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E-CONTENT

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Political Science Major Course (4 Years) under CCF, 2022

Course Name	Course Code	Credits	System	Syllabus
Understanding the Legal System	SEC-2	THEORETICAL (Credits 4, 2TH+2TU)	CCF, 2022	University of Calcutta

Course- SEC-2: Understanding the Legal System

Course Objectives:

◆ This course design is intended to create:

1. A systemic perspective on an overarching framework for approaching law as a skill-based subject.
2. To focus on the enhancement of skill of ordinary persons to enable them to utilize legal knowledge in life.

Learning Outcomes:

◆ The programme is so designed as to:

1. Acquaint, train and equip students with a reasonable knowledge of the legal system.
2. Motivate the students to understand the principles, concepts and reason
3. Form own opinion and articulate them in the interest of society at large.

Syllabus

Module I

1. Historical background, Procedures of Supreme Court and High Court in India (special focus on writ jurisdictions),
Judicial Activism and Judicial Restraint.
2. Public Interest Litigation (PIL): Meaning, Major features and Scope, Principles, Major Guidelines for admitting
PIL.
3. Administrative Tribunals: Concepts and Major Features, Tribunals for other matters.

Module II

4. Subordinate Courts: Constitutional Provisions, Structure and Jurisdiction, National Legal Services Authority, Lok
Adalats, Family Courts and Gram Nyayalayas.

5. Elections Laws: Representation of People Act 1950, Representation of People Act 1951, Delimitation Act 2002.

6. Other Constitutional Dimensions: Anti-defection Laws (major provisions of 91st Amendment Act, 2003),

Co-operative Societies (provisions of 97th Amendment Act), Mahila Courts.

Dr. Alok Roy, MNDC

Module I

CONTENTS	Page No
1. HISTORICAL BACKGROUND, PROCEDURES OF SUPREME COURT AND HIGH COURT IN INDIA (SPECIAL FOCUS ON WRIT JURISDICTIONS), JUDICIAL ACTIVISM, AND JUDICIAL RESTRAINT	1-20
1.1. HISTORICAL BACKGROUND OF SUPREME COURT OF INDIA	1-2
1.2. HISTORICAL BACKGROUND OF HIGH COURT OF INDIA	3-4
1.3. PROCEDURE OF THE SUPREME COURT OF INDIA (SCI)	4-7
1.4. PROCEDURE OF THE HIGH COURT OF INDIA	7-11
1.5. WRIT JURISDICTION AND SUPREME COURT, HIGH COURT: A SPECIAL FOCUS	12-15
1.6. JUDICIAL ACTIVISM	15-17
1.6. JUDICIAL RESTRAINT	17-18
1.7. REFERENCES	19-20
2. PUBLIC INTEREST LITIGATION (PIL): MEANING, MAJOR FEATURES AND SCOPE, PRINCIPLES, MAJOR GUIDELINES FOR ADMITTING PIL	21-28
2.1. PUBLIC INTEREST LITIGATION (PIL)-MEANING	21-21
2.2. MAJOR FEATURES OF PIL	21-22
2.3. SCOPE OF PIL	22-23
2.4. PRINCIPLES OF PIL	23-24
2.5. MAJOR GUIDELINES FOR ADMITTING PIL IN INDIA	24-26
2.6. SIGNIFICANCE OF PIL	26-26
2.7. CHALLENGES AND CRITICISMS OF PIL	26-26
2.8. LANDMARK PIL CASES IN INDIA	26-27
2.9. REFERENCES	27-28
3. ADMINISTRATIVE TRIBUNALS: CONCEPTS AND MAJOR FEATURES, TRIBUNALS FOR OTHER MATTERS	29-42
3.1. ADMINISTRATIVE TRIBUNALS-CONCEPTS	29-29
3.2. COMPOSITION OF ADMINISTRATIVE TRIBUNALS IN INDIA	30-30
3.3. MAJOR FEATURES OF ADMINISTRATIVE TRIBUNALS	30-30
3.4. LIMITATIONS OF ADMINISTRATIVE TRIBUNALS	30-31
3.5. TRIBUNALS FOR OTHER MATTERS	31-41
3.6. REFERENCES	41-42

1. HISTORICAL BACKGROUND, PROCEDURES OF SUPREME COURT AND HIGH COURT IN INDIA (SPECIAL FOCUS ON WRIT JURISDICTIONS), JUDICIAL ACTIVISM, AND JUDICIAL RESTRAINT.

1.1. HISTORICAL BACKGROUND OF SUPREME COURT OF INDIA:

The Supreme Court of India, as the apex judicial institution of the country, has a rich and complex historical background that reflects the evolution of India's legal and constitutional system. Its origins can be traced back to the colonial period when the British introduced Western legal institutions in India. The first major step toward the establishment of a central judicial authority was taken with the enactment of the Regulating Act of 1773. This Act led to the establishment of the Supreme Court of Judicature at Fort William in Calcutta in 1774. It was the first highest court of appeal in British India, comprising a Chief Justice and three puisne judges appointed by the British Crown. Although modeled on the British legal system, the early Supreme Court faced severe criticism for its rigidity and insensitivity to Indian traditions and customs. Similar Supreme Courts were later established in Bombay and Madras, and these courts functioned with both original and appellate jurisdiction, primarily serving the British population in India.

The next important phase came with the Indian High Courts Act of 1861, which replaced the earlier Supreme Courts and Sadar Adalats with consolidated High Courts in the presidency towns. These High Courts, established in Calcutta, Bombay, and Madras, marked a shift in the administration of justice and served as superior judicial authorities in their respective regions. They handled both civil and criminal matters and played an essential role in shaping Indian jurisprudence during the colonial era.

The idea of a central federal judiciary began to take shape with the Government of India Act of 1935, which introduced a federal structure in India and established the Federal Court of India in 1937. The Federal Court was located in Delhi and functioned as the highest court within British India, with jurisdiction over disputes between provinces and limited appellate powers over High Court decisions in constitutional matters. However, the Privy Council in London remained the final court of appeal until independence.

With the attainment of independence in 1947 and the subsequent adoption of the Constitution of India on January 26, 1950, a new era began in the country's judicial history. The Constitution

provided for the establishment of the Supreme Court of India as the highest constitutional court, replacing both the Federal Court and the Privy Council. The Supreme Court was inaugurated on January 28, 1950, two days after the Constitution came into force. It was established under Part V, Chapter IV of the Constitution, specifically Articles 124 to 147. The Supreme Court was vested with extensive jurisdiction—original, appellate, and advisory—and was entrusted with the responsibility of being the guardian of the Constitution and the protector of the fundamental rights of citizens.

Since its inception, the Supreme Court of India has emerged as a powerful and independent institution, playing a crucial role in the preservation of constitutional order, the development of legal principles, and the promotion of social justice. It continues to function not merely as a court of law, but as a vital pillar of Indian democracy and a symbol of justice for over a billion people.

SUMMARY:

Supreme Court of India

- **Pre-Independence Origin:**
 - The Indian judicial system's origins lie in the colonial period.
 - The **Regulating Act of 1773** established the **Supreme Court of Judicature at Fort William** in Calcutta.
 - Over time, similar courts were established in Bombay and Madras.
- **Post-Independence:**
 - The **Federal Court of India** was set up in **1937** under the **Government of India Act, 1935**.
 - The **Supreme Court of India** replaced the Federal Court and the Judicial Committee of the Privy Council in **1950**, under **Article 124** of the Constitution.
- **Established on: 28 January 1950**
- **Location:** New Delhi
- **First Chief Justice:** Justice Harilal J. Kania

1.2. HISTORICAL BACKGROUND OF HIGH COURT OF INDIA:

The historical background of the High Courts in India is deeply rooted in the colonial era, marking a significant chapter in the evolution of the Indian judicial system. The origin of the High Courts can be traced back to the 19th century during British rule when the need was felt to streamline and unify the diverse and often overlapping judicial institutions that had developed over time in the presidencies of Calcutta, Bombay, and Madras. Prior to the establishment of High Courts, the British administered justice in India through a dual system consisting of the Supreme Courts in the presidency towns and the Sadar Adalats in the provinces. The Supreme Courts were established under the Regulating Act of 1773, beginning with the Supreme Court of Judicature at Fort William in Calcutta in 1774. These courts were modeled after English legal institutions and were primarily meant to serve British subjects and those governed by English law. On the other hand, the Sadar Diwani Adalat and the Sadar Nizamat Adalat dealt with civil and criminal cases, respectively, and operated under the authority of the East India Company.

This dual system of administration of justice led to several inconsistencies, conflicts of jurisdiction, and inefficiencies. Recognizing the need for reform, the British Parliament enacted the Indian High Courts Act of 1861. This Act was a landmark piece of legislation that authorized the Crown to establish High Courts in the presidency towns by amalgamating the Supreme Courts and the Sadar Adalats. Accordingly, the High Courts of Calcutta, Bombay, and Madras were established in 1862. These new High Courts inherited the powers, functions, and jurisdictions of both the Supreme Courts and the Sadar Adalats. They exercised both original and appellate jurisdiction and were empowered to hear civil and criminal cases, as well as constitutional and administrative matters. The judges of the High Courts were appointed by the British Crown, and a mixture of English barristers and Indian judges served on the benches, marking the beginning of Indian participation in the higher judiciary.

With the expansion of British territories and administrative reorganization, more High Courts were gradually established in other parts of India. The Government of India Act of 1935 further strengthened the role of High Courts and laid the groundwork for a more federal system of judiciary. By the time India gained independence in 1947, several High Courts were functioning across the country, each serving as the highest judicial authority within its province.

After the adoption of the Constitution of India in 1950, the High Courts were retained as integral components of the Indian judiciary under Part VI, Chapter V (Articles 214 to 231) of the Constitution. Each state, or group of states, was to have a High Court, and these courts were empowered to exercise jurisdiction over civil, criminal, and constitutional matters. Significantly, Article 226 of the Constitution conferred upon the High Courts the power to issue writs for the enforcement of fundamental and legal rights, thereby making them powerful guardians of justice at the state level. Over the years, the High Courts of India have evolved into robust institutions that uphold the rule of law, ensure judicial accountability, and contribute meaningfully to the development of Indian jurisprudence.

SUMMARY:

High Courts of India

- **Pre-Independence:**
 - The **Indian High Courts Act of 1861** allowed the Crown to establish High Courts by Letters Patent in the Presidency towns: Calcutta, Bombay, and Madras.
- **Post-Independence:**
 - High Courts continued under the Constitution of India (Articles **214 to 231**).
 - Each state (or group of states) has a High Court.

1.3. PROCEDURE OF THE SUPREME COURT OF INDIA (SCI):

The **Supreme Court of India (SCI)** is the apex judicial authority under the Indian Constitution. It functions primarily under **Articles 124 to 147** of the Constitution and is governed by the **Supreme Court Rules, 2013**. The procedural framework of the Court ensures justice through a systematic and constitutionally mandated approach. The Supreme Court's procedures vary based on the type of jurisdiction—original, appellate, writ, advisory, review, and curative.

i. Filing of Cases

The process begins with the filing of a petition or appeal in the **Supreme Court Registry**. This includes:

- **Special Leave Petition (SLP)** under Article 136,
- **Writ Petition** under Article 32,
- **Civil and Criminal Appeals** under Articles 132 to 134,
- **Presidential Reference** under Article 143,
- **Review and Curative Petitions** under Article 137.

The petition must be in prescribed format, accompanied by affidavits, vakalatnama (authorizing an advocate), court fees, and necessary documents such as certified copies of the impugned judgment.

ii. Scrutiny and Defect-Curing Process

The Registry scrutinizes the petition for procedural compliance. If there are defects (formal or technical), they are notified to the petitioner or advocate for correction. Once the petition is “cleared,” it is listed before a bench for **admission hearing**.

iii. Admission Hearing

At this stage, the Court decides whether the petition merits a full hearing. In SLPs and writs, a **Division Bench (usually two judges)** examines the preliminary arguments.

- If **admitted**, the petition is converted into an appeal or regular writ petition and notices are issued to the respondents.
- If **dismissed**, the matter ends at this stage.

iv. Service of Notice and Filing of Replies

Upon admission, notices are served to the opposite party. Respondents are given time to file their **counter-affidavits**. The petitioner may then submit a **rejoinder**. Additional documents, evidence, or applications may be filed during this phase.

v. Final Hearing

After pleadings are complete, the matter is listed for **final hearing**. The Bench, which could be a **Division Bench, Full Bench (3 or more judges), or Constitution Bench (5 or more judges)** depending on the importance of the case, hears the arguments.

- **Oral arguments** are made by senior advocates or counsels.
- Written submissions and case law citations are considered.
- Hearings may last from a few minutes to several days or weeks.

vi. Judgment Delivery

After the final arguments, the bench reserves the judgment. A **written judgment** is delivered later, with reasons, legal principles, and orders. Sometimes **concurring or dissenting opinions** are also issued, especially in Constitution Bench cases.

vii. Review and Curative Petitions

The Supreme Court may review its own judgment under **Article 137**, through a **review petition** filed within 30 days. If a grave injustice is alleged even after the review is dismissed, a **curative petition** may be filed as a last resort.

viii. Advisory Jurisdiction

Under **Article 143**, the President of India may refer a question of law to the Supreme Court. In such cases:

- The Court notifies the Attorney General and interested parties.
- A non-adversarial hearing is conducted.
- The opinion of the Court is submitted to the President. It is not binding but highly authoritative.

ix. Language and Reporting

Proceedings are conducted in **English**. All judgments and orders are published officially and made accessible through **Supreme Court websites, legal databases, and law journals**.

x. Modern Developments

- The Court now allows **e-filing of petitions**, especially after the COVID-19 pandemic.
- **Video conferencing and live-streaming** are used in significant constitutional matters.
- The **Supreme Court Legal Services Committee** provides legal aid to the indigent.

In summary, the Supreme Court of India follows a detailed and constitutionally grounded procedural system that ensures fairness, accountability, and justice. Its procedures—from filing to final decision—are designed to maintain the sanctity of the rule of law and to uphold the Constitution as the supreme law of the land.

1.4. PROCEDURE OF THE HIGH COURT OF INDIA:

The **High Courts in India** are the principal civil courts of original jurisdiction in the states and union territories and serve as the highest court within a state's judicial structure. Each High Court derives its authority from **Part VI, Chapter V (Articles 214–231)** of the **Constitution of India**, and the **Civil Procedure Code (CPC), 1908**, **Criminal Procedure Code (CrPC), 1973**, and respective **High Court Rules** govern their procedures. The procedural operation of the High Courts includes **original, appellate, revisional, supervisory, writ, and contempt jurisdictions**, each following a distinct format but underpinned by common principles of natural justice and rule of law.

i. Institution of Cases

The judicial process in the High Court begins with the filing of a petition, appeal, or application in the **High Court Registry**. The kind of filing depends on the jurisdiction being invoked:

- **Civil or Criminal Appeals** from lower courts,
- **Writ Petitions** under Article 226,
- **Revisions** under the Civil or Criminal Procedure Codes,
- **Public Interest Litigations (PILs)**,
- **Contempt Petitions**.

The documents required generally include:

- A **petition or memorandum of appeal**,
- **Certified copy** of the impugned order/judgment,
- **Affidavits** and supporting documents,
- **Vakalatnama** (if filed by an advocate),
- **Court fee** stamps as applicable.

Once filed, the Registry examines the case for procedural compliance.

ii. Scrutiny and Listing

The Registry scrutinizes the filing for defects—both formal (like formatting) and substantial (like jurisdiction). If found defective, the petition is returned to the litigant or advocate for correction. After the defects are cured, the matter is listed before a **single judge** or **division bench** depending on the nature of the matter:

- **Single Bench** usually hears civil, criminal, and writ petitions of routine nature.
- **Division Bench** hears constitutional matters, tax cases, and appeals from judgments of a single bench.

iii. Admission Stage

The first judicial interaction is often at the **admission stage**, especially in appeals and writ petitions. The court examines the maintainability of the matter and whether it deserves a full hearing. If the case appears frivolous or lacking legal merit, it may be **summarily dismissed**. If the court admits the case, it issues a **notice to the respondents**, initiating the adversarial process.

iv. Pleadings and Affidavits

Once notice is issued, the opposing party is required to file a **counter-affidavit or written statement**. This is followed by a **rejoinder** by the petitioner. This exchange of pleadings sets the framework for the legal issues to be addressed.

In original side civil suits, the procedure also includes:

- Framing of **issues**,
- Filing of **evidence or affidavits**,
- **Examination and cross-examination** of witnesses,
- Filing of **written submissions**.

v. Hearing of the Case

The court then lists the matter for **final arguments**. Depending on the type of jurisdiction:

- **Writ Petitions** are argued based on legal rights and constitutional provisions.
- **Civil/Criminal Appeals** are heard on the basis of records and evidence from the lower courts.
- **Revisions** are limited to questions of law and jurisdictional errors.
- **Public Interest Litigations (PILs)** involve broader societal concerns and may be heard less formally, but still adhere to judicial standards.

Each party's counsel presents their case orally, supported by written arguments and citations from precedent. The judges may question the lawyers during the course of the hearing.

vi. Judgment and Orders

After hearing the arguments, the court may:

- **Reserve judgment** and pronounce it later, or
- **Pronounce the judgment immediately** in open court.

The written judgment includes:

- A summary of facts,
- Points of law considered,
- Reasoning adopted,
- Reliefs granted or denied,
- Costs, if any.

The decision is binding on subordinate courts within that state.

vii. Execution and Further Appeal

Once a decree or judgment is passed, the successful party can file an **execution petition** to enforce the order. If a party is aggrieved by the High Court's decision, they may:

- File a **Letters Patent Appeal (LPA)** within the High Court (if allowed),
- Appeal to the **Supreme Court** under Articles 132 to 136 of the Constitution,
- File a **Review Petition** in the same High Court under Section 114 and Order 47 of CPC.

viii. Writ Jurisdiction under Article 226

The High Courts have the power to issue **writs** for the enforcement of both **fundamental rights and legal rights**. The five types of writs are:

- **Habeas Corpus** (to release a person unlawfully detained),
- **Mandamus** (to compel public officials to perform their duties),
- **Certiorari** (to quash orders of lower courts or tribunals),
- **Prohibition** (to prevent lower courts from exceeding jurisdiction),
- **Quo Warranto** (to challenge the legality of a person's claim to a public office).

The writ procedure involves a formal petition outlining the grievance and the right violated. The court then issues notice, hears arguments, and delivers a binding judgment.

ix. Supervisory Jurisdiction under Article 227

Under Article 227, High Courts supervise the working of all subordinate courts and tribunals within their jurisdiction. Litigants may invoke this power when lower courts act beyond jurisdiction, violate natural justice, or commit gross errors of law. The process includes:

- Filing a petition with material facts,
- Hearing before a single judge,
- Issuance of corrective orders if necessary.

x. Contempt of Court Proceedings

Under **Article 215** of the Constitution and the **Contempt of Courts Act, 1971**, High Courts have the authority to punish for **civil or criminal contempt**. The procedure includes:

- Suo motu initiation or petition by an aggrieved party,
- Issuance of notice to the alleged contemnor,
- Opportunity to file reply and appear for defense,
- Oral hearing and final judgment.

Punishments may include **finest or imprisonment**.

xi. Language and Court Practices

The language of the High Court is English (as mandated by the Official Languages Act, 1963), though some High Courts are allowed to use regional languages for judgments. Proceedings are generally formal and follow British common law traditions.

xii. Modern Judicial Practices

High Courts have embraced technology through:

- **e-Filing of cases,**
- **Online cause lists and order tracking,**
- **Video conferencing,** especially post-pandemic,
- Use of **National Judicial Data Grid (NJDG).**

These practices aim to reduce pendency and enhance access to justice.

The procedure of the High Courts in India is structured yet flexible enough to adapt to the nature of the case and the needs of justice. Whether in constitutional writs, civil appeals, criminal revisions, or public interest matters, High Courts function as the frontline guardians of rights, legality, and state accountability. Their procedural integrity ensures that justice is not just done but is seen to be done within the constitutional framework.

1.5. WRIT JURISDICTION AND SUPREME COURT, HIGH COURT: A SPECIAL FOCUS:

The **writ jurisdiction** is one of the most significant tools in the Indian legal system for the enforcement of rights and for maintaining constitutional order. Rooted in the traditions of English common law and adapted into the Indian constitutional framework, writ jurisdiction empowers the **Supreme Court under Article 32** and the **High Courts under Article 226** to issue writs for the enforcement of rights and the redressal of grievances. This jurisdiction plays a pivotal role in protecting fundamental rights, upholding the rule of law, and checking the excesses of the executive and other public authorities.

➤ Constitutional Basis

The **Supreme Court's writ jurisdiction** under **Article 32** is specifically meant for the **enforcement of Fundamental Rights** guaranteed under Part III of the Constitution. Dr. B.R. Ambedkar famously referred to Article 32 as the "heart and soul" of the Constitution, as it provides a guaranteed remedy against violations of fundamental rights.

In contrast, the **High Courts have broader powers under Article 226**, which allows them to issue writs not only for the enforcement of fundamental rights but also "for any other purpose." This includes the enforcement of legal rights, statutory duties, and the correction of administrative actions. Hence, the High Courts enjoy a more extensive writ jurisdiction than the Supreme Court.

➤ Nature and Scope

The writ jurisdiction in India is **discretionary, not mandatory**. This means that the courts may refuse to entertain a writ petition if there is an alternative remedy available (e.g., an appeal or statutory tribunal), or if the petition is found to be frivolous, vague, or filed with mala fide intent.

However, courts have shown flexibility and activism, particularly in **Public Interest Litigations (PILs)**, where they have entertained writ petitions even on postcards or oral complaints,

especially when fundamental rights of the marginalized sections are involved. This has significantly widened the access to justice.

➤ **Types of Writs**

India follows the common law tradition of five types of prerogative writs:

1. **Habeas Corpus:**

Meaning “to have the body,” this writ is used to secure the release of a person who is illegally detained. It protects the personal liberty of individuals against unlawful arrest or detention by the state. Any person, not necessarily the detainee, may file a habeas corpus petition.

2. **Mandamus:**

This writ commands a public authority or official to perform a public or statutory duty. It is issued when the authority has failed or refused to act. However, it cannot be issued against private individuals or non-statutory bodies.

3. **Certiorari:**

A writ of certiorari is issued to quash the decision of a lower court, tribunal, or authority when it acts without or in excess of its jurisdiction, or in violation of the principles of natural justice. It acts as a corrective writ and is issued by a higher court to a subordinate court or quasi-judicial body.

4. **Prohibition:**

This writ is preventive in nature and is issued by a higher court to a lower court or tribunal prohibiting it from continuing proceedings in a matter over which it has no jurisdiction or where its jurisdiction is being wrongly exercised.

5. **Quo Warranto:**

This writ questions the legal authority of a person holding a public office. The court may issue a quo warranto to prevent usurpation of a public office by someone who is not legally entitled to hold it. The petitioner does not need to have any personal interest in the case.

➤ **Differences between Article 32 and Article 226**

While both Articles 32 and 226 deal with the writ jurisdiction, there are important differences:

- Article 32 is limited to the enforcement of fundamental rights, whereas Article 226 extends to the enforcement of both fundamental and legal rights.
- Article 32 petitions can be filed only in the Supreme Court, while Article 226 allows petitions to be filed in any High Court having territorial jurisdiction over the matter.
- Article 32 is a fundamental right in itself; its violation can be directly challenged. Article 226, being discretionary, is not a guaranteed remedy.

Feature	Article 32	Article 226
Who can issue	Supreme Court	High Courts
Nature of rights	Only Fundamental Rights	Fundamental + Legal rights
Scope	Narrower	Wider
Remedies	Constitutional remedy	Discretionary remedy
Suspension	Cannot be suspended (except during Emergency)	May be restricted under reasonable restrictions

➤ Landmark Judgments

- **Romesh Thappar v. State of Madras (1950):**
 - Emphasized Article 32 as the heart and soul of the Constitution.
- **L. Chandra Kumar v. Union of India (1997):**
 - Declared that powers of judicial review under Articles 32 and 226 form part of the basic structure of the Constitution.
- **Maneka Gandhi v. Union of India (1978):**
 - Expanded the scope of writs and due process under Article 21.

➤ Significance in Indian Democracy

Writ jurisdiction has been a cornerstone in maintaining democratic accountability and upholding constitutional governance in India. Through judicial interventions via writs, courts have:

- Invalidated arbitrary administrative actions,
- Restored illegally detained persons to freedom,

- Ensured fair recruitment in public employment,
- Protected the rights of women, children, and minorities,
- Upheld environmental and labor rights,
- Promoted transparency in governance.

The **Public Interest Litigation (PIL)** movement, starting in the 1980s, has also relied heavily on writ jurisdiction to address systemic violations and collective harms.

Therefore, Writ jurisdiction, especially under Articles 32 and 226, stands as a vital instrument in the hands of the judiciary to deliver justice, protect rights, and maintain constitutional balance. It ensures that individuals are not left defenseless against the might of the state or against unlawful acts. By empowering citizens and holding authorities accountable, writs reflect the essence of a functioning constitutional democracy.

1.6. JUDICIAL ACTIVISM:

Judicial activism is a philosophy and practice whereby judges go beyond their traditional role of interpreting the law and actively engage in shaping public policy or enforcing rights through progressive and, at times, creative judicial pronouncements. It represents the judiciary's proactive role in ensuring justice, equity, and constitutional governance, often stepping in where the legislature or executive has failed to act or has acted unjustly. In the Indian context, judicial activism has become a powerful tool in the hands of the higher judiciary, especially the Supreme Court and High Courts, to uphold constitutional values and protect the rights of the marginalized.

The origin of judicial activism in India can be traced back to the post-Emergency period of the late 1970s. During the Emergency (1975–77), the judiciary was criticized for being submissive to the executive, especially after the controversial *ADM Jabalpur v. Shivkant Shukla* (1976) case, where the Supreme Court held that even the right to life could be suspended. This phase led to introspection and transformation within the judiciary, resulting in a more assertive and rights-based approach in the following decades.

Judicial activism gained prominence with the evolution of **Public Interest Litigation (PIL)** in the 1980s. Justice P.N. Bhagwati and Justice V.R. Krishna Iyer played a pioneering role in this

movement. PILs allowed citizens, including those with no direct personal interest, to approach the court on behalf of the poor, oppressed, or any matter of public concern. The courts relaxed traditional procedural norms and expanded the scope of Article 21, interpreting the right to life to include rights to food, shelter, health, education, a clean environment, and human dignity.

One of the most notable features of judicial activism is the **reinterpretation of fundamental rights**. For instance, in *Maneka Gandhi v. Union of India* (1978), the Supreme Court widened the interpretation of Article 21 (Right to Life and Personal Liberty), declaring that the procedure established by law must be “just, fair and reasonable.” Similarly, in *Vishaka v. State of Rajasthan* (1997), the court laid down guidelines to prevent sexual harassment at the workplace in the absence of legislative action, which were later codified in the Sexual Harassment of Women at Workplace Act (2013).

Judicial activism has also addressed environmental issues. In *M.C. Mehta v. Union of India* cases, the Supreme Court passed landmark decisions related to pollution control, vehicular emissions, and industrial hazards, leading to the development of environmental jurisprudence in India. The judiciary also took up matters related to corruption, governance, electoral reforms, and the rights of prisoners, tribals, children, and the disabled.

Critics of judicial activism argue that it can lead to **judicial overreach**, where courts encroach upon the domain of the legislature and executive, thereby disturbing the constitutional balance of power. Instances where the judiciary directed policy formulations, administrative functioning, or made appointments through judicial orders have raised concerns about **separation of powers**, a fundamental principle of constitutional democracy. The judiciary’s involvement in matters such as banning firecrackers, regulating festivals, or directing economic policies is often questioned for exceeding its mandate.

Proponents, however, argue that judicial activism becomes necessary in a country like India where bureaucratic apathy, legislative inaction, and political unwillingness often delay or deny justice. The judiciary, being the guardian of the Constitution and protector of fundamental rights, must act when the other organs of the state fail. Judicial activism has thus emerged as a means of **democratic deepening**, ensuring accountability, transparency, and access to justice for all.

Moreover, the rise of **social action litigation** has brought justice to the doorsteps of disadvantaged communities. By simplifying procedural rules, recognizing letters and postcards as writ petitions, and allowing non-traditional standing in courts, judicial activism has democratised the legal system.

In recent years, however, the line between activism and overreach has increasingly blurred. Judicial interventions in areas like economic policy, academic curricula, and administrative transfers raise valid questions about the judiciary's role. While the intention may be to uphold justice, such actions must be balanced against institutional competence and constitutional boundaries.

In conclusion, judicial activism has played a transformative role in Indian democracy by safeguarding rights, promoting social justice, and holding public authorities accountable. While it has empowered the judiciary to become the voice of the voiceless and the guardian of the Constitution, it must be exercised with **judicial restraint** and **respect for institutional boundaries** to preserve the harmony and integrity of constitutional governance. Judicial activism is most effective when it complements, not competes with, the legislative and executive branches of the state.

1.6. JUDICIAL RESTRAINT:

Judicial restraint refers to a legal philosophy in which judges limit the exercise of their own power. It emphasizes the role of the judiciary as an interpreter of the law rather than as a policy-making body. In the Indian context, judicial restraint serves as a counterbalance to judicial activism and helps maintain the separation of powers among the legislature, executive, and judiciary as envisioned in the Constitution. While judicial activism has often been praised for advancing social justice, judicial restraint is equally essential to prevent the judiciary from overstepping its constitutional mandate.

In a democratic setup, the **doctrine of separation of powers** ensures that the legislature makes laws, the executive implements them, and the judiciary interprets and applies them. Judicial restraint upholds this doctrine by ensuring that courts do not interfere in matters of policy or governance unless there is a clear violation of constitutional or legal principles. It is based on the

belief that **elected representatives are better equipped** to make decisions on public welfare, being directly accountable to the people.

The concept of judicial restraint in India finds support in several landmark judgments. For instance, in **Divisional Manager, Aravali Golf Club v. Chander Haas (2008)**, the Supreme Court emphasized that courts must not take over administrative functions and should respect the domain of the executive. Similarly, in **State of Uttar Pradesh v. Jeet S. Bisht (2007)**, the Court cautioned against judicial overreach, warning that excessive interference may blur the distinction between constitutional roles and disturb institutional balance.

Judicial restraint becomes particularly important in matters involving **economic policy, administrative decisions, and legislative intent**, where the judiciary lacks technical expertise or democratic legitimacy. The Court has often held that in policy matters, unless a decision is arbitrary, discriminatory, or violates constitutional provisions, the judiciary should refrain from interference. This view was upheld in **Balco Employees Union v. Union of India (2002)**, where the Court refused to intervene in disinvestment policy, stating that economic decisions are best left to the executive.

Supporters of judicial restraint argue that the judiciary must remain **neutral and passive**, deciding cases based only on legal merits without pursuing personal or ideological agendas. It also fosters **judicial discipline and consistency**, thereby enhancing public trust in the institution.

However, critics point out that excessive restraint may result in **judicial apathy**, where the courts fail to protect fundamental rights or address executive inaction. The balance between restraint and intervention is delicate and must be judged case-by-case, considering the **urgency of justice**, the nature of rights involved, and the performance of other state organs.

In conclusion, judicial restraint in India plays a vital role in preserving constitutional harmony and institutional integrity. While it may sometimes limit the judiciary's intervention in urgent social matters, it prevents the courts from becoming a parallel governance mechanism. A judicious blend of restraint and activism, guided by constitutional principles and democratic accountability, ensures that the judiciary fulfills its role as the guardian of law without overstepping its bounds.

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2. PUBLIC INTEREST LITIGATION (PIL): MEANING, MAJOR FEATURES AND SCOPE, PRINCIPLES, MAJOR GUIDELINES FOR ADMITTING PIL.

2.1. PUBLIC INTEREST LITIGATION (PIL)-MEANING:

Public Interest Litigation (PIL) in India is a legal mechanism that allows individuals or organizations to approach the judiciary to seek justice on behalf of the public, especially when the affected parties are unable to do so themselves due to various constraints. Unlike traditional litigation, where only the aggrieved party can file a suit, PIL permits any public-spirited individual to file a petition in the Supreme Court or High Courts, provided the issue pertains to public interest.

The concept of PIL emerged in India in the early 1980s, primarily due to the judicial activism of the Supreme Court. Judges like Justice P.N. Bhagwati and Justice V.R. Krishna Iyer played pivotal roles in expanding the scope of judicial review and interpreting the Constitution to include social and economic rights under the ambit of fundamental rights. This liberalization of the traditional rule of 'locus standi'—which restricted access to courts to only those directly affected—enabled PILs to be filed by third parties on behalf of marginalized or disadvantaged groups.

PILs have been instrumental in addressing a wide range of issues affecting the public, including environmental degradation, human rights violations, and social injustices. By facilitating access to justice for the underprivileged and holding public authorities accountable, PILs have significantly contributed to the evolution of public law in India.

2.2. MAJOR FEATURES OF PIL:

- **Relaxation of Locus Standi:** Traditionally, only the person directly affected by an issue could file a lawsuit. PIL relaxes this requirement, allowing third parties to file petitions in the interest of public welfare.
- **Access to Justice:** PIL democratizes access to the judiciary by enabling any public-spirited individual or group to approach the court on behalf of marginalized or disadvantaged communities.

- **Judicial Activism:** PIL has been instrumental in promoting judicial activism, where courts take proactive steps to address public grievances, even in the absence of a direct petitioner.
- **Non-Adversarial Nature:** Unlike traditional litigation, PIL is often non-adversarial and aims to resolve issues through cooperative efforts between the judiciary, executive, and other stakeholders.
- **Suo Motu Action:** Courts can take cognizance of issues on their own, without waiting for a petition, based on media reports or public interest concerns.

2.3. SCOPE OF PIL:

Public Interest Litigation (PIL) in India has significantly broadened the scope of judicial intervention, enabling courts to address a wide array of issues affecting the public interest. Initially, PIL was primarily concerned with matters like environmental protection, human rights violations, and social justice. However, its scope has since expanded to encompass a diverse range of concerns.

One notable area where PIL has been instrumental is in the protection of human rights. Courts have utilized PIL to address issues such as child labor, bonded labor, and atrocities against women. For instance, PILs have led to the release of bonded laborers and the establishment of guidelines to prevent sexual harassment at the workplace. These interventions have been crucial in safeguarding the rights of marginalized and vulnerable groups.

Environmental protection is another domain where PIL has played a pivotal role. Through PILs, courts have addressed matters like pollution control, conservation of natural resources, and the regulation of industrial activities. Notable cases include directives for the closure of polluting industries and the implementation of measures to protect endangered species. These judicial actions have contributed to the enhancement of environmental standards and public health.

Moreover, PIL has been employed to ensure accountability and transparency in governance. It has facilitated judicial scrutiny of governmental policies and actions, leading to reforms in areas such as public health, education, and infrastructure. For example, PILs have resulted in the

improvement of sanitation facilities in rural areas and the enhancement of healthcare services in underserved regions.

The scope of PIL continues to evolve, reflecting the dynamic nature of public interest concerns. While it has been a powerful tool for social change, the judiciary remains vigilant to prevent its misuse for personal or political gains. The expanding scope of PIL underscores its significance as a mechanism for promoting justice and equity in Indian society.

Summary:

The scope of PIL in India is vast and encompasses various issues affecting the public interest, including:

- **Environmental Protection:** Cases related to pollution, deforestation, and conservation efforts.
- **Human Rights:** Protection of rights of marginalized communities, prisoners, and victims of human rights violations.
- **Social Justice:** Addressing issues like bonded labor, child labor, and discrimination.
- **Consumer Protection:** Ensuring fair trade practices and protection against exploitation.
- **Public Health and Education:** Ensuring access to quality healthcare and education for all citizens.
- **Governance and Accountability:** Holding public officials accountable for their actions and ensuring transparency in governance.

2.4. PRINCIPLES OF PIL:

The Supreme Court of India has laid down several principles to guide the filing and adjudication of PILs:

1. **Bona Fide Intent:** The petitioner must act in good faith and not for personal gain or ulterior motives.
2. **Public Interest:** The issue raised must pertain to the public interest and not to private grievances.

3. **Credibility of the Petitioner:** The court must be satisfied that the petitioner has sufficient interest and is not a meddlesome interloper.
4. **Verification of Claims:** The court may require the petitioner to provide evidence or affidavits to substantiate the claims made.
5. **Judicial Oversight:** While PILs allow for judicial intervention, courts must ensure that they do not overstep their jurisdiction and interfere in matters that fall within the domain of the executive or legislature.

2.5. MAJOR GUIDELINES FOR ADMITTING PIL IN INDIA:

The Supreme Court of India has established several guidelines to determine the admissibility of Public Interest Litigations (PILs). These guidelines aim to ensure that PILs are used appropriately to address genuine public concerns rather than personal grievances.

1. Locus Standi

Traditionally, only individuals directly affected by an issue could approach the courts. However, PIL relaxes this requirement, allowing any public-spirited person to file a petition on behalf of those unable to do so themselves. This broadens access to justice for marginalized and disadvantaged communities.

2. Public Interest

The issue raised must pertain to the public interest and not to personal or private grievances. The matter should affect a large section of the community and not be confined to an individual or a small group.

3. Bona Fide Intent

The petitioner must act in good faith and not for personal gain or ulterior motives. The PIL should not be filed for publicity or to settle personal scores.

4. Exhaustion of Alternative Remedies

Before filing a PIL, the petitioner should exhaust all other available legal remedies. Courts generally prefer that issues be addressed through appropriate channels before resorting to PIL.

5. Frivolous and Vexatious Petitions

The courts discourage the filing of frivolous or vexatious petitions. Such petitions waste judicial time and resources. Courts have imposed costs on petitioners for filing such petitions.

6. Judicial Oversight

While PILs allow for judicial intervention in matters of public interest, courts must ensure that they do not overstep their jurisdiction. Judicial activism should not lead to judicial overreach.

7. Representation of Affected Parties

In some cases, courts may require the petitioner to provide evidence or affidavits to substantiate the claims made. This ensures that the issues raised are genuine and not based on hearsay or speculation.

8. Monitoring of Implementation

Courts may issue directions for the implementation of their orders and monitor compliance. This ensures that the relief granted through PIL leads to tangible benefits for the public.

9. Role of Amicus Curiae

In complex matters, courts may appoint amicus curiae (friends of the court) to assist in the proceedings. Amicus curiae can provide expertise and perspectives that aid the court in making informed decisions.

10. Avoidance of Political or Policy Matters

Courts generally avoid entertaining PILs that involve political questions or policy matters. Such issues are better addressed by the legislature or executive branches of the government.

However, the guidelines for admitting PILs are designed to ensure that this legal tool is used effectively to address genuine public concerns. By adhering to these guidelines, courts can prevent the misuse of PILs and ensure that they serve their intended purpose of promoting justice and public welfare.

2.6. SIGNIFICANCE OF PIL:

- **Empowerment of the Underprivileged:** PIL serves as a tool to uplift marginalized sections of society by ensuring their rights are protected.
- **Government Accountability:** It holds public authorities accountable for their actions or inactions, ensuring they fulfill their duties towards the public.
- **Social Reforms:** PIL has led to landmark judgments that have brought about significant social reforms in areas like women's rights, environmental protection, and labor laws.

2.7. CHALLENGES AND CRITICISMS OF PIL:

- **Misuse:** There have been instances where PILs were filed for personal or political gains, leading to unnecessary judicial intervention.
- **Overburdening of Courts:** The increasing number of PILs can overwhelm the judicial system, delaying justice.
- **Judicial Overreach:** In some cases, PILs have led to perceptions of courts exceeding their jurisdiction, intruding into the domain of the executive and legislature.

2.8. LANDMARK PIL CASES IN INDIA:

- **Hussainara Khatoon v. State of Bihar (1979):** Led to the release of undertrial prisoners and highlighted the need for speedy trials.
- **Vishaka v. State of Rajasthan (1997):** Established guidelines to prevent sexual harassment at the workplace.
- **MC Mehta v. Union of India (1986):** Resulted in crucial environmental protection laws, including the Ganga pollution case.
- **Olga Tellis v. Bombay Municipal Corporation (1985):** Recognized the right to livelihood as a fundamental right under Article 21.

In conclusion, PIL is a powerful instrument in the Indian legal system that facilitates the enforcement of public rights and promotes social justice. While it has been instrumental in bringing about significant changes, it is essential to ensure that PILs are used judiciously to maintain the balance between judicial intervention and respect for the other branches of government.

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3. ADMINISTRATIVE TRIBUNALS: CONCEPTS AND MAJOR FEATURES, TRIBUNALS FOR OTHER MATTERS.

3.1. ADMINISTRATIVE TRIBUNALS-CONCEPTS:

Administrative Tribunals in India are specialized quasi-judicial bodies established to resolve disputes and complaints related to the recruitment and conditions of service of government employees. Their primary objective is to provide a speedy, cost-effective, and specialized forum for adjudicating service matters, thereby reducing the burden on traditional courts.

The concept of Administrative Tribunals was introduced through the 42nd Amendment of the Indian Constitution in 1976, which added Articles 323A and 323B. Article 323A empowers Parliament to establish tribunals for the adjudication of disputes concerning the recruitment and conditions of service of government servants. Article 323B allows both Parliament and State Legislatures to set up tribunals for other matters specified under clause (2), such as taxation, industrial disputes, and land reforms.

The Administrative Tribunals Act of 1985 operationalized these provisions, leading to the creation of the Central Administrative Tribunal (CAT) and State Administrative Tribunals (SATs). The CAT addresses service-related disputes of central government employees, while SATs handle similar matters for state government employees. These tribunals are designed to function with a combination of judicial and administrative expertise, with members typically drawn from both legal and administrative backgrounds.

One of the key features of Administrative Tribunals is their flexibility in procedures. They are not strictly bound by the Civil Procedure Code or the Indian Evidence Act, allowing them to adopt simplified and more accessible processes. However, they are required to adhere to the principles of natural justice, ensuring fairness in their proceedings.

In summary, Administrative Tribunals in India serve as specialized forums aimed at expediting the resolution of service-related disputes, thereby enhancing administrative efficiency and access to justice for government employees.

3.2. COMPOSITION OF ADMINISTRATIVE TRIBUNALS IN INDIA:

Administrative Tribunals in India are quasi-judicial bodies established under Article 323A and 323B of the Constitution to resolve disputes related to the recruitment and conditions of service of government employees. The Central Administrative Tribunal (CAT), established in 1985, serves central government employees, while State Administrative Tribunals (SATs) cater to state government employees.

The composition of these tribunals is designed to ensure a balance between judicial expertise and administrative experience. Each bench typically consists of a Chairman and members drawn from both judicial and administrative backgrounds. The Chairman is often a retired judge of the Supreme Court or a High Court, ensuring judicial oversight. Members are appointed by the President of India after consultation with the Governor of the concerned state, ensuring a fair and balanced representation. This structure aims to provide specialized knowledge and experience, facilitating efficient adjudication of service-related matters.

3.3. MAJOR FEATURES OF ADMINISTRATIVE TRIBUNALS:

Administrative Tribunals possess several distinctive features:

1. **Statutory Origin:** Established by legislation, such as the Administrative Tribunals Act, 1985, granting them legal authority.
2. **Quasi-Judicial Nature:** They perform judicial functions but are not bound by the strict procedures of civil courts. **Flexibility in Procedures:** Operate on principles of natural justice, allowing more accessible and faster resolutions.
3. **Specialized Expertise:** Members often have backgrounds in law and administration, providing specialized knowledge for handling complex service matters.
4. **Limited Appeal Rights:** Decisions can be appealed to higher courts, ensuring a check on their authority.

3.4. LIMITATIONS OF ADMINISTRATIVE TRIBUNALS:

Despite their advantages, Administrative Tribunals face certain limitations:

1. **Limited Jurisdiction:** Their authority is confined to specific matters, primarily related to service disputes.
2. **Potential Lack of Independence:** Being part of the executive branch, their independence can sometimes be questioned.
3. **Resource Constraints:** Many tribunals face challenges related to adequate infrastructure and staffing.
4. **Inconsistent Procedures:** Variations in procedures across different tribunals can lead to inconsistencies in adjudication.
5. **Limited Public Awareness:** Lack of awareness among the public about the existence and functioning of tribunals can hinder access to justice.

In conclusion, while Administrative Tribunals play a crucial role in expediting the resolution of service-related disputes, addressing their limitations through reforms and increased awareness can enhance their effectiveness and accessibility.

3.5. TRIBUNALS FOR OTHER MATTERS:

In India, tribunals established under Article 323B of the Constitution serve as specialized quasi-judicial bodies designed to adjudicate disputes and offenses concerning specific matters. This provision, introduced by the 42nd Amendment in 1976, empowers both Parliament and State Legislatures to create tribunals for various sectors, thereby enhancing efficiency and expertise in legal proceedings.

➤ ARTICLE 323B

Article 323B of the Indian Constitution empowers both Parliament and State Legislatures to establish tribunals for the adjudication of disputes, complaints, or offenses concerning a specified range of matters. This provision, introduced by the 42nd Amendment in 1976, aims to streamline the judicial process by creating specialized bodies to handle complex and technical issues efficiently.

➤ Matters Covered Under Article 323B

The matters that can be addressed by tribunals under this article include:

- **Taxation:** Disputes related to the levy, assessment, collection, and enforcement of taxes.
- **Foreign Exchange and Customs:** Issues concerning foreign exchange regulations and import/export across customs frontiers.
- **Industrial and Labour Disputes:** Conflicts arising in industrial relations and labor matters.
- **Land Reforms:** Matters related to land acquisition by the state, extinguishment or modification of rights, and ceiling on agricultural land.
- **Urban Property Ceiling:** Regulations concerning the ceiling on urban property.
- **Elections:** Disputes related to elections to Parliament or State Legislatures, excluding matters specified in Articles 329 and 329A.
- **Essential Goods:** Issues related to the production, procurement, supply, and distribution of foodstuffs and other goods declared essential by the President.
- **Rent and Tenancy:** Disputes concerning rent regulation, control, and tenancy issues, including the rights of landlords and tenants.
- **Offenses and Fees:** Offenses against laws concerning the above matters and fees related to them.
- **Incidental Matters:** Any matter incidental to the aforementioned issues.

➤ **Powers of the Legislatures**

Under Article 323B, the appropriate legislature may enact laws to:

- Establish a hierarchy of tribunals.
- Define the jurisdiction, powers, and authority of each tribunal.
- Set procedures to be followed, including provisions related to limitation and rules of evidence.
- Exclude the jurisdiction of all courts, except the Supreme Court under Article 136, concerning matters under the tribunal's jurisdiction.
- Transfer pending cases to the tribunals.

- Include supplemental, incidental, and consequential provisions necessary for the effective functioning of the tribunals.

This framework allows for the creation of specialized tribunals tailored to address specific areas of law, thereby enhancing efficiency and expertise in adjudication.

➤ **Tribunals Established Under Article 323B**

1. National Green Tribunal (NGT):

The National Green Tribunal (NGT) is a statutory body in India established under the National Green Tribunal Act, 2010, to address environmental disputes and enforce environmental laws. It aims to provide a specialized forum for the effective and expeditious disposal of cases related to environmental protection and conservation of forests and other natural resources. The NGT operates on the principles of natural justice and is not bound by the strict procedures of the Code of Civil Procedure, 1908. Its mandate includes the enforcement of legal rights related to the environment, providing relief and compensation for damages to persons and property, and promoting sustainable development.

The NGT has the authority to handle civil cases where a substantial question relating to the environment is involved. It can provide relief and compensation to victims of pollution and other environmental damage, and it has the power to enforce the 'Polluter Pays' principle and the 'Precautionary' principle. The tribunal is empowered to adjudicate matters under various environmental laws, including the Water (Prevention and Control of Pollution) Act, 1974; the Forest (Conservation) Act, 1980; the Air (Prevention and Control of Pollution) Act, 1981; and the Environment (Protection) Act, 1986.

The NGT is headquartered in New Delhi, with regional benches in Bhopal, Pune, Kolkata, and Chennai, ensuring accessibility to various parts of the country. Each bench comprises a Chairperson, who is a retired judge of the Supreme Court or a High Court, and members with expertise in environmental matters. These members are appointed based on their qualifications and experience in environmental law, science, and policy.

Since its inception, the NGT has played a pivotal role in addressing environmental issues in India. It has issued landmark judgments on various matters, such as banning the plying of diesel vehicles over 15 years old in Delhi to combat air pollution and halting the clearance of coal blocks in the forests of Hasdeo-Arand in Chhattisgarh. The tribunal has also been instrumental in protecting ecologically sensitive areas, like the Sunderbans, by imposing restrictions on construction activities and regulating solid waste and noise pollution.

Despite its significant contributions, the NGT faces challenges, including understaffing and the need for greater enforcement of its orders. Nevertheless, it remains a crucial institution in India's environmental governance framework, striving to balance development with ecological sustainability.

Summary:

Established under the National Green Tribunal Act, 2010, the NGT addresses environmental protection and conservation of forests and other natural resources. It has the authority to handle cases related to environmental laws such as the Water (Prevention and Control of Pollution) Act, 1974, and the Air (Prevention and Control of Pollution) Act, 1981. The NGT operates with a combination of judicial and expert members to ensure informed decision-making.

2. Debt Recovery Tribunal (DRT):

The Debt Recovery Tribunal (DRT) is a quasi-judicial body established under the Recovery of Debts Due to Banks and Financial Institutions (RDDBFI) Act, 1993. Its primary purpose is to expedite the recovery of loans by banks and financial institutions from defaulting borrowers, thereby reducing the burden on civil courts and ensuring timely justice.

Jurisdiction and Scope

The DRT has jurisdiction over cases where the amount of debt involved is ₹20 lakh or more. It operates under the RDDBFI Act, 1993, and is applicable throughout India, including Jammu and Kashmir. The tribunal has territorial jurisdiction based on the location of the debtor or the property in dispute. It handles disputes related to the recovery of debts by banks and financial institutions, including cases under the Securitisation and Reconstruction of Financial Assets and

Enforcement of Security Interest (SARFAESI) Act, 2002, and the Insolvency and Bankruptcy Code (IBC), 2016, for specific cases related to individual insolvency.

Powers and Functions

The DRT possesses powers akin to a civil court under the Code of Civil Procedure, 1908. It can summon witnesses, compel the production of documents, and pass interim orders. The tribunal can issue recovery certificates, which are enforceable by the district magistrate, who can seize and sell the borrower's assets to recover the outstanding debt. Additionally, the DRT can review its own orders if there is a mistake or error apparent on the face of the record and impose penalties on the borrower for delaying or obstructing the recovery process.

Composition and Structure

Each DRT is presided over by a Presiding Officer, who must be qualified to be a District Judge. The Presiding Officer is appointed by the Central Government. Assisting the Presiding Officer are Recovery Officers responsible for executing recovery orders. Appeals against DRT orders lie with the Debt Recovery Appellate Tribunal (DRAT), which is headed by a Chairperson who must be or have been a Judge of a High Court.

Procedural Aspects

The RDDBFI Act, 1993, prescribes a summary procedure for DRTs, aimed at faster disposal of cases. While the strict rules of the Civil Procedure Code do not apply, principles of natural justice must be followed. The Act lays down specific timelines for various stages of the proceedings, such as filing of written statements, passing of orders, and disposal of applications. DRTs can appoint receivers, pass ex-parte orders, and review their own decisions. The Act also provides for interim orders and attachments before judgment to secure the interests of the applicant bank or financial institution.

Challenges and Recommendations

Despite their significant role, DRTs face several challenges, including understaffing, overburdened caseloads, and delays in the disposal of cases. The number of DRTs and DRATs is

limited, leading to logistical challenges for appellants. To improve efficiency, it is recommended to increase the number of tribunals, appoint qualified personnel promptly, and enhance infrastructure. Additionally, integrating technology for case management and hearings could expedite the process and reduce delays.

The Debt Recovery Tribunal plays a crucial role in the Indian legal system by providing a specialized forum for the expeditious resolution of debt recovery cases. While it has significantly improved the recovery process for banks and financial institutions, addressing the existing challenges is essential to enhance its effectiveness and ensure timely justice for all stakeholders involved.

Summary:

Formed under the Recovery of Debts Due to Banks and Financial Institutions Act, 1993, the DRT facilitates the recovery of loans by banks and financial institutions. It has the jurisdiction to adjudicate cases involving debts exceeding ₹20 lakh. The tribunals aim to reduce the burden on civil courts and facilitate faster recovery processes.

3. Appellate Tribunal for Electricity (APTEL):

The Appellate Tribunal for Electricity (APTEL) is a statutory body established under the Electricity Act, 2003, to adjudicate disputes and hear appeals concerning the electricity sector in India. Constituted in 2005, APTEL serves as the primary appellate authority for decisions made by the Central Electricity Regulatory Commission (CERC), State Electricity Regulatory Commissions (SERCs), Joint Commissions, and adjudicating officers. Its jurisdiction encompasses a wide range of issues, including tariff disputes, power purchase agreements, and regulatory compliance matters.

APTEL's composition includes a Chairperson, who is a sitting or retired judge of the Supreme Court or a High Court, and members with expertise in electricity, petroleum, and natural gas sectors. The tribunal operates under the Ministry of Power, Government of India, and is headquartered in New Delhi.

The tribunal's decisions are binding, and any appeal against its orders can only be made to the Supreme Court of India on substantial questions of law. APTEL plays a crucial role in ensuring transparency, fairness, and accountability in the electricity sector, thereby fostering a conducive environment for the growth and development of the power industry in India.

Summary:

Formed under the Electricity Act, 2003, APTEL hears appeals against the orders of the Central Electricity Regulatory Commission and State Electricity Regulatory Commissions. It ensures the effective implementation of electricity laws and regulations, promoting transparency and accountability in the power sector.

4. Armed Forces Tribunal (AFT):

The Armed Forces Tribunal (AFT) is a specialized quasi-judicial body established under the Armed Forces Tribunal Act, 2007, to adjudicate disputes and complaints related to the service conditions of personnel in the Indian Army, Navy, and Air Force. It aims to provide speedy and effective resolution of service-related matters, which were previously handled by the military courts.

The AFT has the authority to hear appeals against orders, findings, or sentences of courts-martial, as well as petitions concerning the conditions of service, including issues related to pension, promotion, and retirement benefits. It operates under the principles of natural justice and is not bound by the strict procedures of the Code of Civil Procedure, 1908.

The Tribunal comprises a Chairperson, who is a retired Supreme Court or High Court Judge, and members with expertise in military law and administration. The AFT has its Principal Bench in New Delhi, with regional benches in various cities across India, including Chandigarh, Lucknow, Kolkata, Guwahati, Chennai, Kochi, Mumbai, Jabalpur, and Srinagar.

Since its inception, the AFT has played a crucial role in addressing grievances of armed forces personnel, ensuring that their rights are protected and that justice is delivered in a timely manner.

Summary:

Established under the Armed Forces Tribunal Act, 2007, the AFT adjudicates disputes and complaints related to the service matters of armed forces personnel. It provides a specialized

forum for addressing grievances concerning service conditions, promotions, and disciplinary actions within the military.

5. Central Government Industrial Tribunal:

Set up by the Government of India under the Industrial Disputes Act, 1947, the Central Government Industrial Tribunal addresses industrial disputes related to workmen. The tribunal's jurisdiction extends to the whole of India, and it aims to settle disputes efficiently, reducing the burden on civil courts.

6. National Company Law Tribunal (NCLT):

Established under the Companies Act, 2013, the NCLT adjudicates issues relating to Indian companies. It serves as the adjudicating authority for the insolvency resolution process of companies and limited liability partnerships under the Insolvency and Bankruptcy Code, 2016. The tribunal aims to streamline corporate dispute resolution and insolvency proceedings.

7. Securities Appellate Tribunal (SAT):

Established under the Securities and Exchange Board of India Act, 1992, the SAT hears appeals against the orders of the Securities and Exchange Board of India (SEBI). It plays a crucial role in ensuring transparency and fairness in the securities market by adjudicating disputes related to securities laws.

8. Consumer Disputes Redressal Commissions:

Established under the Consumer Protection Act, 1986, these commissions address consumer grievances related to defective goods, deficient services, and unfair trade practices. They operate at the district, state, and national levels, providing a forum for consumers to seek redressal.

9. Competition Appellate Tribunal (COMPAT):

Established under the Competition Act, 2002, COMPAT hears appeals against the orders of the Competition Commission of India. It ensures the promotion and sustenance of competition in markets, preventing practices that have an adverse effect on competition.

10. Co-operative Tribunal:

Established under the Multi-State Co-operative Societies Act, 2002, the Co-operative

Tribunal adjudicates disputes related to multi-state co-operative societies. It provides a specialized forum for resolving conflicts within the co-operative sector.

11. **Income Tax Appellate Tribunal (ITAT):**

Established under the Income Tax Act, 1961, the ITAT hears appeals against the orders of the Income Tax Department. It plays a vital role in the interpretation of tax laws and ensures consistency in tax adjudication.

12. **Customs, Excise, and Service Tax Appellate Tribunal (CESTAT):**

Established under the Customs Act, 1962, the CESTAT hears appeals against the orders of the Customs, Central Excise, and Service Tax Departments. It aims to provide speedy resolution of disputes related to indirect taxes.

13. **Water Disputes Tribunal:**

The **Inter-State Water Disputes Tribunal** is a specialized body established under the **Inter-State River Water Disputes Act, 1956**, to adjudicate disputes between Indian states regarding the sharing and management of inter-state river waters. These tribunals are constituted when states fail to reach an agreement on water distribution, and the central government refers the matter to them.

The tribunals are typically composed of a chairman, who is a retired Supreme Court or High Court judge, and other members with expertise in hydrology, engineering, and law. Their role is to investigate the matters referred to them, conduct hearings, and make decisions based on the facts and evidence presented. The decisions of these tribunals are binding and have the same force as a decree of the Supreme Court.

Notable examples include the **Krishna Water Disputes Tribunal**, which resolved disputes among Maharashtra, Karnataka, and Andhra Pradesh, and the **Cauvery Water Disputes Tribunal**, which addressed issues between Tamil Nadu, Karnataka, and Kerala. However, the effectiveness of these tribunals has been questioned due to prolonged proceedings and challenges in implementation of their awards. In response, the **Inter-State Water Disputes (Amendment) Bill, 2019** was introduced to expedite the resolution process and establish a permanent tribunal.

Summary:

Established under the Inter-State River Water Disputes Act, 1956, the Water Disputes Tribunal adjudicates disputes between states concerning the sharing of river waters. It plays a crucial role in resolving inter-state water conflicts.

14. West Bengal Administrative Tribunal (WBAT):

The West Bengal Administrative Tribunal (WBAT) is a specialized quasi-judicial body established under the Administrative Tribunals Act, 1985. It was constituted in 1995 to provide a dedicated forum for resolving disputes and grievances of government employees concerning recruitment, service conditions, and related matters in the state of West Bengal.

WBAT primarily deals with cases involving state government employees, ensuring speedy and cost-effective redressal of service-related issues without the need to approach regular civil courts. Its jurisdiction includes disputes related to appointments, promotions, transfers, disciplinary actions, retirement benefits, and other service conditions.

The Tribunal is headquartered in Kolkata and consists of judicial and administrative members, including a Chairman, who is typically a retired High Court judge. The procedures followed are less formal than those in regular courts, aiming to simplify litigation for public servants. Decisions of WBAT can be challenged in the Calcutta High Court through a writ petition, as it exercises supervisory jurisdiction over the tribunal. The creation of WBAT has helped streamline service jurisprudence in West Bengal, reducing the burden on conventional courts and offering a more accessible platform for state employees to seek justice.

Summary:

WBAT, also known as the State Administrative Tribunal for West Bengal, was established under the Administrative Tribunals Act, 1985, to handle service-related disputes of state government employees. It functions to ensure timely resolution of employment-related issues within the state's administrative framework.

These tribunals play a crucial role in the Indian legal system by providing specialized, efficient, and accessible forums for resolving disputes in their respective domains. By focusing on specific

areas of law, they contribute to the overall effectiveness and responsiveness of the judicial process in India.

For more detailed information on each tribunal, you can refer to their official websites or consult legal resources that specialize in Indian constitutional law and administrative procedures.

3.6. REFERENCES:

1. Administrative Tribunals: Concepts and Major Features

Books & Articles:

- **M.P. Jain – "Indian Constitutional Law"**
(Comprehensive explanation on administrative tribunals under the Indian Constitution)
- **Takwani, C.K. – "Lectures on Administrative Law"**
(Detailed discussion on the concept, evolution, and characteristics of tribunals)
- **I.P. Massey – "Administrative Law"**
(Explains the rationale, structure, and features of administrative tribunals in India)

Judgments:

- **S.P. Sampath Kumar v. Union of India (1987)**
(Landmark case on the constitutional validity of Administrative Tribunals under Article 323A)
- **L. Chandra Kumar v. Union of India (1997)**
(Held that tribunal decisions are subject to judicial review by High Courts)

2. Tribunals for Other Matters (Specialized Tribunals)

Types & Examples:

- **National Green Tribunal (NGT):**
Environment-related disputes

- ✓ *Official website:* <https://greentribunal.gov.in/>
- **Central Administrative Tribunal (CAT):**
Service matters of central government employees
 - ✓ *Official website:* <https://catjudgements.nic.in/>
- **National Company Law Tribunal (NCLT):**
Corporate law and insolvency matters
 - ✓ *Official website:* <https://nclt.gov.in/>

Reports & Articles:

- **Law Commission of India – Report No. 272 on "Assessment of Statutory Frameworks of Tribunals in India" (2017)**
(Gives an overview of different types of tribunals and their effectiveness)

Arun Thiruvengadam, “Tribunals in India: The Changing Landscape” – in legal journals and SSRN papers.
