TRIBUNALISATION AND THE TRIBUNALS REFORMS ACT, 2021: BALANCING EFFICIENCY WITH JUDICIAL INDEPENDENCE

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ABSTRACT

The development of tribunalisation in India marks a conscious transition from traditional courts to specialist quasi-judicial forums meant to provide velocity, expertise, and accessibility of adjudication. Formalised through the 42nd Constitutional Amendment, 1976, by including Articles 323A and 323B, tribunalisation was the answer to judicial backlog and technical, complicated disputes. Over time, this expansion raised the constitutional dilemma of whether efficiency in justice delivery should ever compromise judicial independence.

The Tribunals Reforms Act, 2021, is the most recent legislative effort towards merging and simplifying the tribunal system. To rationalise adjudication, the Act dissolves eight tribunals, transfers their jurisdiction to competent courts, and establishes uniform appointment and service conditions.[1]. However, provisions such as four-year tenure, executive-dominated selection committees, and the abolition of specialised forums have been criticised for promoting executive dominance, weakening subject matter expertise, and risking renewed case backlogs in higher courts. These have attracted repeated constitutional challenges, with the Supreme Court in **Madras Bar Association v. Union of India (2021)** and demanding judicial priority in appointments, assured tenure, and the retention of judicial review in **L. Chandra Kumar v. Union of India (1997).**

This research essay critiques tribunalisation and the Tribunals Reforms Act, 2021, and its aims and effects on efficiency, access to justice, and judicial independence in India. It looks at the evolution of tribunals from colonial times to now, assesses the 2021 reforms, and identifies structural flaws, suggesting constitutional reforms.

Keywords: Tribunalisation, Tribunals Reforms Act 2021, Judicial Independence, Administrative Law, Tribunal Efficiency, Judicial Review

[1] Law Commission of India, Report No. 272: Assessment of Statutory Frameworks of Tribunals in India (Oct. 30, 2017).

Introduction

The development of adjudication in India has been characterised by the conflict between ideals of efficiency and requirements of constitutional commitment. The ordinary judiciary has chronically suffered from delay, pendency, and procedural intricacy. In reaction, alternative systems have evolved to provide justice more rapidly and with more specialisation. The rise of tribunals and quasi-judicial bodies marks a major institutional development in India's contemporary legal framework. Envisioned as specialist tribunals intended to dispense with the excessive workload of conventional courts while ensuring expert arbitration, tribunals have increasingly become a core component of the nation's judiciary. Their growth reflects both an administrative response to caseloads and the constitutional goal of expanding access to justice, as dealt under Article 39A of the Constitution.[2].

The concept of tribunalisation in India officially emerged with the 42nd Constitutional Amendment Act, 1976, through the inclusion of Articles 323A and 323B in the Constitution.[3]. These enabled the Parliament as well as state legislatures to enact administrative tribunals for service issues and other expert subjects such as taxation, industrial disputes, and elections.

The Concept and Evolution of Tribunalisation in India

The Indian adoption of tribunalisation is the result of two imperatives, which are specialisation and efficiency. It emerged from the understanding that there cannot be a single, monolithic judiciary structure that can effectively deal with the complex and multifaceted disputes that emerge within a modern, democratic, welfare-oriented state. The conventional courts, inspired by the colonial judiciary, were initially intended for traditional civil and criminal trials. Yet, as the State took on a greater role in social and economic governance post-independence, conflicts arose within highly technical areas like taxation, industrial relations, telecommunications, intellectual property rights, and the environment. This increase in governance generated both quantitative pressures, in the form of total numbers of disputes, and qualitative pressures, in the form of technical skills necessary for hearing such disputes. Tribunalisation was therefore designed as a means of decentralising judicial work, bringing subject-matter expertise, and increasing the efficiency in the resolution of disputes.

[2] INDIA CONST. art. 39A.
[3] The Constitution (Forty-Second Amendment) Act, No. 42 of 1976, INDIA CODE (1976).

Early Experiments with Tribunals

Although the Indian Constitution originally contemplated an explicit distinction between administrative agencies and courts, tribunals were not new to the Indian judicial system. The pre-constitutional era had institutions such as administrative boards and revenue courts discharging quasi-judicial functions under colonial law. These experiments proved the utility of specialist forums in settling disputes involving domain expertise.

Post-independence, the constitutional design did not provide a distinct tribunal system. The drafters of the Constitution entrenched a strong judiciary with the authority of judicial review. Articles 32 and 226 gave the Supreme Court and High Courts, respectively, the powers to enforce fundamental rights and review administrative decisions.

Constitutional Provisions for Tribunalisation

The 42nd Constitutional Amendment Act, 1976, was passed during the Emergency, and it added Articles 323A and 323B to the Constitution of India.

Article 323A empowered Parliament to make laws for the establishment of Administrative Tribunals to deal with disputes and grievances concerning the recruitment and service conditions of government officials. This was followed by the Administrative Tribunals Act, 1985, and the formation of the Central Administrative Tribunal and the State Administrative Tribunals.[4].

Article 323B empowered both Parliament and State legislatures to create tribunals for issues like taxation, foreign exchange, industrial and labour cases, land reforms, ceiling on urban property, elections to legislatures, foodstuffs, and monopolies.

These provisions constitutionally embedded tribunalisation and marked a deliberate drift away from sole dependence on conventional courts. The goal was to deliver speedy and expert justice, unconstrained by procedural formalities that define the judiciary.

Judicial Attributes to Tribunalisation

Since its implementation, Tribunals have been questioned whether it would destroy the

[4] Administrative Tribunals Act, No. 13 of 1985, INDIA CODE (1985).

independence of the judiciary. There have been a few landmark cases which have set the constitutional position of tribunals.

In **S.P. Sampath Kumar v. Union of India (1987) 1 SCC 124**, the Supreme Court validated the constitutional legitimacy of Administrative Tribunals but demanded that tribunals should be effective surrogates for High Courts. The Court laid down that judicial review is an integral part of the basic structure of the Constitution, and hence, tribunalisation could not weaken this fundamental feature.[5].

The doctrine was refined in **L. Chandra Kumar v. Union of India (1997) 3 SCC 261**, wherein the Court held that although tribunals are capable of adjudicating cases, the power of judicial review vested in High Courts under Articles 226 and 227, and in the Supreme Court under Article 32, forms a part of the basic structure. Therefore, tribunal decisions are still open to scrutiny by the High Courts.[6]. This ruling balanced the need for efficiency with independence, reaffirming the role of supervision by the judiciary.

In **Union of India v. R. Gandhi (2010) 11 SCC 1**, which concerned the National Company Law Tribunal (NCLT), the Court emphasised apprehensions regarding executive hegemony in the appointment and operation of the tribunals. It demanded safeguards to ensure tribunals are independent and not curtailed into executive-controlled institutions.[7].

In **Madras Bar Association v. Union of India (2021) 7 SCC 369**, the Supreme Court invalidated the provisions of the Tribunals Reforms (Rationalisation and Conditions of Service) Ordinance, 2021, that shortened the tenure of members of tribunals and provided for excessive executive interference in appointments. The Court held once again that judicial independence is not negotiable and cannot be traded off on grounds of efficiency.[8].

These judgments collectively show the judiciary's cautious acceptance of tribunalisation if tribunals do not undermine constitutional values.

Expansion of Tribunals Across Sectors

After 1985, tribunalisation accelerated across various areas of governance. A few instances are

[5] S.P. Sampath Kumar v. Union of India, (1987) 1 S.C.C. 124 (India).
[6] L. Chandra Kumar v. Union of India, (1997) 3 S.C.C. 261 (India).
[7] Union of India v. R. Gandhi, (2010) 11 S.C.C. 1 (India).
[8] Madras Bar Association v. Union of India, (2021) 7 S.C.C. 369 (India).

as follows:

1. Central Administrative Tribunal under the 1985 Act, disposing of service cases.
2. Income Tax Appellate Tribunal, one of the oldest operating tribunals, disposing of direct tax matters.
3. National Green Tribunal under the NGT Act, 2010, dealing with environmental cases.
4. National Company Law Tribunal and Appellate Tribunal, replacing Company Law Board and BIFR, disposing of corporate disputes.
5. Debt Recovery Tribunals established under the Recovery of Debts Due to Banks and Financial Institutions Act, 1993.[9]

Though these tribunals were intended to dispense quicker justice, inefficiency and delay continue in most cases. Moreover, there are issues regarding whether tribunal members have sufficient judicial acumen, whether procedural protections are effective, and whether executive involvement reduces neutrality.

The Tribunal Reforms Act, 2021, is the most recent effort at rationalising and reforming the system. However, as judicial pronouncements indicate, finding the correct balance between efficiency and judicial independence is a still-open constitutional problem. The history of tribunalisation in India thus attests to both the promise of specialised justice and the dangers of compromising judicial autonomy.

The Tribunals Reforms Act, 2021: Provisions and Objectives

The enactment of the Tribunals Reforms Act, 2021, represents a critical step by the legislature within the prolonged process of tribunalisation in India. Initially, tribunals were thought of as specialised adjudicatory tribunals aimed at easing the burden on constitutional courts and providing speedy justice in technical fields. The 2021 Act was enacted against the backdrop of repeated judicial intervention challenging the government's methodology towards tribunal reforms, including previous ordinances and legislation attempts that were invalidated by the

[9] Soka Joseph & Dr. Sunil Kumar, Analysing the Debt Recovery Mechanism In India: A Critical Study Of The Recovery Of Debts Due To Banks And Financial Institutions Act, 1993, IJLR.(2024), https://ijlr.iledu.in/wp-content/uploads/2024/11/V4I436.pdf.

Supreme Court. The Act merges provisions concerning the composition, service terms, term of office, and appellate structure of tribunals, and dissolves some existing tribunals. Its avowed aims are to prioritise efficiency, standardisation, and rationalisation of court administration.

Provisions

Among the core provisions of the Tribunals Reforms Act, 2021, is the repeal of several appellate tribunals and their integration with the existing judicial authorities. The Act merged tribunals like the Film Certification Appellate Tribunal, the Appellate Tribunal established under the Airports Authority of India Act, and others dealing in the domain of cinematography, copyright, patents, and customs, among others. They had their functions transferred to the High Courts, who now functions as the appellate tribunal to the cases that have already been determined by these tribunals. The government defended this move by arguing that it was meant to prevent the spread of low-workload tribunals and by making the process of adjudication easier and simpler.[10]. By leaving these matters to the constitutional courts, the Act sought to create greater judicial uniformity and to avoid an administrative burden from having to maintain separate institutions. Critics argue that this reform risks worsening the already heavy burden on High Courts, thus undermining the very aim of efficiency that tribunalisation had set out to accomplish.

The Act also formalised provisions on the appointment, term of office, and service conditions for members of tribunals. In the 2021 scheme, the term of office of tribunal members is four years, with the option to be reappointed, up to a maximum age of seventy years in the case of the Chairperson and sixty-seven years for members. The Act authorises a Search-cum-Selection Committee, led by the Chief Justice of India or a judge of the Supreme Court who has been nominated by him, to make recommendations for appointments to tribunals. Inasmuch as this ensures judicial involvement in appointments, the provision also gives the Central Government substantial latitude in the ultimate decision-making[11]. Further, the brief four-year term and the potential to be reappointed have been extensively condemned for compromising judicial autonomy. Short terms make tribunal members vulnerable to executive pressure, since

[10] Department-Related Parliamentary Standing Committee on Personnel, Public Grievances, Law & Justice, Seventy-Fourth report on the Tribunals, Appellate Tribunals & Other Authorities (Conditions of Service) Bill, 2014 (2015).
[11] Tribunals Reforms Act, No. 33 of 2021, § 3, INDIA CODE (2021).

reappointment often depends on government approval[12]. This issue is not new; it has been persistently brought to the attention of the judiciary, most prominently in **Rojer Mathew v. South Indian Bank Ltd**., where the Supreme Court overturned previous provisions that had abridged the term and changed the mode of appointment in a way inconsistent with judicial independence[13].

Inextricably related to the issue of tenure is the issue of service conditions and insulating tribunal members from loss of independence. The Act specifies that the Central Government will regulate salaries, allowances, and other service conditions of tribunal members. While this provision was justified on the basis of uniformity in the case of various tribunals, critics are of the view that entrusting such issues to the executive compromises the independence of tribunals. Judicial independence is not only protection against external influence in adjudication but also covers secure and stable service conditions that insulate adjudicators from improper pressures. The Supreme Court has consistently underlined that tribunals' independence has to be protected by sufficient tenure, security of service conditions, and insulation from executive influence, as brought out in **Union of India v. R. Gandhi (2010) 11 SCC 1**[14]. The 2021 Act, in vesting finance and administration in the Central Government, thus threatens to produce tribunals that are efficient in form but tainted in substance.[15].

Another important provision of the Act is that it provides for appeal. The Act attempts to restore the constitutional hierarchy of adjudication by amending the jurisdiction of appeal for specialised tribunals to High Courts as the first-level overseers of these tribunals under Article 226 of the Constitution. This objective is in consonance with the judicial dicta, which has perpetually established the supremacy of High Courts in the protection of fundamental rights and ensuring the judicial review of administrative action. For instance, in **L. Chandra Kumar vs. Union of India,** the Supreme Court decided that High Courts have the jurisdiction over the tribunals and they cannot overturn judicial review under Articles 226 and 227. It is thus considered that the step taken by the 2021 Act to streamline the role of High Courts in the area of appeal is constitutional in nature. But this provision has practical implications: if High Courts already have huge backlogs of cases, it may be challenging for them to cope with

[12] Law Commission of India, Report No. 272: Assessment of Statutory Frameworks of Tribunals in India (Oct. 30, 2017).
[13] Rojer Mathew v. S. Indian Bank Ltd., (2019) 6 S.C.C. 524 (India).
[14] Law Commission of India, Report No. 272 (Oct. 30, 2017).
[15] Union of India v. R. Gandhi, (2010) 11 S.C.C. 1 (India).

additional appeals brought before them by abolished tribunals, hence delaying resolution of disputes and not providing timely remedies. Thereby, the efficiency that is at the centre of tribunalisation justification is being diluted.

Objectives

The government ensures the efficiency of delivery of justice and eliminates the multiplicity of adjudicatory forums. Consolidating the tribunals and establishing a single framework for appointment and conditions of service, the Act will formulate a streamlined system of tribunals that prevents duplication of functions and saves administrative costs. Further, the Act aims to bring the system of tribunals closer to constitutional standards by strengthening the oversight role of the High Courts and guaranteeing judicial involvement in the appointment process. From the government viewpoint, the reforms are needed to establish a less complex, more integrated system of adjudication free of duplicate tribunals and of litigation regarding procedural disparities.

But the Act has to be seen not just in terms of its declared aims but also in terms of its constitutional ramifications. Critics contend that the provisions on tenure, appointments, and service conditions reflect an undue bias in favour of executive control, thus weakening the autonomy of tribunals. The Supreme Court has repeatedly warned the legislature against passing provisions that undermine the autonomy of members of tribunals. In **Madras Bar Association v. Union of India**, the Court invalidated provisions sanctioning brief tenures and undue executive dominance in appointments and ruled that these were unconstitutional and infringed the doctrine of separation of powers. Such warnings notwithstanding, the 2021 Act mimicked numerous provisions previously invalidated, questioning legislative insensitivity to judicial communications.

Finally, the Tribunals Reforms Act, 2021, is both business as usual and not in India's experience with tribunalisation. Its provisions demonstrate the government's goal of efficiency, rationalisation, and consolidation, but its design at the same time provokes long-standing questions about judicial autonomy and executive dominance. By ending some of the tribunals and increasing the role of High Courts, the Act redirects the appellate system to constitutional courts, but at the expense of burdening them with the workload. The tenure, appointment, and service conditions provisions, though sensible based on uniformity, place members of the tribunals under executive influence, thus compromising the independence of adjudicatory

forums. Finally, the Act symbolises the very dilemma at the centre of tribunalisation in India: the quest for a balance between efficiency of delivery of justice and safeguarding judicial independence. This equilibrium still tips precariously towards efficiency, frequently at the cost of constitutional protections of autonomy, and thus leaves it uncertain whether the Act's purposes can be best achieved without infringing on the very principles tribunals were designed to maintain.

Efficiency and access to justice

The tribunalisation in India has always been justified in relation to the concept of efficiency in administering justice and ensuring access to justice in the Constitution. High Courts and the Supreme Court of India, more so, have long been grappling with an overload of pendency. By the mid-1970s, one could already see that a standard court could not possibly handle the number of cases that were now coming down, many of which required expert capability, due to the technical nature of the subject matter. The concept of tribunalisation was intended to remedy the evils of the system by removing certain types of disputes, which would otherwise have been heard in the traditional forms of courts, and transferring them to the new special tribunals. This system would not only decongest the judiciary, but it would also be much faster, cheaper and more efficient and could also be solved by individuals who have expertise in the area of dispute. The effectiveness and accessibility of this were guaranteed in the reasoning of the Articles 323A and 323B, introduced by the 42nd amendment, as constituting the constitutionally valid enactment of tribunals.

The main promise is the idea of prompt justice, which has been prohibited by the Supreme Court as a part of the right to life and to the freedom of a personality in the condition of Article 21 of the Constitution. Tribunals were supposed to offer superior and more expeditious resolution by integrating minor formal procedures, lack of technicalities and avoidance of the delays that prevailed in the court hierarchy. As an example, Central Administrative Tribunal (CAT) created under Article 323A was to provide a solution to the issues regarding the service of the government employees which had been slowing down in High Courts. CAT was to take thousands of these cases annually off the judicial docket and guarantee expert service to jurisprudence of service. In the same way, the National Green Tribunal (NGT) has shown how expert forums can deal with highly technical environmental cases more effectively than

conventional courts, creating innovative jurisprudence while lessening pendency[16].

Efficiency is not just about speed; it also concerns the quality and depth of adjudication. Specialised fields like taxation, telecommunications, intellectual property, and competition law are generally not in the skill set of generalist judges. By using members who have gained expert knowledge, tribunals provide more professional and advanced adjudication. This knowledge is particularly valuable in an increasingly global and technologically evolving world in which disputes are increasingly complex and concern a high level of regulation and technical matters. As a case in point, under intellectual property law, the recently disbanded Intellectual Property Appellate Board could issue decisions not only in the legal contextual argument, but also in technical expertise of patents and trademarks. This expertise is particularly important in areas such as pharmaceutical, technological and creative industries where both stakes are economic and developmental.

The second capacity of the promise of tribunalisation is the capacity of access. Frequent courts (seemingly intimidating, costly, and highly procedural) pose a burden to marginalised litigants. Tribunals were expected to be less complex courts, more accessible, cheaper, and less adversarial. In light of case law, for instance, public officials viewed CAT as a forum which allowed challenging administrative acts without involvement in delays in High Court litigation. Similarly, labour, industrial tribunals have also been set up, in consideration of providing the parties with one such low-cost and easy method of access to justice, as they have few resources. Accessibility also has a spatial aspect: with the establishment of benches of tribunals at different places in the country, litigants from areas far from the central state capitals and New Delhi could have access to justice without incurring excessive distance in their travel. This way, tribunalisation would be democratising the process of justice delivery through decentralisation of adjudicatory institutions.

The Tribunals Reforms Act, 2021, tried to emphasise the above-mentioned assurances by subsidising the tribunals and removing the redundancy. With the incorporation of institutions, the government held it to be efficient and to make the tribunals effective. For instance, the abolition of some appellate tribunals was defended on the basis that they were under-resourced, inadequately staffed, and creating more delay than they were disposing of. Transfer of jurisdiction to High Courts, with constitutional reputation and better infrastructure, was seen

[16] National Green Tribunal Act, No. 19 of 2012, INDIA CODE (2010).

as a means to build litigant trust and reduce delays. Paperwise, these objectives appear to be aligned with the ideology of efficiency. However, whether they facilitate the availability of justice is highly questionable. Rarely did HCs resolve specialised cases faster than the tribunals already burdened by tens of thousands of pendency. In fact, Tribunals Reforms Act, 2021 might only contribute to making the constitutional courts busier rather than making them faster.

The tension between efficiency and access is more pronounced if we look at the abolition of the Intellectual Property Appellate Board (IPAB). Now, High Courts under the Tribunals Reforms Act, 2021, are to adjudicate intellectual property cases, which are highly technical cases. Even though this theoretically leads to independence in judicial system, it makes them less efficient as High Courts lack the same level of subject-matter expertise. This is likely to lead to longer delays and higher costs, and lower the quality of adjudication since there is no technical experience. Therefore, the manner in which it has been packaged as a step towards movies in boosting efficiency can indeed act against slowness of justice, escalating cost and decreasing specialisation. This is the case with other tribunals abolished by Tribunals Reforms Act, 2021, such as the Film Certification Appellate Tribunal, whose jurisdiction has been supplanted by a High Court. These cases suggest the contradiction of the Tribunals Reforms Act, 2021, which disbanded the institutions created aiming at easing accessibility and efficiency, but failing to ensure that its purposes will become even more efficiently performed by means of replacing forums.

Additionally, institutional amount, or personal formal changes, are not indicators of tribunalisation performance. It relies heavily on infrastructure, capital and self-reliance. The Indian tribuals have been characterised by a high number of vacancies, limited budgets, and poor logistical support. These institutional weaknesses have consistently eroded their performance. The Tribunals Reforms Act, 2021, does not do much to improve these underlying weaknesses. Rather than improving tribunals by enhanced resources and autonomy, it eliminates them or limits their jurisdiction. This is a short-term strategy of efficiency in administrative convenience rather than a qualitative approach to access to justice. Judicial pronouncements like **L. Chandra Kumar v. Union of India (1997)** and **Union of India v. R. Gandhi (2010)** have established that efficiency in tribunalisation must go together with independence and structural protection. In the absence of such protection, efficiency is best

described as superficial, and worst as illusory[17].

The wider constitutional principle of access to justice also offers a useful framework for assessing tribunalisation. Article 39A of the State Policy Directive makes the state responsible for ensuring that justice is available to everyone regardless of social or economic factors. The judiciary has interpreted Article 39A as being at the heart of the constitutional ideal of a welfare state. Tribunalisation, in the above sense, was created to achieve Article 39A by rendering justice more affordable, quick, and equitable. The Tribunals Reforms Act, 2021, while enacting beneficial provisions, undermines confidence by questioning whether the constitutional promise of independent tribunals is being kept. By limiting the autonomy of tribunals by short tenures and executive control of appointments, the Act puts at risk litigant confidence. Rapid yet not unbiased and not reachable yet not autonomous justice is not justifiable by the constitutional legitimacy examination. The issue of speed and cost of accessing justice has never been the sole question that did not matter when it comes to fairness, impartiality, and equality before the law. It is based on this that tribunalisation can never be appraised in terms of efficiency and only on whether it is indeed enhancing constitutional access to justice.

In conclusion, the possibility of tribunalisation is that it can combine effectiveness and affordability by ensuring justice is administered at a low cost and within a reasonable time. The Tribunals Reforms Act, 2021, under the guise of efficiency, reveals the contradictions in the promise. The act will be heard to undermine tribunalisation purposes by ending tribunals of expertise and centralising authority with the executive. As the pursuit of efficiency becomes independent and unfair, it can be understood as demeaning the ideal and making it useless. The tribunal system of India test, therefore, does not just consist of giving speed, but giving constitutionally acceptable, efficient justice. The following pages of this research paper will demonstrate how the interest in judicial independence crosses over with this commitment to efficiency, and how constitutional balance is ultimately forced to reconcile both values instead of sacrificing one on the altar of the other.

Concerns regarding judicial independence in the tribunal system

The controversy over tribunalisation in India has always been one about one core issue: judicial independence of the adjudicative system. Judicial independence is a pillar of India's

[17] L. Chandra Kumar v. Union of India, (1997) 3 S.C.C. 261 (India); Union of India v. R. Gandhi, (2010) 11 S.C.C. 1 (India).

constitutional structure, affirmed by the Supreme Court as a part of the basic structure of the Constitution in **Kesavananda Bharati v. State of Kerala (1973)**[18]. It guarantees that adjudicators are not subject to external pressures, especially from the executive, whose rulings they regularly have to examine. Although tribunals were established to increase efficiency and deliver specialised adjudication, their framework has consistently stimulated concerns that executive control undermines impartiality. The Tribunals Reforms Act, 2021, has ignited this controversy back to life since most of its provisions tend to give precedence to administrative expedience over constitutional protection of independence.

Of particular concern is the process of appointment of tribunal members. According to Tribunals Reforms Act, 2021, the names for appointment are recommended by a Search-cum-Selection Committee, but the final authority for appointment lies with the Central Government. This structure gives the executive a huge margin of discretion, a characteristic that conflicts with repeated Supreme Court affirmations requiring judicial precedence in appointments for assuring impartiality. In **Union of India v. R. Gandhi (2010)**, the Court unequivocally declared that tribunals exercising judicial functions need to be protected from executive direction.[19]. Similarly, in **Rojer Mathew v. South Indian Bank Ltd. (2019),** the Court emphasised that appointments to tribunals should reflect a balance in favour of judicial members.[20]. Tribunals Reforms Act,2021, however, tilts the balance decisively towards the executive, which has the final say even when the judiciary is represented on the selection committee. For critics, this institutional structure could create tribunals that are subservient to the executive, not independent judges of disputes.

Another issue is the conditions of service and tenure of members of the tribunals. Tribunals Reforms Act,2021 sets a four-year tenure for members and chairpersons with some age limits. Short terms of office not only discourage qualified professionals like experienced judges and technical experts from becoming members of tribunals but also endanger the impartiality of those who do become members. The members would be inclined to do things that are pleasing to the executive because reappointment is subject to and results from governmental consent directly or indirectly. The **Madras Bar Association v. Union of India (2021), the** Supreme Court rejected analogous provisions, deciding that security of tenure is necessary to ensure independence. In these directions provided by the judiciary, the Tribunals Reforms Act,2021,

[18] Kesavananda Bharati v. State of Kerala, (1973) 4 S.C.C. 225 (India).
[19] Union of India v. R. Gandhi, (2010) 11 S.C.C. 1 (India).
[20] Rojer Mathew v. S. Indian bank Ltd., (2019) 6 S.C.C. 524 (India).

introduced provisions mandating short tenures, questioning whether the legislature sufficiently considered the constitutional imperative of independence[21].

There are concerns regarding the repeal of certain tribunals and the assignment of their jurisdiction to the High Courts as well. Though the government justifies such a step on the grounds of increasing efficiency, it indirectly impacts independence in the form of diminishing the role of specialised forums. For instance, the disbanding of the Intellectual Property Appellate Board implies that already overcrowded High Courts would hear intellectual property cases. Though the High Courts are constitutionally autonomous, they might lack the specialised knowledge for such technical adjudication. This leaves a paradox: whereas sometimes tribunals are the victims of executive interference, their elimination takes away from parties the forums which were at least intended to be subject-matter specialised. In this way, the Tribunals Reforms Act,2021, does not solve the problem of independence but rather transfers the burden to already overburdened High Courts.

Another important concern is the executive domination over funds and infrastructure of tribunals. While courts are constitutionally established and funded, tribunals are subject to the mercy of the government for resources, personnel, and buildings. This renders them subtly vulnerable to executive pressure. A tribunal that has to depend on the same authority it is supposed to scrutinise cannot act with authentic autonomy. As many experts point out, institutional independence is as important as individual independence of judges. Yet Tribunals Reforms Act,2021 does not address this concern. Instead, by centralising power over appointments and service conditions, it intensifies the dependence of tribunals on the executive.

These concerns fuel the perception that the present tribunal framework prioritises efficiency at the expense of independence. This is deeply problematic because efficiency, while desirable, cannot override constitutional principles. Justice not only needs to be speedy but also needs to be fair and credible. If tribunals are perceived as offshoots of the executive, their credibility will be reduced, and litigants may lose faith in them as impartial platforms of dispute resolution. This undermines the original purpose of tribunalisation, which was to improve access to and the effectiveness of justice.

So, the worst problem with India's tribunal system is not how quickly tribunals can dispense

[21] Madras bar Association v. Union of India, (2021) 7 S.C.C. 369 (India).

justice, but whether they can do so at all without sacrificing independence. The Supreme Court's jurisprudence re-emphasises the importance of the principle of neutrality and autonomy of tribunals as an alternative to the judicial system. The Tribunals Reforms Act, 2021, gives no indication that this is the case and thus appears to revive constitutional problems that have been existing since the passing of Articles 323A and 323B. Unless addressed in structural terms, tribunalisation will remain an experiment which is argued to be efficient but is distrusted for lack of impartiality.

Landmark judicial pronouncements

The jurisprudence on tribunalisation in India has passed through a sequence of landmark judicial rulings that have increasingly delineated the constitutional boundaries and functions of tribunals. Among the very first and perhaps most important cases was **S.P. Sampath Kumar v. Union of India, (1987) 1 S.C.C. 124**, in which the Supreme Court upheld the validity of the Administrative Tribunals Act, 1985. The Court stressed that tribunals should be viable alternatives to the High Courts, and for that reason, must be independent and impartial[22].

This fundamental position was further continued in **L. Chandra Kumar v. Union of India, (1997) 3 S.C.C. 261**, where the Supreme Court categorically held that tribunals cannot substitute High Courts in exercising judicial review as granted under Articles 226 and 227 of the Constitution. The Court averred that the power of judicial review is an integral facet of the basic structure of the Constitution, a doctrine which preserves the sanctity of the judiciary.[23].

Later decisions, particularly **Union of India v. R. Gandhi, (2010) 11 S.C.C. 1**, enriched this debate by declaring that tribunals exercising core judicial duties must be insulated from executive interference in both appointments and administration. The Court reiterated that independence of adjudication is essential to ensure the constitutional principle of separation of powers.[24].

In **Rojer Mathew v. South Indian Bank Ltd., (2019) 6 S.C.C. 524**, the Supreme Court plainly declared provisions of the Finance Act, 2017, that granted excessive control to the executive over tribunals as invalid. The Court reaffirmed that any erosion of independence would make

[22] S.P. Sampath v. Union of India, (1987) 1 S.C.C. 124 (India).
[23] L. Chandra Kumar v. Union of India, (1997) 3 S.C.C. 261 (India).
[24] India v. R. Gandhi, (2010) 11 S.C.C. 1 (India).

the process of tribunalisation unconstitutional.[25].

In **Madras Bar Association v. Union of India, (2021) 7 S.C.C. 369**, the Supreme Court struck down certain provisions of the Tribunals Reforms Ordinance, 2021, specifically regarding the tenure and appointment of tribunal members. Notably, Parliament subsequently reenacted similar provisions in the Tribunals Reforms Act 2021, highlighting a continued tension between legislative efficiency and judicial independence.[26].

These landmark rulings illustrate the long-standing institutional tensions between Parliament's push for administrative efficiency and the judiciary's firm commitment to upholding the independence of tribunals. A recurring theme in Parliament's tendency to disregard judicial rulings poses fundamental questions as to whether constitutional dialogue is being undermined in favour of constitutional defiance. This constant debate highlights the need for a balanced strategy to ensure that the very essence of justice and autonomy does not get reduced in the process of tribunalisation in India.

In **Madras Bar Association v. Union of India, (2021) 7 SCC 369** has become central to the discussion on the Tribunals Reforms Act, 2021. The case was related to the Tribunals Reforms (Rationalisation and Conditions of Service) Ordinance, 2021, the provisions of which were subsequently incorporated into the Tribunals Reforms Act, 2021. The Ordinance provided for four-year terms of office for the tribunals and gave to the executive a great measure of appointment power. The Supreme Court struck down these provisions, reiterating this previous stance that tenure must be sufficient to ensure autonomy, and appointment methods must limit the executive majority. The Court noted that the repeated attempt of Parliament to enact provisions which had already been struck down by the Court was tantamount to contempt for the rule of law. This judgment was in itself a precursor to a controversy over the Tribunals Reforms Act, 2021, whose provisions were identical to those of the above judgment, albeit struck down by the court.

Combined, these cases reveal a pattern of judicial philosophy: tribunalisation may serve the legitimate purposes of efficiency and specialisation, but may not be allowed to support constitutional guarantees of judicial review and independence. The whole of the judgments are the efforts to balance the twin facts of institutional efficiency and independence through the

[25] Rojer Mathew v. S. Indian Bank Ltd., (2019) 6 S.C.C. 524 (India).
[26] Madras Bar Association v. Union of India, (2021) 7 S.C.C. 369 (India).

constitutional protection normally into the designs of the legislature. Nevertheless, the persistence of wars, particularly in Tribunals Reforms Act,2021, is a witness to the way Parliament and the executive are still committed to maintaining efficiency and administrative convenience at a level higher than that of independence.

What can be seen in this judicial history is that there was a trend of constitutional opposition to executive-sponsored tribunalisation. The judiciary has continuously been spurring the argument that independence, impartiality and judicial review are non-negotiable components of the basic structure. At the same time, it has realised the value of tribunals as special courts, promoting efficiency. The result is a balance between nothing and something: tribunals are constitutional, provided that they are structured to work on the same level of independence as courts. The Reforms Act,2021, disrupts the equilibrium by disregarding the judicial orders, and therefore, a constitutional challenge arises. The jurisprudence so far clarifies that the future of tribunalisation in India does not depend on efficiency but on the capacity of the state to balance efficiency with judicial independence within a constitutional framework.

The Constitutional Balance: Efficiency vs. Independence

The constitutional debate involving tribunalisation in India is squarely on the clash of two imperatives: the imperative to efficiency in the administration of justice and the safeguard of judicial independence as a component of the basic structure of the Constitution. Efficiency, the ability to deliver rapid, inexpensive, and specialised justice, is a good thing in a legal system as vast and overwhelmed as that of India. Judicial independence is not an illusion. It is the foundation of constitutional democracy. It has been a longstanding principle of the Supreme Court that the judiciary is a constituent of the basic structure and that it cannot be compromised by the legislature and the executive. This constitutional puzzle has resurfaced with the Tribunals Reforms Act, 2021, which is dedicated to rationalisation and effectiveness and can potentially unravel the independence of adjudicatory bodies. To find the equilibrium between efficiency and independence, it is important to situate tribunalisation within the broader constitutional context.

Efficiency as a constitutional value stems partly from the Directive Principles of State Policy (DPSPs). Article 39A requires the state to provide equal access to justice and grant free legal assistance so that justice does not get denied to any citizen on account of economic or other

disabilities.[27]. The assurance of quick justice has also been judicially construed in Article 21, which safeguards life and personal liberty. In **Hussainara Khatoon v. Home Secretary, State of Bihar (1979)**, the Supreme Court opined that the right to a speedy trial is an implicit fundamental right under Article 21[28]. From this view, tribunalisation would be constitutionally sound as a means for providing practical effect to these values through ensuring that justice is provided in a timely and accessible manner. In fact, the institution of tribunals under Articles 323A and 323B was driven by the need to improve access to justice, minimise pendency before High Courts, and enable technical cases to be dealt with by specialists. Efficiency is not just administrative expediency but a constitutional necessity in a system where justice delayed equates to justice denied.

However, efficiency cannot be followed alone. Judicial independence is also rooted firmly in the constitutional grain. The concept of separation of powers, while not specifically stated in the Constitution, has been repeatedly confirmed as a part of its very structure. In **Indira Nehru Gandhi v. Raj Narain (1975)**, the Court held that impartial and fair adjudication cannot be separated from judicial independence.[29]. Similarly, in **L. Chandra Kumar v. Union of India (1997)**, the Court held that judicial review by High Courts and Supreme Court is a component of the basic structure and cannot be abolished, even in the interest of efficiency. These cases emphasise that efficiency is desirable but cannot take precedence over independence.[30]. A tribunal system intended primarily for expeditiousness, if placed under the control of the executive, would be unconstitutional by undermining impartiality and legitimacy of adjudication.

The Tribunals Reforms Act, 2021 shows how the quest for efficiency can clash with independence. By eliminating several appellate tribunals and transferring their jurisdiction to High Courts, the Act enhances efficiency by lessening institutional fragmentation. Yet in practice, it threatens to overwhelm constitutional courts and deprive parties of expert tribunals. Similarly, the Act places administrative flexibility above judicial independence by forcing short four-year terms and granting excessive power to the executive in appointing its officials. The Supreme Court, in **Madras Bar Association v. Union of India (2021)**, held such provisions to be unconstitutional, but Parliament re-enacted them in the Tribunals Reforms Act,2021. This

[27] INDIA CONST. art. 39A.
[28] Hussainara Khatoon v. Home Secretary, State of Bihar, (1979) 3 S.C.C. 532 (India).
[29] Indira Nehry Gandhi v. Raj Narain, 1975 Supp. S.C.C. 1 (India).
[30] L. Chandra Kumar v. Union of India, (1997) 3 S.C.C. 261 (India).

recent degradation of judicial announcements is symptomatic of the fragility of the constitutional balance: efficiency is invoked as a justification for reforms which, in practice, instead of independence, weaken them.

The balancing act between institutional and judicial independence has to start with the realisation that the two values do not necessarily have to be mutually exclusive. Without independence, there can not be actual efficiency in the delivery of justice as a system in which the executive manages it would be fast but not legitimate and credible. The litigants would not request tribunal orders that are perceived to be biased or serve the government's interests. Conversely, a lack of efficiency accompanied by independence renders justice unaffordable to ordinary citizens. If tribunals and courts are independent but do not dispense timely justice, constitutional guarantee of access to justice under Article 39A and Article 21 is not being achieved. The actual constitutional challenge is, thus, how to reconcile these values so that efficiency supports independence and does not destroy it.

Judicial observations have repeatedly tried to define this harmony. In **Union of India v. R. Gandhi (2010)**, the Court held tribunals to be valid only if intended to reflect the independence of courts. Similarly, in **Rojer Mathew v. South Indian Bank Ltd. (2019),** the Court struck down executive-driven rules, reaffirming that independence is the pillar on which tribunalisation must rest. These instances demonstrate that the judiciary believes efficiency to be desirable but secondary to independence; the latter is not negotiable, while the former is attainable only within constitutional limits. The Parliament has, however, frequently reversed the priority, giving priority to efficiency as an end, even compromising on independence. Tribunals Reforms Act,2021 is the most recent instance of this inversion, as it makes independence an obstacle to reform instead of a constitutional protection.

The balance must be constitutionally achieved by understanding that efficiency is a means to the superior end of access to justice, but independence is an assurance of constitutionalism, per the sea tribunal system that values speed over independence, risks undermining the legitimacy of the state’s adjudicatory role. On the other hand, a system that maintains autonomy at the cost of ignoring efficiency may disempower citizens by depriving them of timely succour. The balance is between structural changes that maintain autonomy, along with ensuring capacity extended tenures, judicial oversight of appointments, proper infrastructure, and specialisation in subject areas. Efficiency and autonomy, rightly defined, are not mutually conflicting values

but complementary norms of constitutional adjudication.

The constitutional equilibrium in tribunalisation therefore requires that only through means respecting and maintaining independence is efficiency to be sought. The frequent interventions by the judiciary point to the fact that independence is inseparable from the unalterable basic structure of the Constitution, but efficiency is a constantly evolving institutional goal. With its prioritisation of administration convenience, the Tribunals Reforms Act, 2021, miscarries this balance and revives fundamental constitutional questions. Until Parliament and the executive reconsider their approach to tribunalisation following the directions laid down by the judicial branch of government, the tribunal system will stay in a state of constitutional flux, with efficiency and independence caught up in the battle with each other.

Critical appraisal of Tribunals Reforms Act,2021

The Tribunals Reforms Act, 2021, which is intended to bring some order to tribunal hierarchies and increase the efficiency of adjudication, is a dangerous article in that it endeavours to spread an executive convenient-to-change bias instead of substantive change. The move to discontinue specialised tribunals such as Intellectual Property Appellate Board, Film Certification Appellate Tribunal and Airport Appellate Tribunal could eliminate the duplication in administration. But it also creates an additional burden on already overstretched High Courts, which now have to adjudicate technically complicated cases which include specialised knowledge and expertise. This is the same reason why we introduced tribunalisation to begin with, i.e. so that the cases could be heard by experts in the area, and in this respect, the normal judiciary would not be overworked with the specialised demands.

In addition, the Act prescribes a four-year term of office for members of the tribunal, with the option for reappointment well within the discretion of the executive. This provision not only reduces the terms of office of the tribunal members but also threatens their independence of decision, as they are likely to be inclined towards following executive priorities in the hope of getting reappointed. Such a dynamic is all the more perturbing in the wake of explicit judicial mandates enshrined in precedents like **Union of India v. R. Gandhi (2010)** and the **Madras Bar Association v. Union of India (2021)**, which aimed to stem executive encroachment in the appointment process[31]. But Tribunals Reforms Act 2021 returns to a set of provisions that

[31] Union of India v. R. Gandhi, (2010) 11 S.C.C. 1 (India).; Madras Bar Association v. Union of India, (2021) 7 S.C.C. 369 (India).

place the executive in too great a position over appointments and, therefore, violate the doctrine of judicial primacy in adjudication. Moreover, there is no standardised and transparent procedure for the selection of tribunal members, as tribunals are governed by various administrative ministries. Such a lack of uniformity is not only detrimental to the independence of the members of the tribunal, but it also instils the fear of fairness in the appointment process. A worrisome loss of judicial independence, these traits are combined, although framed as efficiency measures. Instead of having an ideal harmony of efficiency and autonomy, Tribunals Reforms Act 2021 seems to shift the balance significantly towards the executive end, which is why some fundamental concerns that the constitutional right to access to justice under Article 39A is being promoted or threatened are warranted.

Recommendations for Reforms

In order to effectively balance the need to be efficient and the requirement to be ideal in judicial independence, extensive reforms must focus on structural redesign as opposed to micro-tweaking. One major move in this direction would be the establishment of a National Tribunals Commission (NTC) as suggested by the Law Commission of India and non-governmental organisations such as DAKSH. The establishment of such a commission would create an economy-wide precedent of how tribunals are appointed, administered and governed to ensure that they are not controlled by executive ministries.[32].

In addition, the members of the tribunal are expected to have a non-renewable life of at least seven years. This reformation is critical in overcoming any chance of executive interference in the form of re-appointments, which would put us in line with the global standards.

Secondly, it is important to make the tribunals financially independent. This could be achieved by awarding them independent budgeting, unlike budgets that are imposed by parent ministries. Such independent funding will provide tribunals with the ability to work effectively without interference. Also important is the existence of special benches in technical departments such as intellectual property and competition law. Such benches should be informed by judicial experience and knowledge of the area to be appointed. There should be open and consultative processes involving the courts, so that the vacancies can be filled on time, and there can be no incapacitating delays in the operations of tribunals. This will improve the tribunal operations.

[32] Law Commission of India, Report No. 272: Assessment to Statutory Frameworks of Tribunals in India (2017).

Lastly, the process of appealing should also be refined so that it only provides a direct referral to the Supreme Court in situations of constitutional matters. The establishment of supervisory jurisdiction of High Courts will be used to minimise the multiplicative nature of the appeals and make the judicial procedure more efficient.

These measures will make tribunals stronger, as efficient and independent institutions that coexist with the greater constitutional system. With these suggestions, we will build a much better and stronger judicial system that will be an advantage to all citizens.

Conclusion

Tribunalisation in India is the archetypal example of the convoluted paradox of institutional reform in a constitutional democracy. Initially designed to make justice more efficient and more accessible, tribunals have very much become an arena of dispute in terms of judicial independence and separation of powers. The paradox is rationalised by the Tribunals Reforms Act of 2021, which is being put forward as an attempt at rationalisation and efficiency. Its provisions, which abolish specialised tribunals, impose short terms of tenure, and amount to excessive executive interference in appointments, embody a model of tribunalisation aimed at administrative convenience at the expense of key constitutional values.

It has always been emphasised by the judiciary that tribunals cannot serve as adjuncts to the executive. Rather, they have to mirror the independence, impartiality and integrity characterising the ordinary courts that they are meant to supplement. The recurrent reintroduction of these provisions by Parliament after they have been struck down by the Supreme Court is a chilling trend of disobedience in favour of dialogue, and is ringing warning bells of the silent erosion of the very fabric and very soul of the Constitution itself[33]. It is neither possible nor desirable to eliminate tribunalisation. With a huge backlog of nearly five crore cases pending in the Indian courts, tribunals also play a crucial role in providing specialised and effective adjudication. The question here is not whether there should be tribunals, but how they should be structured. A lasting structure will need to transcend the false dichotomy of efficiency and judicial independence, since only then will it be able to acknowledge that real efficiency in the administration of justice cannot exist in the absence of independence. Absence of efficiency and independence will lead to dominance of the executive, and lack of

[33] Kesavananda Bharati v. State of Kerala, (1973) 4 S.C.C. 225 (India).

independence, respectively, will lead to a futile tribunal.

A new path should embrace institutional reforms such as the establishment of National Tribunals Commission, introduction of long non-renewable tenure, introduction of transparent appointment system where judicial control is prioritized and no ministerial influence over finances is guaranteed. India: The process of tribunalisation in India is at a breaking point, where efficiency and independence will determine the future of the system. The decisions made during the post-Tribunals Reforms Act of 2021 will have a long-term impact on either transforming tribunals into a powerful protector of rights and specialised adjudication or continuing to be weak organs of executive power. In order to ensure that the letter and spirit of Article 39A and the constitutional requirement of judicial independence in the basic structure, reforms must seek to institutionalise tribunals as true partners in justice administration, rather than as administrative forms. Only at this point, only here, can tribunalisation deliver on its early claim, namely the delivery of justice that is not only rapid and professional but also independent and imbued with the principles of constitutionalism.