

How to Cite:

Ramu, V., & Kataria, G. (2022). Considerations on intermediate courts of appeal in the context of supreme court of India. *International Journal of Health Sciences*, 6(S4), 10115–10123. <https://doi.org/10.53730/ijhs.v6nS4.11030>

Considerations on intermediate courts of appeal in the context of supreme court of India

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Abstract---Currently, many cases are being heard by the Supreme Court of India. There is reason to worry about the situation of the apex court. In the open-air hallways with parapets that wrap around the building's side, lawyers mingle, conduct business, and make small talk as they wait for their cases to be heard. It is almost impossible to locate one's hearing among the fifteen courtrooms within the building as angry litigants scramble to find their hearing. At the same time, lawyers' clerks scurry to their seats, armfuls of disheveled briefs in hand. There are two days a week when admissions are held, Monday and Friday. Court insiders call these days "fish markets" because of the fast-paced and often raucous exchanges. The benches of two judges are usually busy these days, hearing dozens of admissions arguments from a long line of blackjacketed attorneys, each arguing why their case deserves to be heard regularly. While leaning forward from the bench, a judge will interrogate advocates skeptically and frequently cut them off abruptly while the lawyers beg their "lordships" to listen to them. The Supreme Court of India is considered one of the most powerful courts in the world.

Keywords---courts appeal, accessibility courts, faster disposal cases.

Introduction

India's legal system is based on ancient religious prescriptions, making it one of its oldest civilizations. Manusmriti, followed by the Yajnavalkya Smriti, established laws governing a person's conduct in civic society and stipulated strict sanctions in the event of misappropriation before 400 BC. There were twelve ordinances of Muslim Law digests during the Mughal period, namely Fatawa-i-Alamgiri and Fatawa-i-Jehangir. Indian courts handled civil and criminal cases by the nineteenth century, and progress had been made in equity, justice, and secularism. After the British conquest of India, a common law system and a

precedence system was introduced in the judiciary, effectively replacing the Mughal system. The Mayor's Courts were established in 1726, installing the current court system. Indian High Courts Act of 1862 and the First Independence War of 1857 abolished the Mayor's court system in India, establishing Supreme Courts and High Courts, with the Privy Council serving as the highest Court of appeal.¹

A Federal Court was established in Delhi under the Government of India Act of 1935. It was the forerunner of the current Supreme Court of India. There was a Chief Justice and no more than six other judges. The Court had original, appellate, and advisory jurisdiction. Initially, the federation had exclusive jurisdiction over all disputes between its units or between the proposed federation's units. In cases of original jurisdiction, the Privy Council may hear appeals from the federal Court without permission and with permission in all other cases. During the Constituent Assembly's 49th session, the Privy Council was abolished, making provisions for pending appeals. Supreme Court was established as the apex of the unitary judicial system².

Postindependence scenario

Simplifying and rationalizing the nation's laws and policies with a uniform approach across all agencies and departments leads to concrete solutions that focus on filling the gaps. These solutions are drafted by intellectuals and drafters who are with the issues. Laws are established by state and central acts, rules, regulations, notifications, circulars, press releases, and judgments, with the help of organizations such as the RBI and SEBI. Litigants grow in number with the growth of the population, and they file the maximum number of possible appeals asserting their rights while ignoring their corresponding obligations. Therefore, additional judges are required even after the establishment of tribunals. Furthermore, courts should be accelerated to reduce backlogs. The number of pending cases is not decreasing. The Honourable Supreme Court had 59,695 pending cases as of 1st July 2019.³

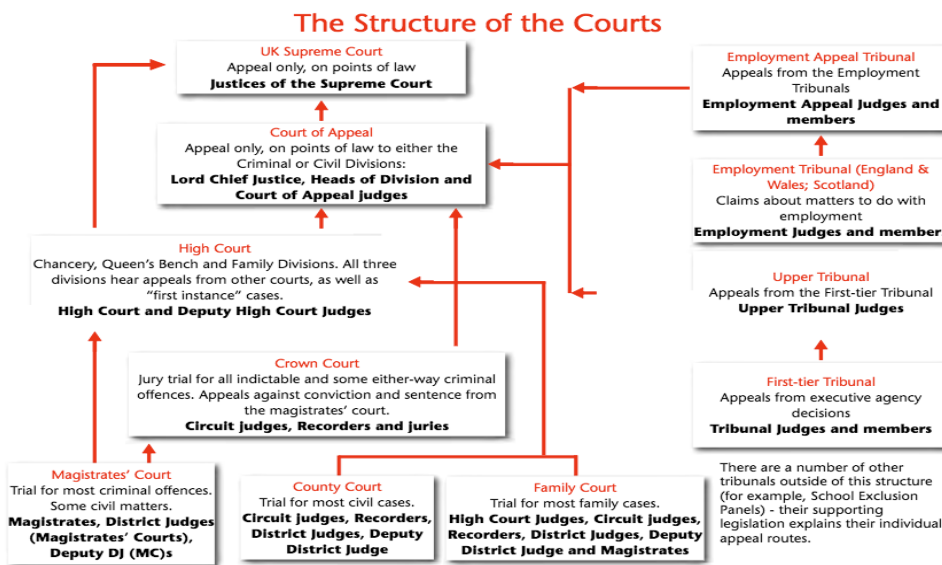
¹ Evolution of The Indian Legal System, available at: <http://www.legalleraonline.com/articles/evolution-of-the-indian-legal-system> (Visited on August 16, 2019).

² Indian Legal System | Office of Justice Programs, <https://www.ojp.gov/ncjrs/virtual-library/abstracts/indian-legal-system#additional-details-0> (last visited May 6, 2022).

³ LEE EPSTEIN ET AL., THE SUPREME COURT COMPENDIUM: DATA, DECISIONS, AND DEVELOPMENTS (2015).

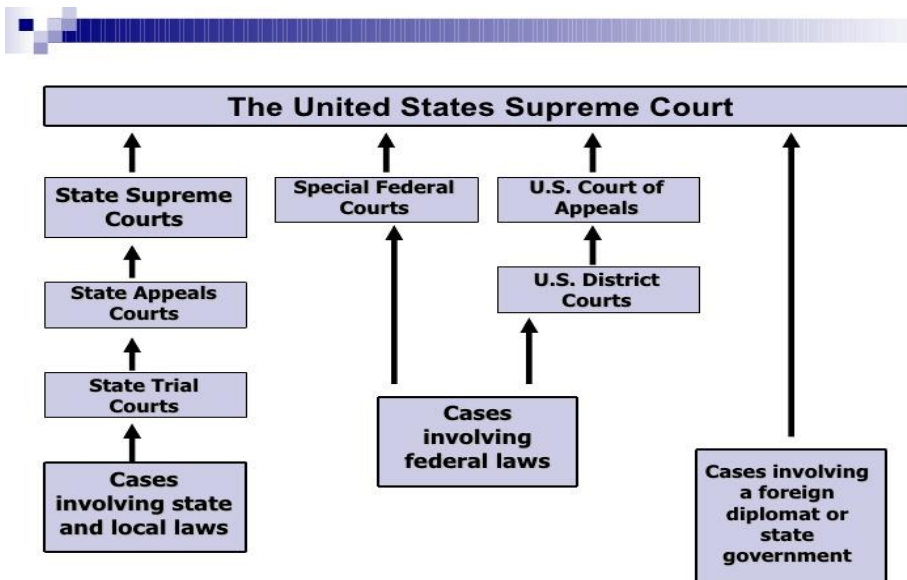
Comparative perspectives of different countries

Hierarchy of UK Judiciary The Court of Appeal



The Court of Appeal has two divisions, namely the criminal: the civil division. The Court of Appeals' Civil Division hears appeals from the High Court, the tribunals, and in some cases, the county courts. Court of Appeals decisions are binding on itself and all other courts, except the Supreme Court.

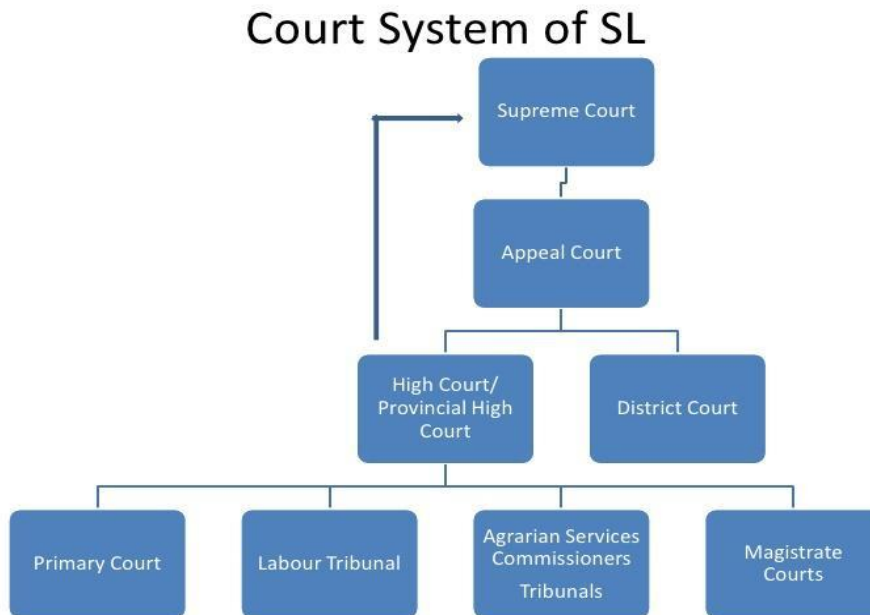
Hierarchy of Judiciary in the USA



Courts of Appeals

Appellate courts have appeal courts. The appellate courts review appellate courts have appellate jurisdiction—the District court’s decision to determine whether it was correct or not. During an appeal, a losing party in a federal district court case (both criminal and civil) asks the appeals court to reconsider their case and decide on the legal issue. Congress created 12 regional circuit courts and one ‘Federal Circuit’ circuit court to relieve some of the Supreme Court’s caseload and to hear appeals from district courts.

Court System of Sri Lanka



Sri Lanka’s Court of Appeal, also known as the Appeal Court, is the second-highest court in the Court's legal system after only the Supreme Court. The Court's ruling may be that The Court of Appeal is headed by the President of the Court of Appeal. Court ruling Court from the High Court or any lower court.

Significance of the Court of Appeal

The High Courts and the Supreme Court should establish a Court of Appeal. The Supreme Court of India should only deal with constitutional issues, and a Court of Appeal should exist between the High Courts and the Supreme Court. The application will speed up the process of resolving cases and reduce the workload of the Supreme Court. It will also provide the following benefits. Clients and counsel benefit from better accessibility and communication to the closer courts, reducing costs and accelerating work. The proximity of the courts reduces costs. Client Advocates who already have cases on file can handle their issues directly without involving an AOR (Advocate on Record) or their Senior Advocates, which

reduces costs. In the judicial community, promotions and new hires are employment benefits.

Reviewing the Aspect

The Indian 229th Law Commission published a report in August 2009 suggesting the establishment of separate benches for hearing appeals and constitutional issues. Furthermore, the report recommended that regional Supreme Court benches be established to hear appeals from high courts. However, similar to the numerous Supreme Court cases, these reforms remain unfinished.⁴ It is stated on page 6 of the Report that because constitutional adjudication occupies a unique position, it is always worthwhile to consider whether a separate Constitutional Court should be established, as is the case in approximately 55 countries worldwide (Austria established the world's first different Constitutional Court in 1920) or at the very least, there needs to be a Constitutional Division of the Supreme Court. Several continental countries have Constitutional Courts, and Final Court of Appeal is called Courts of Cassation (Cour de Cassation in French), which adjudicate non-constitutional cases. An appeals court of cassation has the authority to vacate (casser in French) or reverse bad decisions.

On the seventh page of the report, it is stated that dividing the Supreme Court into a Constitutional Division and a Legal Division for appeals with benches in the four regions of the country - North, South, East, and West - is a fundamental question for the judicial system of the government. This report examines the need for establishing a Constitutional Court or Division within the Supreme Court devoted exclusively to constitutional law and four Cassation Benches, one in each of the four regions.

The 17th page states that the courts' liberal attitude toward appeals from lower courts has also contributed to the backlog's steady growth. Those with financial resources can appeal lower court decisions to the next higher Court and ultimately the court Supreme Court, even if they are denied. Depending on the nature of the offense, limiting the number of appeals to just one or two may dramatically reduce pendency. Interpretation of the law may be necessary in some cases. If the defendants are powerful politicians or wealthy businesspeople, the patients can continue to tarnish the judicial system's reputation forever.

As stated on the 18th page, several of the measures mentioned above have been attempted over the last 59 years of our country's legal system. The outcome has not been satisfactory. To make swift justice a pulsating reality, it is time to revamp and revamp the judicial system as a whole. The Supreme Court's current organizational structure needs to be revised to achieve success in this direction. Frequently, the Supreme Court overloads itself by accepting indiscriminate appeals on trivial factual issues. Only crucial points should be litigated before the Supreme Court. Additionally, the current state of affairs makes the Supreme Court inaccessible to most countries.

⁴ Law Commission of India, 229th Report on Need for division of the Supreme Court into a Constitution Bench at Delhi and Cassation Benches in four regions at Delhi, Chennai/Hyderabad, Kolkata, and Mumbai (5th day of August 2009).

According to the text on page twenty, these benches will serve as Cassation Benches, hearing appeals from the respective High Courts. This would allow the Supreme Court to deal with concourtntional issues and other cases of national importance daily.

Inequity in the Court's Caseload

A disproportionate number of cases are heard by the Supreme Court's 31 judges. Those who believe that a lower court or tribunal rendered an incorrect decision may appeal to the Supreme Court. The Court grants many appecourtfter rejecting some. Judges ruled on approximately 47,000 admission cases in 2011, of which 9,070 (or roughly 19 percent) went to regular hearings. Listening to so many phone numbers requires considerable time, resulting in a backlog of cases. The Court is at least courteous in deciding on each of these pending cases. In the case of a litigant, the entire process from the district court to the High Court and then to the court Court takes over a decade. There is no equal access to the Supreme Court even after appeals are allowed. State requests are not proportional. The Delhi High Court receives the majority (12 percent) of attractions due to its proximity and relative wealth. However, only 1.2% of appeals are filed. The Madras High Court states that it is only 1.1%. It isn't easy to describe this appeal process as just.

Although electronic filing makes it easier for litigants to file their cases anywhere, it does not resolve the underlying problem. The Advocate-On-Record process involves filing a claim with the Supreme Court and having a lawyer from the capital argue the issue there. In the past five years, the Court decided 16% of court cases, 13% of direct or indirect tax cases, 9% of land acquisition cases, and 21% of criminal cases, which dominate the workload of lower courts. Litigants can afford more expensive and proficient counsel in less significant circumstances to the nation. Almost all tax and service matters are decided by tribunals, not by the High Court, where there are clear indications that the Court is wary of forumcourtsions. As a result, the Court spends countless courts hearing the cases of wealthy litigants who reside in and around Delhi.

A Distracted Court

The Constitution Bench sometimes fails to hear crucial cases. For a constitutional law question to be considered, at least five judges must listen to it. Over one hundred of these cases were decided annually in the 1960s. Currently, several important Constitution Bench cases are awaiting a decision. Since the number of appeals increased, the Court has been unable to courtside Constitution Benches and hear writ petitions, the only avenue to directly approach the Supreme Court when fundamental rights are violated. As a result of judges discouraging litigants from coming to the Supreme Court and directing them to the High Courts, less than 2% of admission cases involve writ petitions.

There was a 33 percent increase in High Court disposals between 2005 and 2011. Despite this, the number of appeals to the Supreme Court increased by 45 percent, and the number of cases admitted to regular hearings increased by 74 percent. Litigants filed more appeals as the Supreme Court heard more pleas. In

2009, the India Law Commission proposed setting up regional Supreme Courts in Mumbai, Chennai, Kolkata, and New Delhi. Furthermore, the Commission proposed a separate Constitution Bench in New Delhi to hear the most pressing constitutional issues. There aren't enough judges, so there is a backlog of cases.

The law enforcement officials certify the need for an appeal and specify why a request is not deemed appropriate or appropriate? Whenever a Ministry approaches the Ministry of Law with a matter, the Ministry of Law states its position. It forwards the file to the law office for their opinion. The Additional Solicitor General or the Solicitor General occasionally examines trivial or service-related cases to determine if they can be brought before the Supreme Court. In the end, it depends on the legal officer's opinion. The Supreme Court has been proposed to undergo structural reforms, including establishing regional benches. The Supreme Court is perceived as favoring a particular group. Cases involving significant questions of law, the Constitution, or the public interest were expected to be heard by the Court. Increased workload, a high admission rate and several two-judge Division Benches have led to a dramatic increase in Supreme Court judgments, which increases the likelihood of inconsistent rulings.⁵

According to the latest statistics, 59,695 pending cases before the Indian Supreme Court. According to an analysis of the Supreme Court's decisions from 2005 to 2017, 93 percent of the Court's workload consists of appeals from higher courts and, in particular, civil appeals (64 percent). In contrast, writ petitions filed for a violation of fundamental rights account for only 4% of all judgments, a much smaller percentage. Nick Robinson argues that the Supreme Court hears more appeals to police the High Courts actively and lower judiciary, whom they fear are incompetent, corrupt, or biased.⁶

HC origins of SC judgments

High court appeals and Supreme Court decisions; the size of the circle indicates the size of the High Court in terms of sanctioned judges; the data show a disproportionate number of SC judgments (compared to HC judgments). These trends are widely recognized. In its 229th report, the Law Commission suggested creating separate benches for appeals and constitutional matters. The report also recommends establishing regional Supreme Court benches to hear appeals from lower courts. Similar to the numerous cases before the Supreme Court, these reforms are still pending.

The Supreme Court should establish benches in at least four major cities. Initially, a Bench could be found in Mumbai, Chennai, and Kolkata, he said at the launch of his book commemorating his time as vice president.⁷

⁵ Mohan Parasaran, "A people's court", May 3rd Frontline 14 (2013)

⁶ Arghya Sengupta, "Inconsistent decisions", May 3rd Frontline 19 (2013)

⁷ Backlog burden of Supreme Court, from Aadhaar to Ayodhya, available at: <https://www.livemint.com/Politics/tzhLriWMkIxwe3XtG5U5yH/Supreme-Court-pending-cases-from-Aadhaar-to-Ayodhya.html> (Updated: 19 Sep 2018, 11:59 AM IST)

According to Naidu, there was a need to have Supreme Court benches in the southern, western, and eastern regions based on the recommendations of the Standing Committee. He noted that this would eliminate the need for long-distance travel. He also supported dividing the apex court into two divisions, one for Constitutional cases and another for appeals, to clear up the growing backlog.

Conclusion and Recommendations

Currently, many cases are being heard by the Supreme Court of India. There is reason to worry about the situation of the apex court. In the open-air hallways with parapets that wrap around the building's side, lawyers mingle, conduct business, and make small talk as they wait for their cases to be heard. It is almost impossible to locate one's hearing among the fifteen courtrooms within the building as angry litigants scramble to find their hearing. At the same time, lawyers' clerks scurry to their seats, armfuls of disheveled briefs in hand. There are two days a week when admissions are held, Monday and Friday. Court insiders call these days "fish markets" because of the fast-paced and often raucous exchanges. The benches of two judges are usually busy these days, hearing dozens of admissions arguments from a long line of blackjacketed attorneys, each arguing why their case deserves to be heard regularly. While leaning forward from the bench, a judge will interrogate advocates skeptically and frequently cut them off abruptly while the lawyers beg their "lordships" to listen to them. The Supreme Court of India is considered one of the most powerful courts in the world. Indeed, due to its diverse and heavy workload, the Indian Supreme Court has developed a reputation for interventionism and being overstretched⁸.

The misuse of Article 136 of the Constitution of India by the Advocates has resulted in an increase in the number of cases pending in both the Supreme Court of India and the High Courts due to issues that come from those courts. It has been predicted that the number of cases pending before the Supreme Court of India will drastically decrease after the new Court of Appeal is established because it will deal exclusively with constitutional matters, as envisaged by the Constitution's framers. There are many cases where residents of far-off states are denied the right to access justice as they find it difficult to appeal against the decision of the High Court to the Supreme Court because of the distance between their homes and the Supreme Court⁹. Since the number of appeals from state high courts to the Supreme Court is increasing year by year, the number of cases pending in the Supreme Court is also growing. A system of middle courts will reduce the burden on the Supreme Court of India if a system of High Courts of neighboring States (Zones) is introduced between them and the Supreme Court, which is the subject of the Central Government, similar to the one established in Sri Lanka. The zones will be created according to the total number of appeals and the proximity of neighboring states according to the feasible number. (As an

⁸ Appeals available at <http://www.helpline.law.com/civil-litigation-and-others/SHCI/appeals.html> (Visited on August 16, 2019).

⁹ Venkaiah Naidu for Supreme Court benches in 4 major cities, available at: <https://www.hindustantimes.com/india-news/venkaiah-naidu-for-supreme-court-benches-in-4-major-cities-says-can-begin-here/story-P8eaLdCBXn4ULgyjk4EVaJ.html> (Updated on August 11, 2019).

example, Kerala, Karnataka, and Tamil Nadu may be considered one Zone, and Andhra Pradesh, Telangana, and Chhattisgarh might be viewed as another Zone, etc.) In this way, the pendency of cases and the burden on India's Supreme Court could be reduced as one of the main objectives of this research is to determine whether or not a Court of Appeal should be set up between the High Courts of India and the Supreme Court of India to minimize the burden and reduce the pendency of cases before the Supreme Court of India. It was found that the number of appeals from each High Court to the Supreme Court of India has increased year on year. It was recommended that a Constitutional Amendment Bill be drafted to establish a Court of Appeal with five regional benches in India, i.e., Eastern India, Western India, Central India, Western India, Northern India, Southern India, and Central India.

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