Jobs for Justice(s): Corruption in the Supreme Court of India

Madhav S. Aney*, Shubhankar Dam† and Giovanni Ko‡

September 2, 2016

Abstract

Do judges of the Supreme Court of India pander to the government by ruling in its favour in the hope of receiving jobs after retiring from the Court? Does the government actually reward judges who ruled in its favour with prestigious jobs? To answer these questions we construct a dataset of all Supreme Court cases involving the government from 1999 till 2014, with an indicator for whether the decision was in its favour or not. We find that judges whose retirement date – exogenously determined by law to be their 65th birthday – is at least one year prior to an election, and thus have the opportunity of receiving a post-Supreme Court job from the government in power when they retire, are more likely to rule in favour of the government in politically important cases. Furthermore, we find that the government is more likely to give prestigious post-Supreme Court jobs to judges who ruled more often in its favour, especially under UPA governments. These two findings suggest a quid-pro-quo between judges of the Supreme Court and the government.[1]

1 Introduction

In India, over the last 15 years, it has become increasingly common for retiring Supreme Court Justices to be appointed to prestigious government positions. This practice has been widely criticised, as judges are suspected of pandering to the government in order to obtain these jobs. For example, Indira Jaising, former Additional Solicitor General of India, commenting on the appointment of former Chief Justice of India (CJI) H. L. Dattu to Chairperson of the National

*School of Economics, Singapore Management University.

†School of Law, City University of Hong Kong.

‡Division of Economics, School of Humanities and Social Sciences, Nanyang Technological University.

[1]We thank Konrad Burchardi, Lin Feng, Jin Wang, Sujata Visaria, Yasutora Watanabe and seminar participants at Singapore Management University, City University of Hong Kong, Hong Kong University of Science and Technology for valuable comments and suggestions. We also thank our project manager Dominic Liew and research assistants Alwyn Loy, Chong Shou Yu, Charlene Chow, Glenda Lim, Kartik Singh, Nicole Chan, Persis Hoo, Shirlene Leong and Teo Ting Wei.

Human Rights Commission, said that "Independence can be undermined in different ways and one of them is offering post retirement benefits immediately upon retirement."[2] Arun Jaitley, current Finance Minister, while in opposition, said that "Pre-retirement judges are influenced by a desire for a post-retirement jobs."[3] Even R. M. Lodha, a former CJI, on the day of his retirement from the Supreme Court, said "I hold the view that the CJI, judges of the Supreme Court, Chief Justice of High Courts and judges of High Courts should not accept any constitutional position or assignment with government."[4] and "The idea is to insulate judges from the lure of post-retirement jobs. Judges don't have to run after politicians for lucrative posts after retirement if they get a salary."[5]

In this context, alleged corruption takes the form of the following quid-pro-quo: judges *pander* to the government by ruling in its favour and in exchange, the government *rewards* judges who have done so with jobs. This raises two natural questions that we confront in this paper: first, do judges actually pander to the government by ruling in its favour? Second, does the government actually reward judges who ruled in its favour with prestigious jobs? In this paper, we answer both these questions in the affirmative.

To do so, we constructed a novel dataset of all cases before the Supreme Court of India between 1999 and 2014 involving the government. For each case, we analysed the full text of the judgement and coded whether the government won or lost the case.

We find that judges who have *incentives* to pander are more likely to rule in favour of the government. The exposure of a judge to pandering incentives in a case is jointly determined by 1) whether the case is politically salient and 2) whether the judge retires with enough time (at least one year) left in a government's term to be rewarded with a prestigious job. 1) Political salience, i.e., whether the case is of special importance to the government, is exogenous because cases are randomly assigned to judges. 2) The election-retirement distance is exogenous for two reasons: first, all judges retired on their 65th birthday; second, all governments served their full terms and elections were regularly held at 5-year intervals.

We therefore use a difference-in-differences approach where the two dimensions of variation are the political salience of a case and election-retirement distance of a judge. We can think of judges who retire long before an election as the "treatment group" and those retiring shortly before an election as the "control group". Our identification strategy relies on the assumption that, although there could be differences between salient and non-salient cases due to factors other than pandering incentives, this difference does not vary between judges who retire long before and shortly before an election.

Furthermore, we provide evidence that the mechanism by which judges pander is through potentially harmful manipulation of actual decisions in favour of the government rather than

[2]Live Law, 27 Nov 2015, *CJI Dattu may be offered the post of NHRC Chairperson; Ms. Indira Jaising says independence of judiciary undermined by post retirement benefits*

[3]NDTV, 1 Oct 2012, *Judges' verdicts are influenced by post-retirement jobs: Arun Jaitley*

[4]Live Law, 27 Sep 2014, *There should be a cooling off period of 2 years for judges to accept any appointment after retirement; Justice Lodha*

[5]Indian Express, 25 Oct 2015, *As CJI, I told PMs of way to insulate judges from lure of post-retirement jobs: Lodha*

through more benign means, such as manipulating judgement authorship. Finally, on the rewards side, we show that deciding more cases in favour of the government is positively correlated with being appointed to prestigious post-Supreme Court jobs, particularly for UPA governments.

Our paper is related to the empirical literature on identifying and measuring corruption in real-world settings.[6] One approach, exemplified by Bertrand et al. (2007) in the context of obtaining a driving license in Delhi, and Olken (2007) in the context of road-building projects in Java, is to use field experiments to directly manipulate incentives for corruption and observe the resulting behaviour. Another, exemplified by Fisman (2001) and Fisman and Miguel (2007), is to use event studies that exploit exogenous changes in the environment. Our paper is different from both of these approaches as it exploits exogenous variation in incentives induced by fixed features of the institutional environment.

Our paper is also related to the literature on how judicial decisions are affected by factors unrelated to legal reasoning. Lim, Snyder, and Strömberg (2015) show that sentence lengths are increased significantly by newspaper coverage of the case. Danziger, Levav, and Avnaim-Pesso (2011) show that the likelihood of a favourable parole decision sharply increases after a judge's lunch break and find that "rational application of legal reasons does not sufficiently explain the decisions of judges and that psychological, political, and social factors influence judicial rulings." Perhaps more troublingly, our paper adds economic incentives in form of career concerns of the judge to the list of the factors that may affect judicial decisions.

Our paper is of interest for three reasons. First, we causally identify the presence of corruption despite the difficulty in doing so in non-experimental settings. Second, we identify corruption in a very high-profile institution subject to intense public scrutiny, where one would expect it to be subtle and hard to detect. Third, because the kind of corruption we uncover is systemic in nature and shaped by incentives, there are clear policy implications to combat it.

The rest of the paper is organised as follows. We describe the institutional background of the Supreme Court of India in section 2, the data in section 3 and the empirical strategy in section 4. In section 5, we present our main results about the presence of pandering, together with robustness checks. In section 6, we explore the channels through which pandering occurs. In section 7, we present evidence that the government rewards pandering with post-Supreme Court jobs. We discuss policy implications in section 8 and provide concluding remarks in section 9.

2 Institutional background

The Supreme Court of India is the highest court in the country. It decides both appeals from lower courts and fresh petitions. Compared to supreme courts in other countries, it has a

[6]Surveys include Banerjee, Hanna, and Mullainathan (2012), Olken and Pande (2012), Pande (2007), and Sukhtankar and Vaishnav (2015)

very high case load. For example, in 2009, 77,151 cases were filed and 71,179 were decided. This makes the Supreme Court of India an outlier when compared to Supreme Courts of other countries, when it comes to access and the number of decisions (see Green and Yoon 2016).

In response to perceived inaction by the executive and the legislative, the Supreme Court has expanded its remit to matters traditionally within the purview of those branches of government. It routinely strikes down actions by government agencies at all levels and issues orders on policy matters as diverse as pollution, sexual harassment, etc. As a result, the Supreme Court of India operates under intense public scrutiny.

Since 2008, the Constitution of India provides for up to 31 Supreme Court Justices.[7] Between 1986 and 2008, the number was limited to 26. However, the actual number of judges has always been less than 31, with the current number being 28. The Chief Justice of India (henceforth CJI) is the most senior Justice of the Court with additional powers in the appointment of Justices and the allocation of exceptional cases, as discussed below.

2.1 Allocation of cases

In the Supreme Court of India, a *bench* is a group of judges who jointly hear and decide a case. Benches are always composed of at least two judges. Ordinarily, a case is heard by a two-judge bench, but in the rare 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.

Before 1994, the allocation of cases to benches was at the discretion of the Registry of the Supreme Court. There was widespread suspicion that this discretion led to "bench-hunting", i.e., colllusion between lawyers and the Registry to manipulate the allocation of cases to more favourable benches. In response to this problem, the Supreme Court switched to a system of random computerised allocation of cases to benches. In private correspondence with the authors, Chandresh Bhushan, Registrar General of the Supreme Court when the new system was introduced, described the change as follows:

> Computerized system of filing and processing with random system of allocation of petitions to different benches was done with that end that is to save on manual labour, bring more speed and efficiency. [...] At the same time it also eliminated the possibility of "forum shopping" or in other words "bench hunting" by lawyers.

The Handbook of the Supreme Court also emphasises that the allocation of cases to benches by the current system is manipulation-proof, stating that

> Since the allocation is made by computer, [...] there is no scope for any Bench-Hunting. (Section VI.A.i)

[7] See Robinson (2013) for a lively and insightful exposition of the institutional background of the Supreme Court of India.

Since benches composed of three or more judges are constituted by the Chief Justice to hear particular cases, the allocation of cases to these benches is not random and we drop such cases from our analysis.[8] Therefore, our sample is composed solely of cases decided by two-judge benches.[9]

2.2 Appointment and retirement of judges

Since the mid-1990s, in response to calls for increased judicial independence, the appointment of judges to the Supreme Court has been the exclusive prerogative of the Supreme Court itself.[10] The CJI, heading a panel composed of other Supreme Court Justices, appoints new Justices from a pool of (state-level) High Court judges and, in exceptional cases, eminent Supreme Court lawyers. Therefore, unlike other supreme courts such as the US one, the executive and legislative branches of government play no active role in the appointment process. The appointment of the CJI is mechanical: at any given time, he[11] is the judge with the longest tenure in the Supreme Court.

By law, Supreme Court Justices must retire from the Court on their 65th birthday. In principle, judges could choose to retire earlier than this, but this has never happened in our sample period. Hence, their retirement date is exogenously determined by their date of birth.

After retiring from the Supreme Court, judges are constitutionally barred from practising law in any Indian court. Many continue to work as arbitrators in private disputes or as members of government commissions. The largest employer of ex-Supreme Court judges is the Union government of India (henceforth government). Appointments to government positions are considered prestigious and desirable by judges, as these enable them to continue influencing policy. Due to their prestige, competition for these positions is fierce. These appointments are made by the executive and are consequently politically driven. This appointment process is not transparent and is widely believed to be subject to lobbying by judges and internal machinations within the government.

Hence, although the government has no active role in appointing judges to the Supreme Court, it wields substantial influence over them by controlling their post-Supreme Court job prospects, as we demonstrate in later sections. This is in contrast to the US, where the appointment process to the Supreme Court is heavily politicised but the government wields little influence over judges once their appointment is finalised. The two systems differs in how the government tries to influence the Supreme Court: in the US, it does so by manipulating

[8] Robinson et al. (2011) shows that, since independence, the CJI has been in dissent in 10 out of more than 1000 cases decided by five or more judges, suggesting that he constitutes benches to ensure that the majority agrees with him.

[9] One potential concern is that cases decided during our sample period were actually allocated to benches before the randomisation system was introduced in 1996. This is not a concern for our sample since, in every case, at least one judge was appointed after 1996, so that the bench must have been constituted after the change.

[10] This change was enacted by the Supreme Court itself in its decision on the Supreme Court Advocates-on Record Association vs Union of India case of 1993.

[11] Although there have been female Supreme Court Justices, we use masculine pronouns throughout when referring to judges since the court has been overwhelmingly composed of men.

the *type* of judges who are appointed to the Court; in India, it does so by incentivising judges to manipulate their *actions* through control of post-retirement job prospects.

3 Data

In this section, we describe the sources and features of the data we use in this paper. We use three kinds of data: information about cases decided by the Supreme Court, information about judges' tenures in the Court and information on the jobs they received after retirement from the Court. We provide summary statistics for the main variables in table 1.

3.1 Case data

Using the SCC Online database[12], we collected the full text of all 2605 decisions written by judges of the Supreme Court between 1999 and 2014 where the "Union of India" appears as one of the parties. The phrase "Union of India" is how the Union government of India is identified in court cases.

Our sample is composed of the subset of cases satisfying the following criteria:

- We only use cases officially classified as *judgements*, not orders. This is because it is difficult to pander through orders for two reasons. First, a judgement is a decision on a point of law whereas an order is a procedural or summary decision. As such, orders are of minor importance relative to judgements and are unlikely to be noticed by the government[13]. Second, the name of the judge writing a judgement is always explicitly identified but this is almost never the case for orders. Hence, in most cases, it is not possible for the government to pinpoint the judge who wrote a favourable order.
- As discussed in section 2.1, we only consider cases decided by a two-judge bench.
- We only consider cases where both judges retired before May 2014, i.e., at least one year before the beginning of data collection. This is because, as we show in section 3.3, it takes on average one year for a retired judge to secure a post-SC job.
- We only include cases where the decision was unambiguously for or against the government, as described below.

This yields 666 cases in our sample.

For each case, we wrote a computer program to parse the full text of the judgement to extract information on the date of the judgement, word count of the judgement, 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, the name of the judge who wrote the judgement, whether the CJI was one of the judges, and whether the Attorney General of India or the Solicitor General of India represented the government in the case.

[12]SCC Online is widely acknowledged to be the most comprehensive database of Supreme Court of India cases, used by lawyers and legal scholars.

[13]Examples of orders are joining several cases into one, remanding a case to a lower court, etc.

We coded a case as being *politically salient* if the Attorney or Solicitor General of India (or both) represented the government in the case. They are the primary and secondary lawyers of the government, respectively. Both appointments are political, with the Attorney General being a constitutional position equivalent in rank to a cabinet minister. As such, these lawyers only appear in cases of great importance to the government in power.[14]

Finally, a key case-level variable is whether the government won or lost. We hired second- and third-year law students as research assistants (RAs). Their task was to read the full text of each judgement and input whether the government won or lost. Data entry was carried out through an online platform we designed.[15] The interface allowed for three options, namely, the government won, the government lost or the winner was not unambiguously identifiable. Each case was initially randomly assigned to two RAs. If the two RAs disagreed in their coding, the case was randomly assigned to a third RA.[16] This happened in less than 10% of the cases. The interface also allowed RAs to rate their confidence (high/low) in their own coding of each case. This was consistently high except for those cases with disagreements.

3.2 Judge data

For each Justice of the Supreme Court, we collected information on their date of birth, date of appointment to the Supreme Court, date of retirement from the Court and date of elevation to the office of Chief Justice, if ever.

Using this information, we define the variable "*retired long before*" as a dummy that takes value 1 if the judge retired at least one year before the next general election, 0 otherwise. During our sample period 1999–2014, elections occurred at regular five-year intervals as all governments served their full term. Since, as discussed in section 2.2, the retirement date of all judges in our sample is their 65th birthday, the "retired long before" variable is mechanically determined by their date of birth and the date of the next election after retirement.

The tenures of all judges in our sample are depicted in fig. 3 in appendix A. The black bars represent the tenures of judges who retired long before an election, while the hatched ones represent the tenures of judges who retired shortly before an election. The vertical lines represent general election dates, with the blue lines representing elections won by the UPA (2004 and 2009) and saffron representing the NDA (1999 and 2014).

[14]There are also several (currently 7) Additional Solicitors General who represent the government in the Supreme Court, who appear in around half of the cases involving the government. Given the large number of such cases, we do not consider their presence as meaning that the case is of great importance to the government, unlike the presence of the Attorney General or Solicitor General.

[15]Screenshots of the online platform and instructions to the RAs are available upon request.

[16]Since there were three options, it is possible that disagreements persist even with three RAs, but this never occurred in our sample.

3.3 Jobs data

We collected information on government positions taken up by Supreme Court Justices after their retirement from the Court. In particular, we collected information on the position and the date of appointment to that position. Whenever possible, we obtained this information from notifications published in the official Gazette of India. However, as the archives of the Gazette are incomplete, we supplemented this with an extensive search of newspaper reports and of the archives of bodies to which ex-Supreme Court Justices are commonly appointed. Since these are prominent positions, we are confident that our search was exhaustive.

We define a *post-Supreme Court (post-SC) job* as one awarded by the Union government to a retired Supreme Court Justice. Example include Chairman or Member of the National Human Right Commission, Competition Appellate Tribunal, Law Commission of India and Press Council of India. We provide a full list in table 9. For a judge who is appointed to several post-SC jobs over time, we consider the first job as his post-SC job, since appointment to later jobs is likely to be affected by his performance in previous post-SC jobs rather than pandering while being an active judge.

From time to time, the Supreme Court constitutes committees to investigate issues that arise in specific cases and appoints ex-SC judges to these committees. We exclude these jobs since they are not awarded by the executive and are therefore unrelated to the type of corruption we investigate here.

Variable	Mean	Std. dev.	Min	Max
Case-level (666 cases)				
Govt won	0.62	0.49	0.00	1.00
Salient	0.13	0.34	0.00	1.00
Appeal(0)/Petition(1)	0.24	0.43	0.00	1.00
CJI present	0.14	0.35	0.00	1.00
Log of wordcount	8.34	0.84	6.07	11.33
Judge-level (68 judges)				
Retired long before	0.83	0.38	0.00	1.00
Tenure	6.83	10.34	3.01	65.53
Ever CJI	0.11	0.32	0.00	1.00
Years between retirement and post-SC job	1.27	2.25	-0.88	8.63
Post-SC job	0.86	0.36	0.00	1.00
Post-SC job (NDA)	0.23	0.43	0.00	1.00
Post-SC job (UPA)	0.63	0.49	0.00	1.00
Number of salient cases	0.86	1.38	0.00	6.00
Number of salient cases (NDA)	0.31	0.76	0.00	4.00
Number of salient cases (UPA)	0.54	1.12	0.00	5.00
Number of favourable decisions in salient cases	0.63	1.06	0.00	4.00
Number of favourable decisions in salient cases (NDA)	0.31	0.76	0.00	4.00
Number of favourable decisions in salient cases (NDA)	0.31	0.72	0.00	3.00

Table 1: Summary statistics

4 Empirical strategy

We focus on corruption in the form of *pandering*, i.e., judges manipulating decisions in politically salient cases in favour of the government in order to increase the likelihood of obtaining a post-SC job. At the case level, pandering occurs if the judges decides in favour of the government when, based on the merits of the case, the opposite decision should have been made.[17] Unfortunately, as any assessment of the merits of a case is inherently subjective, it is practically infeasible to use this approach to identify pandering in our sample of more than 600 cases.

Instead, we can *statistically* identify the presence of pandering by comparing judges who have incentives to pander to those who don't. We use the following definition: a judge has incentives to pander in a case if *both*

1. the case is politically salient, *and*

[17]We use this dichotomous definition as we only observe whether the government has won or lost a case, without any information on how favourable the judgement was for the government.

2. the judge retires long enough before an election.

The political salience of a case is captured by whether or not the Attorney General or Solicitor General of India appears in the case. The presence of the Attorney General or Solicitor General indicates that the case is one that is particularly important for the government. We expect that pandering, if it exists, will manifest itself in these cases. Since cases are randomly allocated to judges, as described in section 2.1, we believe that the variable capturing the salience of a case is exogenous to judge specific characteristics that may influence the outcome of the case. Furthermore, in appendix B.1 we show that the allocation of salient cases is unrelated to observable characteristics of judges.

Whether a judge retires long before an election or not is captured by whether the judge retires from the Supreme Court at least one year before an election. We choose a threshold of one year because, as seen in the summary statistics, it takes on average a little over one year to secure a post-SC job, conditional on securing it at all.[18] Judges who retire less than one year before the next election have much weaker incentives to pander to the government in power at the time of their retirement, as they are unsure about whether that government will still be in power after the election.[19]

As described in section 2.2 and section 3.2, the date of retirement of judges is mechanically determined by their date of birth, and furthermore, elections occurred at regular five-year intervals. Hence, whether a judge is going to retire long before an election is predictable while he is deciding cases and, moreover, exogenous.

We identify pandering using difference-in-differences, where the two dimensions of variation are the salience of a case and whether the judge retired long before an election. We can think of judges who retire long before an election as the "treatment group" and those retiring shortly before an election as the "control group". We compare the salient–non-salient difference in decisions between these treatment and control groups to obtain our estimate of the effect of pandering incentives.

The basic idea behind the identification strategy is illustrated by the simple two-by-two bar chart in Figure 1: judges who retire long before an election are indeed more likely to decide in favour of the government in salient cases than in non-salient cases, whereas this is not the case for judges who retire shortly before an election.

[18] As we show in section 5.2, our results are robust to varying this threshold.

[19] We address concerns about re-election beliefs in section 5.3.

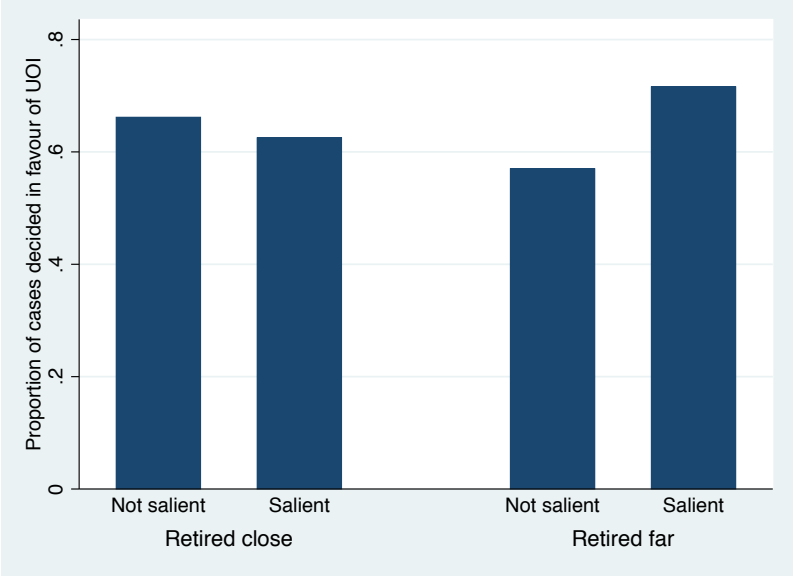

Figure 1: Differences in probability of case being decided in favour of UOI by salience and retirement distance

We implement our empirical strategy through the following regression specification:

$$\begin{aligned} \text{won}_{ijt} = \alpha + \beta\,\text{salient}_i + \gamma\,\text{retired long before}_j \\ + \lambda\,\text{salient}_i \times \text{retired long before}_j + \mathbf{X}'\eta + \varepsilon_{ijt} \end{aligned} \tag{1}$$

The variables on the right-hand side of eq. (1) capture pandering incentives, while the dependent variable captures the behaviour induced by them. The key parameter of interest is λ, the difference between judges who retire long and shortly before an election in the difference in the probabilities of deciding in favour of the government in salient versus non-salient cases. Our identification strategy relies on the assumption that, although there could be differences between salient and non-salient cases based on factors other than pandering incentives, this difference does not vary between judges who retire long before and shortly before an election. Therefore, we interpret a positive and significant estimate of λ as evidence of the behavioural response to pandering incentives.

5 Results

In this section, we present our main results about the presence of pandering. We also test them for robustness and we address the role of beliefs in shaping pandering incentives.

5.1 Main results

The results from regressing our main specification eq. (1) using OLS are reported in columns (1)–(5) of table 2. As discussed in section 4, the key parameter of interest is the coefficient of the interaction of salient and "retired long before", i.e., the difference-in-differences parameter.

This captures the effect of incentives to pander, i.e., both the case being politically salient and the judge retiring long before an election. We observe that this coefficient is positive and significant in all specifications, indicating that judges do engage in corruption by favouring the government when the case is politically salient *and* the judge retires long before an election.

The coefficient of "retired long before" in columns (1)–(3) is consistently negative and significant, indicating that, in the absence of pandering incentives, judges who retire long before are less likely to decide in favour of the government in non-salient cases compared to judges who retire shortly before an election. This is consistent with the analogous comparison in fig. 1. This suggests that pandering may be nuanced in that judges who retire long before an election may compensate by deciding against the government in non-salient cases that matter less for their post-retirement prospects.

The coefficient of salient is consistently negative but significant only in columns (1) and (3). This indicates that, in the absence of pandering incentives, politically salient cases are less likely to be decided in favour of the government than non-salient cases. This may be because, on average, the "correct" decision, i.e., one based on factors other than pandering incentives, might be less likely to favour the government in politically salient cases.

	(1) OLS	(2) OLS	(3) OLS	(4) OLS	(5) OLS	(6) Logit	(7) Probit
Salient	-0.351**	-0.286	-0.328*	-0.193	-0.262	-1.201	-0.742
	(0.169)	(0.173)	(0.189)	(0.184)	(0.191)	(0.786)	(0.486)
Retiring long before	-0.139***	-0.132***	-0.141***				
	(0.0407)	(0.0416)	(0.0440)				
Salient ×	0.639***	0.590***	0.647***	0.494**	0.572***	2.912***	1.799***
Retired long before	(0.182)	(0.186)	(0.200)	(0.201)	(0.205)	(0.920)	(0.557)
Case controls	No	Yes	Yes	Yes	Yes	Yes	Yes
Judge dummies	No	No	No	Yes	Yes	Yes	Yes
Year dummies	No	No	Yes	No	Yes	Yes	Yes
Observations	666	661	661	661	661	623	623
R^2	0.033	0.038	0.062	0.186	0.211		

Table 2: Main effects.
Dependent variable is whether government won. Case controls are type of case (appeal/petition), whether CJI was one of the judges, whether government was appellant/petitioner, log of wordcount. Standard errors are shown in parentheses. * $p < 0.1$, ** $p < 0.05$, *** $p < 0.01$

In columns (2)–(7) we control for case characteristics such as log word count of the judge-

ment, whether the case was an appeal or fresh petition, whether the government was the appellant/petitioner or respondent, and whether the CJI appeared in the case. The sign and significance of our coefficient of interest is unaffected by the inclusion of these case controls.

An alternative interpretation of our results is that they are driven by ideological alignment of judges with political parties. For example, judges who are ideologically aligned with the ruling party could be more likely to decide in favour of the government. Although undesirable, we do not consider this pandering. Instead, we define pandering as behaviour that arises in response to extrinsic incentives rather than intrinsic motivations such as ideology or innate characteristics.

Ideological alignment or other unobservable time-invariant judge characteristics are unlikely to introduce bias in our regressions because they are unlikely to be correlated with our regressors. First, as discussed in section 6.2, the allocation of cases to judges is completely random, so that whether a judge is assigned a politically salient case or not is uncorrelated with his personal characteristics. Second, whether a judge retires long before an election or not is decided solely by his date of birth and the date of the next election[20], both of which are exogenous.

Nonetheless, to rule out the possibility of any bias caused by unobservable judge characteristics, we include judge dummies in eq. (1). Moreover, to control for time-specific effects we also include dummies for the year in which the case was decided. These would absorb any changes in the decisions induced by political and institutional changes over time, e.g., the increase in the number of judges in 2008. We therefore use the following regression equation:

$$\begin{aligned} \text{won}_{ijt} = \alpha_i + \delta_t + \beta\,\text{salient}_i + \gamma\,\text{retired long before}_j \\ + \lambda\,\text{salient}_i \times \text{retired long before}_j + \mathbf{X}'\eta + \varepsilon_{ijt} \end{aligned} \tag{2}$$

The results of estimating eq. (2) are reported in columns (3)–(5).[21] The estimate of the key parameter of interest, namely, the coefficient of salient interacted with "retired long before", continues to be positive and significant in these specifications.

The estimated values for the interaction term from columns (1)–(5) indicate that pandering incentives increase the probability of deciding in favour of the government by around 50 percentage points or more. To illustrate the magnitude of this effect, consider a knife-edge case where the government and the other party are equally likely to win, based on the "merits" of a case. Taken literally, our estimates imply that pandering incentives turn such a case into a sure win for the government. Given the pivotal role played by the Supreme Court of India in deciding matters of policy, this suggests very serious welfare consequences of this form of corruption. We return to this point in section 9.

We also estimate eq. (2) using logit and probit and report the coefficients in columns (6) and (7), respectively.[22] Again, the coefficient of interest is positive and significant, which is

[20] In our sample period, elections occurred regularly every five years.

[21] The "retired long before" variable is dropped from these specifications as it only varies by judge.

[22] Our sample is not a panel as there is one observation per case. Hence the incidental parameter problem does

consistent with OLS estimates.

5.2 Robustness

Recall that the variable "retired long before" takes value 1 if the judge retires at least one year before an election. We pick one year as the threshold because on average it takes a little over one year for a judge to be appointed to a post-SC job, as shown in table 1. To ensure that our results are robust to different thresholds for the "retired long before" variable, we repeat the regressions with thresholds of 6 and 18 months. We report these results in table 3. The coefficient of the interaction term remains positive and significant, indicating that the estimated effect of pandering incentives is robust.

	(1)	(2)	(3)	(4)	(5)	(6)
	OLS	OLS	Logit	Logit	Probit	Probit
Threshold (months)	6	18	6	18	6	18
Salient	-0.333	-0.0594	-1.511	-0.345	-0.930	-0.195
	(0.230)	(0.153)	(0.967)	(0.646)	(0.586)	(0.397)
Salient ×	0.617**	0.369**	3.034***	2.060**	1.873***	1.252**
Retired long before	(0.241)	(0.173)	(1.073)	(0.836)	(0.643)	(0.497)
Case controls	Yes	Yes	Yes	Yes	Yes	Yes
Judge dummies	Yes	Yes	Yes	Yes	Yes	Yes
Year dummies	Yes	Yes	Yes	Yes	Yes	Yes
Observations	661	661	623	623	623	623
R^2	0.210	0.206				

Table 3: Robustness checks with different thresholds for retired long before.
Dependent variable is whether government won. Case controls are type of case (appeal/petition), whether CJI was one of the judges, whether government was appellant/petitioner, log of wordcount. Standard errors are shown in parentheses. * $p < 0.1$, ** $p < 0.05$, *** $p < 0.01$

5.3 Beliefs about future governments

In our analysis so far, we consider pandering incentives to be present when a case is politically salient and the judge retires long before an election. However, it is possible that judges' beliefs about the re-election prospects of the government in power also play a role in determining pandering incentives. For example, consider a judge deciding a politically salient case who will retire shortly before the next election. We currently treat such a judge as not having pandering incentives because there isn't enough time for the current government to reward

not apply and we can estimate logit and probit with judge and year dummies.

him by appointing him to a post-SC job. However, such a judge may still have strong pandering incentives if he strongly believes that the government will be re-elected so that he will be rewarded after the election.

Note that if judges who retire shortly before an election have pandering incentives similar to those of judges who retire long before one, there will be *downward* bias in the difference-in-differences estimator. The reason why the effect of pandering incentives will be underestimated is that there is little difference between our "treatment" and "control" groups, i.e., judges who retire long and shortly before an election, in their pandering incentives.[23] Therefore, the effect of pandering incentives are bounded below by the positive and significant estimates in section 5.1.

Nonetheless, we address the issue of re-election beliefs by using the subsample of cases decided in the judge's final government. That is, we exclude all cases decided prior to the last election before the judge retires as beliefs about elections prior to retirement play no role whatsoever. Figure 2 illustrates this with a hypothetical scenario. Elections occur at times 1, 2, 3 and 4. Judge A retires long before election 4 while Judge B retires shortly before election 3. The bars represent their tenures. Judge A's beliefs about elections 2 and 3 could affect his decisions in cases decided between elections 1 and 3 (black portion of the bar for Judge A). Similarly, judge B's beliefs about election 2 could affect his decisions in cases decided between elections 1 and 2 (black portion of the bar for Judge B). Therefore, we drop all these cases, leaving a sample consisting only of cases decided during the government at retirement (white portions of the bars). Note that this approach is the most restrictive way of addressing the issue of beliefs, as the role of all beliefs about all elections other than a judge's last one is eliminated.

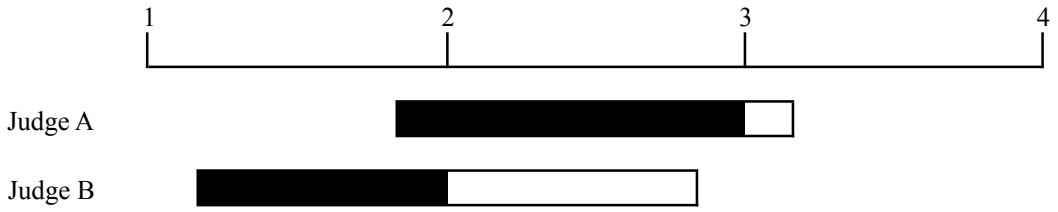

Figure 2: Restricted sample of cases decided during final government prior to retirement

The results of estimating eq. (1) and eq. (2) using this subsample are reported in table 4. All estimates of the coefficient of the interaction term are positive and significant. Moreover, we note that the magnitude has increased (by at least 10 percentage points). Consistent with the above discussion, this suggests that our estimates in section 5.1 are indeed lower bounds on the effect of pandering incentives.

[23]This downward bias is even stronger in the unlikely case that judges who retire shortly before an election have *stronger* pandering incentives than those retiring long before, as this would lead to a negative estimate of the effect.

	(1) OLS	(2) OLS	(3) OLS	(4) OLS	(5) OLS	(6) OLS	(7) OLS
Salient	-0.447***	-0.388**	-0.410**	-0.285	-0.421**	-1.925*	-1.178**
	(0.164)	(0.174)	(0.177)	(0.205)	(0.214)	(0.987)	(0.574)
Retired long before	-0.140**	-0.127**	-0.0622				
	(0.0547)	(0.0572)	(0.0634)				
Salient ×	0.736***	0.706***	0.794***	0.741***	0.958***	4.857***	2.978***
Retired long before	(0.197)	(0.204)	(0.202)	(0.262)	(0.255)	(1.371)	(0.773)
Case controls	No	Yes	Yes	Yes	Yes	Yes	Yes
Judge dummies	No	No	No	Yes	Yes	Yes	Yes
Year dummies	No	No	Yes	No	Yes	Yes	Yes
Observations	341	339	339	339	339	286	286
R^2	0.042	0.045	0.102	0.259	0.311		

Table 4: Restricted sample of cases decided during final government prior to retirement.
Dependent variable is whether government won. Case controls are type of case (appeal/petition), whether CJI was one of the judges, whether government was appellant/petitioner, log of wordcount. Standard errors are shown in parentheses. * $p < 0.1$, ** $p < 0.05$, *** $p < 0.01$

6 Pandering mechanisms

In this section we explore different mechanisms that could explain our results so far. In particular, we show that pandering occurs through actually writing the judgement rather than simply sitting on the bench and that it results in potentially harmful manipulation of actual decisions.

6.1 Writing judgements vs sitting on the bench

Recall that in our sample, each case is decided by two judges, one of whom writes the judgement. In the analysis so far, the judge characteristics we use, such as "retired long before" and judge dummies, are those of the judge who wrote judgement. This choice is motivated by our belief that pandering occurs through *authoring* judgements in favour of the government, as opposed simply sitting on a bench that decides favourably. This is because writing the judgement requires additional effort, making it a costly signal of the judge's willingness to pander to the government. Therefore, although both judges agree on the judgement, being the author of a favourable judgement is more likely to be noticed and consequently rewarded by the government.

To test this hypothesis, we repeat the analysis using the characteristics of the judge who *did not* write the judgement and report the results in table 5. Indeed, the coefficient of the interaction term, i.e., the estimate of the effect of pandering incentives, is smaller than in the main results and is statistically insignificant.

	(1) OLS	(2) OLS	(3) OLS	(4) OLS	(5) OLS	(6) Logit	(7) Probit
Salient	0.172	0.205	0.218	0.270*	0.286**	1.371*	0.870*
	(0.140)	(0.146)	(0.133)	(0.160)	(0.145)	(0.757)	(0.445)
Retired long before	0.0511	0.0550	0.0614				
	(0.0450)	(0.0446)	(0.0476)				
Salient ×	-0.0431	-0.0400	-0.0478	-0.120	-0.147	-0.647	-0.470
Retired long before	(0.164)	(0.163)	(0.155)	(0.188)	(0.179)	(0.957)	(0.537)
Case controls	No	Yes	Yes	Yes	Yes	Yes	Yes
Judge dummies	No	No	No	Yes	Yes	Yes	Yes
Year dummies	No	No	Yes	No	Yes	Yes	Yes
Observations	666	661	661	661	661	635	635
R^2	0.007	0.017	0.040	0.164	0.181		

Table 5: Effects for judge not writing judgement.
Dependent variable is whether government won. Case controls are type of case (appeal/petition), whether CJI was one of the judges, whether government was appellant/petitioner, log of wordcount. Standard errors are shown in parentheses. * $p < 0.1$, ** $p < 0.05$, *** $p < 0.01$

For completeness, we also repeat the analysis using both judges and report the results in table 6. We find that the coefficient of the interaction term remains positive and significant. This shows that results in section 5 are robust to the inclusion of the judge who did not write the judgement.

	(1) OLS	(2) OLS	(3) OLS	(4) OLS	(5) OLS	(6) Logit	(7) Probit
Salient	-0.0766	-0.0160	-0.0254	0.0594	0.0485	0.207	0.133
	(0.122)	(0.118)	(0.117)	(0.129)	(0.125)	(0.542)	(0.326)
Retired long before	-0.0492	-0.0420	-0.0437				
	(0.0306)	(0.0309)	(0.0307)				
Salient ×	0.285***	0.249**	0.268***	0.184*	0.202*	1.053**	0.627**
Retired long before	(0.102)	(0.100)	(0.0983)	(0.110)	(0.106)	(0.472)	(0.276)
Case controls	No	Yes	Yes	Yes	Yes	Yes	Yes
Judge dummies	No	No	No	Yes	Yes	Yes	Yes
Year dummies	No	No	Yes	No	Yes	Yes	Yes
Observations	1332	1322	1322	1322	1322	1305	1305
R^2	0.010	0.019	0.041	0.114	0.132		

Table 6: Combined effects for judge writing judgement and the other judge.
Two observations per case, one for each judge. Dependent variable is whether government won. Case controls are type of case (appeal/petition), whether CJI was one of the judges, whether government was appellant/petitioner, log of wordcount. Standard errors are shown in parentheses and are clustered at the case level. * $p < 0.1$, ** $p < 0.05$, *** $p < 0.01$

6.2 Manipulating judgements vs allocating judgement writing

Although the allocation of a case to a bench is randomised, the authorship of the judgement is not. The two judges on the bench jointly decide which one of the two writes the judgement. Therefore, it is possible that one of the channels through which pandering occurs is through the manipulation of judgement authorship. The fact that pandering incentives have an effect on the decision also at the bench level helps us clarify the mechanism through pandering occurs.

One possible mechanism that could explain our main results is the following. Rather than manipulating the actual decision in favour of the government, it is possible that judges merely manipulate the allocation of who writes the judgement. For example, consider a bench where one of the judges retires long before an election and the other doesn't. In a politically salient case where the "correct" decision is in favour of the government, these judges could decide to allocate the writing of the judgement to the judge who retires long before an election, to increase the latter's cachet with the government. Systematic manipulation of the *allocation* of judgement writing of this kind could explain the positive estimates in the main results, as judges who retire long before an election would be more likely to write judgements in favour

of the government in politically salient cases. Although this could be considered pandering, this type of manipulation has very different welfare implications from the kind where the actual decision is changed in favour of the government.

We therefore consider the characteristics of the whole bench rather than just those of the judge writing the judgement. In particular, for each case, we use a variable measuring the number of judges on the bench who retire long before an election, taking values 0, 1 and 2. Now, the strength of pandering incentives is captured by the interaction of "salient" and "number retiring long before". The results reported in table 7 show that the estimated effect of pandering incentives remains positive and significant, except for the OLS estimates that include judge dummies.

	(1) OLS	(2) OLS	(3) OLS	(4) OLS	(5) OLS	(6) Logit	(7) Probit
Salient	-0.438*	-0.333	-0.384	-0.173	-0.197	-1.724	-1.070
	(0.249)	(0.241)	(0.245)	(0.285)	(0.289)	(1.487)	(0.831)
Retired long before (bench)	-0.0474	-0.0413	-0.0477				
	(0.0295)	(0.0302)	(0.0340)				
Salient × Retired long before (bench)	0.377***	0.329**	0.365***	0.244	0.260	2.025**	1.238**
	(0.138)	(0.134)	(0.136)	(0.163)	(0.166)	(1.032)	(0.558)
Case controls	No	Yes	Yes	Yes	Yes	Yes	Yes
Judge dummies	No	No	No	Yes	Yes	Yes	Yes
Year dummies	No	No	Yes	No	Yes	Yes	Yes
Observations	666	661	661	661	661	596	596
R^2	0.017	0.023	0.047	0.292	0.305		

Table 7: Effects for whole bench.
Dependent variable is whether government won. Case controls are type of case (appeal/petition), whether CJI was one of the judges, whether government was appellant/petitioner, log of wordcount. Standard errors are shown in parentheses. * $p < 0.1$, ** $p < 0.05$, *** $p < 0.01$

If all benches only manipulate the allocation of who writes the judgement and not the actual decision, then the strength of pandering incentives at the bench level ought not to have any effect on the likelihood of a decision in favour of the government, since all benches make the "correct" decisions. The results in table 7 show that this is not the case. Therefore, our main results cannot be driven solely by manipulation of who writes the judgement. This implies that judges are manipulating the actual decisions in response to pandering incentives.

7 Rewards for pandering

Having identified the presence of corruption on the "supply" side in the form of pandering by judges, we now focus on the "demand" side in the form of rewards by governments. In principle, there could be many ways in which the government rewards judges who pander to it. We explore whether there is any evidence that pandering is actually rewarded by the government in a particular form, namely post-SC jobs. As discussed in section 1, the existence of this form of corruption between judges and the government has been highlighted not only by the media and politicians but also by retired Supreme Court judges themselves. We contribute to this discourse by showing that deciding more cases in favour of the political party in power is positively correlated with the judge being appointed to a prestigious post-SC job.

We show this by estimating

$$\begin{aligned}\text{job}_j = \alpha &+ \beta_1 \text{ decisions in favour of NDA} + \beta_2 \text{ decisions in favour of UPA} \\ &+ \gamma_1 \text{ total decisions during NDA} + \gamma_2 \text{ total decisions during UPA} + \mathbf{Z}'\zeta + \varepsilon_j \,. \end{aligned} \tag{3}$$

The variables "decisions in favour of NDA or UPA" measure the number of politically salient cases decided in favour of an NDA or UPA government by judge j. The variables "total decisions during NDA or UPA" measure the number of politically salient cases decided during an NDA or UPA government by judge j. The dependent variable job_j can take three values: 0 if judge j was not appointed to a post-SC job; 1 if a UPA government appointed him to a post-SC job; -1 if an NDA government appointed him to a post-SC job. Table 1 reports the summary statistics for these variables.

Column (1) of table 8 reports the results of estimating eq. (3) by OLS. We find that the estimate of β_2, the effect of the number of decisions in favour of a UPA government, is positive and significant, indicating that deciding more cases in favour of a UPA government increases the probability of a UPA government appointing the judge to a post-SC job.

The estimate of β_1, the effect of the number of decisions in favour of an NDA government, is statistically insignificant in all specifications. One could interpret the difference in significance between the estimates of β_1 and β_2 as suggesting that only UPA governments participate in this form of corruption. Alternatively, this difference could arise because the practice of giving post-SC jobs may have strengthened over time with the number of commissions and tribunals increasing[24] since during our sample period of 1999–2014, NDA was in power until 2004 and UPA thereafter.

To investigate this further, we categorise post-SC jobs into *high-profile* and *low-profile*. We define high-profile jobs to be appointments to policy positions that survive both a) the current appointee and b) the government in power. We provide a complete categorisation of jobs into these two groups in table 9. Their characteristics mean that the high-profile jobs according

[24]Several were created but none were dissolved during the sample period.

to our definition attract a much greater level of interest than the low-profile ones. The OLS results for high- and low-profile jobs only are reported in columns (2) and (3). The fact that the estimate of β_2 is significant for all jobs and high-profile jobs but not for low-profile ones, indicates that this quid-pro-quo only operates for the more prestigious high-profile jobs.

We also repeat the analysis using ordered logit and report the results in columns (4)–(6), confirming our previous results.

These results run contrary to the expectation that corruption at such a high-level, under such intense public scrutiny, is subtle and surreptitious. Moreover, it striking that this form of corruption can be detected statistically using a sample of only 68 observations.

Although suggestive, note that on its own this need not be causal evidence of corruption. Even though we control for observable judge characteristics, this correlation could be explained by the unobservable "type" of judges, e.g., political ideology or pro-/anti-government bias, driving both their rulings and their likelihood of obtaining a post-SC job. However, since we earlier established the existence of pandering by judges, at least part of the correlation must be driven by rewards for actual pandering.

	(1)	(2)	(3)	(4)	(5)	(6)
Profile of jobs	All	High	Low	All	High	Low
Num. cases in favour of NDA	-0.140	0.242	-0.382	-0.427	1.065	-1.808
	(0.486)	(0.404)	(0.328)	(1.443)	(1.655)	(1.563)
Num. cases in favour of UPA	0.524**	0.424**	0.101	1.590*	1.809**	0.599
	(0.250)	(0.208)	(0.169)	(0.834)	(0.877)	(0.984)
Num. cases under NDA	0.220	-0.150	0.370	0.673	-0.680	1.718
	(0.486)	(0.405)	(0.328)	(1.448)	(1.657)	(1.557)
Num. cases under UPA	-0.286	-0.206	-0.0802	-0.832	-0.906	-0.484
	(0.174)	(0.145)	(0.117)	(0.578)	(0.604)	(0.705)
Constant	0.172	-0.00392	0.176			
	(0.256)	(0.213)	(0.173)			
Observations	68	68	68	68	68	68
R^2	0.206	0.191	0.083			

Table 8: Correlation between favourable decisions and post-SC job.
Dependent variable is -1 if judge obtained post-SC job from NDA, 1 if judge obtained job from UPA, 0 if no job. All specifications include the following controls: party at time of retirement, retired long before an election, tenure in the Supreme Court, whether they were ever CJI.

8 Policy implications

There are a number of policy recommendations that could attenuate the incentives for judges to pander to the government. The most obvious one is to discontinue the practice of appointing ex-SC judges to government positions. This is problematic because currently several key positions are statutorily required to be filled by ex-SC judges or even an ex-CJI.

Another widely mooted suggestion is to introduce a cooling-off period of at least two years before ex-SC judges can be appointed to a government position. The idea behind this measure is to weaken both the memory of pre-retirement pandering for the government and the value of post-retirement rewards for judges. In addition to this, our analysis suggests that this cooling-off period would be more effective for those judges retiring less than two years before an election, as it would introduce uncertainty about the identity of the government that rewards them.

Former CJI R. M. Lodha suggested a policy of continuing to pay ex-SC judges their salary or an equivalent pension to reduce the attraction of post-SC jobs. However, the effectiveness of this measure might limited by the fact that the attraction of these jobs may be largely due to the influence the holders continue to wield on policy matters, rather than the salary and perks. In any case, judges for whom monetary incentives are very important opt for much more lucrative opportunities as arbitrators in private disputes.

A further suggestion is to increase the retirement age of judges. The current retirement age is too low since many judges are still in their prime at 65. Such a policy change would reduce the number of judges seeking post-SC jobs, as fewer would choose to continue working at a more advanced age. Reducing the supply of candidates would reduce competition for these posts, and would consequently reduce the perceived need to pander.

Lastly, making appointments to post-SC jobs mechanically could also reduce pandering incentives. This could be implemented most easily by making appointments based solely on the date of retirement or length of tenure on the court. This would uncouple post-retirement prospects from behaviour while deciding cases.

9 Conclusion

In this paper we find that, first, judges pander to the government by ruling in its favour and, second, the government rewards judges who ruled in its favour with prestigious jobs. Furthermore, we provide evidence that the mechanism by which judges pander is through potentially harmful manipulation of actual decisions in favour of the government rather than through more benign means, such as manipulating judgement authorship. Our results are not driven by "rotten apples", i.e., *type* differences in the integrity of judges, but rather by a rational *behavioural response* to perverse institutional incentives.

The findings we report are important because this kind of corruption potentially constitutes a very serious miscarriage of justice, with far-reaching welfare implications. However,

we note that the welfare implications depend on whether the "correct" rulings, i.e. the ones judges would make in the absence of pandering incentives, are welfare-maximising. For instance, pandering could lead to a welfare gain if the Supreme Court is otherwise biased against the government, and pandering incentives help steer the Court towards "better" decisions. This is related to the idea, found in Huntington (1968) and Bardhan (1997), that the presence of corruption can improve outcomes in a second-best world with many distortions already present. Hence, evaluating whether pandering reduces or increases welfare faces two problems. First, identifying anything about the "correctness" of a ruling requires deep textual analysis, which is infeasible on a large scale. Second, there is no natural way of identifying the welfare-maximising ruling when it requires taking sides between, for example, a pro-free speech Court and a pro-security government.

Nevertheless, regardless of the welfare implications, the presence of pandering in the Supreme Court undermines notions of judicial integrity and independence. The importance of confidence in the impartiality of the judiciary is captured by the maxim "justice must not only be done but must be seen to be done". Frequent allegations of pandering suggest that clearly justice is not seen to be done. Moreover, our results documenting the presence of such pandering suggest that justice is in fact not always done.

References

Banerjee, Abhijit, Rema Hanna, and Sendhil Mullainathan (2012). "Corruption". In: *Handbook of Organizational Economics*. Princeton, NJ: Princeton University Press.

Bardhan, Pranab (1997). "Corruption and Development: A Review of Issues". *Journal of Economic Literature* 35, pp. 1320–1346.

Bertrand, Marianne et al. (2007). "Obtaining a Driver's License in India: An Experimental Approach to Studying Corruption". *Quartely Journal of Economics* 122 (4), pp. 1639–1676.

Danziger, Shai, Jonathan Levav, and Liora Avnaim-Pesso (2011). "Extraneous factors in judicial decisions". *Proceedings of the National Academy of Sciences of the United States of America* 108 (17), pp. 6889–6892.

Fisman, Raymond (2001). "Estimating the value of political connections". *American Economic Review* 91, pp. 1095–1102.

Fisman, Raymond and Edward Miguel (2007). "Corruption, Norms and Legal Enforcement: Evidence from Diplomatic Parking Tickets". *Journal of Political Economy* 115 (6), pp. 1020–1048.

Green, Andrew and Albert Yoon (2016). "Triaging the law: Developing the common law on the Indian Supreme Court". Available at SSRN: http://ssrn.com/abstract=2816666.

Huntington, Samuel P. (1968). *Political Order in Changing Societies*. New Haven: Yale University Press.

Lim, Claire S.H., James M. Snyder, and David Strömberg (2015). "The Judge, the Politician, and the Press: Newspaper Coverage and Criminal Sentencing across Electoral Systems". *American Economic Journal: Applied Economics* 7 (4), pp. 103–135.

Olken, Benjamin A. (2007). "Monitoring Corruption: Evidence from a Field Experiment in Indonesia". *Journal of Political Economy* 115 (2), pp. 200–249.

Olken, Benjamin A. and Rohini Pande (2012). "Corruption in Developing Countries". *Annual Review of Economics* 4 (1), pp. 479–509.

Pande, Rohini (2007). "Understanding Political Corruption in Low Income Countries". *Handbook of Development Economics* 4, pp. 3155–3184.

Robinson, Nick (2013). "Structure matters: The impact of court structure on the Indian and US Supreme Courts". *American Journal of Comparative Law* 61 (1), pp. 101–138.

Robinson, Nick et al. (2011). "Interpreting the Constitution: Supreme Court Constitution Benches since Independence". *Economic and Political Weekly* 46 (9), pp. 27–31.

Sukhtankar, Sandip and Milan Vaishnav (2015). "Corruption in India: Bridging Research Evidence and Policy Options". *Brookings-NCAER India Policy Forum 2014*.

A Data appendix

Position	Institution	Frequency
High-profile jobs		
Chairperson	Appellate Tribunal for Electricity	1
Chairperson	Armed Forces Tribunal	1
Chairperson	Competition Appellate Tribunal	3
Governor	Government of Kerala	1
President	National Consumer Disputes Redressal Commission	2
Chairperson	National Forest Commission	1
Chairperson	National Green Tribunal	2
Chairperson/Member	National Human Rights Commission	5
Chairperson	Press Council of India	2
Chairperson	Telecom Disputes Settlement and Appellate Tribunal	4
Low-profile jobs		
Chairperson	Cauvery Water Dispute Tribunal	1
Chairperson	Krishna Water Disputes Tribunal	1
Chairperson	Mahadayi Water Disputes Tribunal	1
Chairperson	Vamsadhara Water Disputes Tribunal	1
Chairperson	Law Commission of India	4
Chairperson	Pay Commission	1
Chairperson	M. B. Shah Commision of Inquiry on Illegal Mining	1
Chairperson	Nanavati Commission	1
Chairperson	S. Saghir Ahmed Commission	1
Chairperson	U.C Banerjee Commission on the Godhra riots	1
Chairperson	Central University of Jharkhand	1
Professor	National University of Juridical Sciences	2
Chancellor	Sikkim University	1

Table 9: Post-SC jobs and frequencies

B Supplementary results

B.1 Testing randomness of case allocation

	(1)	(2)	(3)	(4)	(5)	(6)	(7)
Dependent var.	Number	Number	Number	Number	Fraction	Fraction	Fraction
Retired long before	-0.0536	0.430	0.432	0.484	0.0572	0.0579	0.0575
	(0.368)	(0.305)	(0.308)	(0.306)	(0.0570)	(0.0573)	(0.0581)
Non-salient cases		0.0426***	0.0427***	0.0427***			
		(0.00697)	(0.00703)	(0.00695)			
Tenure in SC			-0.00282	-0.00470		-0.00171	-0.00170
			(0.0152)	(0.0151)		(0.00294)	(0.00297)
Chief justice				0.474			-0.00390
				(0.307)			(0.0603)
Constant	0.750**	-0.0887	-0.0731	-0.182	0.0326	0.0424	0.0433
	(0.334)	(0.301)	(0.315)	(0.319)	(0.0517)	(0.0546)	(0.0567)
Observations	68	68	68	68	68	68	68
R^2	0.000	0.365	0.366	0.389	0.015	0.020	0.020

Table 10: Allocation of salient cases to judges.
The dependent variable in columns 1–4 is the number of politically salient cases allocated to a judge. The dependent variable in columns 5–7 is the fraction of cases allocated to a judge that are politically salient.

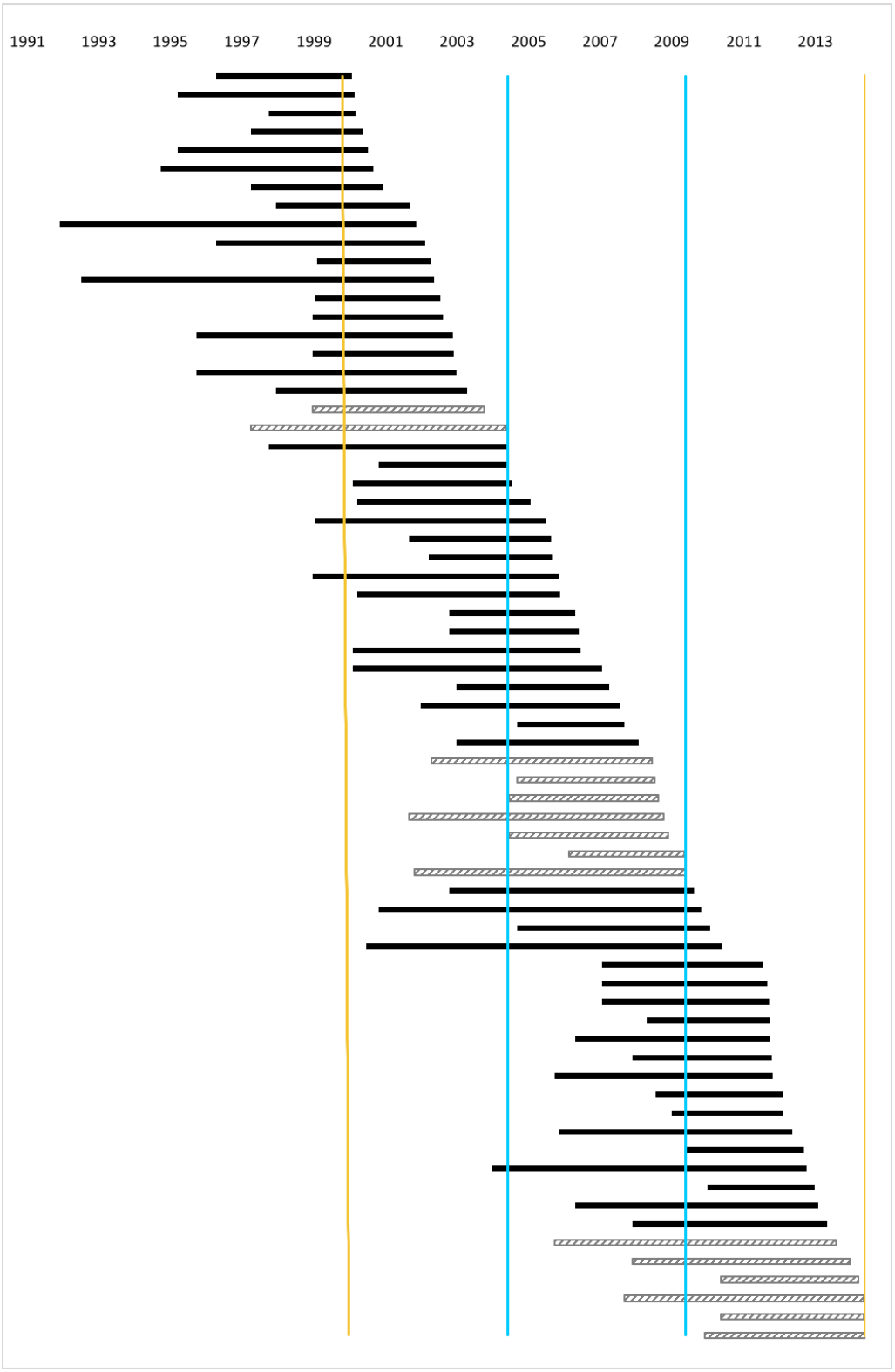

Figure 3: Judge tenures.
Each bar represents the tenure of a judge. Solid bars are for judges who retire at least one year before an election, while hatched bars are for judges who retire less than one year before an election. The saffron line represent elections won by the NDA while the light blue lines represent elections won by the UPA.