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Between Activism and Inefficiency: A Critical Analysis of the National Green Tribunal

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ABSTRACT

The National Green Tribunal (NGT) was established as a landmark step in the mechanism of environmental governance in India, intended to secure the swift resolution of ecological disputes. Since it became operational in 2010, the NGT has been commended for its initiative on pollution, forest protection, and sustainable development. Over time, however, a gap has become apparent between what the Tribunal rules and what is achieved in practice. This paper examines the way in which the NGT alternates between activism and ineffectiveness. It argues that, even as the Tribunal expands environmental law through progressive interpretations of the precautionary and polluter-pays principles, its work is undermined by weak enforcement, administrative backlog, and the absence of any concrete compliance mechanism. The paper contends that this produces a form of judicial greenwashing: the law appears green, but the ecological effects are largely absent in practice. Through an overview of leading cases and areas of practice, the paper emphasizes the need for reforms that would allow the NGT to move beyond symbolic rulings and to advance environmental justice in reality.

Keywords: National Green Tribunal, environmental justice, judicial greenwashing, enforcement, sustainable development.

I. INTRODUCTION

The environmental challenges confronting India are acute, driven by rapid industrialization, urbanization, and resource depletion. Recognizing the need for a dedicated forum to resolve environmental disputes, Parliament established the National Green Tribunal under the National Green Tribunal Act, 2010.¹ The Tribunal was conceived as a permanent specialized body that could dispose of cases expeditiously, relieving the ordinary courts while protecting forests,

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¹THE NATIONAL GREEN TRIBUNAL ACT, 2010, No. 19 of 2010, Acts of Parliament, 2010 (India) [hereinafter NGT Act]. The Tribunal became operational on 18 October 2010, with its principal bench at New Delhi and zonal benches at Bhopal, Pune, Kolkata, and Chennai.

controlling pollution, and advancing sustainable development. Since its inception, the NGT has been a significant force in environmental law, entrenching principles such as the precautionary principle, intergenerational equity, and the polluter-pays doctrine.² It has not hesitated to intervene and to direct industries, government bodies, and local authorities on matters of air pollution, water pollution, and waste management. It is largely because of this proactive stance that the NGT is regarded as an influential environmental court internationally.

That activism has nonetheless attracted criticism. The central difficulty is that the orders issued by the Tribunal are not always implemented on the ground. A lack of coordination among regulators, bureaucratic inertia, and the absence of any clear mechanism for monitoring enforcement weaken the Tribunal's effect. Limited regional benches, staffing shortages, and procedural delays compound the problem.³

This produces what may be described as judicial greenwashing: activism that appears impressive on paper but does not translate into ecological benefit in practice. The court appears friendly to the environment yet delivers little real protection. Against this backdrop, this paper critically evaluates the performance of the NGT, examining its jurisprudence, the institutional barriers it faces, and its enforcement procedures, in order to assess whether the Tribunal genuinely delivers environmental justice or remains confined to symbolic rhetoric.

II. II. THEMATIC DISCUSSION

A. The NGT's Activist Jurisprudence

India has significantly changed its approach to environmental litigation, moving away from the ordinary courts towards a specialized institution capable of addressing complex cases promptly and effectively. The NGT was inaugurated in 2010 to remedy the delays and technical difficulties that characterized litigation in the ordinary courts. Yet the Tribunal at times conflates activism with systemic dysfunction, which raises the question whether its work is substantive or merely symbolic.

In doctrinal terms, the NGT has contributed substantially to environmental law, consistently upholding the principles of sustainable development, precaution, and polluter-pays. Although the Supreme Court had earlier articulated these principles, the NGT applies them in a uniform

²NGT Act, *supra* note 1, § 20 (requiring the Tribunal to apply the principles of sustainable development, the precautionary principle, and the polluter-pays principle).

³Shibani Ghosh, *Environmental Justice in India: The National Green Tribunal and Expert Members*, 5 TRANSNAT'L ENVTL. L. 175 (2016).

and specialized manner.⁴ The Tribunal is willing to intervene when the environment is under threat, making firm demands of firms, local governments, and state authorities, a form of judicial activism that seeks to close regulatory gaps. The principle of absolute liability and the polluter-pays doctrine, first developed by the Supreme Court, supply the doctrinal foundation on which the Tribunal builds.⁵

Critics contend that the NGT occasionally strays into the domain of governance, issuing orders that are difficult to implement or that require substantial administrative capacity to apply. While such intervention may be justified by urgency, it raises the question whether the Tribunal sometimes overreaches, and whether the implementing agencies are in a position to comply. The true test of judicial activism is not the soundness of the judges' reasoning alone, but whether the agencies can translate the orders into practice. The gap between what the Tribunal proclaims and what actually occurs on the ground diminishes its authority.

B. Judicial Greenwashing: The Gap Between Pronouncement and Enforcement

A central challenge for the institution is that the NGT possesses no enforcement machinery of its own and depends heavily on executive bodies to give effect to its orders. This structural limitation means that the relevant regulators are frequently short of resources, bound by bureaucratic procedure, and poorly coordinated. However sound and progressive the judgments may be, many fail to achieve their object because they are not properly enforced. The distance between pronouncement and action is the essence of judicial greenwashing: the appearance of vigorous environmental protection without any corresponding change on the ground.

Judicial greenwashing is especially visible in the fate of the NGT's landmark decisions. The Tribunal has issued bold directions on air pollution, river pollution, and illegal mining, yet the practical effect has often been limited. In addressing the severe pollution of the River Yamuna, the Tribunal mandated a comprehensive restoration programme, the Maily Se Nirmal Yamuna project, requiring the installation of numerous sewage treatment plants and the cessation of dumping in the river bed.⁶ Confronting the air quality crisis in the National Capital Territory of Delhi, the Tribunal directed a range of measures, including restrictions on older diesel vehicles and the burning of waste.⁷ In the field of solid-waste management, the Supreme Court's direction in the long-running litigation initiated by Almitra Patel compelled the framing of

⁴Lavanya Rajamani, *Public Interest Environmental Litigation in India: Exploring Issues of Access, Participation, Equity, Effectiveness and Sustainability*, 19 J. ENVTL. L. 293 (2007).

⁵M.C. Mehta v. Union of India, (1987) 1 S.C.C. 395 (establishing the principle of absolute liability for enterprises engaged in hazardous activities).

⁶Manoj Misra v. Union of India, Original Application No. 6 of 2012 (N.G.T. Jan. 13, 2015).

⁷Vardhaman Kaushik v. Union of India, Original Application No. 21 of 2014 (N.G.T. Apr. 7, 2015).

comprehensive municipal solid-waste rules.⁸ In each instance, ambitious standards were diluted at the stage of enforcement through a combination of political resistance, financial constraint, and the absence of monitoring, while local authorities and stakeholders frequently resisted compliance, producing partial or delayed results.

Judicial greenwashing also has a symbolic dimension. By presenting progressive decisions to the public, the NGT can create the impression that the system is addressing environmental problems, thereby reducing the perceived urgency of structural change. While judicial intervention is necessary, it cannot substitute for sound policy execution and administration. There is a corresponding risk in relying excessively on the courts to resolve systemic problems that demand concerted action across institutions.

C. Institutional, Infrastructural, and Governance Constraints

Compliance is further impeded by the weakness of environmental governance in India. Central, state, and local agencies carry overlapping responsibilities, and as a result matters become mired in bureaucratic delay. The absence of clear accountability and coordination commonly translates into delay and disorganized outcomes. Orders relating to waste handling or pollution control, for instance, require the combined action of municipal bodies, pollution control boards, and state governments. Without strong institutions to compel collaboration, compliance remains patchy and, in many cases, superficial.

A further source of inefficiency lies within the NGT itself, in its administrative and infrastructural constraints. Although the Tribunal has nationwide jurisdiction, it sits in only a small number of benches, which means that people in remote areas can scarcely access it. It also lacks sufficient judicial and technical personnel, which slows the disposal of cases. The NGT was intended to accelerate the resolution of environmental disputes, yet this aim is hampered by a steady inflow of cases and limited capacity, raising concerns about the Tribunal's long-term sustainability.

The difficulties of the NGT cannot be attributed to institutional failings alone. Indian environmental governance operates within a wider socio-political and economic setting in which development frequently takes precedence over sustainability. The competing imperatives of economic growth and environmental protection shape how the Tribunal's orders are implemented. Strong regulatory measures may meet resistance from industries and state governments concerned with investment and employment, and these competing interests pose

⁸Almitra H. Patel v. Union of India, (2000) 2 S.C.C. 679.

an additional obstacle to enforcement, reducing the likelihood that the Tribunal will achieve its intended outcomes.

D. Public Participation and the Higher Judiciary

The role of publicity and civil society in the work of the NGT also merits attention. One positive feature of the Tribunal is that its procedures tend to be relatively open, allowing individuals and groups to bring environmental grievances before it. Public interest litigation has influenced and broadened the scope of its work. The effectiveness of such participation, however, depends upon the responsiveness of the system. When the Tribunal's orders are not complied with, stakeholders become disillusioned and general trust in the institution erodes.

Equally significant is the relationship between the NGT and the higher courts, namely the Supreme Court and the High Courts. Although the Tribunal was established as a specialized forum, the existence of multiple jurisdictions and avenues of appeal can produce inconsistency. Appeals to the Supreme Court may stall or modify the Tribunal's decisions, which complicates the task of the executive. This generates further difficulty in enforcement and raises questions about the consistency of environmental law in India.

E. Pathways to Reform

The principal remedy for the inefficiencies of the NGT lies in capacity building. Strengthening the institution entails increasing the number of benches and members and enhancing technical expertise. Environmental disputes are scientifically and technically complex and require specialist knowledge, so equipping the Tribunal with adequate expertise is essential to informed decision-making. Capacity building should also extend to the implementing agencies, which are indispensable to translating judicial directions into action.

Well-developed monitoring and accountability are equally necessary. Orders are poorly observed unless their implementation is monitored. Establishing independent monitoring agencies, or deploying technology to track compliance, would be more effective than the present arrangements. The enforcement deficit might also be addressed through meaningful penalties for non-compliance and rigorous follow-up.

The concept of judicial greenwashing invites a broader reflection on the contribution of environmental courts to sustainable development. Institutions such as the NGT cannot act in isolation. Genuine environmental protection requires a comprehensive approach that integrates law, administration, and policy. The limitations of the NGT indicate the need for more rigorous legislation, improved coordination, and a stronger commitment to sustainability on the part of policymakers.

F. A Balanced Assessment

Any assessment of the NGT's performance must be balanced, acknowledging both its achievements and its limitations. The Tribunal has clearly advanced environmental law and raised public awareness. It has helped to build a robust normative framework, and its activist stance has given voice to environmental grievances. That gaps in implementation and institutional shortcomings nevertheless persist is a clear indication that the NGT must be refined if it is to become more effective.

Ultimately, the interplay between activism and ineffectiveness reflects a larger pattern within Indian environmental governance. Necessary judicial intervention cannot fill the gaps in administrative capacity or political will. Remedying judicial greenwashing requires a comprehensive systemic overhaul, including improved coordination among agencies, stronger instruments of accountability, and a culture of compliance that is genuinely observed in practice.

In sum, the NGT embodies a combination of promise and constraint. Its activist decisions mark a significant step towards stronger environmental protection, even as real change is deferred by structural inefficiencies and enforcement gaps. The concept of judicial greenwashing helps to expose the loose fit between the court's statements and what actually occurs. Bridging that gap is essential if the NGT is to deliver meaningful environmental justice over the long term.

III. CONCLUSION

The NGT, established by the 2010 Act, marked a decisive change in the way India addresses environmental questions, shifting adjudication from the ordinary courts to a specialized, expert body. The Tribunal has since done much to strengthen environmental law, advancing ideas such as sustainable development, the precautionary principle, and the polluter-pays principle. Its pragmatic and at times assertive approach has earned it genuine standing in confronting pressing environmental problems and in holding government and other responsible parties to account. As this paper has shown, however, the NGT continues to balance the closely related tensions between judicial activism and institutional inefficiency. Although it hands down incisive and demanding judgments, the difficulty lies in translating them into real environmental gains. Many of the Tribunal's orders founder on weak enforcement, dependence on executive agencies, and inadequate compliance systems. The gap between good intentions and practical impact is what this paper terms judicial greenwashing: ambitious legal pronouncements that lead the public to believe protection is being delivered when it is not.

This shortcoming is not confined to the NGT; it is embedded in the wider system of environmental governance in India. Fragmented regulation, bureaucratic delay, political and

economic pressure, and a lack of coherence among institutions all impede enforcement. Even well-crafted legal interventions struggle to produce lasting effects in such an environment. Environmental adjudication cannot, therefore, operate in a vacuum; it requires sound administration and political support.

At the same time, it would be a mistake to dismiss the NGT as a mere formality. The Tribunal has eased access to justice, provided a clear channel for environmental grievances, and contributed to the development of environmental law. It has raised awareness, shaped debate, and influenced policy in ways that cannot be discounted. Nonetheless, its success will ultimately be measured by how effectively its rulings are implemented over the long term.

Looking ahead, substantial and far-reaching reform is required to remedy the structural and operational weaknesses of the NGT. Strengthening enforcement, building institutional capacity, enhancing coordination, and establishing genuine monitoring systems would help to narrow the gap between court orders and environmental reality. In addition, greater political will and administrative accountability are needed to ensure that the environment is not sacrificed to short-term economic gain.

Ultimately, the NGT has both strengths and weaknesses. Although it has made real progress in advancing environmental justice, its impact remains constrained by systemic obstacles and enforcement failures. Addressing judicial greenwashing requires a comprehensive, multi-level response that extends beyond the judiciary and reforms the broader institutional and governance framework. Only then can the NGT fulfil its purpose of delivering enforceable, long-term environmental justice in India.

IV. REFERENCES

Books and Reports

1. P. LEELAKRISHNAN, ENVIRONMENTAL LAW IN INDIA (5th ed. 2019).
2. GURDIP SINGH, ENVIRONMENTAL LAW IN INDIA (2d ed. 2016).
3. UPENDRA BAXI, THE FUTURE OF HUMAN RIGHTS (3d ed. 2017).
4. MINISTRY OF ENVIRONMENT, FOREST AND CLIMATE CHANGE, ANNUAL REPORT 2022-23 (Gov't of India 2023).
5. LAW COMMISSION OF INDIA, PROPOSAL TO CONSTITUTE ENVIRONMENT COURTS, Report No. 186 (2003).
6. U.N. ENVIRONMENT PROGRAMME, ENVIRONMENTAL RULE OF LAW: FIRST GLOBAL REPORT (2019).
7. WORLD BANK, STRENGTHENING ENVIRONMENTAL GOVERNANCE IN INDIA (2020).

Journal Articles

1. Lavanya Rajamani, *Public Interest Environmental Litigation in India: Exploring Issues of Access, Participation, Equity, Effectiveness and Sustainability*, 19 J. ENVTL. L. 293 (2007).
2. Shibani Ghosh, *Environmental Justice in India: The National Green Tribunal and Expert Members*, 5 TRANSNAT'L ENVTL. L. 175 (2016).
3. Arpita Biswas, *Judicial Activism and Environmental Protection in India*, 10 NUJS L. REV. 231 (2018).
4. Anirudh Shukla, *Effectiveness of Environmental Tribunals in India*, 7 INDIAN J. ENVTL. L. 89 (2019).
5. Surya Deva, *Sustainable Development and Environmental Jurisprudence*, 24 J. ENVTL. L. 23 (2012).
6. Shailesh Kumar, *National Green Tribunal: A Critical Analysis*, 12 INDIAN B. REV. 112 (2020).
7. Ritesh Kumar Singh, *Environmental Governance and Judicial Intervention in India*, 9 J. INDIAN L. INST. 341 (2017).
8. Neha Mishra, *Green Tribunal and Access to Environmental Justice*, 13 ILI L. REV. 201 (2021).

Statutes and Legal Instruments

1. THE NATIONAL GREEN TRIBUNAL ACT, 2010, No. 19 of 2010, Acts of Parliament, 2010 (India).
2. THE ENVIRONMENT (PROTECTION) ACT, 1986, No. 29 of 1986, Acts of Parliament, 1986 (India).
3. THE WATER (PREVENTION AND CONTROL OF POLLUTION) ACT, 1974, No. 6 of 1974, Acts of Parliament, 1974 (India).
4. THE AIR (PREVENTION AND CONTROL OF POLLUTION) ACT, 1981, No. 14 of 1981, Acts of Parliament, 1981 (India).

Cases

1. Manoj Misra v. Union of India, Original Application No. 6 of 2012 (N.G.T. Jan. 13, 2015).
2. Vardhaman Kaushik v. Union of India, Original Application No. 21 of 2014 (N.G.T. Apr. 7, 2015).
3. Almitra H. Patel v. Union of India, (2000) 2 S.C.C. 679.
4. M.C. Mehta v. Union of India, (1987) 1 S.C.C. 395.
