

The **Governor appoints the Chairperson** and members based on the recommendations of a committee headed by the Chief Ministers and including the Speaker of the Legislative Assembly.

Tenure

- The chairperson and members are elected for a **three-year term or until they reach the age of 70**, whichever comes first.
- Although the governor appoints the chairperson and members of a State Human Rights Commission, they can only be **removed by the President** (and not by the Governor).

Salary and Allowances

The **state government determines** the chairperson's or member's salary, allowances, and other working conditions. After his appointment, however, they cannot be changed to his detriment.

Functions

The functions of the States Human Rights Commission are as follows:

1. To investigate any breach of human rights or failure to prevent such violations by a public servant, either on its own initiative or in response to a petition or a court order.
2. To intervene in any pending legal proceedings including allegations of human rights violations.
3. Visit jails and detention centers to assess detainees' living conditions and make recommendations.
4. Review and recommend steps for effective implementation of constitutional and other legal safeguards for the protection of human rights.
5. Review the circumstances that obstruct the enjoyment of human rights, including acts of terrorism, and make recommendations for solutions.
6. To conduct and encourage research on human rights issues.
7. People's human rights literacy should be promoted, as well as awareness of the measures available to defend these rights.

Powers of the States Human Rights Commission

- The Commission has the authority to govern its own procedure. It has all of the functions of a civil court and conducts judicial proceedings.

- It may request information or a report from the state government or any other authority that has previously been subordinate.
- The Commission has no authority to investigate any matter after one year has passed after the alleged violation of human rights occurred.
- To put it another way, it can investigate a problem within a year of its occurrence.

16.Explain the functions of American commission and American court of human rights.

Introduction:

The American Convention on Human Rights (ACHR) was adopted on 22 November 1969 by the Organization of American States (OAS) and entered into force on 18 July 1978. The Convention formalizes the Inter-American system of human rights protection, resting on the Inter-American Commission on Human Rights and the Inter-American Court of Human Rights, per Article 33 of the ACHR. In general, cases are first brought before the Commission, which may then decide to refer them to the Court.

The Commission's purpose is not to issue a judgment or sentence, since it is not a judicial organ. Instead, it seeks to reach friendly settlements in light of written and oral information transmitted, on the Commission's request, by the State concerned by the complaints. In "serious and urgent cases," the Commission may conduct on-site investigations, with the prior consent of the State in whose territory a violation was allegedly committed. In other situations, on-site visits to countries remain an instrument that the Commission can use to engage in more in-depth analysis of the situation, but they are the result of prior examination of the matter

If a friendly settlement is reached, the Commission draws up a report, transmits it to the petitioner and to all States party to the Convention, and submits it for publication to the OAS Secretary-General, including a brief statement of the facts and the solution reached

Functions of the commission:

Under its mandate to "promote respect for and defence of human rights," the Commission also

- observes the general human rights situation in the Member States and publishes special reports when it considers it appropriate;

- promotes public awareness regarding human rights in the Americas, including publishing studies on subjects such as the independence of the judiciary, activities of irregular armed groups, and human rights conditions of children, women, and indigenous peoples;
- recommends to the OAS Member States that they adopt certain measures that would contribute to human rights protection;
- responds to States Parties' inquiries on matters related to human rights;
- requests that the Court order "provisional measures" in urgent cases that involve danger to persons, even where a case has not yet been submitted to the Court;
- requests advisory opinions from the Court on the interpretation of the ACHR.

InterAmerican Court of Human Rights

The Court, based in San José, Costa Rica, is the judicial organ of the Inter-American system of human rights protection. It was established by the 1969 American Convention on Human Rights but was actually set up in 1979, after the Convention entered into force. It is composed of seven independent judges, elected to six-year terms (they can be re-elected once) by the States party to the American Convention on Human Rights.

The judges hold two regular sessions per year, but they may also meet in special sessions. They elect their president and vice president to two-year terms (they can also be re-elected once). They appoint their secretary, whose staff is appointed by the Secretary-General of the OAS, in consultation with the secretary. The Court adopted its Rules of Procedure in 1980 and last revised them in November 2009.

Advisory and Contentious Jurisdiction

At the request of OAS Member States, the Court is competent to issue advisory opinions regarding the interpretation of the ACHR and other treaties concerning the protection of human rights in the Americas and any question relating to the jurisdiction of OAS organs. In particular, it may give opinions on the compatibility of domestic laws with these human rights instruments to requesting States.

It also has contentious jurisdiction over alleged violations of the ACHR, and it monitors States' application of the Convention. However, the Court's jurisdiction is not automatically binding on States, except for those that have expressly accepted its jurisdiction

Judgments

If the Court finds that there has been a violation of a right or freedom protected by the ACHR, it rules that “the injured party be ensured the enjoyment” of the right or freedom that was violated.

It may also rule that the measure or situation that constituted or resulted in the breach be remedied and that fair compensation be paid to the injured party (Art. 63.1 of ACHR). The Court’s judgments are final and not subject to appeal. The OAS General Assembly is responsible for monitoring the implementation of these rulings (Art. 67).

In extremely serious and urgent cases, the Court may adopt provisional measures to protect individuals in matters under its consideration. It may also do so on request of the Commission for cases that have not yet been submitted to it (Art. 63.2).

The Court submits an annual report to the General Assembly of the OAS. In particular, it must specify the cases in which a State has not complied with the Court’s judgments and make any pertinent recommendations (Art. 65). The OAS may choose to signal which States failed to comply with these decisions.

17.What are the human rights? Explain the development of human rights.

Refer Q.No. 1.

18.Write a note on African commission of human rights.

Introduction:

The African Commission is tasked with promoting and protecting human rights by interpreting the African Charter and considering individual complaints. Established in 1986 and located in Banjul, The Gambia, the commission hears cases from the 53 Member States of the African Union (all except South Sudan).

Establishment

The African Commission on Human and People’s Rights (“Commission”) was established under Article 30 of the African Charter on Human and Peoples’ Rights (“African Charter”), and became operational on 21 October 1986. The Commission reports to the Assembly of Heads of State and Government of the African Union (AU)

Members

The 11 Commissioners serve in their personal capacities for six-year terms that may be renewed once. There are two ordinary sessions each year, usually in March/April and October/November, and also extraordinary sessions

Jurisdiction

The Commission has jurisdiction over the rights set out in the African Charter. Its duties include examining national reports on the situation of human rights which each State is required to submit every other year, adopting resolutions and declarations, country visits, and adjudicating communications (complaints) submitted by Member States, individuals, and NGOs.

The Commission has also developed a system of “Special Measures,” consisting of: (1) Special Rapporteurs to whom specific allegations of human rights violations in specific areas may be brought, and (2) Working Groups that monitor and investigate specific questions linked to the Commission’s work.

With the creation of the African Court on Human and Peoples’ Rights (under a protocol to the Charter adopted in 1998 which entered into force in January 2004), the Commission can also submit cases to the Court.

Admissibility

State Parties, individuals, or NGOs may bring communications to the Commission, alleging that a State Party has violated a provision of the Charter. When an individual or NGO submits a complaint to the Commission, they must first exhaust any domestic remedies which exist, “unless it is obvious to the Commission that the procedure of achieving these remedies would be unduly prolonged.” Communications must be submitted within a reasonable time after local remedies were exhausted, must not be based exclusively on news from the mass media, and must not be written in a way which insults or disparages the State or the U. Individuals may request confidentiality.

Procedure

Applicants initiate a case through a letter of introduction. The Commission may decide to seize itself of the case, at which point the applicant is invited to provide submissions on admissibility, the State is given an opportunity to respond, and the applicant may file a reply. The Commission will then issue a decision on admissibility, and if the case is held to be admissible, the parties provide similar submissions and responses on the merits of the case.

Decisions on admissibility are usually made based solely on the written submissions, although the Commission may schedule an oral hearing. Oral hearings are more common at the merits stage, when they may be called by the Commission or requested by a party, although cases may be decided based solely on the written submissions.

19.Explain the significance of international convention on rights of women.

International Conventions

United Nations Charter

It was adopted in 1945 and its Preamble itself sets a basic aim or an objective to reaffirm the faith in fundamental human rights, in the dignity of human being and in the equal rights of men and women. Article 1[1] of the Charter further provides that in order to achieve international cooperation among the Nation States, promotion and encouragement of respect towards human beings is necessary and essential without discriminating them on the basis of gender, sex, language or religion.

Universal Declaration of Human Rights

It was adopted in 1948. It had reaffirmed the principle of the inadmissibility of discrimination and proclaimed that all the human beings have equal rights as they are born free and they shall never be discriminated on the grounds of sex. Even after mentioning this under the UDHR, it was seen that women were primarily discriminated because of the customs imposed by the society and not by law. Therefore, the need for separate and specific conventions for women was required.

Convention on the Political Rights of Women

It was adopted on December 20, 1952 and came into force on July 1954. This Convention basically stated that women shall be entitled to vote in all the elections taking place without any discernment. They shall not be discriminated and should be eligible to vote and for election to all the publicly established bodies. It is also stated that they are even allowed to hold any public position and also are permitted to exercise any public function and power. It was the first Convention which was adopted in order to provide

equal status as to men and can also be identified as a recommendable step as it happened after the World War 2.

Convention on Consent to Marriage, Minimum Age for Marriage and Registration of Marriages

It is a treaty decided in the United Nations and is based on the marriage standards. It came into force on 9 December 1964. It states that it is in conformity with the United Nations Charter in order to promote respect universally and ensure that human rights and fundamental freedoms are for all without discrepancy with respect to race, sex, language or religion. The first and foremost essential of marriage is laid down in Article 1 where it states that free consent of both the parties should be there before entering into the marriage. Also, the States shall specify the minimum age for marriage of both the genders and every individual shall be bound to follow it. It also makes compulsory to register the marriage.

Declaration on the Protection of Women and Children in Emergency and Armed Conflict

It was adopted by the United Nations in 1974 and came into force in 1974 itself. It was proposed by the United Nations Economic and Social Council (UNECOSOC), on the grounds that women and children are frequently the sufferers of armed conflict i.e. wars, or other emergency situations that cause them to suffer vicious acts and subsequently suffer serious harm. It precisely forbids attacks and bombing of civilian populations and the use of chemical and biological weapons and arms on them. Article 3 requires states to abide by the Geneva Protocol of 1925 and the Geneva Convention of 1949.

Convention on the Elimination of All Forms of Discrimination against Women

It was adopted by the United Nations General Assembly on 18 December 1979. It was adopted in order to implement the principles set forth in the Declaration on the Elimination of Discrimination against Women. Its concern is to achieve equal status of men and women. It provides that there shall be no discrimination between the women and men. Article 10 even provides with education which mentions that women shall be provided with careers and vocational guidance as to men. Article 11 provides that there shall no discrepancy in the field of employment. It also provides for health care, economic and social life and women in rural areas.

Declaration on the Elimination of Violence against Women

It was adopted without vote by the United Nations General Assembly (UNGA) in its resolution on 20 December 1993. The resolution is often seen as complementary to the Convention on the Elimination of All Forms of Discrimination against Women as it embodies similar principles. Article 1 defines the term 'violence against women'. Article 3 includes the rights that women are entitled to- right to life, equality, liberty, free from all sorts of discrimination etc. it also provides that States shall respect women and in order to invoke a custom, it shall not avoid its obligations towards women.

Conclusion

These international conventions are of great importance as it binds the States to follow the principles laid down in it. All the above are conventions formed and adopted with respect to women. The advancement of women has been a focus of United Nations Charter since its creation.

20. Define human rights. What are the sources of international human rights law?

International Bill of Human Rights

1. Universal Declaration of Human Rights
2. Economic, Social, and Cultural Rights
3. Civil and Political Rights

Sources

The Concept of Human Rights

Human rights are the rights a person has simply because he or she is a human being. They are the basic entitlements or minimum standards to be met for individuals to live with dignity.

Most notably, human rights are:

- founded on the respect for the dignity and worth of each person;
- universal in that they are applied equally without discrimination to all people;
- inalienable in that no one can have their human rights take away (though they can be limited); and

- indivisible, interrelated, and interdependent in that all human rights are equal in importance and equally essential for the respect and dignity of each person.

Human rights are formally expressed and legally guaranteed by international human rights law. The law obligates states to ensure and implement human rights and/or restrains states from violating human rights. Their proponents argue that human rights law does not establish human rights, as human rights are inherent entitlements that adhere to individuals even if official laws or actors do not recognize or protect them.

International Bill of Human Rights

The Universal Declaration of Human Rights (UDHR) is the primary UN document articulating human rights standards and norms. At inception, the declaration was intended to be a nonbinding statement of objectives to be followed by all states. However, now, many if not all of its provisions are accepted as declaratory of customary international law, i.e. law that is binding on all states as it is derived from the consistent conduct of states acting out of the belief that the law requires them to act that way.

The International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social, and Cultural Rights (ICESCR) translate into legally binding instruments the rights articulated in the Universal Declaration of Human Rights (UDHR).

Universal Declaration of Human Rights

The Universal Declaration of Human Rights (UDHR) is the first international instrument to articulate the rights to be accorded to all people. On 10 December 1948, the UN General Assembly unanimously adopted the Declaration as an enduring international commitment to human rights. Recoiling from the massacres of the Holocaust and desiring peace in the aftermath of World War II, the UDHR represented an unprecedented step as states acknowledged the treatment of individuals was not solely subject to state governance.

The UDHR's main provisions are:

Equality of rights without discrimination (art. 1 & 2);

- Life (art. 3 & 6);
- Liberty and security of person (art. 3 & 9);

- Protection against slavery (art. 4);
- Protection against torture and cruel and inhuman punishment (art. 5);
- Recognition as a person before the law (art. 6);
- Equal protection of the law (art. 7);
- Access to legal remedies for rights violations (art. 8);
- Protection against arbitrary arrest or detention (art. 9);
- Hearing before an independent and impartial judiciary (art. 10);
- Presumption of innocence (art. 11);
- Protection against ex post facto laws (art. 11);
- Protection of privacy, family, and home (art. 12);
- Freedom of movement and residence (art. 13);
- Seek asylum from persecution (art. 14);
- Nationality (art. 15);
- Marry and found a family (art. 16);
- Own property (art. 17);
- Freedom of thought, conscience, and religion (art. 18);
- Freedom of opinion, expression, and the press (art. 19);
- Freedom of assembly and association (art. 20);
- Political participation (art. 21);
- Social security (art. 22);
- Work under favorable conditions (art. 23)
- Free trade unions (art. 23);
- Rest and leisure (art. 24);
- Food, clothing and housing (art. 25);
- Health care and social services (art. 25);
- Special protections for children (art. 25);
- Education (art. 26);
- Participation in cultural life (art. 27);
- A social and international order needed to realize rights (art. 28).

Civil and Political Rights

The ICCPR unequivocally obligates contract parties to promote and protect important civil and political rights. State parties are to respect and ensure the individual enjoyment of the rights recognized; legislate or otherwise give effect to the rights promulgated; and effectively remedy any violations of rights or freedoms suffered by any person.

The ICCPR has two Optional Protocols. The First Optional Protocol creates an individual complaints mechanism. The Second Optional Protocol abolishes the death penalty.