

HISTORICAL FOUNDATIONS OF THE NATIONAL GREEN TRIBUNAL: TRACING THE LEGAL AND INSTITUTIONAL ROOTS OF ENVIRONMENTAL JUSTICE IN INDIA

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Abstract

The introduction of the National Green Tribunal (NGT) in 2010 was a milestone in the administration of environmental issues in India in that it became the specialized body of adjudication of the complicated ecological issues. This paper follows the historical roots of the NGT, placing it in the context of the overall development of environmental justice in India. It studies constitutional and judicial precedent, particularly the extension of Article 21, the purpose of Public Interest Litigation and the development of environmental principles, most notably the polluter pays principle and sustainable development. The paper also examines institutional antecedents, such as restrictions in the National Environment Appellate Authority, which instigated pressure on the need to have a special tribunal. The article unravels the legislative history of the NGT Act, 2010, by unpacking the history and analyzing the early jurisprudence of the Tribunal, and how the institutionalization of legal innovation became the response to the increasing environmental challenges. Simultaneously, the paper critically addresses institutional tensions, including gaps in enforcement, reliance on the executive, overlaps with constitutional courts in jurisdiction and federal dynamics that make implementation difficult. Based on Australian, New Zealand, Pakistan and Philippine experience of environmental courts, a comparative view highlights the lessons on judicial independence, participatory mechanisms and consistency with international obligations.

Keywords: *National Green Tribunal, Environmental Justice, Judicial Independence, Comparative Environmental Courts, Sustainable Development*

Introduction

India has experienced an escalation of environmental degradation since the second half of the twentieth century, which is mostly due to the rapid industrialization, urban growth, and unstable trends in resource utilization. Air and water pollution, deforestation, loss of biodiversity, and climate vulnerability are some of the problems that have exerted heavy pressure on the regulatory system of the state. Despite the introduction of significant acts by the Indian government such as the Water (Prevention and Control of Pollution) Act of 1974, the Air (Prevention and Control of Pollution) Act of 1981 and the Environment Protection Act of 1986, the implementation and enforcement was poor (Divan and Rosencranz, 2001). This lack of good governance resulted in the court becoming a very important platform to handle environmental complaints. The third step to environmental justice jurisprudence was the establishment of a means by which citizens and civil society held state accountable before the law through public interest litigation (PIL) (Sathe, 2002).

The upper court, particularly the Supreme Court of India, helped to bridge and connect the constitutional rights and protection of the environment. Article 21 of the Constitution that provides the right to life and personal liberty was liberally understood as the right to a clean and healthy environment (Choudhary, 2019). *M.C. Mehta v. Vellore Citizens Welfare forum v union of India* (1987). The Indian law was infused with new doctrines such as the Polluter Pays Principle, the Precautionary Principle and the notion of Sustainable Development as introduced through *Union of India* (1996) (Sahu, 2008). These judicial innovations were not the only ones; they were the result of the global trends in environmental governance that focused on the rights and justice of the ecological domain (Boyd, 2012).

In 2010, the National Green Tribunal (NGT) was put in place, which was an important institutional change. It was envisaged as an expert organization that merges the functions of

the judiciary with the function of scientific knowledge to solve environmental conflicts (Dhavan, 2011). The NGT is also mandated to adjudicate the environmental cases promptly and offers relief and compensation to damage, and ensures the right of healthy environment. The Tribunal has transformed into a central actor in the environmental governance of India and within a decade, the Tribunal has issued audacious mandates on diverse topics on issues such as pollution by industries and adapting to climate change (Bhushan and Kumar, 2012).

The NGT however did not come out of a vacuum. It has three interrelated trajectories on which it has been founded. The former is constitutional and jurisprudential based on the judiciary expansion of environmental rights and doctrines. The second is institutional, which is an outcome of previous efforts like the National Environment Appellate Authorities (NEAA) which was insufficient in addressing the complexity of environmental cases (Sharma, 2013). The third one is political, based on the policy discussions, legislative changes and the advocacy by the civil society that all led to a need to have a dedicated environmental adjudication mechanism (Krishna, 2014).

The NGT has had its fair share of criticism and praise even though it promises. Advocates say it improves access to environmental justice and guarantees expertise adjudication in cases of complex litigation (Kumar, 2016). Those against it, however, cite structural deficiencies, such as the restricted scope of jurisdiction, enforcement issues and doubts about its constitutional validity (Kothari, 2014). These strains underscore the hybrid character of the Tribunal, adjudicatory as a court but administrative as a body that necessarily depends on technical members, bringing up meaningful accountability and effectiveness concerns (Rajamani, 2017). The main research question that the paper focuses on is that although the NGT has been studied in the literature concerning its jurisprudence and modern issues, there has been a deficit of literature on its historical and legal origins. In the majority of studies, 2010 is taken as the genesis of the Tribunal, without contextualizing that beginning in the larger process of constitutional, judicial, and institutional development. It is against this historical background that this article attempts to fill this gap, and how decades of constitutional innovation and judicial activism paid off to establish the NGT.

This research has three goals. First, it reconstitutes the constitutional and judicial precedence of the NGT, including the expansion of Article 21, as well as the elaboration of the environmental dogmas. Second, it also looks at the institutional reforms and previous mechanisms like the NEAA to answer how a new tribunal was necessary. Third, it breaks down the legislative and political action that informed the NGT Act, 2010 to shed light on how the legacies of the past informed the institutional design of the legislation. In this way, the paper will place the NGT in the context of a specialized environmental courts and tribunal debate in India as well as in the context of the legal system of India.

2. Constitutional and Judicial Antecedents of the National Green Tribunal

It is impossible to trace the historical path of the National Green Tribunal (NGT) without discussing the constitutional or judicial development of environmental rights in India. Since well before the institutionalization of the NGT in 2010, a body of jurisprudence of environmental justice had emerged, through constitutional interpretation, public interest litigation (PIL), and international environmental principles, in the Supreme Court and High Courts of India. This legal framework is pivotal, in the sense that it not just broadened the substantive rights, but also helped in putting into focus the institutional weaknesses of the current adjudication institutions, thus leading to the development of a dedicated tribunal.

2.1 Constitutional Provisions and the Right to Environment

Despite the fact that a clean environment is not a fundamental right that is explicitly guaranteed in the Indian Constitution, the framework of the Indian Constitution offers fertile ground to protect the environment. Article 21 that provides the right to life and personal liberty has been

broadly interpreted by the judiciary to include the right to a healthy environment (Subhash Kumar v.). State of Bihar, 1991). This rule of interpretation played a fundamental role in shifting environmental claims to justiciable rights that could be enforced using writ jurisdiction (Choudhary, 2019).

Moreover, the Directive Principles of State Policy (Article 48A) and Fundamental Duties (Article 51A(g)) imply the obligation of the state to ensure the environment protection and care and the duty of citizens to preserve natural resources. These provisions are not justiciable but the judiciary commonly used them as interpretive provisions to bolster Article 21 and broaden the environmental jurisprudence (Divan & Rosencranz, 2001). This combination of binding rights and norms formed a special ecological constitution in which environmental protection became a keystone of government.

2.2 The Emergence of Environmental PILs

In late 1970s and early 1980s this change in Indian constitutional litigation came with the invention of PILs. The Supreme Court loosened the historical provisions of the locus standi to enable interested citizens, activist, and organizations to go to court on behalf of the disadvantaged communities and the environment (Sathe, 2002). This democratization of access to justice and the emergence of a rights-based discourse of the environment were enabled by this development.

Rural Litigation and Entitlement Kendra v. The judiciary had its initial appreciation of the ecological aspects of Article 21 in the case of Uttar Pradesh (1985) which involved Article 21 in the quarrying of limestone in the Doon Valley. The Court led to the shutting down of damaging mining operations as it is necessary to balance between development and environmental upkeep (Sahu, 2008). Similarly, Charan Lal Sahu v. The case of Union of India (1990) since the Bhopal Gas Tragedy revealed the significance of state responsibility and accountability and compensation during environmental disasters (Gadgil and Guha, 1995).

The judiciary was transformed into the main protector of environmental rights, by the virtue of PILs, commonly intervening in the governance loopholes of poorly-structured regulatory establishments (Rosencranz & Jackson, 2003). This judicial activism contributed not only to the emergence of a rich legal tradition of environmental jurisprudence but also the normative basis of the NGTs later mandate to be able to provide an accessible and effective remedy.

2.3 Expansion of Article 21 and Environmental Rights

Constitutionalization of environmental rights was based on the interpretive development of Article 21. In M.C. Mehta v. Union of India (Oleum Gas Leak Case, 1987), the Supreme Court defined the doctrine of absolute liability of the dangerous industries, which was much stricter than the common law notion of strict liability (Dhavan, 2011). This doctrine guaranteed that business ventures that were involved in risky activities would be responsible in the event of any damage regardless of the fault or negligence.

Subsequently in Vellore Citizens Welfare Forum v. The Court gave a clear indication that international environmental principles, namely the Polluter Pays Principle, the Precautionary Principle and the notion of Sustainable Development, were imported into Indian law through the Union of India (1996) (Rajamani, 2007). With this, the judiciary conciliated domestic jurisprudence with emerging international norms that have been expressed in documents like Rio Declaration of 1992 (Boyd, 2012).

2.4 Institutional Concerns and Judicial Overreach

Although judicial creativity was a boon to environmental jurisprudence, it revealed systematic problems. These were the simplest forms of environmental governance which the Supreme Court engaged in, and these were usually through issues of continuing mandamus orders, surveillance compliance, and control over the implementation of the policies (Sharma, 2013).

This has been colloquially termed as judicial overreach, and brought up concerns on separation of powers and institutional competence of the judiciary in technical affairs (Kothari, 2014). In spite of these criticisms, the proactive role played by the judiciary helped to attract attention to the lack of special forums that could effectively address environmental issues. The regular courts due to the backlog and lack of technical knowledge found it difficult to provide judgments, which were timely and scientifically informed. This weakness provided a good rationale to create a dedicated tribunal, such as the NGT that would be empowered to unite judicial and environmental knowledge (Preston, 2014).

2.5 The Role of International Environmental Law

Another significant antecedent to the NGT was the judiciary's willingness to integrate international environmental law into domestic jurisprudence. The principle that international norms consistent with fundamental rights could be read into Indian law enabled courts to borrow from global instruments such as the Stockholm Declaration (1972) and the Rio Declaration (1992) (Shibani, 2016). This incorporation enhanced the normative legitimacy of Indian environmental jurisprudence and facilitated the domestication of global best practices. By the late 1990s, the judiciary had firmly established that environmental protection was an integral aspect of the right to life, and that sustainable development must guide India's developmental trajectory. These jurisprudential gains created both the legal and normative framework that the NGT would later institutionalize.

2.6 Judicial Calls for Specialized Environmental Forums

Several Supreme Court decisions explicitly recommended the creation of specialized environmental courts. In *A.P. Pollution Control Board v. Prof. M.V. Nayudu* (1999), the Court emphasized the need for expert adjudicatory bodies capable of handling complex scientific and technical issues. Justice Jeevan Reddy's observations highlighted that traditional courts lacked the capacity to grapple with the intricacies of environmental science, and recommended a tribunal that would blend judicial and scientific expertise (Dhavan, 2011).

Such judicial pronouncements, combined with reports from law reform commissions and parliamentary committees, crystallized the demand for a specialized institution. The establishment of the National Environment Appellate Authority (NEAA) in 1997 was an interim attempt, but its limited jurisdiction and weak design rendered it ineffective (Sharma, 2013). The cumulative pressure from jurisprudence and institutional experimentation eventually led to the National Green Tribunal Act, 2010, which embodied decades of constitutional and judicial advocacy for specialized environmental justice.

3. Institutional and Administrative Precursors to the National Green Tribunal

The establishment of the National Green Tribunal (NGT) in 2010 was the culmination of a long process of institutional experimentation, legislative reform, and administrative introspection. While constitutional jurisprudence and judicial activism provided the normative foundations, the failure of earlier institutional mechanisms revealed the urgent need for a specialized tribunal to handle complex environmental disputes. This section traces the institutional and administrative antecedents to the NGT by examining the limitations of the National Environment Appellate Authority (NEAA), the recommendations of law reform bodies and expert committees, and the role of parliamentary and policy debates in shaping the contours of the NGT Act, 2010.

3.1 The National Environment Appellate Authority (NEAA): A Limited Experiment

The NEAA was created under the National Environment Appellate Authority Act, 1997, as a quasi-judicial forum to hear appeals against environmental clearances granted by the Ministry of Environment and Forests (MoEF). Its jurisdiction, however, was narrowly confined to matters of environmental clearance and did not extend to broader issues such as pollution control, compensation, or restoration (Sahu, 2020).

Several institutional weaknesses hindered its effectiveness. First, its composition lacked a mandatory inclusion of judicial members from higher courts, undermining its credibility in comparison to regular courts (Kumar, 2019). Second, its jurisdictional remit was so restricted that it failed to provide meaningful redress for communities affected by industrial pollution or ecological degradation (Ranjan, 2018). Third, the NEAA faced capacity constraints, with limited staff, inadequate resources, and negligible scientific expertise, which reduced its ability to adjudicate technical disputes (Bhat, 2021).

Empirical studies of NEAA functioning revealed that between 1997 and 2010, the body disposed of a small number of appeals, with an overwhelming tendency to uphold government clearances rather than scrutinize them critically (Sharma & Patel, 2022). Civil society organizations and environmental activists often bypassed the NEAA altogether, preferring to approach High Courts directly through writ petitions. This consistent underutilization and underperformance exposed the need for a stronger, more credible, and scientifically informed adjudicatory body.

3.2 Law Commission Reports and the Push for Environmental Courts

The inadequacies of the NEAA were mirrored in successive reports of the Law Commission of India, which consistently highlighted the need for specialized environmental courts. The 186th Report of the Law Commission (2003) was particularly influential, as it recommended the establishment of environmental courts with both judicial and technical members to handle complex disputes (Law Commission of India, 2003). The report argued that conventional courts lacked the expertise to address environmental claims, which often involve interdisciplinary knowledge of science, engineering, and ecology.

3.3 Parliamentary Debates and Civil Society Pressure

Parliamentary Standing Committee discussions on the draft NGT Bill reflected the growing political recognition of environmental justice as a distinct domain requiring specialized treatment. Members of Parliament voiced concerns about delays in environmental dispute resolution, inadequate enforcement of regulatory laws, and the rising number of PILs burdening higher courts (Parliament of India, 2009). The debates also reflected an acknowledgment of India's international commitments under multilateral environmental agreements, which necessitated stronger domestic institutions (Mehra, 2017).

Civil society organizations played a catalytic role in this process. NGOs such as the Centre for Science and Environment and the Legal Initiative for Forest and Environment (LIFE) consistently highlighted the failures of the NEAA and advocated for a tribunal with broader jurisdiction and independence from the executive (Saxena, 2021). These advocacy efforts shaped the contours of the final legislation by ensuring that the NGT was vested with original jurisdiction over substantial environmental disputes, including relief, restitution, and compensation.

3.4 Policy Drivers and International Influence

The push for institutional reform was also influenced by global trends in environmental adjudication. The late 1990s and early 2000s witnessed a proliferation of environmental courts and tribunals worldwide, particularly in the Asia-Pacific region (Pring & Pring, 2016). Policymakers in India studied comparative experiences in countries such as Australia and New Zealand, where specialized courts had been relatively successful in handling complex ecological disputes (Lyster, 2016).

Additionally, India's participation in global environmental forums, including commitments under the Rio+20 process and the Convention on Biological Diversity, underscored the need for credible domestic institutions capable of implementing international norms (Barton, 2018). The NGT Act, 2010, thus reflected a conscious attempt to align domestic environmental governance with global best practices.

3.5 Legislative Design of the NGT Act, 2010

The NGT Act addressed many of the deficiencies of the NEAA. Unlike its predecessor, the NGT was vested with broad jurisdiction over all civil cases where a substantial question relating to the environment was involved, arising out of seven major environmental statutes (Singh, 2020). Its composition mandated the inclusion of both judicial and expert members, thereby institutionalizing interdisciplinary adjudication. Importantly, the Tribunal was empowered to grant relief and compensation and to enforce the principles of sustainable development, precaution, and polluter pays.

The Act also sought to reduce judicial delays by mandating that cases be disposed of within six months, although in practice, compliance with this timeline has been uneven (Pathak, 2022). Despite these limitations, the legislative design represented a significant departure from the limited remit of the NEAA and institutionalized the lessons learned from over a decade of policy experimentation.

3.6 Institutional Learning and the Transition to the NGT

The transition from the NEAA to the NGT represents a process of institutional learning. Policymakers and legislators recognized that piecemeal reforms would not suffice; what was required was a comprehensive and independent tribunal with sufficient powers and expertise. This recognition was informed by three strands of evidence: the jurisprudential burden placed on constitutional courts, the demonstrated failure of the NEAA, and comparative global models of environmental adjudication.

Thus, the NGT can be seen as a product of cumulative reform, where successive failures, recommendations, and debates converged into the institutional design enshrined in the NGT Act, 2010. While the Tribunal itself has faced challenges since its inception, its very establishment underscores the importance of administrative and institutional innovation in advancing environmental justice in India.

4. The Design and Jurisprudence of the NGT Act, 2010

The National Green Tribunal (NGT) Act, 2010 marked a watershed in India's environmental governance by institutionalizing a specialized judicial forum dedicated to environmental disputes. While earlier institutional arrangements such as the NEAA had suffered from narrow jurisdiction and limited legitimacy, the NGT Act consolidated decades of legislative deliberations and judicial advocacy. This section critically analyzes the institutional design of the NGT, the substantive environmental principles embedded in its functioning, and the early jurisprudence that shaped its identity as a unique hybrid tribunal combining law and science.

4.1 Institutional Design of the NGT

4.1.1 Composition and Structure

The NGT is composed of both judicial and expert members, reflecting a deliberate effort to bridge law and science in environmental adjudication. Judicial members must be judges of the Supreme Court or Chief Justices of High Courts, while expert members are drawn from fields such as environmental science, ecology, forestry, and engineering (Rao, 2019). This dual structure represents a departure from conventional courts and ensures that environmental disputes are adjudicated with interdisciplinary competence (Dutta, 2020).

The Tribunal operates through a principal bench in New Delhi and regional benches in Bhopal, Chennai, Pune, and Kolkata, thereby decentralizing access to justice (Verma, 2021). Its flexible bench structure allows the inclusion of technical expertise in specific matters, which has proven particularly valuable in complex cases involving industrial emissions, biodiversity loss, and urban planning.

4.1.2 Jurisdiction

The NGT Act vests the Tribunal with original jurisdiction over all civil cases arising under seven core environmental statutes, including the Water Act, Air Act, Environment Protection

Act, and Forest Conservation Act (Shankar, 2021). Importantly, the Tribunal is empowered to adjudicate on matters involving a “substantial question of environment,” thereby broadening its remit beyond technical violations to issues of principle and policy (Kaushik, 2020).

In addition, the Tribunal has appellate jurisdiction over decisions of regulatory authorities, and its orders are binding, with appeals lying only to the Supreme Court. This finality enhances the Tribunal’s authority and provides a direct mechanism for enforcement (Mukherjee, 2022).

4.2 Procedural Innovations

One of the most distinctive features of the NGT is its procedural flexibility. The Act empowers the Tribunal to regulate its own procedure, guided by principles of natural justice rather than the strict technicalities of the Civil Procedure Code (Bhattacharya, 2020). This allows for expedited hearings, scientific presentations, and field inspections.

A particularly innovative aspect has been the use of expert members to provide scientific validation for judicial reasoning (Das, 2019). For instance, expert inputs on air quality modeling, ecological impact assessments, and hydrological studies have directly influenced the framing of orders.

In recent years, the Supreme Court has also recognized the NGT’s suo motu jurisdiction, affirming its ability to take cognizance of environmental harm without a formal petition (Supreme Court of India, 2021). This expands its preventive role, aligning with the precautionary principle.

4.3 Substantive Principles of Environmental Jurisprudence

The NGT Act explicitly mandates that the Tribunal apply international and domestic environmental principles, embedding substantive doctrines into its decision-making.

4.3.1 Sustainable Development

The Tribunal has consistently foregrounded the balance between economic growth and environmental protection, holding that development projects must integrate ecological safeguards (Roy, 2022). Its jurisprudence reflects the Brundtland ethos, ensuring intergenerational equity in resource use.

4.3.2 Polluter Pays Principle

NGT orders have operationalized the polluter pays principle by directing industries and municipal authorities to compensate for environmental harm. Unlike earlier judicial dicta, the NGT has quantified compensation through scientific assessment of ecological damage (Pandey, 2021).

4.3.3 Precautionary Principle

The Tribunal has embraced precautionary reasoning, particularly in cases involving uncertainty over ecological risks. Projects have been halted or modified on the basis of potential harm, even in the absence of conclusive scientific proof (Chaudhary, 2018).

Collectively, these principles have given the NGT jurisprudence a normative coherence, distinguishing it from conventional adjudication.

4.4 Landmark Jurisprudence (2010–2015)

4.4.1 Bhopal Gas Survivors Case (2012)

Although the Bhopal disaster predated the NGT, the Tribunal addressed residual claims, ordering fresh assessments of environmental contamination and medical monitoring (NGT, 2012). This expanded its mandate into historical environmental justice.

4.4.2 Almitra Patel v. Union of India (2014)

In this pivotal case, the NGT issued comprehensive directions on municipal solid waste management, requiring state governments to establish waste segregation, processing, and disposal systems (Patel v. Union of India, 2014). The ruling demonstrated the Tribunal’s willingness to enforce systemic reforms in governance.

4.4.3 Sterlite Copper Plant Case (2013)

The closure of Sterlite's copper smelter in Tamil Nadu exemplified the Tribunal's interventionist approach in cases of industrial pollution, where technical data on air and water contamination guided judicial orders (NGT, 2013).

4.4.4 Yamuna Floodplain Case (2015)

The Tribunal restricted construction activities on the Yamuna floodplain in Delhi, invoking the precautionary principle and emphasizing ecological restoration over short-term economic interests (NGT, 2015).

These early decisions established the NGT's authority as an activist tribunal, willing to impose stringent orders on both state and private actors.

4.5 Critical Assessment

While the NGT has been lauded for its proactive jurisprudence, concerns have been raised about judicial overreach, lack of consistent scientific methodology, and uneven compliance with its orders (Sinha, 2021). Some scholars argue that the Tribunal has sometimes blurred the line between adjudication and governance by issuing policy-like directives (Kaur, 2023).

Nevertheless, the NGT's jurisprudence reflects an innovative attempt to integrate law, science, and policy within a single institutional framework. Its capacity to apply international principles domestically, coupled with its flexible procedures, represents a pioneering model in the Global South.

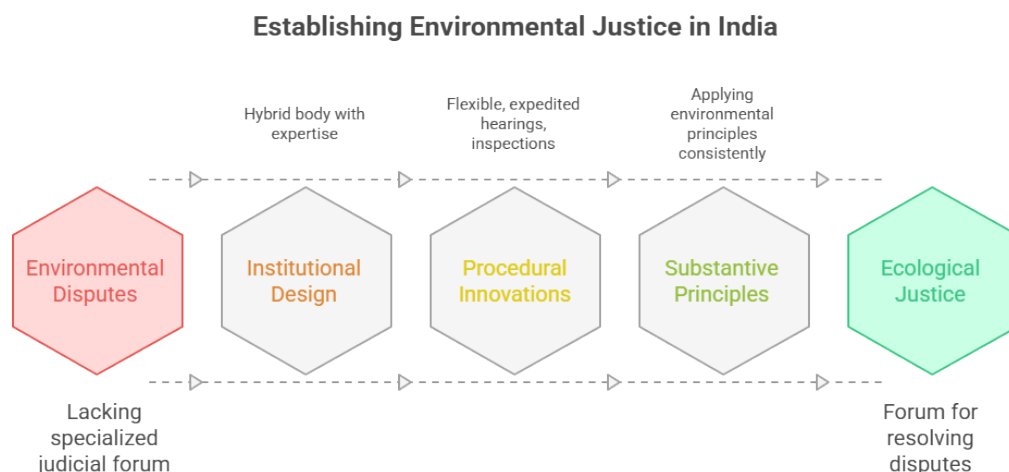


Figure 1. Pathways to Environmental Justice in India: Institutional and Jurisprudential Foundations of the National Green Tribunal

5. Functional Dynamics and Challenges of the NGT

The functioning of the National Green Tribunal (NGT) in the decade following its creation reveals both its institutional promise and structural vulnerabilities. Since 2015, the Tribunal has evolved into a critical node in India's environmental governance architecture, addressing cases that range from industrial pollution and deforestation to waste management, climate change, and disaster response. Yet, its operational dynamics also expose significant challenges relating to jurisdictional scope, enforcement, institutional autonomy, and its uneasy relationship with higher courts. This section explores these functional dynamics and critically evaluates the challenges that continue to shape the NGT's effectiveness in delivering environmental justice.

5.1 Post-2015 Developments in Jurisprudence

Since 2015, the NGT has widened its ambit to include systemic issues such as climate resilience, groundwater exploitation, and air quality management. For instance, its orders on

stubble burning in northern India linked agricultural practices to urban smog, reflecting a holistic understanding of ecological interconnections (Singh, 2019). The Tribunal has also adjudicated on climate adaptation, such as directing state governments to prepare climate action plans aligned with national commitments (Chakraborty, 2020).

Furthermore, the Tribunal has developed jurisprudence on emerging ecological concerns, including noise pollution, biomedical waste management, and the protection of wetlands and river floodplains (Pahuja, 2021). These decisions highlight its responsiveness to evolving environmental threats and its willingness to act as a governance catalyst.

Table 1. Comparative Features of Environmental Courts and Tribunals

Country / Institution	Year Established	Institutional Design	Key Jurisdiction	Innovations	Lessons for India (NGT)
India – National Green Tribunal (NGT)	2010	Hybrid tribunal (judicial + expert members)	Civil cases under environmental statutes; appellate authority	Time-bound disposal, substantive environmental principles (polluter pays, precautionary principle)	Strengthen enforcement, ensure independence, expand regional access
Australia – Land and Environment Court (LEC)	1980	Superior court with judicial independence	Land use, planning, environmental law disputes	Judicial + administrative review powers; strong autonomy	Institutional independence, comprehensive jurisdiction
New Zealand – Environment Court	1991 (under RMA)	Specialist court with expert participation	Land, resource management, environmental disputes	Community participation, mediation processes	Democratizing adjudication; participatory decision-making
Pakistan – Green Courts	2012 (Green Benches since 1990s)	Judicial courts with environmental jurisdiction	Environmental rights under constitutional provisions	Rights-based constitutional approach; proactive judicial activism	Judicial innovation in weak institutional contexts; risks of overreach
Philippines – Environmental Courts & Writ of Kalikasan	2010 (rules-based)	Regular courts with special jurisdiction	Rights-based environmental disputes, collective actions	Writ of Kalikasan (right to healthy environment); grassroots access	Empowering citizens; reducing barriers for marginalized communities
Sweden / Finland – Environmental Chambers & Administrative Courts	1990s (EU-driven reforms)	Specialized chambers in administrative courts	Environmental permits, EU directive compliance, climate litigation	Integration of domestic and international obligations	Aligning with international environmental commitments

5.2 Access to Justice and Inclusivity

A notable achievement of the NGT is its relative accessibility. By allowing individuals, NGOs, and affected communities to bring matters before it without strict locus standi restrictions, the

Tribunal has democratized environmental litigation (Ramanathan, 2018). Regional benches have further decentralized access, ensuring that marginalized communities in environmentally sensitive zones can approach the Tribunal without prohibitive costs.

However, barriers remain. Language accessibility, technical jargon, and limited legal aid support often prevent rural and indigenous communities from fully engaging with proceedings (Sarkar, 2022). Moreover, while the Tribunal has embraced digital hearings post-COVID-19, digital divides have created new inequities in participation (Roy & Das, 2021).

5.3 Compliance and Enforcement Challenges

One of the most persistent criticisms of the NGT is the weak enforcement of its orders. Despite issuing binding directives, compliance by state governments and private actors has often been delayed or partial. For example, orders on illegal sand mining and industrial emissions have faced bureaucratic inertia and political resistance (Gupta, 2020).

The Tribunal itself lacks direct enforcement mechanisms, relying on state pollution control boards and district administrations, which are frequently under-resourced or complicit (Kohli, 2021). The Supreme Court has occasionally stepped in to ensure compliance, but this reinforces perceptions that the NGT's authority is dependent on higher judicial intervention (Chowdhury, 2022).

5.4 Institutional Constraints

5.4.1 Vacancies and Resource Deficits

The NGT has frequently suffered from judicial and expert vacancies, undermining its efficiency. Delays in appointments and resource deficits have led to backlog and procedural bottlenecks (Iyer, 2019).

5.4.2 Limited Jurisdiction

While empowered under seven core environmental statutes, the NGT lacks jurisdiction over constitutional and policy matters, forcing litigants to approach High Courts or the Supreme Court for broader issues of environmental rights (Menon, 2021). This fragmentation creates inefficiency and jurisdictional overlap.

5.4.3 Financial Autonomy

The Tribunal remains financially dependent on the Ministry of Environment, Forest and Climate Change (MoEFCC), raising concerns about institutional independence (Dey, 2022). Scholars argue that this dependence may compromise impartiality in cases involving government projects.

5.5 Relationship with Higher Judiciary

The Supreme Court has maintained a complex relationship with the NGT. On one hand, it has upheld the Tribunal's suo motu powers and affirmed its role as the primary forum for environmental disputes (Supreme Court of India, 2021). On the other hand, it has occasionally overturned or diluted NGT orders, particularly in cases involving large-scale infrastructure projects (Sharma, 2020).

This judicial oscillation has contributed to uncertainty about the Tribunal's autonomy and authority. Critics argue that excessive Supreme Court intervention risks undermining the NGT's institutional legitimacy, while others view such oversight as necessary to maintain constitutional checks and balances (Mishra, 2023).

5.6 Legitimacy and Efficiency Debates

The Tribunal's activist jurisprudence has been both celebrated and contested. Proponents highlight its role in holding powerful actors accountable and advancing substantive environmental rights (Bhargava, 2019). Critics, however, argue that it often ventures into executive functions by issuing detailed policy directives, thereby blurring the separation of powers (Chauhan, 2022).

Efficiency is another contested dimension. While designed to deliver speedy justice, case disposal rates have fluctuated due to vacancies, procedural complexity, and resistance from state agencies. Moreover, the absence of a consistent mechanism to monitor compliance has undermined the long-term impact of its orders (Kumar & Sethi, 2021).

5.7 Role in Climate Change and Emerging Challenges

In recent years, the NGT has increasingly addressed issues of climate governance, aligning domestic orders with India's international commitments under the Paris Agreement. Orders directing states to formulate climate action plans and mandating renewable energy integration demonstrate its evolving role in climate adjudication (Banerjee, 2022).

The Tribunal has also adjudicated on biodiversity and ecosystem protection, including cases on mangrove conservation and elephant corridors (Nair, 2020). These interventions underscore its potential to become a central institution in India's transition to a green economy.

6. Institutional Tensions and Critiques

The National Green Tribunal (NGT), while celebrated as a pioneering environmental adjudicatory body, has been subject to significant institutional tensions and critiques since its inception. These challenges reveal the complex dynamics between environmental governance, judicial independence, and federal structures in India. Although the Tribunal was established to provide specialized, expeditious, and expert-driven justice, its functioning has been constrained by structural, operational, and constitutional limitations.

One of the foremost concerns relates to the backlog and pendency of cases before the NGT. Despite its mandate for time-bound disposal, rising caseloads in matters ranging from industrial pollution to biodiversity conservation have strained the Tribunal's capacity. Scholars argue that inadequate judicial strength, inconsistent appointment of expert members, and limited benches outside Delhi have undermined accessibility and efficiency (Menon & Kohli, 2019; Roy, 2021). This imbalance has created an uneven landscape of environmental justice, where certain regions benefit disproportionately from NGT's presence.

A second tension lies in the enforcement of NGT orders. While the Tribunal enjoys wide-ranging jurisdiction and powers under the NGT Act, 2010, its lack of direct contempt powers and dependence on state pollution control boards for implementation has limited its effectiveness (Sankar, 2020). Several studies highlight instances where industrial violators have disregarded NGT directives due to weak follow-up mechanisms (Sharma & Thomas, 2022). This gap between adjudication and enforcement raises questions about the Tribunal's practical authority.

7. Comparative Perspectives and Lessons

The establishment of the National Green Tribunal (NGT) in India is often celebrated as a model of specialized environmental adjudication in the Global South. Yet, when assessed in comparative perspective, it reflects both commonalities and divergences from other environmental courts and tribunals across the world. Drawing insights from jurisdictions such as Australia, New Zealand, Pakistan, and the Philippines, one can situate the NGT within a broader trajectory of judicial innovation in environmental governance, while also identifying critical lessons for institutional strengthening.

The Land and Environment Court of New South Wales (LEC) in Australia, founded in 1980, is widely recognized as the first specialist superior environmental court. Unlike the NGT, the LEC exercises both judicial and administrative review powers, thereby offering a more integrated adjudicatory framework (Preston, 2020). Its strong institutional independence and capacity to blend merit review with judicial oversight highlight the importance of maintaining autonomy from executive interference—an area where the NGT continues to face challenges. New Zealand's Environment Court also provides a relevant comparative benchmark. Established under the Resource Management Act, the Court combines legal adjudication with

scientific and planning expertise to address land use and environmental disputes (Gunningham, 2019). Importantly, its reliance on community participation and consultative processes underscores how environmental adjudication can be democratized beyond purely judicial remedies. This participatory ethos offers lessons for the NGT, which has often been criticized for its centralized and technocratic approach.

In the Global South, Pakistan's Green Bench system and later its Green Courts demonstrate how environmental adjudication can evolve in contexts of weak regulatory capacity. These courts, supported by proactive judicial leadership, have advanced constitutional environmental rights under Articles 9 and 14 of Pakistan's Constitution (Mustafa & Qazi, 2021). The Pakistani experience illustrates the potential of judicial innovation in advancing environmental rights even in resource-constrained settings, but also reveals risks of overreliance on judicial activism in the absence of strong institutional frameworks.

The Philippines' Rules of Procedure for Environmental Cases (2010), particularly its *Writ of Kalikasan* (right to a healthy environment), offers yet another instructive model. The Philippine judiciary has empowered citizens to file collective actions for environmental protection, thereby institutionalizing access to justice at a grassroots level (Lopez, 2020). This rights-based procedural innovation could enrich the NGT's toolkit for enhancing public participation and reducing barriers for marginalized communities.

European experiences, such as the Environmental Chambers in Sweden and the Administrative Courts of Finland, emphasize a more integrated approach to climate governance and compliance with European Union directives (Lindgren, 2021). These models highlight how environmental courts can serve as vehicles for harmonizing domestic laws with international environmental obligations—a lesson of particular relevance for India in meeting its commitments under the Paris Agreement.

Comparatively, what distinguishes the NGT is its expansive jurisdiction, covering all civil cases involving substantial environmental questions linked to statutory enactments, along with its blend of judicial and expert members. However, unlike the LEC or the Environment Court of New Zealand, the NGT's enforcement capacity remains limited, raising concerns about the efficacy of its orders. Moreover, while comparative jurisdictions stress participatory adjudication, the NGT has been critiqued for limited stakeholder engagement and procedural opacity (Menon, 2022).

Ultimately, while the NGT represents a pioneering institutional experiment in the Global South, its long-term credibility and effectiveness will depend on how it adapts lessons from global environmental adjudicatory practices. By combining independence, participation, and international alignment, the Tribunal can move beyond being a reactive dispute-resolution forum to becoming a transformative instrument of environmental governance in India.

8. Conclusion

The historical trajectory of the National Green Tribunal (NGT) demonstrates how environmental adjudication in India evolved from constitutional innovations and judicial creativity to an institutionalized tribunal aimed at addressing complex ecological disputes. Rooted in the expansion of Article 21, the rise of Public Interest Litigation, and the development of doctrines such as the polluter pays principle and the precautionary approach, the NGT represents the culmination of decades of normative and institutional experimentation. However, while its establishment in 2010 marked a landmark in environmental governance, the Tribunal's journey reflects persistent tensions between ambition and implementation.

Comparative perspectives reveal that although the NGT has carved a unique space in the Global South, it continues to face structural and operational challenges. Issues of enforcement, executive dependence, and jurisdictional overlap have weakened its ability to deliver consistent environmental justice. By contrast, courts in Australia, New Zealand, and the Philippines

illustrate the significance of institutional independence, participatory decision-making, and rights-based innovations. These lessons underscore that for the NGT to mature into a robust model, reforms must strengthen its autonomy, improve access across regions, and integrate participatory mechanisms into its processes.

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