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ENSURING ECOLOGICAL JUSTICE: UNDERSTANDING THE NATIONAL GREEN TRIBUNAL'S ROLR

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ABSTRACT:

On 18th October 2010, the National Green Tribunal was established to handle environmental protection and conservation cases effectively and expeditiously. Among its responsibilities are the conservation of forests, air and water pollution, waste management, biodiversity preservation, environmental clearance, soil degradation prevention, promotion of sustainable development, enforcing emissions control, and maintaining desired environmental standards, its involvement in India's carbon credit program as well as overseeing the implementation of environmental laws and regulations.

NGT is a dedicated legal institution mandated to efficiently and promptly handle cases so it has powers and jurisdiction to enforce laws and implement regulatory measures, ensuring compliance with environmental norms as it can pass orders and issue directions to government agencies, industries, and individuals to take corrective actions or compensate for environmental damage caused to individuals and property.¹ The Tribunal shall not be bound by the procedure laid down under the Code of Civil Procedure, 1908, but shall follow natural justice principles and be guided by the principles of sustainable development, precaution, and polluter pay.

ORIGIN AND ESTABLISHMENT:

A series of domestic and international events led to the constitution of the National Green Tribunal in India. The participation of India in 1972 in Stockholm and 1992 in Rio de Janeiro at international environmental conferences urged the nation to prioritize environmental protection and justice.²

The roots of establishing environmental courts in India can be found in the 1980s when the country witnessed a surge in environmental activism and rising concerns about environmental degradation. Notably, the 1984 Bhopal Gas Tragedy,³ stemming from a gas leak at a Union

¹ Greentribunal\ <https://greentribunal.gov.in/about-us#:~:text=2010%20under%20the%20National%20Green,for%20damages%20to%20persons%20and> (last visited Aug. 21, 2023).

² Id, at 812.

³ CHARAN LAL SAHU ETC. ETC. Vs. UNION OF INDIA AND ORS. DATE OF JUDGMENT 22/12/1989

Carbide pesticide plant, led to substantial loss of life and environmental damage. Following this tragic incident, Indians started calling for stronger environmental laws. This call soon turned into a national movement demanding a complete overhaul of environmental policies. In 1985, the Ministry of Environment and Forests was established, and in 1986, the Environment Protection Act was enacted, which gave the central government the authority to develop and enforce environmental standards. It also established the Central Pollution Control Board to monitor and enforce environmental standards.

Amid these efforts, a landmark case in India's Supreme Court, known as the Vellore case, emerged in 1995, advocating for the establishment of specialized environmental courts, often referred to as "Green Benches," to expedite environmental cases. As a result of the judicial direction, several environmental courts were established in various High Courts throughout the country.⁴

Furthermore, the idea of dedicated environmental courts gained momentum through the suggestion of Justice P.N. Bhagwati, then Chief Justice of India, in 1986, to address environmental concerns through separate courts. Subsequently, the Supreme Court of India emphasized the need for courts to combine judicial expertise with technical insights in the A.P. Pollution Control Board vs. Prof. M.V. Nayudu⁵ case in 1999.

It was on June 2, 2010, that Parliament passed the NGT Act and the President assented to its formal establishment, which occurred on October 18, 2010. India became the third country after Australia and New Zealand to develop a dedicated. In line with India's constitutional commitment to a healthy environment, the NGT was created to address concerns about environmental justice and protection.⁶

COMPOSITION AND STRUCTURE:

⁴ Dr. Manjeri subin sunder raj, Rights of nature- from spreading its wings to flying high
Sharan Balakrishna, Inland Waterways – Their Sustainable Development,
Possible Environmental Impacts & An Ideal Legal Regime
Prof. Ali Mehdi

A Review of Cases Decided By The National Green
Tribunal Under The Water Act, 1974

Arup Poddar, Indian Supreme Court and Sustainable Development:

A Tool For Delivering Environmental Justice, Anmol Rathore & Hansaja Pandya, Mining Woes: - Application of Public Trust Doctrine to Preservation of Mineral Resources in India, Aastha Kaushal & Lianne D'Souza, Effectiveness of Carbon Markets: from Kyoto to Paris and Beyond, Volume - 7, ENVIRONMENTAL LAW & PRACTICE REVIEW, P. 01 P. 140, 2020\ <https://www.nalsar.ac.in/images/elpr-Vol-7.pdf>

⁵ 1999(2) SCC 718

⁶ testbook, <https://testbook.com/question-answer/the-national-green-tribunal-act-2010-was-enacted--601bd17eadae43a90d7ae189>, (last visited Aug. 21, 2023).

1. **Chairperson (Section 5):** The Chief Justice of India nominates a retired judge of the Supreme Court of India for the purpose of overseeing the operations of the National Green Tribunal, known as the Chairperson of the NGT.
2. **Judicial Members (Section 6):** The NGT consists of not less than ten and not more than twenty full-time Judicial Members. The members of the tribunal are usually retired judges, bringing their legal expertise to the proceedings so that environmental disputes are addressed comprehensively. The Chairperson or Judicial Member must be a past judge of the Supreme Court or a former Chief Justice of a High Court, ensuring years of judicial experience and legal know-how.⁷
3. **Expert Members (Section 7):** Similar to Judicial Members, the NGT also comprises not less than ten and not more than twenty full-time Expert Members. This committee consists of a variety of members who have a wealth of knowledge and experience with regard to environmental protection, including environmental sciences, ecology, and biodiversity, among others, bringing a variety of perspectives on how to best tackle environmental issues, as well as a range of skills to ensure that solutions are developed and implemented in an effective and efficient manner.⁸ Moreover, it helps them in making well-informed decisions when handling complex environmental issues. The committee is committed to finding creative solutions and implementing them to protect and preserve the environment for future generations. To become an Expert Member, an individual should have either a Ph.D. in a scientific discipline related to the environment or a Master's degree in Engineering/Technology. Expert Members need at least five years of practical experience in the relevant field.⁹
4. **Registrar:** The NGT is facilitated by a Registrar who is responsible for the administrative and financial aspects of the tribunal, ensuring smooth functioning and proper coordination of its activities.¹⁰

A comprehensive and knowledgeable approach to environmental disputes is assured by the NGT's composition, ensuring harmonization of legal and scientific expertise as this structured

⁷ greentribunal, <https://www.greentribunal.gov.in/faqs>, (last visited Aug. 21, 2023).

⁸ Id, at 814.

⁹ ugc, https://www.ugc.gov.in/oldpdf/regulations/revised_finalugcregulationfinal10.pdf, (last visited Aug. 21, 2023).

¹⁰ legalvidhiya, <https://legalvidhiya.com/functions-and-powers-of-national-green-tribunal/>, (last visited Aug. 21, 2023).

arrangement of Chairpersons, Judicial Members, and Expert Members enhances the tribunal's ability to make effective and well-informed decisions.¹¹

NATIONAL GREEN TRIBUNAL'S POWERS AND FUNCTIONS

1. Territorial Jurisdiction: The NGT's presence spans across the country, with multiple benches in distinct regions:

- **Principal Bench:** The main seat of the NGT is located in New Delhi, serving as the principal location for hearings and decision-making.¹²
- **Regional Benches:** Apart from the principal bench, there are four regional benches situated in Bhopal (Central Zone Bench), Pune (Western Zone Bench), Chennai (Southern Bench), and Kolkata (Eastern Bench). In each zone, a bench has jurisdiction over a designated geographical area, facilitating convenient access to justice for various states.¹³

2. Adjudicatory Powers and Expertise: Section 14 empowers the NGT to hear and settle cases involving a spectrum of environmental concerns. This jurisdiction is conferred upon us by a variety of enactments under Schedule I of the NGT Act [Water (Prevention and Control of Pollution) Act, 1974¹⁴, Water (Prevention and Control of Pollution) Cess Act, 1977, Forest (Conservation) Act, 1980, Air (Prevention and Control of Pollution) Act, 1981, Environmental Protection Act, 1986, Public Liability Insurance Act, 1991, and Biological Diversity Act, 2002], establishing a wide jurisdiction. Moreover, NGT's simple procedure allows aggrieved parties to approach the tribunal without legal representation meaning no advocates are required. As part of the NGT's holistic and knowledgeable approach, Sections 16 and 20 permit input from experts in diverse fields. Furthermore, the NGT must decide on applications and appeals within six months of filing, which contributes to the cause of environmental justice.

¹¹ Gill, G. N. (2016) "Environmental Justice in India: The National Green Tribunal and Expert Members," *Transnational Environmental Law*, Cambridge University Press, 5(1), pp. 175–205.

¹² greentribunal,

[https://www.greentribunal.gov.in/faqs#:~:text=What%20is%20the%20Tribunal's%20composition,and%20West%20zone%20in%20Pune.](https://www.greentribunal.gov.in/faqs#:~:text=What%20is%20the%20Tribunal's%20composition,and%20West%20zone%20in%20Pune.,), (last visited Aug. 21, 2023).

¹³ Praveen Bhargav, Everything you need to know about the National Green Tribunal (NGT), Conservationindia, (Aug. 27, 2023, 9:29 AM), <https://www.c.org/resources/ngt.>

¹⁴ THE WATER (PREVENTION AND CONTROL OF POLLUTION) ACT, 1974, NO. 6, Acts of Parliament, 1974 (India).

3. Enforcement and Regulatory Authority: Under Section 25, the NGT wields the authority to impose fines, penalties, and compensation on entities held responsible for environmental violations or damages. Aside from overseeing and regulating environmental integrity, the NGT also investigates and resolves environmental violations, and monitors activities with substantial environmental impacts, such as mining, construction, and industrial activities. If an operation or facility is causing environmental damage, the NGT may impose penalties or order it to be closed.

4. Review, Appeals, and Judicial Powers: The National Green Tribunal (NGT), functioning as a statutory adjudicatory body, holds both original and appellate jurisdiction, similar to a court of law. In accordance with the National Green Tribunal Act, 2010, and its amendments, the NGT has original jurisdiction to enforce environmental laws and compensate for environmental damage, giving individuals, groups, NGOs, and even governments the right to seek redress for environmental violations.¹⁵ Additionally, the NGT serves as an appellate authority, hearing appeals against decisions issued by various environmental regulatory authorities as section 16 of the NGT Act outlines this appellate jurisdiction, specifying the types of cases eligible for appeal and the relevant timeframes. The NGT's appellate powers include summoning witnesses, demanding documents, and delivering final and binding decisions. Through this dual role, the NGT oversees the environmental laws and ensures their implementation.

Moreover, under Section 16(5), the NGT can review its own decisions to prevent miscarriages of justice, which underscores the tribunal's commitment to fairness and accuracy.

5. Civil and Criminal Jurisdiction: The National Green Tribunal (NGT) possesses dual jurisdiction that encompasses both civil and criminal domains, a distinctive feature defined by the National Green Tribunal Act, of 2010. As a result of Section 14 of the Act, the NGT has civil jurisdiction to administer relief and compensation to pollution victims and environmental harm victims. As part of its power, it can order restitution for damaged property and the environment within the impacted area or areas, based on the Tribunal's discretion. The Tribunal is also vested with the authority to oversee accidents involving

¹⁵ greentribunal, <https://www.greentribunal.gov.in/faqs>, (last visited Aug. 21, 2023).

hazardous substances. Moreover, the NGT's orders, decisions, and awards are enforceable as decrees issued by a civil court under Section 25 of the Act.

Through Section 15 of the Act, the NGT's jurisdiction extends to the criminal realm, allowing it to prosecute offences arising under various environmental laws. As specified in Section 26 of the Act, it may impose penalties for non-compliance involving imprisonment for up to three years, fines up to ten crore rupees, or both. Combining civil and criminal jurisdiction allows the NGT to address a broad range of environmental matters, ensuring compliance, restitution, and justice.¹⁶

6. Procedural Autonomy and Efficient Adjudication by the NGT: By Section 19 of the National Green Tribunal Act, 2010,¹⁷ the National Green Tribunal can regulate its procedures and is not bound by the Code of Civil Procedure, 1908 (5 of 1908),¹⁸ or the Indian Evidence Act, 1872 (1 of 1872). As well as exercising civil court powers as outlined in the Code of Civil Procedure, it follows natural justice principles.

In its pursuit of efficient resolution, the NGT has developed its own rules framed to suit the distinct nature of applications brought before it. The tribunal identifies necessary parties as required under the statutes mentioned in Schedule I of the NGT Act, 2010. It promptly solicits responses from these parties via email, a measure that not only saves time but also reduces costs. Instead of mechanically issuing notices to all named respondents, the NGT adheres to its procedure while upholding the principles of natural justice. Its enthusiasm to hear letter petitions that reveal substantial environmental damage is an innovative feature of its approach. Even without direct representation from the aggrieved party, a valid complaint is acknowledged, and responses are sought via email, even without the involvement of legal advocates.

As environmental harm claims require expert and statutory authority reports, the NGT appoints select members or committees, often composed of former high court judges, chief secretaries, or subject matter experts, to ensure that orders are executed promptly when appropriate. This unique approach to environmental concerns, coupled with its proactive procedures, demonstrates the NGT's commitment to swift, effective justice. its dedication to swift, effective justice.

¹⁶ Id, at 817.

¹⁷ National Green Tribunal Act, 2010, No. 19, Acts of Parliament, 2010 (India).

¹⁸ Code of Civil Procedure, 1908, No. 5, Acts of Parliament, 1908 (India).

SPEEDY DISPOSAL AND INCREASED ACCESS TO JUSTICE:

1. **Legislative Authority for Procedural Regulation:** Under Section 19 of the National Green Tribunal Act, 2010,¹⁹ the NGT holds the power to regulate its procedure, a provision that strengthens its capacity to ensure efficient and timely adjudication of environmental cases. Having this authority enables the NGT to customize its procedures to account for the unique nature of the applications brought before the tribunal.
2. **Focused Procedure for Environmental Cases:** Section 14 of the Act emphasizes the NGT's specialized jurisdiction in environmental matters. The enhanced effectiveness of the NGT and reduced workload for higher courts are both attributed to its exclusive jurisdiction of environmental issues.²⁰
3. **Time-Bound Disposal and Circuit Procedure:** Section 16 of the Act mandates the NGT to strive for timely disposal of applications and appeals, with a targeted timeframe of six months from filing. It is important to set time-bound resolutions for environmental disputes to prevent unnecessary delays by facilitating timely resolutions. Furthermore, the NGT adopts a circuit procedure, as outlined in Section 20, by establishing benches in different regions, including New Delhi, Bhopal, Pune, Kolkata, and Chennai. By dispersing across states, litigants can access justice locally, eliminating extended travel and making justice more accessible.²¹
4. **Informal Approach and Reduced Costs:** The NGT's informal approach to proceedings, supported by Section 15 of the Act, allows individuals to approach the tribunal without legal representation. Due to the tribunal's streamlined procedure and the Act's emphasis on speedy resolution, it's more cost-effective than traditional courts.²²
5. **Leveraging Technology for Efficiency:** Sections 16 and 21 of the Act empower the NGT to leverage technology for expediting proceedings. As a result, tribunals can communicate orders and responses via email, minimizing postal delays. Also, if regional benches lack resources, as result, tribunals can co21mmunicate orders and responses via email, minimizing

¹⁹ National Green Tribunal Act, 2010, Sec. 19 No. 19, Acts of Parliament, 2010 (India).

²⁰ National Green Tribunal Act, 2010, Sec. 14 No. 19, Acts of Parliament, 2010 (India).

²¹ National Green Tribunal Act, 2010, Sec. 16, 20 No. 19, Acts of Parliament, 2010 (India).

²² National Green Tribunal Act, 2010, Sec. 15, No. 19, Acts of Parliament, 2010 (India).

postal delays. Also, if regional benches lack resources, moreover, in cases where regional benches face resource constraints, the NGT's Principal Bench in New Delhi can resort to video conferencing, ensuring remote oversight of cases. By integrating technology, time management can be optimized and deadlines can be met.²³

6. Legislative Empowerment and Efficient Dispute Resolution: The National Green Tribunal Act provides the NGT with a robust legislative framework to adopt efficient procedures. A competent and dedicated environmental tribunal, the NGT focuses on its jurisdiction, embraces technology, and prioritizes timely disposal. Thus, resolving environmental disputes is a breeze, thanks to the Act's provisions and the NGT's commitment to accessible and expedited justice. As a result, the Act's provisions, along with the NGT make resolving environmental disputes a breeze.

LEGAL STRIDES FOR NATURE: PROMINENT CASES AND CURRENT EVENTS:

As Wangari Maathai says, "Ecological sustainability and economic sustainability are two sides of the same coin. If we cannot sustain the environment, then we cannot sustain ourselves."²⁴ To ensure our own survival, it is imperative we prioritize environmental protection and implement sustainable practices. Without a healthy environment, we will not thrive as a species. In this context, the National Green Tribunal becomes increasingly important. Throughout the Indian landscape, the Supreme Court has rendered landmark judgments on a wide range of environmental matters. Some of the judgments are listed below.²⁵

The NGT's actions in countering unlawful sand mining, as evidenced in the **Ashwini Kumar**²⁶ case, wherein bans and precautionary measures were deployed, similarly, the tribunal's intervention in the **Goa Foundation**²⁷ case by suspending mining operations and mandating ecosystem restoration highlights its dedication to environmental safeguarding and underscores its commitment to ecological integrity.

²³ National Green Tribunal Act, 2010, Sec. 16, 21, No. 19, Acts of Parliament, 2010 (India).

²⁴ Kate Langford, A film tribute to Wangari Maathai, a forest icon, worldagroforestry, (Aug. 27, 2023, 9:29 AM), <https://www.worldagroforestry.org/node/57468>

²⁵ Id, at 820.

²⁶ the Ashwini Kumar v. Union of India , (2019) 11 SCC 683

²⁷ Goa Foundation v. Union of India , (2014) 6 SCC 590

As further evidence of the NGT's authority, its commitment to balancing development and environmental protection is demonstrated by the directive NGT gave to the **Vizhinjam International Seaport**²⁸ case, stressing the importance of adhering to environmental clearances and regulations during the construction of the port. Equally noteworthy, is the NGT's imposition of a substantial fine on the Art of Living Foundation for its Yamuna River festival, as depicted in the **Yamuna Pollution Case**²⁹ which manifests the tribunal's resolute commitment to the preservation of delicate ecosystems. An emblematic case like **Krishan Kant Singh**³⁰ centers on improper waste disposal and its repercussions, thereby accentuating the NGT's emphasis on effective waste management systems and the collective obligation of authorities and citizens to maintain a pristine environment.

To ensure that industries and individuals are held accountable for environmental degradation, along with the responsibility to pay the costs of restoration and compensation, the NGT enforces the "polluter pays" principle. A pertinent example is **Vardhman Kaushik**,³¹ where the NGT took stringent action against industries polluting the Yamuna River basin and mandated compensation for environmental harm. In a parallel vein, the NGT's actions in **Alembic Pharmaceuticals**³² penalties were imposed on polluting industries while advocating for cleaner production methods, exemplifying its deterrence-based approach that incentivizes industries to adopt environmentally friendly practices.

It is the jurisdiction of the NGT to decide cases such as **Vimal Bhai v. The State of Uttarakhand**³³ that address unauthorized construction and development activities in ecologically sensitive areas and emphasize the necessity of striking a balance between ecological and economic factors. The NGT's multifaceted approach encompassed regulating construction to curtail dust pollution, controlling vehicular emissions via emission standards and cleaner fuels, prohibiting open waste burning, launching public awareness campaigns,

²⁸ Wilfred J. Anr vs Moef Ors, Kerala 2013 SCC Online NGT 71

²⁹ Manoj Mishra & Anr. v Union of India & Ors, 014 SCC Online NGT 64

³⁰ Krishan Kant Singh v. Union of India & Ors, 2014 SCC Online NGT 51

³¹ Vardhman Kaushik v. Union of India, Judgment 10 November 2016

³² Alembic Pharmaceuticals Ltd. v. Rohit Prajapati, 2020 SCC OnLine SC 347

³³ Vimal Bhai v. The State of Uttarakhand and Ors, 2014 SCC Online NGT 43

and endorsing the odd-even vehicle rationing scheme. These initiatives show the NGT's commitment to tackling air pollution, which is a big issue on its agenda.

Importantly, the NGT is not only focused on environmental protection but also on conserving wildlife and biodiversity. **Save Mon Federation**³⁴ is an apt illustration of this commitment, wherein the NGT suspended a ₹6,400-crore hydro project to safeguard a bird's habitat. NGT protects wildlife habitats and extensive forested areas in order to prevent environmental degradation. In addition, the NGT protects tribal and indigenous communities, whose livelihoods and cultures are closely tied to the environment. It has been demonstrated that, by protecting natural resources, the NGT indirectly protects the rights and interests of vulnerable communities. Environmental practices are often criticized by industries for their economic implications. However, the businesses also acknowledge their long-term benefits, including improved public perception, improved compliance, and reduced legal risks so by dispensing such environmental justice, the NGT strikes a delicate balance between protecting the environment and fostering economic growth.

The following cases shed light on recent developments in this field and the role NGT is playing in this regard. Because of its ability to tackle a number of ecological and environmental issues, it has been gaining a great deal of attention in recent months. In a recent decision by the National Green Tribunal (NGT), the MPPCB and Mandideep municipal council didn't handle solid waste properly in the Mandideep Industrial Area (MIA) in accordance with the Solid Waste Management Rules, 2016.³⁵ The NGT's central bench directed the MPPCB to initiate legal proceedings against the chief municipal officer (CMO) under Section 15 of the Environment Protection Act, 1986,³⁶ and impose a penalty of Rs 60 lakh for the environmental damage caused based on the 'polluter pays principle,' which is intended to restore and rehabilitate the site that has caused environmental harm. In response to a plea filed by Bhopal-based advocate and environmentalist Sarthak Tomar, who raised concerns about pollution in the MIA, he expressed his satisfaction with the NGT's order. The tribunal's commitment to

³⁴ Save Mon Federation vs. Union of India, M.A. No. 104 of 2012

³⁵ Drishtiiias, <https://www.drishtiiias.com/daily-news-editorials/10-years-of-national-green-tribunal>, (last visited Aug. 21, 2023).

³⁶ Environment Protection Act, 1986, Sec. 15, Acts of Parliament, 1986 (India).

addressing long-standing environmental issues is evident in its criminal charges against CMOs and others.

In a separate report, the following case highlights the role of NGTs in resolving environmental conflicts and finding solutions, which was in response to the NGT's order that the Pune Municipal Corporation (PMC) pay Rs 1.79 crore to the Maharashtra Pollution Control Board (MPCB) as compensation for violations at a dumping site by the merged Wagholi Gram Panchayat.³⁷ As compensation, PMC has proposed building a solid waste processing plant on the same site, and the NGT instructed the Pune district collector to give it to PMC, emphasizing the NGT's role as an intermediary between PMC and MPCB.³⁸

The final hearing of a petition involving suspected illegal colored granite mining, crushing, and polishing industries has been rescheduled for August 29 (2023). A BJP leader, Perala Shekhar Rao, filed the petition that alleges several quarries operate without authorization in the area. In addition, he claims leased entities have engaged in excessive mining, so the southern bench of the NGT has issued notices to 13 entities, including the Union of India, the State Environment Impact Assessment Authority (SEIAA), the Telangana State Pollution Control Board (TSPCB), the mining authorities, the Agriculture Department and the Granite Mining Companies. This recent development highlights the NGT's role in investigating possible illegal mining activities by emphasizing the importance of complying with environmental regulations.

PUBLIC AWARENESS AND PARTICIPATION:

To resolve environmental disputes amicably, the NGT encourages mediation and conciliation. In addition, the NGT encourages community participation in environmental decisions, recognizing that community participation promotes awareness, accountability, and collective responsibility for the environment.

For instance, the Sterlite Copper plant, operated by Vedanta Limited, was accused in 2018 of environmental violations in Tuticorin, Tamil Nadu.³⁹ The plant was accused of dumping toxic effluents, polluting water, and not getting the environmental clearances it needed. Locals

³⁷ Mpcb, https://www.mpcb.gov.in/sites/default/files/MPCB%20Annual%20report%202020-2021_04.03.22_R1.pdf, (last visited Aug. 21, 2023).

³⁸ Id, at 822.

³⁹ Tamil Nadu Pollution Control Board v. Sterlite Industries (I) Ltd., 2019 SCC OnLine SC 221

complained about the plant's adverse effects on their health and environment, and the NGT heard their case. communities. The NGT closed the in 2018 plant, citing severe environmental violations and the plant's failure to meet environmental standards. The NGT closed the plant after hearings, expert opinions, and reviewing scientific data. Environmental activists and civil society groups praised NGT's approach to involving affected communities in the decision-making process.

CHALLENGES AND CRITICISMS:

- 1. Impartiality and Autonomy:** The inception of the National Green Tribunal (NGT) in October 2010 aimed to address environmental disputes effectively, yet concerns quickly arose about its judicial autonomy. In Section 5 of the NGT Act, the Central Government has the power to appoint members, including the Chairperson, Judicial Members, and Expert Members, which has raised questions about potential conflicts of interest. There's a section 5(2) that says the Chairperson has to be appointed in consultation with the Chief Justice, and a section 5(3) that tells you how judges and experts get picked. As a result of Section 5(4), bureaucrats can be appointed as Expert Members, raising questions about their impartiality and independence.

Furthermore, the NGT's suspension and removal provisions, as outlined in Section 10, add to these apprehensions. When it comes to removing members, the requirement to consult the government raises questions about the tribunal's independence and autonomy. As a result, the NGT might face pressure to align its rulings with the government's agenda to stay afloat. The NGT adjudication process, which is closely linked to appointments, suspensions, and removals, must maintain fairness and impartiality.

- 2. Delays in Justice:** One notable critique directed at the NGT pertains to its struggle with delivering timely judgments as by the year 2020, the tribunal had accumulated a staggering backlog of over 30,000 pending cases. The Comptroller and Auditor General's (CAG) 2016 report underscored this concern, revealing that the disposal rate of cases by the NGT stood at around 60%, indicative of significant delays in resolving environmental disputes.

Moreover, creating the NGT added a new layer to the legal system, with the aim of alleviating the workload of the higher courts. However, in the landmark case of *L Chandrakumar*,⁴⁰ it

⁴⁰ *L Chandrakumar v Union of India*, (1997) 3 SCC 261

was ruled that specialized tribunals, including the NGT, were not a complete substitute for the High Courts, as Articles 226 and 227 of the Indian Constitution allow the High Court to issue writs and directions, granting citizens direct judicial review. A potential drawback of the tribunal system emerges from this scenario—although it streamlines processes and provides expert resolution, it may not fully replace the broader constitutional protections and remedies offered by the High Courts as cases can still reach higher courts through appeals

3. **Narrow Jurisdiction:** Schedule I of the National Green Tribunal Act, 2010 outlines its narrow jurisdiction, omitting several crucial environmental concerns from its purview. In addition to the Wildlife Protection Act, of 1972, and the Forest Rights Act, of 2006, which addresses forest-dwelling communities' land rights, there's also the Land Acquisition Act, of 2013, which addresses disputes and challenges to Coastal Regulation Zone (CRZ) notifications. As well, disaster management and urban planning regulations, integral to environmental considerations, aren't covered by it. As a result, environmental activists and experts are worried that this limited jurisdiction might make the NGT less capable of dealing with complex and urgent environmental issues, especially those that require a comprehensive approach to sustainable development and environmental protection.
4. **Infrastructural Inadequacies:** Inadequate infrastructure poses yet another significant challenge to the NGT's effectiveness. A 2016 report by the Ministry of Environment, Forest and Climate Change underscored the lack of appropriate courtrooms, supporting personnel, and resources necessary for the tribunal's optimal functioning. The deficit of infrastructure in the legal system is one of the primary reasons why there is a backlog of cases and contributes to the delays in the delivery of justice.⁴¹
5. **Geographical Limitations:** The National Green Tribunal (NGT) courts are not present in every district it has a specific structure with its principal bench located in New Delhi and regional benches established in various cities across India. Due to the specialized nature of NGT's work and the need for concentrated expertise to handle environmental cases effectively, not every district has an NGT court, rather they cover specific geographic zones.

⁴¹ Unep, <https://www.unep.org/news-and-stories/press-release/new-report-reveals-how-infrastructure-defines-our-climate>, (last visited Aug. 21, 2023).

Additionally, remote and marginalized communities in rural and distant areas have a hard time accessing justice fairly.⁴²

7. **Balancing environment and human rights:** In a very recent case, Delhi Development Authority (DDA) carried out an anti-encroachment drive near Zakir Nagar in southeast Delhi, demolishing 40 slum dwellings, causing distress to residents who claimed they did not receive prior notice.⁴³

The DDA officials justified their actions by using a directive from the National Green Tribunal (NGT), but the lack of notice raised concerns about immediate shelter and well-being, as well as the loss of possessions, livestock, and bird shelters. As this case illustrates, balancing environmental preservation with the rights of marginalized communities can be a great challenge. Despite the NGT directive, the suddenness of the eviction resulted in the displacement of vulnerable people, leading to a difficult situation that requires careful consideration of both environmental protection and human rights.

WAY FORWARD AND CONCLUSION:

Before the establishment of the NGT, environmental cases were heard in various courts, including the Supreme Court and High Courts but with the creation of the NGT, specialized environmental matters involving environmental pollution, ecological destruction, and conflicts over natural resources were diverted to a dedicated forum, reducing the burden on higher courts, ensuring effective and expeditious resolution of cases. Its swift and specialized approach has made it an essential institution in India's quest for sustainable development and environmental protection. NGT's role in environmental protection is crucial as it serves as a vigilant watchdog. This ensures that environmental laws are upheld, environmental damage is mitigated, and environmental justice is served. By promoting sustainable practices and holding violators accountable, the NGT safeguards India's ecological heritage for future generations. In India, the National Green Tribunal has become an indispensable institution for environmental governance, and its efforts to protect the environment and promote sustainable

⁴² Id, at 825.

⁴³ Id , at 825.

development have been crucial to the nation's well-being, as Robert Swan rightly stated: "The greatest threat to our planet lies in our belief that someone else will save it."⁴⁴



⁴⁴ Sustainability for all, https://www.activesustainability.com/environment/robert-swan-and-our-planet/?_adin=02021864894, (Last visited 11/08/23)