

World

Hundreds of cases, all in a day's work

NEW DELHI

India's Supreme Court is taking on the topics that politicians skirt

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Following the headlines, you might get the feeling that India's Supreme Court is everywhere at once, all the time. You wouldn't be far off.

In the past week, the court struck down a colonial-era law making adultery a crime. Just the day before, the judges tactically pruned back the country's sweeping national ID program, known as Aadhaar, to reflect privacy concerns. Earlier this month, it overturned a ban on gay sex that had stood for 150 years.

The court is one of the most vital institutions in a vast and chaotic democracy of 1.3 billion people, weighing in on wild dogs, killer tigers, mob lynchings, garbage dumps and Muslim divorce rules — hot potatoes that Indian politicians won't touch.

It loves juicy social debates, often siding with victims and wielding dramatically worded rulings designed to capture maximum attention. (In a recent case about a young woman pushed to suicide by a suitor, it ruled that “No one can compel a woman to love.”)

And unlike the United States Supreme Court, which agrees to hear only about 70 cases a year, the various panels of the Indian Supreme Court hear up to 700 legal matters a day. By law, any petitioner who wants to appeal to the country's highest court has the right to at least a hearing there.

So how does the court do it?

EVERY DAY IS RUSH HOUR

Established after independence in 1947, the Supreme Court has always been one of India's most important public institutions, the tip of a very large pyramid of local and appellate courts. The Supreme Court currently has 25 judges who typically sit in panels of two or three, across

about a dozen courtrooms. Its campus, in the heart of New Delhi, is graced with rose-color buildings and stately gardens.

But it feels more like a railway station at rush hour. Thousands of people pour through the court's gates each day, a blur of briefcases, stacks of dog-eared paper files and long black robes. On a recent day, TV screens mounted on the walls displayed the cases unfolding in different venues simultaneously, like a judicial Olympics. Inside the packed courtrooms, the robed lawyers stood 15 deep, mopping the sweat from their foreheads with folded handkerchiefs as they waited to present their cases.

Governance in India suffers from the country's sheer size and the fact that power here is highly diffuse. Its democracy is relatively young and intensely federalized. Decision making often falls through cracks that divide the central government, 29 states and seven union territories.

The Indian Parliament is so split by poisonous divisions along caste, religious and regional lines that elected public servants are notorious for squabbling with one another and accomplishing little — while stealing countless billions of taxpayer rupees along the way.

In response, public interest litigation has exploded. Frustrated about the government's failure to deliver the most basic public services, such as functioning hospitals, drinkable water and waste removal, Indians have turned to the courts.

“Everybody gets their little moment in the sun,” said Chander Uday Singh, a prominent lawyer.

THE COURT IN THE AGE OF MODI

For decades, the Supreme Court has nurtured a reputation for independence. But that is being tested under Prime Minister Narendra Modi, the head of the most powerful executive branch India has seen in decades.

Mr. Modi has asserted himself into Indians' everyday life — his white-bearded face on new public toilets and billboards everywhere; his party popular, solidified and divisive. He came to power as a rallying figure for Hindu nationalists, and his supporters have aggravated the longstanding fault line be-



SAJJAD HUSSAIN/AGENCE FRANCE-PRESSE — GETTY IMAGES

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tween India's majority Hindus and its minority Muslims.

Legal analysts said the court had shown that it was willing to stand up to Mr. Modi in some important cases. Recently, the Delhi state government complained that Mr. Modi's central government had been infringing on its powers. The Supreme Court more or less backed up the state government, which has been at odds with Mr. Modi for years.

A NOVELTY ON THE WORLD STAGE

In many developing nations, the top court is usually far from the public eye.

But in India, the courts play a special role in trying to stay true to the ambitious values forged during the struggle for independence from Britain. The Indian Constitution, for example, calls for equal pay for men and women, and

warns about the concentration of wealth.

“In both cases, the courts have risen to this challenge,” said Bruce Ackerman, a comparative law professor at Yale, “generating a complex dialogue with the political branches.”

With a wide mandate, India's judges often go far beyond the complaints in the lawsuits and set up fact-finding committees and special panels to monitor specific issues, such as land use, that they feel are being neglected or mishandled.

The Supreme Court has gone after smog-spewing coal plants and mandated that public buses, taxis and motorized rickshaws in the capital be powered by compressed natural gas, which helped decrease air pollution — though Delhi's air pollution is still horrendous.

India's Supreme Court judges are selected by other judges, and because the retirement age is 65, their tenure is usually less than a decade. In October, the current chief justice, Dipak Misra, will step down. The verdict on him is mixed. This year, several associate judges took the rare step of criticizing him in public, accusing him of abusing his authority of assigning cases to get the verdicts he desired.

Some judges have carved out specialties for themselves, such as Judge Madan Lokur, one of the court's most senior, who has emerged as a champion of wildlife. The judges' salaries are well below those of high-flying lawyers, but they enjoy nice perks, like classy bungalows in Delhi's nicer neighborhoods.

In other ways, too, the court is not very representative. It has been over-

whelmingly Hindu, upper caste and male. Today, there are only two Christians and one Muslim on the court. Twenty-two of the 25 judges are men.

If the justices themselves often remain obscure, the catchy language of their rulings keep the court in the spotlight.

“Girls and women are getting raped left, right and center,” read one ruling in August.

In their decisions, the dramatic and the obscure often intersect: A few weeks before, the court warned that lynchings were becoming a “Typhon-like monster” (A Typhon, for the record, is an extremely dangerous creature in Greek mythology, and the root for the word typhoon.)

SO WHAT'S THE COURT'S WEAKNESS?

The big question for India's Supreme Court is follow through. Often, its lofty decisions are simply ignored.

Delhi's garbage crisis is one of the most glaring examples. Eighty billion pounds of trash are stacking up in the capital. After some Supreme Court judges read an article about a child who died from a mosquito-borne disease (which may have been exacerbated by all the soggy garbage lying around), the court stepped in.

This was another case where the court got involved because other government agencies were clearly failing to do their jobs. The court prepared hearings, set deadlines and demanded that the federal and municipal government agencies quit squabbling with each other and come up with solutions — fast. But little changed.

“What is the use of passing the orders when no one is bothered to implement it?” the judges said. “India will go down under the garbage one day.”

The court had again nailed the perfect sound bite, trying to shame government agencies to do something. But the garbage mountains continue to rise.

“The government should not require arm-twisting by the constitutional courts,” said Ritwick Dutta, an environmental lawyer. “But unfortunately in India, they require it all the time.”

Vindu Goel contributed reporting from Mumbai, India.