

INTERNATIONAL JOURNAL FOR LEGAL RESEARCH AND ANALYSIS



Open Access, Refereed Journal Multi-Disciplinary
Peer Reviewed

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INTERNATIONAL JOURNAL FOR LEGAL RESEARCH & ANALYSIS
ISSN

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ENVIRONMENTAL JUSTICE AND THE ROLE OF THE NATIONAL GREEN TRIBUNAL (NGT)

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Abstract

Environmental justice is a cornerstone of sustainable development and human rights, ensuring that no community bears an unfair share of environmental harm. Environmental justice ensures fair treatment and involvement of all people in environmental governance, regardless of caste, class, or economic status. In India, the need for a specialized forum for environmental disputes gave rise to the National Green Tribunal (NGT) in 2010. This research paper critically explores the concept of environmental justice in India, the legal framework and functioning of the NGT, and evaluates its impact through landmark judgments and enforcement actions. This paper explores the evolution, jurisdiction, and pivotal role of the NGT in advancing environmental justice, using landmark judgments, legislative developments, and recent critiques to assess its real-world impact and future potential in India's legal and ecological landscape. The study concludes that while the NGT has contributed significantly to environmental jurisprudence in India, its long-term success depends on institutional strengthening, broader participation, and a proactive approach to environmental governance.

Keywords: *NGT, Environmental Justice, Article 21, Legal Framework, Landmark Judgement.*

1. Introduction

Environmental justice is rooted in the ethical premise that no group of people, particularly the poor or marginalized, should bear a disproportionate share of negative environmental consequences (Chandra, 2021; Apporva, 2020). In India, this concept has gained prominence due to industrial expansion (Vallore, 1996), rapid urbanization, and environmental degradation that often marginalizes rural, tribal, and economically weaker communities (Bhullar, 2020). The rapid industrialization and urbanization in India have brought significant economic benefits but also led to unprecedented environmental degradation (Mehta, 2024; Divan, 2020). From deteriorating air quality to disappearing forests and polluted rivers, environmental problems have become deeply intertwined with public health and social justice

(MoEFCC, 2022-23; ICELA, 1996)). Recognizing this, the Indian legal system has increasingly shifted focus from mere regulation to environmental justice ensuring fair treatment and meaningful participation of all people in environmental decision-making (Tripathi, 2022).

In this context, the National Green Tribunal (NGT) was established as a dedicated body to adjudicate environmental cases (NGT, 2010, Gitanjali, 2012)). Created under the National Green Tribunal Act, 2010, it aims to provide speedy and effective redressal to environmental grievances and to uphold the constitutional mandate of a clean and healthy environment under Article 21 of the Indian Constitution (Rai, 2021). This paper examines the NGT's role in promoting environmental justice, its successes and limitations, and the way forward.

2. Concept of Environmental Justice

Environmental justice refers to the equitable distribution of environmental benefits and burdens, ensuring that marginalized or vulnerable communities do not bear disproportionate environmental risks (Lavanya, 2007). In India, environmental justice (Shyam, 2017) is deeply rooted in the constitutional framework:

- **Article 21:** Guarantees the right to life, which has been interpreted to include the right to a clean and healthy environment (*Subhash Kumar v. State of Bihar*, AIR 1991 SC 420) (Constitution of India).
- **Article 48A:** Directive to the state to protect and improve the environment.
- **Article 51A (g):** Fundamental duty of every citizen to protect the environment.

Environmental justice also embodies principles such as:

- **Polluter Pays Principle**
- **Precautionary Principle**
- **Sustainable Development**

These principles have been judicially recognized and are now embedded in Indian environmental jurisprudence.

3. Establishment and Legal Framework of the National Green Tribunal

The National Green Tribunal (NGT) was established under the National Green Tribunal Act, 2010, which was enacted in accordance with India's commitment under the United Nations Conference on Environment and Development (UNCED), 1992 (Rio Summit). Principle 10 of the Rio Declaration emphasized the importance of access to judicial mechanisms for environmental protection (UNEP, 2020).

The NGT is a quasi-judicial body that functions independently and is empowered to handle all civil cases involving substantial questions relating to the environment and natural resources (Art of living, 2017). It is unique in many ways:

- It is a specialized tribunal dedicated solely to environmental matters.
- It is mandated to dispose of cases within six months of filing.
- The tribunal consists of judicial and expert members, ensuring that both legal and scientific aspects are addressed.

The jurisdiction of the NGT includes:

- Disputes arising from environmental legislations such as:
 - The Water (Prevention and Control of Pollution) Act, 1974
 - The Air (Prevention and Control of Pollution) Act, 1981
 - The Environment (Protection) Act, 1986
 - The Forest (Conservation) Act, 1980
 - The Biological Diversity Act, 2002

Its principal bench is located in New Delhi, with regional benches in Bhopal, Pune, Kolkata, and Chennai.

4. Key Functions and Powers of the NGT

The NGT plays a crucial role in ensuring environmental justice (Armin, 2015) through the following key functions:

A. Adjudication of Environmental Disputes

The tribunal hears cases involving pollution, forest clearance, biodiversity loss, and hazardous waste management. It provides an alternative and specialized forum outside the regular court system.

B. Application of Environmental Principles

The NGT applies internationally accepted environmental principles:

- **Polluter Pays:** Making violators financially liable.
- **Precautionary Principle:** Acting to prevent environmental harm even in the absence of scientific certainty.
- **Sustainable Development:** Balancing economic development with ecological preservation.

C. Restitution and Compensation

The NGT has the power to award **relief and compensation** to victims of environmental damage and for **restoration of the environment**.

D. Suo Motu Powers

In recent years, the NGT has expanded its role by taking **suo motu cognizance** of major environmental issues based on media reports or public interest.

5. Landmark Judgments of the NGT

The NGT has played a transformative role in India's environmental governance (NGT, 2023; Bhatnagar, 2023; Sahu, 2018)). Some **landmark cases** include:

- i. **Almitra H. Patel v. Union of India (2012) – Solid Waste Management:** The NGT criticized the failure of municipalities in managing solid waste and ordered scientific disposal and segregation, leading to national awareness and action.
- ii. **Vardhaman Kaushik v. Union of India (2015) – Air Pollution in Delhi:** NGT imposed restrictions on diesel vehicles older than 10 years and emphasized stricter pollution norms. This influenced later government policies on vehicular emissions.
- iii. **M.C. Mehta v. Union of India (Yamuna Pollution Case):** The tribunal directed closure of polluting industries along the Yamuna and emphasized river rejuvenation projects with periodic monitoring.
- iv. **Sterlite Industries (2013 & 2018):** NGT ordered the closure of Sterlite's copper smelter in Tamil Nadu for causing environmental harm, setting a strong precedent against industrial pollution (Sterlite, 2021).
- v. **Art of Living Foundation Case (2016):** NGT imposed a ₹5 crore fine on Sri Sri Ravi Shankar's organization for damaging the Yamuna floodplains during the World Culture Festival.

6. Effectiveness and Impact of the NGT

The NGT has made significant contributions (NGT, 2022) in the following areas:

- i. **Speedy Disposal of Environmental Cases:** Its mandate to decide cases within six months has resulted in quicker resolutions compared to regular courts.
- ii. **Scientific Approach:** Inclusion of expert members (environmental scientists, ecologists, etc.) has allowed for informed, evidence-based decision-making.

- iii. **Strengthening Environmental Governance:** The NGT has ensured accountability of industries, compliance by government agencies, and active monitoring of major infrastructure projects.
- iv. **Public Awareness and Citizen Participation:** The tribunal has empowered citizens and NGOs to act as environmental watchdogs, strengthening democracy at the grassroots level.

7. Challenges and Criticism

Despite its achievements, the NGT faces several limitations:

- i. **Limited Jurisdiction:** The tribunal does not have jurisdiction over issues related to wildlife protection and some mining activities unless linked with other environmental laws.
- ii. **Enforcement Issues**
While the NGT passes strong orders, implementation often depends on state governments or pollution control boards, which may lack capacity or willpower.
- iii. **Reduction in Regional Benches:** Shutting down or reducing the strength of regional benches has affected accessibility for citizens from remote areas.
- iv. **Delayed Appointments:** Vacant posts of judicial and expert members have resulted in pendency and reduced effectiveness.
- v. **Criticism from Judiciary:** In some cases, the **Supreme Court** has overruled NGT decisions or criticized its overreach, creating ambiguity in authority.

8. Recommendations for Strengthening the NGT

1. **Widening Jurisdiction:** Expand the scope of the NGT to include all environmental laws, especially the Wildlife Protection Act and laws related to land acquisition and mining (NGT, 2023).
2. **Strengthening Enforcement Mechanisms:** Establish a dedicated enforcement wing within the NGT or in collaboration with CPCB/SPCBs.
3. **Institutional Capacity Building:** Regular training for members, staff, and pollution control officers.
4. **Increasing Accessibility:** Strengthen regional benches and allow virtual hearings to enhance participation from remote areas.
5. **Legislative Reforms:** Amend the NGT Act to provide clearer procedural rules and

grant it powers similar to a civil court for better enforcement.

6. **Awareness Campaigns:** Promote public awareness about the role and accessibility of the NGT through environmental literacy drives.

9. Discussion

The establishment and functioning of the NGT symbolize India's response to global environmental concerns through domestic institutional mechanisms (Dutta, 2021). While the tribunal has undoubtedly made strides in resolving environmental disputes and promoting sustainable development, its broader role in shaping environmental discourse merits discussion.

One of the most significant contributions of the NGT is the mainstreaming of the principle of environmental justice in judicial deliberations. Through its jurisprudence, the NGT has expanded the interpretation of Article 21 of the Constitution right to life to include the right to a healthy environment. This judicial activism has influenced other courts in India and provided a model for integrated environmental governance.

The NGT has also played a crucial role in deterrence. By holding industries accountable for environmental degradation and enforcing the 'polluter pays' and 'precautionary' principles, the tribunal has sent a strong message (NGT, 2020). However, this has also led to tensions with industries and state governments, highlighting the need for balance between development and environmental protection.

Despite its efficiency, the NGT's access to justice still poses challenges. Rural and tribal communities, who are most affected by environmental damage, often lack the legal literacy, financial resources, or institutional support to approach the tribunal. Language barriers and the need for technical documentation further exacerbate these issues.

Additionally, the tribunal's dependence on state agencies for enforcement has diluted the impact of some of its orders. In several instances, local bodies have failed to implement NGT directives, either due to lack of will or capacity. Strengthening enforcement frameworks through dedicated environmental monitoring units could help bridge this gap.

The NGT's role in proactive litigation and suo motu actions has brought emerging

environmental issues to the forefront, such as air pollution in Delhi NCR, illegal sand mining, and river pollution (Ghosh, 2018). These interventions reflect the tribunal's willingness to evolve with contemporary ecological challenges, but they also expose the institutional overload due to rising public expectations.

From a governance perspective, the NGT represents an experiment in judicial decentralization of environmental matters. However, the limited number of benches and their geographic concentration create accessibility bottlenecks. Establishing circuit benches and improving digital access can democratize the tribunal's reach.

Comparative international analysis shows that while the NGT is unique in combining legal and scientific expertise, it still lags in terms of transparency, stakeholder involvement, and data availability. Public participation mechanisms, such as community hearings or third-party audits, can enhance the participatory character of the NGT's proceedings.

Furthermore, the tribunal has influenced national environmental policies, including stricter Environmental Impact Assessment (EIA) norms and urban waste management guidelines. Its push for adherence to scientific protocols has ensured that environmental governance is evidence-based and not merely procedural.

In the long term, integrating the NGT more deeply into the country's environmental decision-making process via advisory roles in national environmental planning, project clearances, and climate change strategies could enhance policy coherence.

Conclusion

The National Green Tribunal has emerged as a pivotal institution in India's pursuit of environmental justice. Its judgments have had far-reaching impacts on policy, industrial compliance, and public consciousness. However, for the NGT to fully realize its mandate, it must be strengthened through legal, institutional, and administrative reforms. As environmental challenges continue to intensify, the NGT's role will be central in ensuring that development does not come at the cost of ecological and human well-being. The realization of sustainable development and environmental equity in India depend on a robust and responsive Green Tribunal.

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