



National Tribunals Commission

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This article is based on “**Restructuring the tribunals system**” which was published in The Hindu on 17/05/2021. It talks about the benefits associated with the establishment of the National Tribunals Commission.

Recently, the **Tribunals Reforms (Rationalisation and Conditions of Service) Ordinance 2021** has been promulgated by the central government. Through this ordinance the centre has abolished several appellate tribunals and transferred their jurisdiction to other existing judicial bodies.

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 consultations with stakeholders.

Further, **this is not the time** that the central government has tried to interfere with the functioning of the tribunal. This interference of the executive in the domain of the tribunals can be dubbed as violation of separation of powers.

One way to regulate the matters of tribunals without compromising their independence is the establishment of the National Tribunals Commission (NTC).

Current State of Tribunals in India

- **Lack of Independence:** According to the Vidhi Centre for Legal Policy report (Reforming The Tribunals Framework in India) the lack of independence is one of the key issues plaguing tribunals in India.
 - At the outset, the system of appointment through selection committees severely affects the independence of tribunals.
 - Additionally, the issues of reappointment and the proclivity to appoint retired judges have the potential to affect the independence of tribunals.

- **Problem of Non-Uniformity:** Added to this is the problem of non-uniformity across tribunals with respect to service conditions, tenure of members, varying nodal ministries in charge of different tribunals.

These factors contribute significantly to malfunctioning in the managing and administration of tribunals.

- **Institutional Issues:** Executive interference in the functioning of tribunals is often seen in provision of finances, infrastructure, personnel and other resources required for day-to-day functioning of the tribunals.

National Tribunals Commission & Its Impact

The idea of an NTC was first mooted by the Supreme Court in L. Chandra Kumar v. Union of India (1997).

- **Objective:** NTC is envisaged to be 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.
- **Uniformity:** NTC will support uniform administration across all tribunals. It could set performance standards for the efficiency of tribunals and their own administrative processes.
- **Ensuring Separation of Powers:** Giving the NTC the authority to set members' salaries, allowances, and other service conditions, subject to regulations, would help maintain tribunals' independence.

The NTC could pave the way for the separation of the administrative and judicial functions carried out by various tribunals.

- **Expansion of Services:** 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.
- **Autonomous Oversight:** NTC could function as an independent recruitment body to develop and operationalise the procedure for disciplinary proceedings and appointment of tribunal members.

An NTC will effectively be able to bring in uniformity in the appointment system meanwhile ensuring that it is independent and transparent.

Way Forward

- **Legal Backing:** Developing an independent oversight body for accountable governance requires a legal framework that protects its independence and impartiality. Therefore, the NTC should be established via a constitutional amendment or be backed by a statute that guarantees it functional, operational and financial independence.

- **Learning From NJAC Issue:** NTC will need to adhere to the standards set by the judiciary in maintaining its independence.
 - Due to an overwhelming executive role, the National Judicial Appointments Commission (NJAC) was seen to be severely compromising the independence of the judiciary.
 - Thus, the executive as well as the bar, being relevant stakeholders, should form a part of any NTC, but it needs to give primacy to judicial members.
- **Doing Away With Re-Appointments:** The NTC must also do away with the system of re-appointment of tribunal members due to its impact on the independence of the tribunal.

Conclusion

It is important to understand that the tribunals were set up to reduce the burden of cases from regular courts. A reform to the tribunals system in India may as well be one of the keys to remedy the age old problem that still cripples the Indian judicial system – the problem of judicial delay and backlog.

In this context, establishing the NTC will definitely entail a radical restructuring of the present tribunals system.

Drishti Mains Question

Establishing the National Tribunal Commission will definitely entail a radical restructuring of the present tribunals system. Discuss.