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Tribunal Unveiled: Examining their Necessity, Function, and Influence

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ABSTRACT

This study explores the tribunal system in India, focusing on its purposes, functions, and challenges. It begins with an introduction to the system, outlining its definitions and various types. The research highlights the necessity of tribunals in addressing specific legal needs and examines their effectiveness in fulfilling these roles. It delves into the functions of tribunals, including dispute resolution and specialized adjudication, while also identifying significant challenges such as accessibility, efficiency, and public perception. The core objective of this work is to assess whether the tribunal system effectively meets the demands it was designed to address. Furthermore, it considers the future of the system if current shortcomings persist. The study also investigates the evolution of tribunals in response to changing legal landscapes and societal needs, proposing potential strategies for improvement. Ultimately, this work aims to contribute to the ongoing discourse on the efficacy and relevance of the tribunal system in India, providing insights into its role within the broader judicial framework.

I. INTRODUCTION

Tribunals have become a crucial component of the modern legal system, offering an alternative platform for resolving disputes, particularly in areas that require specialised knowledge and expertise. As quasi-judicial bodies, tribunals are distinct from traditional courts, and designed to streamline dispute resolution in areas such as labour, tax, and administrative law. Their historical evolution reflects a global trend toward efficiency and specialisation, offering a comparative analysis of how different jurisdictions have embraced these bodies.

The need for tribunals arose primarily from the congestion in traditional courts and the growing recognition that judges may not always possess the technical expertise to handle specialised issues. As a result, tribunals were introduced as an effective means of alternative dispute resolution, addressing specific disputes more efficiently than conventional courts. Tribunals play a vital role in adjudicating cases in specialised areas, such as labour disputes and administrative law, ensuring that justice is delivered promptly.

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Tribunals function as specialised judicial bodies, equipped with unique mechanisms and processes tailored to the specific nature of the disputes they handle. By focusing on particular subject areas, tribunals contribute to a more efficient justice delivery system, often using processes that are more flexible than those of traditional courts. Several landmark cases have highlighted both the successes and challenges tribunals face, particularly in maintaining their independence and impartiality.

Overall, tribunals have had a significant impact on the legal ecosystem, contributing to increased access to justice and reducing the burden on conventional courts. Thus, in this work, we will be delving into the unveiling of the tribunal system in India.“

II. OVERVIEW OF TRIBUNALS AND THEIR PLACE IN THE LEGAL SYSTEM

“The Indian legal system has been shaped by the country’s socio-economic, cultural, and political history. To maintain a stable system in a welfare state, the regulatory and adjudication processes must remain transparent and efficient. Such a system must strike a balance between individual rights and the authority of the state. According to Dworkin, "a legal system must not only contain rules but also certain principles" to ensure coherence and identity. These principles are deeply rooted in the cultural, historical, and economic context of the country and are influenced by its regime.[3]

In this context, the rule of law is a fundamental principle, although not explicitly stated in the Constitution. The legal system seeks to uphold the Diceyan doctrine of the rule of law. Courts and tribunals are the two key pillars supporting this principle in the Indian legal system. Tribunals, serving as quasi-judicial bodies, consist of both judicial and executive members.[4]

Indian courts are known for their significant backlog of cases, largely attributed to the judiciary's inherent procedural limitations. Additionally, there was a growing realization that judges were not always equipped to handle complex technical issues. This led to the creation of specialized adjudicatory bodies like tribunals, formed out of necessity to address these challenges.[5] Let’s now go further to the definitions and types of tribunals, to understand it more.

Definition and types of tribunals

The term "tribunal" is not explicitly defined in the Indian Constitution, but its meaning can be inferred from Supreme Court rulings. Tribunals are adjudicatory bodies, other than ordinary

[3] Utsa Sarkar & Mohammad Saleem, Tribunals and Its Functioning with Regard to Rule of Law: A Comparative Study Between India and United Kingdom, 10 Int'l J. Socio-Legal Analysis & Rural Dev. 60 (2020).
[4] Id.
[5] Anamika Kundu & Vasavi Khatri, 1976 to 2017: The Transformation of the Tribunal System in India, 8 INDIAN J. CONST. L. 43 (2019).“

courts, established by the State and entrusted with judicial and quasi-judicial functions, in contrast to administrative or executive functions.[6]

Tribunals are typically established as specialized bodies staffed by experts who may not always have a judicial background.[7]

Stathe notes in his book *THE TRIBUNAL SYSTEM IN INDIA* that there are 95 types of tribunals established under 88 Central statutes, offering a comprehensive overview of the various kinds of tribunals in India.[8]

These tribunals are categorized as:

(i) single-member tribunals with a judicial chairperson;

(ii) family courts;

(iii) single-member tribunals without a judicial officer, such as the commissioner of payments;

(iv) multi-member tribunals with judicial presidents;

(v) administrative tribunals under Article 323A of the Constitution;[9]

(vi) grievance redressal systems under the Consumer Protection Act, 1986;[10]

(vii) multi-member tribunals with non-judicial members;

(viii) domestic tribunals; and

(ix) arbitrators.

After covering the definitions, we would go forward to the historical evolution and comparative analysis across jurisdictions.

Historical evolution and comparative analysis across jurisdictions

The framers of the Indian Constitution opposed rigid divisions of governance but supported assigning quasi-judicial functions to tribunals and administrative bodies. This mechanism is primarily limited to adjudicating service-related matters.[11]

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[6] Id.
[7] Chander, Harish. Review of The Tribunal System in India by S.P. Sathe. 41 J. Indian L. Inst. 312, 312-15 (1999), https://www.jstor.org/stable/4395172.
[8] Chander, H. (1999). Review of The Tribunal System in India, by S. P. Sathe. Journal of the Indian Law Institute, 41(2), 312–315. http://www.jstor.org/stable/43951725.
[9] India Const. art. 323A.
[10] The Consumer Protection Act, Act No. 35 of 2019.
[11] P. Leelakrishnan, Reviewing Decisions of Administrative Tribunal: Paternalistic Approach of the Indian Supreme Court and Need for Institutional Reforms, 54 J. Indian L. Inst. 1 (2012), https://www.jstor.org/stable/43953523.

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The Legislature has introduced various amendments over time, focusing on a welfare-oriented approach and easing the burden on courts to strengthen the judiciary. In this context, the Forty Second Amendment of 1976 was enacted, which established special adjudicatory bodies by adding Articles 323A,[12] and 323B,[13] to the Indian Constitution.[14]

The issue of tribunal jurisdiction was settled in the *L. Chandrakumar case*, but in the post-Chandrakumar period, concerns about the separation of powers and judicial independence arose.[15] It was felt that tribunal members lacked sufficient judicial independence. This is evident in complex tax matters, where individuals with specific expertise and experience, including technical members like Chartered Accountants, are needed to resolve issues judicially. Tax tribunals were thus established to handle these matters efficiently and cost-effectively, avoiding the cumbersome process of going through the High Court.

Several cases, starting with *L. Sampath Kumar v. Union of India (1997)*,[16] and culminating in the *Roger Mathew case (2019)*,[17] saw the Supreme Court attempt to define the constitutional status of tribunals in relation to the Executive and judiciary. However, the position of tribunals was reconsidered by the Court in *R. Gandhi v. Union of India (2010)*, which raised the question of how much High Court jurisdiction could be transferred to tribunals.[18] The term "wholesale transfer of powers" in the Companies Act, of 2002,[19] was examined in light of the constitutional framework concerning the separation of powers and judicial independence.

Article 323A of the Indian Constitution pertains to Administrative Tribunals, while Article 323B covers tribunals established for other purposes, expanding the scope of Administrative Tribunals.[20]

Thus, the tribunals serve as specialized quasi-judicial bodies that address the limitations of traditional courts, particularly in handling technical or complex issues, thus ensuring a more efficient adjudication process. Next, we will discuss the need for tribunals and their role in the Indian legal system."

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[12] India Const. art. 323A.
[13] India Const. art. 323B.
[14] Tribunals and Its Functioning with Regard to Rule of Law: A Comparative Study Between India and United Kingdom, 7 INT'L J. SCI. & ENG'G DEV. RES. 865, 865-870 (Nov. 2022), available at http://www.ijsdr.org/papers/IJSDR2211124.pdf.
[15] L. Chandra Kumar v. Union Of India And Others AIR 1997 SUPREME COURT 1125.
[16] L. Sampath Kumar v. Union of India, AIR 1997 SUPREME COURT 1125.
[17] Rojer Mathew v. South Indian Bank Ltd, AIRONLINE 2019 SC 1514.
[18] Union of India (UOI) v. R. Gandhi and Ors., (2010)11SCC1.
[19] The Companies Act, Act No. 11 of 2003.
[20] Tribunals and Its Functioning with Regard to Rule of Law: A Comparative Study Between India and United Kingdom, 7 INT'L J. SCI. & ENG'G DEV. RES. 865, 865-870 (Nov. 2022), available at http://www.ijsdr.org/papers/IJSDR2211124.pdf.

III. RATIONALE FOR TRIBUNAL SYSTEM

"The growth of the welfare state has expanded the scope of governmental responsibilities toward the people. This significant shift has not only increased the functions of the government but also placed a heavy burden on the judiciary. As a result, the courts have become responsible not only for resolving legal matters but also for maintaining and balancing the broader interests of society. To fulfil this role, the judiciary has been working to strike a balance between judicial activism and judicial independence—two critical factors for preserving the integrity and effectiveness of the judicial system in a country.[21]

The social, political, and economic transformations following the Industrial Revolution led to increased state involvement and oversight in areas previously considered private matters. With the state's growing responsibilities, courts were soon overwhelmed and found ill-equipped to handle the surge in newly emerging state-versus-individual disputes. To address this situation and offer a more efficient grievance redressal mechanism, legislatures began establishing administrative tribunals, distinct from traditional courts, to manage these specific conflicts.[22]

Congestion in traditional courts

Welfare states have undergone significant transformation, engaging in a wide range of socio-economic activities, such as providing healthcare, education, industrial regulation, and other welfare measures. With these activities, disputes are inevitable. The issues arising from such disputes not only involve legal matters but also impact society at large. However, the structure and functioning of the court system remain traditional and inefficient. Procedural limitations have hindered the courts' ability to resolve cases promptly, leading to a massive backlog across all judicial levels. As a result, the judiciary became overwhelmed with litigation stemming from increased government intervention. Moreover, it became apparent that judges were not sufficiently trained or equipped to handle complex socio-economic and technical disputes. This highlighted the need for specialized adjudicatory bodies, such as tribunals, to ensure fair and efficient resolution of such disputes.[23]

Also, with the government's involvement in commercial ventures and transactions, such as railways, road transport, telecommunications, government purchasing, and infrastructure

[21] Tribunals and Its Functioning with Regard to Rule of Law: A Comparative Study Between India and United Kingdom, 7 INT'L J. SCI. & ENG'G DEV. RES. 865, 865-870 (Nov. 2022), available at http://www.ijsdr.org/papers/IJSDR2211124.pdf.

[22] P. Leelakrishnan, Reviewing Decisions of Administrative Tribunal: Paternalistic Approach of the Indian Supreme Court and Need for Institutional Reforms, 54 J. Indian L. Inst. 1 (2012), available at https://www.jstor.org/stable/43953523.

[23] Abhishek Kumar Jha, Administrative Tribunals of India: A Study in the Light of Decided Cases (Jan. 22, 2012), available at SSRN: https://ssrn.com/abstract=1989780 or http://dx.doi.org/10.2139/ssrn.1989780.

development, alongside its expanding role in social and economic spheres, the administration of justice has become increasingly complex, slow, cumbersome, and costly. Traditional court systems are no longer sufficient to manage the growing issues arising from the wide-ranging activities of modern governments. To alleviate the burden on common law courts and ensure the speedy resolution of cases related to service matters, revenue, government claims, and other significant issues in the context of socio-economic development, alternative mechanisms were necessary. This led to the rise of tribunals as a more efficient means of adjudicating cases.[24]

Role of tribunals in addressing specialized disputes

The growing awareness among individuals regarding their rights, combined with the expansion of writ jurisdictions under Article 226,[25] has significantly increased the caseloads in High Courts. In response to this surge, several committees recommended the establishment of alternative adjudicatory bodies to alleviate the pressures on traditional courts. The Wanchoo Committee (1970) proposed the creation of Tax Tribunals to address the backlog of income tax cases. Similarly, the High Courts' Arrears Committee Report (1972) and the Swaran Singh Committee Report (1976) advocated for special tribunals to handle service-related disputes, which constituted a substantial portion of the pending cases before the High Courts.[26]

Following these recommendations, the Parliament of India enacted the Forty-Second Constitutional Amendment, which introduced Articles 323A and 323B into the Constitution. Article 323A empowered Parliament to establish administrative tribunals for adjudicating or conducting trials related to service matters. Article 323B further authorized state legislatures to create tribunals for the adjudication of other specific subjects.[27]

The primary aim of establishing these subject-specific tribunals was to provide an alternative adjudicatory mechanism, thereby reducing the mounting arrears in High Courts and ensuring the swift resolution of service-related issues, revenue matters, and other significant areas essential to socio-economic development and progress. This approach has enhanced the effectiveness of the legal system by allowing tribunals to focus on specialized matters that require particular expertise and timely intervention.[28]

There are several examples where tribunals are essential like labour, administrative etc. Now,

[24] R.C. Saksena, Adjudication by Tribunals in India: Landmark in Field of Natural Justice, 37 J. Indian L. Inst. 222 (1995), https://www.jstor.org/stable/43953228.
[25] India Const. art. 226.
[26] Nimesh Das Guru, A Long Quest for Rationalisation of Tribunals in India, 58 PSYCHOL. & EDUC. 7262 (2021), available at https://ssrn.com/abstract=3954825.
[27] Id.
[28] Id.

The administrative tribunal, established under Article 323A of the Constitution, was granted jurisdiction over matters and disputes concerning the recruitment and service conditions of public employees at both the Union and state levels. Under Article 323B, legislatures were empowered to create tribunals for adjudicating or trying disputes and offences related to specific matters, including:

(a) Levy, assessment, collection, and enforcement of taxes.

(b) Foreign exchange, import, and export across customs frontiers.

(c) Industrial and labour disputes.

(d) Land reforms, such as state acquisition of estates or rights therein, or the modification and extinguishment of those rights, as well as agricultural land ceilings.

(e) Urban property ceilings.

(f) Elections to either House of Parliament or state legislatures.

(g) Production, procurement, supply, and distribution of foodstuffs and other essential goods.

(h) Offences relating to any of the aforementioned matters.

(i) Any incidental or related issues.

Previously, cases related to these matters remained pending in common law civil courts and High Courts for extended periods, sometimes ranging from two years to two decades. These cases are now being addressed and resolved more swiftly through tribunals. Making the tribunals are essential in these areas[29]

In response to the growing complexity of government functions and the rising burden on the judiciary, tribunals have emerged as specialized adjudicatory bodies to ensure faster and more efficient resolution of disputes. Further, the next chapter will discuss the purpose and functions of tribunals, focusing on their vital role in managing cases that require specialized expertise and timely decisions.“

IV. THE PURPOSE AND FUNCTIONS OF TRIBUNALS

“Tribunals are defined as "adjudicatory bodies (excluding ordinary courts) established by the State and endowed with judicial and quasi-judicial functions, distinct from administrative and executive roles." While the Constitution embodies the principle of separation of powers, the Administrative Tribunal Act has led to a cumbersome blending of executive and judicial

[29] R.C. Saksena, Adjudication by Tribunals in India: Landmark in Field of Natural Justice, 37 J. Indian L. Inst. 222 (1995), https://www.jstor.org/stable/43953228.

functions, with members of the executive carrying out judicial duties.[30]

There are several functions of tribunals. One of the primary functions is to provide a *specialized forum for adjudicating disputes* that require specific technical knowledge or expertise. Unlike traditional courts, where judges may not possess specialized knowledge in every subject area, tribunals often include members who are experts in fields such as taxation, labour relations, or environmental law. For instance, the Income Tax Appellate Tribunal (ITAT) comprises members with backgrounds in finance and taxation, enabling them to navigate complex tax laws and regulations effectively.

This specialization is crucial in areas where disputes often arise due to the intricate nature of the laws governing them. In sectors like labour relations, for example, tribunals such as the Industrial Tribunals handle disputes between employers and employees regarding labour rights and conditions. Their expertise allows for more informed decisions, which can be critical for industries that are subject to rapid changes in regulation or market conditions.

The Indian judiciary has long faced challenges related to case backlogs and delays. Traditional courts can be burdened with numerous cases, often resulting in prolonged litigation processes. Tribunals address this issue by providing a *quicker and more efficient means of resolving disputes*. The mechanisms and procedures adopted by tribunals are typically less formal than those in courts, allowing for faster hearings and decisions.

For instance, the Administrative Tribunals Act of 1985 established tribunals to resolve disputes related to the recruitment and service conditions of public servants. These tribunals have significantly reduced the backlog of cases that previously inundated the High Courts. By enabling faster resolution, tribunals help ensure that justice is not only delivered but also perceived as timely and accessible.

Tribunals have the *flexibility to develop their own procedures* for conducting hearings and deciding cases, allowing them to adapt to the unique nature of the disputes they address. This adaptability is crucial for dealing with specialized matters that may not fit neatly within the rigid frameworks of traditional judicial processes.

The procedural rules governing tribunals are designed to facilitate a more informal and accessible approach. For example, litigants may be allowed to present their cases without the need for formal legal representation, reducing the intimidation often associated with traditional court proceedings. This is particularly important in labour disputes, where workers may not

[30] Anamika Kundu & Vasavi Khatri, 1976 to 2017: The Transformation of the Tribunal System in India, 8 Indian J. Const. L. 43 (2019).

have the resources to hire legal counsel.

While *tribunals operate independently*, they are still subject to the oversight of the higher judiciary, which serves as a check on their powers. The Supreme Court of India has consistently emphasized the importance of maintaining the principles of judicial independence and accountability in its decisions related to tribunals.

The landmark case of *L. Chandra Kumar v. Union of India* (1997) underscored the constitutional status of tribunals and affirmed that the High Courts retain the power of judicial review over tribunal decisions.[31] This ensures that tribunals operate within the confines of the Constitution and adhere to principles of natural justice. Such oversight is vital for maintaining public confidence in the judicial system and ensuring that the rights of individuals are protected.

In a diverse society like India, where socio-economic disparities exist, tribunals have emerged as essential bodies for *addressing specific socio-economic issues*. They often focus on areas such as labour rights, land reforms, and environmental regulations, which are critical for the country's development.

For instance, the National Green Tribunal (NGT) was established to handle environmental disputes and enforce environmental laws. The NGT not only adjudicates cases related to pollution and environmental degradation but also raises public awareness about environmental issues, reflecting the tribunal's role in promoting social welfare alongside legal adjudication.

Tribunals have been instrumental in shaping the legal landscape through their *landmark decisions*. These rulings often set precedents that influence future cases and contribute to the development of law in specific areas.

In the labor sector, for example, tribunal decisions regarding employee rights and entitlements have led to greater awareness and enforcement of labor laws. Similarly, tax tribunals' decisions on tax disputes have clarified interpretations of tax legislation, thereby impacting tax policy and compliance.[32]

Now, we will discuss about the role of the tribunals in delivering justice efficiently.

Role of tribunals in delivering justice efficiently

Tribunals play a crucial role in enhancing access to justice, particularly for marginalized and vulnerable groups. By providing a more approachable and less formal mechanism for dispute

[31] L. Chandra Kumar v. Union Of India And Others AIR 1997 SUPREME COURT 1125.
[32] Oxford Handbook of the Indian Constitution (Vikram Raghavan et al. eds., 2016).

resolution, tribunals encourage individuals who might otherwise refrain from seeking legal recourse to engage with the legal system.

For example, the Consumer Disputes Redressal Forums established under the Consumer Protection Act provide a platform for consumers to seek redress against grievances related to defective goods or deficient services. These forums have made it easier for individuals to assert their rights without incurring significant legal costs, thus empowering them in their interactions with businesses and service providers.

Further, we will delve into the mechanism and processes adopted by the tribunals in India.

Mechanisms and processes adopted by tribunals

There are several mechanisms and processes adopted by tribunals in India, particularly following recent reforms aimed at enhancing their efficiency and effectiveness.

Tribunals were introduced primarily to alleviate the backlog in High Courts by establishing specialized bodies that handle specific subject matters, such as tax and administrative disputes. This *specialization* allows for more informed and expedited adjudication.

The Tribunals Reforms (Rationalisation and Conditions of Service) Act, 2021, aims to rationalize the functioning of these tribunals. It focuses on the amalgamation of various tribunals based on their subject matter and lays down rules regarding the qualifications, appointment, and conditions of service of tribunal members.[33]

Recent judgments by the Supreme Court emphasized the need to *maintain judicial independence* in the composition and functioning of tribunals. The establishment of a National Tribunal Commission has been proposed to provide a supervisory body that can oversee appointments, administrative needs, and disciplinary actions against tribunal members.

The jurisdiction of High Courts to entertain disputes regarding tribunal decisions has often been limited to maintain the effectiveness of the tribunal system. However, this exclusion has faced criticism and legal challenges, leading to important court decisions clarifying the powers of tribunals and the High Courts.

Continuous performance evaluation mechanisms have been suggested to monitor the efficiency and effectiveness of tribunals. *Transparency in processe*s, including public reporting of tribunal performance, is vital for building trust in these institutions.

These reforms reflect a significant effort to address the challenges faced by the tribunal system

[33] Nimesh Das Guru, A Long Quest for Rationalisation of Tribunals in India, 58 PSYCHOL. & EDUC. 7262 (2021), available at https://ssrn.com/abstract=3954825.

in India, aiming to ensure that tribunals operate as efficient, independent, and credible forums for dispute resolution.[34] We will discuss about it further in the last chapter for now we will study the successes of the tribunal system."

V. SUCCESS OF TRIBUNALS

In the previous chapter, we studied the purposes and functions of tribunals in the Indian legal framework. In this chapter, we will discuss the success and advantages of the tribunal system in India.

One of the foremost strengths of the tribunal system is its *specialisation*. Tribunals are often composed of experts in specific fields, ensuring that cases are adjudicated by individuals with a deep understanding of both the relevant legal and technical issues. This specialized knowledge significantly improves the quality of decisions, particularly in areas such as taxation, environmental disputes, corporate governance, and service matters. For instance, the National Green Tribunal (NGT) benefits from the expertise of environmental law specialists, enabling more accurate and informed decisions in complex ecological cases.[35]

Tribunals are designed to provide a *more streamlined and faster resolution* of disputes compared to traditional courts. This is particularly crucial in areas where timely decisions are of paramount importance, such as service matters, tax disputes, and environmental issues. By adhering to simplified procedures, tribunals can deliver judgments in a timely manner, thereby reducing delays that often plague conventional court proceedings. In cases like employment grievances or industrial disputes, this prompt resolution can have a substantial impact on individuals' livelihoods and organizational efficiency.[36]

By handling specific types of cases, tribunals play a significant role in alleviating the burden on traditional courts. With India's judiciary grappling with a massive backlog of cases, tribunals offer a parallel avenue for dispute resolution in specialized areas. This division of responsibility not only enhances the efficiency of the legal system but also contributes to more focused and effective justice delivery in specialized fields. As a result, traditional courts are freed up to deal with more complex or general legal matters.[37]

Another key advantage of the tribunal system is its *accessibility*. Tribunals are geographically

[34] Id.
[35] Gitanjali Nain Gill, Environmental Justice in India: The National Green Tribunal and Expert Members, 5 Transnational Envtl. L. 175 (2016).
[36] Nimesh Das Guru, A Long Quest for Rationalisation of Tribunals in India, 58 PSYCHOL. & EDUC. 7262 (2021), available at https://ssrn.com/abstract=3954825.
[37] Id.

dispersed across the country, with benches set up in various regions to ensure that citizens can seek justice without needing to travel long distances to centralized courts. This decentralization is particularly beneficial in service-related disputes, where government employees from remote areas can approach regional tribunals such as the Central Administrative Tribunal (CAT), instead of having to go through the High Courts. This proximity to citizens ensures that justice is not only available but also affordable and convenient.[38]

Administrative Tribunals, such as the CAT, have proven particularly effective in expediting the resolution of service-related matters for government employees. By providing a specialised forum that is both quick and focused, these tribunals prevent the long-drawn-out delays typically associated with service litigation in conventional courts. The efficiency with which these matters are handled has strengthened the trust of public servants in the tribunal system, while also promoting accountability and transparency in government employment disputes.[39]

Hence, the tribunal system in India demonstrates significant strengths through its specialization, streamlined processes, and accessibility, effectively enhancing the quality and speed of justice delivery. By alleviating the burden on traditional courts and addressing specific disputes, tribunals play a crucial role in fostering a more efficient and responsive legal framework.

VI. CHALLENGES PRESENT IN THE SYSTEM

In the previous chapter, we examined the success of the tribunal system in India. Now, we turn to the significant challenges faced by tribunals, including conflict of interest, lack of independence, administrative concerns, and high case pendency.

One key issue is the *conflict of interest*, as the government, a frequent litigant in tribunal cases, is also responsible for appointing and removing tribunal members. This raises concerns about impartiality and fairness, while the "tribunalization of justice" undermines the judiciary's authority and the separation of powers.

Lack of independence is another critical problem. Tribunal members' salaries, terms, and conditions of service are decided by the executive. In 2010, the Supreme Court noted that Indian tribunals had not yet achieved full independence.[40] In 2014, the Court emphasized that tribunals assuming High Court jurisdiction must be free from executive influence, including

[38] Justice D.K. Jain, Address of Hon'ble Mr. Justice D.K. Jain (Dec. 5, 2011), https://www.highcourtchd.gov.in/sub_pages/topmenu/about/events_files/Address%20of%20Hon'ble%20Mr.%20Justice%20D.K.%20Jain.pdf.
[39] Id.
[40] Union Of India v. R. Gandhi, Civil Appeal No.3067 of 2004.

administrative matters like leave approval.[41]

The *selection process* also faces scrutiny. The Supreme Court has consistently reiterated that judicial independence is a fundamental constitutional principle. Allowing the government to dominate tribunal appointments violates the doctrine of separation of powers. In 2019, the Court called for judicial dominance in selection committees,[42] and in 2020, it suggested a composition that includes the Chief Justice of India or their nominee, ensuring a fair and transparent process.

The *composition of tribunals* often includes both judicial and technical members, but the presence of technical members without judicial oversight dilutes tribunal independence. The Court has ruled that where tribunals assume the jurisdiction of courts, judicial members should outnumber technical members.[43]

The *term of office* for tribunal members is typically short, around three years, leading to executive influence through reappointments and discouraging qualified candidates from applying. In 2020, the Court recommended a five-year term for tribunal members, with age limits of 70 for Chairpersons and 67 for other members.[44]

Administrative issues continue to plague tribunals. The administration of tribunals has been criticized for *lacking uniformity*, as various tribunals fall under different ministries. The Court has called for the creation of an independent oversight body, the National Tribunals Commission (NTC), to handle appointments and resources, but this has yet to be implemented.[45]

Overlapping jurisdiction between tribunals and traditional courts, such as COMPAT and NCLT, further complicates matters, while bypassing the Hon'ble High Courts remains controversial despite some resolution through the Chandra Kumar Case (1997).

Tribunals suffer from *high pendency rates*, with the Central Administrative Tribunal (CAT) having 44,333 pending cases.[46] Other tribunals, such as the Armed Forces Tribunal and Income Tax Appellate Tribunal, face similar backlogs. The Tribunals Reforms (Rationalisation and Conditions of Service) Ordinance, 2021,[47] which abolished nine tribunals and transferred their

[41] Madras Bar Association versus Union of India and Anr., Civil Appeal No. 3067 of 2004.
[42] Rojer Mathew v. South Indian Bank Ltd & Ors., 2019 (369) ELT3 (S.C.).
[43] Union of India v. R. Gandhi and Ors., 2010 (261) ELT3 (S.C.).
[44] Madras Bar Association vs Union of India & Another, Civil Writ Petition No. 804 of 2020.
[45] Madras Bar Association v. Union of India & Another, Writ Petition (Civil) No.502 of 2021.
[46] Annual Report 2017-18, Ministry of Law and Justice (India) (2018).
[47] Tribunals Reforms (Rationalisation and Conditions of Service) Ordinance, 2021, No. 5 of 2021, § 1, 2021 (India).

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functions to High Courts, may worsen these delays.

Vacancies remain a persistent challenge. As of 2021, tribunals across the country were short of 20 presiding officers, 110 judicial members, and 111 technical members, significantly hampering their ability to function. The lack of human resources, including an inadequate number of judges, is one of the primary reasons for the backlog in both courts and tribunals.[48]

In conclusion, while tribunals in India offer specialized, expedited justice, they are hampered by conflicts of interest, lack of independence, and high case backlogs. To address these issues, implementing judicial reforms such as insulating the selection process, ensuring tribunal independence, and establishing an independent oversight body like the National Tribunals Commission will be crucial in strengthening the tribunal system.

VII. Future of tribunals and imperative reforms for their advancement

In the previous chapter, we studied the challenges faced by tribunals, including issues related to efficiency, independence, and transparency. In this chapter, we will discuss the way ahead for the tribunal system in India, focusing on the reforms and steps necessary to strengthen their functioning and effectiveness.

Tribunals in India have been a topic of much debate due to concerns over their independence, administrative delays, and jurisdictional conflicts. To address these issues, comprehensive reforms are needed, starting with the creation of a National Tribunal Commission (NTC). The 74th report of the Parliamentary Standing Committee on Law recommended the establishment of the NTC,[49] which would serve as an overarching body to regulate crucial aspects such as the selection process, eligibility criteria, and appointment of tribunal members. This body would also oversee administrative functions, ensuring a more streamlined and transparent system.

One of the most pressing reforms is ensuring *timely appointments* to tribunals. Delays in appointments lead to backlogs and slower justice delivery, undermining the very purpose of tribunals as faster alternatives to regular courts. By expediting the appointment process, cases can be resolved more efficiently, ensuring that the justice delivery mechanism remains robust.

Independence and autonomy are essential for the effective functioning of tribunals. Currently, the appointment, removal, and service terms of tribunal members are susceptible to political

[48] Express News Service, 'Sorry State': SC Asks Centre to Take Stand on Vacancies in Tribunals, The Indian Express (Aug. 7, 2021), https://indianexpress.com/article/india/sorry-state-sc-asks-centre-to-take-stand-on-vacancies-in-tribunals-7442398/.
[49] Parliamentary Standing Committee on Law, 74th Report (2022).

interference, which compromises their impartiality. Reforms must ensure that these processes are free from executive and legislative influence, giving tribunal members adequate protection to operate independently.

Another area requiring attention is the *rationalisation of tribunals*. India has a large number of tribunals, many of which perform overlapping functions or have conflicting jurisdictions. Streamlining the tribunal system by rationalizing and merging tribunals with similar functions would improve efficiency and reduce duplication of work, making the system more effective and manageable.

Moving forward, the focus must be on enhancing the *independence* of tribunals. Adequate safeguards must be introduced to protect the tenure of tribunal members from undue political influence, thereby maintaining judicial impartiality. The Standing Committee on Personnel, Public Grievances, Law and Justice (2015) emphasized the need for the creation of the NTC for the overall administration of tribunals. [50]The Supreme Court, in 2020, reiterated this need, stressing the importance of the NTC in supervising appointments and ensuring the smooth functioning of tribunals.[51]

A *judicial impact assessment* could also be introduced to assess the resources required to handle fresh cases resulting from new laws, ensuring tribunals are better equipped to handle their workload.

Further, it is crucial to clearly define the jurisdictional boundaries of each tribunal to avoid conflicting decisions with regular courts and ensure clarity in legal proceedings. Additionally, ensuring that technical members of tribunals have adequate legal qualifications or receive proper training is essential. This will promote a better understanding of legal principles and improve the quality of tribunal decisions.

In conclusion, a combination of structural reforms, timely appointments, enhanced independence, and proper jurisdictional clarity is essential for improving the tribunal system in India. These reforms will not only enhance the effectiveness of tribunals but also ensure that they serve their intended purpose—providing accessible, efficient, and impartial justice.

VIII. CONCLUSION

In conclusion, this study emphasizes the importance of a comprehensive evaluation of the tribunal system to identify and address these challenges. For the tribunal system to continue to

[50] The Standing Committee on Personnel, Public Grievances, Law and Justice, 2015 at https://documents.doptcirculars.nic.in/D2/D02rti/1_1_2013-IR-09072015.pdf.
[51] Madras Bar Association v. Union of India & Another, Writ Petition (Civil) No.502 of 2021.

meet the evolving needs of society, it must adapt to changes in the legal landscape and public expectations. The research suggests that reforms are essential to streamline processes, enhance the qualifications of tribunal members, and improve overall transparency.

Moreover, fostering greater awareness about the role and functions of tribunals among the general public can help demystify the system and encourage its use. By implementing targeted reforms and encouraging stakeholder engagement, the tribunal system can significantly enhance its effectiveness and maintain its relevance within India's judicial framework.

Ultimately, this work highlights the necessity for ongoing research and discourse surrounding the tribunal system, as these discussions will be instrumental in ensuring that it continues to serve as a robust and accessible avenue for justice in India. As the country navigates complex legal challenges, the tribunal system must evolve to effectively respond to the diverse needs of its citizens, reinforcing its position as a key pillar of justice delivery.

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