

INTERGENERATIONAL EQUITY AND THE JURISDICTIONAL LIMITS OF INDIA'S NATIONAL GREEN TRIBUNAL

by

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ABSTRACT

Future generations' interests must be considered in environmental decision making if intergenerational equity is to be considered. However, the usefulness of it is contingent on the impact it has on remedies, the boundaries of adjudicatory power and environmental directions, and the implementation of environmental directions.

The first is about the prevention of harm, the second is about the restoration and the compensation for harm and the third is about the scope of the Tribunal's statutory powers. These are categories, not doctrines that are mutually exclusive. As facts emerge one dispute may jump from one to the other. The paper's argument is that no one of the three can be evaluated without causal responsibility and post order compliance and evidence.

The paper relies on doctrinal analysis of NGT Act, the provisions of the Constitution, some Supreme Court and NGT decisions and some international instruments. It also takes into account official statistics regarding environmental compensation funds, and recognizes that the total amount of funds does not mean that the money was raised and/or used specifically for intergenerational equity.

Keywords: Intergenerational Equity; National Green Tribunal; Environmental Remedies; Environmental Compensation; Sustainable Development; Environmental Jurisdiction

I. INTRODUCTION

Intergenerational equity asks a basic question with difficult legal consequences: what does the present generation owe to people who will live with the environmental choices made today? The principle does not require development to stop. It requires decision-makers to consider whether the use of natural resources today will leave future generations with a fair opportunity to enjoy a healthy environment and access to those resources. Edith Brown Weiss describes this

relationship through the idea of each generation as a trustee of the planet, with duties to conserve options, environmental quality and access for those who follow.¹

In India, the principle draws support from constitutional environmental jurisprudence and from section 20 of the National Green Tribunal Act, 2010 (NGT Act), under which the Tribunal must apply sustainable development, precaution and polluter-pays. Yet formal recognition does not guarantee implementation. A judgment may refer to future generations but still leave uncertainty about restoration, monitoring, the use of compensation or the limits of the forum's powers. The central concern of this paper is therefore not simply whether the NGT recognises intergenerational equity, but how the principle changes the type of relief ordered and what evidence is available to show that the relief worked.

The paper develops a three-part framework for reading the NGT's work: preventive, restitutionary and interpretive-limiting application. The first focuses on avoiding harm before it becomes irreversible; the second on restoration and compensation after harm; and the third on the limits of the Tribunal's statutory jurisdiction. These are analytical categories rather than mutually exclusive legal doctrines. A single dispute may move between them as facts develop. The paper's argument is that none of the three can be judged in isolation from evidence, causal responsibility and post-order compliance.

The paper uses doctrinal analysis of the NGT Act, constitutional provisions, selected Supreme Court and NGT decisions, and international instruments. It also considers official figures on environmental compensation funds, while acknowledging that aggregate fund data does not establish that the money was collected or spent specifically because of intergenerational equity. The analysis concludes that the principle is most useful when courts and regulators connect it to enforceable remedies, transparent accounts and measurable restoration rather than treating it as a general statement of environmental concern.

II. RESEARCH QUESTION, METHOD AND LIMITATIONS

A. Research question and contribution

The central issue is how intergenerational equity is being applied in the NGT's environmental adjudication, and what the institutional conditions for intergenerational equity are that are

¹Edith Brown Weiss, *In Fairness to Future Generations: International Law, Common Patrimony, and Intergenerational Equity* 2–21 (1989).

required to achieve lasting protection. The discussion is guided by three subsidiary questions: whether the principle is an independent cause of action or is a decision-making principle; whether and to what extent the principle applies to preventive and restorative remedies; whether statutory jurisdiction has an impact on the climate-related or otherwise wide environmental claims.

The contribution is a practical taxonomy of the ways in which judicial reasoning relates to the remedy chosen and the follow-up implementation questions. The categories are not intended to be exhaustive or first in a series of classifications of environmental remedies. Their importance is that they will bring jurisdictional restraint to the same level of prevention and restoration and question: what is the remedy after the judgment? This is a doctrinal argument, rather than a statistical one that the taxonomy has been empirically proven in all NGT decisions.

B. Method and case selection

The paper employs doctrinal research, reading statutes and some of the cases involving pollution, climate change, biodiversity, public trust and environmental protection. The cases are purposefully chosen as representing cases that raise common legal issues. International materials are not rules for the Indian Tribunal, but are used as a comparison. The comparative discussion is confined to the legal approach which is illustrated by the decisions discussed and is not intended to be a description of the environmental law of each jurisdiction.

C. Limits of the available evidence

The paper does not attempt to quantify the degree of success of intergenerational equity through compensation. Official records can add up amounts for fines for violations of various legal standards and in various cases. A fund balance is not a release of funds, a completion of spending or ecological recovery. These differences are important to the argument: If there is no record of the actual environmental outcomes, the paper does not use the term implementation to mean that the outcomes are successful, but rather as an accountability gap.

III. LITERATURE AND CONCEPTUAL FOUNDATIONS

This paper is based on the normative basis of intergenerational equity, as described by Weiss. Her approach to the environment sees it as a shared inheritance, and is focused on responsibilities for the conservation of options, quality and access. It provides an explanation of

why the long-term impacts of the environment should be taken into account in resolving environmental conflicts, but not of what institution should resolve a conflict or what remedy should be implemented. Those questions are reliant on the domestic law and institutional design.

The scholarship on the NGT has focused on the unique composition of the NGT, the role of the experts members, the NGT's jurisprudence and how it has helped in environmental justice.²

The gap addressed here is narrower than the claim that previous work has ignored intergenerational equity altogether. The paper asks how the principle relates to the form of relief, the statutory boundaries of the Tribunal and the evidence available after an order. It also tests a common assumption: that compensation necessarily provides a more durable response than preventive directions. Compensation may finance restoration, but only if the amount is grounded in evidence, the money reaches the intended work, and the restoration is monitored. Prevention may be more protective where damage is irreversible. The relative value of a remedy is therefore fact-dependent.

IV. LEGAL FOUNDATIONS IN INDIA

A. International environmental law

The Stockholm Declaration recognises a duty to safeguard the environment for both present and future generations. The World Charter for Nature emphasises conserving nature and maintaining ecological processes, while the Brundtland Report places present development within the limits needed to protect future needs. The Rio Declaration connects environmental protection with sustainable development and addresses precaution and the polluter-pays approach. The Convention on Biological Diversity similarly frames conservation and sustainable use as continuing obligations.³

These instruments provide context for the principle but do not all have the same legal status or domestic effect. The paper does not treat every declaration as a directly enforceable source of individual rights. Their relevance is interpretive: they help explain why environmental decisions

²See Gitanjali Nain Gill, *Environmental Justice in India: The National Green Tribunal and Expert Members*, 5 *Transnat'l Envtl. L.* 175 (2016); S. Ghosh, *Litigating Climate Claims in India*, 114 *AJIL Unbound* 45 (2020).

³Declaration of the United Nations Conference on the Human Environment, princ. 1, U.N. Doc. A/CONF.48/14/Rev.1 (June 16, 1972); World Charter for Nature, G.A. Res. 37/7 (Oct. 28, 1982); World Commission on Environment and Development, *Our Common Future*, U.N. Doc. A/42/427 (Aug. 4, 1987); Rio Declaration on Environment and Development, princ. 3, 15, 16, U.N. Doc. A/CONF.151/26 (Vol. I) (Aug. 12, 1992); Convention on Biological Diversity arts. 1, 8, June 5, 1992, 1760 U.N.T.S. 79.

should account for long-term consequences, while the legal authority for a particular order must still be found in the applicable statute and binding precedent.

B. Constitutional and judicial foundations

The Constitution does not expressly use the phrase “intergenerational equity”. Its foundations are instead drawn from Article 21, interpreted to include environmental dimensions of the right to life, Article 48A, which calls on the State to safeguard and enhance the environment, and Article 51A(g), which places a corresponding duty on citizens. Article 51(c) concerns respect for international law and treaty commitments, and Article 253 gives Parliament power to enact legislation to implement treaties. These provisions support environmental protection, but the legal effect of each must be stated accurately rather than treating them as identical enforceable rights.⁴

The Supreme Court’s environmental jurisprudence has developed several doctrines relevant to future generations. In *Vellore Citizens’ Welfare Forum v. Union of India*, the Court treated sustainable development, precaution and polluter-pays as principles forming part of Indian environmental law. *State of Himachal Pradesh v. Ganesh Wood Products* addressed forest conservation and the longer-term consequences of resource use. *M.C. Mehta v. Kamal Nath* explained the public-trust doctrine as it applies to natural resources. *Goa Foundation v. Union of India* gave the intergenerational dimension a financial form by directing a portion of mining proceeds to a permanent fund for sustainable development.⁵

They set some principles to follow when making a decision. Whether it is restraint or restoration or compensation or ongoing supervision will continue to be dependent on the statutory powers that are available, the evidence of harm and the circumstances of the case. It is very significant that this distinction is brought to bear when intergenerational equity is used to justify a claim which is otherwise beyond the scope of the jurisdiction of a Tribunal.

C. Section 20 and the NGT’s jurisdiction

When deciding matters before it, the Tribunal is required by section 20 of the NGT Act to apply sustainable development, the precautionary principle and the polluter-pays principle. These

⁴India Const. arts. 21, 48A, 51A(g), 51(c), 253; *Subhash Kumar v. State of Bihar*, (1991) 1 SCC 598.

⁵*Vellore Citizens’ Welfare Forum v. Union of India*, (1996) 5 SCC 647; *State of Himachal Pradesh v. Ganesh Wood Products*, (1995) 6 SCC 363; *M.C. Mehta v. Kamal Nath*, (1997) 1 SCC 388; *Goa Foundation v. Union of India*, (2014) 6 SCC 590.

principles are closely related to intergenerational equity, which is not, however, unlimited grant of subject-matter jurisdiction as section 20 would suggest. The jurisdiction of the Tribunal is set out in Sections 14 and 15 and Schedule I which outline the types of disputes and statutes the Tribunal may hear. Section 20 sets out the principles for the Tribunal to apply in determining a matter before it that it has jurisdiction to hear. It does not automatically make every application for climate change, biodiversity and the environment a maintainable application.⁶

The difference is not that intergenerational equity is not considered to have any legal relevance outside of Schedule I. The principle can be applied to constitutional interpretation, to the decision-making and proceedings in front of other competent courts or authorities. The latter point is institutional, and a good environmental goal doesn't stand alone to supplant the jurisdictional conditions established by Parliament. Proposals for extending the NGT's jurisdiction must be made on a legislative design basis, and not be taken for granted because of section 20.

The NGT Act also empowers for relief and compensation such as restitution of the property, restoration of environment, etc. A monetary amount cannot be the only way of satisfying the polluter-pays principle. The remedy should have a defensible connection to the harm, the party who caused the harm and what the party needs to do to remedy. If the ecological conditions cannot be restored to a specific condition, then the decision should state the restoration goal and the means for measuring the restoration.

V. THREE MODES OF APPLICATION

A. Preventive application

Preventive application focuses on stopping environmental harm before it becomes irreversible. This can be in the form of conditions to project approvals, restrictions on polluting activities, protection of ecologically sensitive areas or directions to enhance monitoring. The logic is most compelling where the compensation occurs at a time when the habitat, species or ecological process has been lost. Preventive action also embraces the precautionary principle, that is, a lack of complete scientific certainty should not postpone protective steps where a serious risk is reasonably supported.

⁶National Green Tribunal Act, No. 19 of 2010, §§ 14–15, 20 & sched. I (India).

The NGT's efforts with regard to air pollution, construction dust and environmentally-sensitive projects demonstrate the significance of this mode. In the matter of Vardhaman Kaushik v. Union of India, the Tribunal issued directions in response to Delhi's severe air-pollution problem. In Save Mon Region Federation v Union of India, concerned environmental clearance for a hydropower project and its possible effects on a sensitive habitat. The decisions show the preventive nature of environmental adjudication, but the exact nature of the orders and the subsequent procedure in each case needs to be verified before any general conclusions can be drawn from either of the cases.⁷

A tribunal direction is not necessarily effective if it is issued to prevent the occurrence of a particular event or activity. Its usefulness will be determined by the ability of the responsible authority to implement the order, the ability to monitor the conditions and whether there are consequences for breaches. A preventive order should, if possible, name the agency responsible, have a time frame, measurable indicators of compliance and a reporting mechanism for non-compliance. If the principle is not included in the judgment, it could affect the language of the judgment without impacting the environment.

B. Restitutionary and financial application

Restitutionary application addresses harm that has already occurred. It can include restoration plans, environmental compensation, remediation, rehabilitation and the creation of funds dedicated to ecological recovery. Under the polluter-pays principle, the party responsible for pollution should bear its costs instead of leaving the burden with the public. The Supreme Court's decision in Indian Council for Enviro-Legal Action v. Union of India is an important authority for making polluters responsible for remediation expenses. Goa Foundation further demonstrates how financial arrangements can preserve resources for sustainable development and future generations.⁸

The attraction of a restoration fund is continuity: environmental work may need to continue after the case ends. But a fund is only an instrument. Its existence does not establish that money has been released, that the intended work has been completed, or that the environment has recovered.

⁷Vardhaman Kaushik v. Union of India, O.A. No. 21 of 2014 (Nat'l Green Trib.); Save Mon Region Federation v. Union of India, Appeal No. 39 of 2012 (Nat'l Green Trib. 2013).

⁸Indian Council for Enviro-Legal Action v. Union of India, (1996) 3 SCC 212; Goa Foundation v. Union of India, (2014) 6 SCC 590.

A reliable assessment should distinguish at least four stages: compensation assessed, compensation collected, funds allocated or released, and restoration outcomes independently verified. Where public data reports only the first or second stage, claims about ecological effectiveness should remain limited.

Official information placed before the NGT and released by the Press Information Bureau reported that, as of 31 March 2024, ₹403.72 crore had been received in the NGT environmental-compensation accounts, while ₹61.94 crore had been released from those two accounts; the reported balance was ₹341.78 crore. The same material referred separately to specific-purpose accounts. These figures show why fund governance deserves attention, but they do not establish that the entire balance was idle, nor do they prove the environmental success or failure of individual projects. Commitments, project stages and the purpose of each account must be considered before drawing conclusions.⁹

A better framework would require annual public reporting on amounts assessed, collected, allocated, released and spent; the projects supported; the agencies responsible; and the environmental indicators used to assess outcomes. Independent verification should be proportionate to the scale and ecological significance of the project. This would allow intergenerational equity to be evaluated through the condition of the environment, not only through the amount of compensation ordered.

C. Interpretive-limiting application

The third mode is about the extent of adjudicatory power. In *Ridhima Pandey v. Union of India*, the NGT declined to treat intergenerational equity, the public-trust doctrine or international climate commitments as grounds for jurisdiction beyond the statute. The case is illustrative as it highlights a tension between the long-term and cross-sectoral effects of climate change and the Tribunal as a statutory body. The legal issue is whether the particular relief sought falls within the authority Parliament has conferred, not whether climate change has an impact.¹⁰

The Supreme Court case in the Civil Appeal No. 388 of 2021 shows that climate-related issues remain under consideration. The Court in 2024 and 2025 considered the legal framework

⁹Press Information Bureau, Ministry of Environment, Forest and Climate Change, Press Release on Environmental Compensation and Environment Protection Charge Funds (Aug. 2024), reporting figures as of Mar. 31, 2024.

¹⁰*Ridhima Pandey v. Union of India*, O.A. No. 187 of 2017 (Nat'l Green Trib. Jan. 15, 2019).

governing carbon emissions, directed that the relevant ministries be joined, and sought coordinated submissions on emissions across sectors. The proceedings cannot be said to be a final decision that NGT's jurisdiction has been extended. A new status record was found for this paper and the appeal was still pending.¹¹

The interpretive-limiting mode is not just a limitation on the protection of the environment. Legality and clarity of institutional responsibility can be maintained through the use of jurisdictional boundaries. The issue is when the statutory system does not provide a remedy for the environmental problem that is at the scale of the problem. The paper does not presume that all claims that relate to climate should be placed on the NGT, but that may be warranted if there is legislative reform. Any reform should define the types of claims, type of standards of review, coordination with other regulators and powers of remediation that the Tribunal will have.

D. Movement between modes: a caution from the Yamuna litigation

The litigation concerning the World Culture Festival on the Yamuna floodplain was previously treated as an illustration of movement from prevention to compensation. The NGT allowed the event to proceed while imposing ₹5 crore in environmental compensation, with further questions about restoration to follow. However, this case can no longer be cited as straightforward proof that compensation produced a durable restorative remedy. In *Vyakti Vikas Kendra, India v. Manoj Misra* (decided on 22 August 2026), the Supreme Court set aside the NGT's 2017 order and directed refund of the ₹5 crore, finding serious legal and evidentiary problems with the compensation determination.¹²

This latter one is a significant qualification of the earlier one. The case is still a warning of the challenges of taking action when environmental harm is alleged just before a big event, but can't be credibly used as a model of restitutionary use. It, on the contrary, highlights the importance of establishing a causal nexus, a rational basis for determining the amount of compensation, the clarity of the scope of restoration and respect for the statutory extent of remedial power. The lesson here is not that compensation is never effective in all instances, but rather that

¹¹*Ridhima Pandey v. Union of India*, Civil Appeal No. 388 of 2021, orders dated Dec. 5, 2024, Feb. 21, 2025, and July 22, 2025 (Supreme Court of India); case-status record last updated July 14, 2026.

¹²*Vyakti Vikas Kendra, India v. Manoj Misra (Dead)*, Civil Appeal No. 683 of 2018 (Supreme Court of India Aug. 22, 2026).

compensation will only be effective to uphold an intergenerational claim if it is legally and evidentially justified.

The three modes may thus overlap or alter during the course of the proceedings but “mode migration” should not be used as a justification for shoddy proof or as an indication that once damage has been done, only monetary compensation is available. A mix of removing detrimental structures, rehabilitating ecological functions, monitoring and financial support may be needed for restoration. If the original condition cannot be determined, the decision-maker should indicate the evidentiary limitation and define an alternative objective that is defensible, but not a fixed dollar amount to alleviate the harm.

VI. DISCUSSION: WHEN DOES INTERGENERATIONAL EQUITY MAKE A DIFFERENCE?

The analysis suggests that intergenerational equity makes a meaningful legal difference when it changes the questions a decision-maker asks. Before approving an activity, the decision-maker should consider irreversible loss, cumulative impacts and whether future restoration is realistic. When damage has occurred, the decision-maker should ask who caused it, what ecological functions were lost, what can be restored and how success will be measured. At the jurisdictional stage, the decision-maker should identify the source of statutory power rather than allow the importance of the principle to obscure the limits of the forum.

This approach also avoids ranking restitutionary relief as inherently more effective than prevention. Preventive relief can preserve an ecosystem that cannot later be recreated. Restitution may be indispensable where harm has already occurred, but compensation can be under-calculated, uncollected, delayed or spent without a verified result. In some cases, a combination of prevention, restoration and continued supervision is likely to be necessary. Effectiveness should be assessed against the nature of the harm and the actual outcome, not the label attached to the remedy.

An empirical study could be done in the future to systematically code a specific set of NGT orders, determine the legal principle invoked, document the remedy ordered, and then track compliance reports and outcomes of restoration. That research would have to be carefully defined with inclusion criteria, primary documents and a separation between amounts assessed

and amounts actually used. In the present paper, the complete data set analysis was not carried out.

Additionally, it is important to be specific as to jurisdiction and section 20. The NGT has to exercise the following environmental principles in its decision making within its powers. However, an interpretive principle does not obviate the necessity of having jurisdiction under sections 14 or 15 and the appropriate schedules. In the context of climate litigation, this implies that there might be a need for statutory change to provide a more explicit pathway for some claims, and that other constitutional and/or statutory avenues may be available before competent forums. Coordinating, standing, evidentiary standards, the relationship with existing regulators and enforcement of orders—these are all things that should be done in the course of such reform.

VII. RECOMMENDATIONS

Firstly, there needs to be an open accountancy trail in environmental compensation. The amounts assessed, collected, allocated and released and the amounts expended should be reported separately in public reporting. It should state the project, the agency that is implementing the project, the purpose of the payment and any unused portion of the payment. This would make it possible to have a look at the situation without making the assumption that an unspent balance means it is being misused or that spending means ecological recovery.

Second, measurable milestones should be included in restoration orders whenever possible based on science. These can be ecological indicators, restoration timelines, responsible agencies, periodic progress reports and independent verification. If it is not feasible to restore to "before" conditions or the "before" conditions are not known, the order should include a statement of the alternative target and the evidence for it. Courts and tribunals should also differentiate between restoration and rehabilitation (broader), and not use these terms interchangeably.

Third, there should be a designation of who has responsibility for ensuring compliance with the order, and what consequences will result from non-compliance. It may be necessary to have periodic reviews of orders related to long-term pollution or restoration issues; however, the ongoing supervision should be proportional to the issues involved, and should not displace the normal duties of environmental agencies.

In addition to these three issues, Parliament needs to determine whether the NGT Act and Schedule I provide an adequate forum for particular categories of climate-related claims. If there is a need to broaden the scope of the Act/Schedule, any change should be made expressly through legislation rather than inferred from section 20. This expansion should specify the jurisdiction of the NGT, its relationship with other branches of government (constitutional courts and regulatory bodies), and the evidence and remedies that can be considered by the NGT.

Finally, future studies will evaluate how well the developed classification system describes the decision making process and record of compliance of NGT cases. Future studies should identify cases in which intergenerational equity was discussed but did not significantly impact the reasoning or decision-making process. Future studies should also assess whether or not the judgment led to improved environmental conditions, because the wording of a decision alone does not provide sufficient proof that the decision resulted in positive environmental outcomes.

VIII. CONCLUSION

The concept of Intergenerational Equity is a very key principle within the Indian Environmental Law, this concept is also supported through various aspects such as through the Constitutional Interpretations, Supreme Court Jurisprudences and the Section 20 of the NGT Act. This concept does not just play a single role when it comes to being able to provide a remedy for environmental damages. The concept can support actions that are preventive in nature, it can help guide restoration efforts after an area has suffered damage, and can also help inform how environmental laws should be interpreted, all while still being bound by the jurisdiction that the Tribunal received from Parliament.

The 3-part framework developed above provides an effective tool for relating the principles of environmental law to the options available to decision-makers when selecting institutions. However, we do not intend the categories to represent a hierarchy where monetary awards (compensation) are always preferable to other types of relief such as prevention or restitution. Prevention is the preferred approach to avoid permanent damage. Restitution is used to remedy existing damages. Jurisdictional restrictions serve as a reminder to decision-makers that environmental protection goals need to be achieved using established authorities. The Supreme Court's 2026 ruling to vacate the compensation order relating to the Yamuna River floodplain

serves as a clear warning about relying on a monetary award as evidence of a successful restoration project without evaluating the supporting evidence and the relevant authority.

In this way, the real test of intergenerational equity is if the environmental decisions made by us result in protective measures which we can show are working and can continue to work. The use of transparent compensation; measurable restoration targets; independent monitoring; and a clearly defined statutory framework will help to transition the concept of intergenerational equity from the judicial realm into that of accountable environmental governance. Even though future generations cannot be directly involved in the current proceeding process, their interests can be better served when our present day decisions are based upon reason, evidence and able to be evaluated after the decision has been reached.

