

A review of Parliamentary System and the Ministerial Positions

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Abstract

The Indian Supreme Court has been dubbed "the most powerful court in the world" because of its vast jurisdiction, its broad view of its own powers, and the billions of people it governs. There are a lot of "high-profile" cases that academics and policymakers know a lot about, but relatively little about the more routine, but considerably more frequent and perhaps equally significant judgments that the court makes. To remedy this discrepancy, study provides a thorough, empirical explanation of the Court's rulings from 2010 to 2015. For the first time, we use the most extensive original dataset of Indian Supreme Court opinions ever created to provide a broad, quantitative overview on social identity of the litigants who approach court, the types of matters they bring to it and their level of success, and the opinion-writing patterns of the various judges of the Supreme Court. This research lays the groundwork for future investigations into the Supreme Court and the role it plays in societal advancement.

Keywords Parliamentary democracy, democratic upsurge, and performance of Indian parliament supreme court

Introduction

The preamble of the Indian Constitution asserts that our form of governance is legitimate since it was drafted by "WE, THE PEOPLE." There is no doubt that the original Indian Constitution was a sovereign democratic republic when it was first approved. There are three distinct areas of jurisdiction under the constitution: the legislative, the judiciary, and the executive branch. Legal enforcement is within the purview of government officials. It is the judiciary's responsibility to interpret the constitution and the laws, and to resolve disputes. Each institution serves as a counterweight to the other's authority. The Supreme Court of India, which took the place of the Federal Court under India's 1950 constitution, was founded. According to the Constitution, this court is a custodian of the people's constitutional rights. After India became an independent, democratic, and self-governing republic on January 28, 1950, the Supreme Court of India was established. The inauguration took place in the chamber of the prince in the

Parliament building, which also housed India's Parliament, which consists of the council of states and the house of the people of India. The Parliament of India is the Republic of India's highest legislative authority. The President of India and the houses of Parliament make up India's Parliament. Each house has two chambers: the Rajya Sabha (the council of states) and the Lok Sabha. By virtue of his position in India's legislative body, the President has complete authority to convene and adjourn either chamber of parliament or to dissolve Lok Sabha. To use these powers, the President must have the approval of the Prime Minister and his Union Council of Ministers. Members of Parliament are those elected or nominated by the president to serve in either house of parliament. All state legislatures in India elect members of parliament by proportional representation, with Lok Sabha and Rajya Sabha each chosen by their respective constituents in single member districts. In the Lok Sabha, the parliament is sanctioned to have 545 members, including the president's two nominations from the Anglo-Indian community; in the Rajya Sabha, it is sanctioned to have 245 members, with 12 nominees with experience in a variety of subjects in the humanities and the sciences. Sansad Bhavan in New Delhi is the location of the Indian parliament's monthly session.

The supreme court of India

At the Indian Supreme Court, there is a lot of traffic. As they wait for their cases to be heard in the building's parapeted open hallways, lawyers engage in small talk. It's a mad dash by plaintiffs and legal assistants to get to their hearings among 15 courtrooms located in the building, which is full with furious litigants. Because of the flurry of activity, Monday and Friday are referred to as "fish market days" by court insiders. At least a dozen cases are considered by two judges each day in which they argue why their cause should be given a proper hearing. They beg their Lordships to simply listen as judges lean down from their benches and ask scepticism-filled questions of them from the bench. Advocates' pleas will almost always go unheeded. In 2010, only around 17.5% of cases were allowed for regular hearings on Tuesdays, Wednesdays, and Thursdays. 10 Panels of two or three judges conduct these more in-depth hearings, which may last for days or even weeks, as lawyers present their arguments in great detail. Considering how important the Supreme Court is to Indian politics, tourists are sometimes astonished to find that the court deals with so many relatively small matters. Among those who could be seen in a Delhi courtroom are an Indian administrative official from Tamil Nadu, two neighbours from Nagpur, and a Delhi businessman, all of whom

are involved in a property dispute that goes back to the 1980s. Even though it handles so many different issues, the Indian Supreme Court has become noted for its interventionism and creativity. For its activity and openness, it has been referred to as the world's most powerful court, the people's court, and the last resort for oppressed and puzzled individuals.

Parliamentary System and the Ministerial Positions in India

An essential aspect of parliamentary governance is the council of ministers. In certain countries, they are called secretaries. The Indian Constitution creates the council of ministers. There will be a group of cabinet members that function as the President's advisor and assistants, with the Prime Minister at the top of the list. Both houses of Parliament are represented in the cabinet of the government. As stated in, the council must account to the house of representatives. Politicians are responsible for their own departments and projects. They are often the most senior and most experienced members of government. The House of Commons holds them accountable for their actions, including any errors or omissions. This also entails ensuring that the legislation is implemented in an effective way. As representatives of their particular communities, these members have a duty to carry out development projects. A member of Parliament is obliged to serve as a minister in the government. Unless excused by Parliament, a minister must run for Parliament within six months after assuming office. This may be done by a nomination or a by-election. In line with British tradition and practicality, the council is classed as - although the Indian constitution does not identify the sorts or "classifications" of ministers.

1. Cabinet ministers
2. Minister of state with independent charge
3. Deputy ministers

The council of ministers with Prime Minister, being the first among all, commands supreme respect. According to the 91st amendment act, 2003 the council of ministers shall not exceed 15% of the total Lok Sabha strength. At the state level, it shall not exceed 15% of the total strength of legislative assembly of that state. But, the number of ministers, including the Chief Minister, in a state shall not be less than of India.

Review of literature

(Mate 2014) studied “Elite Institutionalism and Judicial Assertiveness in the Supreme Court of India” that was discovered, as well as for its expanding jurisprudence of rights and involvement in public interest litigation (PIL) cases in the 1970s and 1980s, the Supreme Court of India attracted worldwide academic attention. In order to re-establish the court's credibility in light of its cooperation with the Emergency administration of Indira Gandhi, it pushed for change in areas like as human rights and prisoner rights, labour rights and environmental law during this time. Even as the court's landmark rulings affirming the rights to education, food security, and information continued to strengthen civil liberties, combat corruption, and spur government action, this pattern persisted. An examination of the court's significant judgments in the basic rights arena demonstrates, however, that the court's decision-making in these matters is more nuanced and nuanced. There is a clear indication that the Supreme Court has been only selectively aggressive and outspoken in questioning central government authority in the area of basic rights.

(Puddington, Sestanovich, and Mehta 2007) studied “India ’ s Unlikely Democracy Venezuela : Crowding Out the Opposition The 2006 Freedom House Survey Another Russia ?” that was discovered, as well as the primary responsibility of the Indian Supreme Court is to interpret and uphold the Constitution of 1950. The English-language version of this document has more than a hundred thousand words, making it the world's longest fundamental legislation. A recent tally found 444 items and a half-dozen schedules in there. More than a hundred revisions have been made to it since its inception, resulting in a document that presently takes up around 250 printed pages. According to the liberal constitution of India, the Supreme Court has played a vital and even crucial role in preserving India's liberal-democratic institutions and ensuring that the rule of law is adhered to. They've done this throughout the years, carving out an autonomous role for the Court's judges, who now number twenty-six. They've ruled on presidential actions, and even found several constitutional amendments illegal. Due to this Court's authority, its history has been and continues to be marked by irony and controversy, which has consequences for democracy that are both beneficial as well as negative.

(Jain and Shah 2018) studied “Reimagining Reproductive Rights Jurisprudence in India : Reflections on the Recent Decisions on Privacy and Gender Equality From the Supreme Court of India” that was discovered, as well as Supreme Court unanimously ruled that the right to privacy is a basic right coming from the guarantee of life and liberty in Article 21 of the Constitution as well as from many circumstances arising out of other aspects of freedom and

dignity in its judgment, which was authored by nine justices. To challenge the 'Aadhaar' program, which requires biometric identification cards for all government services and benefits, a retired High Court judge filed this case to the Supreme Court. Legal academics and observers in India have been debating whether the decision would eventually lead to a clear recognition by Indian courts of the right to abortion for women and girls.

(Morse 1997) studied “Permafrost Rights : Aboriginal Self-Government and the Supreme Court found that and the author argues that the Supreme Court should have looked to the alternate vision of Chief Justice Marshall of the United States Supreme Court. the independent political status of First Nations at the time of contact, as well as the continued existence of that political, not cultural, identity. In addition, an assessment of the federal government's position indicates that its policy is founded upon the recognition of the inherent right to self-government, which stands in stark contrast to the Court's decision in Pajeon. The Court has created a legal standard that is so hard to meet and has rendered litigation so expensive to pursue that it is thoroughly unattractive for First Nations and Metis to seek a judicial solution. The political route of pressuring for legislative change or negotiating agreements may now have become the only viable option”.

(Baxi 1985) studied “Third World Legal Studies Taking Suffering Seriously: Social Action Litigation in the Supreme Court of India taking suffering seriously: social action litigation in the supreme court of India” that was discovered, as well as After 32 years of independence, the Supreme Court of India is now becoming the Supreme Court for Indians. 'An arena of legal quibbling for men with lengthy purses,' the Supreme Court had been for far too long. More and more individuals, including judges, are referring to the Supreme Court as the "final option" for the oppressed and perplexed. As a result of the Indian appellate judiciary's change from a typical captive agency with a low social exposure to a freed agency with a high socio-political visibility, 'judicial populism dominates the transition, which is a post-emergency phenomenon. At a time when other institutions of government are in crisis of legitimacy, the Supreme Court is increasing its support base and moral authority in the country.' All political institutions promise more than they can provide and are vulnerable to the dynamics of disillusionment in the process of delivering on their promises.

Conclusion

The concept that the Supreme Court is a court where a person may go for justice if they haven't found it elsewhere in the legal system has been questioned lately. When it comes to getting into the court system, a criminal defendant or a person filing a civil lawsuit against the government are given precedence, as are instances claiming constitutional violations against individuals who do not do so. Thus, the Court remains true to its original purpose as a court of the people it was established to serve. The method utilized by the Court is impeding its ability to carry out its duties properly due to an increase in the number of cases seeking admission to the Court. The Court's failure to restrict its discretionary authority has resulted in long delays and overworked justices as a consequence of a wave of petitions being filed. For example, just because an organization is representative does not mean it is responsive. All components of accountability may not be effectively ensured by electoral accountability. Transparency and effectiveness are not synonymous concepts. There are several situations in which delegating responsibility away from the ministries may be beneficial. There is a significant level of technical complexity in modern economic policy choices, which requires a high level of skill, and non-elected bodies allow specialists to make good judgements. Governments and legislatures may make meaningful promises by safeguarding decision-making from short-term pressure and lobbying through independent entities and treaty delegated powers. When politicians lack the incentive to act in the best interest of the public, these entities serve as a shield. Stronger checks and balances may be achieved by increasing the number of unaffiliated groups. Human rights commissions and courts are two examples of regulatory bodies that may step in if an administration is unable to do so. However, the decline argument ignores the reality that India's parliament has been the accommodating center of sharply competing interests for decades. A valid concern is that Parliament may not be able to live up to the high expectations put on it upon independence, and that its members may be spending too much time debating pointless subjects. It is important to consider the context in which legislative institutions operate. Parliament's downfall may be attributed to the fact that political parties have become more dynastic and loosely organized, which has led to their extinction. We argue that the current body of literature cannot explain the inconsistencies of the Indian parliament. Many methodological issues arise while studying legislative systems, and we provide a model for effective participation. We acknowledge that our framework isn't all-inclusive and doesn't cover every imaginable research area.

References

1. Baxi, Upendra. 1985. "Third World Legal Studies Taking Suffering Seriously: Social Action Litigation in the Supreme Court of India TAKING SUFFERING SERIOUSLY: SOCIAL ACTION LITIGATION IN THE SUPREME COURT OF INDIA." 4(6):1-6.
2. Jain, Dipika, and Payal K. Shah. 2018. "Reimagining Reproductive Rights Jurisprudence in India : Reflections on the Recent Decisions on Privacy and Gender Equality From the Supreme Court of India." *Columbia Journal of Gender and Law* 39(2):1-53.
3. Mate, Manoj. 2014. "Elite Institutionalism and Judicial Assertiveness in the Supreme Court of India." *Temple International and Comparative Law Journal* 28(2):361-430.
4. Morse, Bradford W. 1997. "Permafrost Rights : Aboriginal Self-Government and the Supreme Court in R . v . Pamajewon." *McGill Law Journal* 1011-42.
5. Puddington, Arch, Stephen Sestanovich, and Pratap Bhanu Mehta. 2007. "India ' s Unlikely Democracy Venezuela : Crowding Out the Opposition The 2006 Freedom House Survey Another Russia ?" *Journal Of Democracy* 18(2).
6. Chhibber, Pradeep, & Ostermann, Susan. (2013). A democratic balance: Bureaucracy, political parties, and political representation. In Nagel, Jack, & Smith, Rogers M. (Eds), *Representation: Elections and beyond* (forthcoming).
7. Philadelphia: University of Pennsylvania Press.
8. Chhibber, Pradeep, & Verma, Rahul. (2013a, January 24). No denying the family. *The Indian Express*.(2013b, June 12). Missing the real malaise of the body politic. *The Indian Express*.
9. Chisti, Seema. (2008, April 24). On rural development, MPs' hearts may be full but during debate, Lok Sabha is empty. *The Indian Express*.
10. Datta, Saugato. (2006). Television coverage and political voice: Evidence from Parliamentary Question Hour in India. MIT, Unpublished Manuscript
11. Pranab Mukherjee ,President of India and a former seasoned politician. Dr. K.C. Joshi, the Constitutional law of India. Third edition 2016