

The Role of National Green Tribunal in Safeguarding of Environment with Respect to Constitution of India

Unnati Tripathi¹, Prof. Dr. Rituraj Sinha²

¹Student, Christ University

²Guide, Christ University

Abstract:

“The environment is where we all meet; where we all have a mutual interest; it is the one thing all of us share.”

- Lady Bird Johnson

The National Green Tribunal (NGT) plays a crucial role in environment protection by providing a specialised forum to address issues related to environment laws and regulations. It is responsible for expeditious and effective resolution of cases involving environmental violations, conservation of natural resources, and prevention of environmental damage. The NGT plays a pivotal role in safeguarding the environment within the framework of the Constitution of India. Its is established as a specialised judicial body, the NGT’s mission is to address environment concerns and violations, aligning with constitutional provisions that guarantee the right to clean and healthy environment. This abstract explores how the NGT’s role encompasses interpretation, enforcement, and advocacy of constitutional principles related to related to environment protection. By providing swift justice, specialised expertise, and a platform for public interest litigation, the NGT become a guardian of environmental rights, upholding intergenerational equity and sustainable development. As a constitutional check against environmental harm, the NGT exemplifies the synergy between legal mechanisms and constitutional remedies, fostering a healthier and more balanced coexistence between human activities.

Keywords: NGT, Environment Protection, Government, Need....,

INTRODUCTION

Environmental protection¹ is a critical global concern that revolves around safeguarding the natural world and its resources from harm, degradation, and exploitation. It involves the preservation of ecosystems², the conservation of biodiversity³, and the responsible management of natural resources. The concept of environmental protection acknowledges the intrinsic value of the environment, recognising that it sustains life, provides resources, and offers aesthetic and cultural significance.

The primary goal of environmental protection is to ensure the well-being of present and future generations.

¹ practice of protecting the natural environment by individuals, groups and governments

²system that environments and their organism form through their interaction

³ variety and variability of life on Earth

This objective is often guided by principles such as sustainability, stewardship, and the precautionary principle, which advocate for responsible and sustainable practices to mitigate environmental harm. Environment protection is a multifaceted endeavour, encompassing various areas such as Air Quality, Water Resources, Biodiversity Conservation, Waste Management, Climate Change Mitigation, Land Use Planning etc. Environmental protection is not only a matter of preserving the beauty of nature but also a matter of human survival. It is integral to the well-being of ecosystems, the health of communities, and the stability of the planet. The importance of environmental protection is underscored by the growing threats of climate change, habitat loss, pollution, and resource depletion, making it a pressing and imperative responsibility for individuals, governments, and organisations alike.

The National Green Tribunal (NGT) is a specialised judicial body established in India under the National Green Tribunal Act, 2010. It serves a unique and pivotal role in the country's legal system, primarily focusing on environmental protection and the enforcement of environmental laws. The NGT was founded to address the pressing need for a dedicated forum that can efficiently and effectively handle cases related to environmental degradation, pollution, and conservation.

In essence, the NGT's establishment was a response to the growing environmental challenges and the need for swift and expert resolution of environmental disputes. The tribunal's creation was a recognition of the paramount importance of protecting the environment, given the myriad threats to ecosystems, public health, and the overall well-being of the nation.

The NGT operates independently and possesses wide-ranging powers, equivalent to a civil court. It has the authority to adjudicate on a variety of environmental matters, including air and water quality, waste management, conservation of forests and wildlife, and the impact of development projects on the environment. One of its distinguishing features is its decentralised structure, with multiple benches located across the country. This ensures accessibility to justice and efficient handling of cases in various regions. The NGT plays a crucial role in upholding environmental laws and regulations, fostering accountability, and contributing to the goal of sustainable development. It provides a platform for the public, non-governmental organisations, and governmental bodies to raise environmental concerns, seek remedies, and advocate for the responsible management of natural resources. With its specialised focus, the NGT stands as a beacon of hope for a cleaner and more sustainable future, emphasising the vital importance of environmental protection in the 21st century.

In case of **MC Mehta vs. Union of India**⁴, the case has led to orders and directives for the proper management of waste, including municipal solid waste and hazardous waste, in the National Capital Region. The case was transferred to the National Green Tribunal (NGT) when it was established in 2010. The NGT has continued to hear and adjudicate on various aspects of the case, ensuring its ongoing relevance in addressing environmental issues in the region.

India faces a range of environmental challenges that impact its ecosystem, public health, and sustainable development. Some of the prominent environment challenges include Air pollution, Water Pollution, Deforestation, Soil Degradation, Climate Change, Waste Management, Loss of Biodiversity, Land Use Change etc. These environmental challenges in India requires coordinated efforts from government bodies, industries, communities, and individuals. Sustainable development practices, improved environmental regulations, and public awareness campaigns are essential components of any comprehensive strategy to mitigate these challenges.

⁴ AIR 1987 965

The National Green Tribunal (NGT) in India plays a crucial role in addressing environmental issues and disputes. The constitutional mandate for environment protection and conservation is under Article 48 and Article 51(g)⁵ which emphasises the protection and improvement of the environment as a fundamental duty of citizens and the state. The NGT functions as an independent judicial body, distinct from regular courts. Its specialised jurisdiction allows for focused attention on environmental matters. The right to a healthy environment is considered an integral part of the right to life under Article 21 of the Indian Constitution. The NGT plays a vital role in protecting and enforcing the constitutional right. The DPSP, particularly Article 48 and 51, lay down guidelines for the state to protect and improve the environment and safeguard forests and wildlife. The NGT allows for easy accessibility to justice for individuals and organisations seeking remedies for violations of legal rights. The decisions of NGT are subject to judicial review, ensuring constitutional checks and balances.

LITERATURE REVIEW

1. **Shibani Ghosh, Indian Environmental Law: Key Concepts and Principles, 2019, Orient BlackSwan**

The author fills the gap through its critical analysis of the evolution of the environmental legal framework in India. It studies the origins of environmental rights, substantive and procedural, and the four most significant legal principles— principle of sustainable development, polluter pays principle, precautionary principle and the public trust doctrine and elaborates how Indian courts have defined, interpreted and applied them across a range of contexts. This book deals with the judicial reasoning and underlying assumptions in landmark judgements of the Supreme Court, the High Courts and the National Green Tribunal, aims to provide the reader with a comprehensive understanding of the framework of rights and principles.

2. **Michael Rackemann, Environmental Justice in India - The National Green Tribunal, 2017, Denver Journal of International Law & Policy**

The author offers an in-depth analysis of the National Green Tribunal of India, it operates in the challenging context of a populous and rapidly developing emerging economic powerhouse, where the inevitable tensions in balancing ecological, economic, and social considerations in the pursuit of ecological sustainability are profound.

3. **B Jayant Kumar and Saurabh Mishra, National Green Tribunal: A step Towards Environmental Justice?**

The author mentions about the landmark environmental cases and the specific laws and about the establishment of a National Green Tribunal for the protection of environment and conservation of forest. It also tells us about the appointments and the tenure and the jurisdiction and the relief, compensation and restitution under the National Green Tribunal Act and also includes the powers and procedures involved. The environment courts in other countries which are parallel to India's National Green Tribunal are also discussed in the book.

4. **Shyam Divan, Environment Law and Policy in India: Cases and Materials, 2022**

The author explains about the environmental law and policy in India affects all sections of society. This book retains the familiar analytical structure and includes all major developments since then. This volume covers air and water pollution, forests, wildlife, noise pollution, common property resources and tribal communities, environmental policies and international environmental law.

⁵ Indian Constitution

5. Upendra Baxi, Environment Protection Act: An Agenda for Implementation, 1987

The author under this book have delved into the constitutional right to a healthy environment as an integral part of the right to life under Article 21 of the Indian Constitution. They discuss how the NGT contributes to the enforcement of this right through its adjudicatory role.

6. Dr. B. Ramaswamy, National Green Tribunal (NGT) Role in protecting India's Environment, 2021

The book gives an idea of genesis and evolution of NGT in India. The role of NGT in strengthening of environmental justice, jurisprudence and governance in India. The role of NGT in promoting environmental activism and collective responsibility goals is analysed.

7. P. Leelakrishnan, Environmental Law in India

This book offers an overview of environmental laws in India, discussing the legal principles, policies, and institutions involved in environmental protection. It likely covers the NGT's role within the broader context of environmental law.

8. Gitanjali Nain Gill, Environmental Law in India: Managing Risk and Increasing Resilience

This book addresses contemporary issues in environmental law in India. It also includes discussions on the role of NGT's role, its legal standing, and its contribution to environmental governance.

9. Saloni Khanderia, Environmental Law and Policy: Nature, Law, and Society

This literature explores various dimensions of environmental law and policy in India. It may include discussions on the NGT's role in the protection of the environment and its alignment with constitutional principles.

10. R. Shyamala, Environment Law and Policy in India: Cases, Materials and Statutes

This book is known for its comprehensive coverage of environmental law in India. It likely includes discussions on the NGT's role, landmark cases, and the constitutional aspects of environmental protection.

STATEMENT OF THE PROBLEM

"Despite the establishment of the National Green Tribunal (NGT) as a specialized environmental judicial body in India, the extent to which its role, powers, and decisions align with the constitutional provisions and principles for environmental protection remains a subject of scholarly inquiry. This research seeks to critically analyse the constitutional harmonisation of the NGT's functions and assess its effectiveness in upholding environmental rights, environmental justice, and the broader constitutional framework. Specifically, it aims to investigate whether the NGT, in its capacity as an environmental safeguarding institution, is operating in full accordance with the constitutional mandates and principles for environmental protection in India."

This research problem statement sets the stage for an in-depth exploration of how the NGT functions within the constitutional framework, and whether it effectively upholds constitutional values, legal principles, and environmental rights as intended by the Indian Constitution. It invites a comprehensive assessment of the NGT's role in environmental protection, offering insights into its alignment with constitutional provisions and the potential need for harmonisation and improvement.

HYPOTHESIS

I will be analysing the significant judgements delivered by the National Green Tribunal expand upon and reinforce the constitutional mandates for environment protection, serving as important precedents that contribute to the evolving landscape of environmental jurisprudence in India. I will also be analysing the

coordination and collaboration with other branches government and regulatory bodies, the National Green Tribunal can amplify its impact on environmental protection and further demonstrate its commitment to realising the Directive Principle of State Policy related to environmental protection.

RESEARCH QUESTIONS

1. How does the jurisdiction and mandate of the National Green Tribunal (NGT) align with the environmental protection principles enshrined in the Constitution of India?
2. To what extent does the NGT's composition and structure adhere to the constitutional principles of independence and separation of powers while fulfilling its role in environmental safeguarding?
3. What are the key constitutional provisions that support the idea of a right to a healthy environment, and how has the NGT's jurisprudence contributed to the interpretation and enforcement of these provisions?
4. How have significant NGT judgments reinforced or expanded upon the environmental rights guaranteed by the Indian Constitution, and how do these judgments impact the legal landscape of environmental protection?
5. What are the challenges and limitations faced by the NGT in effectively discharging its responsibilities for environmental protection, and how do these challenges relate to constitutional mandates and principles?
6. In what ways can the NGT's functioning be further aligned with the constitutional directives and principles for more cohesive and effective environmental governance?
7. How does the establishment of the NGT and its functioning reflect the Indian government's commitment to implementing Directive Principles of State Policy related to environmental conservation?

SCOPE AND OBJECTIVES

The scope of this topic is to comprehensively examine the National Green Tribunal's role in environmental protection within the framework of the Indian Constitution, with the aim of understanding the synergies and potential areas for enhancement between the NGT's functions and constitutional mandates. The objectives of the research are designed to achieve a thorough analysis, critique, and potential refinement of NGT's role in contributing to sustainable environmental governance in India.

Scope of the research:

- **Legal Analysis:** Explore the legal framework governing environmental protection in India, including relevant constitutional provisions, statutes, and international agreements.
- **NGT's Jurisdiction:** Investigate the jurisdiction of the National Green Tribunal (NGT) and the types of cases it hears, encompassing issues such as pollution, conservation, waste management, and more.
- **Constitutional Alignment:** Examine the alignment between NGT's mandate and the constitutional principles related to environmental protection, right to a healthy environment, and sustainable development.
- **Case Studies:** Analyse landmark NGT judgments to understand how they interpret and apply constitutional provisions for environmental safeguarding.
- **Challenges and Opportunities:** Assess the challenges faced by NGT in executing its role effectively within the constitutional framework, and explore opportunities for enhancing its role in environmental governance.

Objectives of the research:

- **To Analyse Constitutional Provisions:** Examine relevant articles and provisions of the Indian Constitution related to environmental protection, and understand their significance in shaping the NGT's role.
- **To Evaluate NGT's Jurisdiction:** Assess the range of cases under NGT's jurisdiction and its effectiveness in providing swift and specialized justice for environmental matters.
- **To Examine Alignment and Impact:** Investigate how NGT's decisions align with constitutional principles and explore the impact of these decisions on environmental jurisprudence.
- **To Identify Challenges:** Identify challenges that arise due to inconsistencies or gaps between NGT's functioning and the constitutional mandates, and propose recommendations for improvement.
- **To Suggest Constitutional Harmonisation:** Propose strategies and measures for aligning NGT's role, powers, and composition with constitutional principles, promoting a more cohesive and effective approach to environmental protection.

RESEARCH METHODOLOGY

The nature of research is doctrinal and the study includes and analyse academic articles, books, reports, legal documents, and case studies. The relevant constitutional provisions, environmental laws and NGT judgements. The research methodology allows for a holistic examination of the NGT's role in protecting the environment within the constitutional framework, providing valuable insights into its effectiveness, alignment with constitutional principles and avenues for improvement in environmental governance.

TENTATIVE CHAPTERISATION

**Chapter 1
Introduction**

1.1. Introduction

1.1.1. The Concept of Environment and its need.....

1.1.2. Background and significance of the National Green Tribunal.....

1.1.3. Brief overview of environmental challenges in India.....

1.1.4. Importance of examining NGT's role in the context of Indian Constitution.....

1.2. Literature Review.....

1.3. Statement of Problem.....

1.4. Hypothesis.....

1.5. Scope and Objectives of Research.....

1.6. Methodology.....

1.7. Chapterisation.....

**Chapter 2
Constitutional Provisions and Environmental Protection**

2.1. Exploration of relevant constitutional provisions related to the environment.....

2.2. Article 21: Right to a healthy environment as a fundamental right.....

2.3. Directive Principles of State Policy and Environmental Protection.....

2.4. Article 48A: Protection and improvement of environment and safeguarding of forests and wildlife.....

Chapter 3

Establishment and Jurisdiction of NGT

- 3.1. Detailed explanation of NGT’s establishment under the NGT Act.....
- 3.2. Analysis of NGT’s jurisdiction over environmental matters.....
- 3.3. Comparing NGT’s jurisdiction with constitutional provisions and principles.....

Chapter 4

NGT’s Powers and Functions

- 4.1. Examination of NGT’s powers to hear cases and issue orders.....
- 4.2. Overview of NGT’s authority to provide effective remedies.....
- 4.3. Assessment of how NGT’s powers align with constitutional provisions.....

Chapter 5

Constitutional Validity of NGT’s Structure and Composition

- 5.1. Evaluation of the composition of NGT benches and appointments.....
- 5.2. Discussion on whether the structure ensure fairness and impartiality.....
- 5.3. Comparative analysis with constitutional principles of independence and separation of powers..

Chapter 6

NGT’s Role in Safeguarding Environmental Rights

- 6.1. Case studies showcasing significant judgements by NGT.....
- 6.2. Analysis of how NGT decisions uphold environmental rights.....
- 6.3. Linking NGT’s decisions to constitutional provisions and principles.....

Chapter 7

Challenges and Critiques

- 7.1. Identification of challenges faced by NGT in fulfilling its role.....
- 7.2. Discussion on criticisms regarding NGT’s effectiveness.....
- 7.3. Assessment of whether NGT’s limitations align with constitutional mandates.....

Chapter 8

Constitutional Harmonisation and Future Prospects

- 8.1. Exploration of strategies to enhance synergy between NGT’s role and constitutional provisions
- 8.2. Recommendations for aligning NGT’s functioning with constitutional principles.....
- 8.3. Future prospects for strengthening NGT’s contribution to environment protection.....

Chapter 9

Conclusion

- 9.1. Summary of key findings and insights.....
- 9.2. Final thoughts on the importance of an effective NGT in India’s environmental governance.....

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3. Journal on Environmental Law (Oxford)
4. Indian Journal of Environmental Law(IJEL)
5. Journal of Environmental Law and litigation(JELL)

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2. Report of Expert Committees and Commissions
3. Annual Reports of National Green Tribunal
4. Environmental Impact Assessment Reports
5. Parliamentary Standing Committee Reports
6. National Environment Policy