

# The Vital Role of the National Green Tribunal in Promoting Sustainable Development in India

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## ARTICLE DETAILS

### Article History

Published Online: 16 Jan 2020

### Keywords

National Green Tribunal, Sustainable Development, Environmental Laws.

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## ABSTRACT

*The National Green Tribunal (NGT) in India is a specialized court that deals with cases related to environmental protection and the conservation of natural resources. It was established in 2010 under the National Green Tribunal Act, 2010, to provide a speedy and cost-effective mechanism for the resolution of disputes related to environmental protection and the conservation of natural resources.*

*One of the main goals of the NGT is to promote sustainable development in India, which is defined as a form of development that meets the needs of the present without compromising the ability of future generations to meet their own needs. To this end, the NGT has the power to hear and decide cases involving civil disputes, public interest litigation, and criminal complaints related to environmental issues. It can also pass orders and give directions on matters related to the protection and conservation of the environment, as well as the prevention and control of pollution.*

*The NGT has played a significant role in enforcing environmental laws and protecting the environment in India. It has heard and decided numerous cases related to issues such as air and water pollution, forest conservation, and wildlife protection. In doing so, it has helped to ensure that development in India is more sustainable and takes into account the long-term environmental impacts of various activities.*

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## 1. Introduction:

India is facing many environmental challenges, including air and water pollution, deforestation, and the loss of biodiversity. One major issue is the rampant pollution of both the air and water. Industrialization and the burning of fossil fuels have contributed to high levels of air pollution, causing respiratory problems and other health issues for the population. The water in many parts of India is also contaminated, with industrial waste and untreated sewage being released into rivers and other bodies of water. Deforestation is another problem facing India, as the country loses natural habitats and trees that are vital for carbon sequestration and the maintenance of biodiversity. The loss of these habitats is also harming the many species of animals that call them home. India's rapidly growing population is also putting pressure on the environment, as more resources are being consumed and waste is being produced.

The government and individuals must work together to address these issues and implement sustainable solutions to protect India's environment for future generations. Protecting the environment is crucial for the long-term well-being of the country and its citizens. It is also an important aspect of sustainable development, as a healthy environment is necessary for economic growth and the improvement of living standards. There are several legislative and constitutional efforts in place to protect the environment in India, but there is still a need for increased implementation and enforcement of these measures. It is also important for individuals and organizations to take action to protect the environment and promote sustainable practices.

India is home to a diverse array of natural resources and ecosystems, but these are under threat due to a range of environmental issues such as pollution and deforestation. To protect the environment and address these issues, the Indian government has implemented several constitutional and legislative measures.

At the constitutional level, Article 48A of the Indian Constitution requires the state to protect and improve the environment, as well as safeguard forests and wildlife. Article 51A(g) also imposes a duty on every citizen to protect and improve the natural environment, including forests, lakes, rivers, and wildlife, and to have compassion for living creatures. In addition, Article 21 guarantees the right to a clean and healthy environment, which has been interpreted by the Supreme Court to include the right to clean air and water, as well as the right to protection from environmental pollution and degradation.<sup>1</sup>

At the legislative level, India has several laws in place to protect the environment. The National Environment Policy, enacted in 2006, outlines the government's goals and strategies for protecting natural resources and addressing environmental issues. The Indian Forest Act of 1927 and the Wildlife Protection Act of 1972 aim to protect India's forests and wildlife, while the Water (Prevention and Control of Pollution) Act of 1974 and the Air (Prevention and Control of Pollution) Act of 1981 regulate water and air pollution. The Environment Protection Act 1986 is a significant piece of legislation in India that aims to protect and improve the environment. This act provides a framework for the prevention, control, and abatement of environmental pollution, as well as the conservation of natural resources. It also

establishes the powers and responsibilities of the central and state governments with environmental protection, and empowers the central government to take measures to prevent, control, and abate environmental pollution. The act also establishes the Central Pollution Control Board and State Pollution Control Boards to advise the governments on matters related to the prevention, control, and abatement of pollution, and to enforce the provisions of the act. The Environment Protection Act 1986 serves as an important tool for safeguarding the environment in India and promoting sustainable development.

Thus, India is a land of diversity and richness, both in terms of culture and natural beauty. However, as the country continues to modernize and industrialize at a rapid pace, it is essential to ensure that this development is sustainable and that the environment is protected. This means taking steps to conserve natural resources, minimize pollution and waste, and adopt eco-friendly practices. In recent years, India has made significant progress in this regard, with initiatives such as the Swachh Bharat Abhiyan (Clean India Campaign) and the National Action Plan on Climate Change. However, there is still much work to be done to ensure that India's development is both sustainable and equitable and that the country's precious natural heritage is preserved for future generations. Overall, these constitutional and legislative efforts play a crucial role in protecting the environment in India and addressing the various environmental challenges facing the country.

## 2. Emergence National Green Tribunal in India

Several factors have contributed to the creation and growth of the National Green Tribunal (NGT) in India. An important factor was the 42nd Amendment's incorporation of environmental issues into the Constitution, specifically Article 48A, which directs the government to protect the country's forests and wildlife. The Supreme Court of India has also been instrumental in furthering environmental protection through its leadership on environmental issues and in the extension of Article 21 to include the right to a clean and green environment. The right to a healthy environment, clean air and water, and proper sanitation are all integral to a dignified existence. Additionally, courts can award exemplary damages to polluters as a deterrent. In 1995, new environmental courts were established, including the National Environmental Tribunal and the National Environmental Appellate Authority, but they were not implemented or used effectively. International environmental law initiatives, such as the Rio Declaration and the Aarhus Convention, have emphasized the need to increase access to environmental justice for the general public. Judiciary's role in advocating the environmental court system eventually led to the establishment of the NGT, with three landmark cases of the Hon'ble Court leading the legislature to set up green courts-

1. *M.C. Mehta v. Union of India*;<sup>ii</sup>

2. *The Indian Council for Enviro-Legal Action v. Union of India*;<sup>iii</sup>

3. *A.P. Pollution Control Board v. M.V. Nayudu*.<sup>iv</sup>

In a move led by the court, India's parliament has considered the recommendation of the Law Commission to establish specialized environmental courts. According to the Law Commission's 186th Report in 2003, these courts are necessary due to the technical and scientific nature of environmental issues that come before the courts, and the lack of judicial knowledge on these subjects. The report also pointed out that the National Environmental Appellate Authority and National Environmental Tribunal, established under respective acts in 1997 and 1995, are non-functional and merely exist on paper.<sup>v</sup>

Thus, On July 29, 2009, the Indian Parliament introduced the National Green Tribunal Bill, which aimed to establish a Green Tribunal for the effective management and protection of natural resources and forests.<sup>vi</sup> The bill was approved by the President on June 2010, and officially announced on October 18, 2010. As a result, the National Green Tribunal (NGT) was established on October 18, 2010, as outlined in Section 3 of the National Green Tribunal Act, 2010. The Act gives the Central Government the power to establish the NGT through a notification, granting it the jurisdiction, powers, and authority necessary to carry out its duties as outlined in the Act.<sup>vii</sup>

## 3. Purpose and Jurisdiction of National Green Tribunal

The purpose of the National Green Tribunal (NGT) is to ensure the effective management and preservation of natural resources and forests in India. It was created to serve as a specialized court that deals specifically with cases related to environmental protection and conservation. The NGT is responsible for hearing cases related to issues such as air and water pollution, waste management, and the conservation of forests and other natural resources. It has the authority to issue orders and directives to government agencies, individuals, and organizations to help protect the environment and ensure the sustainable use of natural resources. The NGT is an important institution that helps to ensure that the natural environment in India is protected and preserved for future generations. The preamble to the National Green Tribunal Act 2010 outlines the reasons for establishing the NGT: -

*"An Act to provide for the establishment of a National Green Tribunal for the effective and expeditious disposal of cases relating to environmental protection and conservation of forests and other natural resources including enforcement of any legal right relating to the environment and giving relief and compensation for damages to persons and property and matters connected therewith or incidental thereto."*

The National Green Tribunal (NGT) Act allows the court to handle all civil conflicts involving environmental matters, including the enforcement of legal rights related to the environment. This jurisdiction applies to cases stemming from the implementation of legislation listed in Schedule I.<sup>viii</sup> The Seven enactments specified in Schedule 1 of the NGT Act are the following:

1. The Water (Prevention and Control of Pollution) Act, 1974;
2. The Water (Prevention and Control of Pollution) Cess Act, 1977;

3. The Forest (Conservation) Act, 1980;
4. The Air (Prevention and Control of Pollution) Act, 1981;
5. The Environment (Protection) Act, 1986;
6. The Public Liability Insurance Act, 1991; and
7. The Biological Diversity Act, 2002.

The NGT has authority in situations where there is a significant issue related to the protection of the environment and the conservation of natural resources in India. Subsection (m) of Section 2 defines a "significant issue related to the environment" as one that falls within the NGT's jurisdiction.

#### 4. Elevating sustainable development through the National Green Tribunal

The National Green Tribunal (NGT) is a judicial body that works towards the advancement of sustainable development in India. By providing a platform for the enforcement of environmental laws and the resolution of disputes related to environmental protection, the NGT helps ensure that the country's growth does not come at the expense of its natural resources. The NGT has taken various steps to promote sustainable development, such as imposing fines on polluting industries and enforcing the rehabilitation of damaged areas. These efforts have led to improvements in the nation's environmental quality and overall development. Through the NGT's commitment to sustainable development, we can strive for a future where economic progress is balanced with the conservation of the environment for the benefit of current and future generations.

Sustainable development is defined as meeting existing demands while not compromising the capacity of future generations to do the same.<sup>ix</sup> This concept aims to achieve an equilibrium between the rate of development and the standard of the environment. The phrase "sustainable development" was first used in the publication *Our Common Future* by the World Commission on Environment and Development (WCED) in the year 1987. (The Brundtland Commission). The World Commission on Environmental Development (WCED) defines sustainable development as a process of change in which resource exploitation, investment allocation, technological development orientation, and institutional changes are coordinated with one another, thereby enhancing the capacity of both present and future generations to meet human needs and aspirations. Section 20 of the National Green Tribunal Act, 2010 states that in rendering any order, decision, or award, the Tribunal shall adhere to the principles of sustainable development, the precautionary principle, and the polluter pays principle.

The application of sustainable development as an equitable concept has legitimized the notions of proportionality, prudence and inter-generational equality. In the case, *M/s Riverside Resorts Ltd v. Pimpri Chinchwad Municipal Corporation*<sup>x</sup>, The National Green Tribunal (NGT) delved into the meaning of the term "development" concerning a proposed construction project. The issue at hand involved the building of a crematorium in a prohibited area (a river bank) that could potentially cause significant

harm to the environment through the narrowing of the river and increased risk of damage to crops, property, or people in the area. The NGT determined that the crematorium, which serves as a public utility for disposing of deceased bodies, does not qualify as a "developmental activity" or "sustainable development" as defined by environmental laws. The construction would not result in any new production or development and therefore, the proposed project was deemed illegal and halted.<sup>xi</sup>

*Tribunal at its Motion v. Ministry of Environment & Forests*<sup>xii</sup>, the National Green Tribunal (NGT) has ruled that the protection of wildlife is an integral aspect of the environment and hence comes within its purview. The NGT has issued strict guidelines for cases where river water has become contaminated or polluted. The NGT holds that any action that harms or harms wildlife will be subject to judicial action. Therefore, it is clear from this decision that the tribunal also does not allow environmental degradation in the name of development and tries to reconcile development and the environment under sustainable development.

In the case of *Vardhaman Kaushik v. Union of India*,<sup>xiii</sup> the National Green Tribunal (NGT) has issued a directive prohibiting the use of both heavy and light diesel vehicles older than ten years on roads within the National Capital Region (NCR). Additionally, the NGT has instructed all registering authorities in Haryana, Uttar Pradesh, and the National Capital Territory of Delhi to refuse registration for any diesel vehicles older than ten years and to report such vehicles to the police and other relevant authorities. The NGT has also implemented a ban on the registration of petrol vehicles over 15 years old in the NCR. As part of its efforts to mitigate pollution and reduce traffic congestion in the region, the NGT has also mandated the development of an action plan for the phasing out of diesel vehicles, particularly trucks, used by various organizations.

In the case of *Save Mon Region Federation and Ors. v. Union of India and Ors*<sup>xiv</sup>, a hydropower project valued at INR 6,400 crore was denied environmental clearance following an appeal by the Save Mon Region Federation and a social activist. The Black-necked Crane, a species protected under the Wildlife Protection Act of 1972 and classified as a Schedule 1 species by the Appellants' "Threatened Birds of India" literature, as well as other rare and endangered species such as the snow leopard and red panda, reside in the area where the project was proposed. The National Green Tribunal (NGT) subsequently suspended the project's environmental clearance and directed the Expert Appraisal Committee (EAC) to re-evaluate the proposed clearance. The NGT also ordered the Ministry of Environment and Forest to conduct a thorough assessment of the impact of the project on the aforementioned protected species. This case shows clearly the meaning of sustainable development. The tribunal rejected a proposal that would have caused harm to the environment, emphasizing the importance of preserving endangered species and achieving sustainable development that is balanced with the needs of the environment. The concept of sustainable development includes not only progress but also the integration of environmental considerations.

In the *Durga Dutt v. State of Himachal Pradesh*<sup>xv</sup> decision, the Tribunal emphasized the importance of the precautionary principle in promoting sustainable development and preserving the environment. The case involved issues of environmental degradation and harm to the Rohtang Pass Valley glacier, a popular tourist destination in India known as the "Crown Jewel of Tourism in India." Overcrowding, misuse of natural resources, construction, litter, deforestation, and global warming had caused environmental problems in the area. The Tribunal determined that it was necessary to take action to restore the damaged glacier and prevent further damage, including implementing regulations on vehicular traffic, stricter emission standards, use of natural gas and other environmentally-friendly fuels, prohibition on plastic bags and littering, and a ban on the commercial activity at the glacier. This case marked the first time that global warming was recognized as an environmental threat in India.

Thus, it is clear that, in certain notable cases, the tribunal has interpreted the principle of sustainable development in conjunction with the principles of "polluter pay" and precaution. Essentially, this means that those who contribute to environmental pollution or degradation should be

held responsible for the costs of cleaning it up and that steps should be taken to prevent such harm from occurring in the first place. Importantly, the goal of environmental protection is a key component of the principle of sustainable development.

## 5. Conclusion

The National Green Tribunal (NGT) has been playing an important role in promoting sustainable development and protecting the environment in India. As a forum for addressing issues of environmental justice, the NGT applies principles of international environmental law and considers the relationship between human rights and environmental protection. This has resulted in decisions that broaden standing, enhance government accountability, enhance the public interest, and address both economic development and environmental protection. However, regulatory enforcement in India is relatively weak, highlighting the importance of the NGT and other mechanisms in promoting sustainable development and protecting the environment. Overall, the NGT's stewardship and social policy role has enhanced its status and popular expectation as a key player in promoting sustainable development and protecting the environment in India.

## References

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- <sup>ii</sup> 1986(2) SCC 176
- <sup>iii</sup> (1996) 3 SCC 212
- <sup>iv</sup> (1999) 2 SCC 718
- <sup>v</sup> <https://cdnbbsr.s3waas.gov.in/s3ca0daec69b5adc880fb464895726dbdf/uploads/2022/08/2022081021-1.pdf>
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- <sup>vii</sup> Tripathi, S. C. Environmental Law. Seventh, Central Law Publications, 2019 P.648
- <sup>viii</sup> Section 14 of National Green Tribunal Act, 2010
- <sup>ix</sup> <https://www.sd-commission.org.uk/pages/what-is-sustainable-development.html>
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- <sup>xi</sup> Gill, Gitanjali [Gita]. (2014). The National Green Tribunal of India: A Sustainable Future through the Principles of International Environmental Law
- <sup>xii</sup> Original Application No. 16 of 2013 (CZ) dated 4-4-2014
- <sup>xiii</sup> Order passed on 7th April 2015 by the Principal Bench, New Delhi
- <sup>xiv</sup> Appeal No. 39 of 2012
- <sup>xv</sup> Judgment dated 6 February 2014