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MR4 Human Rights Clinique II

Human Rights Report

The National Green Tribunal of India



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Summary

Environmental degradation are one of the most visible and threatening realities that we face today and conflicts over the use of natural resources and with it the violations of peoples rights are steadily rising in India. Another threat that is already here is Climate Change and to deal with this India has recently installed a specialized environmental court, The NGT, the National Green Tribunal, to help reduce greenhouse gas emissions and mitigate the effects of climate change and environmental degradation and destruction by enforcing environmental laws and regulations but also issuing orders and directives to avoid or mitigate environmental harm. This report will take a close look at this court and its framework and is aiming to find out if it has been effective and if law could be the missing piece to deal with these threats we face globally.

Goals & Objectives

The main goal of this report is to find out if the Indian environmental court had any effect on human rights in Indian society? And if so, how have human rights been affected?

And what is required for climate and environmental justice to be achieved to a greater extent in India?

And to what extent could stricter environmental legislation and an environmental court be a global solution, and are there any indicators in the Indian context, to achieve greater climate and environmental justice globally?

Recommendations

The NGT needs to be given more teeth in the form of criminal law and a widened scope and more autonomy, to boost its effectiveness in preventing, mitigating, and responding to environmental degradation, and in promoting and ensuring environmental conservation in balance with sustainable development activities.

Introduction

Climate and environmental justice is a perspective that focuses on conflicts, power, and justice and connects human rights with environmental issues. It particularly focuses on who in society, locally and globally, causes climate change and generates environmental problems, and who is affected by these issues. Traditionally climate and environmental issues have not been addressed by the Human Rights Regime, but lately, climate and environmental justice have become a major topic of discussion within the UN and a keynote at all of today's global environmental and climate conferences. A few countries have come further than others in addressing this issue, and in India, it has been addressed through the establishment of national environmental legislation (Enhesa, 2022) & (NGT Act, 2010) and the establishment of a specialized environmental court (Patra & Krishna, 2014) - The National Green Tribunal (NGT). (NGT, 2010)

This report takes a close look at this specialized environmental court, NGT, in order to gain a greater understanding of the extent to which it has had an effect on Indian society from a human rights perspective. The overall aim was to explore what is required for climate and environmental justice to be achieved to a greater extent in India. The intention was also to look at who the rights holders are, as it sometimes happens that groups are pitted against each other, such as environmental activists and indigenous peoples. And since the environmental court has had positive effects when it comes to environmental justice in India, further investigations were done to see whether and to what extent it could be a contributing solution to the climate and environmental justice globally and if there are any indicators that could be transferred and implemented globally.

This report's approach is largely characterized by inductive reasoning (Cleland & Ireland, 2002, P. 71), and the questions that guide the report are:

- 1) has the Indian environmental court had any effect on human rights in Indian society?
- 2) if so, how have human rights been affected?
- 3) what is required for climate and environmental justice to be achieved to a greater extent in India?
- 4) if so, to what extent could stricter environmental legislation and an environmental court be a global solution, and are there any indicators in the Indian context, to achieve greater climate and environmental justice globally?

Purpose

Today we see a clear need to deal with the threats of environmental destruction and to limit and stop climate change. If you protest and demand your rights, it is not uncommon for you to be threatened, harassed, and at risk of being killed. Unfair distribution of resources and power causes and drives development while the ones who have the least and also historically have contributed the least to environmental destruction and climate change, are hit hardest. And those who stand up for their rights also run the risk of being arrested and prosecuted and are being sentenced increasingly harshly in today's legal system all over the world. And if you are also a woman, you are especially vulnerable. Simply a reality where companies violate human rights, where fine words in sustainability policies and neither social nor environmental sustainability are translated into action, and where states put the interests of companies before the rights of the local population. The pursuit of natural resources, where multi-national corporations put profit maximization over human rights and practice land grabbing, deforestation, and clear-cutting forests, pollutes air, lakes, and oceans, destroying whole ecosystems, burning fossils, and continuing to contribute to climate change.

This means that companies a lot of times act freely globally to destroy our common life habitat and destroy whole ecosystems which we humans are dependent upon and if they rarely are seen breaking an existing environmental law and are sued, they usually already have budgeted to deal with potential lawsuits and fines, or simply moves out their business out of that country, while local whole communities are devastated and human rights violated.

The NGT is thus a significant initiative by the Indian Government, which is quite unique in the world, and the rightful implementation of the already existing national environmental laws certainly help India on the path towards Sustainable Development and succeeding in meeting the goals of Agenda 2030 and thereby guarantee a harmonious relationship between the environment and society thus human rights.

In order to examine the intersection of climate and environmental justice, the report looks at the effectiveness of India's environmental court and national environmental laws from a human rights perspective with a focus on the impact these legal frameworks have had on local communities. The next step in this report is to determine whether the Indian model could potentially be applied globally as a solution for achieving Agenda 2030 and the Sustainability Development Goals (SDGs).

Methodology

To aid in the report's efforts, contacts were made and meetings and interviews were done with representatives of Human Rights Organizations or other Non-Governmental Organizations (NGOs), lawyers, and several academics specialized in either law and policies or in the environmental field both professors or students, governmental officers, journalists, politicians, business people but also people on a grassroots level. This was done with careful ethical considerations. Many of the above representatives were first hesitant to talk about the NGT since they thought they were not experts and thought they had nothing to add when there was no understanding that in order to get a holistic view of the NGT voices from all levels were needed and approached. But after meeting under relaxed social circumstances most of them came around. Some preferred being anonymous but others had nothing against talking as themselves, but some preferred not to since they did not want to come across as an expert or were talking about sensitive matters.

This report was done mainly using qualitative methods, to create a detailed but comprehensive knowledge of what was being studied (Cleland & Ireland, 2010, p. 3). In order to triangulate the findings, qualitative techniques were employed. By utilizing different tools in the qualitative technique, results were triangulated to improve the validity and reliability. (ibid.).

This report is based on both primary and secondary data. Primary data was collected through interviews with key informants, such as the representatives mentioned above. Participants were interviewed in-depth for the qualitative phase to examine their opinions on the subject and their experiences, beliefs, and actions. (McConnell & Smith, 2018, p.150).

Secondary data was also collected through a literature review of existing research on the subject, as well as through analysis of legal documents and statistics. In order to examine the data and find patterns and trends, statistical methods were used. Most interviews were conducted in English, but in some cases, translation assistance was used for interviews in Hindi. (McConnell & Smith, 2018, p.130).

The above methods were employed during the whole investigation. It comprised the inquiry for material, source selection, data collecting, interpretation of interviews, data analysis, research trustworthiness, validity and reliability, generalizations, ethical consideration, and study limitations (Cleland & Ireland, 2002, P. 95). This report is small project management

which is similar to large project management, with the exception being the degree of complexity involved.

A regular methodology for planning and doing the research was followed, which included (1) identifying the requirement, (2) planning the project, (3) collecting necessary information, (4) analyzing the data, (5) developing alternative strategies to achieve the project outcomes and (6) presenting appropriate suggestions (Cleland & Ireland, 2002, P. 95). Organizational advice and project papers were evaluated for authenticity and efficiency (Cleland & Ireland, 2002, P. 193).

Furthermore, some interviews were performed to get more information about questions from earlier interviews that were either biased to one side or the other, provide insufficient or too narrow to reveal the genuine situation, or even have answers that are evenly divided among many possible answers (ibid.). The main principles of ethical explanation were maintained when gathering relevant material (Cleland & Ireland, 2002, P. 179). Gathering relevant data through interviews with the proper stakeholders, reviewing project paperwork, and providing regular updates on the project's status with reference to its budget, schedule, and technical performance goals was maintained in this report. (Cleland & Ireland, 2002, P. 405).

Additionally, In order to produce this report in a responsible and respectful manner, the report abides by the following ethical guidelines:

1. Informed consent: Before collecting data from participants, they gave their informed consent. Either by utilizing a permission form that details the investigation's goals, the information gathered, and the advantages and disadvantages of participation or by recorded consent. Before they consent to take part in the study, the participants had the chance to ask questions and completely understand their rights. This entailed informing them about the research but also ensuring that they know their rights and associated consequences. (Cleland & Ireland, 2002, P. 179).
2. Confidentiality: Each participant's privacy was maintained and the information has not been disclosed without permission. Precautions were taken to protect participant data and ensure privacy. This entailed the use of anonymous or anonymity identifiers, the storage of data in a secure environment, and the restriction of data exchange to those with a legitimate need to access it (Smith & Smith, 2018, p.83).
3. Risk of harm: Measures were taken to reduce any possible pain or harm that participants might encounter as an outcome of their involvement in this report. And a

strategy was done for handling any possible risks or negative effects that could occur. This involved dealing with negative incidents or helping individuals who felt uncomfortable or distressed in any way. (Smith, 2018, p 10).

4. Interpersonal obstacles, like ethics, morality, values, preconceptions, ideologies, and biases as well as other factors that influence how one behaves in both a personal and professional life were among the most important challenges faced. (Cleland & Ireland, 2002, P. 488).
5. Deception: There was no intentional misleading of participants or hiding of crucial information. The report does not conceal any crucial information from participants and it was important to be open and honest with all, about the nature and goals of the report. (Smith & Smith, 2018, p. 84).
6. Permits/Licenses for the report in the areas where the study was to be conducted were secured, but not necessary (Cleland & Ireland, 2002, P.578).
7. Conflict of interest: Among different actors, there might have been conflicts of interest that may have impacted the report but as soon as it happened action was taken, to manage or resolve whatever had come up. (Egan, 2018, p.36).
8. Plagiarism: This report is unique and correctly referenced, and has not used anyone else's work without giving them due credit. (Cleland & Ireland, 2002, P.58).
9. Relationship problems in a foreign nation might result from workplace ethics, state, and federal laws, cultural norms, labor unions, trade restrictions, and differences in human levels of experience. They can also arise from religious beliefs and practices (Cleland & Ireland, 2002, P. 221).

The report seeks to guarantee that the research was done in a responsible and respectful manner and that the rights of participants were respected by operationalizing ethical issues in the way mentioned above.

Historical Background of the National Green Tribunal (NGT)

The government of India established the NGT in 2010, as per the National Green Tribunal Act (NGTA), which is a quasi-judicial body that exclusively deals with environmental-related civil litigations, and with this India took a huge step forward toward achieving environmental justice. The NGT was constituted as a multidisciplinary body with the necessary expertise for the effective and speedy disposal of cases relating to environmental protection, forest conservation, and enforcement of legal rights relating to environmental protection. The NGT is equipped with expertise solely for the purpose of adjudicating environmental cases in the

country and with the primary aim to deal with India's struggle between development, human rights, and the environment.

The National Green Tribunal Act (NGTA) mentions that India took part in the decision-making at the 1972 United Nations Conference on Human Environment - People and Planet, held in Stockholm, Sweden, which called for the need for all the partaking states to take appropriate steps for both the protection and improvement of the environment. India took this seriously and felt obligated to take appropriate steps for the protection of the environment and made an amendment to the constitution, and implemented a fundamental duty of the citizen for the protection of the environment. Thereafter the Supreme Court and the High Court developed the broader dimensions of the right to life and through various decisions, they decided that the right to the environment was to be part of the right to life. Read more in-depth about this later in this report. However, while deciding on environmental issues and environmental disputes, expert and technical knowledge were required, which was lacking. Hence, the Supreme Court repeatedly recommended the establishment of a specialized environmental tribunal with the required technical and expert members, as well as the Law Commission of India, which based this on a review of the problems that came before the courts and the inadequacy of judicial knowledge on the scientific and technical aspects of environmental issues. And against this backdrop, the National Green Tribunal (NGT) of India was created. (Singh, 2021) The Principal bench was placed in Delhi and four other benches were also created, one for each zone of India, Central in Bhopal, Western in Pune, Eastern in Kolkata, and the last one in the south in Chennai. The proximity to the court is extremely important, not only because local expertise is needed but also for people to be able to access it without having to travel across the country. The main directives of the new court were works and principles of natural justice in addition to speeding up the process for judgments related to the environment, reducing the burden on other courts, and disposal of cases within 6 months of filing.

The Vice President of India, Shri. Hamid Ansari at the inauguration of NGT quoted the Worldwide Wildlife found (WWF) and said:

“The Centre for Environment Law at Worldwide Fund for Nature-India has described the commencement of the National Green Tribunal as a giant step forward towards achieving environmental democracy. After observing the recent proceedings of the Tribunal and reading its previous judgments, the Centre has also complimented the Judges and Expert Members for

having achieved their mission of maintaining the precarious balance between environment and sustainable development in a majority of their cases.” (WWF)

This approach of the Tribunal is seen by WWF to be a revolutionary step for the judiciary and an even greater measure towards environmental protection. The WWF has also made an archive with statistics and summaries of all the cases of the NGT, from its inauguration until now, to get a clear overview and make it easier for law practitioners and future researchers to access information about the cases and the court's ruling/decisions. (WWF)

The structure of the NGT and its powers

The NGT is made up of the chairperson, the judicial- and expert members. It is only possible to be in office for five years maximum and it's not possible to be eligible for reappointment. The chairperson is appointed by the Central Government together with the Chief Justice of India (CJI). Then a selection committee is formed by the central government, which appoints the Judicial- and Expert Members.

The NGT's jurisdiction is not criminal but covers all civil cases concerning the environment as well as the enforcement of any legal right regarding the same and can by order provide relief and compensation for victims of severe environmental damage or pollution or for accidents that have occurred while handling hazardous substances. The NGT also gives executive orders to give back and restore damaged properties as well as to restore the environment in destroyed areas or completely close down damaging industries, as the NGT deems appropriate. The NGT not only act after the damage has been done but also make investigations and make policies and issue permissions before infrastructure projects start and also investigates developments and long-term influences on the environment and advice the national government to form laws and policies to limit the destruction of the environment in the future. There is also a procedure for a penalty for non-compliance, which could lead to imprisonment for up to three years and/or fines of up to ten hundred thousand Indian Rupees (INR). Appeals can be done against orders or decisions of the NGT to the Supreme Court of India, within ninety days after the order or decision was communicated.

Environmental laws in India

The jurisdiction of the NGT includes the following laws and acts:

1. The Water (Prevention and Control of Pollution) Act, 1974
2. The Water (Prevention and Control of Pollution) Cess Act, 1977
3. The Forest (Conservation) Act, 1980

4. The Air (Prevention and Control of Pollution) Act, 1981
5. The Environment (Protection) Act, 1986
6. The Public Liability Insurance Act, 1991
7. The Biological Diversity Act, 2002

But environmental rights and legal principles are in addition to the above acts central to Indian environmental law and legal decision-making. The Judgements of the NGT have drawn and are particularly focused on the following five principles of environmental legislation, that have been inspired by international environmental law:

1. Polluter Pays
2. Precautionary Principle
3. Public Trust Doctrine
4. Inter/intra generational equity
5. and most importantly Sustainable Development

These principles were not in Indian national law traditionally but have now been incorporated by the Supreme Court and the NGTs framework with some adjustments and both lawyers rely on them and judges refer to them when delivering judgments. (Gosh, 2019:4)

Challenges

Two important laws/acts which often also are about environmental issues are not included and kept out of NGTs jurisdiction - Wildlife (Protection) Act, 1972 and Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 which both are criminal law and not civil. This restricts the jurisdiction of the NGT and at times lowers its functioning and effectiveness as crucial issues concerning these acts/laws overlaps with the purpose and function of the NGT. (Gosh, 2019:22)

Another weakness is that many think that the NGT lacks teeth when it is only a civil court and to address these issues we need criminal law. The ruling of the NGT can also be challenged by the Supreme Court according to the NGTA but is also being challenged by other higher courts when it's unclear on what kind of decisions NGT could be challenged or not. . (Gosh, 2019:30)

The NGT has also been criticized for some of its rulings that are going against economic growth and development. And when there is a policy made for example that the NGT does

not give alternative solutions or time to change before the ruling comes into action creating problems for industries and other businesses to come up with new ways to run their business and putting them at risk. And sometimes its ruling is just not feasible within the given timeframe. (Gosh, 2019:128)

The lack of both financial but also human resources at the NGT has led to difficulties and not being able to meet the 6 months timeframe for disposal of appeals.. (Gosh, 2019:278)

NGTs ruling/decisions are not always complied with by either the stakeholder or the government, and follow-ups and the institutions that are set to control rulings/decisions are followed, often failing, when statutory institutions like assigned pollution control boards do not have enough resources and are vulnerable to external influences, and do not discharge their functions as they should, a lot of times implementation is the missing link. (Gosh, 2019:2)

The long-term planning and political will to tackle environmental destruction are missing and resources are limited. This means that the measures for setting up and running effective regulatory authorities are lacking. (Gosh, 2019:3)

The limited number of regional benches is also a hindrance when India is a vast country and people and other stakeholders don't have the possibility to register and follow a case far away from where they live. (Gosh, 2019:97)

The Indian Constitution - the Right to life and the Right to Environment

Article 21 of the Indian Constitution guarantees the fundamental right to life. And the Indian court system has recognized that there is an intrinsic link between it and the right to the environment. Already in 1981, the Supreme Court stated that the right to life included “*the right to live with human dignity and all that goes along with it, namely the bare necessities of life*” and obviously the environment is such a necessity even though it is not mentioned exclusively. (Gosh, 2019:24) So recently, the right to the environment being linked to the Right to life has been recognized legally, taking a huge step away from its former anthropocentric approach when dealing with environmental issues. There are also certain procedural guarantees/rights making the right to the environment meaningful, including the right to information, public participation, and access to justice, which is a vital part of the environmental rights framework. (Gosh, 2019:4)

But what environmental rights really means is far from clear. As a right, it is one among several rights that form part of the Indian Constitution - the right to life, including the right to livelihood and the right to development. These rights often contradict each other and there is little guidance on which right trumps which. (Gosh, 2019:5-6)

Since the right to the environment is not an absolute right it is often sidelined a lot in favor of the greater public interest. But at the same time, it allows the NGT some flexibility to make decisions based on facts and the real situation and in favor of the environment. (Gosh, 2019:8)

The NGT promoting Sustainable Development

One of several NGT's primary goals is to guarantee that the country's economic growth is done in a sustainable approach, taking into consideration the environmental and social implications of development initiatives. In this sense, the NGT plays an important role in enhancing India's sustainable development strategy by considering matters involving the execution of environmental laws and regulations as well as issuing instructions and directions to avoid or reduce environmental harm (Ministry of Environment, Forest and Climate Change, n.d.).

In the following ways, the National Green Tribunal (NGT) in India is linked to Goal 1: No Poverty among the Sustainable Development Goals (SDGs) listed in the United Nations' 2030 Agenda for Sustainable Development: The NGT contributes to job creation and economic progress in India by supporting a green economy. A green economy is defined by low-carbon, resource-efficient, and socially inclusive growth, and it may aid in poverty reduction by providing new economic possibilities and raising earnings (United Nations, 2015).

The NGT works to conserve the country's natural resources and biodiversity, which are crucial for the economic well-being of local people, by implementing environmental laws including regulations, and setting policies and directives to avoid or minimize environmental harm. The NGT, for example, works to sustain the lives of individuals who rely on forests for a living, such as forestry workers and smallholder farmers, by conserving forests.

The NGT aims to guarantee that development is carried out in a sustainable way by regulating the environmental implications of development projects, which could also

contribute to poverty reduction by maintaining natural resources including environmental assistance that seem to be vital for human well-being (United Nations, 2015).

The NGT is strongly connected to many of the United Nations' 2030 Agenda for Sustainable Development's Sustainable Development Goals (SDGs). The NGT's major purpose is to safeguard the environment while also avoiding pollution, which is directly related to SDG 13: Climate Action (United Nations, 2015). The NGT contributes to reducing greenhouse gas emissions and mitigating the effects of climate change in India by enforcing environmental laws and regulations but also issuing orders and directives to avoid or mitigate environmental harm.

In addition, The initiatives of the NGT to promote sustainable development in the country are inextricably linked to SDG 9: Industry, Innovation, and Infrastructure (United Nations, 2015). The NGT contributes to the development of a green economy in India by ensuring that development projects are carried out in an ecologically friendly way. A green economy is defined as low-carbon, resource-efficient, as well as socially inclusive development.

SDG 15: Life on Land (United Nations, 2015), which strives to maintain, preserve and support the sustainable usage of terrestrial ecosystems, and forest areas, including biodiversity, is also aided by the NGT's work to help protect forests and animals. The NGT contributes to the preservation of the nation's natural biodiversity and resources by delegating authority to prohibit building operations that harm natural habitats and enforcing penalties on enterprises that may have committed environmental damage.

The NGT is strongly linked to the following SDGs, in addition to SDGs 13 (Climate Action), 9 (Industry, Innovation, and Infrastructure), but also 15 (Life on Land): Clean Water and Sanitation (SDG 6), Good Health and Well-Being (SDG 3), Decent Work and Economic Growth (SDG 8), and Sustainable Cities and Communities (SDG 11). (United Nations, 2015). The NGT contributes to the creation of more livable and sustainable cities in India by regulating the environmental implications of development projects and supporting sustainable urban planning.

In conclusion, the NGT is critical to supporting sustainable development in India, and it is closely tied with a number of the SDGs established in the United Nations' 2030 Agenda for Sustainable Development. The NGT contributes to the country's economic growth by protecting its environment, promoting a green economy, but also preserving natural resources

as well as biodiversity. This aims to guarantee that the state's financial development is conducted in a sustainable way, taking into consideration the social and environmental impacts of development initiatives.

Table 1 “NGT and the Sustainable Development Goals”

SDG	Connection to NGT
1: No Poverty	The NGT supports India's economic growth and employment creation by advancing a green economy (United Nations, 2015). By generating new employment possibilities and raising earnings, a green economy—which is defined by low-carbon, resource-efficient, and socially inclusive growth—can aid in the reduction of poverty (United Nations, 2015). The NGT assists in preserving the livelihoods of those whose income depends on the country's natural resources as well as biodiversity, including small-scale farmers and employees in the forestry industry (National Green Tribunal Act, 2010).
3: Good Health and Well-Being	The NGT works to protect Indians' health by reducing air and water pollution and encouraging the sustainable use of natural resources (National Green Tribunal Act, 2010).
6: Clean Water and Sanitation	The NGT works to guarantee that people in India possess access to healthy and safe water through implementing environmental laws and regulations and setting policies and directions to avoid water pollution (National Green Tribunal Act, 2010).
8: Decent Work and Economic Growth	The NGT supports job creation and economic progress in India by fostering a green economy and assuring that major infrastructure projects are executed in a sustainable way (United Nations, 2015).

9: Industry, Innovation, and Infrastructure	The NGT contributes to the creation of a green nation's economy, that is defined by low-carbon, resource-efficient, as well as socially inclusive growth, by guaranteeing that development projects are implemented in a sustainable way (United Nations, 2015).
11: Sustainable Cities and Communities	The NGT aids in creating more habitable and environmentally responsible cities in India by regulating the environmental effects of development projects but also supporting sustainable urban management activities (Ministry of Environment, Forest and Climate Change, n.d.).
13: Climate Action	The NGT aids in lowering greenhouse gas emissions and reducing the effects of climate change in India by regulating environmental laws and regulations and setting policies, and directions to avoid or mitigate environmental harm (National Green Tribunal Act, 2010).
15: Life on Land	The NGT contributes to the preservation of the nation's natural resources and biodiversity by issuing orders to stop building operations that harm natural habitats and by levying fines on businesses that have caused environmental damage (National Green Tribunal Act, 2010).

Analysis

To examine the data gathered for this report, inductive reasoning was adopted. (Cleland & Ireland, 2002, P. 71) The following actions were taken throughout the analysis process:

Data gathering: Information was gathered from a range of sources, including interviews, surveys, and observations. The information gathered aimed at being accurate and impartial and related to the issue (McConnell, 2018, p.44).

Data organization: After the data has been gathered, it was together in a way that made it easy to examine. This entailed categorizing the data, coming up with themes, or putting it in a database or spreadsheet. The objective was to handle and analyze the data more easily (Cleland & Ireland, 2002, P.96).

Data analysis: After that, the data was looked upon to find patterns, trends, and connections. This entailed manually coding and evaluating the data and/or utilizing tools for qualitative data analysis. Different methods of analysis were employed depending on the method and the type of data that was gathered (Landman, 2018, p.104).

Theory creation: Theories or insights regarding the study issue were produced using the results of the data analysis. Based on the evidence, hypotheses or conceptual frameworks were made, as well as generalizations about the phenomenon that was found (Smith & Smith, 2018, p.91).

Validation: To validate the results of the report, information was gathered further if needed or experts or other interested parties were consulted. (ibid., p.82).

The method of analysis, in general, has focused on gathering and organizing data, analyzing it to detect patterns and links, and applying the results to produce new hypotheses or insights about the research that has been done.

Previous research and further reading

Since the NGT is quite a new phenomenon historically there is not a lot of in-depth research yet to be found and no one has come up with a good way of measuring the NGTs effectiveness or its link to environmental justice. Most research and articles today are just reporting and showing the process since its start or taking an interest in and analyzing particular court cases. But the main secondary sources used in this report are the following:

One of the first and most well-known research covering the start of NGT until 2013, is the *“National Green Tribunal and Environmental Justice in India”* by Swapan Kumar Patra & V. V. Krishna from the Centre for Studies in Science Policy, School of Social Sciences, Jawaharlal Nehru University in New Delhi. This study conducted an empirical analysis of NGT judgments from its inception in October 2010 to December 2013, and analyze the effectiveness of the environmental court from its establishment and its settled environmental issues, and its overwhelming responses from different corners. (Patra & Krishn, 2014)

The following article *“Environmental justice: Is the National Green Tribunal of India effective?”* by Shrotria, S. from 2015, discusses the role of NGT and brings out the jurisdiction, powers, and functions and effect of the tribunal for environmental justice and goes into some of the significant cases, the principles applied, the accessibility and value addition to environmental jurisprudence through the innovative application of law and the objectivity demonstrated by the tribunal in balancing the protection of the environment and sustainable development. And concludes that the NGT, with its specific mandate, constitutes an important step in the access to justice on matters concerning the environment and on achieving environmental justice. (Shrotria, 2015)

“A Decade of National Green Tribunal of India: Judgement Analysis and Observations” by Aprajita Singh from the University of Petroleum and Energy Studies, is about the effectiveness of the NGT as an institution, specifically from the lens of access to justice, and as an effective institution created for environmental protection and its role to fill in the gap that exists in the environmental area, linked with social and economic matters. And through analysis, it looks into the impact the judgments concerning environmental protection and innovations brought and jurisprudence created through its judgments and impact on the access to environmental justice. And concludes that the judicial mechanism as a means of access to justice in environmental matters is one of the pillars of environmental governance and is seen as means for achieving environmental justice and as a way towards achieving environmental democracy. (Singh, 2021)

And the following article examines a court case in *“We Are All Environmentalists! Framing Life in the National Green Tribunal, India”* by Sudha Vasan, in the Journal of Developing Societies (Vasan, 2021), which is an article that examines court records of hearings and judgment in a specific case of “Paryavaran Sanrakshan Sangarsh Samiti Lippa versus Union of India, etc., Appeal No. 28 of 2013” that was brought before the NGT - to understand how multiple parties present and represent themselves in the NGT and how Indias' green courts are provoking green narratives and how different actors respond and engage with this demand. Individuals are challenged in this legal field to understand and present themselves as environmentalists and the word environment is a meta-narrative in this legal field, which constitutes environmentalist subjectivity for all actors in this field through the very process of paying tribute to them. Also in this article, attention is paid to contestations in the NGT over the hydel projects that are significant contributors to international and national efforts to mitigate Climate Change. (Vasan, 2021).

“Indian Environmental law, Key Concepts, and Principles” is the last and most important secondary source of information for this report, which is a quite new anthology edited by Shibani Ghosh with different authors who go into the past, present, and future of environmental law in India but also sustainable development, principles, and implementations.

Risks

1. Legal risks: All research was done abiding by all applicable laws and rules, especially those concerning data security and privacy. Permit/Licenses for the report in the area where the research was conducted were investigated but not necessary (Cleland & Ireland, 2002, P.578).
2. Ethical risks: Everything was done ethically to avoid causing harm to participants or others.
3. Reputational risks: If the research is thought to be prejudiced or of low quality, the risk is that the report may be at risk for damage to the reputation of researchers and also the university, or of Sweden.
4. Research initiatives are costly and time-consuming, and the timeframe and financing received were not enough to do everything that could have been done. There is always a risk that the research did not yield all the necessary and desired findings.
5. Physical difficulties: Depending on the nature of the research, physical dangers could have been faced. But nothing severe happened and the only physical challenge that appeared was not getting sick in any way, which happened and took away some precious time from the research work.
6. Psychological risks: Research may be stressful and challenging, which might influence the researchers' mental health, which happened when one of the researchers quit and left the making of this report.
7. Risks associated with data: There is always a chance that data will be lost, destroyed, or stolen, which might have major ramifications for the research endeavor. The only challenge that appeared in making this report was after one of the researchers making this report left, some of the data was with him but later retrieved.
8. Conflict of interest: There were conflicts of interest that may have impacted and slowed down the research but actions were taken to manage or resolve and lessen the negative impact. (Egan, 2018, p.36).

9. Plagiarism: The work with this report is unique and correctly referenced, and others' work was not used without permission and giving them due credit (Cleland & Ireland, 2002, P.58).
10. Relationship problems in a foreign nation could result from workplace ethics, state and federal laws, cultural norms, labor unions, trade restrictions, covid restrictions, violent conflicts and differences in human levels of experience. But could also arise from religious beliefs and practices. All that appeared concerning these issues were faced and handled (Cleland & Ireland, 2002, P. 221).

Conclusions

So has the Indian environmental court had any effect on human rights in Indian society? And if so, how have human rights been affected?

Most people I talked to said that it for sure has had some positive impact especially if one compares it with if the NGT had not been there at all. And even if the environment has been destroyed and people's lives affected, at least people have a chance of getting some compensation and if they are lucky land can also be restored in some cases. From what I could find none have been able to get sure statics on the effectiveness of NGT and out of all the people I asked it seemed they all thought it would be very difficult to measure or even where to start and what to measure. Another challenge to measuring the impact on human rights is that two acts are not included in the NGT, which is concerned with wildlife and tribals, and many of the cases concerning human rights are in these two acts.

So what is required for climate and environmental justice to be achieved to a greater extent in India?

If governance had been there following up on the court orders, the effect would have been much greater without changing anything else. But the NGT also needs to be given more teeth in the form of criminal law and a widened scope and more autonomy, to boost its effectiveness in preventing, mitigating, and responding to environmental degradation, and in promoting and ensuring environmental conservation

in balance with sustainable development activities. In addition to more political will to make the necessary institutions that make sure the ruling/decision is followed and implemented. As one of the experts I spoke to said, the law is only a piece of the puzzle to protect and conserve the environment then governance is needed, for it to be done and it's here India fails, whether it's about no will, lack of resources, or corruption doesn't matter, the result is that the environmental degradation continues despite how good the legal acts and the rights looks on paper and if the NGT rules in the environments favor.

So, to what extent could stricter environmental legislation and an environmental court be a global solution, and are there any indicators in the Indian context, to achieve greater climate and environmental justice globally?

Addressing environmental degradation and destruction with legal measurements has clearly helped protect India's environment and people's rights. And the world could learn a lot from the legal acts and framework of the NGT to help fight these urgent issues. The world could also learn from what doesn't work in India and make adjustments accordingly. This report and this research have clearly shown that law is a missing piece in fighting environmental destruction and stopping climate change on a global scale all over the globe we need to implement both specialized national environmental courts and make big-scale environmental destruction an international crime, so that national ruling/decisions can be challenged internationally, if not complied with, like in many of Indias cases.

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Appendix 1 - Interview questions

Presentation of who we are and where we come from

The guidelines and importance of ethics incl:

- Recording only for our use and for our supervisors to show the source and will not be used for any other purpose
- The interviewed will be anonymous and the answers no identifiable data
- The organisation/department will be anonymous and no identifiable data

Questions:

Please can you tell us about your organization/department, your position, and responsibility?

How is your organization/department working

What is the importance of your work?

Why is your organization/department work important?

What policies and laws are effecting your work in this organization/department?

How are you implementing different policies and laws to realize your organization's mission?

Are there any policies and laws missing in your opinion to realize your work fully?

Why is policies and laws important?

Why is protecting the environment important?

Have you heard of the NGT, the National Green Tribunal?

- if no, then the question is, do you think a special environmental court is needed and why? Then skip to the next part.
- if yes, then the questioning continues with:

What do you think of the NGT?

Why is a special environmental court like NGT, needed?

What is the importance of NGT?

Have you heard or been effected or involved in any cases in the NGT?

How has the NGT effected your organization/departments work?

How has the NGT effected development in India?

How as the NGT effected human rights? And if, in what way?

Why is human rights important and what role does HR play in environmental protection?

Why is it important to protect the environment on a global scale?

The interview ends with the question - what is your message to us?