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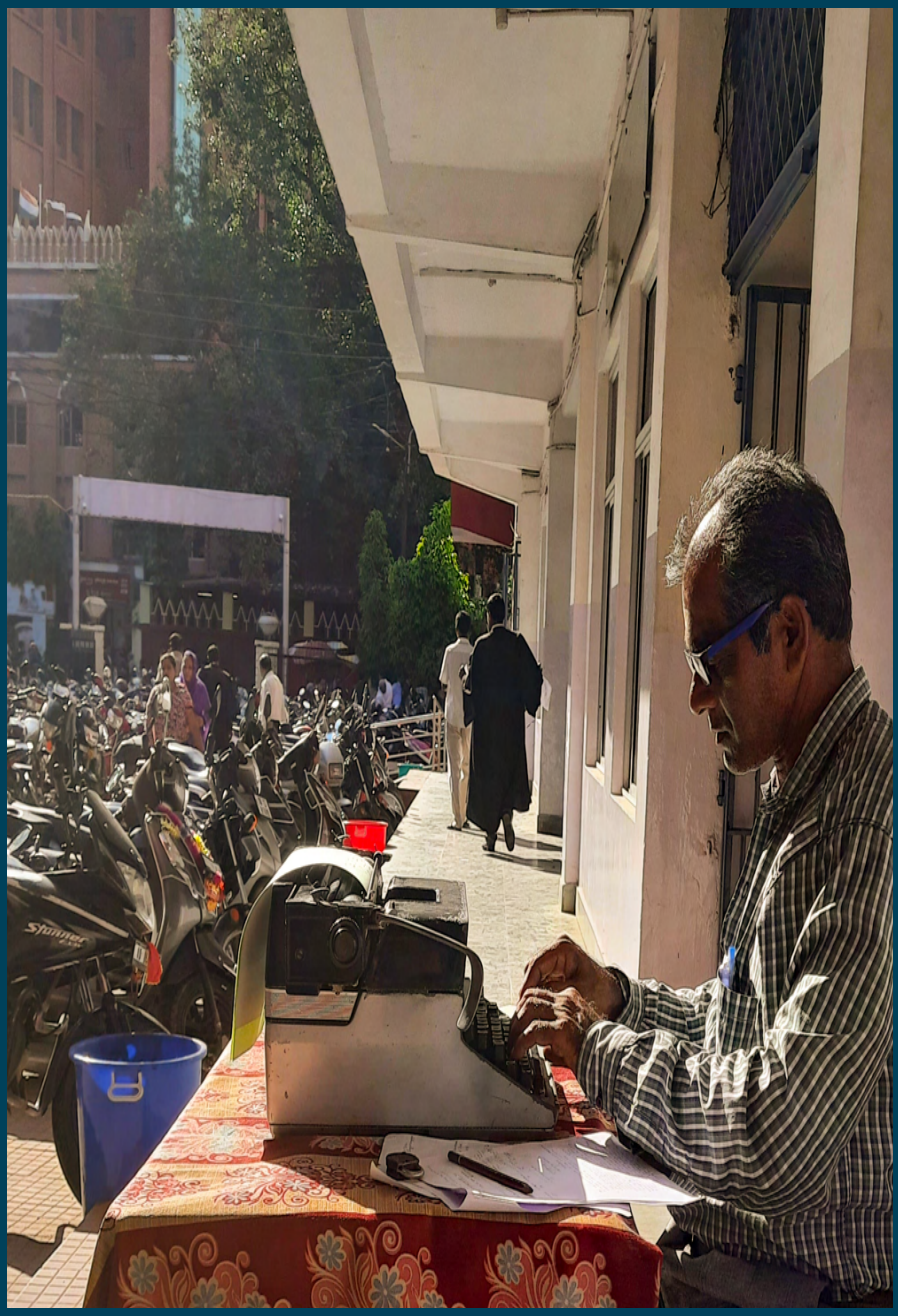
Are Tribunals Still Relevant? Rethinking Adjudicatory Design in India

Pavithra Manivannan



1. Introduction

The tribunal system in India has undergone a significant transformation since its inception in 1940s-1970s. While tribunals were originally conceived as special adjudicatory bodies to review administrative decisions, they have now expanded across sectors and beyond the ambit of administrative law. In addition, tribunals were expected to deliver better outcomes than the traditional courts. In practice, they suffer from the same problems that are faced by the courts, such as delays, increasing pendencies, and vacancies. As a result, it is unclear how the current system of tribunals is demarcated from the traditional judiciary.

The public discourse surrounding tribunals in India is largely focused on the need for their independence from the executive in terms of appointments and funding, and the lack of administrative capabilities to manage their functioning. Several reforms have been suggested, tried and tested, but with little to no improvements. Even if the reforms resulted in better functioning of tribunals, there is a lack of evidence or systems to measure the impact of such reforms.

This chapter first traces the historical evolution of tribunals to lay out the objectives for the creation of tribunals and their purported advantage over traditional courts. Three key features emerge out of this analysis: a need for specialisation and technical expertise; faster resolution through simplified procedures; and access at lower cost. It then examines whether the tribunals in India, as currently constituted, are fulfilling these objectives. The diagnosis reveals that tribunals, in their functioning, have largely morphed into courts with limited subject-matter jurisdiction. The second part of the paper lays out some reform pathways for Indian tribunals. It highlights the need for systematic evaluation of tribunals as a key starting point and makes the case for building institutional capabilities for such evaluation exercises. It then draws parallels from other jurisdictions, such as the United States and the United Kingdom, to offer recommendations on reform that take into account the nature and characteristics of different types of disputes, and the extent of judicial function that they require.

A well-functioning judicial system is paramount for upholding the rule of law, enabling economic activity in the country, and enforcing contractual, social, and political rights. Tribunals are part of this judicial ecosystem. Thus, the approach to tribunal reforms in this chapter adopts a holistic perspective of the Indian adjudication system, one that goes beyond framing the problem merely as an issue of administrative inefficiency, judicial independence or resource shortfalls.

2. The Idea of a Tribunal

Any debate on tribunal reform must begin with the question: *What is a tribunal and how is it different from a court?* The answer matters because the justification for a parallel adjudicatory system rests on tribunals being meaningfully different from courts. If they are functionally similar, then creating and sustaining a separate track fragments the justice system.

With the proliferation of tribunals in India[474] that vary from one another in their functions, it is difficult to provide a single definition of a 'Tribunal'. For instance, some tribunals such as the Securities Appellate

473 Pavithra Manivannan is Research Lead at XKDR Forum, Mumbai. The author thanks Pratik Datta, Siddarth Raman, Shubho Roy, Ajay Shah, Susan Thomas, and Bhargavi Zaveri-Shah for their comments and suggestions on this work and Gokul K. Sunoj for research support.

474 As on 2023, there are about 16 tribunals constituted by the Parliament. India, Ministry of Law and Justice, "Unstarred Question No. 120: Tribunals Constituted by Parliament," Rajya Sabha, answered in 2023,https://legalaffairs.gov.in/sites/default/files/AU120.pdf., accessed 24 June, 2025

Tribunal (SAT) act as appellate courts for citizen-state disputes decided at the first instance by regulators, some tribunals also adjudicate disputes between two private parties, such as insolvency cases at the National Company Law Tribunal (NCLT), and some others such as the National Green Tribunal (NGT) deal with both.[475]

Prior scholars have attempted to define 'Tribunals' and what distinguishes a court from a tribunal. However, in the recent past, the consensus is that this difference is increasingly becoming non-existent. (McKeever 2020) for instance, analysed tribunals and courts from a participant's perspective. He argued that the differences between lower-tier civil courts and administrative and employment tribunals are more presumed than real. From the perspective of functions and institutional design, certain scholars consider them as purely administrative bodies (R and F 2009), while others oppose it as being merely appendages of government departments or courts (Drewry 2009). One of the earliest attempts to define tribunals by (Genn 1993), identified their distinguishing features in terms of the absence of certain characteristics found in courts, for instance, absence of strict rules of evidence or absence of representatives for litigants.

In India, though the Income Tax Appellate Tribunal was established in 1941 and the Industrial Tribunals were created under the Industrial Disputes Act in 1947, their origin as alternatives to courts in a systematic manner can be attributed to the 42nd Constitutional amendment in 1976. Since then, multiple challenges have arisen on their efficiency, functioning, and constitutional validity. These challenges can be broadly classified into three:

1. Independence from the government in matters of funding, appointments and remuneration.[476]
2. Administrative concerns of delays and pendencies.[477]
3. Abolition and consolidation of tribunals.[478]

While delays are a broader systemic problem in the Indian legal system, the central questions for tribunals lie in issues of independence from the government and in whether a separate system is justified at all. To address these, it is necessary to recall why tribunals were created in the first place. Tribunals were introduced in 1976, a moment of intense political tension between the executive and the judiciary. The 42nd amendment sought to curtail the powers of the higher judiciary, and the creation of tribunals under the control of their parent ministries, rather than under the courts, could be seen as one such move. Yet, alongside this political context, tribunals were also justified on functional grounds.[479]

In this section the attempt is not to define a tribunal. Rather, to ask what features they were meant to embody, and what makes them different from courts. This inquiry can then help evaluate whether their

475 India, Parliament, The National Green Tribunal Act, 2010, No. 19 of 2010, §§ 14–16 (enacted June 2, 2010), Gazette of India, Extraordinary, Part II, Ministry of Law & Justice (Legislative Department), published June 2, 2010, https://www.greentribunal.gov.in/sites/default/files/act_rules/National_Green_Tribunal_Act,_2010.pdf; accessed 24 June, 2025

476 In Madras Bar Association v. Union of India, 2014 (308) ELT209 (S.C.), Supreme Court of India, September 25, 2014, the Supreme Court held that administrative support for tribunals must come from the Ministry of Law and Justice and not the parent Ministry. In Rojer Mathew v. South Indian Bank Ltd & Ors., 2019 (369) ELT3 (S.C.), Supreme Court of India, November 13, 2019, the Supreme Court held it constitutional for the executive to be in charge of the appointment and removal process of members of the tribunals. Also see Madras Bar Association v. Union of India & Anr., Civil Writ Petition No. 804 of 2020, November 27, 2020 for concerns over independence of the judiciary.

477 *Law Commission of India, 230th Report: Reforms in the Judiciary—Some Suggestions (New Delhi: Government of India, 2009). Law Commission of India, 245th Report: Arrears and Backlog (New Delhi: Government of India, 2014).*

478 See Madras Bar Association vs Union Of India, Writ Petition (Civil) No.502 of 2021 and Orissa Administrative Tribunal Bar Association v Union of India, 2023 SCC OnLine SC 309 on challenges to abolishment and consolidation of tribunals.

479 For instance, the objective for creation of the administrative tribunals under the Administrative Tribunals Act, 1985 was stated as speedy and inexpensive justice for service matters. The Supreme Court too has justified the need for tribunals in multiple judgements, supra note 3.

existence today is justified. Should they be consolidated for better efficiency, or is their abolition warranted. In understanding what constitutes a tribunal, it is useful to look at the history of the evolution of tribunals in India.

Key features of tribunals

In India, the High Courts and the subordinate courts dealt with all kinds of disputes ranging from commercial cases to testamentary cases to constitutional and administrative law cases. However, rapid industrialisation, expansion of the public sector and an increase in regulations to govern businesses brought along new categories of disputes. This not only increased the volume of disputes that courts had to handle but also required expertise in different subjects. For such disputes, the tribunal system was perceived to be better than the traditional courts in the following ways:

- **Specialisation and technical expertise**: Traditional courts, by their very nature, are generalist bodies. Judges, while learned in law, may not possess the specific technical expertise required to adjudicate complex disputes in technical fields like direct or indirect taxation, industrial relations, environmental law, or intricate service matters. Further, economic theory suggested that there were specialisation gains to be made through division of labour, where a particular judge adjudicates the same type of dispute repeatedly.
- **Cost of Litigation**: Resolving disputes through the conventional court system is expensive. Lawyers' fees, court fees, and the long duration of cases made litigation prohibitive for many, especially for individuals seeking redressal against the state in service matters or for beneficiaries of public redistribution schemes or workers in industrial disputes. Tribunals were envisioned as a more cost-effective alternative.
- **Speed and simplified procedures**: Court proceedings were often protracted, constrained by the procedural rigidity of the Code of Civil Procedure, 1908 (CPC). Tribunals were expected to operate under simplified procedures and focused jurisdiction. This would reduce the judicial time required per case, enabling faster resolution.

In addition to being alternatives to traditional courts, tribunals also have their origin as a check or alternative to administrative adjudication.

Diagnosing the Indian tribunal experience

From the above discussion, the following emerge as key features of a Tribunal: it must be created by a statute, it must follow simplified procedures as laid out under the statute, one of its members must have technical expertise in the adjudicated subject, it must be designed to review administrative decisions, and it must offer more accessibility and speed than traditional courts. *How far are the current Indian tribunals in line with these features?*

A reading of the statutes creating Indian tribunals shows that all the tribunals were expected to have a subject-matter expert on the bench. However, this is not fulfilled in four ways. First, there are constantly reported vacancies across benches and tribunals.[480] Second, many tribunals only function with one member. For instance, the NCDRC often delivers single-judge verdicts, of only a technical member or only a

480 Monica Behura and Kumar Aditya, "The Govt Needs to Prioritize Tribunals Functioning to Alleviate Judicial Backlog," *Economic Times*, June 3, 2025, https://legal.economictimes.indiatimes.com/news/law-policy/the-government-needs-to-prioritize-tribunals-functioning-to-alleviate-judicial-backlog/117003899?utm_source=copy&utm_medium=pshare, accessed July 30, 2025

judicial member.[481] Similarly, the DRT has only one Presiding Officer and she is only required to have the qualification of a District Judge.[482] Third, there is a pervasive practice of filling technical member positions with retired bureaucrats who often lack relevant subject-matter experience.[483] Finally, appeals from these tribunals lie with the High Court or the Supreme Court, and the advantage of expertise is eventually eroded at the appellate level.

Further, Indian tribunals are not limited to reviewing administrative decisions. For instance, the NCLT handles private disputes. So does the DRT.

In addition, although the statutes constituting these tribunals explicitly exempt them from the application of CPC, in practice, tribunals often invoke broad interpretations of natural justice, such as excessive opportunities for replies and rejoinders, to justify procedural delays. This tendency undermines the intent and advantage of flexible and simplified procedures for the resolution of disputes in tribunals. For instance, the admission process for insolvency cases at the NCLT has moved away beyond the procedure laid out under the law. The criterion for admitting a resolution petition is the existence of default. However, currently, the NCLT conducts a whole trial beginning from notice to the debtor, to leading evidence and examining witnesses before admitting a case.[484] This makes tribunals appendages of the court system, defeating their advantage of procedural informality and speed over traditional courts.[485]

As previously discussed, the debate around Indian tribunals largely falls under two categories: One, the lack of adequate administrative capabilities at tribunals that hinder their performance;[486] Second, the dependence of tribunals on their parent ministry for appointment of members, funding, remuneration, and other service conditions raises questions on their independence.[487] Both these issues are critical and have called for the creation of an independent statutory centralised tribunal services agency to overcome these challenges.[488] It is not disputed that the institutional framework of tribunals in India is in dire need of reform. However, at the heart of these reform discussions lies a fundamental, first-principles question: *Are tribunals still relevant?* This line of inquiry challenges the very necessity of maintaining tribunals as a parallel adjudicatory system if they do not consistently deliver on their purported advantages (as laid out in Section 2).

3. How to think about tribunal reforms?

The preceding discussion shows that tribunals in India have largely failed to deliver on the very features that justified their creation, such as expertise, procedural informality, and speed. The creation and running of each tribunal requires additional resources in terms of infrastructure - both physical and judicial. However,

481 Shiva Krishnamurti and Rohan Dewan, "Coram Non-Judice? Functioning of Single-Member Benches at the National Consumer Disputes Redressal Commission," *Bar and Bench*, September 9, 2024, https://www.barandbench.com/columns/coram-non-judice-functioning-of-single-member-benches-in-national-consumer-disputes-redressal-commission, accessed July 30, 2025

482 India, Parliament, *The Recovery of Debts and Bankruptcy Act, 1993*, § 4, https://drt2chennai.tn.nic.in/ActsRules/RDDBFI-Act.pdf ; accessed July 30, 2025

483 Murali Neelakantan, "Indian Tribunals – Is the Path to Hell Paved with Good Intention?" *SCC Online*, July 6, 2021, https://www.scconline.com/blog/post/2021/07/06/indian-tribunals-is-the-path-to-hell-paved-with-good-intention/, accessed July 30, 2025

484 See (Sharma 2025) on changes to deal with admission delays. Sukalp Sharma, "With IBC Amendment Bill, Govt Hopes to Expedite Insolvency Process, Maximise Value," *The Indian Express*, February 13, 2025, https://indianexpress.com/article/business/ibc-amendment-bill-govt-insolvency-key-takeaways-10186821/, accessed July 30, 2025

485 Union of India v. R. Gandhi, President Madras Bar Association, (2010) 11 SCC 1

486 (Datta et al. 2019).

487 (Mishra, Rao, and Prakash 2021). https://dakshindia.org/a-framework-for-the-national-tribunals-commission/, accessed Aug, 2025

488 This has also been constantly iterated by the Supreme Court. See supra note 3.

there is a lack of systematic studies or evidence that evaluate their performance or outcomes. Currently, there are only anecdotes or one-time studies by researchers and scholars which seek to understand if tribunals are indeed a better alternative to traditional courts for specific disputes. Even prior attempts at their consolidation or abolishment, such as the Finance Act, 2017 that consolidated various tribunals[489] or the Rationalisation and Conditions of Service Ordinance, 2021 that abolished several tribunals[490] did not emerge from a structured, evidence-based policy framework.[491]

This makes it clear that the first order problem to address before stepping into tribunal overhaul is building the capacity and framework to evaluate their performance and outcomes. Navigating the judicial system is a complex affair. There are costs and unintended consequences to reforms. This section thus lays out an incremental pathway to reform tribunals in India:

1. Building institutional capacity and frameworks for the evaluation of tribunals.
2. Principles for tribunal design.

1. Performance Evaluation of Tribunals

Systematic evaluation and assessment of tribunals by official bodies can help understand the need (or lack thereof) of tribunals; their functioning by volume of cases, the extent of complexity, and judicial time required for their adjudication; and allow various stakeholders and civil society to engage in the reform process. This, in turn, enables informed and frictionless decisions on consolidation or exit. The only consistent official information that is currently reported is of pendency rates, which are often inflated.[492] A well-designed performance assessment framework can address this gap and answer foundational questions.

1.1 What to evaluate?

The starting point is to restate the objectives tribunals are meant to serve. As outlined in Section 2, tribunals were created to provide timely resolution of disputes, offer subject-matter expertise, and operate at lower costs than traditional courts.[493] Evaluation should be directly linked to these founding mandates. A basic but functional framework can include:

489 India, Parliament, The Finance Act, 2017, No. 7 of 2017, Part XIV, §§ 158–182, and Eighth Schedule (enacted March 31, 2017), *Gazette of India*, Extraordinary, Part II, Ministry of Law & Justice (Legislative Department), published March 31, 2017.

490 Such as the Intellectual Property Appellate Board, the Airport Appellate Tribunal, and the Film Certification Appellate Tribunal. Most recently, the Orissa Administrative Tribunal was also abolished.

491 This led to a series of questions being raised at the Supreme Court on their rationale and validity. See Orissa Administrative Tribunal Bar Association v Union of India, 2023 SCC OnLine SC 309; Jairam Ramesh v. Union of India, Writ Petition (Civil) No. 558 of 2017.

492 One case generates multiple sub-cases by way of interim applications. Each of this case is counted separately though they are heard together for the purpose of measuring judicial time utilised and are essentially an intergral stage in the case. For instance, the resolution plan submitted for the approval of the NCLT is filed and tracked as a separate case. Further, court websites often delay or fail to mark cases as disposed of long after they are resolved. One case generates multiple sub-cases by way of interim applications. Each of this case is counted separately though they are heard together for the purpose of measuring judicial time utilised and are essentially an intergral stage in the case. For instance, the resolution plan submitted for the approval of the NCLT is filed and tracked as a separate case. Further, court websites often delay or fail to mark cases as disposed of long after they are resolved.

493 For instance, in (Manivannan, Thomas, and Zaveri-Shah 2023), a comparison of debt disputes at the Bombay High Court and the DRT shows that the expected time to resolve a case are similar for both these courts. On cost, Bombay High Court is able to resolve cases with lower number of hearings than the Debt Recovery Tribunal.

Time and cost	Are tribunals resolving disputes faster and at lower cost than ordinary courts?
Need for specialisation	Does the tribunal deal with disputes requiring technical or sector-specific knowledge?
Expertise	What proportion of the tribunal's decisions are upheld by the appellate court?
Impact of abolition	If abolished, how much additional burden would fall on High Courts?
Scope for consolidation	Can multiple low-volume tribunals be merged to create economies of scale?
Role and function	What proportion of the cases require adversarial adjudication? What proportion of the cases require adjudication of facts v. doctrinal clarity on law?
Cost to system	What is the judicial time required per case? What is the resource (staff, courtroom, digital infrastructure) required per case?

1.2 Who should evaluate?

The Indian state does not currently possess the institutional capability or mandate to carry out such assessments. The United States shows what this could look like. Two institutions are instructive in this regard.

First, the Government Accountability Office (GAO). It is independent of the executive and answers to the Congress. It routinely evaluates the functioning of adjudicatory systems. These are performance evaluations, not just audits. GAO reports have examined backlogs in immigration courts, processing times in veterans' tribunals, and delays in bankruptcy systems.[494] These evaluations look at staffing, productivity, case management, and user experience. The GAO also provides real-time status of the adoption and implementation of its recommendations by the relevant government departments.

Second, the Administrative Office of the U.S. Courts (AO). This is the administrative wing of the federal judiciary. It periodically collects and reports granular data on performance of all courts, including disposal timelines of cases, time taken at different stages of cases (pre-trial, trial, and post-trial) and filings.

A key principle underlying both these institutions is that judicial independence does not mean administrative opacity. In India, judicial institutions have evaded public scrutiny citing constitutional immunity under Article 211 that aims to safeguard the independence of the judiciary.[495] However, the functions that are sought to be evaluated are not related to how judges decide cases. It is whether the system delivers its services - on time, with sufficient access to litigants in a predictable manner. These are public administration questions. The principle of separation of powers is often misunderstood as a rigid division between the three wings of government. In practice, it also embeds a system of checks and balances. Each branch must have the ability to scrutinise and constrain the others. This is not a violation of independence, it is a safeguard against excess and dysfunction. Judicial bodies, including tribunals, are not exempt from this logic. While their adjudicatory functions must remain independent, their administrative performance must be subject to oversight and evaluation. This is essential to maintain legitimacy, efficiency, and public trust.

In India, there are two institutions that can potentially conduct performance audits of the judicial system: The Comptroller and Auditor General (CAG) and The Law Commission of India (LCI).

494 See for instance, GAO-24-106301 on financial crimes, GAO-24-106233 on immigration and customs enforcement, and GAO-25-106724 on court infrastructure, available at https://www.gao.gov/reports-testimonies

495 (Chitrakshi Jain and Prashant Reddy T 2025).

So far, the audits by the CAG on the performance of the Indian judiciary have largely focused on allocation and utilisation of funds for the development of its infrastructure facilities. One may argue that performance audits of the justice system are beyond the scope of the CAG - it is a financial auditor and its focus is on assessing compliance and expenditure, and not institutional performance. But, if the objective of granting funds and implementing schemes for the judiciary is stated as *timely, consistent and user-friendly justice*,[496] the audit must extend beyond just the appropriate utilisation of funds. It must also assess if the proposed objective of such allocation has been met.[497] The CAG is a constitutional body working under the CAG Act, 1971. This solves both the questions of independence and public accountability. The CAG reports are placed before the Parliament. A variety of mechanisms are in place to establish its political independence, simultaneously solving the problems of appointment, discipline, and removal.

Alternatively, this function could be carried out by the LCI. The role of the LCI is to engage in both ex-ante and ex-post analysis of legislations. Each tribunal is created under a legislation, and assessing the judicial impact of such laws would fall directly under the mandate of the LCI. However, there are several problems with the LCI as it currently operates. Firstly, the LCI is not a statutory body. There is no legislative framework that sets it up. This is unlike other jurisdictions like the UK or New Zealand, where Law commissions are created by a law of the Parliament.[498] Second, it produces one-time reports. There is no continuous or consistent reporting on the incorporation of its recommendations. Finally, they are constituted in an ad-hoc manner by an executive order. This causes serious concerns for both its independence and continuity. For instance, the 22nd LCI was constituted in 2020, but no appointments were made for three years.[499]

Some performance assessments of the judicial system have been done by the Law Commission in India. But these are episodic. A review of the previous mandates of Law Commissions shows that there have been only about ten to eleven reports out of the total 277 reports generated by the Commission that directly deal with the functioning of the judicial system[500] and even lesser on the functioning of tribunals.[501]

In sum, an evaluation of the tribunals against their intended objectives is a crucial starting point for implementing any reforms. Without this, tribunal reform will remain uninformed and ad hoc. Some tribunals will be abolished. Some will survive without scrutiny. But none will improve through feedback. The foundations of reform must begin with visibility and data. Evaluation must be carried out by an independent body with a statutory mandate. It must collect data across all tribunals, publish standardised metrics and produce regular reports.

2. Principles for Tribunal Design

Once the institutional capability and processes are in place for systematic assessment, at least three distinct design pathways are available depending on the outcomes of such evaluations. Importantly, this approach

496 Comptroller and Auditor General of India, Audit Report (General and Social Sector) for the Year Ended 31 March 2016, Report No. 3 of 2017 (Government of Tamil Nadu),https://cag.gov.in/uploads/download_audit_report/2017/Chapter_2_Performance_Audits_of_Report_No.3_of_2017_-_General_and_Social_Sector,_Government_of_Tamil_Nadu.pdf

497 (Kumar 2025). Manoj Anand, "CAG Should Audit Judicial Delays to Spur Reforms," *Deccan Chronicle*, January 19, 2025, https://www.deccanchronicle.com/nation/cag-should-audit-judicial-delays-to-spur-reforms-ex-dg-of-cag-in-new-book-1891186.

498 Krishna Sumanth and Prashant Narang, "Lessons from India's Law Commission: A Study of International Best Practices," *National Law School of India Review* 34, no. 2 (2022): 67–94, https://repository.nls.ac.in/cgi/viewcontent.cgi?article=1376&context=nlsir.

499 Ashwini Kumar Upadhay v. Union of India, Writ Petition (Civil) No. 1477/2020. (Supreme Court of India).

500 This includes the 14th report on Reform of Judicial Administration; 77th report on Delay and arrears in trial courts; 79th report on Delay and Arrears in High Courts and other Appellate Courts. See https://shorturl.at/2fn8y for a detailed list.

501 This includes the 115th report on Tax Courts; 186th report on Environment Courts; and 272nd report on Assessment of tribunals.

argues for a case-type specific reform pathway, rather than a blanket, one-size-fits-all approach to tribunal design.

2.1 Case-types that benefit from specialised technical expertise.

In such instances, the case for creating and retaining a tribunal is strong. Here, the tribunal would function as a specialised court designed to handle a technical subject matter. For instance, disputes under the financial and securities sector could fall under this category.

For this, we can create a unified tribunal system, such as in the United Kingdom, with two tiers: one as courts of first instance, and then an appellate body. The first-instance court would have multiple chambers dealing with specific subject-matters.

Within such a model, there is also scope for consolidation. For example, the kind of disputes handled by the Debt Recovery Tribunals (DRT) and the National Company Law Tribunal (NCLT) have significant overlap. The NCLT's mandate to adjudicate Insolvency and Bankruptcy cases was, in part a response to the dysfunction of DRTs. But creating new courts does not solve the underlying problems of delays or inadequate administrative support. A more rational model would consolidate similar case-types under one adjudicatory body. The Securities Appellate Tribunal (SAT), for instance, handles appeals from multiple regulators operating under different laws. This model creates better expertise in adjudicating authorities, reduces the need for more judges and infrastructure, and promotes consistent jurisprudence.

The first-instance court should have the same hierarchical status as High Courts and be present in every state. The appointments must be through a committee, governed by a statute that provides independence from the executive, similar to the process by which High Court judges are appointed. Administrative and funding responsibilities should be designated to the Ministry of Law and Justice, rather than subject-matter ministries, to ensure independence.

International practice reinforces this design. The UK tribunal system has multiple subject-matter tribunals that can be housed within a unified structure that maintains independence. In the United States, specialised courts such as the bankruptcy courts and the Court of Appeals for the Federal Circuit illustrate how technical expertise can be institutionalised within the judicial system itself. Both models highlight that technical adjudication can coexist with judicial independence, provided appointments and administration are insulated from executive ministries.

2.2 Case types that do not entirely require judicial attention.

A significant share of the work currently allocated to tribunals does not warrant judicial adjudication. The different functions that these authorities perform across the life-cycle of cases need to be unbundled: which parts are supervisory or clerical, and which parts truly involve a dispute requiring judicial determination?

Take the NCLT's role in the Corporate Insolvency Resolution Process (CIRP) or voluntary liquidation, for instance. Much of this work, including tasks like taking note of interim resolution reports, approving procedural steps, or recording compliance, is administrative in nature. Only a limited subset of matters, such as disputes over claims or allegations of fraud, involve real adjudication. In such instances, judicial time should be confined to questions of law or contested issues. These are best handled by the regular courts within a common law system. Courts are institutionally designed to interpret law, resolve contested claims, and develop consistent jurisprudence through precedent. On the other hand, the IBBI as a regulator of both resolution professionals and liquidators can perform the tasks of supervising the CIRP and liquidation process. Another case in point is tax matters. Under the Indian system, tax disputes from the Income Tax Appellate Tribunal lie with the High Courts on questions of law. However, the bulk of tax matters only deal with the interpretation of statutory provisions (for example: classification disputes, exemptions etc.).

In such instances, the tribunal only adds an additional layer of delay and procedure.

Parallels exist in other developed countries. For instance, in the United States, two studies that looked into the growing caseload of the bankruptcy courts[502] concluded that bankruptcy matters were suited to inexpensive processing by an administrative agency, since the great majority of cases were uncontested. Further, for uncontested or low-stakes matters an adversarial judicial model created unnecessary costs and delays. The judicial role was necessary only where disputes arose, but those too largely revolved around statutory interpretation, a core judicial function best left with the courts.

2.3 Case-types that involve substantial questions of law.

A third category consists of disputes that are primarily about interpreting or applying the law. These do not turn on technical expertise or administrative oversight, but on legal reasoning and precedent. Such cases belong squarely in the domain of the regular judiciary.

For instance, oppression and mismanagement petitions or shareholder disputes under the Companies Act, 2013 are essentially civil disputes about corporate governance and statutory rights. Currently, these are decided by the NCLT. However, these disputes don't require technical expertise. They hinge on statutory interpretation and application of equity principles, best left to courts. Similarly, the majority of disputes before the Central Administrative Tribunal involve the application of service rules and constitutional principles.

The assessment framework for tribunals should therefore include the nature and characteristics of disputes handled by tribunals, the quantum of claims involved, the legal provisions being invoked, and the judicial time required to adjudicate these disputes, as laid out in Section 4.1.1.

4. Conclusion

Tribunals were meant to deliver speed, expertise, and accessibility. In practice, they have created a fragmented system, raised persistent concerns about independence, and delivered outcomes no better than courts. Recent attempts at consolidation or abolition have not been guided by evidence, but by administrative convenience.

The way forward is to return to first principles. Tribunals should exist only where case-types demand sustained technical expertise. Where the nature of disputes is such that it does not require judicial attention, it should be moved away from adversarial adjudication into the respective administrative agency. And where questions of law are at stake, they should go back to the regular courts.

Globally, too, the original models that inspired India's tribunal system are undergoing reassessment. In the UK, recognising the inefficiencies of fragmented specialisation, reforms have moved towards a unified tribunal structure under the HMCTS. In the United States, even long-standing specialised courts face scrutiny and are being streamlined within broader judicial frameworks.

Reform must focus on three design principles: independence from the executive, rational allocation of functions (judicial v. administrative), and systematic evaluation of outcomes. A case-type approach, rather than blanket proliferation or blanket abolition, offers a pathway to coherence. This would reduce the burden of maintaining parallel systems, strengthen judicial independence, and align India's justice system with its constitutional design.

502 (Stanley and Girth 1971; "Report of the Commission on the Bankruptcy Laws of the United States" 1973).

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