
TACKLING ENVIRONMENTAL CRIME WITHOUT CRIMINAL TRIALS: A CRITICAL STUDY OF THE NATIONAL GREEN TRIBUNAL

Miss. Anindita Saha, Research Scholar, Faculty of Law, ICFAI University, Tripura¹

Dr. Zigisha Pujari, Associate Professor, Faculty of Law, ICFAI University, Tripura²

ABSTRACT

Crimes in India related to environment are gradually addressed through dedicated environmental adjudication rather than traditional criminal trials. The institutional formation of the National Green Tribunal under the NGT Act, 2010 was envisioned to provide effective and speedy environmental justice via expert-driven in making decisions. Despite of the Tribunal's predominantly civil jurisdiction has lead towards substantial shift in how environmental offences are visualized and addressed. The serious and major environmental harms such as industrial pollution, illegal mining, waste dumping are regularly resolved through compliance directions, compensation and restoring orders instead of proper criminal prosecution and investigations.

The doctrinal study will critically examine the implications of dealing environmental crimes without proper criminal procedure in India and analyze the statutory provisions, decisions of the judiciary and NGT's jurisprudence. The paper claims that environmental crimes are gradually diluted into administration violations, which is weakening the accountability and deterrence. It also highlights the lacking of criminal sanctions, weak enforcement mechanism and the communal liability which may be termed as "soft accountability" in environmental governance.

The paper contends that while the National Green Tribunal has been operative in handling environmental harm, it has not properly addressed the criminal dimension of environmental offences which has normalized the repeated offenders. The study suggests a model that will strengthen harmonization of NGT and criminal justice mechanism safeguarding that serious environment related offences attract equivalent criminal consequences combined with regulatory remedy.

Keywords: Criminal Liability, Environmental Crimes, Enforcement, National Green Tribunal, India

¹ Research Scholar, Faculty of Law, ICFAI University, Tripura

² Associate Professor, Faculty of Law, ICFAI University, Tripura

1. Introduction:

India is presently witnessing an extraordinary increase in environment deterioration, proven by illegal mining, industrial pollution, deforestation, ground water contamination, and hazardous waste management disposal. Such practices jeopardize fragile natural resources and create direct risk to livelihood, human health and equitable relations between generations. Considering the severity of this type of harm: Indian environmental regulations has clearly categorized significant environmental offences as criminal offences establishing punishment that involves fine and imprisonment. The penalization of environmental harm shows legislative aim to discourage polluters and strengthened the communal nature of environment protection.

Although this enforcement practice and legislative structure in India have gone through a notable development. Specialized tribunals are progressively handling environmental violations that were formerly prosecuted in criminal courts. The National Green Tribunal Act, 2010, which shaped the National Green Tribunal (NGT), transformed environmental adjudication. The NGT is a technically skilled, specialized organization designed to help resolve environmental issues swiftly and effectively.

The NGT has unquestionably enhanced access to environmental justice; however, this institutional conversion has also created a significant conundrum. Environmental offenses, although legally classified as crimes, are often addressed through civil remedies including compensation, costs for environmental rehabilitation, and closure orders, bypassing criminal trials or convictions. This development prompts essential inquiries on deterrence, accountability, corporate culpability, and the ongoing significance of criminal law in environmental governance.

Research Problem:

Whether the decision of environmental crimes by the National Green Tribunal, without appealing criminal trials and penal sanctions, has faded environmental criminal responsibility in India.

Research Objectives:

1. To define environmental crime in terms of Indian environmental law.

2. To analyze the NGT's legal structure and jurisdiction.
3. To examine at NGT's case law on pollution and environmental compensation.
4. To critically examine about how civil court cases effect responsibility and deterrence.
5. To propose improvements for the amalgamation of criminal prosecution inside environmental decision

Research Methodology:

This article employs a doctrinal research methodology grounded in the analysis of statutory provisions, rulings from the Supreme Court, High Courts, and the National Green Tribunal, alongside academic literature pertaining to environmental law and criminal justice.

2. Conceptualization of Environmental Crime in India

Environmental crime refers to conduct that disregards laws intended to protect the environment and might result into penal liabilities. It must be distinguished from general environment harm, that occurs without illegality and from statutory non-compliance which may result in administrative fines.

The Environment Protection Act,1986 outlines general penalty for violation of environment under section15 which says that person who breaks the environmental laws and regulations will be punished up to 7years and have to pay fines³. The section 16 extends to make the executive and corporation leaders to be responsible for these types of violations⁴.

In a similar manner, the Water Act ,1974 punishes the discharge of containments into water bodies without the sanction and prescribes punishment for such violations and violators⁵. The similar type of penalties is imposed for emissions of dangerous gases beyond the permissible limits under the Air, Act,1981⁶.

The Environmental crimes regularly operate on the principle of Strict liability unlike the

³ Environment (Protection) Act, 1986, s 15.

⁴ Environment (Protection) Act, 1986, s 16.

⁵ Water (Prevention and Control of Pollution) Act, 1974, ss 24, 41–45

⁶ Air (Prevention and Control of Pollution) Act, 1981, s 37

traditional crimes. In the ruling decision of *M.C. Mehta v. Union of India*, the Hon'ble Supreme Court held that industries and companies engaged with risky hazardous substances are directly responsible for environment harm and careless actions under the doctrine of Absolute liability⁷. This demonstrates a preventive ideology which stresses on public health and welfare over classical concepts of mens rea.

A substantial doctrinal distinction pertains between the civil wrong, environmental crime and regulatory infringement. The environmental crime engages moral culpability and public harm regulatory violation focuses on administrative compliance and civil wrong concentrates on compensation. Considering their civil treatment violations that clearly will fall within the first category are at the heart of many cases before the NGT.

3. Legislative Framework and Jurisdiction of the National Green Tribunal: A Critical Analysis

In order to fulfill India's international obligations regarding environment and to mitigate the drawbacks of traditional justice delivery system for handling complicated environmental cases, the tribunal was formed and the NGT Act was passed⁸. The Act solved the cases with combined legal adjudication and scientific expertise in order to deliver effective justice to environment. By doctrinal analyze of the Act it uncovered the systematic conflict among criminal accountability and environmental preservation.

- **Civil Jurisdiction of NGT**

The tribunal's authority is restricted by section 14 to civil cases addressing major environmental issues. Section 15 of the Act allows the NGT to grant relief, compensation and restitution of damaged cause to ecosystem⁹.

- **Lack of Criminal Trial Procedures**

The NGT Act fails to authorize the tribunal to commence criminal trials, record convictions, or impose imprisonment. Penalties for disregarding NGT directives are mentioned in Section 26 of the Act, but they are prescribed for non-compliance and are secondary rather than direct or

⁷ *M.C. Mehta v Union of India* (1987) 1 SCC 395

⁸ National Green Tribunal Act, 2010, Preamble and Statement of Objects and Reasons.

⁹ National Green Tribunal Act, 2010, ss 14–15.

original for environmental offence¹⁰. This appraisal effectively dissociates environmental harm from criminal accountability.

By establishing exclusive environmental jurisdiction in civil tribunal while reserving criminal prosecution to under-utilized mechanism under criminal law, the Act unintentionally aids the decriminalization of environmental unlawful conduct in practice. As a consequence, there is a fundamental divide between statutory criminalization and institutional enforcement because the NGT determines environmental crimes without using its criminal authority.

4. Environmental Crimes before the NGT: Nature of Adjudication

The major environmental crimes that are criminal in nature are extensively handled by NGT specifically illicit mining, waste management and industrial pollution.

- **Illegal Mining:**

The illegal mining cases illustrated the civil jurisdiction of the tribunal. The NGT examined extensive illegal iron ore mining that is causing substantial ecological damage in case of *Goa Foundation v. Union of India*. The tribunal-imposed compensation and restoration measures but did not direct for any criminal trial¹¹. The famous polluters pay principle was upheld by the tribunal that confined remedies to compensation and compliance in the more recent case of *National Green Tribunal Bar Association v. Union of India*¹². In *State of Meghalaya v. All Dimasa Students Union*, concerning illegal coal mining and the tribunal executed environmental compensation but periodic violations uncovered enforcement limitations¹³.

- **Industrial Pollution**

In Industrial pollution incidents, the NGT has taken strict remedial measures. In the case of *Vardhman Kaushik v. Union of India* the tribunal has implemented order to shutdown the polluting units in Delhi-NCR.¹⁴

¹⁰ National Green Tribunal Act, 2010, s 26

¹¹ *Goa Foundation v Union of India* (2014) 6 SCC 590

¹² *National Green Tribunal Bar Association v Union of India* (2021) SCC OnLine SC 281.

¹³ *State of Meghalaya v All Dimasa Students Union* (2014) SCC OnLine NGT 224.

¹⁴ *Vardhman Kaushik v Union of India* (2015) SCC OnLine NGT 125

- Waste Management and Compensation to Environment

The tribunal designed a inclusive compensation scheme for solid waste management in the case of Almitra H Patel¹⁵. In recent case, the Hon'ble Supreme Court defended the NGT's inclusive remedial powers despite stressing its civil nature¹⁶.

The cases indicate that while the NGT proactively addresses environment damage, it constantly defines violations as legislative and compliance failures.

5. From Criminal Behaviour to Compliance: Doctrinal Analyzes

The NGT's capacity for civil remedies is reflective of what could be called as environmental crimes. When statutory offences are merely addressed by administrative directives and are solved by compensation not by criminal conduct. Criminal prosecution is largely marginalized. Even when tribunal's decisions indicate unambiguity, statutory violations, recommendations for prosecutors are very less. As, a result environmental crimes in typical criminal courts involve investigation, inquiry, trial, punishment and conviction.

The harm of environment is acknowledged, handled and quantified but not penalized. The liability or accountability is reduced and deterrence is compromised. Thus, the tribunal operates with a lenient accountability framework promoting efficiency and rehabilitation over moral sanctions and punishments. While such approach could end in partial compliance, it weakens the criminal law's descriptive and deterrent power.

6. Corporate Environmental Crimes and Personal Liability

The Corporate actors dominate in environmental cases. Although the environmental laws provide prosecution of executives and directors who commit corporate violations, such liabilities are rarely leverage in tribunal's hearing¹⁷.

The civil nature of the tribunal's adjudication indirectly preserves the corporate veil, safeguarding those decision makers from personal culpability. CSR are frequently taking over the role of true accountability allowing businesses to externalize environmental costs without

¹⁵ Almitra H Patel v Union of India (2017) SCC OnLine NGT 1016

¹⁶ Municipal Corporation of Greater Mumbai v Ankita Sinha (2021) 8 SCC 356.

¹⁷ Almitra H Patel v Union of India (2017) SCC OnLine NGT 1016

paying fines¹⁸.

7. Rethinking the Role of the National Green Tribunal: Need of hour for Hybrid Model

The study mentioned earlier shows that the NGT has enhanced India's environmental governance and accountability for environmental crimes has unknowingly undermined by its civil centric approach. The need of reconceptualization of NGT's position within broader environment enforcement system.

- **Mandatory Referral mechanism for Serious Environment Crimes:** The serious environmental crimes are need to addressed immediately with implementation of an obligatory referral mechanism¹⁹. Where the NGT records finds the violation of repeated or statutory order of tribunal such as dangerous industrial pollution, illegal mining, or massive trash dumping, it should be immediately transferred to relevant criminal courts²⁰.
- **Framework for Growing Repeated Offenders:** The current system permits habitual polluters to regularly break environmental laws and to this reason a graded escalating system is required. Civil remedies may be imposed to first time offenders but criminal proceeding with harsh penalties should be imposed for serious and repeated offenders. This would definitely discourage reinstate non-compliance and restore deterrence in the mind of criminals.
- **Solidification and Institutional Coordination:** There should be effective enforcement needed between the NGT, district administrations and Pollution Control Boards. At present there is lacking of coordination and working of such institutions which leads to fragmented enforcements and accountability deficiencies. The establishment of mechanism for information sharing, follow-up prosecution and joint investigation must be created for effective criminal enforcement whenever and wherever required.
- **Victim-Centric and Community-Oriented Remedies :** The hybrid model should also integrate victim-centric process. The affected people and communities must be

¹⁸ Surya Deva, 'Corporate Environmental Responsibility in India' (2012) 24 NLSIR 53

¹⁹ United Nations Environment Programme, Environmental Rule of Law: First Global Report (UNEP 2018).

²⁰ Upendra Baxi, 'Environmental Justice and Human Rights' (2001) 4 Indian J Global Legal Studies 125

provided with more rights in Participating in NGT's hearings and inclusion in expert committees and getting access to compensation evaluation. Criminal proceedings when combined with restorative remedies can tackle both environmental harm and social injustice.

8. Conclusion

The National Green Tribunal represents one of the most significant institutional reforms in Indian environmental governance. Its specialist, expert-driven, and fast approach has surely enhanced access to environmental justice and strengthened regulatory compliance. However, as this study has showed, the tribunal's civil-centric adjudication has also caused unexpected consequences.

Environmental crimes, despite being statutorily criminalised, are frequently resolved without criminal prosecutions, convictions, or incarceration. Through its emphasis on compensation, restoration, and compliance instructions, the NGT has effectively transformed environmental criminality into a regulatory issue.

This regulatory dilution undermines deterrence, facilitates corporate environmental impunity, marginalises victims, and impairs the expressive and punitive powers of criminal law. An appearance of accountability is produced when there are no criminal penalties, allowing environmental damage to be monetised without being denounced. Although such a strategy might result in temporary rehabilitation, it ignores the underlying causes of environmental deterioration. Without the genuine prospect of criminal consequence, habitual polluters remain undeterred, and environmental protection risks being converted to a calculable commercial expense. This study argues that environmental preservation in India cannot rely primarily on civil and administrative systems. Criminal accountability remains indispensable for resolving substantial and lasting ecological harm. Therefore, a hybrid enforcement strategy is crucial, combining the deterrent and expressive powers of criminal law with the restorative qualities of the NGT.

Reconnecting environmental harm with criminal culpability would not weaken the NGT; rather, it would increase its legitimacy and effectiveness. Indian environmental law can more effectively carry out its constitutional mission to safeguard the environment for current and future generations by guaranteeing that environmental crimes are handled as crimes. The protection of the environment for current and future generations

is a constitutional obligation that Indian environmental law may better fulfil by guaranteeing that environmental crimes be handled as crimes.

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