

RESTRUCTURING THE TRIBUNALS SYSTEM

Relevant for: Indian Polity | Topic: Judiciary in India: its Structure, Organization & Functioning, Judges of SC & High Courts, Judgments and related Issues

The Centre has abolished several appellate tribunals and authorities and transferred their jurisdiction to other existing judicial bodies through the [Tribunals Reforms \(Rationalisation and Conditions of Service\) Ordinance 2021](#). This Ordinance has been challenged in the Supreme Court.

The Ordinance has met with sharp criticism for not only bypassing the usual legislative process, but also for abolishing several tribunals such as the Film Certification Appellate Tribunal without any stakeholder consultation. Despite the Supreme Court's direction in *Rojer Mathew v. South Indian Bank* (2019), no judicial impact assessment was conducted prior to abolishing the tribunals through this Ordinance. While the Ordinance has incorporated the suggestions made in *Madras Bar Association v. Union of India* (2020) on the composition of a search-cum-selection committee and its role in disciplinary proceedings, it has also fixed a four-year tenure for Chairpersons and members of tribunals "notwithstanding anything contained in any judgment, order, or decree of any court" by blatantly disregarding the court's direction for fixing a five-year term. Further, the Centre is yet to constitute a National Tribunals Commission (NTC), an independent umbrella body to supervise the functioning of tribunals, appointment of and disciplinary proceedings against members, and to take care of administrative and infrastructural needs of the tribunals. The idea of an NTC was first mooted in *L. Chandra Kumar v. Union of India* (1997), but it has still not seen the light of day.

The Hindu Explains | What is the Film Certification Appellate Tribunal, and why has it been abolished?

Initiating dialogue and promoting awareness about the NTC is vital for overcoming the government's inertia in establishing such a body. Developing an independent oversight body for accountable governance requires a legal framework that protects its independence and impartiality. Where the institutional design is not properly conceived, partisan interests can twist the law to serve political or private interests. In India, executive interference in the functioning of tribunals is often seen in matters of appointment and removal of tribunal members, as well as in provision of finances, infrastructure, personnel and other resources required for day-to-day functioning of the tribunals. Therefore, the NTC must be established vide a constitutional amendment or be backed by a statute that guarantees it functional, operational and financial independence.

One of the main reasons that has motivated the idea of NTC is the need for an authority to support uniform administration across all tribunals. The NTC could therefore pave the way for the separation of the administrative and judicial functions carried out by various tribunals. A 'corporatised' structure of NTC with a Board, a CEO and a Secretariat will allow it to scale up its services and provide requisite administrative support to all tribunals across the country.

The NTC would ideally take on some duties relating to administration and oversight. It could set performance standards for the efficiency of tribunals and their own administrative processes. Importantly, it could function as an independent recruitment body to develop and operationalise the procedure for disciplinary proceedings and appointment of tribunal members. Giving the NTC the authority to set members' salaries, allowances, and other service conditions, subject to regulations, would help maintain tribunals' independence. Administrative roles of the NTC include providing support services to tribunal members, litigants, and their lawyers. For this

purpose, it would need to be able to hire and supervise administrative staff, and to consolidate, improve, and modernise tribunals' infrastructure.

As the Finance Ministry has been vested with the responsibility for tribunals until the NTC is constituted, it should come up with a transition plan. The way to reform the tribunal system is to look at solutions from a systemic perspective supported by evidence. Establishing the NTC will definitely entail a radical restructuring of the present tribunals system.

Aakanksha Mishra and Siddharth Mandrekar Rao are Research Associates with DAKSH

Please enter a valid email address.

To reassure Indian Muslims, the PM needs to state that the govt. will not conduct an exercise like NRC

END

Downloaded from **crackIAS.com**

© **Zuccess App** by crackIAS.com

CrackIAS