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## THE NATIONAL GREEN TRIBUNAL (NGT) AND CORPORATE ACCOUNTABILITY IN INDIA

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### ABSTRACT

Environmental Degradation has been one of the major problems faced by India in the early twenty-first century due to factors like industrialization, urbanization, mining activities and resource consumption. Economic development is important; however, it needs to be done in a manner where the environment does not suffer due to this process. It is against this backdrop that an institution called the National Green Tribunal was set up in India. According to the provisions of National Green Tribunal Act, 2010, NGT ensures environmental justice and corporate accountability in the environmental issues. This paper seeks to explore the impact of the National Green Tribunal on Indian environmental laws through case Studies. The National Greenfield Act, 2010 allows the NGT to adjudicate cases related to environmental law by applying certain basic concepts including the concept of sustainable development, precautionary principle and the polluter pays principle. It is hoped that through an analysis of the landmark judgments delivered by the tribunal and their impact on corporate environmental governance and environmental due diligence, it will be possible to identify the role played by the tribunal.

**Keywords:** National green Tribunal (NGT), Environmental Protection, Sustainable development, Environmental Justice, Corporate responsibility

**Introduction:**

India's environment degradation has become one of the greatest challenges that India faces in this century. There are many reasons that contribute to the environmental stress in India- rapid industrialization, urbanization, mining activities, infrastructure, and increasing consumption patterns. While there is no doubt that economic growth is an important national goal, it cannot come at the expense of environmental sustainability. In the environmental governance system. All of the companies that are directly involved in industrial and commercial activities are expected to act responsibly and to comply with the applicable environmental laws.

In 2010, the establishment of the National Green Tribunal (NGT) represents a landmark event in India's environmental law history. The NGT was created pursuant to the National Green Tribunal Act of 2010 to ensure the effective and speedy resolution of disputes concerning the environment and the enforcement of environment right through NGT. The NGT has become an important tool for holding corporations accountable for their pollution damage and enforcing the principles of sustainable development, the precautionary principle, and the polluter pays principle.

This article discusses the NGT's Role in facilitating corporate accountability in India, focusing on important cases and peer- reviewed academic literature.

**Genesis and Objectives of the National Green Tribunal:**

The National Green Tribunal (NGT) was set up on 18<sup>th</sup> October, 2010, by enacting the National Green Tribunal Act, 2010 as a means of providing a dedicated platform for environmental disputes, thus relieving traditional courts from what would otherwise be an increased caseload<sup>1</sup>. The NGT has jurisdiction over disputes arising under various environmental Acts, including the following major ones: Environment (Protection) Act, 1986, Water (Prevention and Control of Pollution) Act, 1974 and Air (Prevention and Control of Pollution) Act, 1981.

The NGT is expressly governed by principles of National justice rather than by strict rules of procedure. The NGT has the power to award compensation; order the restoration of damages to the environment; and impose costs on polluters for environmental violations. When making

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<sup>1</sup>. The preamble and sections 14-20 of National Green Tribunal Act, 2010

decisions regarding disputes, the NGT is required to apply the principles of:

- i. Sustainable Development.
- ii. Precautionary Principle.
- iii. Polluter Pays Principle.

### **Corporate Accountability in Environmental Governance:**

Corporations have both ethical and legal requirements to consider the impact of their operations on society and the environment. In addition, corporations are also required to prevent pollution, follow environmental laws, and pay for the damages that they have caused and restore the damaged environment.

Environmental Regulation in India has historically depended upon administrative bodies like pollution control boards. The NGT has provided an alternative means for Communities affected by corporate negligence and non-compliance with environmental standards to receive restitution.

Academic studies indicate that the NGT has strengthened environmental governance by requiring corporation responsible to pay for damages caused by environmental violations and promoting compliance with environmental laws. In addition, the NGT has established a new standard of corporate behaviour through the enforcement of the polluter pays principle<sup>2</sup>.

### **Polluter Pays Principle as the Foundation of Corporate Accountability:**

The “Polluter pays” principle serves as a foundation for environmental accountability in India. Under this principle, it is the polluter who is responsible financially for the cost of prevention, control, and remedying of environmental damages resulting from their activities rather society at large (i.e., individual and governments). The Supreme Court of India accepted this polluter pays principle in the case of *Indian Council for Enviro-legal Action v. Union of India* (1996)<sup>3</sup>.

The NGT relies on the principle of Polluter pays in imposing environmental compensation

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<sup>2</sup>. Mrinalini Shinde, “The Implementation of Polluter pays principle at the Nation green tribunal in India” *Journal of Health, Environment and Education* (2017).

<sup>3</sup>. *Indian Council for Enviro-legal Action and Union of India*, 3 SCC 212 (1996).

against large corporations for their activities. The scholarly articles point out that the NGT has moved from a theoretical framework of the polluter pays doctrine to an enforceable legal regime for the measurement and quantification of environmental damages resulting from industrial activities and requires that compensation be paid for the restoration for the environment<sup>4</sup>.

### **Landmark Cases Illustrating Corporate Accountability:**

#### **1. Sterlite Industries (Vedanta) Case:<sup>5</sup>**

The Case involving Sterlite Copper, a subsidiary of the Vedanta group located in the State of Tamil Nadu, is one of the most significant examples illustrating corporate accountability. Public outcry and protests resulted from allegations regarding the operation of Sterlite Copper, which included air and water pollution, adverse health effects and environmental degradation. This initiated extensive legal inquiry into the environmental compliance of Sterlite Copper and the degree to which its operations were causing environmental degradation through industrial pollution. There were significant complexities associated with the litigation of this matter that included a variety of procedural elements resulting from the fact that the matter was heard before multiple judicial forums, but the case illustrated the need for large corporations to comply with environmental laws.

It illustrates that even large, multinational corporations cannot escape being held liable for environmental issues.

The Sterlite incident illustrates how the judicial process regarding the environment can impact corporate governance and obligate companies to carry out stricter measures to protect our environment.

#### **2. Case of the Art of Living, the Yamuna Floodplain-2017:**

While not necessarily in the corporate spectrum, the NGT assessed an environmental compensation penalty on the organizer of an event taking place on the Yamuna floodplains because of the environmental harm caused. In this instance, the NGT

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<sup>4</sup>. Scholarly analyses on the Implementation of the polluter pays Principle by the NGT.

<sup>5</sup> (2013) NGT (Principal Bench), Appeal No. 57 of 2013

required the imposition of an environmental remediation penalty as a result of the ecological damage and further stated that if any person or entity causes damage to the environment, said person or entity must pay for the costs associated with restoring that environmental damage.

This Ruling established the principle that the responsibility to protect the environment, through the payment of monetary damages for ecological harm, goes beyond traditional corporations to all persons or entities whose acts affect the environment.

### **3. Rate Imposed on Maha Genco (Koradi Thermal Power Station):<sup>6</sup>**

The most recent example of corporate responsibility as it pertains to environmental issues can again be illustrated by the NGT ruling on MahaGenco in the amount of

₹5 crore as a result of the environmental violations that were committed by MahaGenco at its Koradi Thermal Power Station. The NGT determined that the clearances had not been adhered to by the company and that it failed to properly manage the fly ash, it failed to create a greenbelt, and it emitted unacceptable amounts of air pollution. Based on the principles of the “polluter pays,” the NGT ordered that the ₹5 crore payment for the environmental damages be set aside for the exclusive use of remediating the environmental conditions created as a result of the company’s violation of its environmental permit.

In this case, the Tribunal shows a commitment to holding companies accountable for their lack of adherence to environmentally regulated laws by imposing large financial penalties.

### **4. Zira Distillery Pollution Case:<sup>7</sup>**

In the case of Zira Distillery owned by Malbros International Pvt.Ltd., the Punjab Government has reportedly conveyed to the National Green Tribunal (NGT) that the operations of this industrial facility have had an exceedingly negative effect on the air quality, water quality, soil quality and public health due to significant environmental

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<sup>6</sup>[https://www.greentribunal.gov.in/sites/default/files/news\\_updates/Rejoinder%20of%20the%20Applicant%20in%20OA%20No.62-2021%20\(page%20nos.334-369\).pdf](https://www.greentribunal.gov.in/sites/default/files/news_updates/Rejoinder%20of%20the%20Applicant%20in%20OA%20No.62-2021%20(page%20nos.334-369).pdf)

<sup>7</sup> Original Application No.606/2022

degradation. The case demonstrates how the operation of the industrial facilities can create far-reaching environmental impacts beyond what would be expected. Additionally, the case highlights the necessity of strict adherence to the requirements of environmentally regulated laws by companies.

### **5. Illegal Mining and Environmental Compensation Cases:**

The NGT has ordered many times in the past for companies to pay their fellow citizens and restore the environment to its former condition due to their participation in illegal mining or extraction operations. For instance, the National Green Tribunal ordered a construction company to repay ₹1.20 crores to the State of Odisha for engaging in illegal mining while building railroad tracks. The tribunal's decisions represent its desire to balance the need for economic growth and the preservation of our environment.

### **The NGT Effect on Corporate Environmental Governance:**

The NGT has changed the way companies think about corporate environmental governance in India. Corporate environmental governance practices have changed drastically since the establishment of the NGT, and most companies have changed their way of thinking to include strict compliance with environmental laws as a core component of business operations.

Because of this present reality, most companies have already established sound, effective corporate environmental governance systems and policies.

### **Environmental Due Diligence:**

The tribunal's rulings have spurred industries to perform full environmental impact evaluations and, before beginning projects, conduct risk assessments. Because of this, environmental due diligence and preventative actions by corporations have increased.

### **Corporate Social Responsibility (CSR):**

The Growth of environmental accountability has had an impact on corporate social responsibility initiatives. As such, many corporations are investing in pollution control technologies, renewable energy initiatives, afforestation programs, and biodiversity conservation to improve their sustainability performance.

**Judicial Oversight:**

The NGT has established a functional system of judicial oversight that complements administrative regulation. The Tribunal's power to impose environmental compensation and monitor compliance has extended corporate responsibility beyond what could have been done before the existence of the NGT using only administrative agencies.

**NGT- The Challenges it Faces:**

Despite the NGT's accomplishments, it experiences many challenges.

**i. Enforcement Difficulty:**

The Tribunal has the authority to issue orders and levy penalties; however, the enforcement of those orders is generally within the authority of regulatory agencies and state authorities; therefore, delays in enforcement reduce the effectiveness of the Tribunal's decisions.

**ii. Limited Resources:**

The NGT has routinely experienced issues related to either a shortage of staff or a lack of sufficient infrastructure to administer the processing of the cases in an efficient manner.

**iii. Balancing Economic Development and Environmental Protection:**

As previously noted, a critical challenge currently facing the NGT is balancing economic growth against environmental protection. Many industrial projects provide jobs and create economic benefits for communities; therefore, it is necessary for the NGT to consider economic development and determine whether the creation of those jobs outweighs the harms done to the environment.

**iv. Channelling Corporate Resistance:**

Corporations file legal challenges against NGT rulings in higher courts from time to time, thereby causing long-term litigation and delaying environmental remediation and compensation processes.

**Conclusion:**

NGT is now one of the most important institutions for environmental governance in India, and

through its use of the principles of sustainable development, precautionary measures and the polluter pay's principle, has made tremendous improvements in corporate accountability.

The NGT's mission is to ensure that the cost of environmental damage is borne by polluters rather than society, which is evident in landmark ruling involving industrial projects such as cement and thermal power plants, mining operations, and heavy polluting industries, where the NGT has imposed compliance with environmental compensation and restoration requirements, and examined corporate behaviour in order to turn the idea of environmental accountability from being a mere theoretical obligation into a tangible legal obligation.

The NGT has evidenced its commitment to environmental justice; challenges associated with enforcement of NGT decisions, inadequate funding and balancing development priorities continue to exist. In addition, the NGT will play a critical role in furthering India's commitment to achieving sustainable development by ensuring that corporate growth and resource development occur in concert with environmental protection and ecological sustainability.