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Gaps in India's Environmental Legislative Framework: An Analysis in Light of NGT Jurisprudence

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Abstract

India has built an extensive body of environmental laws over the past few decades, yet the country continues to struggle with rising levels of pollution, ecological degradation, and weak enforcement. This gap between legislation and environmental outcomes points to deep-rooted structural and institutional challenges. Although the National Green Tribunal (NGT) was created to provide a specialized and efficient forum for environmental disputes, its effectiveness is often limited by shortcomings in the very laws it is meant to uphold. Issues such as overlapping statutes, weak regulatory bodies, limited citizen access, and inconsistent coordination between the executive and judiciary continue to dilute environmental governance in India.

This paper undertakes a detailed assessment of these weaknesses by examining key environmental laws, judicial interpretations, and landmark NGT decisions. It highlights how gaps in legislative design, outdated regulatory mechanisms, and fragmented institutional responsibilities hinder the country's ability to protect its natural resources. The analysis demonstrates that despite progressive jurisprudence and repeated judicial interventions, India's environmental framework remains constrained by poor implementation and insufficient administrative capacity. The paper concludes that meaningful environmental protection will require clearer statutory mandates, stronger enforcement institutions, and more harmonious cooperation between the judiciary, legislature, and executive branches. Only then can India move toward a truly effective and sustainable environmental governance system.

Keywords: Environmental Governance, National Green Tribunal, Legislative Gaps, Environmental Rule of Law, Sustainable Development, Judicial Review, Environmental Policy, Enforcement Challenges

INTRODUCTION

India's fast-paced industrial growth, expanding urban landscapes, and rising population have placed extraordinary pressure on the country's ecological balance. Even though India has developed an extensive framework of environmental laws such as the Water (Prevention and Control of Pollution) Act, 1974, the Air (Prevention and Control of Pollution) Act, 1981, and the Environment (Protection) Act, 1986 the environmental situation on the ground continues to deteriorate. Air quality is declining, water bodies remain polluted, forests are under stress, and ecological degradation is becoming a daily reality. This widening gap between what the law seeks to achieve and what is actually happening

suggests a serious disconnect between legislative intent, administrative enforcement, and environmental outcomes.

In response to these longstanding challenges, the National Green Tribunal (NGT) was established in 2010 as a specialized judicial body equipped with technical expertise and the mandate to deliver swift and effective environmental justice. Over the years, the NGT has indeed played a pivotal role by issuing several progressive and far-reaching judgments aimed at strengthening environmental protection. However, the Tribunal's functioning has also revealed deeper deficiencies within the broader statutory and institutional framework. These shortcomings include overlapping laws, weak regulatory institutions, unclear jurisdictional boundaries, and inconsistent coordination between various arms of the government.

Against this background, the present paper aims to critically examine the gaps that exist within India's environmental legislative structure and evaluate how these gaps become visible through NGT decision-making and judicial interventions. By analyzing statutory provisions, regulatory mechanisms, and the emerging trends in NGT jurisprudence, the article seeks to understand why environmental laws have not translated into effective environmental governance, despite the presence of a dedicated green judiciary. Ultimately, this study highlights the need for stronger institutional coherence, clearer statutory direction, and more robust enforcement if India is to move toward a more sustainable and environmentally secure future.

Literature Review

A substantial body of academic scholarship has examined the complexities of environmental governance in India, consistently highlighting the gap between legislative intent and on-ground environmental outcomes. P. Leelakrishnan, one of India's foremost environmental law scholars, argues that the country's environmental legislation has evolved in a fragmented and reactionary manner, resulting in overlapping mandates, inconsistent standards, and unclear regulatory responsibilities.[1] This legislative patchwork, according to Leelakrishnan, often hinders coherent policy implementation and contributes to persistent administrative inefficiencies.

Further, Dutta and Purohit emphasize that although the National Green Tribunal (NGT) was established to provide a specialized mechanism for environmental adjudication, its functioning is constrained by the limitations embedded within the parent statutes themselves.[2] They note that the NGT's jurisdiction is restricted to a limited set of "scheduled laws," which prevents the Tribunal from addressing several key areas such as wildlife protection, broader forest governance, and emerging climate-related disputes—thereby weakening its potential impact.

Studies on environmental courts and tribunals globally also shed light on these structural limitations. Gill (2017), for instance, observes that environmental courts can significantly improve access to environmental justice only when supported by a strong legal framework and effective executive agencies.[3] Without institutional capacity, technical expertise, and reliable enforcement mechanisms, even the most progressive tribunals struggle to translate their decisions into meaningful environmental outcomes.

[1] P. Leelakrishnan, *Environmental Law in India*, LexisNexis, New Delhi.
[2] Ritwick Dutta & Sanjeet Purohit, *The National Green Tribunal Act: A Commentary*, Universal Law Publishing.
[3] Gitanjali Nain Gill, *Environmental Justice in India: The National Green Tribunal*, Routledge, 2017.

Comparative environmental governance research further reveals that many developing countries share a similar trend: they often establish advanced adjudicatory institutions without making corresponding investments in regulatory capacity, monitoring infrastructure, or administrative coordination.[4] As a result, judicial pronouncements may be robust, but implementation remains weak.

The doctoral thesis on environmental protection and NGT jurisprudence, which serves as a conceptual foundation for this article, provides comprehensive insights into the evolution of India's environmental regulation, constitutional commitments, statutory developments, and judicial interventions. The thesis also documents the institutional strengths and weaknesses of the NGT, highlighting broader governance challenges such as overlapping jurisdictions, procedural bottlenecks, and enforcement deficits. While the present article draws thematic direction from that work, the analysis presented here is entirely original and focuses specifically on identifying legislative gaps and examining how these weaknesses become visible through NGT-driven environmental adjudication.

Methodology

This study is grounded in a doctrinal research methodology, relying primarily on the examination and interpretation of legal texts and judicial decisions. The analysis draws from key constitutional provisions related to environmental protection, central environmental statutes such as the Water Act, Air Act, and Environment (Protection) Act, as well as specific sections of the National Green Tribunal Act, 2010. In addition, the research closely studies landmark judgments delivered by the NGT and the Supreme Court to understand how courts have responded to gaps within the legislative framework. Scholarly books, journal articles, and previous academic research particularly on environmental governance and tribunal-based adjudication form an important part of the secondary data. A comparative lens is used throughout the study to connect statutory weaknesses with the judicial challenges arising from them, allowing for a deeper understanding of how these shortcomings influence the NGT's reasoning, jurisdiction, and overall decision-making patterns. This integrated approach helps reveal the broader systemic issues shaping India's environmental governance landscape.

Legislative Framework and Its Structural Gaps

India's environmental legislative structure has evolved in a piecemeal and crisis-driven manner, resulting in a framework that is expansive yet fragmented. Different laws were introduced at different historical moments, usually as responses to specific environmental emergencies rather than as part of a unified ecological vision. For instance, the Water (Prevention and Control of Pollution) Act, 1974 was primarily enacted to address increasing industrial effluent and water contamination.[5] The Air (Prevention and Control of Pollution) Act, 1981 followed growing public concern over deteriorating air quality in rapidly urbanizing cities.[6] Similarly, the Environment (Protection) Act, 1986—one of India's most influential environmental statutes—was hurriedly drafted in the aftermath of the Bhopal Gas Tragedy, reflecting a reactive rather than proactive legislative approach.[7] Because these laws were developed in isolation and at different times, they often overlap in scope, create confusion among regulatory authorities, and lead to administrative fatigue. The absence of a consolidated and coherent

[4] Natalia Ciecierska-Holmes, *Environmental Policy in India*, Routledge, 2020.
[5] Water (Prevention and Control of Pollution) Act, 1974.
[6] Air (Prevention and Control of Pollution) Act, 1981.
[7] Environment (Protection) Act, 1986; enacted following the Bhopal Gas Disaster, 1984.

"environmental code" has therefore contributed to inconsistent standards, jurisdictional conflicts, and weakened environmental governance.

Weak Enforcement and Regulatory Capture

A major structural weakness in India's environmental governance lies in the limited enforcement capacity of Pollution Control Boards (PCBs), which serve as the primary agencies responsible for monitoring and implementing environmental laws. Despite their critical mandate, PCBs across the country face persistent shortages of trained personnel, inadequate funding, and a lack of modern monitoring technologies.[8] These institutional constraints severely restrict their ability to conduct regular inspections, track pollution trends, or take swift action against violators. In addition, PCBs operate under the administrative control of state governments, making them vulnerable to political pressures, especially in cases involving influential industries or development projects.[9] This combination of limited autonomy, resource constraints, and outdated technical infrastructure often results in regulatory capture, where enforcement decisions become compromised. Consequently, even well-constructed environmental statutes lose their effectiveness on the ground, as enforcement remains inconsistent, delayed, or sometimes entirely absent.[10]

Limited Public Participation Mechanisms

Most major environmental laws do not grant citizens an independent right to approach courts, except through indirect mechanisms such as PILs. The Water and Air Acts restrict direct access, requiring individuals to route complaints through PCBs. This undermines democratic participation in environmental governance.

Inadequate Penalties and Deterrence

A recurring weakness in India's environmental regulatory regime is the inadequacy of statutory penalties, which are often disproportionately low when compared to the financial gains industries derive from violating environmental norms. Many of the fines prescribed under legacy laws such as the Water Act and Air Act were drafted decades ago and have not kept pace with inflation, industrial expansion, or the increasing scale of ecological harm.[11] As a result, polluting industries frequently internalize these penalties as routine operational expenses, treating them as a minor cost rather than a meaningful deterrent. This economic imbalance encourages repeated non-compliance, as the benefits of violating environmental standards far outweigh the nominal penalties imposed. The failure to update or enforce stringent punishment mechanisms significantly undermines the preventive intent of environmental laws, weakening their capacity to influence corporate behavior and protect ecological systems.[12]

Missing Integration of Climate and Biodiversity Concerns

A significant structural limitation of India's environmental legislation is its predominantly pollution-

[8] Central Pollution Control Board, *Annual Report*, various years.
[9] Ciecierska-Holmes, Natalia. *Environmental Policy in India*, Routledge, 2020.
[10] National Green Tribunal, *Selected Orders on Enforcement Challenges*; also seen in multiple NGT observations criticizing weak PCB functioning.
[11] Water (Prevention and Control of Pollution) Act, 1974; Air (Prevention and Control of Pollution) Act, 1981, both contain outdated penalty provisions.
[12] Leelakrishnan, P., *Environmental Law in India*, LexisNexis, New Delhi.

centric orientation, which leaves several emerging ecological challenges inadequately addressed. Key environmental statutes such as the Water Act, Air Act, and Environment (Protection) Act were designed at a time when industrial pollution was the primary concern, resulting in limited statutory focus on broader issues like climate change adaptation, biodiversity conservation, or ecosystem-based management.[13] Although India is one of the world's most climate-vulnerable nations and home to exceptional biodiversity, the legislative framework lacks comprehensive mechanisms to integrate climate resilience, species protection, or landscape-level conservation approaches.[14] Environmental Impact Assessment (EIA) procedures too remain largely project-based and do not fully account for ecological sensitivity, cumulative impacts, or long-term climate risks.[15] Because of these gaps, emerging environmental threats—such as climate-induced disasters, rapid habitat loss, and biodiversity decline are not effectively managed within the existing statutory structure, limiting the system's ability to respond to the evolving complexities of environmental governance.

NGT Jurisprudence and What It Reveals

1. **Jurisdictional Ambiguity with High Courts**

One of the most persistent challenges revealed through NGT jurisprudence is the ongoing jurisdictional tension between the Tribunal and the High Courts. Although the National Green Tribunal Act, 2010 was designed to create a specialized forum with exclusive expertise in environmental matters, its decisions are frequently challenged before High Courts under Article 226 of the Constitution.[16] Since constitutional judicial review is an inherent and non-derogable power of the High Courts, it cannot be excluded by a statutory body such as the NGT. This has led to a number of practical difficulties: litigants often engage in forum shopping to obtain more favourable interim relief; High Courts regularly issue stay orders that delay or dilute NGT directives; and at times, conflicting judicial positions emerge between the Tribunal and different High Courts.[2] These jurisdictional overlaps not only weaken the finality and effectiveness of NGT decisions but also create uncertainty in environmental adjudication. Several cases examined in the referenced thesis further illustrate instances where High Court interventions have stalled or altered NGT's environmental orders, revealing a structural imbalance between constitutional courts and specialized environmental tribunals.[17]

2. **Absence of Criminal Liability Within NGT's Mandate**

Another significant limitation that emerges from NGT jurisprudence is the Tribunal's inability to impose criminal penalties for environmental violations. Although many forms of environmental harm such as illegal mining, hazardous waste dumping, industrial disasters, and repeated non-compliance arguably demand punitive action, the NGT is legally empowered only to award civil compensation, issue remedial directions, and determine damages on the basis of the "polluter pays" principle.[18] The absence of criminal jurisdiction means that serious offenders cannot be subjected to imprisonment or criminal prosecution directly through NGT proceedings, even when the environmental damage is irreversible or

[13] Environment (Protection) Act, 1986; Water Act, 1974; Air Act, 1981 — all primarily pollution-focused statutes.
[14] Ciecierska-Holmes, Natalia, *Environmental Policy in India*, Routledge, 2020 (discussing climate governance gaps).
[15] Ministry of Environment, Forest and Climate Change, *EIA Notifications and Amendments*; Criticisms widely noted in NGT jurisprudence and scholarly commentary.
[16] Constitution of India, Article 226; National Green Tribunal Act, 2010.
[17] Gill, Gitanjali Nain, *Environmental Justice in India: The National Green Tribunal*, Routledge, 2017.
[18] National Green Tribunal Act, 2010 — Civil jurisdiction defined under Sections 14, 15, and 17.

caused wilfully.[19] This statutory gap diminishes the deterrent value of the Tribunal's orders, as violators may treat compensation as a manageable financial consequence rather than a meaningful punishment. Scholars and judicial observations have repeatedly noted that without the ability to initiate or enforce criminal sanctions, the NGT's effectiveness in addressing grave environmental misconduct is inherently limited.

3. **Statutory Limitations on Subject Matter Jurisdiction**

A further structural weakness in the NGT's design arises from the narrow scope of its subject matter jurisdiction. Under the National Green Tribunal Act, the Tribunal is empowered to hear disputes only under a defined set of "scheduled laws."[20] While this framework was intended to streamline environmental adjudication, it has had the unintended effect of excluding several critical areas of environmental governance. Notably, matters arising under the Wildlife Protection Act, 1972 and the Indian Forest Act, 1927 fall outside its purview, even though wildlife conservation and forest management are integral components of environmental protection.[21] Similarly, climate change petitions unless directly linked to one of the scheduled enactments do not fall within the Tribunal's jurisdiction, despite the increasing urgency of climate-related threats.[22] These statutory exclusions significantly limit the NGT's ability to address environmental issues holistically, forcing litigants to approach different judicial forums for interconnected ecological concerns. As a result, the promise of a unified and specialized environmental court remains only partially realized, weakening the coherence and effectiveness of environmental adjudication in India.

4. **Implementation Challenges**

A recurring concern highlighted through NGT jurisprudence is the persistent gap between judicial directives and their actual implementation on the ground. Even when the Tribunal issues progressive, detailed, and scientifically informed orders, these directives often encounter resistance from state departments, local authorities, or implementing agencies.[23] Institutional reluctance—whether due to bureaucratic inertia, political interference, or limited technical capacity—frequently results in delayed or incomplete compliance. In many cases, the breakdown occurs not because the judicial reasoning is flawed, but because administrative machinery lacks the coordination, resources, or willingness to operationalize the Tribunal's decisions. This implementation deficit significantly undermines the effectiveness of environmental adjudication, revealing a structural disconnect between judicial ambition and executive execution. As a result, even robust NGT rulings may fail to produce meaningful environmental improvements unless accompanied by strong enforcement mechanisms and inter-agency cooperation.

Discussion: Why These Gaps Persist

A deeper examination of India's environmental governance reveals that many of the existing gaps stem from broader structural and constitutional limitations. To begin with, environmental protection does not enjoy fully enforceable constitutional status beyond the Directive Principles of State Policy (DPSPs) and Fundamental Duties. Article 48-A, which directs the State to protect and improve the environment, and

[19] Leelakrishnan, P., *Environmental Law in India*, LexisNexis, New Delhi.
[20] National Green Tribunal Act, 2010 — Schedule I lists the statutes under which the NGT may exercise jurisdiction.
[21] Wildlife Protection Act, 1972 and Indian Forest Act, 1927 are notably absent from Schedule I.
[22] Gill, Gitanjali Nain, *Environmental Justice in India: The National Green Tribunal*, Routledge, 2017
[23] National Green Tribunal, *Compliance Monitoring Reports* (various cases documenting non-implementation).

Article 51-A(g), which urges citizens to safeguard natural resources, are both non-justiciable and cannot independently compel action.[24] Although the judiciary has creatively interpreted the "right to a clean and healthy environment" as part of Article 21, this protection is judicially constructed rather than explicitly embedded within the Constitution.[25] As a result, statutory obligations often remain vulnerable to administrative discretion and political compromise.

The politicization of environmental governance further aggravates these structural weaknesses. In many cases, economic development and infrastructure expansion are prioritized over ecological sustainability, leading to flexible or diluted interpretations of environmental laws.[26] Environmental clearances may be expedited, regulatory conditions relaxed, or violations overlooked in the name of economic growth. Political pressures on implementing agencies especially state-level Pollution Control Boards also weaken independent enforcement efforts and limit the ability of regulators to take action against influential industries.[27] This political economy dimension significantly affects the consistency and credibility of India's environmental rule of law.

Another key reason why these gaps persist is the reactive nature of India's legislative approach to environmental problems. Historically, major environmental laws have been enacted only after catastrophic events or intense public pressure. The Environment (Protection) Act, 1986, for instance, was introduced primarily in response to the Bhopal Gas Tragedy, reflecting an emergency-driven legal mindset rather than a proactive legislative vision.[28] As a result, several laws remain outdated and fail to anticipate emerging threats such as climate change, biodiversity collapse, and cumulative ecological impacts. Without forward-looking legislation and institutional planning, environmental governance remains trapped in a cycle of responding to crises rather than preventing them.

Findings

1. **India's environmental laws are extensive but lack unity.**

Although the country has numerous laws covering water, air, forests, and hazardous waste, these statutes were created at different times and do not function as a coherent system. This leads to overlaps, inconsistencies, and gaps in environmental governance.

2. **Enforcement agencies face serious institutional and political constraints.**

Pollution Control Boards and other regulatory bodies often struggle with limited staff, inadequate technical capacity, and political pressure, which collectively weaken their ability to enforce environmental laws effectively.

3. **The NGT has improved access to environmental justice but is limited by law.**

The Tribunal has delivered influential judgments and accelerated environmental adjudication. However, its powers are restricted by the narrow scope of scheduled laws and its inability to impose criminal penalties.

4. **Jurisdictional conflicts with High Courts reduce the effectiveness of NGT orders.**

High Courts frequently intervene through writ petitions, resulting in stays, delays, or contradictory rulings that undermine the finality and impact of the Tribunal's decisions.

[24] Constitution of India, Articles 48-A and 51-A(g).
[25] *Subhash Kumar v. State of Bihar* (1991) and subsequent Article 21 environmental jurisprudence.
[26] Ciecierska-Holmes, Natalia, *Environmental Policy in India*, Routledge, 2020.
[27] Central Pollution Control Board & State PCB reports documenting political influence over enforcement.
[28] Environment (Protection) Act, 1986, enacted following the 1984 Bhopal Gas Disaster

5. **Existing penalties and regulatory tools do not match today's environmental challenges.** Many fines are outdated and too low to deter violations. As a result, polluters often treat penalties as routine costs rather than meaningful consequences.
6. **India needs a unified environmental code and stronger public participation.** A consolidated, modern environmental law combined with greater space for citizen involvement would strengthen accountability, improve enforcement, and make environmental governance more future-ready.

Conclusion

India has developed an impressive range of environmental laws over the decades, yet the continued deterioration of its ecosystems shows that legal abundance alone does not ensure environmental protection. Despite the presence of multiple statutes and regulatory bodies, ecological damage persists because the overall framework lacks coherence, integration, and effective implementation. Within this landscape, the National Green Tribunal has played an important role in filling several statutory and procedural gaps, offering a specialized forum for environmental justice and advancing progressive jurisprudence. However, its impact remains limited by narrow legislative boundaries, administrative resistance, and jurisdictional overlaps with constitutional courts.

To move toward a more effective and future-ready environmental governance system, India must focus on several key reforms. First, environmental laws need to be consolidated into a unified and streamlined legal framework that reduces fragmentation and enhances clarity. Second, enforcement agencies must be strengthened through better resources, greater autonomy, and modern monitoring capabilities. Third, meaningful public participation should be encouraged so that citizens can play an active role in safeguarding environmental interests. Fourth, expanding the NGT's jurisdiction and clarifying its relationship with other courts would improve the consistency and authority of environmental adjudication. Finally, closer alignment between the judiciary, legislature, and executive is essential to create a coherent, coordinated, and accountable environmental governance model.

Implementing these measures will help India transition from merely having numerous environmental laws to achieving genuine ecological protection and sustainability.

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