

Polity Class 40

5th December, 2023 at 1:00 PM

JURISDICTION OF HIGH COURTS (01:06 PM)

- **Territorial Jurisdiction:** Defined as per the law.
- **Subject Matter:**
 - **1. Original Jurisdiction**
 - **Issues related to FRs and Other Rights**
 - **They are defined according to laws e.g. Under RoPA 1951, election disputes only by HC.**
 - **Contempt of the court**
 - **2. Appellate Jurisdiction:**
 - **Entertain decisions against the decisions of lower courts in criminal and civil courts.**
 - **In cases where the sessions court has pronounced the accused guilty and given capital punishment, the sentence must be confirmed by the high court.**
 - **3. Supervisory Jurisdiction**
 - **Every High Court has the power to control the functioning of the court and tribunals within their areas of jurisdiction.**
 - **The power of supervision is very wide and includes revisional jurisdiction to intervene in cases of gross injustice and abuses of jurisdiction or violation of principles of natural justice.**
 - **If the lower court or tribunal has exercised its power arbitrarily.**
 - **It can make rules to regulate the functioning of lower courts and use the contempt power to ensure free and fair functioning.**
 - **The control measures such as promotion, granting of leaves, and posting of the lower court are administered by the High Court.**
 - **If a High Court is satisfied that a court is pending in the lower court, the High Court may withdraw the case from the lower court and entertain itself.**
- **Subordinate Courts:**
 - **All the courts below the HC are referred to as the sub-ordinate courts.**
 - **They are organized in such a manner that they can entertain civil and criminal cases only.**
 - **The arrangement of lower courts varies from state to state.**

JUDICIAL PENDENCY (01:40 PM)

- At present, 5 crore cases are pending in the courts.
- The estimated time for a case to be finally disposed of by the SC since its time of institution is about 14 years.
- According to a former judge of SC, it would take more than 230 years to clear the entire backlog of cases in the Indian Judicial System.
- **Impact of Judicial Pendency:**
- It results in the denial of justice and impacts the poor strata of society the most.
- The deterrent effect of the law suffers.
- The credibility of the rule of law suffers the most in the country and people often resort to extra-judicial measures to settle their score.
- The belief of the common man in the judicial system suffers.
- **Reasons for Judicial Pendency:**
- Shortage of judges
- In India, 9 judges are available per million population.
- In China, the number stands at 300, per million population.
- In the US it stands at 150 per million population.
- Dilatory tactics adopted by the lawyers.
- Poor case management in the lower courts.
- Poor infrastructure in the lower courts.
- Archaic Procedural laws such as the Evidence Act, etc.
- Increasing litigation rate and inability to implement ADR Mechanism effectively.
- **Solution for Dealing with Pendency on Cases:**
- Introduction of AIJS to improve the intake of judges in the lower judiciary.
- Important reforms in procedural laws such as CrPC, IPC, etc.
- We must adopt a time-bound approach to dispose of the cases.
- ADR mechanism must be encouraged to settle disputes between the parties.
- Massively investing in the infrastructure of lower-courts including the introduction of technology for better case management.
- Setting up regional benches of the SC to entertain appellate cases.
- Whereas the constitutional bench in Delhi should entertain cases related to fundamental rights and the interpretation of institutions.
- Effective implementation of the National Litigation Policy to turn the govt. into a responsible litigant.

- A rigorous judicial impact assessment is to estimate the new litigation in the country and accordingly recruit judges and improve infrastructure.
- Advantages of the National Court of Appeal:
- It would improve the accessibility of justice to people living in far-flung areas of the country.
- It will make justice more affordable to the poor and marginalized.
- It would relieve the constitutional seat from appellate work allowing them to focus on laying down the law to be followed by the lower courts.
- Concerns with NCA:
- It would be a costly affair and create a huge drain on the resources of the country.
- The SC is apprehensive as it can compromise the quality of judgment due to a lack of uniformity by appellate courts.
- The present strength of SC is not enough to deal with the workload that would be created due to the setting up of the National Court of Appeal.

TRIBUNALS (02:52 PM)

- Established in the recommendation of the Swaran Singh Committee.
- Two articles were added to the constitution: Article 323 A and 323B
- Under Article 323A: Parliament by law can establish administrative tribunals.
- It deals with disputes related to service matters of both union and state officers.
- Under the Administrative Tribunal Act 1965, the Central Administrative Tribunal was formed.
- State administrative tribunals were also established at the request of states.
- Only unions have the power to make laws.
- Tribunals can exclude the jurisdictions of courts on those matters.
- Benefits:
- Speedy Justice
- Affordable
- Reduce the burden on regular courts
- Quality Decisions
- Article 323B
- Under this appropriate legislature can make law and set up tribunals for other purposes as well.
- Like Matters related to Industrial disputes, and labor disputes.

- Under this, a hierarchy of tribunals can be set up.
- Important SC judgment wrt tribunals:
- Madras Bar Association 2014 judgment:
- The tribunals should be made independent of parent ministries.
- The tribunals should not be provided support in administrative and financial matters.
- The govt should set up an independent mechanism for independent control of the tribunal.
- Until such time their administration shall be in control of the Ministry of Law and Justice.
- The Madras Bar Association Case 2020:
- The SC again asked the govt to set up a separate national tribunal commission with a five-year term for the members.
- The court also stated that the independence of tribunals must be maintained at any cost.
- Issues associated with Tribunals

ALTERNATE DISPUTE RESOLUTION MECHANISM (03:40 PM)

The topic for the Next Class: Gram Nyayalayas & Lok Adalats