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WHITE BLACK LEGAL is an open access, peer-reviewed and refereed journal providededicated to express views on topical legal issues, thereby generating a cross current of ideas on emerging matters. This platform shall also ignite the initiative and desire of young law students to contribute in the field of law. The erudite response of legal luminaries shall be solicited to enable readers to explore challenges that lie before law makers, lawyers and the society at large, in the event of the ever changing social, economic and technological scenario.

With this thought, we hereby present to you

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HUMAN RIGHTS LAW
“ANALYSIS OF CLIMATE CHANGE AND HUMAN RIGHTS WITH SPECIAL REFERENCE TO GHANA CASE STUDY”

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ABSTRACT:

The belief of being entitled to a healthy, clean and fully functional environment is basic among all human beings. This is also legally backed by the provisions under the basic rights like Right to Life, Health, Food, and a Proper Standard of Living. However, the growing trend of climate change in the natural environment of the world is developing to be one of the most inescapable threats. This Research Paper gives an elaborate insight into the various aspects of Human Rights that are affected due to the constant climate change. The purpose of this Research Paper is to highlight the Indian as well as Global scenario of Human Rights being affected by Climate Change along with critical analysis of the situation in certain countries like Ghana.

METHODOLOGY:

The research methodology used is Analytical, it is a compilation and reinterpretation of various academic sources through critical analysis. Doctrinal type of Research Methodology is also utilized through the use of legal provisions from statutes, Indian Law and International Law and the use of case laws.

KEYWORDS: Human Rights, Anthropogenic Climate Change, Environment, India, Ghana, threat, International, UDHR, UNGA, Constitution.

INTRODUCTION AND LEGAL PROVISIONS

Climate Change is becoming more abundant, causing serious public health and environmental concerns throughout the world. Anthropogenic climate change is the largest, most pervasive threat to the natural environment and human societies the world has ever experienced¹. Essentially, climate change refers to ongoing fluctuations in temperatures and weather patterns. These variations may be naturally happening, but since the 1800s, human activities have been the dominant cause of climate change, mostly owing to the burning of fossil fuels (such as coal, oil, and gas), which releases thermal gases. The livelihoods and well-being of people and societies around the globe are seriously threatened by climate change. Therefore, the exercise of billions of people's human rights will be significantly impacted by climate change. This is not only an improbable scenario for the future; drought, environmental deterioration, and food shortages are already effects of climate change. Some regions are affected more severely than others, and the causes of these impacts are more obvious. For instance, sea level rise has negatively impacted the safety and way of life of many coastal residents, and rising Arctic temperatures are altering the ecosystems that provide food and shelter for numerous indigenous populations.

As an overview, the following Legal Provisions or Human Rights (in the Indian and International contexts) come under the purview of being violated due to changing climatic conditions:

- **Right to Life**- Article 6 of the ICCPR² recognizes the inherent right of every person to life, adding that this right "shall be protected by law" and that "no one shall be arbitrarily deprived of life". In Indian law, Article 21 of the Indian Constitution, 1950³ talks about the Protection of Life and Personal Liberty.
- **Right to Health**- as a Human Right is given in the International Human Right Law and is part of Article 21 of the Indian Constitution, 1950⁴.
- **Right to Water and Sanitation**- on 28th July 2010, the UNGA expressly recognized this as a Human Right, and it is also recognized by the Indian Law under Article 21 of the Indian Constitution, 1950⁵.

¹ UNEP & Columbia Law School, *Climate Change and Human Rights*, UNEP, 1, (2015)

² International Covenant on Civil and Political Rights

³ INDIA CONST. art. 21

⁴ INDIA CONST. art. 21

⁵ INDIA CONST. art. 21

- **Right to an Adequate Standard of Living**- Article 25 of the UDHR⁶ and Right to Shelter under Article 19 (1) (e)⁷ read along with Article 21 of the Indian Constitution, 1950⁸.
- **Right to Food**- this is recognized by Article 25 of the UDHR⁹ under the ambit of Right to an Adequate Standard of Living.
- **Right to Housing**- this is recognized by the UDHR¹⁰ under the scope of Right to an Adequate Standard of Living and by the Indian Constitution under the scope of Article 21 of the Indian Constitution, 1950¹¹ (Right to Life).
- **Right to Property**- this is recognized by Article 17 of the UDHR¹² and in India, Article 300-A of the Indian Constitution¹³ recognizes it.
- **Right to Self- Determination**- is given under the UN Charter¹⁴ and the International Covenant on Civil and Political Rights as a right of “all peoples”.

The range of Rights that are affected is wide and the “Critical Analysis” section of the following research paper will explain in detail about how specific outcomes of climate change are connected to specific basic human rights.

LITERATURE REVIEW:

Case study on Ghana’s Climate Change Litigation

The condition of Climate Change Litigation in Ghana is undiscovered. The country does not have any legal avenues or framework available to advocate for Climate Change Litigation. The National Climate Change Adaptation Strategy 2011 (NCCAS) and the National Climate Change Policy 2013 are the two main policies that make up the majority of Ghana's existing legal framework on climate change (NCCP). Despite these regulations, Ghana's climate lawsuit confronts significant obstacles. No legally binding undertakings are made by the NCCAS or NCCP. There are no laws or policies

⁶ Universal Declaration of Human Rights

⁷ INDIA CONST. art. 19, § 1, cl. e

⁸ INDIA CONST. art. 21

⁹ Universal Declaration of Human Rights

¹⁰ Universal Declaration of Human Rights

¹¹ INDIA CONST. art. 21

¹² Universal Declaration of Human Rights

¹³ INDIA CONST. art. 300 cl. A

¹⁴ United Nations Charter

addressing climate change. Additionally, environmental disputes seldom end up in court. In addition to the difficulty of proving one's legal right to suit, Ghanaian courts are infamously sluggish, with some cases taking years to resolve. Affected parties must rely on private money for such lawsuits in the absence of legal aid support, which may be prohibitively expensive. Due to a combination of these considerations, any possible climate lawsuit is likely to be incorporated into larger discussions about environmental protection, land use, or the preservation of natural resources, with climate implications being treated as a secondary concern. The need for climate governance to be integrated into, rather than distinct from, broader global environmental governance is reinforced by incorporating climate change concerns into broader environmental issues. This approach may be more practical for addressing climate change concerns within the context of the nation's current legal and political environment. However, this tactic runs the danger of undermining any initiatives to create a corpus of climate change litigation.

Through decisions given by the Supreme Court of Ghana in cases like- *New Patriotic Party vs. Attorney-General*¹⁵, *New Patriotic Party vs. Inspector General of Police*¹⁶, and *Adjei Ampofo vs. Attorney-General*¹⁷, it can be said that a rights-based approach towards Climate Change Litigation would help Ghana grow in the field. The African Commission on Human and Peoples' Rights ruled in *SERAC v. Nigeria*¹⁸ that the state has a clear obligation to take reasonable steps to "prevent pollution and ecological degradation, to promote conservation, and to secure ecologically sustainable development and use of natural resources"¹⁹ under the terms of the right to a clean environment in Article 24 of the African Charter. The case arose as a result of Nigeria's "irresponsible" oil exploitation, which led in the use of violence, significant environmental damage in the Niger River Delta region, and substantial health difficulties for the Ogoni people who live there. In addition to addressing a wide variety of African Charter rights, the ruling established precedents that would be followed in other cases resolved subsequently. The case was significant in that it recognized the rights of peoples protected by the African Charter and the power of a group to demand the protection and application of these rights.

¹⁵ *New Patriotic Party vs. Attorney-General* S.C.G.L.R. 729 (Sup. Ct. Ghana 1996-97)

¹⁶ *New Patriotic Party vs. Inspector General of Police* [1993-94] 2 G.L.R. 459 (Sup. Ct. Ghana 1993-94)

¹⁷ *Adjei Ampofo vs. Attorney-General* S.C.G.L.R. 676 (Sup. Ct. Ghana 2007-08)

¹⁸ *SERAC vs. Nigeria* (2001) AHRLR 60 (ACHPR 2001)

¹⁹ *Decision Regarding Communication 155/96 (Social and Economic Rights Action Center/Center for Economic and Social Rights v. Nigeria)*, Case No. ACHPR/COMM/A044/1, para. 52

The human rights strategy has the benefit of increasing awareness of climate concerns in a similar manner as other basic human rights guaranteed by the Constitution of Ghana, in addition to providing a more plausible avenue to climate litigation. Additionally, because all natural and legal people in Ghana are subject to human rights commitments, including the government and its agencies, they may provide grounds for legal action against companies engaged in climate-impacting activities.

CRITICAL ANALYSIS

There are various implications that the types of Human Rights have to face due to Climate Change.

- (i) **Impacts on the Ecosystem and Natural Resources-** In the majority of dry subtropical regions, climate change will result in a significant reduction in surface water and groundwater resources. This will increase competition for water among agriculture, ecosystems, settlements, industry, and energy production, affecting regional water, energy, and food security. In already arid places, climate change will also increase the frequency of droughts. Reduced rainfall, decreased snowpack, which results in less snowmelt supplying rivers and streams, higher temperatures, which increase evaporation from surface water and soils, and sea level rise, which contributes to saltwater inundation of freshwater resources are the main causes of these projected water shortages and droughts. Additionally, changes in temperature and sea level rise, as well as fluctuations in precipitation frequency, intensity, and type, can be detrimental to freshwater ecosystems by altering stream flow and water quality. Additionally, it may result in the deterioration of water resources for drinking, farming, and other purposes. As for the Terrestrial Ecosystem, it has been observed by the experts that many species of animals and plants have changed their behavioral patterns in accordance with the changing climate. There has been an increase in the decreasing number of trees which means that the level of tree death has risen and hence led to the degradation in the quality of living conditions of people.

The affected rights due to this are Right to Life, Right to Water and Sanitation, Right to Health, Right to Food, Right to an Adequate Standard of Living.

- (ii) **Impacts on Food Security and Production Systems globally-** In many parts of the world, the impacts of climate change on agricultural and terrestrial food production are already noticeable. As a result of recent warming trends, several high-latitude locations, such as northeast China and the U.K., have seen a minor boost in production. The output of

wheat and maize has, however, been adversely impacted by fluctuations in temperature and precipitation in many areas. Additionally, there is proof that extreme weather conditions (storms and flooding) have had an influence on food production. Climate change is negatively affecting fisheries productivity, as well.

The affected rights due to this are Right to Life, Right to Health, Right to Food.

- (iii) **Impacts on Infrastructure and Human Livelihoods or Settlements-** Urban climate change hazards are growing, with significant detrimental effects on people's health, way of life, assets, local and national economies, and ecosystems. These dangers are increased for those who live in dangerous locations and squatter communities, which frequently lack basic infrastructure and capacity for adaptation, as well as for people who are more susceptible due to their age, economic level, disability, or other circumstances.

Rising temperatures and heat waves, altered precipitation patterns, extreme weather events, and their effects on human health, water supplies, ecosystems, natural resources, crops, and physical structures are some of the main effects that put rural populations at danger. Due to their geographic position (where climate change impacts are anticipated to be most severe), lack of adaptability, and strong reliance on agriculture and natural resources, rural communities in developing nations face the greatest dangers.

The affected rights due to this are Right to Life, Right to Health, Right to Food, Right to Housing, Right to an Adequate Standard of Living.

- (iv) **Impacts on Health and Security-** It is proven that climate change has already attributed to health issues in some areas, and if climate change continues as projected under different scenarios, the main health impacts will include the increased risk of injury, disease, and death because of more intense heat waves and fires; increased risk of undernutrition because of decreased food production in poor regions; and health effects resulting from lost work capacity and decreased labor productivity. Human security will be threatened by the increasing scarcity of essential resources, the destruction of livelihoods, the erosion of culture and identity, an increase in migration and displacement, and difficulties for states in providing the conditions necessary for human security. Each of these effects has the potential to directly harm human security and to fuel political unrest and violent conflict.

The affected rights due to this are Right to Life, Right to Health, Right to an Adequate

Standard of Living, Right to Self- Determination, Right to Property.

From numerous perspectives, there is a clear link between human rights violations and climate change. The right to water and sanitation has an influence on energy generation, industry, communities, and agriculture. Droughts and rising water scarcity endanger not just the region's rights to food, energy, and water security, but also the rights to life, health, and sufficient living conditions. In conclusion, addressing climate change is not only crucial for the environment, but it is also an important first step in safeguarding and defending fundamental human rights. Human rights violations and the consequences of climate change are inextricably linked, necessitating international collaboration and comprehensive strategies to address these challenges and create a more sustainable and just future. Further threats posed to the Right to Life, Right to Health, Right to Food, Right to Housing, Right to Self-Determination, and Right to an Adequate Standard of Living.

CONCLUSION AND SUGGESTIONS

The exercise of millions, if not billions, of people's human rights will be significantly impacted by climate change and its solutions. This will happen both directly on people and habitations as well as indirectly by degrading the habitats and environmental resources that support many lives and livelihoods. States have a duty to respect, defend, and uphold human rights, which includes a duty to reduce domestic GHG emissions, safeguard residents from climate change's negative consequences, and make sure that climate change adaptation does not violate human rights. Climate change mitigation requires modest, medium, and large-scale interventions.

In my personal opinion, some of my suggestions include:

- Recognition of the link between Climate Change and Human Rights in the Paris Agreement: The Conference of Parties should specifically address the impact of climate change on the enjoyment of human rights as well as the necessity for Parties to uphold, defend, and advance human rights in all climate-related activities. This could entail- acknowledging the connection between human rights and climate change in the preamble of the agreement, stating that one goal of the agreement is to safeguard, respect, and uphold the human rights of all individuals, requesting mitigation commitments sufficient to completely safeguard human

rights, requesting that the parties make sure that all adaptation and mitigation activities do not violate human rights, and integrating more rigorous human rights provisions.

- Providing Financial help to Developing Countries: the developed countries must try to help the developing countries by sending funds to them in order to aid the process of recovery and growth when the impacts due to climate change are hitting them hard. In order to consider, the disproportionately negative impacts of climate change on people, settlements, and ecosystems, the amount of financing available for adaptation efforts in these nations should be greatly increased. There must be separate funding programs launched to establish various adaptation and recovery measures.

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