

The National Green Tribunal Act, 2010: A Critique

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“We have forgotten how to be good guests, how to walk lightly on the earth as its other creatures do.”

-Barbara Ward

(Barbara Ward (1914-1981), Only One Earth, 1972. Founder of International Institute for Environment and Development, Recipient of Jawaharlal Nehru Award for International Understanding.)

ABSTRACT

The goal of the current research article is to evaluate and critically analyze the National Green Tribunal's efficacy and the progress it has achieved in resolving environmental conflicts. The National Green Tribunal of India, or NGT, was founded on October 18, 2010, by virtue of the National Green Tribunal Act, which was passed by the Central Government. It is a quasi-judicial agency that handles civil lawsuits pertaining to the preservation and safeguarding of ecosystems and natural resources, such as lakes, rivers, forests, and minerals. It was established in July 2011 and functions fully, much like international courts. The expansion in urbanization has resulted in a sharp rise in environmental degradation occurrences and over usage of natural resources. It is imperative that disputes be resolved, that those who violate environmental laws be held accountable, and that the victims of these abuses receive justice. Thus, the National Green Tribunal was established to deliver prompt justice in cases impacting the environment. India is the third nation to establish a governmental organization solely dedicated to the preservation and safeguarding of natural resources. The researcher intends to evaluate the tribunal's efficacy in enforcing the legal rights of individuals who violate various environmental laws and in implementing those laws by evaluating the decisions rendered by the tribunal.

KEYWORDS: *Environment protection, National Green Tribunal (NGT), Environment conservation laws, sustainable development, Environmental Justice, Environment Laws, Environmental Impact Assessment.*

INTRODUCTION

With the enactment of The National Green Tribunal Act, 2010, the Central Government established the National Green Tribunal, or NGT, on October 18, 2010, with the sole purpose of resolving environmental disputes of any kind. The National Environment Appellate Authority, which had limited jurisdictional authority, was superseded by the green tribunal. "No person shall be deprived of his life or personal liberty except according to procedure established by law," according to Article 21 of the Indian Constitution. The goal of this private and committed forum was to guarantee that people would not be denied their fundamental human right to a clean and healthy environment.

" The National Green Tribunal Act, 2010: A Critique"

India is privileged to possess an abundance of naturally occurring mineral and plant reserves, as well as diverse ecosystems such as forests, deserts, coastal regions, mountains, etc. However, excessive use of these natural reserves for urbanization and development to meet the demands of the expanding population, needs to be closely examined. To achieve sustainable development, a balance between the demands of the populace and development initiatives, as well as the utilization of natural resources, must be established. The widespread misuse of these natural reserves has resulted in worldwide problems such as soil erosion, climate change, coastal area and coral reef loss, and pollution of the air, water, and land. Establishing a dedicated Green Tribunal is one such measure to guarantee that these kinds of operations don't go unchecked. India is working to preserve and safeguard the environment in order to achieve the goals of sustainable development.

NATIONAL GREEN TRIBUNAL: ESTABLISHMENT AND STRUCTURE

The National Green Tribunal is a specialized organization created under the National Green Tribunal Act, 2010 to resolve disputes exclusively and effectively pertaining to the preservation of the environment and natural resource management. India is the first developing nation to adopt such a strong stance on environmental protection; up until now, only Australia and New Zealand, two industrialized nations, had established specialized environmental tribunals. Five zones- Bhopal, Pune, Kolkata, Chennai, and New Delhi- are the places where the NGT's sittings take place, with the latter serving as its principal location.

The Chairman, judicial members, and expert members make up the tribunal's organizational structure. Seated in the Principal Bench, the Chairperson is a retired Supreme Court judge who serves as the tribunal's chairman and advisor. The tribunal consists of a minimum of ten and a maximum of twenty judges. Similarly, the tribunal consists of a minimum of ten and a maximum of twenty expert members. Retired judges from the nation's High Courts are qualified to be selected as judicial members. The knowledgeable members, who have backgrounds in a variety of scientific disciplines, including environmental science, pollution control, and conservation, among others. This guarantees professional guidance and innovative perspectives on many environmental issues while addressing the interdisciplinary conflicts with greater accuracy and vision. Every bench is required to have a minimum of one judge and one expert member. The Chief Justice of India is consulted before the Central Government appoints the chairperson. The Central Government appoints additional tribunal members based on the suggestions of a selection committee that was established specifically for this purpose. All tribunal members have a five-year term of office, and after they retire, they are not eligible for reappointment.

The National Green Tribunal's main goal is to facilitate the quick and effective settlement of environmental disputes. If there is any sort of damage or destruction caused to a person or property, while carrying out development programs, the NGT directs compensation the property damage and offers suitable relief to the victims. It guarantees a well-reasoned approach to conflict resolution and the efficient handling of multidisciplinary problems pertaining to environmental conservation and protection.

NGT: JURISDICTION AND POWERS

The National Green Tribunal (NGT) has the authority to consider and render decisions in disputes pertaining solely to environmental concerns, such as waste management, pollution, and deforestation. It upholds the laws and regulations pertaining to the environment. It makes sure that its decisions are followed and is prepared to act appropriately when there are deviations. In the event of any type of environmental harm, the tribunal provides appropriate remedies, compensation, and restoration procedures; additionally, restrictions are placed to prevent further

" The National Green Tribunal Act, 2010: A Critique"

damage. The tribunal imposes severe punishments, such as fines, to discourage individuals from misusing natural resources and causing unrestrained environmental damage.

For rapid and economical resolution of environmental disputes, the National Green Tribunal offers an alternate dispute resolution procedure. It significantly lessens the amount of litigation that the High Courts must handle while handling environmental matters. The tribunal rigorously adheres to the Environmental Impact Assessment (EIA) procedure and utilizes the principles of Natural Justice while making decisions in these situations. The seven laws listed below comprise the exclusive jurisdiction of the National Green Tribunal with regard to civil disputes:

- i.) Water Act (Prevention and Control of Pollution), 1974.
- ii.) Water Cess Act (Prevention and Control of Pollution), 1977.
- iii.) Forest Act (Conservation), 1980.
- iv.) Air Act (Prevention and Control of Pollution), 1981.
- v.) Environment (Protection) Act, 1986.
- vi.) Public Liability Insurance Act, 1991.
- vii.) Biological Diversity Act, 2002¹

The tribunal has the authority to consider appeals against its orders and to review the decisions it makes.

ENVIRONMENTAL IMPACT ASSESSMENT (EIA)

The process of assessing the ecological effects of a proposed development or project during the planning and design phase, based on a detailed examination of the Environmental Impact Assessment Report (EIAR), is known as an environmental impact assessment (EIA). Prior to any proposed project being approved or denied, a competent authority reviews and evaluates the EIAR.

Before a project is approved and carried out, it is essential to evaluate and quantify the expected environmental implications. With the help of this measure, the responsible authorities will have the chance to determine what risks could arise from carrying out the suggested project and what safety precautions are necessary to reduce those risks and any negative impacts. Before approving a project, a number of issues are taken into account, including the effect on ecosystems, biodiversity, water resources, air and land pollution, noise pollution, and other important socioeconomic factors related to the project's implementation.

In order to provide interested and impacted communities and neighbourhoods, non-governmental organizations, and other individuals a chance to voice their reservations, offer suggestions, express worries, and maintain reservations about the proposed project, the process also involves participation from the public. This stage guarantees that every aspect of the evaluation process is completed efficiently and transparently by bringing a variety of viewpoints and comments to the table during talks about the project under scrutiny. Following approval, the planned project is closely watched to make sure it is implemented in accordance with the mitigation measures mandated and to determine whether the suggested actions are adequate to lessen the negative environmental impact. Therefore, the Environmental Impact Assessment (EIA) plays a critical role in sustainable development by guaranteeing that the development is carried out responsibly and that its effects on the environment and conservation are fairly evaluated in order to balance the divergent interests.

Strict adherence to the Environment Impact Assessment (EIA) process is guaranteed by the National Green Tribunal (NGT) in India. The Environmental (Protection) Act of 1986 mandates the EIA for 29 types of development projects involving investments of at least Rs. 50 crores.

LANDMARK JUDGEMENTS

With respect to environmental conservation and protection, the National Green Tribunal has rendered numerous historic rulings ever since it became fully operationalized from July 2011. The National Green Tribunal (NGT) has been operating with vigor and increased its efforts since 2020, even in the face of the COVID-19 pandemic. It instructed the government to maintain a vigilant eye out for any potential misuse of natural resources and adverse effects on the environment. The year 2021 witnessed significant measures taken by the tribunal against public authorities for inadequate performance of their mandated statutory duties, including fines and punishments.

Taking notice of an article in "The Hindu," the Green Tribunal ordered both the national and state governments to draft action plans for each polluted river segment that is subject to evaluation by the Central Pollution Control Board (CPCB). These plans should center on restoring the water's quality through the prohibition of sewage discharge and the adoption of other necessary measures to carry out the integrated river rejuvenation plan.

The NGT expressed its dissatisfaction and displeasure over the river Ganga's lack of cleanliness, regardless of the government's persistent efforts. Concern was expressed about the fact that the people who drink the water from the river out of respect and reverence are ignorant of the dangerous chemicals it contains. In accordance with the Water (Prevention and Control of Pollution) Act, 1974, the Tribunal has directed the Uttarakhand Pollution Control Board (UKPCB) to file criminal charges against the relevant departments and local body officials for the untreated sewage wastes' discharge into the Ganga River.

In order to safeguard public health and the environment, the National Green Tribunal (NGT) recently ordered the Delhi, Haryana, and Uttar Pradesh authorities to take immediate action regarding the discharge of contaminated water into the Yamuna River on August 6, 2024, in the case of *Nizamuddin West Association Vs. Union of India & Others*. The statistics submitted by the states in question indicated that the cleanup of the Yamuna was not progressing at all.

The National Green Tribunal fined Dhampur Sugar Mills Ltd., Uttar Pradesh, a hefty amount of Rs. 20 crore for continuously breaking the environmental laws across its four units in the case of *Adil Ansari vs. M/S. Dhampur Sugar Mills Ltd. Asmoli*. It further imposed a compensation of Rs. 5 crore each on Dhampur Sugar Mills, District Sambhal; Dhampur Sugar Mills, District Bijnor; Dhampur Distillery Unit, District Bijnor and Dhampur Sugar Mills, Meerganj, District Bareilly, in the name of environmental restoration.

The National Green Tribunal strongly objected to the relevant states' failure to comply with the tribunal's rulings after learning of the unlawful sand mining occurring in the states of Uttar Pradesh, Rajasthan, and Haryana. The tribunal also placed a complete ban on such activities. It required the state government of Rajasthan to present a detailed plan for the "restoration, reforestation and reclamation" of the affected area, as well as an estimate of the costs associated with reducing the harm that uncontrolled sand mining causes to the ecosystem.

The NGT noted in its ruling *In Re: Compliance With The Municipal Solid Trash Management Rules, 2016 And Other Environmental Issues*, that gathering and transporting biodegradable trash closest to its source is an enormous undertaking that calls for a well-thought-out strategic action plan. Likewise, it is imperative that the governments in question prioritize preventing the release of sewage into sources of potable water.

The National Green Tribunal has been a vocal supporter of regulating activities in coastal areas to safeguard their fragile ecosystems. It has instructed the relevant authorities to get rid of any encroachment on these sites. It required that before engaging in any form of activity on the beaches, the permission from the State Coastal Zone Management Authority (SCZMA) be acquired.

" The National Green Tribunal Act, 2010: A Critique"

The usage of plastic bags thinner than 50 microns was outlawed in Delhi by the NGT in 2017 when it was discovered that the bags were clogging sewers and killing animals by choking. This was laid down in case of *Central Pollution Control Board Applicant vs. State of Andaman & Nicobar & Ors.*

The National Green Tribunal issued an order on January 8, 2021, in the case of *Him Jagriti Uttaranchal Welfare Society Vs. Union of India & Others*, limiting the use of plastic bottles and multi-layered plastic packaging for alcohol and carbonated soft drinks, among other environmentally hazardous products.

Arun Tiwari v. State of Uttar Pradesh: On May 6, 2024, the National Green Tribunal (NGT) issued a decision initiating an inquiry into claims that soil was unlawfully extracted from a farmer's land in the course of building the Bundelkhand Expressway Project. The NGT took Suo moto Cognizance on the News Paper Article Published in the Patrika Newspaper Daily on April 19, 2024: This case concerns unauthorized construction in Bhopal, Madhya Pradesh's Kaliyasot River bed.

The aforementioned decisions indicate the National Green Tribunal's remarkable efforts, which further illustrate its commitment to ensuring a greener future for everybody.

LIMITATIONS OF THE TRIBUNAL

NGT encounters numerous challenges in its essential operations. Notwithstanding its important role, the NGT nevertheless has to deal with issues like inadequate funding, difficulties enforcing the law, jurisdictional disputes, and pressure from the political and commercial spheres. It is constrained by both human and financial resources. In addition to that, putting the tribunal's rulings into action as well as regulating and enforcing its orders are difficult tasks. The NGT's jurisdiction is unclear, which further leads to conflicts with other courts and causes uncertainty and delays in the court's efficient operation. Also, promoting public involvement in environmental issues is challenging, which makes it difficult to carry out conservation campaigns and restoration projects as directed by the tribunal. Enhanced public knowledge and accessibility are also necessary, particularly in rural regions. In the light of the increasing number of cases pertaining to various issues, the NGT's composition, additionally needs to be reconsidered. But, despite these challenges, the National Green Tribunal keeps continuing its tireless effort.

THE NATIONAL GREEN TRIBUNAL (AMENDMENT) BILL, 2022.

In order to amend the National Green Tribunal Act, 2010, "with a view to provide process for assessment of environmental damage and quantifying environmental compensation and recast the process of appeal and formation of panel of technicians to assist the National Green Tribunal in surveying damage and quantifying compensation," The National Green Tribunal (Amendment) Bill was introduced in the Lok Sabha in 2022. According to Clause 2 of the Bill, the tribunal shall appoint a permanent panel of technical assessors to assist in calculating relief, compensation, and property and environmental restoration. Therefore, if the Bill is enacted, expenditure will be made from the Indian Consolidated Fund Of India.

The Bill's Clause 4 establishes guidelines for information disclosure that specifies how the money credited to the Environment Relief Fund will be used for relief or compensation. The abovementioned legislative power may be delegated, as the regulations will only pertain to certain topics. The central government is authorized to create these regulations.

CONCLUSION

The National Green Tribunal deserves recognition and appreciation for its outstanding efforts in promoting environmental conservation in India, and over the years accomplished so with outstanding effectiveness. The tribunal has occasionally witnessed events that have an impact on the environment and natural resources and intervened in in order to prevent these kinds of illegal

" The National Green Tribunal Act, 2010: A Critique"

infractions of environmental regulations. Since its founding, the NGT has delivered several precedent-setting rulings and recommendations to the relevant authorities, such as an outright prohibition on noise pollution and illicit mining, orders for the protection of wildlife, and directions for the preservation of biodiversity in diverse locations. Aside from that, NGT is working hard to make sure its orders are carried out correctly.

Additionally, in the post-industrial era, it has become crucial in resolving the new environmental challenges. The National Green Tribunal's handling of the cases and administration of justice shows that everyone has the right to live in a pollution-free environment, as guaranteed by Article 21 of the Indian Constitution. The tribunal has consistently intervened on behalf of the underprivileged and marginalised sections of our society, realizing that their rights must be upheld since these groups suffer the most from the effects of environmental degradation.

REFERENCES

1. The Constitution of India
2. National Green Tribunal (NGT) - UPSC Notes. (n.d.). Retrieved from Byjus Exam prep: <https://byjus.com/free-ias-prep/concepts-in-news-national-green-tribunal/>
3. Jain S. (2023b, September 17). The Effectiveness Of The New National Green Tribunal (Ngt) (Amendment) Act, 2021 In Resolving Environmental Disputes In India. - Legal Vidhiya. Legal Vidhiya -. <https://legalvidhiya.com/the-effectiveness-of-the-new-national-green-tribunal-ngt-amendment-act-2021-in-resolving-environmental-disputes-in-india/>
4. The National Green Tribunal (NGT) Act, 2010.
5. Environmental impact assessment. (n.d.). Environmental Protection Agency. [https://www.epa.ie/our-services/monitoring--assessment/assessment/environmental-impact-assessment/#:~:text=Environmental%20Impact%20Assessment%20\(EIA\)%20is,the%20EIAR%20by%20a%20competent,](https://www.epa.ie/our-services/monitoring--assessment/assessment/environmental-impact-assessment/#:~:text=Environmental%20Impact%20Assessment%20(EIA)%20is,the%20EIAR%20by%20a%20competent,)
6. *Understanding EIA*. (n.d.). <https://www.cseindia.org/understanding-eia-383>
7. Pti. (2022, January 2). National Green Tribunal resolved to address environmental disputes in 2021. The Economic Times. https://economictimes.indiatimes.com/news/india/national-green-tribunal-resolved-to-address-environmental-disputes-in-2021/articleshow/88646205.cms?utm_source=contentofinterest&utm_medium=text&utm_campaign=cppst
8. *Bird's eye view of NGT performance in the last five years*. (n.d.). https://greentribunal.gov.in/sites/default/files/important_orders/NGT_Initiatives%20final-1.pdf
9. Koshy, J. (2020). BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL, Principal Bench, New Delhi, In Original Application No. 673/2018 In the Matter of: - News Item Published In "The Hindu" Authored By Shri Jacob Koshy Titled "More River Stretches Are Now Critically Polluted": CPCB. In The Hindu.
10. Vivek Mishra, & Vivek Mishra. (2024, March 19). Sewage discharge in Ganga: NGT orders Uttarakhand PCB to take criminal action against officials concerned. Down to Earth. <https://www.downtoearth.org.in/water/sewage-discharge-in-ganga-ngt-orders-uttarakhand-pcb-to-take-criminal-action-against-officials-concerned-94735>
11. Nizamuddin West Association Vs. Union of India & Others, Original Application No. 6/2012 (IA No. 329/2024, IA No. 72/2024, IA No. 276/2024) with Execution Application No. 5/2024 In Original Application No. 6/2012.
12. Adil Ansari Vs. M/S. Dhampur Sugar Mills Ltd. Asmoli, Original Application No. 539/2019.

" The National Green Tribunal Act, 2010: A Critique"

13. NGT slaps penalty of Rs 20 cr on Dhampur Sugar Mills for violation of environmental laws, *Available at:*
https://economictimes.indiatimes.com/news/india/ngt-slaps-penalty-of-rs-20-cr-on-dhampur-sugar-mills-for-violation-of-environmental-laws/articleshow/85975874.cms?utm_source=contentofinterest&utm_medium=text&utm_campaign=cppst (Last visited on. July 15, 2024).
14. NGT pulls Haryana, Rajasthan govts over sand mining. (2015, March 18). www.business-standard.com. https://www.business-standard.com/article/pti-stories/ngt-pulls-haryana-rajasthan-govts-over-sand-mining-115031800453_1.html
15. Parihar, R. (2021, November 15). Why the Supreme Court order on sand mining is a relief for Rajasthan. *India Today*. <https://www.indiatoday.in/india-today-insight/story/why-the-supreme-court-order-on-sand-mining-is-a-relief-for-rajasthan-1876985-2021-11-15>
16. Kumar, N., & Sharma, A. (2023). Progress/Status Report (May-September, 2023) in Compliance of Order Dated 22.09.2022 passed by the National Green Tribunal in the Matter of Compliance of Municipal Solid Waste Management Rules, 2016 and other Environmental Issues. In National Green Tribunal.
17. Database, B. (2024, May 26). National Green Tribunal's Judgement on Coastal Regulation Zone - Impact on Chennai Shoreline Project. *The Bharat Database*. <https://www.thebharatdb.in/23rd-may-2024-current-affair-concepts-explained-for-upsc-psc-ssc-railway-and-other-government-job-preparation/gt-judgement-chennai-coastal-regulation-zone.html#:~:text=NGT's%20Directive,-The%20Southern%20Bench&text=The%20tribunal%20has%20emphasised%20the,from%20cleaning%20and%20removing%20encroachments>
18. *Central Pollution Control Board Applicant Vs. State of Andaman & Nicobar & Ors.*, Execution Application No. 13/2019 IN Original Application No. 247/2017.
19. What is National Green Tribunal (NGT)? (n.d.). In drishtiias.com. <https://www.drishtiias.com/pdf/national-green-tribunal-ngt.pdf>
20. *Him Jagriti Uttaranchal Welfare Society Vs. Union of India & Others*, Original Application No. 15/2014.
21. The National Green Tribunal (NGT) (Amendment) Bill, 2022.
22. Ministry of Environment, Forest and Climate Change. moef.gov.in/environmental-impact-assessment-eia.
23. *Arun Tiwari Vs. State Of Uttar Pradesh* on 26 February, 2024, Original Application No. 556/2023.
24. *Suo Motu Action On The News Paper Article.. Vs. State Of Madhya Pradesh*, on 22 April, 2024, Original Application No. 92/2024(CZ)
25. Pioneer, Daily. "Illegal constructions earmarked in Kaliasot river periphery." *The Pioneer*, 24 Dec. 2023, www.dailypioneer.com/2023/state-editions/illegal-constructions-earmarked-in-kaliasot-river-periphery.html.
26. Testbook. "National Green Tribunal UPSC Notes: Objectives, Functions and More." *Testbook*, 28 July 2024, testbook.com/ias-preparation/concepts-in-news-national-green-tribunal#:~:text=Challenges%3A%20Despite%20its%20significant%20role,and%20political%20and%20economic%20pressures.
27. Sehgal, Diganth Raj. "All about National Green Tribunal - iPleaders." *iPleaders*, 29 Dec. 2021, blog.ipleaders.in/national-green-tribunal.
28. "Green Tribunal." *WWF India*, www.wwfindia.org/about_wwf/enablers/cel/national_green_tribunal.

