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# Need of Tribunals; Analyzing Growth and Impact of Tribunals

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## ABSTRACT

*The paper will focus on establishing the reason behind coming up and growth of Tribunals when a similar and more organized mechanism like courts was already in existence. This will be achieved by a comparative analysis between the structure and functioning of Tribunals and Courts in India. Domestic tribunals and other tribunals, together referred to as the Tribunals, have been constituted under various statutes (Article 323A and 323B of the Indian Constitution) in order to address the situation that resulted from the pending cases in various courts. The Tribunals were established in order to lighten the burden on courts, make judgements more quickly, and offer a venue that would be staffed by attorneys and subject matter experts in the areas in which the Tribunal had authority. In the judicial system, tribunals play a significant and specific function. They relieve some of the court's already heavy workload. They hear disagreements over taxes, the military, the environment, and administrative matters. How can this system of tribunals be made more efficient? What are its impacts? Are tribunals against the rule of law? All these questions shall be answered by the end of this research paper.*

**Keywords:** *Tribunals, courts, growth, impacts, efficient, rule of law.*

## I. INTRODUCTION

Tribunals are organizations set up to carry out quasi-judicial or judicial functions. Reducing the court's caseload or bringing in subject matter experts for technical topics might be the goals. As quasi-judicial entities, tribunals need to have the same degree of independence from the government as the judiciary, according to a ruling by the Supreme Court. Crucial elements encompass the process of choosing panel members, the arrangement of panels, and the duration and assignment of duty. The Supreme Court had advised that the law ministry handle all administrative cases instead of the ministry related to the subject matter in order to guarantee the independence of tribunals from the government. Subsequently, the Court suggested setting up a separate National Tribunals Commission to oversee tribunal operations. There has been no implementation of these proposals. While the goal of establishing these tribunals was to

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shorten the backlog of cases in courts, a number of tribunals are now dealing with a high volume of cases and backlogs.<sup>2</sup> The establishment of a unique organisation has always been necessary for the settlement of conflicts. As the number of court cases expanded and the load on the courts increased, there was a need for a specialist institution to settle disputes on specific topics.

Because they reduce the workload of the courts and enable them to deliver rulings on time, tribunals play a vital role in the Indian legal system. Because the Tribunals are dedicated to settling disputes in a certain field, they are advantageous. Both the system's and the participants' expenses are decreased as a result.

### **(A) Research Methodology**

The approach that will be applied in this study is doctrinal research. There will be glimpses of comparative research as well. When situational or objective comparison is involved, comparative research is employed. For this research, secondary sources of data including research papers, scholarly publications, published books, journals, and online journals will be used.

### **(B) Nature**

Tribunals are permanent establishments with a panel of adjudicators tasked with providing just rulings to the wronged parties, just as courts. In contrast to court processes, tribunal proceedings are, however, less formal and more rational. Courts are bound by rules and standards of behaviour, and their behaviour is scrutinized by higher courts. Tribunals, on the other hand, are more casual and flexible. Tribunal adjudicators are frequently chosen from inside the relevant department or agency. The central Administrative Tribunal, which was founded in accordance with Article 323A of the Indian Constitution, decides cases involving disagreements and grievances pertaining to hiring practices and working conditions for public positions.<sup>3</sup>

## **II. THE BRAWL; TRIBUNALS VS RULE OF LAW**

Administrative law is negated by adjudication. Everybody is guaranteed equality before the law under the rule of law, which also upholds the superiority of common law and due process over arbitrary government actions. However, administrative tribunals severely restrict the cherished concepts of the Rule of Law with their own rules and procedures, which they

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<sup>2</sup> Tribunal System in India, PSR India, <https://prsindia.org/billtrack/prs-products/the-tribunal-system-in-india-3750>, Last Visited on 2<sup>nd</sup> April 2024.

<sup>3</sup>Tribunals and Courts, Law Bhoomi, [https://lawbhoomi.com/difference-between-tribunals-and-courts/#Difference\\_in\\_Nature](https://lawbhoomi.com/difference-between-tribunals-and-courts/#Difference_in_Nature), Last Visited on 7<sup>th</sup> April, 2024

frequently create on their own. Administrative tribunals frequently lack established protocols and occasionally even transgress natural justice norms.<sup>4</sup>

### **(A) Various Types of Tribunals**

- Water Dispute Tribunal

A water dispute tribunal has been formed by our nation's Parliament to handle issues pertaining to the management of water in India's river valleys and interstate rivers.<sup>5</sup>

- Armed Forces Tribunal

The Armed Forces Tribunal Act of 2007 led to the establishment of this military tribunal. It addresses grievances pertaining to enlistment, commissions, appointments, and terms of service for military personnel. The tribunal has many regional benches in Kochi, Chennai, Lucknow, Chandigarh, Mumbai, Jaipur, and Kolkata in addition to its central bench located in Delhi.

- The National Green Tribunal

The National Green Tribunal Act of 2010 established the National Green Tribunal in response to the growing demand for environmental dispute resolution. The tribunal handles matters pertaining to the preservation of the nation's natural resources and environmental protection. Furthermore, if harm is done to a person's personal property, they may also be entitled to compensation.

- Tribunal for Joint Administration (JAT)

A Joint Administrative Tribunal (JAT) may be established for two or more states under the Administrative Tribunals Act of 1985. All of the authority and jurisdiction that the administrative tribunals for these states have is exercised by a JAT. The President appoints a JAT's chairman and members after conferring with the governors of the relevant states.

- National Company Law Tribunal

In India, the National Company Law Tribunal is a quasi-judicial tribunal that decides cases involving Indian corporations. The Indian government formed the tribunal in 2016 in accordance with the Companies Act of 2013.<sup>6</sup>

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<sup>4</sup> Supra Note 4.

<sup>5</sup> Different Tribunals, Unacademy, <https://unacademy.com/content/upsc/study-material/polity/different-tribunals/>, Last Visited on 8<sup>th</sup> April, 2024.

<sup>6</sup> Tribunals, Vajiramandravi, <https://vajiramandravi.com/quest-upsc-notes/tribunals/>, Last Visited on 10<sup>th</sup> April

- State Administrative Tribunal

Article 323B of the Indian Constitution serves as the State Administrative Tribunal's code of conduct. It also states that the authority may create tribunals on a number of other issues, such as land reforms, taxes, industrial labour, foreign exchange, the maximum amount of land that may be developed in an urban area, food, rent, tenancy rights, and elections to the state assembly and parliament.

- Central Administrative Tribunal

The Central Administrative Tribunals handle cases involving workers of the Central Government, government agencies within the jurisdiction of the Indian government, companies controlled by the Indian government, and cases involving employees in the Union Territories of the nation. Since its establishment in November 1985, the Central Administrative Tribunal has been composed of many members, including the chairman and vice-chairman. There are seventeen major benches that hold meetings under this tribunal; fifteen of these benches are located at the High Court's chief bench, while the remaining two are located in Jaipur and Lucknow.

Tribunals are set up for a variety of purposes in India. The Administrative Tribunals Act of 1985 led to the establishment of Administrative Tribunals in India. This tribunal handles disagreements pertaining to an individual's recruiting circumstances in any of the public services. State Administrative Tribunals and Central Administrative Tribunals are the two categories of tribunals in India.<sup>7</sup>

### **III. ADMINISTRATIVE TRIBUNALS ACT**

The Administrative Tribunals Act, 1985, which covers all topics coming under clause (1) of Article 323-A, was approved by Parliament in accordance with Article 323-A. This Act gives the federal government the power to create administrative tribunals for federal services, state services, municipal bodies, and other authorities, such as public corporations, on the application of the states. As to Article 136, all courts, with the exception of the Supreme Court, forfeit their jurisdiction over matters falling under the purview of the tribunals as of the date of formation. A tribunal will have a chairman, as many vice-chairmen as necessary, and as many other members as the government sees suitable. For Central Tribunals, the President appoints them; for State or Joint Tribunals, the President appoints them after consulting with the

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<sup>7</sup> Supra Note 6.

Governors. The Act lays forth the requirements in relation to that.<sup>8</sup>

### (A) Leading Case Laws

The court held in *S.P. Sampath Kumar v. Union of India*,<sup>79</sup> that the Tribunals are a means to an end, not an end in and of themselves. Even if the noble goals of prompt justice, consistency in procedure, predictability of decisions, and specialized justice are to be realized, the structure of the Tribunals intended to be established, in order to achieve them, must maintain the fundamental judicial character in order to inspire public confidence. It is desirable that all of the Tribunals be kept under a single nodal agency that will oversee the operation of the Tribunals and guarantee the uniformity of the appointment system. This was noted by the Court in the case of *L Chandra Kumar (Supra)*. The Court noted that the numerous Tribunals with lack of uniformity in the matter of qualifications, appointments, tenure, and service conditions is causing the major concern in the effective working of the present Tribunal system.<sup>9</sup>

### (B) Advantages of Tribunals

- **Adequate Justice:** In today's rapidly evolving world, administrative tribunals are not only the most suitable administrative action mechanism but also the most successful in providing people with fair justice. Attorneys, who are more focused on legal matters, find it challenging to determine a person's place in the modern welfare society and to fairly assess its demands.
- **Adaptability:** Both judicial and administrative tribunals are now more flexible and adaptable as a result of administrative adjudication. For example, there is a great degree of rigidity and inflexibility in the vision and methodology of the legal system. Their administration of justice could start to conflict with the quickly evolving social landscape. Administrative adjudication can adapt to the many stages of social and economic life without being constrained by strict norms of process or standards of proof.<sup>10</sup>
- **Reduced Costs:** Cheap and speedy justice is guaranteed by administrative justice. In contrast, the legal system's method is drawn out and difficult, and litigation is

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<sup>8</sup>Abhishek Kumar Jha, *Administrative Tribunals of India; 'A Study in the Light of Decided Cases'*, SSRN, <https://delivervpdf.ssrn.com/delivery.php?ID=294114121126072125017016103119082070063055032019074004085073098009029000070023108007042057100123047057125071087098119018021002126016017086082012069089091080016123092053080082006086019106066089009090006121085101104010079123114023073023017067076092071095&EXT=pdf&INDEX=TRUE>, Last Visited on 11<sup>th</sup> April, 2024.

<sup>9</sup> Law Commission Report, *Assessment of Statutory Framework of Tribunals in India*, CDNBBSR, <https://cdnbbsr.s3waas.gov.in/s3ca0daec69b5adc880fb464895726dbdf/uploads/2022/08/2022081632-2.pdf>, Last Visited on 14<sup>th</sup> April, 2024.

<sup>10</sup> Tribunals, Study IQ, <https://www.studyiq.com/articles/tribunals/>, Last Visited on 14<sup>th</sup> April, 2024

expensive. It entails paying substantial court costs, hiring solicitors, and covering other ancillary expenses. Most of the time, stamp costs are not necessary for administrative adjudication. Its basic techniques make it easy for a layperson to understand.

- **Pendency Of Cases:** Reducing the court's burden to expedite case resolution is one of the main goals of tribunals. However, a significant backlog of cases affects even certain tribunals. For instance, there were 7,312 ongoing cases in the central government industrial tribunal/labor courts as of March 15, 2021 pending cases in the Armed Forces Tribunal as of February 28, 2021 and 91,643 pending cases in the Income-tax Appellate Tribunal as January 1, 2018.

Nine tribunals were eliminated and their duties were moved to High Courts by the Tribunals Reforms (Rationalisation and Conditions of Service) Ordinance, 2021.<sup>15</sup> Such High Courts would have more cases pending as a result of this decision. One of the main causes of the growing number of outstanding cases in courts is found to be a shortage of human resources (such as an insufficient number of judges).<sup>30</sup> In 2015, the Standing Committee on Personnel, Public Grievances, Law and Justice observed that a number of tribunals, including the Armed Forces Tribunal and the Cyber Appellate Tribunal, are ineffective due to open seats.<sup>27</sup> As of March 3, 2021, the Armed Forces Tribunal had 23 unfilled positions out of its 34 authorised judge and administrative members. According to the Committee, the NTC's role as an independent, committed organisation that supplies tribunals with financial, human, and infrastructure resources will aid in addressing these kinds of problems. If a new law is enacted, it would be beneficial to conduct a judicial impact assessment in order to ascertain the additional resources needed to handle new cases. The Supreme Court of Canada said in 2019 that judicial impact assessments ought to be carried out in order to examine the tribunal merger when it was examining the tribunal amalgamation.<sup>23</sup> Nevertheless, no report on the judicial effect assessment of the 2017 tribunal merger or the current elimination of some tribunals has been made public by the government.<sup>11</sup>

### **(C) Disadvantages of Tribunals**

Unlike ordinary courts, administrative tribunals do not follow a set protocol. Administrators and technical heads are among the varied set of persons that make up tribunal membership; they may not have any prior experience with or training in judicial proceedings. On occasion,

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<sup>11</sup> Tribunal System in India, PSR INDIA, <https://prsindia.org/billtrack/prs-products/the-tribunal-system-in-india-3750>, Last Visited on 16<sup>th</sup> April, 2024.

they address situations that come under their jurisdiction through accelerated procedures. The Supreme Court has regularly condemned these organizations as being tools of the Executive since the members of several tribunals, including as the ITAT and the National Company Law Tribunal, are hand-picked by the Executive.<sup>12</sup>

Tribunals undermine the authority of the judiciary and transgress the concept of separation of powers by taking away the jurisdiction of normal courts. The executive determines the compensation, terms of office, and tenure of tribunal members, which impacts the independence of tribunals. There are several cases when the jurisdiction of tribunals overlaps, such in the case of the National Company Law Appellate Tribunal (NCLT) and the Competition Appellate Tribunal (COMPAT). The inconsistency in the appointment procedure, membership qualifications, retirement age, resources, and infrastructure among several ministries-operating tribunals impairs their overall effectiveness. A lack of people is one of the causes for the high pendency in courts. The 272nd Law Commission Report states that there are 44,333 cases pending in the CAT. The Supreme Court observed in 2021 that there were 20 presiding officers, 110 judicial members, and 111 technical members open in various tribunals around the nation.<sup>13</sup>

#### **(D) Appeal Mechanism**

- Despite the Administrative Tribunals Act of 1985 assuming the High Court's authority under Art. 226 regarding service matters, the Supreme Court's jurisdiction over these Tribunals under Art. 136 remains intact.
- Appeals from Administrative Tribunal rulings may be made to the Supreme Court by special leave granted under Article 136 for the following reasons:
  - (i) Legal error;
  - (ii) Perverse findings made by the Tribunal.
  - (iii) The Tribunal's ruling was either too broad or lacked authority.
  - (iv) The Tribunals' arbitrary or dishonest rulings.
  - (v) The Tribunal's order is one that would result in serious unfairness.<sup>14</sup>

## **IV. TRIBUNALS AND JUDICIARY**

- Tribunals: A tribunal is a body with quasi-judicial functions that was established to

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<sup>12</sup> Supra Note 11.

<sup>13</sup> Supra Note 7.

<sup>14</sup> Supra Note 9.



resolve conflicts pertaining to taxes or administration. It performs a number of functions, such as resolving conflicts, determining the rights of conflicting parties, issuing administrative rulings, going over previous administrative judgements, and more.

- Courts: We may think of the court as the official body of judges that the government set up to settle disputes between parties by following a set of formal legal procedures. It aims to give justice in civil, criminal, and administrative matters, according to the rule of law. To put it briefly, a court is a body of government where decisions on the law are made by a judge, a panel of judges, or a magistrate.

#### Difference:

Court is the judicial system's principal body. Whereas, a quasi-judicial body is called a tribunal. Courts make decisions, judgements, and orders in civil proceedings; they also find people guilty or not guilty in criminal situations and Tribunals are designed to provide the parties involved rewards. Courts deal with a variety of cases, such as civil, criminal, and constitutional ones. On the hand, there are distinct tribunals for each topic area since they are especially designed to handle a single subject. A few of the legislation that specify the procedural norms that courts must follow include the Code of Criminal Procedure, the Civil Procedure Code, and the Law of Evidence whereas, the Tribunals are not required to adhere to strict procedural guidelines while rendering verdicts on legal matters.<sup>15</sup>

Tribunal rulings must be appealed to the high courts and supreme courts since the courts are superior to the tribunals. The harmed party may file an appeal with the appropriate High Court and ultimately the Supreme Court if they are unhappy with the tribunal's ruling. The head of the court is a judge who is authorised to practise law. On the other hand, it is not necessary for the presiding officer of a tribunal to have formal legal training. The presiding officer and members of an administrative tribunal, for instance, could be authorities on administrative matters pertaining to the executive branch. According to the Indian Constitution, courts are only legal establishments and one of the three governing bodies. Even though the Indian Constitution's Article XIV-A states the provision establishing tribunals, these tribunals must be created by separate legislation that outlines its membership, functions, and duties. The court has the power to decide whether or not a piece of legislation or a law is allowed under the constitution. The tribunals lack this kind of power in cases of parent legislations.

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<sup>15</sup> Difference between Courts and Tribunals, Tutorials Point, <https://www.tutorialspoint.com/difference-between-courts-and-tribunals>, Last Visited on 20<sup>th</sup> April, 2024.

The legislative and executive branches do not have any influence over courts, which are independent institutions. Judges are unbiased and independent in the courtroom as well. They have regulations that they have to follow. On the other hand, the administration has some authority over the tribunals when it comes to selecting the members' term and other matters pertaining to their employment. Advocates and solicitors are essential to the case-making process in court. The parties in dispute don't have much of an opportunity to speak. The most opportunities to testify in court are granted to solicitors because of their expertise with the legal system. However, in tribunals, the parties in dispute take an active role in resolving the disagreement. Lawyers have little to no effect in a case since there are no strict rules of law to be followed and anybody can successfully defend their case in court.<sup>16</sup>

## **V. SUGGESTED REFORMS IN THE TRIBUNALS**

- **National Tribunal Commission:** The establishment of a National Tribunal Commission (NTC) to monitor the selection process and establish eligibility requirements for appointments, among other things, was advocated in the 74th report of the Parliamentary
- **Standing Committee on Law. Appointments made on time:** In order to prevent delays in the administration of justice, it is crucial to make sure that tribunal appointments are made on time.
- **Independence and autonomy:** There shall be no political influence in the selection, dismissal, or tenure of office of tribunal members.
- **Rationalization of tribunals:** India now has a large number of tribunals, which causes overlap in their respective purviews and duplication of duties. Tribunals could operate more efficiently and effectively if they were rationalized.<sup>17</sup>

## **VI. CONCLUSION**

We may infer that, under the current circumstances, the administration plays a significant role in both the functioning of the government and the lives of its citizens. Owing to this expanding function, it's critical to set up a capable body to handle complaints from the public and settle disputes. As a result, the idea of administrative tribunals was developed and is now thriving in India, notwithstanding with certain shortcomings and advantages.<sup>18</sup>

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<sup>16</sup> Supra Note 16.

<sup>17</sup> Supra Note 7.

<sup>18</sup> Administrative Tribunals in India , IP Leaders, <https://blog.ipleaders.in/administrative-tribunals-in-india/> , Last Visited on 20<sup>th</sup> April, 2024.