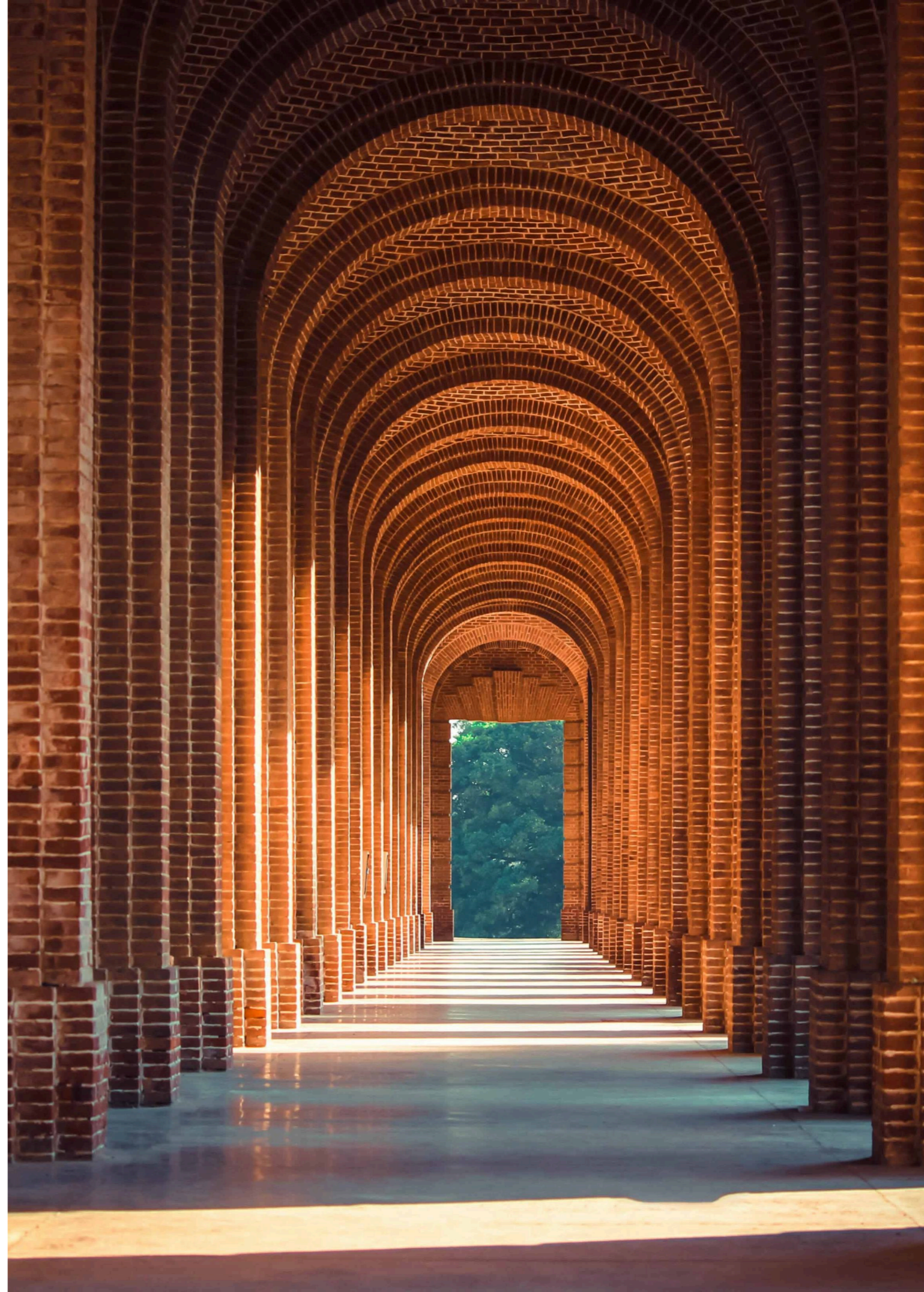


NATIONAL TRIBUNALS COMMISSION

Institutional Design Considerations

June 2026



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This report has been designed by Harshita Kesarwani.

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I. INTRODUCTION

The 42nd Constitutional Amendment Act in 1976 introduced constitutional provisions¹ enabling the establishment of tribunals for specialised adjudication of disputes. While their judicial scope of work, jurisdiction, review, and appellate mechanisms have aligned over the years, these institutions lack a constitutionally entrenched independent administrative structure. Tribunals' functioning, particularly with respect to appointments, tenure, service conditions, infrastructure, and budgeting, has largely been governed by the executive through parent statutes and subordinate legislation. Consequently, it has led to a gradual dilution in the standards of functioning and conduct of these tribunals.

The administrative control and oversight of tribunals has also evolved through judicial interpretation over the years. In *L. Chandra Kumar v. Union of India*², the Supreme Court affirmed that tribunals are subject to the judicial review and supervisory jurisdiction of High Courts under Article 226/227, thereby integrating them within the broader constitutional scheme of judicial oversight. The judgment, however, lacked finality in terms of administrative control of these tribunals. Consequently, through a series of cases³ including the most recent judgment dated 19 November 2025 in *Madras Bar Association v. Union of India*⁴, concerns regarding the role of the executive and its participation in administrative decision-making for these tribunals were flagged.

In response to the above gaps and concerns, the idea of a National Tribunal Commission (NTC) has emerged as a structural reform proposed by the Supreme Court in its various judgments and the Parliamentary Standing Committee on Law and Justice. Judicial interventions, particularly in *Madras Bar Association v. Union of India*⁵, along with recommendations of the *272nd Law Commission of India Report*⁶, have emphasised the need for an independent body to oversee appointments, service conditions, and administration of tribunals in a uniform and transparent manner.

II. PROBLEM STATEMENT

The administrative control of tribunals in India largely resides with the executive, with very little participation from the judiciary. The High Courts'

supervisory jurisdiction under Article 227, is doctrinally limited and has not clearly extended to core administrative functions such as appointments, tenure, salaries, or performance evaluation. The question arises as to how the scope of the NTC can co-exist with the supervisory jurisdiction of the High Courts under Article 227.

III. CURRENT POSITIONING

A. Judiciary Positioning

1. The High Court's superintendence powers under Article 227 do not include administrative governance. Article 227(1) provides that "*every High Court shall have superintendence over all courts and tribunals throughout the territories in relation to which it exercises jurisdiction*".

Article 227(2) specifically refers to the discretionary power of High Courts with respect to their subordinate courts for the following:

- a. calling for returns from such courts,
 - b. making and issuing general rules and prescribing forms for regulating the practice and proceedings of such courts, and
 - c. prescribing forms in which books, entries, and accounts shall be kept by the officers of any such courts.
2. Role of High Court in appointment and removal of Tribunal Members and Chairperson: The scheme of the Tribunal Reforms Act, 2021, is such that the Central Government appoints the Chairperson and the Member of a Tribunal on the recommendation of a Search-cum-Selection Committee. The Search-cum-Selection Committee consists of two representatives from the judiciary. While the provision gives an option that one of these members could be a High Court Chief Justice, however, in practice, it may not be necessary due to the operational word "*or*" in the provision.⁷ The supervisory power and the representation in the Selection Committee clearly signify that the High Courts have no explicit role in the administration of the tribunals and only a mere representation/recommendation role in the appointment of the Tribunal Members and Chairperson.
 3. Article 227 is framed in broad supervisory terms and lacks the constitutional intent to expressly confer administrative control over key service-related

matters. This becomes clearer when contrasted with *Articles 233 to 235*⁸, which expressly deals with the appointment, posting, promotion, and control of District Judges and the subordinate judiciary. The Constitution, therefore, demonstrates that where it intends to vest administrative powers, it does so in clear terms. The absence of such specificity in Article 227 indicates that the High Court’s jurisdiction is limited to supervisory oversight to an extent of judicial review and rule-making for process and procedure only. This clears the path for NTC to define its scope.

B. Executive Positioning

The involvement of executive is at both the state level and the central level tribunals.

1. Appointment & Removal: The Central Government appoints the Chairperson and Members of the Tribunal on the recommendation of the Search-cum-Selection Committee that consists of *inter alia* members of the judiciary. The Ministry of Power in February 2026 released a call for appointments for the APTEL and the Ministry of Finance in February 2026 released a circular calling for applications from retd. government servants from the Central Government/ Supreme Court/Tribunal for their engagement as consultants for GSTAT. These appointments, though made through public announcements, create an impact on the independence for the tribunals as the appointment includes a recommendatory role of the judiciary in the appointment of the Tribunal Members.

2. Tenure & Service Conditions: Under the Tribunals Reforms Act, 2021, the Central Government is explicitly empowered to frame rules regarding tenure and service conditions of Tribunal Members through notifications in the Official Gazette.⁹

3. Salary & Budget: Budgetary control over tribunals is largely exercised by the executive through ministerial allocations. The Central Government finances central institutions, while the state government funds local judicial infrastructure. Additionally, tribunals do not have a separate, constitutionally protected budget and remain dependent on annual budgetary allocations determined by the executive.

C. Judicial Interpretation

Jurisprudence around Article 227 has shed light upon the scope of supervisory jurisdiction of Article 227. The power of superintendence under Article 227(1) has been exercised by the High Courts through superintendence rules in certain states.¹⁰ The Supreme Court has clarified in *Waryam Singh v. Amarnath*¹¹ that the power of superintendence of the High Courts under Article 227 of the Constitution is not just confined to the administrative superintendence but also includes judicial review. In *State v. Navjot Sandhu*¹², the Court explained that the powers available to the High Court under Article 227 are not meant for correcting errors and must be exercised sparingly; only to keep subordinate courts and tribunals within the bounds of their authority.

IV. THE GAP/THE SCOPE OF NTC

The NTC is a necessary institutional reform to address longstanding concerns around tribunal independence¹³, to reduce executive dependence and ensure structural safeguards. Against this backdrop, the following table seeks to delineate the appropriate allocation of functions, clarifying what may fall within the NTC’s domain, and what, consistent with existing constitutional mandates, should remain within the supervisory jurisdiction of the High Courts under Article 227. The NTC, should be an independent body to govern tribunals administratively, complementing and supporting the judiciary. It should not be designed to compete or be in conflict with the High Courts.

Table 1

| Administrative Function | Whether the function falls within the supervisory jurisdiction of HCs under Article 227? | Whether the function should fall within the ambit of NTC? |
|--|---|--|
| Appointment to tribunals, service conditions, and disciplinary proceedings | The appointments, made by the Central Government, are made on the recommendation of a Search-cum-selection committee (SSC) that consists of two members of the judiciary. | To act as a secretariat to the SSC for managing appointments and removals. |
| Tenure | No. Falls under the domain of the Central Government | Yes |
| Salaries | No. Falls under the domain of the Central Government | Yes |

| Administrative Function | Whether the function falls within the supervisory jurisdiction of HCs under Article 227? | Whether the function should fall within the ambit of NTC? |
|---|--|---|
| Budgeting (infrastructure, technology etc.) | No. Falls under the domain of the Central Government | Yes |
| Conduct of members/performance evaluation excluding review by judiciary | Unclear | Yes. The NTC should help evolve performance standards and benchmarks for the tribunals in consensus with them. The NTC should be empowered to measure the performance of each tribunal against these standards and benchmarks, and means of enforcing them. ¹⁴ |
| Issuance of rules and regulations | Yes (Discretionary power vested with High Courts under Article 227(2)(b) to issue general rules and prescribe forms for regulating the practice and proceedings of such courts.) | No This power falls within the High Court's role. The NTC must not have rule-making powers except for framing rules for administrative support like qualification and appointments of tribunal members. ¹⁵ |
| Judicial review | Yes | No NTC should strictly abstain from it as it falls squarely within the High Court's constitutional powers. |

DAKSH's idea of the NTC is that the NTC should have the power to independently help in appointing both judicial and technical Members of Tribunals. The NTC should be empowered to prescribe qualifications for Tribunal Members and determine the process of recruitment. Procedures of the appointment of Members of the Tribunals should be made free of executive influence by guaranteeing security of tenure and stable service conditions.

V. ENVISIONING DESIGN AND SCOPE OF NTC

A. Institutional Design

The NTC should be established either through the statutory route or a

constitutional amendment by balancing considerations like ease of establishing an oversight body, thereby securing independence of such a body through the different routes. A constitutional body would have greater functional, operational, and financial independence, particularly if its broader powers, functions, responsibilities and duties were given constitutional backing, allowing for additional specific modifications through ordinary legislation.¹⁶ Two annexures mapping the design of the NTC are attached to this note. Annexure 1 depicts how tribunal administration will be made simpler, more efficient, and more independent with the NTC, while Annexure 2 depicts the NTC's horizontal and vertical relationships that ensures accountability.

B. Roles & Functions

The NTC must present reports before the legislature and publish them online. These must include regular formal reports and financial statements, accompanied by explanations of proceedings. The NTC should have the power to independently appoint both judicial and technical Members of Tribunals. The NTC should be empowered to prescribe qualifications for Tribunal Members and determine the process of recruitment.¹⁷ The NTC is also responsible for setting the qualifications necessary for the Chairperson, President, or other Members of the Tribunals administered by it.¹⁸

C. Independent Secretariat & Budget

The NTC would be headed by a board comprising a diverse mix of stakeholders with both judicial and technical expertise representing the tribunals under the NTC, headed by the Chairperson. It should be run on a day-to-day basis by a Chief Executive Officer who will be accountable to the board and who must possess relevant expertise and experience in management and delivery of public goods.¹⁹ The NTC should be responsible for conducting judicial impact assessments to understand the change in resource requirements resulting from the creation of new tribunals. The NTC Secretariat should be supported by staff with expertise in public budgeting and should implement proven, effective budgeting practices.

The administrative functioning of NTC should be charged to the Consolidated Fund of India, giving independence to NTC to design its own budget under strict institutional accountability and public reporting.

D. Judicial Review of NTC Decisions

The NTC's decisions on removal of members should be final, and appealable only when the Supreme Court and High Courts find it appropriate on grounds of constitutionality or natural justice.²⁰

VI. IMPLEMENTATION CONSIDERATION

The creation of the NTC through a central legislation will ensure sanctity of the institution and provide for more power to the NTC in determining administrative functions for tribunals. A central legislation for the NTC will also allow for flexibility as it will enable the legislature to regulate independent institutions in response to the changing needs of the state.²¹ DAKSH has also recommended that there may be a phased transition plan for tribunals from under their parent ministries to the NTC through the creation of an inter-ministerial committee that will be responsible for creating a structure, resource plan and legal framework by experts and passing of the requisite legislation.²²

Further, the NTC has to be financially independent of funds coming from a ministry. At present, many tribunals are heavily dependent on their parent ministries for financial support that impairs their ability to act independently. They are dependent on the sponsoring ministry not only for finances but also resources, infrastructure and even physical space for functioning. By retaining control over basic requirements of the tribunals to carry out their day-to-day operations, the executive can influence them. Therefore, while we design a new body like the NTC, it is imperative to create it as a financially independent body that is insulated from executive interference.

VII. RISKS AND SAFEGUARDS

The establishment of the NTC would entail a massive restructuring of the present tribunals ecosystem, involving the transfer of responsibilities from many government departments. Creating a body like the NTC will also lead to the risk of over centralisation of powers within one body. Further, such a body needs to be equipped with trained personnel and the requisite number of personnel in order to carry out administrative functions.

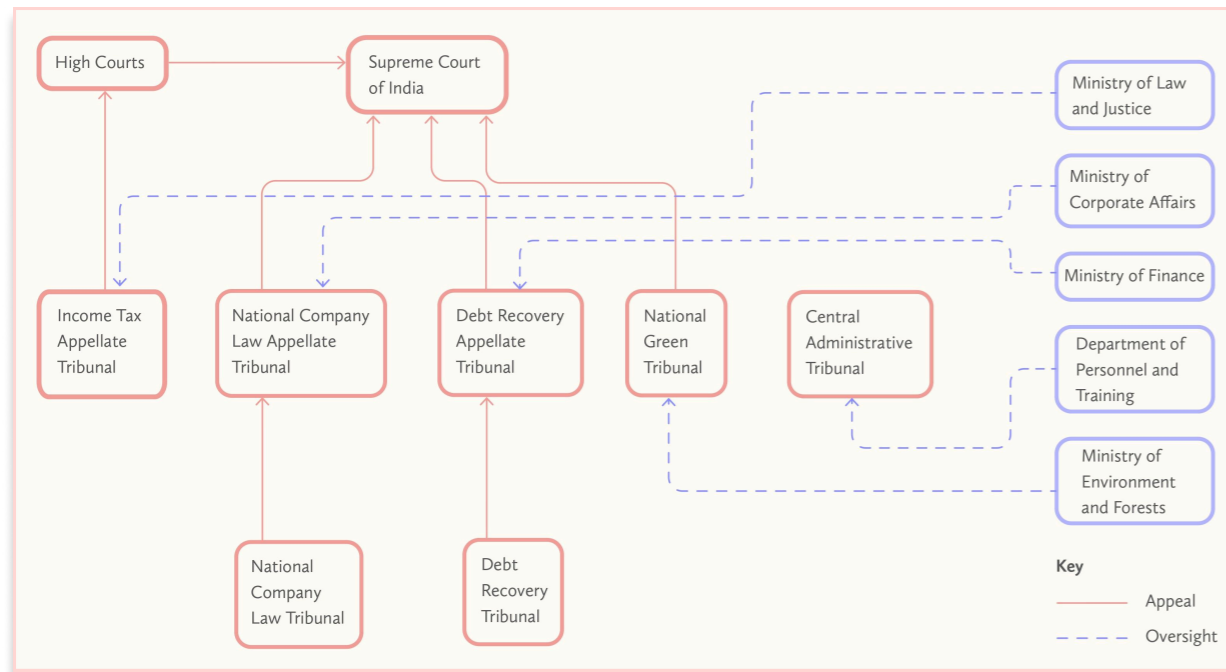
It is also crucial that the functions of the NTC do not overlap with that of the

High Court with respect to administrative functions. Clear divisions of responsibilities need to be created to ensure that there are minimal constitutional challenges and litigation. Furthermore, the NTC must be designed to be insulated from replication as an executive body performing administrative functions. The NTC has been envisioned to ensure that tribunals are administratively independent from the executive branch of government. The NTC must be created in a way that monitors the performance of tribunals, salaries, tenure, and appointments, in order to ensure independence and efficiency.

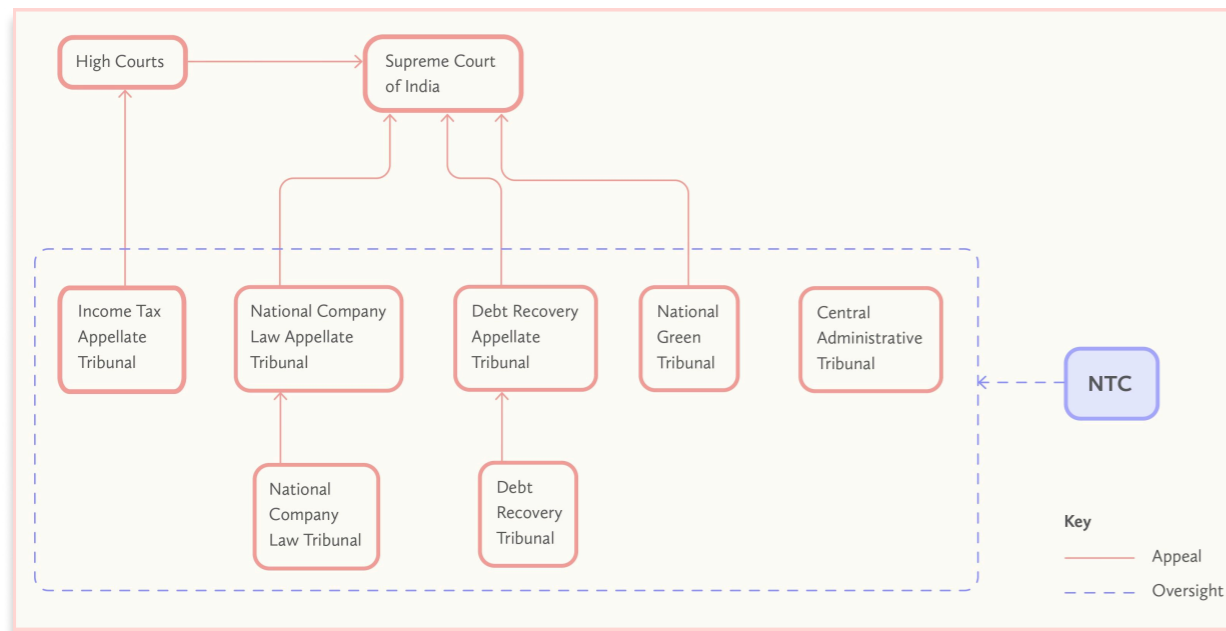
VIII. CONCLUSION

The NTC model with the above proposed design and implementation considerations does not dilute the jurisdiction of High Courts under Article 227; rather, it complements it by institutionalising administrative independence, allowing High Courts to retain their constitutional role of judicial superintendence and insulation from the executive.

Annexure 1: Depicts how tribunal administration will be made simpler, more efficient, and more independent with the NTC ²³



Annexure 2: Depicts the NTC's horizontal and vertical relationships that ensures accountability ²⁴



Endnotes

1. Article 323 A and Article 323 B, Constitution of India, 1950.
2. L. Chandra Kumar v. Union of India, AIR 1997 SC 1125.
3. Madras Bar Association v. Union of India, (2015) 6 S.C.R. 638; Madras Bar Association v. Union of India, AIR Online 2020 SC 917; Madras Bar Association v. Union of India, (2021) 7 SCC 369.
4. Madras Bar Association v. Union of India, (2026) 2 SCC 1.
5. Ibid.
6. Report No. 272, 'Assessment of Statutory Frameworks of Tribunals in India', Law Commission of India, October 2017, last accessed April 22, 2026.
7. Sections 3(2) and 3(3) of the Tribunals Reforms Act, 2021.
8. Articles 233, 234, 235, Constitution of India, 1950.
9. Section 3(1), Tribunals Reforms Act, 2021.
10. The Karnataka High Court Superintendence of Tribunal Rules, 1989 and the Guwahati Superintendence of Tribunal Rules, 1992 are examples of rules laid down by the High Court for superintendence of tribunals.
11. Waryam Singh v. Amarnath, AIR 1954 SC 215.
12. State v. Navjot Sandhu, (2003) 6 SCC 641. Also reiterated in Rajendra Diwan v. Pradeep Kumar Ranibala and Anr., 2019 (20) SCC 143.
13. Madras Bar Association v. Union of India, (2026) 2 SCC 1.
14. A Framework for the National Tribunals Commission, DAKSH, Draft White Paper, Pg. 6, April 2021, last accessed April 22, 2026.
15. Id at Pg. 25.
16. Id at Pg. 4.
17. Id at Pg. 5.
18. Id at Pg. 49.
19. Id at Pg. 5.
20. Id at Pg. 51.
21. Id at Pg. 26.
22. Id at Pg. 7.
23. Id at Pg. 36.
24. Id at Pg. 37.



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