SELECTIVELY ASSERTIVE: INTERVENTIONS OF INDIA'S SUPREME COURT TO ENFORCE ENVIRONMENTAL LAWS


We examine why India's Supreme Court has selectively intervened to enforce environmental laws. While the Indian Judiciary has substantial political insulation, judges recognize the need for tactical balancing to preserve the legitimacy of their institution. We examine four cases: judicial interventions to check water pollution from tanneries and to phase out diesel engines, and judicial non-intervention to prevent degradation of wetlands and to check crop burning in states adjacent to Delhi. We suggest that judges intervened to correct enforcement failure when they do not anticipate pushback from organized constituencies. Where judicial action imposes costs on a large number of actors and motivates protests from organized groups, the justices have tended to overlook enforcement failures. In sum, in spite of political insulation, judges remain attentive to the popular mood and interest-group politics.

http://ideas.repec.org/a/gam/jsusta/v11y2019i24p7234-d298723.html

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