

EXIGENCY OF ENVIRONMENT LAW IN OUR SOCIETY

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This study aims to show that how human intervention has caused degradation in the earth's natural resources such as air, water, and land. Not only it has caused environmental degradation and disorientation but has also resulted in endangerment and extinction of many wildlife species and organisms, may it be terrestrial life or marine life. Global issues such as global warming, depletion of ozone layer, desertification, involuntary migration of wildlife, deforestation, loss of biodiversity, and greenhouse effect. The research also inculcates the facts about government policies enacted to prevent and abate environmental degradation and loss of biodiversity in the ecosystem. It also provides with its point of view on the working of these acts and regulations. Therefore, suggests how the population should opt sustainable approaches to control and then rectify the damaged inflicted by humans on this planet.



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INTRODUCTION

The act of degradation and disorientation committed by human beings against the Earth's natural resources such as air, water and land are known as **environmental degradation**. The overexploitation of these resources has resulted in global issues like global warming, depletion of ozone layer, desertification and involuntary migration of wildlife. Though, people and governments of many nations have commenced projecting concern on these global phenomena that are sum result of environmental degradation caused by humans. Nations have started to take necessary actions to prevent further misuse of the natural resources and have started to make efforts towards a more sustainable approach towards handling and usage of natural resources. Still, the volume of damaged caused by disintegration, degradation and exploitation of these natural resources surpasses the fruitful outcome generated through the measures taken by the government and though every nation talks about a sustainable approach, a very few are implementing it. The Article 51-A(g) of our Indian Constitution states that "It shall be duty of every citizen of India to protect and improve the natural environment including forests, lakes, rivers and wild life and to have compassion for living creatures."¹ "Under the constitutional scheme the legal status of Article 51(A)-(g) and 48-A is enabling in nature and not legally binding per se, however, such provisions have often been interpreted by the Indian courts as legally binding. Moreover, these provisions have been used by the courts to justify and develop a legally binding fundamental right to environment as part of right to

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life under Article 21. Both the 'soft and 'hard' international environmental laws have been used by the Indian courts to develop a strong environmental jurisprudence in domestic law. The Indian judiciary adopted the technique of public interest litigation for the cause of environmental protection in many cases. The Supreme Court & High Courts shaded the inhibitions against refusing strangers to present the petitions on behalf of poor & ignorant individuals. The basic ideology behind adopting PIL is that access to justice ought not to be denied to the needy for the lack of knowledge or finances. In PIL public spirited individual or organization can maintain petition on behalf of poor & ignorant individuals."²

¹The Constitution of India, as modified up to the 15th May 1972, (1972).

²zadu, r., 2021. *JUDICIAL ACTIVISM IN ENVIRONMENTAL LEGISLATION IN INDIA*. [online] Academia.edu.

Available at:

https://www.academia.edu/10362033/JUDICIAL_ACTIVISM_IN_ENVIRONMENTAL_LEGISLATION_IN_INDIA
[Accessed 24 May 2021].

DEPLETION OF THE OZONE LAYER

A few centimeters thick blanket of ozone gas, a precursor of oxygen, surrounds the Earth's surface at a height of approximately 20 to 30 km in the atmosphere. The ozone layer's job is to function as a barrier, deflecting the sun's detrimental UV radiation and shielding the planet. Over the past few years we have witnessed the thinning and depletion of ozone layer, this will allow the ultraviolet rays emerging from the sun to reach the Earth's surface. These rays significantly increases the risk of skin cancer, cataracts and eye damage cases, inflicts injuries on marine life, plants and animals. The depletion not only causes harmful UV rays to enter but also results in increase of earth's temperature and causes green house effect and global warming This depletion of ozone layer is caused due to chemical pollutants such as Chlorofluorocarbons (CFCs) which are being discharged in the atmosphere by industries, chemical, plants and household appliances. Later the focus was also shifted when it was found that other gases such as Methyl Bromide, Hydro Chlorofluorocarbons (HCFCs) and Carbon Tetrachloride (CTC) also are catalyst in the process of ozone depletion. CFCs are one of the most commonly found gases in household appliances when released into the atmosphere it accumulates and creates holes in the ozone layer inviting the lethal ultraviolet rays to enter our atmosphere and making the the terrestrial life living on the surface vulnerable. India took some steps for the prevention for ozone layer by enacting.

The Environmental Protection Act 1986 which is empowering the Central Government in order to control and diminish the environmental pollution and ameliorate the state of Environment in our nation. "The Regulations and Controls relating to Ozone Layer protection namely, Ozone Depleting

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Substances (Regulations and Control) Rules, 2000 have also been issued by the Central Government under the Environment Protection Act, 1986."³

GLOBAL WARMING

Another major cause of concern for the nations, for its people and for the planets terrestrial life is the rise in the atmosphere of the planet or the phenomenon commonly known as **Global Warming**. The global warming is the phenomenon which takes place when air pollutants, carbon dioxide (CO₂) and various greenhouses gases accumulate in the atmosphere and soak the heat and solar radiation which is then reflected off from the surface of the earth. This solar prominence will normally disperse into

³ The Environmental Protection Act 1986, India, *available at:* <http://www.ozonecell.com/viewsection.jsp?lang=0&id=0.164>(Visited May 11, 2020).

orbit, but the pollutants, which may stay in the stratosphere for years or even decades, absorb heat and cause the globe to become warmer. Global warming is having an impact all across the planet and a large no. of deaths have been recorded nationwide because of this. Few major consequences of global warming are melting of glaciers leading to rise in sea level and coastal flooding, extreme heatwaves, wildfires and droughts, disruption of habitats and coral reefs and at last change in temperature and quality of air causing asthma, allergies, other infectious diseases and extinction and unusual migration of terrestrial and marine animals. Both the government and the cabinet in India are pushing for the most rigorous environmental rules and legal requirements.

THE GREENHOUSE EFFECT

The Greenhouse effect, which may be defined as when gas and compounds make the earth's atmosphere thicker and compact by trapping the radiation from the sun, resulting in a greater temperature of the earth, is the primary source of future global warming. One example of the greenhouse effect is global warming. The greenhouse effect has increased significantly as a result of unsuitable human activities, harming the environment. Greenhouse effect is taking place as various greenhouse gases are accumulating in the earth's atmosphere and these gases disrupt the escape of solar radiation that is being reflecting by the earth's surface. Gasses such as methane, carbon dioxide, nitrogen oxide, fluorinated gases commonly known as chlorofluorocarbons are naturally found and are also dispersed by human beings into the atmosphere. Natural gas processing, fossil fuel production, landfills, coal mining and livestock farming are huge contributors in the production of

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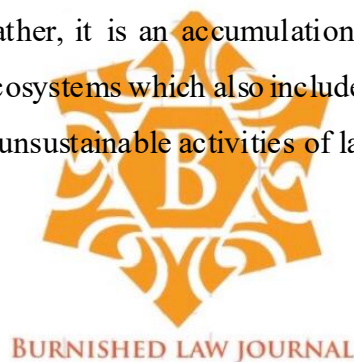
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methane gas which is later dispersed into the atmosphere, a large amount of nitrous oxide originates when fossil fuels are combusted, by hefty use of agricultural technology and during industrial production. Hydrofluorocarbons, chlorofluorocarbons and hydrochlorofluorocarbons are included in Fluorinated gases. Such greenhouse gases are an important component of refrigeration units and aerosol cans. The greenhouse gases are added in the atmosphere due to human activities which leads to naturally trapping more heat and resulting in global warming. Though, greenhouse gases poses a very important role in our environment as they provide insulation and keep the temperature of the atmosphere more suitable and feasible for the terrestrial life on Earth. The climate system can be induced by the gas molecules that soak the thermal infrared radiation which is in adequate quantity. These molecules of various gases are considered as greenhouse gases. "These greenhouse gases like carbon dioxide nitrogen oxide and methane serve as a shield, soaking the IR radiation from

absconding into outer space. If there be an absence of these gases in the atmosphere the temperature of the surface would become far colder, by approximately 33 degrees Celsius or 60 degree Fahrenheit.”⁴

DERSSERTIFICATION

The process which decreases the biological capacity of drylands caused naturally or by human activities (semi-arid lands and arid lands) is called **desertification**. “Approximately 20 million sq. miles or 52 million sq. kilometers are covered by drylands which is equivalent to almost half of the Earth's ice-free land, also covering some of the poorest countries in the world.”⁵ Terrestrial wildlife and plants are the first ones to take the advantage of wetter periods, therefore biological productivity can extensively rise during these times half of the Earth's ice free land, also covering some of the poorest countries in the world. Climate change, overgrazing, deforestation, poverty, unsustainable irrigation practices, political instability or combination of these factors can result in reduction of the productivity. Desertification is often mistaking for phenomenon leading to physical expansion of currently existing desert land but rather, it is an accumulation of various processes that threaten grasslands, scrublands, all dry land ecosystems which also includes desert. As a whole, desertification takes place due to inappropriate and unsustainable activities of land management and due to climate



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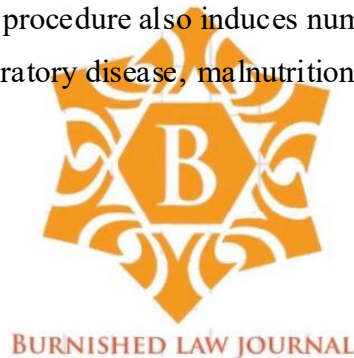
changes in the dry land ecosystem. The semiarid and arid ecosystem are distinguished with respect to their very nature on scant or variable rainfall. Therefore, biological productivity of these ecosystems will rapidly reduce due to widespread extended droughts and climate change. These changes may be interim, enduring only for a season, or can last for a numerous years and decade. To garner a better understanding of how human activities and climatic changes contribute to expansion and process desertification, four broad spectrums in which the consequences can be covered are: soil of irrigated croplands are often deteriorated by accumulation of salts, rain fed croplands often suffer soil erosion due to wind and unreliable rainfall, overgrazing and soil compaction cause serious damage to grazing lands and at last overconsumption and insatiable need of firewood causes plague in dry woodlands. Desertification will occur at a higher rate if the human population and global

⁴ Society, N., 2021. *Greenhouse Effect*. [online] National Geographic Society. Available at: <<https://www.nationalgeographic.org/encyclopedia/greenhouse-effect/>> [Accessed 24 May 2021].

⁵ Encyclopedia Britannica. 2021. *desertification | Description, Causes, & Impacts*. [online] Available at: <<https://www.britannica.com/science/desertification>> [Accessed 24 May 2021].

temperature both increase at an unsustainable rate and might lead to degradation of once arable land. While exegesis the phenomenon of desertification vary, the issue focuses on soil degradation caused by human activities in areas with low and irregular rainfall called as drylands: sub-humid, semiarid and arid lands. “These drylands dominate the world’s total terrestrial surface area by accounting for more than 40 percent of it. A variety of factor causes degradation like ranching, mining, urbanisation and farming.”⁶ In this methodology, various vegetation and trees are cleared away in the process of these operations, causes in depletion of nutrients in the soil.

Climate change plays a major role in increasing the possibility of drought. All this leads to incompetence of land to hold water and regrow plants and trees further resulting to soil erosion. “Approximately about 2 billion humans are residents living on these drylands which are vulnerable to desertification, which by 2030 could became a cause for displacement of about 50 million people.”⁷ When land sets off as desert, its ability to assist and support the surrounding population of mankind and animals dwindles significantly. Water cannot be harvested and collected, food and nutrients often doesn’t grow and habitats shift. This procedure also induces numerous health problems and diseases ranging from dusty air causing respiratory disease, malnutrition, and other diseases emerging from dearth of clean and fresh water.



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DEFORESTATION

As the world attempts to low down the pace of climate change, global warming, preserve wildlife, and succor billions of people, trees undoubtedly clasp vital and crucial part of the answer. So far the universal annihilation of trees - **deforestation** - persists relinquishing of long term benefits and convenience of standing trees and evergreen sapling for short term gain. “Densely forested area still cover approximately 30 percent of the earth’s surface area, however at an unprecedented pace they are disappearing. During 1990 and 2016, the globe lost over 502,000 square miles (1.3 million square km) of forest area.”⁸ We need trees for a variety of reasons, including the fact that they absorb carbon dioxide and trap and collect heating for greenhouse gases produced by human activities. Global warming and climate change tend to rise when these gases hit the atmosphere. “Tropical trees alone

⁶ Environment. 2021. *Desertification facts and information*. [online] Available at: <<https://www.nationalgeographic.com/environment/habitats/desertification/>> [Accessed 24 May 2021].

⁷ 2021. [online] Available at: <<https://www.nationalgeographic.com/environment/habitats/desertification/>> [Accessed 24 May 2021].

⁸ Environment. 2021. *Deforestation and Its Effect on the Planet*. [online] Available at: <<https://www.nationalgeographic.com/environment/article/deforestation>> [Accessed 24 May 2021].

cover around 23% of the climate mitigation needed over the next decade to meet the goals and objectives set forth in the 2015 Paris Agreement.”⁹ Farming, husbandry, drilling, mining, and grazing of livestock amalgamated accounts for over half of the deforestation. Forestry practices, forest management, wildfires and to a limited degree, urbanization contributes for the rest. Forestry and logging operations provides wood and paper products of the world, also feel countless trees every year. Loggers also create roads to access more remote forest area, which contributes to further deforestation. As a result of increasing urban sprawl forests are being burned and cut and land is emerged to build homes. Not all the degradation and deforestation is intentional. Some are caused by lack of human, natural and biological factors such as overgrazing and wildfires that can prevent young trees from growing. Deforestation impacts on both animals and mankind where trees are cut and logged, along with the wider world. “Around 250 million humans living in savannah areas and forests rely on them for livelihood and income, copious of them among the rural poor of the world. 80 percent of the world’s surface plants and animals live in forest, species like Sumatran tiger, orangutang and many bird species are threatened due to deforestation.”¹⁰

Yet the consequences of deforestation and wildfire go further, the Southern American rainforest play a major role in supply of water to neighboring countries and Brazilian cities as the heavy rain in the

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Amazon rainforest creates multiple small streams and waterbodies and replenishes the ground water level, therefore also affects the global water cycles. The loss of biodiversity and clean water from all the forests may have several other consequences that we cannot foresee, even can affect that we cannot foresee, even can affect our morning cup of coffee. In respect of climate change, cutting of trees also contributes to adding up of carbon dioxide in the air and reduces that capacity to soak existing carbon dioxide. In accordance to the World resources institute if tropical deforestation were to be assumed as a country the carbon dioxide equivalent emissions would make it rank third behind.

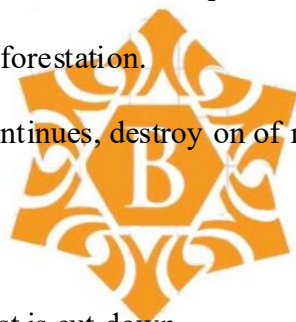
These trees would ultimately come back, but at the pace we are cutting them down, they will not be able to develop soon enough. Deforestation in the tropics is the second-leading cause of climate change. The following are some statistics on deforestation: “13 million hectares of forest have been converted for other uses or destroyed by natural causes. While I’m writing this, almost 3 hectares have been cleared, up to 28,000 species can go extinct in the next quarter century due to deforestation,

⁹ Environment. 2021. *Deforestation and Its Effect on the Planet*. [online] Available at: <<https://www.nationalgeographic.com/environment/article/deforestation>> [Accessed 24 May 2021].

¹⁰ Environment. 2021. *Deforestation and Its Effect on the Planet*. [online] Available at: <<https://www.nationalgeographic.com/environment/article/deforestation>> [Accessed 24 May 2021].

By the year 2030, we might only have 10% of Rainforests left and it can all disappear in a hundred years, 10% of the world's forests are now protected areas. This is roughly the size of India, Tropical Rainforests store more than 210 gigaton of carbon and deforestation is the cause of 15% of carbon emissions, Cures for diseases have been found in plants and the raw materials come from our tropical rainforests."¹¹ Felling of trees or deforestation has been a man's favorite activity to extract assorted needs, whether it be drugs like medicines or precious waste material. It is shameful, for obvious reasons, to read the statistics about how discriminating man is, especially in terms of deforestation. Deforestation is the transformation of forest land to non forested area for use such as farmland, table lands, wooded areas, urban use, or wasteland. Deforestation is seen by many of us as forest clearance which is contributing to numerous biological and ecological imbalances resulting in loss of habitat and biodiversity. There are some forest facts-

- Forest cover 30% of the earth's land.
- It is predicted that there will be no rainforests in the upcoming 100 years.
- Agriculture is the leading cause of deforestation.
- If the present rate of deforestation continues, destroy on of rainforests on earth will take less than 100 years.
- Every second about two acres of forest is cut down.
- Loss of forests contributes between 12 percent and 17 percent of annual global greenhouse gas emissions. (World Resources Institute)
- The pace of deforestation is equivalent to the loss of per minute of 20 football fields.
- The rainforests consists of more than 121 natural treatments and remedies which can be used as a medicine.
- The over exploitation of trees and forests makes replanting of a new ecosystem incredibly challenging.
- Up to 28,000 species are expected to become extinct by the next quarter of the century due to deforestation.
- 4500 acres of forests are cleared every hour by forest fires, bull dozers, machetes etc.



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¹¹ The World Counts, available at: <https://www.theworldcounts.com/stories/deforestation-facts-and-statistics> (Visited May 11, 2020).

- 1.6 billion people across the globe depend on forest products for their livelihoods there by adding more to deforestation

LOSS OF BIODIVERSITY

Loss of biodiversity is the extinction or disappearance of species (animals or plants), and also local decline or reduction in species in certain habitats. Biodiversity's ecological impacts are generally counteracted by its loss. "More than 12,000 species (plants or animals) are at risk of extinction in accordance to the world conservation body IUCN. But because the total number of all species and organisms are calculated from around 1.75 million to as many as 14 million,"¹² few biologists and scientists assume that they are the verge of extinction there are many more species and organisms left. We lose one-third of the total coral reefs, while the other third is seriously threatened and damaged with extinction. Many species in the wild are at a brink of extinction; almost a quarter of conifers and mammals, a third of amphibians and an eighth of birds come under the sphere of endangered species. We rely directly on biodiversity for basic things like food, pharmaceutical drugs,

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raw materials, and a variety of other goods. Though forests and trees, for example, often play a significant role example, often play a significant role in the ecosystem by trapping and soaking the greenhouse gases and carbon dioxide which is accountable for global warming. "To make forest laws more effective and to improve the forest Act, 1875, a new comprehensive Forest Act was passed in 1927 which repealed all previous laws. The Act consists of 86 sections divided into 13 chapters. The main objects of the Act are:

- 1) To consolidate the laws relating to forests.
- 2) Regulation of and the transit of forest produce.
- 3) To levy duty on timber and other forest produce"¹³

¹² Chillingfacts.org.uk. 2021. *Facts About the Loss of Biodiversity*. [online] Available at: <<https://www.chillingfacts.org.uk/facts-about-the-loss-of-biodiversity.html>> [Accessed 24 May 2021].

¹³ International Issues, Forest Laws in India Policy and Assessment, *available at*: <http://thelawbrigade.com/environmental-law/forest-laws-in-india-policy-and-assessment/> (Visited May 11, 2020).

The word 'forest' has not been specified in the act, but while attempting to define the term the Allahabad High Court adopted a definition given by FAO (Food and Agriculture Organization). In the words of FAO, forest means totality of land having vegetative association segregated by trees of multiple sizes, that may or may not be exploited and are capable of generating food products and wood. In "*Kamaruddin N. Sheik v. State of Maharashtra*"¹⁴ "the petitioner was in possession of land which was declared as a private forest by an order passed by the Sub-Divisional Officer, Bombay. He contented to protect his property interests. He filed an appeal before the Maharashtra Revenue Tribunal. That appeal was dismissed by the Tribunal. He received a letter later on from the Divisional Forest Officer, Borivali, directing to stop quarrying operations and to pay royalty to Forest Department. The Maharashtra Revenue Tribunal after remand allowed the appeal and arrived at the conclusion that the land in question was not a forest land. It was held by the High Court that the land was a private forest which vests in the State Government under the Maharashtra Private Forests (Acquisition) Act, 1975."¹⁵

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HAZARDOUS WASTE

In India **hazardous waste** is described as any substance excluding radioactive waste and domestic waste, due to its quantity and/or reactive, infectious, toxic, ignitable and reactive features which causes hazards and danger to human health and the ecosystem when erroneously treated, disposed, stored and transported. "It is reported that India generates 4415954 TPA of hazardous waste from its 373 districts."¹⁶ Toxic or hazardous waste are potentially dangerous and sometimes radioactive waste or remaining byproduct generated by performing activities such as water treatment, farming activities, electricity generation, by nuclear plants, automotive industries and garages, chemical plants, manufacturing industries and many more. Hazardous chemicals, radioactive, bacteria, heavy metals, and a variety of other things may be present in the waste, which can be solid, liquid, or semi-liquid. Not only companies and industrial facilities to produce hazardous waste, but so do ordinary people, which create items such as discarded computer parts and gadgets, chargers, paints, soaps, and heavy-duty chemical detergents, among other things. Humans, plants, and animals can all be harmed by toxic industrial waste. If it ends up in the land, in water streams, or even in the air. "Some toxins, such as mercury and lead, persist in the environment for many years and accumulate over time.

¹⁴ Kamaruddin N. Shaikh vs The State Of Maharashtra And Ors. 1996 (4) BomCR 209, (1996) 98 BOMLR 159

¹⁵ International Issues, Forest Laws in India Policy and Assessment, available at: <http://thelawbrigade.com/environmental-law/forest-laws-in-india-policy-and-assessment/> (Visited May 11, 2020).

¹⁶ Environment. 2021. *Toxic waste facts and information*. [online] Available at: <https://www.nationalgeographic.com/environment/article/toxic-waste> [Accessed 24 May 2021].

Humans or wildlife often absorb these toxic substances when they eat fish or other prey.”¹⁷ These laws are still being violated even though if found guilty there might be jail time and hefty fines are imposed. These poisonous and toxic compounds are also consumed by humans and animals while they feast on fishes or prey whose habitat is contaminated by negligently disposing of chemicals. “In 2018, India generated 550 metric tons of biomedical waste everyday.”¹⁸ The waste was generated nationally through prevention, diagnosis and treatment of diseases. The biomedical waste reproducing and recycling sector across India had a market value of above one billion Indian rupees. Nursing homes, morgues, funeral homes, medical research facilities, private clinics and hospitals are the common generators of this waste. In the environmental law section 9(3) of the act embodies the polluter pay principle which is implemented to make the wrongdoers responsible for their act which pollutes and degrades the environment and makes them liable for paying the damage caused to the natural environment. As the population increases so the does the quantity of waste generated by the people. This creates a predicament as it is very difficult to treat, manage and dispose such big quantities of hazardous waste without leading to more pollution. Even after door-to-door collection

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and segregation of waste in many major cities, India turned out to be ill equipped for handling and sorting such humongous quantities of waste and disposal facilities turned out to be inefficient as well. Indian Government has enacted some Acts and rules for management and handling of hazardous wastes. These being: Environment Protection Act, Bio-medical Waste Rules, The Plastic Waste Rules, The E-Waste Rules and The Batteries Rule. “These things are constantly causing damage to environment. It is duty to protect the environment as embodied under article 48-A, 39 (e) and 47 of the Indian Constitution. So in order to deal with these ever-growing problems, many acts have also been enacted by the parliament but it is a court which always keeps a check on proper implementation of these enactments and judiciary had played an important role in interpreting the laws to protect the environment.”¹⁹

¹⁷ Environment. 2021. *Toxic waste facts and information*. [online] Available at:

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¹⁸ Environment. 2021. *Toxic waste facts and information*. [online] Available at:

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¹⁹ zadu, r., 2021. *JUDICIAL ACTIVISM IN ENVIRONMENTAL LEGISLATION IN INDIA*. [online] Academia.edu.

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CONCLUSION

In conclusion, what this research provides us with are the facts which prove that human intervention, overexploitation and disregard for sustainability has caused all these environmental issues. Though, the government of India and nations all across the globe have recognised the problem and have instated a few rules and regulations but still the rate of improvement is almost negligible if compared to the rate at which humans devour the natural resources. “The right of a person to pollution free environment is a part of basic jurisprudence of the land. Article 21 of the Constitution of India guarantees a fundamental right to life and personal liberty. The Supreme Court has interpreted the right to life and personal liberty to include the right to wholesome environment. The Court through its various judgements has held that the mandate of right to life includes right to clean environment, drinking-water and pollution-free atmosphere. The definition of 'environment' and, therefore, environmental law in India has always been rather broad. Even today, not only does it include the concept of sustainable development but also air and water pollution, preservation of our forests and wildlife, noise pollution and even the protection of our ancient monuments, which are undergoing severe stress due to urbanization and consequent environmental pollution.”²⁰ The only ways by which



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a certain balance can be created that can save thousands of species from extinction, stop the glaciers from melting, prevent health hazards and diseases in humans and most importantly save the provider of all (mother Earth) is if the people and the wrongdoers stop neglecting sustainability and start making it the way of life. To make that possible government must make the laws for protection of environment more stringent and people will need to grow conscious of their own and would have to think about the benefit of all rather than themselves, because if we don't do it now there will be nothing left to do it for later.

²⁰ zadu, r., 2021. *JUDICIAL ACTIVISM IN ENVIRONMENTAL LEGISLATION IN INDIA*. [online] Academia.edu.

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