

Bankruptcy adjudication: The institution

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Part I

Context

94. For speedier resolution of stressed assets, the Debt Recovery Tribunals will be strengthened with focus on improving the existing infrastructure, including computerised processing of court cases, to support reduction in the number of hearings and faster disposal of cases.

Part II

Problem statement

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 - 2 Bankruptcy adjudication needs to be time-bound, predictable
- Question:
 - 1 How can DRTs (and NCLTs) perform better when in general Indian tribunals cannot?

Some basics

- Judicial function v. Administrative function

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 - ① Allocation of cases

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 - 2 Listing of cases

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Let's assume DRT/NCLT have the best judges
Can they deliver?

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- Judicial impact assessment
- Procedural rules
- E-filing
- Court management system
- Database (orders and judgements)
- Performance reporting
- Scientific budgeting

Part III

Foreign jurisdictions

Which courts deal with bankruptcy and insolvency?

- UK
 - 1 Bankruptcy and Companies Court (Chancery Division of High Court)
 - 2 Local county court (outside London)

HM Court and Tribunal Service

- USA
 - 1 Federal court of appeals
 - 2 Bankruptcy court (unit of District Court)

Administrative Office of US Courts

Who performs these functions in these courts?

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Who performs these functions for DRT in India?

Functions	UK	US	India
JIA	HMCTS	AOUSC	–
Procedural Rules	Procedure Committee / Court	Advisory Committee	Sp. Ministry
E-filing	HMCTS	AOUSC	–
CMS	HMCTS	AOUSC	–
Database	HMCTS	AOUSC	Tribunal
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Part IV

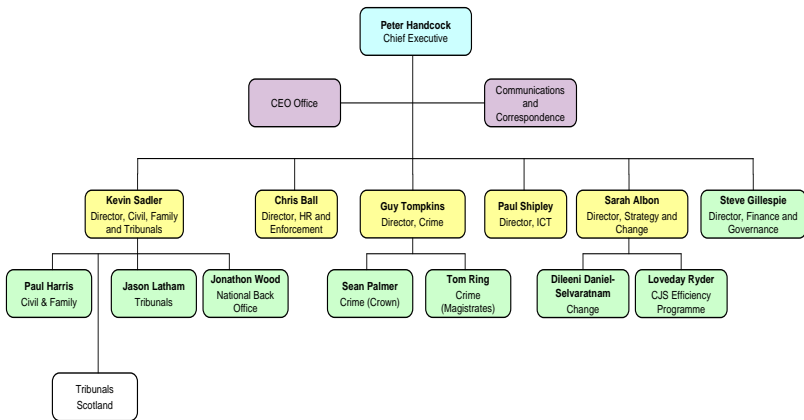
DRT is missing out on specialisation

Specialisation in UK



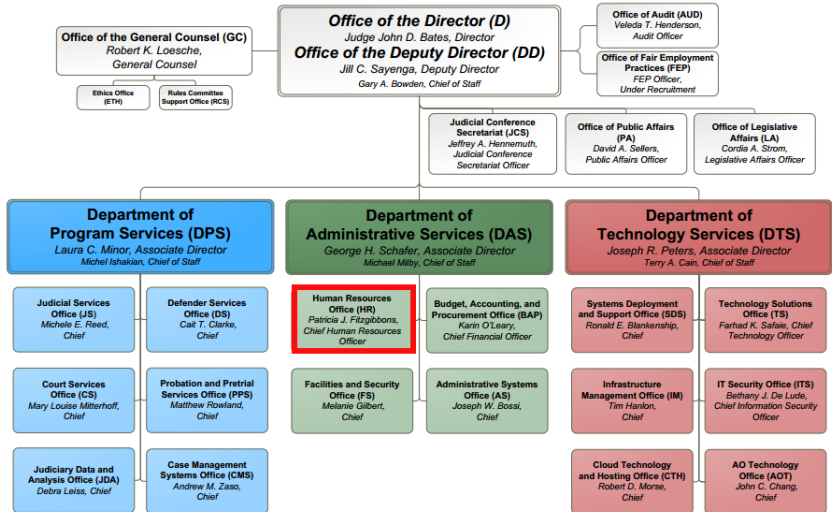
HM Courts &
Tribunals Service

HMCTS HQ organisation structure from 21 May 2013



Specialisation in US

Administrative Office of the United States Courts



Part V

Some developments

Supreme Court's repeated suggestions

- L. Chandra Kumar (1997)
- R. Gandhi (2010)
- Madras Bar Association (April 11, 2016)
- Government's stand?

Part VI

Conclusion

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- India needs specialisation in Tribunal Administration
- A Tribunal Service Agency will address it
- Budget is keen on this reform
- Supreme Court is keen on this reform
- Government should think of a way forward (before April 11)

Part VII

Thank you.