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ACCESS TO ENVIRONMENTAL JUSTICE IN INDIA: EVALUATING THE ROLE OF THE NATIONAL GREEN TRIBUNAL

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Abstract

This paper sinks into the nature of the reversal of environmental justice in India since the emergence of the National Green Tribunal (NGT) in 2010. The National Green Tribunal was established in 2010 under the National Green Tribunal Act of 2010 and is a wholly focused, fast-tracked platform on addressing the eco-conflicts and ensuring the implementation of environmental rights in fact. I deconstruct the NGT sitting, where the NGT fits in the court system, the new procedural actions it took and how well it is solid in sorting out the real-life green complaints. The paper also examines the application of sustainable development, precautionary principle and the polluter pays principle during its rulings. Although the tribunal is fairly progressive and has been bulking up environmental governance, it continues to grind its teeth on issues such as limits to jurisdiction and other discrepancies between the policy and practice besides the paucity of resources. I criticize such hitches and emphasize that we should come up with reforms that will improve the NGT in providing a genuine environmental justice.

Introduction

Environmental devastation is becoming one of the most elite tasks to our civilizations. Hasty industrialization, cities bursting at the seams of nowhere, and the mere exploitation of nature are unbalancing, falling out of balance and tampering with the health of people. The Indian scenario with regard to eco-concerns is stuck within the constitutional net with the right to life in Article 21. The courts have continued to punch holes into the understanding of human rights over the years, characterized by the use of public interest lawsuits and more liberal interpretations of the law. Nevertheless, modern environmental wrangles have revealed at once how messy they are such that we need a court with just enough expertise to tear through the dense science and tech specifics.

To pay up such a gap the Indian government has implemented the NGT through the 2010 Act. It was even to be a specialized court that would provide swift and firm resolutions dealing with environmental damage and implement the cleaning regulations. The NGT is authoritative over such mega actions as the Environment (Protection) Act 1986, the Water (Prevention and Control of Pollution) Act 1974 and the Air (Prevention and Control of Pollution) Act 1981. The NGT is an actual institutional improvement in Indian environmental law practice, combining legal expertise and scientific intelligences in such a manner that it places the controversies into the appropriate queue. It also drives the global supported concepts such as sustainable development, precautionary principle, and polluter pays concept.

But in the other side, we continue to speculate that the NGT is really simplifying matters in the sense that everybody is now benefiting by claiming environmental justice. Issues such as the extent to which NGT is spread over territories, the difficulty in enforcing its dictates as well as the overlapping of duties with other courts continue to gnash its performance. That is the point of this essay – taking a critical look at whether the NGT is living up to its mission and working up to the degree the authors desire.

Thematic Discussion

Environmental justice is concerned with the ensuring of fair distribution of benefits and burdens of the environment and also providing people with genuine voice in decisions that are taken that are related to the surroundings. It has become an important article of the constitutional government in India, which has connected the protection of nature not only to the law but to human rights and sustainable development. The Constitution did not initially define what the environmental right would be but in their interpretations, courts have had to introduce it demonstrating that the right to preserve nature falls under the right to life as provided by Article 21. Through the idea of public interest litigation and its flashy embrace of global environmental concepts, the courts have advocated that point.

However, when the character of conflicts became more complicated involving science and technology thereof, the necessity of special court became apparent. This is the reason why the National Green Tribunal was inspired by the 2010 Act, which was aimed at accelerating and simplifying the process of environmental protection, the treatment of forests and resources, and the enforcement of eco-rights. Prior to the NGT most cases that were environment-related were addressed in the Supreme Court and the High Courts. Although they were pioneer, the technical aspect posed a challenge to those big courts and the result was backlog and described headaches. Thus by

spanking a fresh tribunal into the photo I was being smart to access better justice.

The composition is one of the most interesting maneuvers of the NGT. The tribunal is not all judges, but a combination of environmental experts– people of hard science in the fields of ecology, forestry and science. In this push-up of law and science, the tribunal is allowed to consider cases in various perspectives thus not being interpreted as legal reports only, but also as a scientific report. This is useful in cases of pollution control, checking and conserving of the environment as well as environmental impact, which makes the tribunal more credible and positive with improved results.

The jurisdiction of the NGT includes a breadth of large acts Environment (Protection) act 1986; Water (Prevention and Control of pollution) act 1974; Air (Prevention and Control of pollution) act 1981 and Forest (Conservation) act 1980. Having all these disputes under the same roof, which is zoned by the panel would ensure consistency in the stay of the law and enforceability. They even have the power to compensate or carry out ecological remedies in the event of damages so that the victimized parties get a real opportunity at justice. The NGT has also resorted to short-cuts in the procedure and making it brief to keep things concise and not a deluge of paper work. In essence, the tribunal must complete cases within six months since they have been filed and this shows a desire by the lawmakers to introduce pace in the cases touching on the environment. The destruction of the environment in many cases requires immediate interventions before it becomes too late. The traditional courts are sometimes burdensome in terms of time and paper work and this erosion etches away the true efficacies of environmental protection. The implementation of adaptable procedural rules and the demand of prompt judgments by the NGT have facilitated, and rendered the procedure quicker in order to settle environmental disputes.

The tribunal has also taken an important role in bringing flair to the environmental law through frequent application of key international environmental principles. They are sustainable development, the precautionary principle as well as the polluter pays principle. These ideas have been internalized by institutions and legislation in India in terms of interpretations of the court. Using precautionary principle, the tribunal may still intervene where no scientific confidence will lead to harm yet the dangers are high. On the same note, the polluter pays principle subjects the culprits to the cleanup and compensation cost. These principles are strengthened by the decisions made by the court, which contribute to the creation of a more effective system of environmental control.

In addition to enhancing the principles of law, the NGT also has introduced the gateway to environmental justice in the sense that it allows an extensive group of stakeholders to present their cases before it. Litigation is not only applied by those people directly mishandled by environmental issues; environmental groups, community organizations and civic conscious citizens can also apply. This comprehensive approach is representative of the larger philosophy of environmental governance, which perceives that harm frequently may concern communities and ecosystems, as well as individuals who may be isolated individuals. The involvement of the masses in the environmental cases increases democratic accountability when it comes to decision making.

The proactive face of the tribunal has also been observed in addressing the large-scale environmental problems to influence the health and ecological sustainability of people. The NGT has made massive orders in an attempt to control industrial pollution, waste management, protect wetlands and conserve forests through landmark orders. These actions have contributed significantly to the way India manages the environment as they oblige the regulators to be stricter with the standards. The judicial packages further enhance accountability and transparency as the

decisions of the court enhance the confidence that people have on the environmental institutions.

Despite all these victories, NGT is still experiencing tangible problems. One of the large ones is the actual accessibility of the court to the marginalized and rural communities. Although the NGT has established regional benches in the country, reaching them may again be difficult to people in remote locations. The conflict over the environment is a frequent occurrence, especially within the rural or environmentally sensitive areas of the people who may lack funds and legal expertise to challenge a special tribunal. The universal access to environmental justice is not always entirely intended, thus.

The other big challenge is the enforcement of NGT orders. The tribunal has the authority to give binding instructions and punishments, but administration agencies and regulators would carry it out. As a matter of fact, the strength of tribunal orders may be compromised by the delays or non-compliance of local authorities. The environmental governance of India entails numerous structures at the various stages of governance; at central ministries, state pollution boards, and local governments. It is necessary to coordinate them to ensure the enforcement of environmental rules.

The jurisdictional boundaries are also a weakness to the effectiveness of the tribunal. There are also a few environmental issues that the NGT itself does not have direct jurisdiction over and thus the litigants are forced to seek redress at constitutional courts. This dismembering creates procedural complications and delays. Moreover, they can be appealed against NGT decisions that they can take to the Supreme Court of India, which prolongs the process of resolving an issue further. Critics complain that more and more environmental and climatic issues should fall within the jurisdiction of the tribunal.

Other major issues of the tribunal are resource limit and the institutional capacity. All these

require the presence of sufficient judges, financial resources and infrastructures to operate a specialized tribunal effectively. Judicial and expert member vacancies that occur periodically sometimes places a burden on the court to not perform to its full capacity. Enhancement of institutional capacity by making appointments in good time, providing more money and also administrative facilitation are thus crucial in enhancing the performance of the NGT.

In the recent years, there has been an argument in the tribunal on how to balance between environmental protection and economic development. Regulations may at times be comparable to road blocks to industrial growth and development of infrastructural endeavours. But sustainable development demands a trade-off between economic development and ecological care. That is where the NGT has repeatedly attempted to achieve such a balance as to make sure that projects developed meet environmental conditions and cause as little harm to the ecological surroundings as possible. It echoes the broader objective of environmental governance which is the long-term sustainability at the expense of short-term returns.

Moreover, emerging environmental issues, such as climate change, or the loss of biodiversity, and urban pollution demand dynamic and innovative law with regard to new challenges. The NGT has been addressing the problem of air quality, waste management, and conserving ecology in the cities. These actions illustrate the changing place of the tribunal in addressing new environmental issues. Nevertheless, more sophisticated coordination of environmental agencies, legislative changes, and international collaboration will be required to solve complicated problems such as the climate change.

In general, the NGT development is a significant milestone in the Indian environmental justice efforts. The tribunal has made environmental

adjudication more accessible, efficient and quality through the provision of a specialized forum to resolve disputes. Through its jurisprudence, it has strengthened major environmental principles and increased accountability in governance. The court has, however, to still address the issue of accessibility, enforcement, jurisdiction and institutional capacity to remain able to fulfill its mandate.

In a much larger context of environmental governance, the issue of access to justice is paramount to make sure that environmental laws are not symbolical or simply at work to protect the ecosystems and human welfare. The existence of such institutions as the NGT can teach people how legal institutions can give citizens more powers, make them more responsible, and ensure the environment of the current and future generations. Enhancement of these institutions will thus continue to play an important role in the realization of sustainable development and environmental justice in India.

Conclusion

Forming the National Green Tribunal under the 2010 National Green Tribunal Act is one of the big steps taken in ensuring the environmental management is tightened and people can get actual access to justice. The tribunal has also made environmental hearings quicker and more credible by establishing a special forum which combines legal expertise to technical expertise. It has contributed to the development of the contemporary Indian environmental law with its emphasis on such conceptions as sustainable development, the precautionary principle, and the principle of the polluter pays. Besides, it has made people, communities, and nongovernmental organizations participate in litigation, which reinforces democracy. But issues such as laxity in enforcement, unreachable users and limitations of the organization continue to damp its effectiveness. Reforms, enhanced institutional support and stricter coordination of activities of environmental agencies will mend vital moves

to ensure that the tribunal is sustainable enough to continue working in the front line to deliver justice and sustainability in India.

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