolve the cases in our data? Table 17 provides some data on outcomes. We find an overall reversal rate of nearly 60 percent. The reversal rate in criminal cases (about 55 percent) is lower than in civil cases (about 61 percent). In other work, we interpret this difference as reflecting a willingness of the Justices of the Court to admit criminal appeals with weaker grounds for appeal (and therefore with a lower probability of leading to a reversal).[47] This is consistent with Justices being

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[45] Article 145, Constitution of India.

[46] [Note comparing figures to earlier numbers by Robinson, others?]

[47] Aparna Chandra, William H.J. Hubbard, and Sital Kalantry, The Unintended Consequences of Case-by-Case Rescue: An Empirical Study of Indian Supreme Court Cases from 2010 to 2014 (unpublished working paper).

more concerned about correcting errors in criminal proceedings; they may admit borderline criminal appeals, but dismiss borderline civil appeals.

TABLE 17. SUMMARY STATISTICS, OUTCOME VARIABLES

Variable	Mean	N
Reversed	59.4%	6278
Reversed, Civil Cases	61.4%	4195
Reversed, Criminal Cases	55.3%	2066
Referred to Larger Bench	1.7%	6386
Plaintiff Wins	50.0%	5632
Parties to Bear Own Costs	90.3%	2468

Interestingly, despite reversing lower court decisions in only 60% of the cases admitted for a merits hearing, the Court, by and large, does not impose costs on parties. In 90.3% of the cases it directs parties to bear their own costs.

Following on from the discussion about bench sizes, Table 18 presents the success rates of PILs and constitutional challenges in the Supreme Court, by bench size.[48] Although larger benches are more willing to declare something unconstitutional or grant relief in a PIL, benches of all sizes show willingness to reach these conclusions.

TABLE 18. SUMMARY STATISTICS, BY BENCH SIZE

Bench Size	2	3	5	All
Share of PILs Successful	50%	69.2%	100%	53.8%
Share of Const. Challenges Successful	51.5%	55.6%	60.0%	52.7%
Share Overruling Precedent	0.9%	5.2%	19.8%	1.7%

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[48] We code a PIL successful if the plaintiff is the prevailing party in the Supreme Court. We code a constitutional challenge as successful if the challenged government law or action is struck down or altered by the judgment.

Table 19 provides further information on constitutional challenges. The majority of constitutional challenges are against executive action rather than legislation or constitutional amendments. The success rate of challenges to executive action is higher than challenges to legislation as well. Table 20 provides details of the success rates of the various types of constitutional challenges, by bench size.

Another action that should be reserved for judgments by larger benches is the overruling of precedent. This is because decisions of coordinate and larger benches are binding on subsequent benches. If the judges on a subsequent bench disagree with the ruling of a previous coordinate bench, or find contradictory precedents from larger benches, they are required to refer the matter to the Chief Justice of India for reference to a larger bench.[49] In our data, we coded a judgment as overruling precedent if the SCC headnote so indicated.[50] We find that larger benches and especially five-judge benches are much more likely to overrule precedent in the course their decisions. See Table 18 above. Notably, though, half (56 of 115) of all over-rulings are announced by two-judge benches, in clear disregard of rules of precedent.

TABLE 19. SUMMARY STATISTICS, NATURE OF CONSTITUTIONAL CHALLENGE

Reason	Number	Number Successful
Constitutional Amendment / Legislation: Basic Structure	21	6
Legislation: Fundamental Rights	77	16
Legislation: Other	52	31
Executive Action: Basic Structure	12	4
Executive Action: Fundamental Rights	224	125
Executive Action: Other	55	34
Total	441	216

[49] Central Board of Dawoodi Bohra v. State of Maharashtra, (2005) 2 SCC 673.

[50] The Chief Editor of the SCC informed us that the SCC headnote editors also flag cases that impliedly overrule precedents. Such implied overrulings are therefore also part of this data.

Bench Size	2	3	5
Const. Amend./Legislation: Basic Structure	4 (3)	7 (1)	10 (2)
Legislation: Fundamental Rights	57 (10)	18 (4)	2 (0)
Legislation: Other	48 (29)	2 (0)	2 (2)
Executive Action: Basic Structure	10 (2)	0	2 (2)
Executive Action: Fundamental Rights	183 (98)	32 (21)	9 (6)
Executive Action: Other	42 (26)	6 (4)	7 (4)
Total	344 (168)	65 (30)	32 (16)

We also find variation in the reversal rates of different high courts and other courts and tribunals from which the cases originated. Table 21 ranks the high courts, tribunals, and special courts by their reversal rates. Most rates are in a fairly consistent band around the overall reversal rate of about 59 percent. Although there are some outliers far from the average, we advise caution in interpreting the outlier values, as many of them involve courts with relatively small numbers of cases (there are only 8 cases from the High Court of Sikkim, for example), and thus the difference may be due to variation arising from small sample sizes.

TABLE 21. REVERSAL RATE: ADJUDICATORY BODY APPEALED FROM

High Court	Reversal Rate	Number[51]
High Court of Sikkim	75.0%	8
High Court of Orissa	73.3%	94
High Court of Jharkhand	65.1%	88
High Court of Chhattisgarh	64.8%	56
High Court of Madhya Pradesh	64.1%	289
High Court of Patna	64.0%	171
High Court of Uttarakhand	62.7%	121
High Court of Punjab & Haryana	62.3%	646
High Court of Rajasthan	62.1%	262
Special Court	61.5%	13
High Court of Gujarat	61.3%	198
High Court of Karnataka	60.9%	367
High Court of Madras	59.9%	368
High Court of Calcutta	59.7%	261
High Court of Andhra Pradesh	59.2%	301
National Consumer Disputes Redressal	58.2%	69
High Court of Himachal Pradesh	56.2%	73
High Court of Bombay	55.7%	607
High Court of Delhi	54.7%	530
High Court of Allahabad	54.4%	502
High Court of Gauhati	53.9%	91
High Court of Kerala	49.1%	233
Tribunal	47.3%	185
High Court of Jammu & Kashmir	43.6%	39
High Court of Meghalaya	0.0%	1
Total	58.5%	5573

Our data also shows that individual, government and institutional appellants are likely to win at roughly the same rates. See Table 22.

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[51] Number of cases includes cases for which information on reversal is missing.

TABLE 22. APPELLANT WIN RATES, BY PARTY STATUS

Appellant Status	Win Rate	Number
Individual	58.0%	3728
Government	61.2%	1277
Institution	61.4%	1261
Total	59.3%	6266

Finally, we studied whether concurring judgments by lower courts would have an impact on the reversal rate before the Supreme Court. We find, as expected, that the Supreme Court is more likely to reverse a decision when lower courts disagree on the outcome, than when the lower courts agree.

TABLE 23: REVERSAL RATE, BY LOWER COURT AGREEMENT

Outcomes in lower courts/tribunals	Agreement	Disagreement	N
Criminal Appeals from High Courts	49.8%	58.0%	1384
Civil Appeals from High Courts	60.3%	63.7%	1142
Civil Appeals from Appellate Tribunals	59.6%	73.8%	600

E. Opinion Characteristics

We conclude the survey of our data on the Court with a look at the judgments themselves—the opinions that are the work product of the justices of the Court. The first thing to note is that the Supreme Court of India is prolific! It produces nearly a thousand opinions per year. As these opinions average almost 9 pages in length, the Court generates over 8000 pages of new law for the bench and bar to digest each year.[52] See Table 24.

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[52] Data in prior sections was organized by judgment—each case decided by the Court is treated as separate, even if two cases were decided in a single opinion. In this section,

TABLE 24. TOTAL JUDGMENT LENGTH

Variable	Mean	Median	Max	Min	N
No. of Pages in Opinion	8.7	6	268	1	5547
No. of Pages in Opinion, Const. Challenge Cases	17.9	11	268	1	269

Nearly all of this output takes the form of unanimous judgments. Most opinions take the familiar form of an opinion authored by a single justice (what we are calling "signed opinions"), although a large share of opinions are per curiam (i.e., not attributed to a specific justice). Separate opinions, whether concurring or dissenting, are extremely rare. See Table 25. Even five-judge benches, which presumably hear the most difficult and contentious cases, produce a separate opinion (dissenting or concurring) barely 10 percent of the time.

TABLE 25. AUTHORSHIP SUMMARY STATISTICS, BY BENCH SIZE

Bench Size	2	3	5	All
Share with Signed Opinion	74.4%	61.9%	80.7%	73.2%
Share with Concurrence	0.8%	2.7%	5.3%	1.0%
Share with Dissent	0.3%	1.4%	5.3%	0.5%

Among signed opinions, opinion-writing duties do not fall evenly among justices. Table 26 lists the judges in our data, with the total number of opinions of the court (as opposed to concurring opinions or dissenting opinions) each justice has authored and the total number of cases in which each justice has participated.[53] The number of opinions authored by justice varies widely (from none to 236). This is largely due to variation in the number of cases decided by the justices, of course, but there is also substantial variation in how often a justice writes after hearing a case. In Table 26, we use bold typeface to mark the three highest rates (Banumathi, Kabir, and Sirpurkar, JJ.) and three lowest rates (Joseph, Agrawal, and Misra, JJ.) of opinion writing as a percent

we treat opinions, rather than judgments as the unit of analysis. Thus, if a judge writes a single opinion deciding two consolidated cases, we treat that as a single observation.

[53] The "other" justices not separately listed are Justices Arijit Pasayat, B.N. Kirpal, Y.K. Sabharwal, G.B. Pattanaik, and V. Ramaswami, each of whom served during only a tiny segment of our sample period and thus are not well represented in the data.

of all cases in which the justice participates. Justice Banumathi writes the opinion of the court nearly two-thirds (64.4 percent) of the time she participates in the case; Justice Joseph did so less than one-in-twenty times (4.4 percent).[54]

TABLE 26. OPINION AUTHORSHIP: OPINIONS OF THE COURT

Justice	Opinions of the court	Total Cases	Rate
B.S. Chauhan	236	495	47.7%
P. Sathasivam	227	511	44.4%
G.S. Singhvi	184	494	37.2%
K.S.P. Radhakrishnan	178	450	39.6%
T.S. Thakur	176	403	43.7%
Dipak Misra	167	438	38.1%
Altamas Kabir	160	252	63.5%
R.M. Lodha	151	348	43.4%
R.V. Raveendran	139	295	47.1%
A.K. Patnaik	133	397	33.5%
Swatanter Kumar	112	300	37.3%
S.J. Mukhopadhaya	111	307	36.2%
Ranjan Gogoi	100	253	39.5%
A.K. Ganguly	96	246	39.0%
Aftab Alam	95	299	31.8%
A.K. Sikri	95	239	39.7%
V. Gopala Gowda	95	231	41.1%
Mukundakam Sharma	89	201	44.3%
C.K. Prasad	86	337	25.5%
Anil R. Dave	85	364	23.4%
S.S. Nijjar	83	288	28.8%
Ranjana Prakash Desai	78	204	38.2%
D.K. Jain	75	170	44.1%
M.Y. Eqbal	75	160	46.9%
H.L. Dattu	72	373	19.3%
F.M.I. Kalifulla	68	212	32.1%
H.L. Gokhale	61	244	25.0%
J.S. Khehar	61	176	34.7%
V.S. Sirpurkar	56	98	57.1%
Dalveer Bhandari	53	193	27.5%

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[54] For purposes of identifying outliers in opinion-writing rates, we focus only on judges who have participated in at least 25 judgments. Justices who have heard only a handful of cases, of course, may have very high or very low rates simply due to small sample size, so to speak.

TABLE 26. OPINION AUTHORSHIP: OPINIONS OF THE COURT (CONT.)

Justice	Opinions of the court	Total Cases	Rate
Madan B. Lokur	49	187	26.2%
R. Banumathi	47	73	64.4%
Kurian Joseph	45	124	36.3%
Jasti Chelameswar	44	219	20.1%
Vikramajit Sen	43	139	30.9%
S.H. Kapadia	37	225	16.4%
J.M. Panchal	37	110	33.6%
Markandey Katju	36	152	23.7%
Chockalingam Nagappan	36	134	26.9%
P.C. Ghose	36	110	32.7%
H.S. Bedi	35	174	20.1%
Gyan Sudha Misra	34	267	12.7%
B. Sudershan Reddy	31	107	29.0%
Adarsh Kumar Goel	31	64	48.4%
Prafulla C. Pant	28	59	47.5%
Shiva Kirti Singh	27	91	29.7%
N.V. Ramana	26	92	28.3%
Rohinton Fali Nariman	24	69	34.8%
Deepak Verma	23	164	14.0%
U.U. Lalit	20	51	39.2%
Abhay Manohar Sapre	20	50	40.0%
S.A. Bobde	17	122	13.9%
Tarun Chatterjee	11	21	52.4%
K.G. Balakrishnan	10	74	13.5%
Arun Mishra	9	37	24.3%
Amitava Roy	9	22	40.9%
Cyriac Joseph	5	113	4.4%
R.K. Agrawal	2	38	5.3%
5 others	3	7	42.9%
Total	4172	12073	34.6%

As noted above, concurrences and dissents are exceedingly rare in our data. The small numbers we do find are largely the product of a minority of justices. As Table 27 indicates, only 10 justices have authored more than one concurring opinion in our data; 37 have authored zero. But even among those justices most likely to write a concurring opinion (Lokur, Chelameswar, and Thakur, JJ.), they do so rarely.

TABLE 27. OPINION AUTHORSHIP: CONCURRING OPINIONS

Justice	Concurring Opinions	Total Cases	Rate
Madan B. Lokur	8	187	4.3%
T.S. Thakur	6	403	1.5%
Jasti Chelameswar	5	219	2.3%
K.S.P. Radhakrishnan	4	450	0.9%
Dipak Misra	4	438	0.9%
C.K. Prasad	4	337	1.2%
Altamas Kabir	3	252	1.2%
A.K. Ganguly	3	246	1.2%
Gyan Sudha Misra	3	267	1.1%
A.K. Sikri	2	239	0.8%
G.S. Singhvi	1	494	0.2%
R.M. Lodha	1	348	0.3%
Swatanter Kumar	1	300	0.3%
Aftab Alam	1	299	0.3%
Mukundakam Sharma	1	201	0.5%
Ranjana Prakash Desai	1	204	0.5%
F.M.I. Kalifulla	1	212	0.5%
H.L. Gokhale	1	244	0.4%
J.S. Khehar	1	176	0.6%
R. Banumathi	1	73	1.4%
Kurian Joseph	1	124	0.8%
Vikramajit Sen	1	139	0.7%
S.H. Kapadia	1	225	0.4%
B. Sudershan Reddy	1	107	0.9%
Rohinton Fali Nariman	1	69	1.4%
Cyriac Joseph	1	113	0.9%
37 others	0	5707	0%
Total	58	12073	0.4%

So too with dissenting opinions. Table 28 reveals that only 5 justices have authored more than one dissenting opinion in our data; 46 have authored zero. Interestingly, the three justices who write dissents at the highest rate (Banumathi, Misra, and Chelameswar, JJ.) are familiar from the tables above, as well.

TABLE 28. OPINION AUTHORSHIP: DISSENTING OPINIONS

Justice	Dissenting opinions	Total Cases	Rate
Gyan Sudha Misra	6	267	2.2%
Jasti Chelameswar	4	219	1.8%
V. Gopala Gowda	3	231	1.3%
H.L. Gokhale	2	244	0.8%
R. Banumathi	2	73	2.7%
P. Sathasivam	1	511	0.2%
K.S.P. Radhakrishnan	1	450	0.2%
Altamas Kabir	1	252	0.4%
A.K. Patnaik	1	397	0.3%
Ranjan Gogoi	1	253	0.4%
Aftab Alam	1	299	0.3%
Anil R. Dave	1	364	0.3%
S.S. Nijjar	1	288	0.3%
F.M.I. Kalifulla	1	212	0.5%
V.S. Sirpurkar	1	98	1.0%
Dalveer Bhandari	1	193	0.5%
H.S. Bedi	1	174	0.6%
46 others	0	7548	0%
Total	29	12073	0.2%

V. CONCLUSION

In this paper, we present a wide range of findings from our analysis of the largest, most detailed dataset of Supreme Court of India judgments ever constructed. These findings should help establish basic facts about the Court that can inform and perhaps provoke future research. We already have some such research underway. We will conclude by noting the research questions we are exploring and other potential questions raised by the data.

First, the large number of cases decided by the Court, large number of criminal cases, and large number of cases involving individual appellants, are consistent with the Court's oft-stated self-conception as a "people's court" determined to provide broad access to litigants. It is worth asking whether the other patterns we see in the data are consistent with this philosophy. Is the Court's behavior consistent with other, less apparent objectives? Is the Court working at cross-purposes with itself? In *The Unintended Consequences of Case-by-Case Rescue: An Empirical Study of Indian Supreme Court Cases from 2010 to 2014*,[55] we explore this question further.

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[55] [unpublished working paper]

Second, what more can we learn about the role of attorneys in the Court's decision-making? Accounts of the influence of so-called "grand advocates" abound.[56] Is there a way to see whether they affect the outcomes of cases? There are many ways to approach these questions; in current work underway, we look for evidence that senior advocates have a discernable influence on whether SLPs get admitted for decision on the merits.[57]

Third, the wide heterogeneity in subject matters decided by the Court raises questions of how well-represented different categories are relative to their distribution in litigation in high courts and courts of first instance. Does the Court seem to preference certain categories relative to others? If so, why?

Fourth, the data on bench sizes suggests that much of the work that we would expect would be done by three- and five-judge benches (and which traditional was done by such benches) is now being done by two-judge benches. This includes deciding constitutional challenges, overruling precedent, and hearing PILs. Further research is warranted to explain why this appears to be happening, and what effects it is having on the jurisprudence of the Court.

Fifth, the data on case duration suggests that delays in adjudication are distributed throughout the appellate hierarchy. Many questions remain: How long are the delays faced by the cases that *aren't* in our data, which are pending but not yet decided? At what levels of the court system can delays be most easily remedied? How are delays affecting the delivery of justice? To what do pervasive delays incentivize litigants to use appeal to the Court as a means of delaying inevitable defeat, rather than vindicating their rights?

Sixth, how do we evaluate the data on case outcomes? One must draw inferences with great care, because the Court is not only deciding cases—it is choosing which cases to decide through the SLP process. This can lead to very counterintuitive conclusions. As we discuss in our *Unintended Consequences* paper, the Court may have a bias in favor of, say, criminal defendants, even if the reversal rate in favor of criminal defendants is *lower* than the reversal rate in favor of other appellants. Why? Because if the Court's bias is to admit SLPs from criminal defendants, even when the appeal is relatively weak, this will mean that appeals from criminal defendants will tend to be weaker than other appeals—and thus the reversal rate may be lower.

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[56] Robinson and Galanter describe an even smaller group of lawyers in the top echelon of the Indian legal profession whom they dub "Grand Advocates." Marc Galanter and Nick Robinson, *India's Grand Advocates: A Legal Elite Flourishing in the Era of Globalization* 2 & 11 (HLS Program on the Legal Professional Research Paper No. 2013-5, 2013). These elite lawyers charge eye-popping fees ($10,000 for a few minutes of argument) and represent only the "uber-rich, major multinational corporations, and the country's political class." *Id*. Robinson and Galanter further argue that the that "the presence of so many benches, and the resulting pervasive (though mild) indeterminacy of precedent, increases the chances that representation by a grand advocate may make a difference in outcome. At least it is perceived to possibly make a difference by significant numbers of clients with deep pockets engaged in controversies where the stakes make irrelevant the size of legal fees." *Id.* at 9.

[57] [Citation.]

Further, once we identify *how* the Court is deciding cases, there remains the question of *why* the Court is deciding cases the way that it is. Can we discern any doctrinal agenda of the Court during this time period? Do different justices approach cases in similar fashion, or do factors such as a judge's professional background or approaching retirement affect their outlook on cases? Questions like these open up a wide swath of research possibilities, some of which we are beginning to tackle in our own research.

Seventh, and finally, the data on opinion writing poses its own host of questions. What is driving the wide variation in the rates at which different justices write opinions? Is it seniority? Bench composition? Subject matter of the cases? Why is dissent so rare? Why are so few justices responsible for such a large share of concurring opinions and dissents?

Surely, there are countless more questions that we have not even identified. Our hope is that the data we have presented here will provide a starting point for research that identifies, and ultimately answers, these questions.