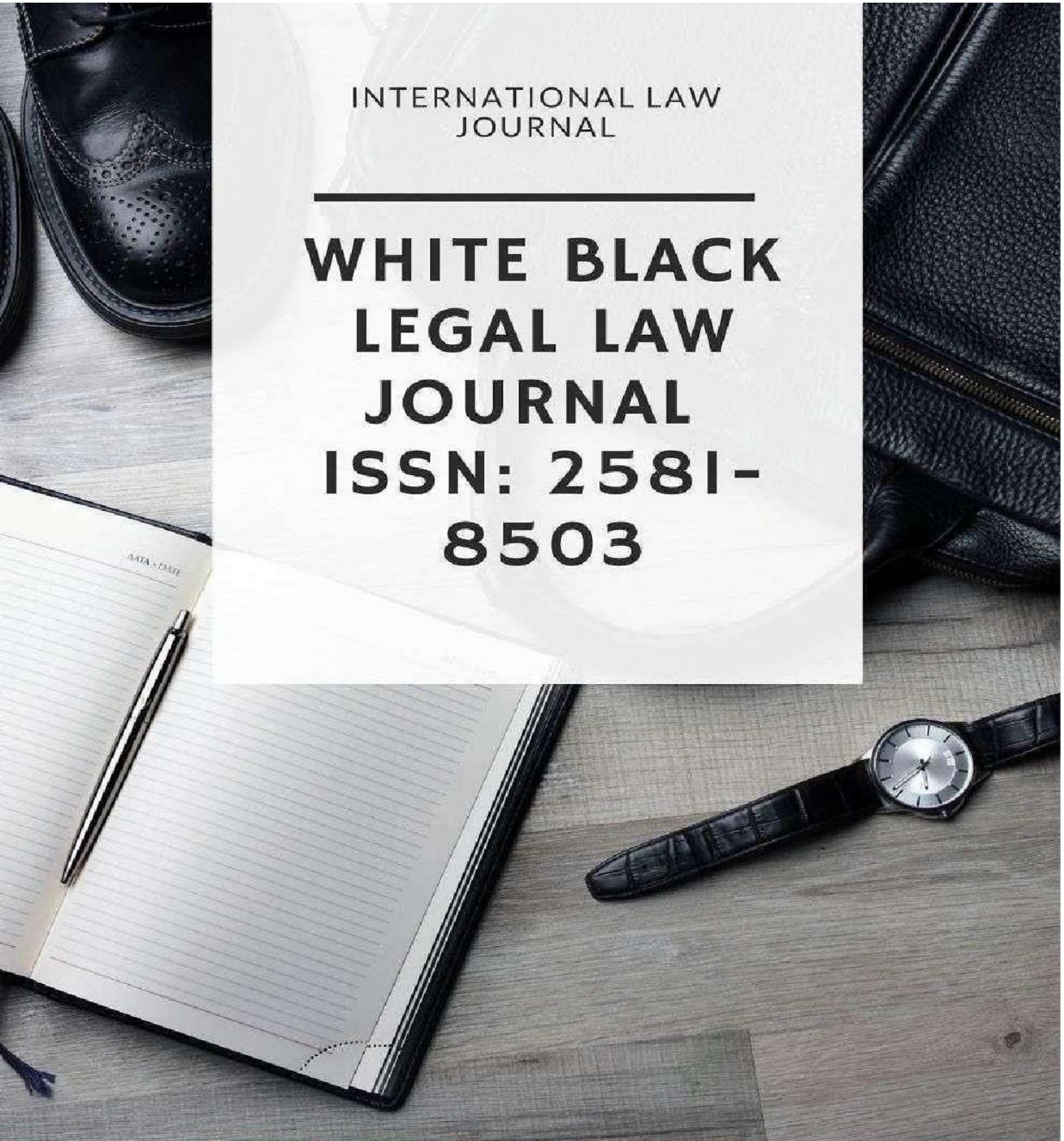




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ROLE OF THE NATIONAL GREEN TRIBUNAL IN PROTECTING ENVIRONMENTAL RIGHTS IN INDIA

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Abstract

A specialised court in India, the National Green Tribunal (NGT) was created by the National Green Tribunal Act, 2010 with the goal of resolving environmental issues as quickly as possible. The NGT seeks to balance the needs of development and environmental protection by offering efficient legal remedies for environmental problems. Although addressing ecological issues is the tribunal's main responsibility, it also plays a vital role in defending the rights of vulnerable and marginalised groups, such as minorities, who are frequently disproportionately impacted by climate change and environmental degradation.

Keywords: Climate, Minorities, Environment, People, NGT, NGOs

Introduction

Religious communities, Scheduled Castes, and Scheduled Tribes are examples of minorities in India that often live in places that are vulnerable to environmental dangers, such as floodplains, industrial belts, or wooded areas. These communities frequently rely on natural resources to support themselves, and they do not have access to institutional and legal tools to deal with environmental issues. Problems such as relocation brought on by industrial projects. Minorities are disproportionately impacted by pollution, deforestation, and limited access to clean water, which exacerbates social injustices.

By making sure that development projects adhere to environmental regulations and take into account the socioeconomic impact on vulnerable populations, the NGT's actions have been crucial in resolving these difficulties. Through its rulings, the tribunal has affirmed indigenous peoples' rights to forest areas, demanded stronger implementation of pollution control measures, and required restoration and compensation for displaced populations. In central India, for instance, the NGT has decided cases involving tribal populations affected by industrial pollution and mining activities, highlighting the necessity of preserving their

customary rights and means of subsistence. Additionally, the NGT has provided a forum for under-represented groups to air their complaints. The tribunal has expanded access to environmental justice by streamlining procedural rules and permitting nongovernmental organisations and public interest litigants to apply. For minorities, who frequently lack the means and political influence to claim their rights in traditional legal or administrative venues, this inclusivity is especially important. Notwithstanding its successes, the NGT still has a number of obstacles to overcome in order to defend minorities. Its effectiveness is frequently obscured by limited jurisdiction over specific concerns, inadequate implementation of its directives, and inadequate participation of disadvantaged groups in decision-making processes. But still the tribunal has established a solid basis for combining environmental preservation with human rights because of its emphasis on equal justice and sustainable development.

Meaning of Minorities

The term "minority" is used in the briefing to describe groups that are often smaller in number and that have a similar religious, ethnic, or linguistic identity. The Roma in Europe, the Dalits and Muslims in India, and the Afro-descendants in Colombia are a few examples.¹ Groups that have a unique bond with the environment and are frequently regarded as the "first people" to live in a given area are referred to as "Indigenous peoples." India, where 170 million Dalits are economically, socially, and physically isolated from the rest of society, is one of the most startling instances of how vulnerable minorities are to climate change.² As a result, the exceptionally catastrophic monsoon floods in 2007 disproportionately affected them and two other minorities, Adivasis and Muslims.

Dalits were particularly vulnerable since many of them lived in dilapidated houses in flood-prone areas outside of major villages.³ Because relief workers were unaware that Dalits lived outside of the main villages, or because dominant groups gained control of distribution or were given priority, they frequently received emergency help last, if at all.

India has been hardest hit by the effects of climate change in a number of ways over the last few decades. The relationship between climate change and inequality has accelerated as a result of the notable increase in the severity, frequency, and length of climate-related risks and extreme events in recent years.⁴ One worldwide environmental issue brought on by greenhouse gas emissions is climate change. Indigenous peoples are disproportionately affected by the negative effects of climate change, despite the fact that the causes of this issue are worldwide.

Legal measures have been adopted to combat climate change through adaptation and mitigation in response to the growing worldwide issue. Sea level rise, global warming, an increase in natural disasters, and changes in agro-production are some of the issues caused by climate change that have a significant impact on coastal communities. Climate change's detrimental effects on these ecosystems, the environment, and their production result in complicated human implications that include food security, a diminished ability to cope with the growing frequency of natural disasters, and crises related to fresh water shortages.⁵

Comprehending Vulnerability and Climate Change

With its far-reaching effects upsetting ecosystems, businesses, and communities, climate change is the most significant global issue of the twenty-first century. The effects of climate change are intricately linked to pre-existing social injustices in India, a nation distinguished by its socioeconomic and cultural diversity. The burden of proof for these environmental changes falls disproportionately on vulnerable groups, especially minorities, who are classified by religion, caste, race, and language.⁶ These groups' susceptibility is increased by the fact that they frequently live in climate-sensitive areas, have limited access to resources for adaptation, and are not included in the decision-making process.

India's distinct demographic makeup makes it even more important to look at how marginalised communities are impacted by climate change. Minorities, including Muslims, Christians, Sikhs, Buddhists, Jains, and others, as well as Scheduled Tribes and Scheduled Castes, make up about 19% of the population, according to the 2011 Census.⁷ The difficulties presented by climate disruptions are exacerbated for many of these populations by structural exclusion from healthcare, education, and economic opportunities.⁸

Rising temperatures, erratic monsoons, more frequent and powerful cyclones, and glacier retreats are just a few of India's many signs of climate change. These changes have an immediate effect on urban infrastructure, agriculture, and water supplies, which in turn affects livelihoods, health, and general living circumstances. Particularly vulnerable are marginalised groups that frequently work in informal labour, fishing, and subsistence farming. Furthermore, because they have less access to social safety nets, healthcare, and financial resources, these populations are worse prepared to deal with and recover from climate-related calamities.

An Introduction to India's Minorities

Section 2(c) of the National Commission for Minorities Act, 1992,⁹ has designated Muslims, Sikhs, Christians, Buddhists, Jainites, and Zoroastrians (Parsis) as minority communities. The country's minority community makes up roughly 19.3% of the overall population, according to the 2011 Census. India is home to many different religious communities and is the second-largest country in terms of population. With an estimated 172.2 million Muslims, 27.8 million Christians, 20.8 million Sikhs, 4.5 million Jains, and others, Hindus make up around 80% of India's total population. Although the Constitution uses the contentious phrase "minority" or "minorities" in a number of provisions, including provisions 29, 30, 350(A), and 350(B), it does not provide a precise definition.

Muslims, Christians, Sikhs, Buddhists, Parsis, and Jains are the six minority groups recognised by the Union government under the *National Commission on Minorities Act of 1992*. Later in 2014, Jains were included. Currently, the only communities considered minorities are those that the federal government has notified under section 2(c) of the NCM (National Commission for Minorities) Act, 1992.

- Section 2(c) of the National Commission for Minorities (NCM) Act 1992 granted the Centre "unbridled power" to inform minorities, even though the Supreme Court's 11-judge bench ruling in the T.M.A Pai¹⁰ case made it clear that linguistic and religious minorities must be identified at the state level rather than at the federal level.
- With the passage of the NCM Act, 1992, the MC was renamed the NCM and became a statutory organisation.
- Five religious communities—Muslims, Christians, Sikhs, Buddhists, and Zoroastrians (Parsis)—were listed as minority groups when the first Statutory National Commission was established in 1993.
- Jains were also identified as a minority group in 2014.

What are the Minority Provisions in the Constitution?

Article 29:

- It gives protection to both linguistic and religious minorities, and it stipulates that every segment of the population living in any region of India with a unique language, script, or culture has the right to preserve it. Nevertheless, the SC ruled that the term "section of citizens" in the article refers to both minorities and the majority; therefore its reach

is not necessarily limited to minorities alone.¹¹

- Article 30:

The protection under Article 30 is limited to minorities (religious or linguistic) and does not extend to any portion of the population (as under Article 29). All minorities should have the freedom to create and run educational institutions of their choosing.

- Article 350-B:

This provision, which was added by the 7th Constitutional (Amendment) Act 1956, calls for the President of India to designate a Special Officer for Linguistic Minorities. The Special Officer's responsibility would be to look into any issues pertaining to the protections the Constitution offers linguistic minorities.¹²

The effects of climate change on India's minorities

Virtually everyone and every region of the world is impacted by climate change and variability, but nowhere are the effects more noticeable than in rural marginalised communities that primarily depend on agriculture and fishing for a living. These communities face a variety of livelihood challenges, including the risk posed by climate variability. A region's climate is defined as its typical weather over an extended period of time, whereas climate change is a statistical shift in the average condition of the climate or its statistical features over a given time period. Usually, it lasts for several decades or more.¹³

Climate change is defined as "a change of climate which is attributed directly or indirectly to human activity that alters the composition of the global atmosphere and which is in addition to natural climate variability observed over comparable time periods" in Article 1 of the United Nations Framework Convention on Climate. Climate change is without a doubt one of the most significant environmental issues of the twenty-first century. As a result, the world's scientific and political communities are now concerned about climate change and its grave effects in addition to society and the economy.

Despite being a worldwide phenomenon, the effects of climate change are primarily felt locally. Although India's economy is developing throughout a number of geographical areas, it is the world's most vulnerable region to the effects of climate change. Over 50% of India's population resides in rural areas, where people primarily rely on forestry, fisheries, agriculture, and other climate-vulnerable industries for their livelihoods. Given that 70% of Indians reside in rural regions and rely mostly on climate-dependent agricultural activities for their

livelihoods, rural areas are particularly vulnerable.

The primary factor influencing India's overall economic and social well-being is agriculture. In addition to having an adverse effect on the Indian subcontinent's ecosystem and population, the potentially dangerous effects of climate change also led to crop failure, heightened food and livelihood instability, water scarcity, and increased economic insecurity. Temperature increases, regional monsoon variations, droughts, severe storms in coastal states, and Himalayan glacial recession have all been seen in India in recent years. The average minimum and maximum temperatures in some states, such as West Bengal, rose by 0.1 to 0.9 °C. The temperature and reproductive habits of fish in inland water bodies are being impacted by climate change as a result of lower average rainfall and delayed monsoons.

According to the current literature assessment, the majority of studies on the effects of climate change use model-based estimation, and the most vulnerable are those who suffer the most from these effects.¹⁴ Systematic analyses of how the climate affects the livelihoods and general well-being of marginalised populations at the local level are lacking. Therefore, the current study has been carried out among the impoverished and marginalised rural peoples in order to identify the micro geographic locations and marginalised groups that are comparatively more sensitive to climate change. Minorities are impacted by the climate in a number of ways: Minorities frequently work in informal or small-scale farming, particularly Muslims, Dalits, and tribal communities. Droughts and floods brought on by climate change lower crop production, affecting their income and disrupting their daily lives.¹⁵

The Indian government's historic effort to solve these issues is the NGT, the Environmental Court and Tribunal (ETC) of India. Its founding demonstrates a dedication to environmental justice and an understanding of the importance of protecting human rights in light of climate change and environmental preservation. An important step towards environmental governance in India was taken with its formation in 2010.¹⁶ Enforcing environmental laws and regulations, issuing orders for environmental impact mitigation, advocating for reductions in greenhouse gas emissions, providing prompt and easily accessible justice for environmental issues, and acknowledging the connection between environmental protection and human rights are all part of the NGT's mandate (NGTA, 2010).¹⁷

In the well-known case of *Union of India v. Sterlite Industries*, AIR 2013, 5 SCALE 202, The

activities of a copper smelting facility in Tamil Nadu that is owned by the Vedanta Group's Sterlite Industries are at the centre of the Sterlite Industries case. Since its establishment in 1996, the facility has been accused of producing environmental damage and negative health impacts in the neighbouring areas. The impacted population, which is primarily made up of Muslims and Dalits, expressed worries about the plant's emissions and poor waste management, which they claimed contaminated the soil, water, and air. The plant's operations were halted for several months as a result of the NGT's ruling. Additionally, Sterlite Industries was ordered to enhance its environmental management procedures and compensate impacted parties.

The Tamil Nadu government permanently closed the facility in 2018 after protesters and police clashed violently. Therefore, the Sterlite case emphasises how the NGT holds large industrial companies responsible for environmental infractions.

The NGT defended the rights of Dongria Kondh tribal people against bauxite mining in Odisha in the well-known ***Vedanta Bauxite Mining Case (2013)***, highlighting their reliance on forest resources for subsistence. The Dongria Kondh tribe's religious and cultural identity is strongly rooted in the Niyamgiri Hills. Their religious rituals and way of life were in danger of being disturbed by mining operations. Large-scale soil erosion and deforestation brought on by mining would jeopardise the region's water supplies and wildlife. The Bansadhara and Nagavalli, two significant rivers that are essential to the regions agricultural, are watersheds of the hill. The lawsuit eventually resulted in a major verdict and orders after it made its way to the National Green Tribunal and other judicial venues. The relationship between indigenous tribes and their natural surroundings was emphasised by the NGT. India's position on sustainable development was strengthened when the case was seen internationally as a triumph for environmental and indigenous rights.

Another case of ***Yamuna Floodplain (2015)***, The Yamuna floodplain issue centres on the environmental damage brought about by extensive building and encroachment on Delhi's river floodplains. A vital source of water for northern India, the Yamuna River is heavily contaminated by untreated sewage, industrial waste, and encroachment that prevent it from flowing naturally.

The problem of uncontrolled building on floodplains, which resulted in decreased water retention capacity, flooding threats, and ecosystem loss, was brought before the National Green

Tribunal. The case also brought attention to the difficulties that the slum inhabitants, many of whom are members of marginalised groups, particularly minorities, face in terms of rehabilitation and displacement.

The function of NGOs and grassroots organisations NGOs and grassroots groups are essential in promoting and defending the rights of minority groups around the globe. NGOs serve as essential bridges between these communities and governmental institutions in India, where minorities frequently experience socioeconomic marginalisation, discrimination, and restricted access to resources.¹⁸ Their activities include direct community support, policy reforms, awareness campaigns, and legal advocacy. Nonprofit organisations give minorities the means to resolve complaints and obtain justice. In order to inform minorities about constitutional provisions that safeguard cultural and educational rights, such as Articles 29 and 30, nongovernmental organizations conduct campaigns. Nonprofits like Pratham and Smile Foundation work to empower minorities economically by providing them with education and vocational training.

In order to defend the rights of indigenous minorities to land and natural resources, NOSs work with organizations such as the National Green Tribunal. Minorities who are subjected to discrimination or rights breaches can receive free legal assistance from a number of NGOs, including the Human Rights Law Network (HRLN) and the People's Union for Civil Liberties (PUCL). Study's practical challenges show that the largest hindrance to climate justice in India is not a dearth of legislation or court decisions, but rather their non-implementation. NGT's recommendations and punishments notwithstanding, businesses and government organizations sometimes lack the resources and incentives necessary to comply.

As infractions remain unreported or unaddressed, this makes climate justice less likely to be achieved. Through lobbying, corporations, especially those in the mining and energy industries, actively oppose tighter environmental laws. They frequently argue that environmental preservation impedes economic growth and job creation. Moving on to the ideological divide, many politicians and members of the public hold the view that environmental preservation and economic growth are mutually exclusive. This viewpoint makes a false division between environmental and economic objectives, which impedes the advancement of climate justice.

Among the suggestions are boosting the NGT's capabilities, fortifying enforcement systems,

and encouraging closer cooperation between the NGT, governmental bodies, and civil society groups. These actions are necessary to guarantee the NGT's continuous efficacy in protecting the environment, concurrently reducing climate change, and advancing environmental justice and sustainable development in India. The tribunal must strike a balance between environmental preservation and minority' socioeconomic rights, which presents a number of difficulties. NGT fails to raise awareness for a variety of reasons.¹⁹

Coordinating with other legal or administrative agencies, such as the Supreme Court, High Courts, or the Forest Rights Act authorities, may be necessary in cases involving minority rights and the environment. This can cause delays and complexities.²⁰

Objectives of the Study

In the context of environmental protection in India, the study intends to investigate and evaluate the role played by the National Green Tribunal in defending the rights of minorities.

- To investigate the frameworks and legislative regulations that governs the NGT's operations in order to address environmental challenges that impact minority populations.
- To emphasise how crucial it is to include minority communities in environmental management decision-making processes.

Significance of the Study

By shedding light on how judicial processes like the NGT support just and sustainable development, this study aims to close the gap between environmental justice and minority' rights. India has made major constitutional revisions to include language that is crucial for environmental protection, in addition to enacting a number of specific legislation to reduce environmental pollution. The primary goal of this study is to examine the unique aspects of the National Green Tribunal's exceptional contribution to the creation of environmental laws and how those laws have evolved over time within a broader constitutional and legal framework.

Both the Law Commission of India's 18th Report from 2003 and the Supreme Court of India's 1980 decision in the Oleum Gas Leak Case—the court's first major decision—emphasized the growth of specialized environmental tribunals. The Parliament passed the National Green Tribunal Act of 2010 in response to the demand for specialized courts to deal with

environmental matters.

Methodology used in Study

The study's methodology is solely doctrinal in nature. Research will therefore entail a careful examination of books, journals, case law, and libraries. Both primary and secondary data are used. In addition to primary sources like statutes, rules, conventions, treaties, and committee reports, the researcher would mostly rely on secondary materials like books, commentaries, and articles published in periodicals, periodicals, magazines, newspapers, and websites.

Scope of the Study

This study explores the relationship between environmental governance and the National Green Tribunal's function in India. With a focus on comprehending how the NGT addresses difficulties encountered by marginalized and minority groups in the context of environmental degradation and developmental challenges, the scope covers legal, social, and environmental elements. This study will concentrate on the development of environmental law in India, with a particular emphasis on the NGT's pivotal role. Lastly, it highlights the possibility of more research on this topic in light of the fresh difficulties brought about by different environmental issues. Innovation is desperately needed. The study's major objective is to assess the National Green Tribunal's distinctive contribution to the development of environmental laws in India, with a focus on the factors that led to the NGT's involvement in the construction of Indian environmental law.

Conclusion

We might conclude by examining the NGT's role in defending the rights of minorities in India, including its historic rulings, difficulties, and potential to promote environmental justice. The conversation emphasises the NGT's role in guaranteeing that the voices of under-represented groups are heard in India's environmental governance system by examining particular cases and policy frameworks. This study also emphasises how important it is to improve the tribunal's capacity to handle the changing issues brought about by industrialization and climate change, which disproportionately impact the most vulnerable citizens of the nation.

Therefore, NGT is a big stride in India's direction of integrating social justice and the environment. Environmental protection measures may be the first in the world to be included

in the Indian Constitution. Regarding the management, preservation, and improvement of the environment, the Indian judiciary has shown a fairly positive attitude. Recent years have seen a large number of cases involving environmentally hazardous issues brought before the courts, and the judiciary has played a crucial role in giving statutory measures for environmental protection and enhanced vitality and life. Over the last few decades, environmental concerns have increased on all scales—local, regional, national, and international. In these situations, the courts often seek the help of an expert committee since they find it difficult to make their own independent conclusions. To address these issues, it is imperative that environmental tribunals like the National Green Tribunal be established for the prompt determination of environmental cases. The long-standing need for a different kind of speedy and reasonably priced justice was addressed with the passage of the NGT Act of 2010. The NGT makes yet another innovation by adding stick punishments for disobeying the Tribunal's orders.

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