Constitutional Adjudication in the Age of Majority Governments: Measuring the Erosion of Judicial Independence in India

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August 7, 2025

Abstract

In 2014, Prime Minister Narendra Modi strode into office in New Delhi with an imperial majority. After three decades of minority cabinets and wobbly coalitions, India resumed its tryst with majority governments. Did this sudden parliamentary transition (adversely) impact the Indian Supreme Court's approach to adjudication? A large body of comparative literature in political science frames judicial power as a strategic seesaw. Parliamentary strength dictates judges' performance, it claims. Judicial power swells against minority governments but shrinks against majority ones. Does this apply to India, too? We summon a dataset of Supreme Court cases involving the Indian government over two decades (1999-2019) to investigate this. India witnessed four cabinets in this period: three were minority/coalition and one was majority. Our findings challenge the seesaw conception of judicial power. In non-constitutional and "super" constitutional cases, the Supreme Court, we find, has not shrunk during Prime Minister Modi's term. But the court has exhibited a bias towards his government in "ordinary" constitutional cases. These nuanced findings underscore the need for vigilance. But obituaries of judicial independence in India, increasingly routine in the media, are premature.

1 Introduction

The Supreme Court of India has lost its charm. So alleges a burgeoning circle of critics including activists and lawyers. The loss, in their telling, coincided with Indian Prime Minister Narendra Modi's ascent to power in 2014. Some lament a court that is "battered and enfeebled" (Sebastian 2019), "severely diminished" (Banyan 2024), and increasingly "pushed to the wall" (Shah 2020). Others admonish the court's "barbarism" (Mehta 2020), its "majoritarian" instincts[1], and its "capitulation" to the government (Dieterich 2023) . The capitulation (and complicity) charge is especially common; critics hurl it with unusual regularity (Ayyub 2020; Mukherji 2020; Varshney 2019; Wyeth 2020; Chowdhury 2022; Dhanani 2023; Nandini 2021. International agencies echo it too. In 2021, the Washington DC-based Freedom

1. *Judiciary In India Has Become Majoritarian : Sr Adv Dushyant Dave* (2024)

House demoted India to a "partially free democracy"[2]. On the "Is there an independent judiciary?" point, India bagged 2/4. Previously, its score read 3/4. "The score declined," the report said, "because [among other things] a pattern of more progovernment decisions by the Supreme Court . . . suggested a closer alignment between the judicial leadership and the ruling party" [3]. Similarly, India, a "flawed democracy", slumped to a fifty-third position globally in the Economist Intelligence Unit's Democracy Index 2020.[4] Sharply declining ratings on "civil liberties" – including "the degree to which the judiciary is independent of government influence" – precipitated the slide. And the Sweden-based V-Dem Institute, relying on "expert surveys," classified India an "electoral autocracy"[5]. Frugal scores on judicial performance triggered that status. According to the survey respondents, the Supreme Court's zeal to "merely" reflect the government's impulse in salient cases had intensified since 2014. Clearly, a narrative has gripped India and the world: something about the Indian judiciary has changed. In 2014, Prime Minister Modi, his Bharatiya Janata Party, and the larger National Democratic Alliance (NDA) strode into office with an imperial majority. Suddenly, the parliamentary context alchemized. Especially since 1989, India, nationally, had stumbled through a succession of minority or coalition governments. Some lasted their full terms; others tasted office for a few months (Ruparelia 2015). But with Modi's rise the Supreme Court's demeanor changed. Or so the narrative goes. The once independent court turned pliant; its tenacity shrank; fragile verdicts displaced firm ones. The narrative belittles this new Supreme Court as a government agency and its judges as ministerial minions. And judicial independence, it insists, has all but collapsed in India. Has it? We investigate.

Judicial independence is a polysemic concept (Karlan 1999). Frustrated by its sprawling possibilities, some scholars have labelled it a "myth" (Peretti 2002), "not useful" (Kornhauser 2002), or "contradictory" (Seidman 1988). Most, though, disagree. They continue to employ it "in normatively and descriptive ways; in absolute and relative terms; as a theoretical construct and a practical safeguard; in regard to judges individually and collectively; as an end in itself and a means to other ends; as a matter of hard law and soft norm; and in relation to the political branches of government, the media, the electorate, litigants, interest groups, and judges themselves" (Geyh 2014, p.186). The concept's definitional struggles endure (Burbank 2003; Hartley 2002; Levinson 2006), but we embrace a version that stresses a judiciary's institutional autonomy – and decisional capacity – to adjudicate against governments without fear of punishment or reprisal (Ramseyer 1994; Melton and Ginsburg 2014; Ferejohn 1999). Achieving that is a challenge. Constitution makers embed guarantees about jurisdiction, appointment, tenure, discipline, salary and budget to insulate, especially appellate and constitutional, courts from political influence, obstruction or control.

A range of extra-legal factors contaminates a judiciary's capacity to render antagonistic decisions. Still, *de jure* features do not predict a court's capacity to effectively hold governments

2. *Freedom in the World* (2021)
3. *Freedom in the World* (2021)
4. *India falls to 53rd rank in EIU's Democracy Index, dubbed as flawed democracy* (2021)
5. *V-Dem Institute* (2021)

to account. Instead, scholarship has identified a large set of extra-legal factors that imp These *de jure* features do not automatically engender an independent judiciary. nor or guarantee decisions in salient cases against powerful actors, especially, governments. Scholarship has identified a suite of extra-legal factors that mediate – limit – a court's capacity to function independently.

We wish to identify the *mandate effect* in the data – whether the same case is more likely to be decided in favour of the government when it has a majority. The key identification challenge is that a simple difference in the win-rate between majority and minority governments can be explained in three distinct ways even in the absence of a *mandate effect*. First, through differential government behaviour. Majority governments may practice better legal hygiene in their executive and legislative actions. They may also have better lawyers representing them in court. Second, through differential adversary behaviour. It is possible that the set of adversaries that take the government to court, or the effort adversaries put into litigation, varies between majority and minority governments. Third, through differential court behaviour. The court may strategically refuse to admit cases loaded against the government when they originate from a majority government.[6] This would lead to a higher win-rate within decided cases for majority governments even when admitted cases are decided purely on merits. We are interested in identifying the *mandate effect* and ruling out these three alternative explanations.

To do so we present a model of the court's behaviour in Section 3 after establishing the institutional background, data, and the definitions of key variables in Section 2. The model identifies the assumptions under which our empirical strategy presents an unbiased estimator of the *mandate effect*. Section 4 introduces how we take difference-in-differences in the win-rates across majority and minority governments for constitutional and non-constitutional matters and the results. Section 5 digs deeper into our key finding to understand the mechanisms behind it. Section 6 presents some caveats to our results and finally, Section 7 concludes.

2 Data and Institutional background

In this section we describe the institutional background, the data, the key variables, and the identification strategy.

2.1 Supreme Court of India

The Supreme Court of India is the highest court for the largest common law judicial system in the world (Chandra, Hubbard, and Kalantry 2017). It decides both appeals and fresh petitions. The Court has a very high case load deciding over 60,000 cases per year[7]. This makes the Supreme Court of India unique in both access and the number of decisions when compared to

6. SeeGinsburg (2003) and Ríos-Figueroa and Staton (2012) for how court's strategic behaviour may lead to a selection bias.

7. This figure is based on the period between 2014-2018. See page xv in Chandra, Kalantry, and Hubbard 2023

other Supreme Courts (Green and Yoon 2016).

The Court routinely strikes down actions by government agencies and issues directives on policy adjacent matters as diverse as pollution, sexual harassment, etc. Robinson (2013) notes that, "despite the range of matters, or perhaps partly because of this diverse and heavy workload, the Indian Supreme Court has become well known for both its interventionism and creativity." Unlike the US Supreme Court, which deals primarily with norm elaboration, Chandra, Hubbard, and Kalantry 2017 argue that the Indian Supreme Court also solves for correcting errors case-by-case and thus regularly overturns lower court decisions.

As of 2024, the Supreme Court is composed of 32 Justices.[8] Since the mid-1990s, the Supreme Court appoints its own judges. In 2015 the government amended the Indian Constitution to wrest some of the power of judicial appointment from the Supreme Court. However, in a case where this constitutional amendment was challenged, the Supreme Court declared it unconstitutional and hence continues to control the appointment of judges. The Chief Justice of India (henceforth CJI) heading a panel composed of the five senior most Supreme Court Justices, appoints new Justices from a pool of (state-level) High Court judges and, occasionally, eminent Supreme Court lawyers. Therefore, unlike the US Supreme Court, the appointment of judges in India is not as overtly political. Supreme Court Justices must retire from the Court on their 65th birthday. The average tenure of a judge in our sample is about five years. The CJI is the most senior Justice of the Court (that is the judge with the earliest date of appointment to the Court) with additional powers in the allocation of exceptional cases, as discussed below.

In the Supreme Court of India, a *bench* is a set of judges who jointly hear and decide a case. Benches are always composed of at least two judges (except during court vacations when single judges may hear urgent matters). Ordinarily, a case is heard by a two-judge bench. Judges have different specialisations. When a case is filed, it is tagged with a specialisation, and then assigned to one of the two-judge benches composed of judges who have that specialisation. The mapping between specialisations and benches is many-to-many so that each bench has several specialisations and each specialisation has several benches. This allows the random computerised allocation of cases to benches in cases that are heard by a two-judge bench. In the uncommon occasions when the two judges disagree or the case is of exceptional importance, the CJI constitutes a larger bench of three or more judges to hear that particular case.

2.2 Defining majority

There were four governments in power in our sample period (1999-2019): One Vajpayee government, two Manmohan Singh governments, and the one Modi government. To operationalise the research question we need to classify governments as majority or minority. We construct "majority" as an indicator variable based on whether or not the government has

8. See Chandra, Kalantry, and Hubbard 2023 for an insightful exposition of the institutional background of the Supreme Court of India.

Table 1: Government summary statistics

Government	NDA1	UPA1	UPA2	NDA2
Prime minister	Vajpayee	Singh	Singh	Modi
Start date	03.10.99	22.05.04	13.05.09	26.05.14
End date	21.05.04	12.05.09	25.05.14	22.05.19
Majority in LS	No	No	No	Yes
Government coalition seats	254	217	252	328
Government party seats	182	145	206	282
Opposition party seats	114	138	116	44
Effective numner of parties	5.864	6.522	5.004	3.450
Herfindahl index	0.171	0.153	0.200	0.290

The table summarises the four governments in our sample. Effective number of parties is the inverse of the Herfindahl index. The Herfindahl index is defined as $\sum_i^N p_i^2$ where p_i is the seat share of party i and N is the number of parties in parliament.

more than 50% seats in the Lok Sabha (the lower house of parliament). In principle, this task is more complicated as India has a bicameral legislature.[9] Governments may have majority or minority in one or both houses of parliament. However, in the sample period all governments had minority in the upper house of parliament. Therefore, the only variation comes from whether the government has majority in the lower house or not. Based on this criterion, the only government in our sample that is classified as a majority government is the Modi government.

Another difficulty is that governments are often formed in coalition with multiple parties. When evaluating whether the governments has a majority should one consider the seat share of just the main party in government or the coalition as a whole? It turns out that in our sample period this question is moot. As seen in Table 1, the only majority government (Modi) in our sample had more than 50% seats both with and without its coalition partners whereas the other three governments were in minority even when we add the seats of their partners.

In addition, we also use supplementary variables for robustness checks such as effective number of parties, opposition share, etc. These capture parliamentary composition in different ways. All these variables are constructed using the composition of the lower house of parliament. Table 1 describes the four governments in the sample and their corresponding parliamentary compositions. Consequently, both ways of defining majority yield the same answer in our setting.

2.3 Classifying cases

The case data comprises of the universe of Supreme Court judgements and named orders from October 1999 to June 2019 from the SCC Online database. This period coincides with 4 governments that finished their full term.

9. See Aney and Dam 2021 for a more detailed discussion on the problems of classifying governments as majority and minority in India.

Table 2: Case level summary statistics

	Mean	SD	Min	Max
Govt won	0.579	0.494	0	1
Constitutional case	0.544	0.498	0	1
Appeal (1) Petition (0)	0.748	0.434	0	1
Coram	2.262	0.632	1	9
Govt is appellant/petitioner	0.335	0.472	0	1
Chief Justice	0.129	0.336	0	1
Attorney or Solicitor General	0.120	0.325	0	1
Service case	0.249	0.432	0	1
Tax case	0.055	0.228	0	1
Administrative case	0.148	0.355	0	1
Word count	22344	101749	0	2528550
Observations	1716			

Constitution case, Tax case, Service case, Administrative case are indicators for whether the associated words appear at least once in the short notes. Chief Justice is an indicator for the presence of the Chief Justice on the bench. Attorney or Solicitor General indicates the government was represented in the case by the Attorney or Solicitor General.

Supreme Court's final decisions comprise of either orders or judgements. A judgement contain the final determination of legal issues arising in the case. On the other hand, orders are typically short, interim and procedural in nature. They are used, for example, condoning delay, summon documents, to set the next dates of hearing, summarise a given day's hearing, remand a case to a lower court for determination of a point of fact, etc. In some cases, the names of the judges authoring the order are identified. These tend to have more substantial legal content than regular orders. The Supreme Court delivers tens of thousands of orders each year many of which involve the Union of India and its agencies. These are usually procedural[10] and anonymous (ie. signed by the court masters rather than the judges)[11]. The large volume of such orders makes collecting and coding all of them infeasible. Moreover, SCC Online does not systematically collect and publish orders lacking in substantive legal analysis. Our data therefore only includes judgements and named orders in cases involving the Union of India or its agencies. This leaves us with 1840 cases.[12]

SCC Online extracts key words and phrases from the case and publishes these as "short notes" preceding the text of the decision. Short notes are used by lawyers and other practitioners as keywords to search for relevant cases and identify the area of law that the case is about. We parsed these short notes to identify the number of times the words "constitution" and "constitutional" appears. Figure 3 in Appendix A shows the distribution of this variable. We then construct an indicator variable that classifies a case as constitutional if the words

10. See for example State of Bihar and Others vs. Ganesh Choudhary and Others (2001) 2 SCC 245; Environment Awareness Forum vs. State of J&K and Others (2001) 10 SCC 90; A.P. Pollution Control Board vs. M.V. Nayadu (Retd.) and Others (2001) 2 SCC 86.

11. See for example Dhananjay Kumar Pandey and Others vs. State of Bihar (2000) 9 SCC 209; Commissioner, Central Excise, Nagpur vs. Wainganga Sahkari S. Karkhana Ltd. (2002) 5 SCC 415; Bhilwara Synthetics Ltd. vs. Commissioner of Central Excise, Jaipur (2003) 9 SCC 63.

12. We use and extend the data from Aney, Dam, and Ko 2021.

Table 3: Cases and wins by governments

Government	NDA1	UPA1	UPA2	NDA2
Prime minister	Vajpayee	Singh	Singh	Modi
Non constitutional cases	140	220	169	254
Non constitutional won (%)	63.6	64.1	59.2	43.7
Constitutional 1-4 cases	140	205	194	171
Constitutional 1-4 won (%)	62.1	60.5	55.2	56.7
Constitutional 5+ cases	40	37	77	69
Constitutional 5+ won (%)	72.5	64.9	66.2	49.3
All cases	320	462	440	494
All won (%)	64.1	62.6	58.6	49

The table shows the breakdown of the total cases and percentage won by the four governments in our sample.

"constitution" or "constitutional" appears at least once in the short notes.

Our key outcome is coded as an indicator variable for whether the Union of India (UOI) won or lost the case. We used second or third year law students to hand code this variable. Each case was initially assigned to two RAs. The cases were coded as UOI won, UOI lost, or not identifiable. The case was assigned to a third RA in case the coding of the first two RAs did not match (this happened in less than 10% of the cases). The final sample is made up of 1716 cases where UOI was identified as the winner or the loser.

We also parsed the text of the cases to extract information on the date of the decision, whether the case was an appeal or a fresh petition, whether the government was an appellant/petitioner or respondent, the names of judges deciding the case, and the word count of the judgement. Table 2 describes the case data and Table 3 presents the breakdown by the four governments in our sample.

3 Modeling the Supreme Court of India

This section models the Supreme Court's decision-making process. It clarifies the underlying assumptions that lend causality to our empirical findings. We demonstrate how our empirical strategy identifies the average effect of treatment on the treated cases (ATT) despite the presence of unobservable case-level heterogeneity. Section 3.1 presents our baseline model. Section 3.2 incorporates the court's strategic behaviour.

3.1 Baseline behaviour

The Supreme Court's docket is heterogeneous in merits. Let x be the merits of any given case. A higher value of x denotes that the case, favours the government. Let x be distributed over the interval $(-\infty, \infty)$ with a distribution $g(x)$ for majority governments and $f(x)$ for minority governments. Because majority and minority governments govern differently, we expect distributions for $g(x)$ and $f(x)$ to vary. A government with a parliamentary majority, for example, may flagrantly test the boundaries of legality. It may enact legislation and undertake

executive actions that are especially hostile to the Constitution. That, in turn, could invite a large number of challenges. In contrast, a minority government, compelled to negotiate with parliamentary allies and adversaries, may pursue a more modest, lawful agenda. Furthermore, adversaries that take the government to court may be different across governments. A potential adversary may worry more about blowback when he sues a government that is perceived to be stronger. Consequently, the kind of matters that get litigated would vary across the two governments. If true, these differing approaches will lead to $g(x)$ and $f(x)$ being different.

Cases are either constitutional or non-constitutional. Constitutional ones involve interpreting or applying provisions of the Constitution. Let $P(x)$ be the probability that the government wins a non-constitutional case with merits x. We assume that majority and minority governments have the same probability of winning such cases. This is a key assumption. Also, although not necessary for our results, we expect $P(x)$ to increase in x. For constitutional cases, the likelihood of a government win is instead $P_j(x)$ with $j \in \{A, B\}$ where the subscript A stands for minority and B stands for majority governments. The probability of the government winning in constitutional matters therefore may vary with whether the government in power has a majority. For example, $P_B(x) > P_A(x)$ indicates the Supreme Court's bias towards majority governments in constitutional cases.

The Supreme Court admits only a tiny fraction of cases for full hearing; most are dismissed at the admissibility stage. The court routinely dismisses cases that are overwhelmingly in favour of the respondent after a short preliminary hearing. When the government is the appellant/petitioner, this would lead to the court declining to admit cases with merits lower than some threshold $\underline{x}$. Similarly, when the government is the respondent the court may decline to admit cases with merits higher than some threshold $\overline{x}$. As a result only cases with $x \in [\underline{x}, \overline{x}]$ are admitted and make it to the stage of final judgement. For now the range is held constant across majority and minority governments. We relax this assumption in the extension of the model in Section 3.2.

The proportion of cases decided in favour of the government can be characterised based on (a) the majority status and (b) case type (constitutional or not). We denote these by $\mathbb{W}_{jk}$ for $k \in \{R, C\}$ where R denotes regular matters with no constitutional content and C denotes matters with at least some constitutional content. We have

$$\mathbb{W}_{BC} = \int_{\underline{x}}^{\overline{x}} \frac{P_B(x)g(x)dx}{G(\overline{x}_B) - G(\underline{x})}, \qquad \mathbb{W}_{AC} = \int_{\underline{x}}^{\overline{x}} \frac{P_A(x)f(x)dx}{F(\overline{x}_A) - F(\underline{x}_A)},$$
$$\mathbb{W}_{BR} = \int_{\underline{x}}^{\overline{x}} \frac{P(x)g(x)dx}{G(\overline{x}_B) - G(\underline{x}_B)}, \qquad \mathbb{W}_{AR} = \int_{\underline{x}}^{\overline{x}} \frac{P(x)f(x)dx}{F(\overline{x}_A) - F(\underline{x}_A)}. \tag{1}$$

We aim to identify the presence of a mandate effect in the Supreme Court, which we define as follows. We take the actual set of constitutional cases decided in the tenure of majority governments. We then construct our counterfactual by asking how the same set of cases would have been decided had they been in the tenure of a minority government. The mandate effect is therefore the difference between the average probability of winning the same set

of constitutional cases in the tenure of a majority vs. minority government.

Definition 1. *Mandate effect is* $\int_{\underline{x}}^{\overline{x}} \frac{(P_B(x)-P_A(x))g(x)dx}{G(\overline{x})-G(\underline{x})}$.

This definition identifies the ATT. The treatment $P_B(x) - P_A(x)$ may be heterogeneous across x. That is, the difference in the probabilities may vary depending on the merits of the case. The mandate effect is defined over $g(x)$, the distribution of cases in the tenures of majority governments. This is the treated group of cases. We hope to identify the average increased likelihood of the government winning these cases when it has a majority.

One approach to doing so is to find a set of constitutional cases with the same merits x in the tenure of minority governments and compare the difference in their outcomes. However, merits are difficult to observe. Instead, we take a different approach. We compare all cases decided in the tenures of the two types of government.

Doing so presents the following problem. Comparing outcomes to see if majority governments win more constitutional cases gives us

$$\begin{gathered} \mathbb{W}_{BC} > \mathbb{W}_{AC} \\ \int_{\underline{x}}^{\overline{x}} \frac{P_B(x)g(x)dx}{G(\overline{x}_B) - G(\underline{x})} > \int_{\underline{x}}^{\overline{x}} \frac{P_A(x)f(x)dx}{F(\overline{x}_A) - F(\underline{x}_A)}. \end{gathered} \tag{2}$$

We observe that this comparison is problematic. The two sides of the inequality have different distributions of merits: The distribution for majority governments is $g(x)$ whereas it if $f(x)$ for minority governments. If majority governments systematically litigate cases with lower merits $g(x)$ will be to the left of $f(x)$. $\mathbb{W}_{BC} - \mathbb{W}_{AC}$ would then underestimate the true mandate effect.

To solve this problem we can take the difference in differences instead. This is given by $\mathbb{W}_{BC} - \mathbb{W}_{AC} - \mathbb{W}_{BR} + \mathbb{W}_{AR}$. To make further progress we need the following assumption.

Assumption 1. $P_A(x) - P(x) = \theta$ *for all* x

Assumption 1 can be explained as follows. Take two cases with the same merits x where one case is constitutional and the other is non-constitutional. The difference between the likelihood of a minority government winning the two cases remains constant at θ, which can be positive or negative.

Proposition 1. *Under Assumption 1 the difference in differences is an unbiased estimator for the mandate effect.*

Proof. Let the difference in differences estimator be $\hat{\lambda} = W_{BC} - W_{AC} - W_{BR} + W_{AR}$ where W_{jk} is the empirical mean of cases of type k won by a government of type j. This is given by

$$W_{jk} = \sum_{i=1}^{n_{jk}} \frac{won_{ijk}(x_i)}{n_{jk}} \tag{3}$$

where $won_{ijk}(x_i)$ indicates whether the government won case i. The sample size n_{jk} is the number of type k cases decided in the tenure of a type j government.

First, we need to show that $\mathbb{E}(W_{jk}) = \mathbb{W}_{jk}$. To see this note that $won_{ijk}(x_i)$ is random variable that follows a Bernoulli distribution with mean $p_{ijk}(x_i)$. This represents the probability with which a type j government wins a type k case that has merits x_i. Taking expectations,

$$\begin{aligned}\mathbb{E}(W_{jk}) &= \mathbb{E}\left(\sum_{i=1}^{n_{jk}} \frac{won_{ijk}(x_i)}{n_{jk}}\right) \\ &= \sum_{i=1}^{n_{jk}} \frac{p_{jk}(x_i)}{n_{jk}} \end{aligned} \tag{4}$$

The last term can be rewritten as $\frac{1}{n_{jk}} \sum_{m=1}^{M} p_{jk}(x_m) f_{jk}(x_m)$ where $f_{jk}(x_m)$ is the number of cases of type k with merits x_m that arise in the tenure of a type j government. In the model, the continuous analogue of this is $\mathbb{W}_{jk}$ which is presented in Equations (1).

Next, using $\mathbb{E}(W_{jk}) = \mathbb{W}_{jk}$, we have

$$\begin{aligned}\mathbb{E}(\hat{\lambda}) &= \mathbb{W}_{BC} - \mathbb{W}_{AC} - \mathbb{W}_{BR} + \mathbb{W}_{AR} \\ &= \int_{\underline{x}}^{\overline{x}} \frac{(P_B(x) - P_A(x))g(x)dx}{G(\overline{x}) - G(\underline{x})} - \int_{\underline{x}}^{\overline{x}} \frac{(P_A(x) - P(x))f(x)dx}{F(\overline{x}) - F(\underline{x})} + \int_{\underline{x}}^{\overline{x}} \frac{(P_A(x) - P(x))g(x)dx}{G(\overline{x}) - G(\underline{x})} \\ &= \int_{\underline{x}}^{\overline{x}} \frac{(P_B(x) - P_A(x))g(x)dx}{G(\overline{x}) - G(\underline{x})} \underbrace{-\theta \int_{\underline{x}}^{\overline{x}} \frac{f(x)dx}{F(\overline{x}) - F(\underline{x})} + \theta \int_{\underline{x}}^{\overline{x}} \frac{g(x)dx}{G(\overline{x}) - G(\underline{x})}}_{\text{by Assumption 1}} \\ &= \int_{\underline{x}}^{\overline{x}} \frac{(P_B(x) - P_A(x))g(x)dx}{G(\overline{x}) - G(\underline{x})} - \theta + \theta \\ &= \int_{\underline{x}}^{\overline{x}} \frac{(P_B(x) - P_A(x))g(x)dx}{G(\overline{x}) - G(\underline{x})}. \end{aligned} \tag{5}$$

The last term, as per Definition 1, is the mandate effect. □

This proposition shows that under the assumptions of the model we are able to identify the ATT. Treatment in our setup is whether the government has a majority. The set of treated cases follow the distribution $g(x)$. We identify the average increase in the likelihood of a government win relative to the counterfactual where the same set of cases were instead filed in the tenures of minority governments.

Note that so far we have made no distinction between filed and decided cases. They both follow the same distribution. However, it is possible that the court acts strategically in a way that the distribution of filed cases differs from the distribution of decided cases. We consider this possibility in the extension that follows.

3.2 Strategic behaviour

So far we have assumed that the court can only favour majority governments through final judgements in constitutional matters. However, there are other strategies available to the court. The presence of alternate strategies could introduce a bias in our estimation. We address the two other ways in which the court may be strategic towards majority governments in this section.

First, the court may treat majority governments differently at the admission stage. For example, the court may be more lenient in admitting cases filed by the government when it has a majority. Or, it may be especially strict in admitting cases filed against the government when it has a majority. This would mean that the lower and upper bound of the distribution of admitted cases varies by whether the government has majority. To allow this we let the court admit cases with merits $x \in [\underline{x}_j, \overline{x}_j]$ for $j \in \{A, B\}$. Only matters with merits $x \in [\underline{x}_j, \overline{x}_j]$ will reach the stage of a judgement in the tenure of a type j government. For example, if the court is more favourable towards majority governments we would expect $\underline{x}_B < \underline{x}_A$ and $\overline{x}_B < \overline{x}_A$.

Second, it is possible that the court may indefinitely delay certain problematic matters after admitting them. Moreover, it is possible it does this in a way that is systematically different for majority and minority governments. If true, the distribution of merits of cases that reach final judgements will be different from the distribution of admitted cases. To allow for this possibility, we let the court change the distributions of filed cases given by $g(x)$ and $f(x)$ to be altered to $\tilde{g}(x)$ and $\tilde{f}(x)$ which represent the distributions of decided cases. This allows the possibility that the court treats the two governments differently when it decides to strategically delay or expedite certain matters.

Definition 2. *With strategic behaviour the mandate effect is* $\int_{\underline{x}_B}^{\overline{x}_B} \frac{(P_B(x) - P_A(x))\tilde{g}(x)dx}{\tilde{G}(\overline{x}) - \tilde{G}(\underline{x})}$.

Definition 2 modifies the notion of the mandate effect in the environment where the court strategically alters the distribution of decided cases. Strategic behaviour leads to the distribution of filed cases $g(x)$ being different from that of decided cases $\tilde{g}(x)$. The mandate effect per this definition is still the ATT on the population of decided constitutional cases.

Assumption 2. *Court's strategic behaviour on admission and delay may vary across governments and merits but does not vary between constitutional and non-constitutional cases.*

This assumption allows the court's admission behaviour to vary between the two types of governments. That is, the upper and lower bounds of x between which matters are admitted could be different for the two governments. When it comes to delay or hastening of matters the court could, for example, hasten high x and delay low x matters specifically for majority governments. The only constraint that Assumption 2 places is that this strategic behaviour does not vary between constitutional and non-constitutional cases. Using this assumption we can state the following result.

Proposition 2. *Allowing for strategic admissions and delays, difference in differences is an unbiased estimator for the mandate effect under Assumptions 1 and 2.*

Proof. The difference in differences estimator is $\hat{\lambda} = W_{BC} - W_{AC} - W_{BR} + W_{AR}$ where W_{jk} is the mean of cases of type k won by a government of type j. This is given by $W_{jk} = \sum_{i=1}^{n_{jk}} \frac{won_{ijk}(x_i)}{n_{jk}}$ where $won_{ijk}(x_i)$ indicates whether the government won case i. The sample size n_{jk} is the number of type k cases decided in the tenure of a type j government. From the proof of Proposition 1 we know that $\mathbb{E}(W_{jk}) = \mathbb{W}_{jk}$, and we have

$$\begin{aligned}
\mathbb{E}(\hat{\lambda}) &= \mathbb{W}_{BC} - \mathbb{W}_{AC} - \mathbb{W}_{BR} + \mathbb{W}_{AR} \\
&= \int_{\underline{x}_B}^{\overline{x}_B} \frac{(P_B(x) - P_A(x))\tilde{g}(x)dx}{\tilde{G}(\overline{x}_B) - \tilde{G}(\underline{x}_B)} - \int_{\underline{x}_A}^{\overline{x}_A} \frac{(P_A(x) - P(x))\tilde{f}(x)dx}{\tilde{F}(\overline{x}_A) - \tilde{F}(\underline{x}_A)} + \int_{\underline{x}_B}^{\overline{x}_B} \frac{(P_A(x) - P(x))\tilde{g}(x)dx}{\tilde{G}(\overline{x}_B) - \tilde{G}(\underline{x}_B)} \\
&= \int_{\underline{x}_B}^{\overline{x}_B} \frac{(P_B(x) - P_A(x))\tilde{g}(x)dx}{\tilde{G}(\overline{x}_B) - \tilde{G}(\underline{x}_B)} \underbrace{-\theta \int_{\underline{x}_A}^{\overline{x}_A} \frac{\tilde{f}(x)dx}{\tilde{F}(\overline{x}_A) - \tilde{F}(\underline{x}_A)} + \theta \int_{\underline{x}_B}^{\overline{x}_B} \frac{\tilde{g}(x)dx}{\tilde{G}(\overline{x}_B) - \tilde{G}(\underline{x}_B)}}_{\text{by Assumption 1}} \\
&= \int_{\underline{x}_B}^{\overline{x}_B} \frac{(P_B(x) - P_A(x))\tilde{g}(x)dx}{\tilde{G}(\overline{x}_B) - \tilde{G}(\underline{x}_B)} - \theta + \theta \\
&= \int_{\underline{x}_B}^{\overline{x}_B} \frac{(P_B(x) - P_A(x))\tilde{g}(x)dx}{\tilde{G}(\overline{x}_B) - \tilde{G}(\underline{x}_B)}. \qquad (6)
\end{aligned}$$

The last term, as per Definition 2, is the mandate effect. □

Propositions 2 shows that we can empirically identify the ATT on decided cases using difference in differences. This is because the mandate effect is defined as the change in the average likelihood of a government win in constitutional cases that are decided in the tenures of majority governments *if the same cases* were instead decided in the tenures of minority governments.

Finally, the model also allows us to make a prediction about the difference between majority and minority governments in non-constitutional cases.

Assumption 3. *The probability of the government winning a non-constitutional case is linear and increasing in x.*

Recall that $P(x)$, the probability of winning non-constitutional cases conditional on merits x, is the same for minority and majority governments. Assumption 3 implies that $P(x) = \rho_0 + \rho_1 x$ and $\rho_1 > 0$. This allows us to derive our final result.

Proposition 3. *Under Assumption 3, majority governments win a smaller proportion of non-constitutional cases if and only if they have lower merits on average.*

Proof. Minority government having a higher likelihood of winning non-constitutional cases

relative to majority governments is expressed as

$$\begin{aligned}
&\mathbb{W}_{AR} > \mathbb{W}_{BR} \\
&\Leftrightarrow \int_{\underline{x}_A}^{\overline{x}_A} \frac{P(x)\tilde{f}(x)dx}{\tilde{F}(\overline{x}_A) - \tilde{F}(\underline{x}_A)} > \int_{\underline{x}_B}^{\overline{x}_B} \frac{P(x)\tilde{g}(x)dx}{\tilde{G}(\overline{x}_B) - \tilde{G}(\underline{x}_B)} \\
\Leftrightarrow \rho_0 \frac{\tilde{F}(\overline{x}_A) - \tilde{F}(\underline{x}_A)}{\tilde{F}(\overline{x}_A) - \tilde{F}(\underline{x}_A)} + \rho_1 \int_{\underline{x}_A}^{\overline{x}_A} \frac{x\tilde{f}(x)dx}{\tilde{F}(\overline{x}_A) - \tilde{F}(\underline{x}_A)} &> \rho_0 \frac{\tilde{G}(\overline{x}_B) - \tilde{G}(\underline{x}_B)}{\tilde{G}(\overline{x}_B) - \tilde{G}(\underline{x}_B)} + \rho_1 \int_{\underline{x}_B}^{\overline{x}_B} \frac{x\tilde{g}(x)dx}{\tilde{G}(\overline{x}_B) - \tilde{G}(\underline{x}_B)} \\
&\Leftrightarrow \int_{\underline{x}_A}^{\overline{x}_A} \frac{x\tilde{f}(x)dx}{\tilde{F}(\overline{x}_A) - \tilde{F}(\underline{x}_A)} > \int_{\underline{x}_B}^{\overline{x}_B} \frac{x\tilde{g}(x)dx}{\tilde{G}(\overline{x}_B) - \tilde{G}(\underline{x}_B)} \text{ (since } \rho_1 > 0) \qquad (7)
\end{aligned}$$

The last terms on the left (right) side of the inequality is the average merits of non-constitutional cases decided in the tenures of minority (majority) governments. □

Proposition 3 states that any difference observed between majority and minority governments in non-constitutional cases arises solely due to the differences in the merits. Therefore if majority governments win fewer non-constitutional matters, it suggests that these cases on average are worse on merits relative to those decided in the tenures of minority governments. Note that for this result we only need Assumption 3 and not Assumptions 1 and 2.

4 Identification strategy and results

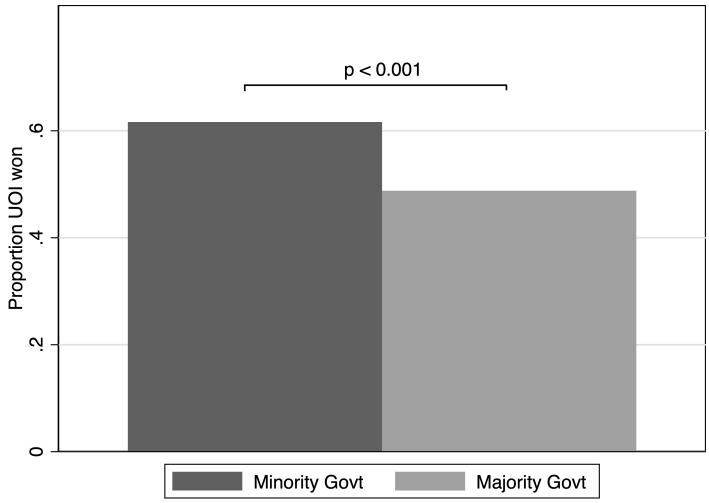
In this section we present our identification strategy (Section 4.1), main results (Section 4.2) and robustness checks (Section 4.3).

4.1 Identification strategy

Does the Supreme Court respond to electoral mandates? To answer this question we begin by examining the fraction of cases won by majority and minority governments. This is presented in Figure 1. Contrary to expectation, we observe that minority governments are about 12.8 percentage points more likely to win cases. Moreover, this difference is strongly significant. *Prima facie* this suggests that the notion of courts being more pliant towards majority governments is not true in India. On the contrary, the court seems to minority governments better as they are significantly more likely to win. However, as we discuss next, such an interpretation may be problematic.

Governments may differ in how aggressively they litigate. It is possible that parliamentary majority emboldens a government to be more ambitious in how it conducts its business. This may make it more aggressive in its executive and legislative actions as well as in the cases it chooses to litigate. Consequently, the nature of cases that the Supreme Court decides may be substantially skewed against a majority government on merits. If true, this would lead to an unbiased Supreme Court deciding more cases in favour of minority governments. As such, the difference between the two types of governments that we see in Figure 1 may not indicate the

Figure 1: Proportion of cases won by Minority and Majority Governments



The figure presents the proportion of cases where Union of India won under Minority and Majority governments. The p-value on top is the p-value of the difference between the two.

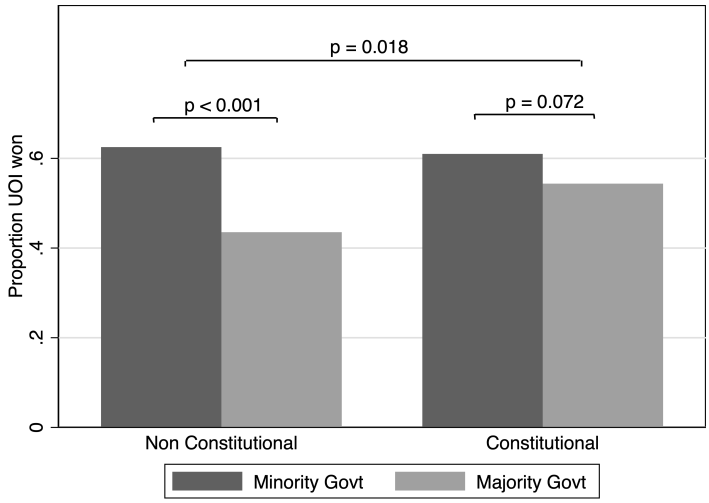
absence of a mandate effect. The identification challenge in answering this question is that we do not observe the "merits" of the case. Ideally, we would like to observe how the Supreme Court decides identical cases in the tenure of a majority vs. minority government.

To address this problem we investigate whether the difference between majority and minority governments in the likelihood of winning a case varies between constitutional and non-constitutional cases. Non-constitutional cases typically include contractual disputes with a state entity, disputes involving land, taxation, and also criminal appeals. Such matters involving state institutions are less likely to have political stakes in a way that the government in power has a strong preference over the outcome. Constitutional cases typically include cases where administrative, executive, and legislative actions are challenged. Such cases are likely to have greater political stakes and consequently a mandate effect, if it exists, is more likely to appear in these cases.

Conceptually, we do the following: We look at the difference between the two types of government in the likelihood of winning a non-constitutional case. This difference may be ascribed to the difference in the appetites of majority and minority governments in how and what they litigate before the court. We then assume that these factors carry over to constitutional matters. If the court decides constitutional cases purely on merits we expect to see the same difference in proportion of cases won being replicated in these cases. In absence of any mandate effect, we expect the difference in the likelihood of winning constitutional and non-constitutional cases to remain constant across majority and minority governments.

Figure 2 presents this argument graphically. We observe that in non-constitutional cases the difference between majority and minority governments in the likelihood of winning is about 19 percentage points. Therefore, based on our assumption, in the absence of any mandate

Figure 2: Proportion of constitutional and non-constitutional cases won by Minority and Majority Governments



The figure presents the proportion of cases where Union of India won under minority and majority governments. Cases are classified as constitutional if the words "constitution" or "constitutional" appear in the SCC Online short-notes. The p-value over each set of two bars is the p-value for the test in differences of the means for Minority and Majority governments. The p-value of 0.018 spanning all four bars is the p-value for the difference-in-differences between the four bars.

effect, we should expect to see the same difference arise in constitutional maters. However, we observe a *relative increase* in the proportion of constitutional matters decided in favour for majority governments. This difference in differences is about 12 percentage points and is statistically significant.

Therefore, the key identifying assumption is that conditional on other covariates, any average difference in the unobservable "merits" between majority and minority governments remains constant across constitutional and non-constitutional cases. The relationship between our identifying assumption, the unbiasedness of our estimates, and the behaviour of the court is formalised in the model presented in Section 3. There we establish that, under the assumptions of our model, the results that follow represent the average effect of treatment on the treated cases. In Section 6 we discuss how this assumption may fail and other caveats that apply to our results.

4.2 Main results

To operationalise the strategy discussed above we regress

$$won_{ijk} = \alpha_0 + \textstyle\sum_q \alpha_q b_{iq} + \delta * t + \beta\, constitution_{ik} + \mu\, majority_{ij} + \lambda\, constitution_{ik} \times majority_{ij} + \mathbf{Z}'_{ijk}\eta + \varepsilon_{ijk}. \quad (8)$$

Our dependent variable is an indicator for whether the government j won case i of type k. The variable constitution is an indicator for whether the word "constitution" or "constitutional" appears in the short notes of the case. The variable majority is an indicator for whether the government has majority in the lower house of parliament. Our key independent variable is the interaction term $constitution_{ik} \times majority_{ij}$. Hence our difference-in-differences strategy uses the two following dimensions of variation: First, case level variation on whether the case has constitutional content. And second, government level variation on whether the government has majority in the lower house of parliament. The coefficient of interest λ captures the relative increase in the likelihood of the government winning a constitutional case when the government has a majority.

To control for any temporal changes that occur in the court's judicial philosophy we include a linear time trend $\delta * t$. We include $\mathbf{Z}_{ijk}$, a vector of case level factor variables, which control for whether the case is an appeal or petition or neither, the role of UOI (appellant/ petitioner or respondent or neither), dummies for bench size (dummies for whether the case is decided by two, three, five, seven, or nine judges), indicator for whether the matter involves service law, tax law, or administrative law[13] and an indicator for whether the Chief Justice was part of the bench. In the last two columns we include government dummies, one dummy each for the four governments in the sample. In these specifications we cannot include the majority indicator as that only varies at the government level.

The composition of the Supreme Court changes over time. The average tenure of a Supreme Court judge is a little over five years. This means that the set of judges does not remain the same over our sample period. The variation in judicial philosophy due to changes in the composition of the court could explain case outcomes across different governments. To address this we control for judge dummies $\sum_q \alpha_q b_{iq}$ which includes one dummy for each judge j on the bench deciding the case.

The results are presented in Table 4. We observe that the estimate for μ is negative and significant. An estimate of 0.17 suggests that a minority government is 17% more likely to win a non-constitutional case. Based on Proposition 3, we interpret this as majority governments litigating lower merit cases compared to minority governments. On the other hand our estimate for λ, is positive and significant.[14] Based on Propositions 1 and 2, we interpret this as the mandate effect. An estimate of $\lambda = 0.12$ suggests that the likelihood of government winning a constitutional case increase by 12% when government has a majority.

4.3 Robustness checks

In this section we check several elements of the specification for robustness.

13. These are measured by whether the phrase "service law" or "service rules", "tax" or "taxation", "administrative law" appear in the short notes, respectively.

14. Statistical significance is computed using robust standard errors. Results are also significant when we instead cluster the standard errors at the government level. However, there are too few clusters as we only have four governments in the sample.

Table 4: Baseline: Constitutional cases and majority

	(1)	(2)	(3)	(4)	(5)
Constitution	-0.0152	0.0206	0.0231	0.0243	0.0309
	(0.0281)	(0.0294)	(0.0295)	(0.0295)	(0.0301)
Majority	-0.190***	-0.178***	-0.126**		
	(0.0376)	(0.0376)	(0.0505)		
Constitution × Majority	0.123**	0.128**	0.124**	0.119**	0.139**
	(0.0528)	(0.0527)	(0.0528)	(0.0530)	(0.0547)
Constant	0.625***	0.400*	0.404*	0.311	0.310
	(0.0211)	(0.221)	(0.220)	(0.227)	(0.368)
Case controls	No	Yes	Yes	Yes	Yes
Linear time trend	No	No	Yes	Yes	Yes
Govt dummies	No	No	No	Yes	Yes
Judge dummies	No	No	No	No	Yes
Observations	1716	1716	1716	1716	1716

The dependent variable is an indicator for whether the government won the case. Case controls include dummies for type of case (appeal or petition or neither), dummies for union role (appellant/petitioner or respondent or neither), dummies for bench size, an indicator for the presence of the Chief Justice on the bench, and indicators for service law/rules, tax/taxation, and administrative law. Robust standard errors reported in the parentheses. * $p < 0.1$, ** $p < 0.05$, *** $p < 0.01$

4.3.1 Disaggregating the four governments

There are four governments in our sample. Three of these were minority governments whereas the Modi government had a majority. In this section we disaggregate our analysis by allowing the effects to vary across all four governments. We regress

$$won_{ijk} = \sum_q \alpha_j b_{iq} + \delta * t + \beta\ constitution_{ik} + \sum_{j=1}^{4} \mu_j Govt_{ij} + \sum_{j=1}^{4} \lambda_j\ constitution_{ik} \times Govt_{ij} + \mathbf{Z}'_{ijk}\eta + \varepsilon_{ijk}. \quad (9)$$

Table 5 reports the results. The first government in our sample (Vajpayee from 1999-2004) forms our reference category. When it comes to constitutional cases, the one majority government (Modi) stands out. We observe that the Modi government experiences a relative increase in the likelihood of winning a constitutional case. For comparison we also include the p-values associated with $\lambda_4 = \lambda_2$, that is comparing Modi to UPA1 and, $\lambda_4 = \lambda_3$, that is comparing Modi to UPA2. The low $p-$ values suggest that the Modi government is indeed treated differently relative to the other governments. These results suggest that the restriction in our baseline specification, where all minority government are clubbed together, is valid. The results also suggest that the mandate effect we have identified is not proxying for an NDA effect. The first NDA government in our sample (Vajpayee from 1999-2004) is statistically distinct from the Modi government but indistinguishable from the two UPA governments (the other two minority governments in our sample).

4.3.2 Constitutional cases

In our baseline specification we have used an indicator for whether the case was constitutional or not. In this section we test the robustness of our results to varying this.

First, we substitute our indicator for constitutional case with a continuous measure for constitutional content. The results reported in Table 9 in Appendix A shows that the estimates for the coefficient of the interaction term remain positive and significant.

Second, instead of focusing only on the short notes, we use the count of the words "constitution" and "constitutional" in the headnotes. Headnotes include both the short and the long notes where long notes are the important parts of the judgement that are identified by SCC Online and quoted verbatim and presented before the text of the judgement. Table 10 in Appendix A shows that the estimates for the coefficient of the interaction term remain positive and significant.

4.3.3 Parliamentary characteristics

In our baseline specification we have used an indicator variable for whether the government has majority in the lower house of parliament as a proxy for its strength. However, there

Table 5: Effect disaggregated by the four governments

	(1)	(2)	(3)	(4)
Constitution	0.00873	0.0167	0.0287	0.0278
	(0.0542)	(0.0552)	(0.0561)	(0.0564)
UPA1	0.00519	0.0608	0.0763	0.0684
	(0.0521)	(0.0844)	(0.0853)	(0.0974)
UPA2	-0.0405	0.125	0.152	0.138
	(0.0557)	(0.101)	(0.103)	(0.132)
Modi	-0.200***	0.0214	0.0463	0.0261
	(0.0513)	(0.106)	(0.112)	(0.166)
UPA1 $\times$ Constitution (λ_2)	-0.0381	-0.0229	-0.0142	-0.0131
	(0.0706)	(0.0725)	(0.0727)	(0.0732)
UPA2 $\times$ Constitution (λ_3)	-0.0188	0.00779	0.0247	0.0253
	(0.0727)	(0.0751)	(0.0755)	(0.0757)
Modi $\times$ Constitution (λ_4)	0.0995	0.125*	0.141*	0.143**
	(0.0703)	(0.0715)	(0.0720)	(0.0727)
Constant	0.636***	0.506***	0.311	0.320
	(0.0408)	(0.0820)	(0.367)	(0.372)
Judge dummies	No	Yes	Yes	Yes
Case controls	No	No	Yes	Yes
Linear time trend	No	No	No	Yes
Observations	1716	1716	1716	1716
p-value $H_0 : \lambda_4 = \lambda_2$	0.031	0.024	0.018	0.018
p-value $H_0 : \lambda_4 = \lambda_3$	0.073	0.086	0.091	0.088

The dependent variable is an indicator for whether the government won the case. Case controls include dummies for type of case (appeal or petition or neither), dummies for bench size, an indicator for the presence of the Chief Justice on the bench, and indicators for service law/rules, tax/taxation, and administrative law. Robust standard errors reported in the parentheses. * $p < 0.1$, ** $p < 0.05$, *** $p < 0.01$

are many other alternative proxies. Next we show that our results are qualitatively similar regardless of how a government's "strength" in the lower house of parliament is measured.

First, we use the lower house seat share of all the coalition parties that compose the government. The results are reported in Table 11 in Appendix A. Second, we use only the lower house seat share of the main party in power (Congress or BJP). The results are reported in Table 12 in Appendix A. We observe that the estimates for λ remain positive and significant.

Third, we use the lower house seat share of the largest opposition party. The weakness of the opposition may be an alternative way of characterising the strength of the government. We expect a negative relationship between the seat share of the opposition and the strength of the government. Consequently, with this measure we expect λ to be negative as a bigger opposition in parliament would lead to the Supreme Court being less pliant. The results reported in Table 13 in Appendix A confirm this.

Finally, we use use two alternative measures of parliamentary competitiveness as proxies for government strength. First, we compute the Herfindahl index based on the party-seat shares in the lower house. A higher score indicates a less competitive lower house. Second, we compute the effective number of parties in the lower house as the inverse of the Herfindahl index. A higher score indicates a more competitive lower house. The results are reported in Tables 14 and 15 in Appendix A. We observe that consistent with our previous results a less competitive parliament leads to an increased likelihood of the government winning in constitutional cases. This suggests that the mandate effect we have identified is robust to different ways of characterising the electoral mandate.

4.3.4 Dropping cases after change in government

In our analysis cases have been mapped to the government in power based on whether the date of the decision in the case falls within the tenure of the government. A potential problem with this approach can be illustrated through the following example. A case that was decided in favour of the government in June 2004 would be counted as having been decided in favour of the UPA government that took office in May 2004. However, it is likely that such a case actually originated in the tenure of the previous NDA government. Conceptually, it is unclear whether such a case should be counted as a win for the UPA or not. On one hand, it may be a case where on the subject matter the two government are opposed and the case being decided in favour of the government is actually against the policy preferences of the UPA. On the other hand, it may be a decision that endorses say the use of executive action by the government and winning it would strengthen the government in power. Such a win would therefore be viewed favourably by the UPA even though the case originated in the tenure of the NDA.

In our data, we do not observe the date on which the case originated. Therefore to deal with this concern we simply drop the cases decided in the first six month after a change in government. The results reported in Table 16 in Appendix A. We observe that the estimates remain statistically significant and numerically close to the ones estimated previously. This suggests that the inclusion of cases that were decided at the cusp of a change in government

does not affect our results.

4.3.5 Including other interacting variables

It is possible that whether the case is constitutional or not is correlated with the presence of words and phrases that may be associated with other types of subject matter. If so, our interaction term may be picking up the effect of majority in other kinds of cases. To address this we parse the text of the short notes to extract three additional type characteristics of a case namely "service law" or "service rules", "tax" or "taxation", and "administrative law". As seen in Table 2, these are some of the most litigated areas of law. Using this information we construct similar indicators for whether the case is a service case, tax care and administrative case. We include these indicators along with their interactions with the majority indicator and report the results in Table 17 in Appendix A. We observe that the effect we have identified for constitutional cases remains unaffected.

Next, we explore a battery of other interacting variables that could be confounding our results. Results are reported in Table 18 in Appendix A. First, we examine the effect of the presence of the Attorney or Solicitor General in the case. These are the two premier lawyers that represent the government in the most important cases. We observe that their presence is positively associated with the likelihood of a government win. However, we do not observe this effect varying with whether the government in power has majority or not. Moreover, the inclusion of these in the regression does not interfere with the coefficient estimate for our interaction term of interest.[15]

Constitutional matters, when decided by large benches (benches composed of three or more judges rather than the usual two judge bench) are often assigned to more senior judges. It is possible that senior judges are more sensitive to government majority. If so, we may instead pick up the effect of the interaction between judge seniority and government majority. To account for this we include the mean tenure of the judges on the bench and its interaction with the majority indicator. Similarly we interact the majority indicator with an indicator for whether the case is decided by a large bench. We observe that these have no effect on the likelihood of a government win and our coefficient of interest remains unaffected. In a similar vein, we interact the presence of the Chief Justice on the bench with the majority indicator to see if our results are driven by strategic decision making by the Chief Justice.

4.3.6 When the government is respondent

One concern with our results is that the likelihood of the government appearing in court as a respondent varies with whether the government has majority or whether the case has constitutional content. Although we control for the role of the government (appellant/petitioner, or respondent or neither) and the type of case (appeal, or petition, or neither), it is possible that

15. Note that our sample size drops since we do not observe the identity of lawyers appearing in the case for some of the cases. Consequently, whether the Attorney or Solicitor General were present in these cases is unknown.

these vary across governments and across constitutional and non-constitutional matters. To adequately account for this we include two new interaction terms: First, we interact whether the government is a respondent in a case or not with whether the case is constitutional. And second, we interact the same with our majority indicator. Results reported in Table 22 in the Appendix A show that the coefficients for both these interactions are insignificant and moreover our key coefficient of interest remains unchanged.

4.3.7 Alternate coding for not identifiable cases

There are 144 cases in our sample that where the winner was coded as "not identifiable". We rerun the analysis by first coding these as cases where Union of India won. Next, we code these cases as Union of India lost. Results reported in Tables 19 and 20 in Appendix A show estimates that are similar to our baseline results.

5 Unpacking the court's behaviour

In this section we attempt to push our investigation further. First, in Section 5.1, using the word count of judgements as a proxy for judicial effort we find that judges exert greater effort when they decide against a majority government in constitutional matters. Next, in Section 5.2 we try to see if we can distinguish between the parliamentary strength vs. personality as an explanation for our results. We find inconclusive results on this front. Finally, in Section 5.3 we disaggregate our class of constitutional cases and find heterogeneity in the majority effect we have found. The effect we have identified appears strongest in the cases with intermediate constitutional content and disappears in the most high profile matters.

5.1 Government majority and judicial effort

What explains the mandate effect? Perhaps the court fears greater blowback when the government is more powerful. In 2014 the Modi government amended the Indian constitution to wrest back from the Supreme Court the power to appoint its own judges. Although the Supreme Court struck down the amendment, this episode demonstrates that majority governments may have greater ability to interfere with the judiciary. Being strategically compliant with more powerful governments in important cases may work to protect the institutional turf of the Supreme Court.

Following this line of reasoning, we may also expect that when the court does decide against a majority government in constitutional cases, it goes to greater lengths to justify its decision. In this section we explore whether this is true. We investigate this by examining the length of the text of the judgement. This may be a reasonable proxy for the degree to which judges explain their decision. We regress

Table 6: Word count analysis

	(1)	(2)	(3)	(4)	(5)
UOI won	-0.0335	-0.0338	-0.0305	-0.0294	0.0337
	(0.0344)	(0.0330)	(0.0333)	(0.0334)	(0.0355)
Constitution	0.215***	0.0972**	0.0899**	0.0889**	0.141***
	(0.0505)	(0.0446)	(0.0448)	(0.0447)	(0.0437)
Majority	-0.106*	-0.166***	-0.284***		
	(0.0624)	(0.0596)	(0.0712)		
UOI won × Majority	-0.403***	-0.337***	-0.338***	-0.337***	-0.210
× Constitution (γ)	(0.135)	(0.120)	(0.120)	(0.120)	(0.142)
UOI won × Majority	0.151*	0.186**	0.181**	0.179**	0.0640
	(0.0909)	(0.0858)	(0.0860)	(0.0859)	(0.0902)
Constitution × UOI won	0.102*	0.0902	0.0929*	0.0920*	0.0304
	(0.0616)	(0.0557)	(0.0555)	(0.0554)	(0.0540)
Constitution × Majority (λ)	0.394***	0.380***	0.391***	0.394***	0.231**
	(0.0963)	(0.0846)	(0.0848)	(0.0847)	(0.0916)
Constant	-0.0302	-0.566*	-0.577*	-0.554*	-1.275***
	(0.0249)	(0.318)	(0.310)	(0.325)	(0.445)
Case controls	No	Yes	Yes	Yes	Yes
Linear time trend	No	No	Yes	Yes	Yes
Govt dummies	No	No	No	Yes	Yes
Judge dummies	No	No	No	No	Yes
Observations	1716	1716	1716	1716	1716
p-value $H_0 : \gamma = -\lambda$	0.926	0.635	0.552	0.532	0.840

The dependent variable is $\ln(0.01+$case word count$)$ normalised to have zero mean and unit standard deviation. Case controls include dummies for type of case (appeal or petition or neither), dummies for union role (appellant/petitioner or respondent or neither), dummies for bench size, an indicator for the presence of the Chief Justice on the bench, and indicators for service law/rules, tax/taxation, and administrative law. Robust standard errors reported in the parentheses. * $p < 0.1$, ** $p < 0.05$, *** $p < 0.01$

$$
\begin{aligned}
ln(wordcount)_{ijk} = \alpha_0 + \textstyle\sum_q \alpha_q b_{iq} + \mu_j + \delta * t + \kappa\, won_{ijk} + \beta\, constitution_{ik} \\
+ \gamma\, won_{ijk} \times majority_{ij} \times constitution_{ik} \\
+ \pi\, won_{ijk} \times majority_{ij} + \phi\, won_{ijk} \times constitution_{ik} \\
+ \lambda\, constitution_{ik} \times majority_{ij} + \mathbf{Z}'_{ijk}\eta + \varepsilon_{ijk}, \qquad (10)
\end{aligned}
$$

where λ represents the change in the word count in constitutional cases that are decided against a majority government. The results are reported in Table 6.

We find that the estimates for λ are positive and significant. This shows that the word count is higher in constitutional cases when the decision is made against a government that has a majority. This effect disappears when the government wins: We observe that the estimate for γ is very similar in magnitude but has the opposite sign. This is confirmed by the high p-values reported in the last row where we test for the equality of the magnitudes of the two opposing effects.

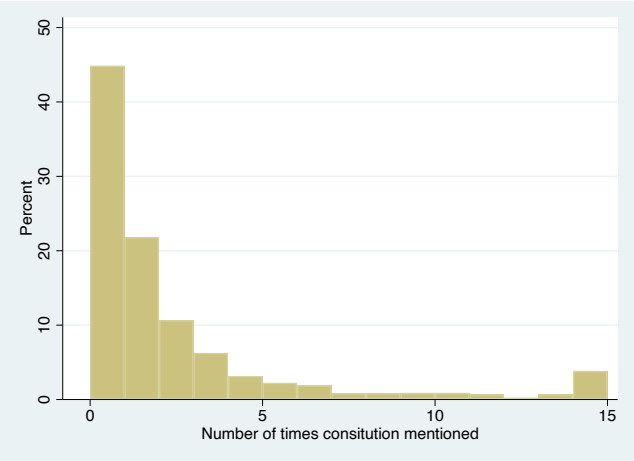
This suggests that judges feel additional pressure to explain unfavourable decisions in constitutional cases when the government at the receiving end has a majority. The same underlying pressure to be more compliant towards a majority government in constitutional cases manifests in two ways: First, it leads to relatively more decisions in favour of the government. Second, when the decision goes against the government, judges make more effort to explain the decision.

5.2 Majority or personality?

Next, we attempt to analyse whether what we have observed is the effect of majority or whether the court is more pliant towards the Modi administration for other reasons. It is impossible to answer this questions using the majority indicator since the Modi government is the only government in our sample with majority. We therefore address this question by using alternative measures of parliamentary composition discussed in Section 4.3.3. Unlike the majority indicator, there is variation across minority governments in these variables. We analyse whether these measures continue to show a similar pattern to the one we observed before, even after dropping the Modi government from our sample. This would suggest that what we are identifying is a change in the Court's behaviour induced by changes in the parliamentary strength of governments and that the behaviour is not specific to the Modi government.

The results are reported in Table 21 in Appendix A. None of the estimated coefficients of the interactions are significant. This suggests that perhaps Modi government is treated differently by the Court. However, we observe that the sign of the coefficients is consistently the same as the ones observed in Tables 11, 12, 13,14 and 15 although the magnitudes are smaller. This suggests that analysis on the non-Modi sample yields qualitatively similar results. These results are therefore insufficient to distinguish between whether what we are identifying is a

Figure 3: Distribution of constitution count in the shortnotes



The x-axis is the number of times the words "constitution" or "constitutional" appear in the short notes. Cases with a count of more than 15 are lumped in the last bin.

majority effect or a Modi effect.

5.3 What is a "constitutional" case?

In this section we examine the presence of heterogeneity in the mandate effect based on the quantum of constitutional content. Figure 3 shows the distribution of the count variable used for the construction of the "constitution" indicator. We observe that the support of the distribution is large. This is because constitutional cases cover a large range of matters.

Non-constitutional cases, that is cases where the constitution count is zero, cover disputes where a state entity is a party. As mentioned earlier, these could include contractual disputes with a state entity, disputes involving land, taxation, and also criminal appeals. Such matters involving state institutions are less likely to have political stakes in a way that the government in power has a strong preference over the outcome.

Cases with a small but positive constitution count are matters where administrative actions and low profile executive actions are challenged. A low but positive constitutional count suggests that the case concerns just one area of constitutional law. The government in power is likely to have some stakes in the outcome of such cases.

Finally, we have cases with a large constitution count. These cases would typically involve challenges to laws or high profile executive actions. In such cases it is possible that several parts of the constitutions are in play or several previous judgements of the Supreme Court on constitutional issues may be in question. Such cases would require *de novo* thinking as the Supreme Court may be breaking new legal ground. The political stakes are likely to be high in such cases.

To examine heterogeneous effects we construct three bins based on the number of times the words "constitution" or "constitutional" appear in the short notes – zero (44% of the cases),

Table 7: Constitutional content disaggregated

	(1)	(2)	(3)	(4)	(5)
Con 1-4	-0.0350	-0.00322	-0.00127	0.0000297	0.0102
	(0.0299)	(0.0304)	(0.0304)	(0.0304)	(0.0309)
Con 5+	0.0547	0.143***	0.151***	0.153***	0.160***
	(0.0433)	(0.0480)	(0.0482)	(0.0481)	(0.0511)
Majority	-0.190***	-0.176***	-0.117**		
	(0.0376)	(0.0376)	(0.0505)		
Con 1-4 × Majority	0.167***	0.175***	0.171***	0.167***	0.173***
	(0.0575)	(0.0575)	(0.0576)	(0.0577)	(0.0588)
Con 5+ × Majority	-0.00432	-0.0261	-0.0350	-0.0409	-0.00914
	(0.0801)	(0.0798)	(0.0800)	(0.0802)	(0.0854)
Constant	0.625***	0.398*	0.402*	0.308	0.343
	(0.0211)	(0.222)	(0.221)	(0.227)	(0.362)
Case controls	No	Yes	Yes	Yes	Yes
Linear time trend	No	No	Yes	Yes	Yes
Govt dummies	No	No	No	Yes	Yes
Judge dummies	No	No	No	No	Yes
Observations	1716	1716	1716	1716	1716

The dependent variable is an indicator for whether the government won the case. The "con" variables are indicators are constructed from using number of times the words "constitution" or "constitutional" appear in the short notes. They indicate whether or not the case is in the stated range. Cases with 0 count form the reference category. Case controls include dummies for type of case (appeal or petition or neither), dummies for union role (appellant/petitioner or respondent or neither), dummies for bench size, an indicator for the presence of the Chief Justice on the bench, and indicators for service law/rules, tax/taxation, and administrative law. Robust standard errors reported in the parentheses. * $p < 0.1$, ** $p < 0.05$, *** $p < 0.01$

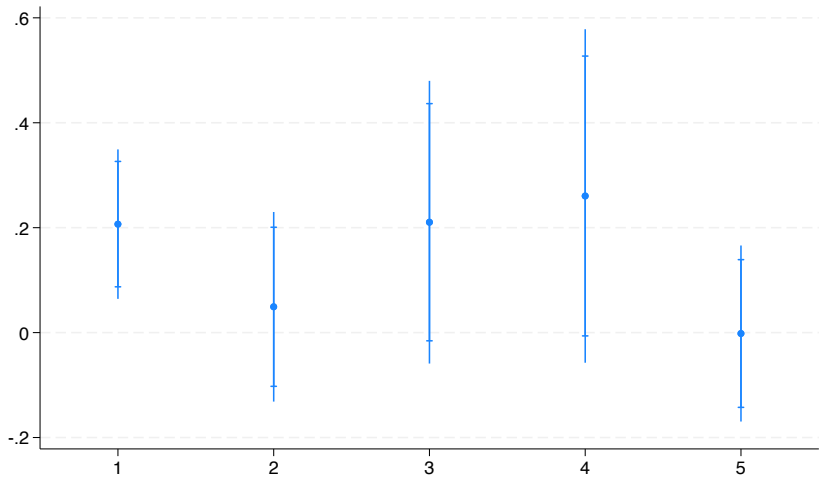
one to four (41%), five or more (15%). The results are reported in Table 7. We observe that the effect of majority is only prominent in cases in the intermediate bin where constitution appears one to four times. As discussed above these cases are likely to have some political stakes but not as much as cases with a constitutional count of five or more. Cases with high constitutional content (5+) are more likely to be decided in favour of the government, but interestingly, this effect does not vary with whether the government has majority.

We further disaggregate the specification by regressing

$$won_{ijk} = \alpha_0 + \textstyle\sum_q \alpha_q b_{iq} + \mu_j + \delta * t + \sum_{k=0}^{5} \beta_k \, constitution\ count_i = k$$
$$+ \sum_{k=0}^{5} \lambda_k \left(constitution\ count_i = k\right) \times majority_{ij} + \mathbf{Z}'_{ijk}\eta + \varepsilon_{ijk}, \qquad (11)$$

where constitution count takes values between one and five. The last category is for cases with

Figure 4: Coefficient plot of the disaggregated specification



The graph plots the coefficients of the interaction term between constitution count and majority, that is $\lambda_1 \ldots \lambda_5$ from the fully saturated Equation (11). We control for Judge dummies, dummies for type of case (appeal or petition or neither), dummies for union role (appellant/petitioner or respondent or neither), dummies for bench size, an indicator for the presence of the Chief Justice on the bench, and indicators for service law/rules, tax/taxation, and administrative law, linear time trend, and government dummies. Robust standard errors used for constructing the confidence intervals which are reported at the 90% and 95% levels

a constitution count of five or more. Cases with zero constitutional count form the reference group. The estimates presented in Figure 4 show that the cases with a singular constitution count are more likely to be decided in favour of majority governments. The corresponding estimate for the cases with five or more constitution count is very close to zero. This suggests that majority governments do not appear to receive a preferential treatment by the Supreme Court when it comes to the most high profile matters.

5.3.1 Challenges to laws

To examine this further, we examine whether the constitutional validity of a UOI law was challenged in court. Constitutional challenge to UOI legislations is relatively rare; in our sample this happens in 79 out of 1718 cases. Table 8 shows the joint distribution of these cases with their constitutional count. As expected, we observe that cases with a constitutional challenge to a union law are disproportionately represented in the bin with a constitutional count of 5 or more.

We redefine our dependent variable won_{ijk} in cases where the validity of a UOI law was challenged. In these cases $won_{ijk} = 1$ if the law was upheld by the court and 0 if it was struck down. For all other cases, the dependent variable continues to be an indicator for whether the

Table 8: Joint distribution of constitution count and whether a law was challenged

Constitutional count	Law challenged No	Yes	Total
0	781	2	783
1-4	688	22	710
5+	170	55	225
Total	1,639	79	1,718

Law challenged is an indicator for whether the case involved a determination on the constitutional validity of a parliamentary legislation. There are two additional cases relative to our baseline sample (1718 as opposed to 1716). In these two cases the constitutional validity of a law was challenged and although the law was not struck down some relief was granted to the party opposing UOI. Therefore the winner in these two cases for our earlier analysis was coded as "not identifiable".

UOI won the case. Using this outcome we regress

$$won_{ijk} = \alpha_0 + \sum_q \alpha_q b_{iq} + \mu_k + \delta * t + \beta\, law\ challenged_{ik} + \lambda\, law\ challenged_{ik} \times majority_{ij} + \mathbf{Z}'_{ijk}\eta + \varepsilon_{ijk} \quad (12)$$

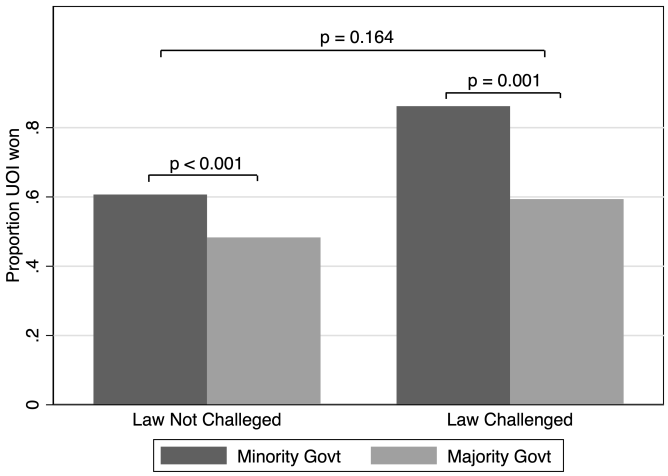
where "law challenged" is an indicator for whether the case involved a determination on the validity of a UOI law.

Results are reported in Table 23 in Appendix A. We observe that the government is around 25% more likely to win against a challenge to parliamentary laws than other cases. It is rare for parliamentary laws to be declared unconstitutional. However, the estimates of λ are consistently negative and insignificant. Majority governments do not appear to have any advantage in when it comes to parliamentary laws being upheld. This confirms what we have seen in Table 7. When it comes to the most important cases before the court, there does not appear to be a bias in favour of majority governments.

We have found that the effect of having majority on the likelihood of winning a case is non-monotonic in its constitutional content. What explains this non-monotonicity? We conjecture that this can be explained by increased public scrutiny in these very high profile matters. It is possible that the Supreme Court faces additional public scrutiny in the most important cases. The preferential treatment of majority governments in low profile constitutional cases may go relatively unnoticed whereas the same in high profile constitutional matters would invite greater blowback from the press. Alternatively, it is also possible that the Supreme Court is more acutely aware of its institutional legacy in these high-profile constitutional cases. This would explain the observed lack of preferential treatment of majority governments in high profile matters. This suggests that the mandate effect disappears in the most high profile matters.

Why is it that majority governments appear to have significantly less success in both regular

Figure 5: Proportion of cases with and without legislative challenges won by Minority and Majority Governments



The figure presents the proportion of cases where Union of India won under minority and majority governments. Cases are classified based on whether a piece of parliamentary legislation was challenged not. For cases in the first two bars (N=1639) UOI won is defined as before whereas for the cases in the last two bars (N=79) it indicates whether the parliamentary legislation in question was upheld (1) or at least partly declared unconstitutional (0). The two p-values over each set of two bars is the p-value for the test in differences of the means for Minority and Majority governments. The p-value of 0.018 spanning all four bars is the p-value for the difference-in-differences between the four bars.

cases and in those involving challenges to parliamentary legislations? It is possible that having a majority emboldens the government to be more adventurous in their executive and legislative actions. This is indeed the point we have made in Proposition 3 in the model.

To illustrate this point, consider the appointment of judges to the Supreme Court. Article 124 of the Indian Constitution states that the judges to the Supreme Court are appointed by the President in consultation with judges of the Supreme Court and High Courts as he deems necessary for the purpose. In the past, the Law and Justice ministry recommended judges after consultation with the judges of the Supreme Court. In response to a perception that the judiciary needed to be more independent, the Supreme Court in a series of judgements in the 1990s, read into the constitution the power to appoint its own judges. From the late 1990s the Supreme Court has set up a collegium that comprises of the 5 senior most judges of the court who make recommendations for appointments to the court.

Soon after it took power in 2014, the Modi (majority) government ushered in the National Judicial Appointments Commission (NJAC) Act and its companion constitutional amendment. These were meant to take back the power to appoint judges away from the Supreme Court and back to the executive. However, in a judgement in 2015 the court struck down the Act as unconstitutional, thereby retaining the power to appoint its own judges.

In our dataset, this case is coded as UOI lost. The Modi government, the only majority government in our sample, was the only government with the strength in parliament to pass such a law. This illustrates the idea that majority governments are more adventurous legislatively.

In the absence of a mandate effect in these cases, we would expect the court to strike down a larger proportion laws in tenure of majority governments. The observed pattern shows that the court treats the two kinds of governments in high profile cases same at it treats them in non-constitutional matters. The mandate effect is a phenomenon we observe only in the cases with intermediate stakes. When the stakes are too low (non-constitutional cases), there is no strong reason to pander to a majority government. When the stakes are too high (constitutional count of 5+) it is too risky to pander as it invites too much public scrutiny. The mandate effect therefore arises in the Goldilocks zone of cases with an intermediate constitutional count.

6 Caveat

We interpret the significant shift in favour of the government in constitutional cases when the government has majority as a shift caused by increased pressure the court feels towards a government with a stronger mandate. The key assumption we make is that conditional on case-level covariates, any systematic differences in the merits of cases that arise in majority and minority governments remains constant across constitutional and non-constitutional cases.

A key caveat to our findings is that in the absence of the structure imposed by the model in Section 3, we cannot distinguish between the following two interpretations of our results. One way of interpreting the results is that court decides non-constitutional cases entirely on merits. Consequently, the difference between majority and minority governments in the proportion of cases won in the first two bars in Figure 2 is driven entirely by differences in the type of cases that are litigated by majority and minority governments. This would mean that the difference in constitutional cases (last two bars in Figure 2) is driven by the court being more deferential to a majority government in these cases.

However, another way of interpreting these results in the absence of our model is that the court is generally biased in favour of minority governments but less so in constitutional matters. Perhaps this is because the court feels compelled to show its independence when the government in power has a majority and overcompensates by deciding against such a government. This would explain the difference we see in the first two bars in Figure 2. However, in constitutional cases, the court feels the pressure to shade down its bias in deference to the government when it has a majority. This would mean that what we are identifying is the diminishing of bias against majority governments that occurs in constitutional matters. Both these interpretations are consistent with our results (although only the first interpretation is consistent with our model). Nonetheless, in both these interpretations we note that our key claim remains intact – that the court is more favourable (or less unfavourable) in constitutional matters when the government has majority.

7 Conclusion

We find that electoral mandates influence judicial behaviour but in a less conspicuous way than is suggested in the literature. Overall we find that the Supreme Court is more likely to favour minority governments. However, this pattern may suggest that minority governments colour within the lines and therefore are more likely to win on merits. Moreover, the overall pattern obscures the possibility of differential court behaviour in constitutional matters which are more salient. We constructed a model that allows for these differences and for strategic behaviour by the court. Taking it to the data we find that the court is more likely to favour majority governments in constitutional matters. The Supreme Court appears unwilling to decide against majority governments in constitutional matters and goes to a greater length to justify its decisions when it does so. Moreover, this strategic behaviour by the court is confined to less salient constitutional matters and evaporates in the most salient cases possibly in light of additional scrutiny by the media and the public. We find that majority bias displayed by courts may be subtle and yet substantial.

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Table 9: Continuous measure of constitutional cases

	(1)	(2)	(3)	(4)	(5)
Constitution count	-0.00110	0.00435	0.00478	0.00495	0.00597
	(0.00355)	(0.00381)	(0.00383)	(0.00383)	(0.00394)
Majority	-0.0927***	-0.0774**	-0.0277		
	(0.0327)	(0.0333)	(0.0456)		
Constitution count × Majority	0.0120*	0.0123*	0.0116*	0.0110*	0.0144**
	(0.00659)	(0.00658)	(0.00660)	(0.00662)	(0.00691)
Constant	0.614***	0.427*	0.434*	0.339	0.359
	(0.0166)	(0.223)	(0.222)	(0.229)	(0.369)
Case controls	No	Yes	Yes	Yes	Yes
Linear time trend	No	No	Yes	Yes	Yes
Govt dummies	No	No	No	Yes	Yes
Judge dummies	No	No	No	No	Yes
Observations	1716	1716	1716	1716	1716

The dependent variable is an indicator for whether the government won the case. Constitution count is $\ln(0.001 + x)$ where x is the number of times the words "constitution" or "constitutional" appears in the short notes. Case controls include dummies for type of case (appeal or petition or neither), dummies for union role (appellant/petitioner or respondent or neither), dummies for bench size, an indicator for the presence of the Chief Justice on the bench, and indicators for service law/rules, tax/taxation, and administrative law. Robust standard errors reported in the parentheses. * $p < 0.1$, ** $p < 0.05$, *** $p < 0.01$

A Additional results

Table 10: Constitution count based on headnotes

	(1)	(2)	(3)	(4)	(5)
Constitution (headnotes)	-0.0189	0.0158	0.0172	0.0184	0.0279
	(0.0283)	(0.0296)	(0.0296)	(0.0296)	(0.0303)
Majority	-0.195***	-0.184***	-0.133***		
	(0.0385)	(0.0384)	(0.0510)		
Constitution (headnotes) × Majority	0.128**	0.132**	0.128**	0.123**	0.126**
	(0.0529)	(0.0527)	(0.0528)	(0.0530)	(0.0555)
Constant	0.627***	0.401*	0.406*	0.315	0.310
	(0.0216)	(0.221)	(0.220)	(0.227)	(0.367)
Case controls	No	Yes	Yes	Yes	Yes
Linear time trend	No	No	Yes	Yes	Yes
Govt dummies	No	No	No	Yes	Yes
Judge dummies	No	No	No	No	Yes
Observations	1716	1716	1716	1716	1716

The dependent variable is an indicator for whether the government won the case. Case controls include dummies for type of case (appeal or petition or neither), dummies for union role (appellant/petitioner or respondent or neither), dummies for bench size, an indicator for the presence of the Chief Justice on the bench, and indicators for service law/rules, tax/taxation, and administrative law. Robust standard errors reported in the parentheses. * $p < 0.1$, ** $p < 0.05$, *** $p < 0.01$

Table 11: Parliamentary composition: Government coalition seat share

	(1)	(2)	(3)	(4)	(5)
Constitution	0.0249	0.0623**	0.0622**	0.0606**	0.0734***
	(0.0238)	(0.0252)	(0.0252)	(0.0252)	(0.0256)
Government coalition share	-0.986***	-0.908***	-0.550**		
	(0.209)	(0.209)	(0.249)		
Constitution × Government coalition share	0.757**	0.764***	0.730**	0.727**	0.762**
	(0.294)	(0.293)	(0.293)	(0.288)	(0.301)
Constant	0.567***	0.370	0.388*	0.335	0.333
	(0.0175)	(0.231)	(0.225)	(0.230)	(0.367)
Case controls	No	Yes	Yes	Yes	Yes
Linear time trend	No	No	Yes	Yes	Yes
Govt dummies	No	No	No	Yes	Yes
Judge dummies	No	No	No	No	Yes
Observations	1716	1716	1716	1716	1716

The dependent variable is an indicator for whether the government won the case. Case controls include dummies for type of case (appeal or petition or neither), dummies for union role (appellant/petitioner or respondent or neither), dummies for bench size, an indicator for the presence of the Chief Justice on the bench, and indicators for service law/rules, tax/taxation, and administrative law. Robust standard errors reported in the parentheses. * $p < 0.1$, ** $p < 0.05$, *** $p < 0.01$

Table 12: Parliamentary composition: Government party seat share

	(1)	(2)	(3)	(4)	(5)
Constitution	0.0258	0.0624**	0.0625**	0.0608**	0.0739***
	(0.0238)	(0.0251)	(0.0251)	(0.0252)	(0.0257)
Government party share	-0.865***	-0.805***	-0.516**		
	(0.173)	(0.173)	(0.240)		
Constitution × Government party share	0.547**	0.578**	0.574**	0.556**	0.641**
	(0.245)	(0.244)	(0.244)	(0.244)	(0.253)
Constant	0.565***	0.384*	0.394*	0.315	0.314
	(0.0175)	(0.226)	(0.223)	(0.228)	(0.369)
Case controls	No	Yes	Yes	Yes	Yes
Linear time trend	No	No	Yes	Yes	Yes
Govt dummies	No	No	No	Yes	Yes
Judge dummies	No	No	No	No	Yes
Observations	1716	1716	1716	1716	1716

The dependent variable is an indicator for whether the government won the case. Case controls include dummies for type of case (appeal or petition or neither), dummies for union role (appellant/petitioner or respondent or neither), dummies for bench size, an indicator for the presence of the Chief Justice on the bench, and indicators for service law/rules, tax/taxation, and administrative law. Robust standard errors reported in the parentheses. * $p < 0.1$, ** $p < 0.05$, *** $p < 0.01$

Table 13: Parliamentary composition: Opposition party seat share

	(1)	(2)	(3)	(4)	(5)
Constitution	0.174**	0.215***	0.212***	0.208***	0.243***
	(0.0689)	(0.0691)	(0.0691)	(0.0693)	(0.0715)
Opposition party share	1.238***	1.158***	0.802**		
	(0.245)	(0.245)	(0.317)		
Constitution × Opposition party share	-0.817**	-0.841**	-0.820**	-0.802**	-0.920**
	(0.347)	(0.346)	(0.346)	(0.346)	(0.358)
Constant	0.339***	0.148	0.230	0.304	0.302
	(0.0481)	(0.227)	(0.230)	(0.227)	(0.369)
Case controls	No	Yes	Yes	Yes	Yes
Linear time trend	No	No	Yes	Yes	Yes
Govt dummies	No	No	No	Yes	Yes
Judge dummies	No	No	No	No	Yes
Observations	1716	1716	1716	1716	1716

The dependent variable is an indicator for whether the government won the case. Case controls include dummies for type of case (appeal or petition or neither), dummies for union role (appellant/petitioner or respondent or neither), dummies for bench size, an indicator for the presence of the Chief Justice on the bench, and indicators for service law/rules, tax/taxation, and administrative law. Robust standard errors reported in the parentheses. * $p < 0.1$, ** $p < 0.05$, *** $p < 0.01$

Table 14: Parliamentary composition: Herfindahl index

	(1)	(2)	(3)	(4)	(5)
Constitution	0.0244	0.0611**	0.0618**	0.0606**	0.0736***
	(0.0238)	(0.0251)	(0.0252)	(0.0252)	(0.0257)
Herfindahl index	-1.569***	-1.468***	-1.010**		
	(0.306)	(0.307)	(0.466)		
Constitution × Herfindahl index	0.973**	1.038**	1.030**	0.994**	1.164***
	(0.433)	(0.432)	(0.432)	(0.433)	(0.447)
Constant	0.566***	0.378*	0.388*	0.321	0.323
	(0.0174)	(0.224)	(0.223)	(0.228)	(0.369)
Case controls	No	Yes	Yes	Yes	Yes
Linear time trend	No	No	Yes	Yes	Yes
Govt dummies	No	No	No	Yes	Yes
Judge dummies	No	No	No	No	Yes
Observations	1716	1716	1716	1716	1716

The dependent variable is an indicator for whether the government won the case. Case controls include dummies for type of case (appeal or petition or neither), dummies for union role (appellant/petitioner or respondent or neither), dummies for bench size, an indicator for the presence of the Chief Justice on the bench, and indicators for service law/rules, tax/taxation, and administrative law. Robust standard errors reported in the parentheses. * $p < 0.1$, ** $p < 0.05$, *** $p < 0.01$

Table 15: Parliamentary composition: Effective number of parties

	(1)	(2)	(3)	(4)	(5)
Constitution	0.0262	0.0629**	0.0630**	0.0609**	0.0740***
	(0.0238)	(0.0251)	(0.0251)	(0.0252)	(0.0257)
Effective number of parties	0.0699***	0.0650***	0.0400*		
	(0.0140)	(0.0140)	(0.0208)		
Constitution × Effective number of parties	-0.0432**	-0.0463**	-0.0461**	-0.0443**	-0.0515**
	(0.0198)	(0.0197)	(0.0197)	(0.0198)	(0.0204)
Constant	0.565***	0.391*	0.399*	0.322	0.323
	(0.0175)	(0.226)	(0.224)	(0.229)	(0.369)
Case controls	No	Yes	Yes	Yes	Yes
Linear time trend	No	No	Yes	Yes	Yes
Govt dummies	No	No	No	Yes	Yes
Judge dummies	No	No	No	No	Yes
Observations	1716	1716	1716	1716	1716

The dependent variable is an indicator for whether the government won the case. Case controls include dummies for type of case (appeal or petition or neither), dummies for union role (appellant/petitioner or respondent or neither), dummies for bench size, an indicator for the presence of the Chief Justice on the bench, and indicators for service law/rules, tax/taxation, and administrative law. Robust standard errors reported in the parentheses. * $p < 0.1$, ** $p < 0.05$, *** $p < 0.01$

Table 16: Dropping cases decided after change in government

	(1)	(2)	(3)	(4)	(5)
Constitution	-0.00776	0.0169	0.0413	0.0400	0.0407
	(0.0291)	(0.0300)	(0.0309)	(0.0309)	(0.0310)
Majority	-0.183***	-0.0238	-0.0143	-0.0650	
	(0.0390)	(0.0843)	(0.0898)	(0.105)	
Constitution × Majority	0.115**	0.116**	0.119**	0.126**	0.124**
	(0.0551)	(0.0566)	(0.0572)	(0.0575)	(0.0576)
Constant	0.623***	0.548***	0.370	0.358	0.134
	(0.0220)	(0.0616)	(0.352)	(0.360)	(0.370)
Case controls	No	No	Yes	Yes	Yes
Linear time trend	No	No	No	Yes	Yes
Govt dummies	No	No	No	No	Yes
Judge dummies	No	Yes	Yes	Yes	Yes
Observations	1597	1597	1597	1597	1597

The dependent variable is an indicator for whether the government won the case. Case controls include dummies for type of case (appeal or petition or neither), dummies for union role (appellant/petitioner or respondent or neither), dummies for bench size, an indicator for the presence of the Chief Justice on the bench, and indicators for service law/rules, tax/taxation, and administrative law. Robust standard errors reported in the parentheses. * $p < 0.1$, ** $p < 0.05$, *** $p < 0.01$

Table 17: Subject matter: Administrative, Tax, and Service

	(1)	(2)	(3)	(4)	(5)
Constitution	0.0340	0.0339	0.0320	0.0310	0.0283
	(0.0298)	(0.0298)	(0.0298)	(0.0302)	(0.0302)
Constitution × Majority	0.132**	0.134**	0.131**	0.135**	0.138**
	(0.0543)	(0.0542)	(0.0546)	(0.0545)	(0.0547)
Tax case		0.0257			0.0140
		(0.0593)			(0.0600)
Tax case × Majority		-0.215*			-0.204*
		(0.114)			(0.115)
Service case			-0.0594*		-0.0627**
			(0.0313)		(0.0317)
Service case × Majority			0.115		0.110
			(0.0715)		(0.0717)
Administrative case				0.0231	0.0324
				(0.0390)	(0.0392)
Administrative case × Majority				0.0343	0.0281
				(0.0813)	(0.0813)
Constant	0.308	0.301	0.310	0.316	0.310
	(0.366)	(0.372)	(0.363)	(0.366)	(0.369)
Case controls	Yes	Yes	Yes	Yes	Yes
Linear time trend	Yes	Yes	Yes	Yes	Yes
Govt dummies	Yes	Yes	Yes	Yes	Yes
Judge dummies	Yes	Yes	Yes	Yes	Yes
Observations	1716	1716	1716	1716	1716

The dependent variable is an indicator for whether the government won the case. Case controls include dummies for type of case (appeal or petition or neither), dummies for union role (appellant/petitioner or respondent or neither), dummies for bench size, an indicator for the presence of the Chief Justice on the bench, and indicators for service law/rules, tax/taxation, and administrative law. Robust standard errors reported in the parentheses. * $p < 0.1$, ** $p < 0.05$, *** $p < 0.01$

Table 18: Including other interactions

	(1)	(2)	(3)	(4)	(5)
Constitution	0.0377	0.0314	0.0312	0.0301	0.0271
	(0.0315)	(0.0302)	(0.0301)	(0.0301)	(0.0564)
Constitution × Majority	0.118*	0.139**	0.136**	0.140**	0.143**
	(0.0613)	(0.0548)	(0.0547)	(0.0546)	(0.0727)
Attorney or Solicitor General	0.273***				
	(0.0806)				
Attorney or Solicitor General × Majority	-0.0508				
	(0.142)				
Attorney or Solicitor General × Constitution	-0.177*				
	(0.0952)				
Attorney or Solicitor General × Majority × Constitution	-0.0218				
	(0.169)				
Mean tenure		-0.00562			
		(0.0241)			
Mean tenure × Majority		0.0104			
		(0.0397)			
Large bench × Majority			0.119		
			(0.104)		
Chief Justice × Majority				-0.0841	
				(0.125)	
Constitution × UPA govt					0.00513
					(0.0659)
Constant	-0.0584	0.317	0.314	0.304	0.313
	(0.288)	(0.370)	(0.371)	(0.369)	(0.371)
Case controls	Yes	Yes	Yes	Yes	Yes
Linear time trend	Yes	Yes	Yes	Yes	Yes
Govt dummies	Yes	Yes	Yes	Yes	Yes
Judge dummies	Yes	Yes	Yes	Yes	Yes
Observations	1652	1716	1716	1716	1716

The dependent variable is an indicator for whether the government won the case. Case controls include dummies for type of case (appeal or petition or neither), dummies for union role (appellant/petitioner or respondent or neither), dummies for bench size, an indicator for the presence of the Chief Justice on the bench, and indicators for service law/rules, tax/taxation, and administrative law. Robust standard errors reported in the parentheses. * $p < 0.1$, ** $p < 0.05$, *** $p < 0.01$

Table 19: Not identifiable winner coded as UOI won

	(1)	(2)	(3)	(4)	(5)
Constitution	0.00245	0.0260	0.0281	0.0293	0.0346
	(0.0270)	(0.0283)	(0.0284)	(0.0284)	(0.0290)
Majority	-0.135***	-0.125***	-0.0841*		
	(0.0359)	(0.0362)	(0.0487)		
Constitution × Majority	0.0897*	0.0904*	0.0866*	0.0819	0.0899*
	(0.0498)	(0.0501)	(0.0502)	(0.0503)	(0.0519)
Constant	0.638***	0.404*	0.407*	0.293	0.245
	(0.0206)	(0.220)	(0.219)	(0.224)	(0.283)
Case controls	No	Yes	Yes	Yes	Yes
Linear time trend	No	No	Yes	Yes	Yes
Govt dummies	No	No	No	Yes	Yes
Judge dummies	No	No	No	No	Yes
Observations	1860	1860	1860	1860	1860

The dependent variable is an indicator for whether the government won the case. Case controls include dummies for type of case (appeal or petition or neither), dummies for union role (appellant/petitioner or respondent or neither), dummies for bench size, an indicator for the presence of the Chief Justice on the bench, and indicators for service law/rules, tax/taxation, and administrative law. Robust standard errors reported in the parentheses. * $p < 0.1$, ** $p < 0.05$, *** $p < 0.01$

Table 20: Not identifiable winner coded as UOI lost

	(1)	(2)	(3)	(4)	(5)
Constitution	-0.0414	0.00147	0.00428	0.00442	0.0119
	(0.0277)	(0.0289)	(0.0290)	(0.0290)	(0.0298)
Majority	-0.221***	-0.199***	-0.142***		
	(0.0354)	(0.0354)	(0.0483)		
Constitution × Majority	0.140***	0.137***	0.132***	0.131***	0.139***
	(0.0500)	(0.0500)	(0.0501)	(0.0502)	(0.0522)
Constant	0.603***	0.394*	0.399*	0.367	0.562*
	(0.0209)	(0.224)	(0.223)	(0.232)	(0.305)
Case controls	No	Yes	Yes	Yes	Yes
Linear time trend	No	No	Yes	Yes	Yes
Govt dummies	No	No	No	Yes	Yes
Judge dummies	No	No	No	No	Yes
Observations	1860	1860	1860	1860	1860

The dependent variable is an indicator for whether the government won the case. Case controls include dummies for type of case (appeal or petition or neither), dummies for union role (appellant/petitioner or respondent or neither), dummies for bench size, an indicator for the presence of the Chief Justice on the bench, and indicators for service law/rules, tax/taxation, and administrative law. Robust standard errors reported in the parentheses. * $p < 0.1$, ** $p < 0.05$, *** $p < 0.01$

Table 21: Dropping the Modi government

	(1)	(2)	(3)	(4)	(5)
Constitution	0.0433	0.0336	0.114	0.0325	0.0383
	(0.0479)	(0.0489)	(0.330)	(0.0466)	(0.0622)
Constitution × Government coalition share	0.427				
	(0.734)				
Constitution × Government party share		0.192			
		(0.612)			
Constitution × Opposition party share			-0.404		
			(1.431)		
Constitution × Effective number of parties				-0.0143	
				(0.0458)	
Constitution × Herfindahl index					0.459
					(1.490)
Constant	0.311	0.299	0.292	0.302	0.302
	(0.429)	(0.429)	(0.429)	(0.429)	(0.429)
Case controls	Yes	Yes	Yes	Yes	Yes
Linear time trend	Yes	Yes	Yes	Yes	Yes
Govt dummies	Yes	Yes	Yes	Yes	Yes
Judge dummies	Yes	Yes	Yes	Yes	Yes
Observations	1220	1220	1220	1220	1220

The dependent variable is an indicator for whether the government won the case. Case controls include dummies for type of case (appeal or petition or neither), dummies for union role (appellant/petitioner or respondent or neither), dummies for bench size, an indicator for the presence of the Chief Justice on the bench, and indicators for service law/rules, tax/taxation, and administrative law. Robust standard errors reported in the parentheses. * $p < 0.1$, ** $p < 0.05$, *** $p < 0.01$

Table 22: When UOI is respondent

	(1)	(2)	(3)	(4)	(5)
Constitution	-0.0215	-0.0202	-0.0201	-0.0182	-0.00522
	(0.0410)	(0.0415)	(0.0415)	(0.0416)	(0.0416)
Majority	-0.144***	-0.145***	-0.0844		
	(0.0500)	(0.0505)	(0.0612)		
UOI respondent	-0.162***	-0.163***	-0.163***	-0.164***	-0.134***
	(0.0385)	(0.0389)	(0.0389)	(0.0389)	(0.0400)
UOI respondent × Constitution	0.0470	0.0490	0.0543	0.0541	0.0420
	(0.0496)	(0.0500)	(0.0501)	(0.0501)	(0.0509)
UOI respondent × Majority	-0.0569	-0.0552	-0.0565	-0.0543	-0.0146
	(0.0563)	(0.0566)	(0.0566)	(0.0567)	(0.0595)
Constitution × Majority	0.130**	0.129**	0.124**	0.119**	0.133**
	(0.0529)	(0.0535)	(0.0536)	(0.0537)	(0.0554)
Constant	0.715***	0.550**	0.554**	0.461**	0.462
	(0.0283)	(0.228)	(0.227)	(0.233)	(0.364)
Case controls	No	Yes	Yes	Yes	Yes
Linear time trend	No	No	Yes	Yes	Yes
Govt dummies	No	No	No	Yes	Yes
Judge dummies	No	No	No	No	Yes
Observations	1716	1716	1716	1716	1716

The dependent variable is an indicator for whether the government won the case. Case controls include dummies for type of case (appeal or petition or neither), dummies for union role (appellant/petitioner or respondent or neither), dummies for bench size, an indicator for the presence of the Chief Justice on the bench, and indicators for service law/rules, tax/taxation, and administrative law. Robust standard errors reported in the parentheses. * $p < 0.1$, ** $p < 0.05$, *** $p < 0.01$

Table 23: Challenges to legislations

	(1)	(2)	(3)	(4)	(5)
Law challenged	0.229***	0.283***	0.279***	0.281***	0.278***
	(0.0520)	(0.0565)	(0.0568)	(0.0569)	(0.0665)
Majority	-0.124***	-0.113***	-0.0700*		
	(0.0271)	(0.0274)	(0.0420)		
Law challenged × Majority	-0.171	-0.159	-0.155	-0.156	-0.122
	(0.117)	(0.113)	(0.114)	(0.115)	(0.125)
Constant	0.607***	0.390*	0.394*	0.294	0.268
	(0.0143)	(0.225)	(0.224)	(0.230)	(0.360)
Case controls	No	Yes	Yes	Yes	Yes
Linear time trend	No	No	Yes	Yes	Yes
Govt dummies	No	No	No	Yes	Yes
Judge dummies	No	No	No	No	Yes
Observations	1718	1718	1718	1718	1718

"Law challenged" is an indicator for whether the constitutional validity of a law was challenged in the case. In cases where a law was challenged, the dependent variable is an indicator for whether the law was upheld (1) or struck down (0). In all other cases the dependent variable is an indicator for whether the government won the case. Case controls include dummies for type of case (appeal or petition or neither), dummies for union role (appellant/petitioner or respondent or neither), dummies for bench size, an indicator for the presence of the Chief Justice on the bench, and indicators for service law/rules, tax/taxation, and administrative law. Robust standard errors reported in the parentheses. * $p < 0.1$, ** $p < 0.05$, *** $p < 0.01$