# Judicial Committee of the Privy Council

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## ABSTRACT

In a number of Commonwealth nations and British Overseas Territories, the Judicial Committee of the Privy Council acts as the highest appellate court. The Judicial Committee of the Privy Councils mission, makeup, and relevance in the legal systems of participating states are highlighted in this abstract, which gives a general overview of the body. The Church of England's last court of appeal is the Privy Council's Judicial Committee. Except for problems of doctrine, ritual, or ceremonial, which are heard by the Court of Ecclesiastical Causes Reserved, it hears appeals from the Arches Court of Canterbury and the Chancery Court of York.

## KEYWORDS

Appellate Court, British Overseas, Commonwealth Countries, Judicial Committee, Legal Systems, Privy Council, Territories.

## I. INTRODUCTION

Despite not being an official component of our judicial system, the Judicial Committee of the Privy Council has had a significant impact on the evolution of English law. The Judicial Committees authority spans three key areas. Final Court of Appeal for several Commonwealth nations and royal dependencies. Regarding criminal and civil appeals from the Isle of Man, the Channel Islands, British Colonies and Protectorates, as well as from a few i6ndependent Commonwealth nations, the Committee provides the Queen with advice. Decisions made by the Committee have significant weight since Law Lords often hear cases. Devolution references from Scottish, English, or Welsh courts, as well as references from law enforcement officials, regarding the devolved governments ability to operate under the devolutionary laws. Various domestic issues, such as appeals from the Royal College of Veterinary Surgeons Disciplinary Committee and pastoral plans of the Church of England Commissioners. The Judicial Committee of the Privy Councils devolution jurisdiction will be transferred to the new Supreme Court under the Constitutional Reform Act of 2005 the Commonwealths jurisdiction will remain unchanged [1]–[3].

### Court of Justice of the European Community

In cases involving European law, the Kingdom consented to recognize decisions made by the European Court of Justice in situations involving only domestic law, the House of Lords continues to serve as the last court of appeal but, where a disagreement involves European law, any English court or tribunal may and in certain circumstances, must ask the European Court in Luxembourg for its decision on the relevant issue.

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### European Court of Human Rights

Claims alleging violations of the European Convention on Human Rights are heard by the Strasbourg-based European Court of Human Rights. Cases may be filed by individuals or by one state against another, provided that the relevant state has recognised the right to lodge an individual petition. There are 44 judges on the Court of Human Rights, which is the same number of governments that have ratified the Convention. Typically, seven judges meet together and hear cases. Governments must abide by the courts rulings in accordance with international law, but UK courts are not bound by them. However, since the European Convention on Human Rights was incorporated into UK law by the Human Rights Act of 1998, UK courts are now required to consider the decisions of the Court of Human Rights when resolving a case involving a Convention right.

### Tribunals

A sizable number of tribunals established by Act of Parliament to hear and resolve disputes in particular fields augment the work of the regular courts. Administrative courts have grown significantly in both number and scope as government actions have increasingly impacted the lives of regular citizens, notably since the creation of the welfare state. The Lord Chancellor hired former Court of Appeal Judge Sir Andrew Leggatt to conduct a study of the tribunal system in May 2000. In England and Wales, there are 70 separate administrative tribunals that hear up to one million cases annually, according to a study that was released in 2001. The topics that tribunals handle include social security, employment, immigration, and mental health. Tribunals are appealing because of how fast and inexpensively they can do business with the least number of procedures. Although the chairman is often a competent attorney, the other members are chosen from non-legal authorities on the matter at hand. Legal counsel is avoided since, in general, no legal help nor reimbursement for fees are provided. The courts are responsible for reviewing the work of tribunals. On a question of law, but not on the facts, an appeal from a tribunals judgement may typically be taken to the regular courts. The Divisional Court of the Queen’s Bench Division makes certain that a tribunal exercises its authority equitably.

The employment tribunal, historically known as the industrial tribunal, is one of the most well-known courts. Its jurisdiction was quite limited when it was first constituted in 1964, but it is currently one of the busiest courts. It convenes locally to hear employee complaints on employment contracts, unjust dismissal, redundancy, sex, racial, disability, and age discrimination in the workplace, and equitable pay. Since 1994, claims for a violation of an employment contract that do not exceed £25,000 may now be heard in employment tribunals. The violation must have occurred during employment or still be in effect when it was terminated. Personal injury claims, claims pertaining to habitation, claims relating to intellectual property, and claims relating to restriction of commerce are not included in the transfer of jurisdiction and will continue to be tried in the civil courts. A legally competent chairperson and two lay members, one of whom represents employers and the other workers, make up the tribunals regular makeup.

However, modifications made in 1993 allowed employment tribunal chairman to hear certain cases alone. Particularly given the slack application of the stringent standards of evidence, the proceedings are very casual. The Community Legal Service Fund will provide employees with legal help to help them draught paperwork, for example, to help them prepare for the hearing [6], [7]. Although applicants may be represented by a trade union representative or a friend, financial assistance to pay the expense of representation at the tribunal hearing is not offered. Typically, each party covers its own expenses. The tribunal has the authority to grant awards of compensation worth thousands of pounds. A case may be appealed to the Court of Appeal from the Employment Appeal Tribunal. The Employment Rights Dispute Resolution Act of 1998 made amendments to the legislation governing how individual employment rights disputes should be resolved.

## Restructuring the Tribunal Process

the government released Sir Andrew Leggatts study, Tribunals for Users: One System, One Service, in August 2001. The study stated that the number and complexity of tribunals had increased significantly in the 44 years since the previous assessment. Only 20 of the 70 tribunals found, however, hear more than 500 cases annually. It has been unable to create economies of scale as a result of having such a huge number of diverse tribunals, many of which only hear a tiny number of cases. Training and IT have been underfunded while resources have been squandered. Their methods are sometimes archaic and inaccessible, which makes the experience quite intimidating for users. Because government departments frequently create and sponsor tribunals, the tribunal neither appears to be independent, nor is independent in fact. According to Sir Andrew, the reports goal was to suggest a system that is impartial, well-organized, competent, economical, and user-friendly. The recommendations include establishing a single Tribunal System that operates in divisions according to subject matter, such as education, financial, health, and social services immigration land and valuation social security and pensions transport regulatory and employment and establishing a common, unified administrative service known as the Tribunal Service within the Lord Chancellors Department.

The Tribunal System should be led by a Senior President, who should be a High Court judge. There should be a right of appeal, but only by permission, on a point of law on the general ground that the tribunals decision was unlawful. Each division would have an appellate tribunal led by a President. The first-tier tribunal would be the appropriate place for the appeal. All appointments for chairs and members of tribunals should be made by the Lord Chancellor, who will then forward such appointments to the appropriate appellate tribunal and the Court of Appeal. Training has to be increased, especially in relational abilities. Active case management, according to the procedure adopted in the civil courts after the Woolf reforms, should be used. In order to increase the accessibility of tribunals, for instance, tribunals should collaborate with user groups to make sure that initial decision-makers produce rational decisions ii the Tribunal Service provides information about, for example, how to start a case, present it at a hearing, and how to appeal voluntary and other user groups are adequately funded to support users and tribunal chairmen are properly trained to help users present their case. IT systems need to be enhanced in order to increase administrative effectiveness and public awareness of tribunal activity.

In a White Paper Titled Transforming Public Services: Complaints, Redress and Tribunals 2004, the government responded. To provide a unified administrative assistance to the primary tribunals, the Tribunals Service was founded as an executive agency of the Department for Constitutional Affairs now the Ministry for Justice in April 2006. The Tribunals, Courts and Enforcement Act 2007, which was signed into law on July 19, 2007, contains Part 1 that establishes a new, more straightforward legislative structure for tribunals. The First Tier Tribunal and the Upper Tribunal, each arranged into Chambers groups of tribunals and led by a Chamber President, will replace the existing tribunals in a single framework. First Tier Social entitlement, General Regulatory, Health, Education and Social Care, Taxation and Land, Property and Housing, Upper Tier Administrative appeals, Finance and Tax, and Lands are the planned chambers. The Senior President of Tribunals, a new judicial position, will be in charge of the tribunal judiciary. The Administrative Justice and Tribunals Council, which will have a greater mandate, will replace the Council on Tribunals.

# II. DISCUSSION

So far in this chapter, weve looked at formal procedures for resolving conflicts via legal action, often known as litigation, in a court or tribunal. In reality, only a tiny percentage of disagreements are settled in this manner. Outside of the official court system, the great majority of disagreements are resolved via alternative ways. There are many good reasons why the parties themselves might prefer an out-of-court settlement to litigation, including the potential for bad publicity, the expense of going to court, the amount of money at stake, the difficulty of predicting the outcome of the case, and the fear of tarnishing an otherwise positive relationship. The disadvantages of filing a lawsuit serve as a strong incentive for the parties to look for out-of-court settlements. The government declared that one of its goals was to improve access to justice and make sure that those in need of assistance had access to efficient solutions that were proportional to the problem at hand in its 1998 White Paper, Modernizing Justice. It holds that going to court or a

tribunal should only be done as a last option. Alternative dispute resolution ADR is the general term for the many alternatives to litigation.

Potential litigants have recently been strongly encouraged to settle their disputes via ADR. Courts must promote the use of ADR where it is appropriate under the new Civil Procedure Rules. What happens then if one of the parties decides they do not want to take part in ADR? In the Court of Appeal cases Halsey v. Milton Keynes General NHS Trust and Steel V. Joy 2004, the issue of whether a court should order a successful plaintiff to pay costs because he declined to participate in ADR was raised. The rules of the court are as follows: A court cannot order the parties to participate in mediation. ADR is a voluntary procedure, and forcing someone to participate in it may violate their right to access the courts under Article 6 of the European Convention on Human Rights.

1. The courts function is to promote ADR. The motivation can be strong.
2. If the victorious party has unreasonably refused to consent to ADR, costs may be assessed against him.
3. The losing party has the burden of proving that the rejection was unreasonable.

ADR refers to a broad variety of strategies and procedures for settling conflicts outside of the legal system. ADRs are difficult to generalize about since they vary in their qualities, advantages, and disadvantages. Nevertheless, the following list includes some drawbacks of litigation and possible advantages of ADR: Litigation is combative and hostile. After the disagreement has been settled, the parties may want to keep in touch. You will often need a lawyer to defend you in court and to assist you prepare your case if you decide to pursue litigation. It's possible that you cannot afford legal counsel or that the value of the issues at hand does not warrant spending a lot of money.

Litigation is a highly stressful process, and the worry about increasing expenses may be quite unsettling. Conciliation is one ADR approach that is especially designed to address these issues. The types of relief that a court may provide, such as damages, an injunction, or a statement of rights, are extremely restricted. Through ADR, a broader range of remedies might be accessible, such as securing a change in how an organization functions or securing an explanation of what occurred. their disagreement. Litigation is often a public procedure. Press coverage of the case is possible, and the public will have unfettered access to the verdict. Through ADR, your matter may be handled in confidence and you may be able to prevent unfavorable or invasive publicity. Although the judiciary has specific areas of specialty, most judges are generalists. The parties may decide to consult a person with specific or professional expertise about.

### Arbitration

The parties may privately and at their leisure make their cases before a neutral arbiter of their choosing. The arbitrator may have legal qualifications, but he typically has specialized expertise or experience in the field. An arbitration panel may be utilized sometimes. The arbitrator's decision will be binding on all parties and will have the same legal standing as a court ruling. A court appearance may be an extremely expensive and visible method to settle a disagreement. Many in the business sector try to eliminate the possibility by deciding up front that any disputes would be sent to arbitration. These provisions are often included in contracts for insurance and partnerships. Trade organisations, like the Association of British Travel Agents, have also established arbitration programmes to handle grievances affecting its members. The Arbitration Act of 1996 currently offers a thorough legislative foundation for the arbitration process [1], [8]–[10].

## III. CONCLUSION

For several Commonwealth nations and British Overseas Territories, the Judicial Committee of the Privy Council functions as the last appeal court, playing a significant role in these jurisdictions legal systems. Senior judges who are nominated to hear and consider appeals presented to the Committee make up its membership, including members of the UK Supreme Court. The Judicial Committee of the Privy Council preserves the values of justice, fairness, and the rule of law in all participating nations by offering a forum for the settlement of complicated legal issues. It is important for sustaining the integrity of the Commonwealths legal systems, creating legal certainty, and assuring uniformity and consistency in legal interpretation.

## REFERENCES


[1] D. OBrien, The Post-Colonial Constitutional Order of the Commonwealth Caribbean: The Endurance of the Crown and the Judicial Committee of the Privy Council, J. Imp. Commonw. Hist., 2018, doi: 10.1080/03086534.2018.1519246.

[2] T. H. S. Kiefel AC, Just How Common is the Common Law? A Historical and Comparative Perspective, Bond Law Rev., 2019, doi: 10.53300/001c.11471.

[3] T. Robinson and A. Bulkan, Constitutional comparisons by a supranational court in flux: The privy council and Caribbean bills of rights, Mod. Law Rev., 2017, doi: 10.1111/1468-2230.12263.

[4] J. A. Coutts, Judicial Committee of the Privy Council, Journal of Criminal Law. 1999. doi: 10.1177/002201839906300405.

[5] R. De, A peripatetic world court cosmopolitan courts, nationalist judges and the Indian appeal to the privy council, Law Hist. Rev., 2014, doi: 10.1017/S0738248014000455.

[6] D. Neuberger, The Judicial Committee of the Privy Council in the 21st Century, Cambridge J. Int. Comp. Law, 2014, doi: 10.7574/cjicl.03.01.199.

[7] K. Stanton, Joint bank accounts and survivorship, Common Law World Rev., 2018, doi: 10.1177/1473779518791768.

[8] H. Young, J. D., Judicial Committee of the Privy Council: The Persistence of a British Colonial Institution, Econ. Polit. Reg. Dev., 2020, doi: 10.22158/eprd.v1n1p42.

[9] S. Voigt, M. Ebeling, and L. Blume, Improving credibility by delegating judicial competence-the case of the Judicial Committee of the Privy Council, J. Dev. Econ., 2007, doi: 10.1016/j.jdeveco.2006.04.004.

[10] R. Masterman, The constitutional influence of the Judicial Committee of the Privy Council on the UK apex court: institutional proximity and jurisprudential divergence?, North. Irel. Leg. Q., 2020, doi: 10.53386/nilq.v71i2.320.