

2009

HUMAN RIGHTS MANUAL
FOR CHRISTIAN COMMUNITIES



Produced by:

Justice & Peace Commission

Archdiocese of Bamenda

With Financial assistance

From *MISEREOR* – Germany

&

People with a Mission-Nederland

HUMAN RIGHTS MANUAL

FOR

COMMUNITY EDUCATION

TABLE OF CONTENT

ACKNOWLEDGEMENT

FORWARD

INTRODUCTION

PART I

GENERAL PROVISIONS

CHAPTER ONE: Rights pertaining to security and integrity of the person

CHAPTER TWO: Rights pertaining to access to justice

CHAPTER THREE: Workers' Rights

CHAPTER FOUR: Right to Adequate Standard of Living

CHAPTER FIVE: Right to Participation and Associated Freedoms

CHAPTER SIX: Environmental Rights

PART II

SPECIFIC PROVISIONS (Protection of Vulnerable Groups)

CHAPTER SEVEN: Protection of the Rights of the Child

CHAPTER EIGHT: Protection of Women

CHAPTER NINE: Protection of People with Disabilities

CHAPTER TEN: Protection of People in Detention

CHAPTER ELEVEN: Protection of Minorities and Indigenous Peoples

CHAPTER TWELVE: Protection of Aliens

CHAPTER THIRTEEN: Protection of Persons Living with HIV/AIDS.

CHAPTER FOURTEEN: Protection of Older Persons

PART III

HUMAN RIGHTS AND DEMOCRACY

CHAPTER FIFTEEN: Good Governance

CHAPTER SIXTEEN: The Right to Information

CHAPTER SEVENTEEN: Democracy and Citizenship

Endnotes

Glossary

Annexes

PART ONE

GENERAL PROVISIONS

CHAPTER ONE

RIGHTS TO SECURITY AND INTEGRITY OF THE PERSON

1. INTRODUCTION

Respect for human rights begin with the acknowledgement that we are all human beings, born with dignity and equal worth. equal integrity as a person. This is what makes one human. There are no half human beings as there are no sub human beings. Every human being is complete with all the attributes as a human being.

Therefore, doing anything that would deprive a human being of any of his attributes as a human being would be violating the persons rights to dignity and integrity of his/her person. It is a right that every human beings integrity and dignity should be secured and protected.

2. OBJECTIVE OF THE CHAPTER

- i. Knowledge of the right to security of the human person is improved.

3. RIGHTS

3.1. Right to Life, Liberty and Security of Person

“Everyone has the right to life, liberty and security.” Art. 3 UDHR

“Every human being has the inherent right to life. This right shall be protected by law. No one shall be arbitrarily deprived of his life.” Art. 6 ICCPR

Explanation

- Every human being has the right to life, and to live in freedom and safety.

- No one has the powers to take away anybody's life, harm anybody, or to deprive anyone of his/her quiet enjoyment without reasonable cause.
- Anyone sentenced to death shall have the right to seek pardon or commutation of the sentence. The death penalty should be an exception and not the rule and should be reserved for the most serious crimes.

3.2. Right to liberty and security of persons

Articles 9 and 10: ICCPR

"No one shall be subjected to arbitrary arrest, detention or exile."
Art 9 UDHR

Explanation

- No one has to be arrested without being informed of the reason of arrest,
- After arrest by whomever, you have to be brought in time before the authority who ordered the arrest.
- Trial should be held within a reasonable time frame otherwise, suspects should be bailed out or released. cf CPC
- Where one is not satisfied with his/her arrest or the reasons for detention, he/she has the right to take up the matter before the court to decide if the arrest is lawful or not. CPC
- Where arrest and detention is not lawful, compensation could be demanded from the court.
- However, if guilty of a crime punishable by law, one shall in the process deserve to be treated with respect and dignity.
- It is your right to be detained under human conditions. Detainees and convicts, women and men or children and adults MUST not be detained in the same place.
- You shall not be arrested or detained for being unable to pay your debts

3.3. Freedom from torture, cruel, inhuman or degrading treatment or punishment: Art. 7: ICCPR

“No one shall be subjected to torture¹ or to cruel, inhuman or degrading treatment or punishment. In particular, no one shall be subjected without his free consent to medical or scientific experimentation.”

Explanation

- Torture in all its forms, for all reasons, in all places (police/gendarmerie cells and prisons at home, in the classroom, at job or the police station, or in any other place), in all situations (be it emergency, war or exception) is prohibited.
- No one is allowed to commit, instruct or assist another to torture or to commit any cruel, inhuman or degrading treatment or punishment.

3.4. Freedom from Slavery and Servitude

Art. 4: UDHR, Art. 8: ICCPR

“No one shall be held in slavery or servitude; slavery and the slave trade shall be prohibited in all their forms”

(a) No one shall be required to perform forced or compulsory labour”;

(See also Section 2 (3) of Law No. 92-007 of 14 August 1992)

Explanation

- Work that one is made to do against his/her will for someone’s private gain is forced labour.
- It is against the law to cause someone to do forced labour.
- Servitude (getting someone to serve you or work for you without appropriate pay: example, domestic maids, shop boys) is also prohibited.

3.5. Right to Privacy: Art 12 UDHR; ICCPR Art. 17

“No one shall be subjected to arbitrary interference with his privacy, family, home or correspondence, or to attacks upon his honour and reputation. Everyone has the right to the protection of the law against such interference or attacks.”

Explanation:

- It is unlawful to circulate or publish information about a person’s private life without his knowledge and permission.
- Information concerning a person’s private life must not be received, processed or used by another without the person’s consent or authorization of the law.
- Anyone has the right to ask to be protected if someone tries to harm his/her good name, enter his/her house, open his/her letters, or bother his/her family without a good reason.

CASE SCENARIO

Mamuda is a boy of 9 years of age living in Maroua. He was caught after he broke into her neighbour’s kitchen and stole a pot. Mamuda was found living the kitchen with the pot by other children who were playing in the yard and raised an alarm. He took on his heels but was soon caught by the pursuing crowd. With the uproar that erupted, the crowd quickly requested for an axe and Mamuda’s right arm was chopped at the elbow and he was left to go with promises that next time he will be caught the other arm will equally be caught. His mother arrived just in time to take him away to the hospital for treatment. It is reported that it is the custom of the people to chop off the limb of anyone caught stealing to be followed by the head when no limb is left.

- 1) Is Mamuda’s treatment justified?
- 2) Is there a problem with the custom of cutting the limbs of persons caught stealing?

CHAPTER TWO

RIGHTS PERTAINING TO ACCESS TO JUSTICE

4. INTRODUCTION:

This chapter addresses issues pertaining to access to justice and court. In addition to the rights pertaining to the human person are also rights pertaining to access to justice and access to court.

Justice means the upholding of rights and the punishment of wrongs by the law.²

Access to justice here means the ability of ordinary citizens to seek solutions to disputes and this can only be achieved through the existence of good laws, institutions like the courts to apply the laws and other alternative dispute settlement mechanisms. Access to justice means the ability or possibility for ordinary citizens to be able to solve their disputes with impartiality and equity.

5. OBJECTIVES:

- i. To raise awareness on the existence of human rights instruments relating to access to justice
- ii. To enable citizens understand these rights and how best to enforce them.

6. RIGHTS PERTAINING TO ACCESS TO JUSTICE

6.1. Right to Equality and Equal Protection and Recognition before the Law

Article 26 of the ICCPR; Article 7 UDHR, Article 3 ACHPR

Article 26 ICCPR provides;

“All persons are equal before the law and are entitled without discrimination to the equal protection of the law...”
(Paraphrased).

The 1996 Cameroon constitution provides:

“All persons shall have equal rights and obligations...” ().
Article 16 of the ICCPR and article 6 UDHR provides that:
“Everyone shall have the right to recognition everywhere as a person before the law.”

Explanation

- Everyone without exception shall have the right to seek protection from the courts, or where they are guilty, be punished equally by the law.
- Everyone is equal before the law no matter whether you are man or woman, rich or poor, literate or illiterate, Moslem or Christian, or where you come from.
- Rich persons, people in authority, politicians, or people of a particular tribe or region for example should not be more protected by the law than others, nor should they claim to have a better standing or protection of the law than others.

Note: In Cameroon, some customs hold that women should not appear before traditional courts and even if they do appear, whatever they say must be supported by the evidence of a man. This is a violation of human rights and such customs must be discouraged.

6.2. Right to a Fair Hearing

Article 14(1) ICCPR, Article 10 UDHR, Article 7(d) & 26 ACHPR, Sections 8, 352 & 417 CPC

“...in the determination of any criminal charge against him, or of his rights and obligations in a suit at law, everyone shall be entitled to a fair and public hearing by a competent, independent and impartial tribunal established by law...”(paraphrased). Article 14(1) ICCPR

The preamble to the 1996 constitution provides:

“The law shall ensure the right of every person to a fair hearing before the courts.”

Explanation

- Right to a fair hearing means that the hearing must be done in public by a competent, independent and impartial court,
- Fair hearing also means that persons standing trial must be informed of the charge against him/her promptly and in a language that he/she understands, must be allowed time to prepare his defence, must be tried without delay, must have a lawyer to assist him/her, must have a witness, and must have the right to appeal if they are unsatisfied with the judgment.

6.3. Right to Presumption of Innocence

Article 14(2) ICCPR, Article 11 UDHR, Article 7(b) ACHPR, and Section 8 CPC.

“Everyone charged with a criminal offence shall have the right to be presumed innocent until proved guilty according to law.”

The preamble to the 1996 constitution provides:

“Every accused person is presumed innocent until found guilty...” (paraphrased). Article 14(2) ICCPR

Explanation

- A suspect or accused person is upon suspicion, arrest or detention, presumed innocent and consequently should enjoy all fundamental rights and freedoms.
- Detention means temporarily depriving persons of their liberty.
- Pending trial, all persons particularly those awaiting trial are entitled to be treated with dignity and respect.
- Torturing or mal-treating people in detention, for example, refusing them food, visits, communicating with friends, family, lawyer or receiving is illegal.

6.4. Right to an Effective Remedy

Article 8 UDHR Article 2(3) ICCPR.

“Everyone has the right to an effective remedy by the competent national tribunals for acts violating the fundamental rights granted by the constitution or by law.” Article 8 UDHR

Explanation

The right to an effective remedy implies that the state shall protect persons whose rights or freedoms are violated by:

- Making good laws
- Creating fair and competent judicial, administrative, or legislative authorities.
- Practicing objective policies
- Everyone one has a right to make a case against any public or private official including the state itself and to be compensated for any wrong done to them.

6.5. Right to Non-retro-activity of the Criminal Law

Article 15(1) ICCPR; Article 7(2) ACHPR, Sections 3 & 4 PC

“No one shall be held guilty of any criminal offence on account of any act or omission which did not constitute a criminal offence, under national or international law, at the time when it was committed. Nor shall a heavier penalty be imposed than the one that was applicable at the time when the criminal offence was committed...” (Paraphrased). Article 15(1) ICCPR

The 1996 constitution provides:

“The law may not have retroactive effect. No person may be judged and punished, except by virtue of a law enacted and published before the offence [was] committed.”

Explanation

- A person who has committed an offence cannot be punished for that offence if at the time he/she committed that offence, there was no law punishing the offence.
- Also if at the time the offence was committed there was an existing law which prescribed punishment for such an offence to be 2-5 years or fine of 15000 -50000 Frs. and after the offence was committed another law prescribed for the same offence, punishment of 5-10 years or fine of 25000-100,000, the punishment to be applied is that at the time of the commission of

the offence (2-5 years or fine of 15000 to 50000). In the same vein, if the punishment that comes after the commission of the offence is lesser than the punishment at the time the offence was committed the lesser punishment will be applied.

7. HYPOTHETICAL CASES

CASE SCENARIO 1

Mr. Ngu a bank cashier was recently suspected of embezzling (stealing) the sum of 2 million FRS. . He was arrested and detained in a police cell for 8 days where he was beaten every morning, refused food and asked to sign a document acknowledging a debt of the sum of 2 million Frs. to the bank, and another 150,000 Frs. for investigation fees. Mr. Ngu refused to sign the document. The case was sent to court and heard the next day without Mr. Ngu preparing his defence. He was sentenced to 5 years including hard labour (IHL), even though there was a new law which could have earned him a maximum of 2 years if found guilty. He now wants to appeal.

Identify the human rights issues involved.

Do we experience such cases in our community?

CASE SCENARIO 2

Madame Aisha is suspected of adultery and was tried by the Goro Alkali Court and sentenced. In the course of the trial she gave evidence which required corroboration according to Moslem law by a male. She could not find any male to corroborate her testimony before the court and her evidence was not found to be weighty enough. She was consequently convicted.

Did Madame Aisha have a fair trial?

Is there anything wrong with the trial?

CHAPTER THREE

WORKERS' RIGHTS

1. INTRODUCTION:

Workers rights are an important aspect of human rights as the right to work helps us to realize other basic rights such as the right to an adequate standard of living which includes food, housing, clothing; health care etc. Social security is also a right that should accompany the right to work, notably, the right to social insurance. The right to work is protected by the constitution and can be claimed in the court. Internally, workers are also protected by the ILO conventions, as well as other international instruments ratified by the state of Cameroon.

2. OBJECTIVES:

- i. To raise awareness on the rights and duties of workers and the need to be protected by social security measures.
- ii. To improve workers' knowledge and understanding on their rights and obligations and how to enforce them.

3. RIGHTS PERTAINING TO WORK

3.1. Right to Work and not to perform Forced Labour

Article 23 UDHR, Article 6(1) ICESCR, Article 8(3) ICCPR, Article 15 ACHPR, Section 2(1) Labour Code (LC), the preamble to the **1996 Constitution** of the Republic of Cameroon.

Article 6 (1) of the ICESCR provides:

“The States Parties to the present Covenant recognize the right to work, which includes the right of everyone to the opportunity to gain his living by work which he freely chooses or accepts, and will take appropriate steps to safeguard this right.”

In the wordings of Section 2(3) LC, and Article 8(3) ICCPR:

“no one shall be required to perform forced or compulsory labour.”

Explanation

- Governments must ensure that everyone has the opportunity to work and that they enjoy this as a right and not a privilege.
- To do this, states have to adopt policies for vocational guidance and training programmes to build capacities of citizens and adopt measures to achieve economic, social and cultural development that will give rise to employment opportunities for all.
- It is the duty of the state to make efforts to help citizens to find and secure their employment. It is also the right of everyone to freely choose his/her employment.

3.2. The Right to the Enjoyment of Just and Favourable Conditions of Work

Article 23 UDHR, Article 7 ICESCR and Article 15 ACHPR, Article 7 ICESCR provides;

‘The state parties to the present covenant recognize the right of everyone to the enjoyment of just and favourable conditions of work...’ (paraphrased).

Explanation

- Workers have to be treated equally and without discrimination. They deserve equal opportunity for promotion and periodic holidays with pay, remuneration for public holidays and for extra work done, social security etc.
- Workers should work under safe and healthy conditions, rest and leisure.
- They deserve to be paid fair wages that could help them live decent lives with their families.

Note: Section 88 LC states that weekly rest is compulsory and it is at least twenty-four consecutive hours each week which is usually a Sunday.

3.3. Right to Equal Pay for Equal Work

Article 23 UDHR, Article 7(a) (i) ICESCR, Article 15 ACHPR, Section 61(2) LC.

‘Everyone, without any discrimination, has the right to equal pay for equal work.’ Article 23 UDHR

Explanation:

Everyone, man or woman, young or old, Christian or Moslem, from the north or south must receive equal pay for equal work. For example the conditions of work of a woman should never be inferior to those of a man simply because she is a woman.

- Similarly people of the same qualification must earn the same remuneration irrespective of their tribe or origin.

3.4. Right to Form and Join Trade Unions

Article 23 UDHR; Article 8 ICESCR, Sections 3 & 4 LC.

“Everyone has the right to form and to join trade unions for the protection of his interest”. Article 23 UDHR

Section 4(1) Cameroon Labour Code

“Every worker and employer shall have the right to join a trade union or employers’ association of his own choice in his occupation or kind of business”.

Explanation:

- A Trade Union is an organization of workers formed to defend their right to work and to social security.
- Workers are free to form trade unions or become members of any trade unions of ones choice.
- A worker should not be harassed, penalised or sanctioned for creating a trade union or becoming a member of one.
- Likewise, no worker shall be forced or obliged to join a particular trade union, or refused from belonging to a trade union of their choice.

3.5. Right to Social Security

Right to social security include right to old age pension, health insurance, compensation for accidents, family allowances, unemployment insurance etc.

Article 9 ICESCR, Article 22 UDHR

Article 9 ICESCR provides:

“The states parties to the present covenant recognize the right of everyone to social security, including social insurance.”

Explanation:

- Every worker must be covered by the same insurance schemes.
- Workers access to social insurance should not be discriminatory.
- Enjoyment of this right should only be subject to prior registration and contributions.

Note: It is therefore the right of every worker to be registered with an appropriate social insurance scheme. In Cameroon, this is the National Social Insurance Scheme.

3.6. Right to Strike

Article 8(d) ICESCR, Sections 157 & 165 LC.

“The states parties to the present covenant undertake to Ensure: The right to strike provided that it is exercised in conformity with the laws of the particular country.” Article 8(d) ICESCR

The constitution provides,

“The freedom of communication...as well as the right to strike shall be guaranteed under the conditions fixed by law.”
(Paraphrased).

Explanation:

- Strike is any form of protest or social action whereby a group of people (workers) would manifest their dissatisfaction by stopping work until their issues are resolved.
- The right to strike is a collective right and not an individual right. It is supposed to be carried out when there is a collective dispute. i.e. workers of an enterprise are unsatisfied with any condition of

work and intended to bring pressure to bear on the employer to meet their demands or claims.

- Workers who are not satisfied by their condition of work could manifest by stopping work (striking) until their issues are resolved.
- However, the Cameroon labour code lays down conditions under which strike actions should be carried out for them to be lawful namely:
 - The dispute must first be referred for conciliation (the Labour Inspector) or for arbitration (an arbitration Board headed by a judge). Sections 158 and 161 of the Labour Code
 - In other words there must first be an attempt to settle the collective dispute before the right to strike can be carried out. A strike can be carried out whether the workers are organized in trade unions or not.
 - Any strike carried out without respecting the conciliation and arbitration procedures may see the workers contracts terminated or the workers may be punished to pay a fine ranging from 20.000 to 100.000 CFA francs.

4. HYPOTHETICAL CASE STUDY

CASE SCENARIO 1

Bih is a devoted Christian of the PCC employed by BAMI Company (a private company). She refused to sign a contract requiring her to work on Sundays. Meanwhile Bih and her co-workers have for some 4 months been trying to negotiate with their employer their conditions of work especially pertaining to the late payment of their wages and lack of housing and health care facilities. After conciliation and arbitration had failed they all joined a trade union to reinforce their claim and eventually went on strike.

On the basis of her refusal to sign the contract to work on Sunday, and affiliating to a trade union her employers dismissed her without notice for gross misconduct.

Was Bih's dismissal justified?

What are the human rights issues raise

CHAPTER FOUR

RIGHT TO ADEQUATE STANDARD OF LIVING

1. INTRODUCTION

For human beings to live in dignity, they must enjoy an adequate standard of living with sufficient supply of basic human needs that include food, shelter, healthy sanitary conditions, safe and accessible water amongst others.


Respect for the dignity of human beings begins with guaranteeing the right to adequate and acceptable standard of living.

2. OBJECTIVE

- i. Educate and inform the masses that problems of adequate food, health, shelter and appropriate sanitation are human rights concerns.

3. RIGHT TO ADEQUATE STANDARD OF LIVING

3.1. Right to Health

 WHO defines health as “*a state of complete physical, mental and social well-being and not merely the absence of disease or infirmity*”.

The right to adequate health is underlined in the following provisions:
**Art 25(1) UDHR; Art. 11, 12 (1) ICESCR; Art. 5 (e) (iv) CERD
Art.11.1 (f); 12 CEDAW; Art.24 CRC; Art. 11 ACHPR**

(1) Everyone has the right to a standard of living adequate for the health and well-being of him-self and of his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circum-stances beyond his control.

(2) Motherhood and childhood are entitled to special care and assistance. All children, whether born in or out of wedlock, shall enjoy the same social protection.

Explanation

- You have the right to have whatever you need so that you and your family: do not fall ill; do not go hungry; have clothes and a house; and are helped if you are out of work, if you are ill, if you are old, if your wife or husband is dead, or if you do not earn a living for any other reason you cannot help. Both a mother who is going to have a baby and her baby should get special help. All children have the same rights whether or not the mother is married.

Duties

- Government also has the responsibility to ensure that stillbirths and infant mortality are reduced; epidemic, endemic, occupational and other diseases are prevented, treated and controlled; conditions that would ensure efficient accessible and affordable medical infrastructure and services are created.
- We all owe children the duty to ensure their safe and healthy development. They need to be fed well, clothe and sheltered properly, immunised or vaccinated against life threatening illnesses etc.
- It is the duty of all to ensure that everyone should enjoy the right to medical services and treatment without distinction or discrimination.
- It is the duty of all individuals as well as government to ensure that the environment is protected and that it does not become breeding ground for life threatening and disease causing parasites and bacteria
- The right to health embraces a wide range of socio-economic factors that promote conditions in which people can lead a healthy life, and extends to the underlying determinants of health, such as
 - food and nutrition,
 - housing and shelter,

- access to safe and potable water and adequate sanitation,
- safe and healthy working conditions,
- And a healthy environment.

3.2. Right to Adequate Food³ and Nutrition

The right to adequate food is a human right, inherent in all people, and include: the right to have regular, permanent and unrestricted access, either directly or by means of financial purchase, to quantitatively and qualitatively adequate and sufficient food corresponding to the cultural traditions of people to which the consumer belongs⁴.

The right to adequate food is realized when every man, woman and child, alone or in community with others, has the physical and economic access at all times to adequate food or means for its procurement in ways consistent with human dignity⁵.

Duties

The fulfilment of the right to food demand duties from government, the society and individuals as well.

- Governments must also, to the maximum of available resources, invest in eradicating hunger, ensuring that everyone has access to adequate food.
- Governments must protect people from the actions of third parties that might violate the right to food of other persons.
- Governments must not take actions that will result in increasing levels of hunger, food insecurity and malnutrition.
- Society should be organized such that every member can afford adequate food (the means to buy or grow food for themselves and their families). Individuals must not be deprived of their means to livelihood without proper compensation in the name of some tradition or societal project. (Seizing or placing traditional injunctions on farm lands, etc.)

- Individuals are expected to respect the right of others to adequate food and to livelihood. Deprivation of food should not be a tool of punishment or discipline.
- Individuals shall not be deprived of their means of livelihood or subsistence.

Note: The right to food is not about charity, but about ensuring that all people have the unrestricted capacity to feed themselves in dignity.

3.3. Right to safe and potable water and adequate sanitation:

ICESCR General Comment No 15 on the Right to Water

Everyone has the right to sufficient, safe, acceptable, physically accessible and affordable water for personal and domestic uses. An adequate amount of safe water is necessary to prevent death from dehydration, to reduce the risk of water-related diseases and to provide for consumption, cooking, personal and domestic hygienic requirements.

Explanation:

- Availability and accessibility to fresh, safe and sufficient water that is of an acceptable colour, odour and taste for personal or domestic use is a right to be enjoyed by all without distinction.
- Access to water should be free without interference such as arbitrary disconnections or depletion.

Duties

- Society, assisted by government has to ensure the population's right to a system of water supply and management that provides equality of opportunity for people to enjoy the right to water; The right to seek, receive and impart information concerning water issues.
- Society must ensure a non-discriminatory (economically and physically) access to potable water and water facilities such as

piped water networks, water tankers, rivers and wells; that water required for each persons domestic use must be safe, and free from micro-organisms, chemical substances and radiological hazards that constitute a threat to a person's health;

- Individuals have the duty to avoid depleting water or contaminating water supplies and water sources.
- Activities that may affect the quality and quantity of water such as farming, deforestation, activities that release industrial waste around water sources and catchments are prohibited.

Note: Good, potable and clean water is necessary for the survival of all life.

3.4. The Right to a Safe and Healthy Environment

1994 Draft Declaration of Principles on Human Rights and the Environment; the Rio Declaration; World Habitat Agenda, the Stockholm Declaration on the Human Environment

- *“All persons [without distinction] have the right to a secure, healthy and ecologically sound environment. ...”*
- *All persons have the right to protection and preservation of the air, soil, water, sea-ice, flora and fauna, and the essential processes and areas necessary to maintain biological diversity and ecosystems.*
- *All persons have the right to freedom from pollution, environmental degradation and activities that adversely affect the environment, threaten life, health, livelihood, well-being or sustainable development within, across or outside national boundaries.*

Explanation:

- The environment is protected for the interest of present and future generations. This protection is also necessary because of other fundamental human rights linked to and dependent upon a healthy environment.

- Pollution of the air, soil and water is a human rights violation.

Destruction of nature (degrading activities like burning of grasslands and farms, cutting down of natural forest, hunting of animals, activities that threaten life) are all violation of human rights.

3.5. The Right to Housing and Shelter:

General Comment 7;

“Everyone has the right to an adequate standard of living for himself/herself and family...”

Explanation:

- The right to housing means more than just having a roof over the head. It means adequate housing i.e. People should have equal access to a safe, habitable, and affordable home.
- All persons should possess a degree of security of tenure which guarantees legal protection against forced eviction, harassment and other threats.
- The right to housing is a human right which extends to EVERYONE: men, women and children and a constitutive element to the realization of the right to adequate standard of living for the whole family.

Duties

States as well as individuals have duties to fulfil towards realizing the right to housing and shelter.

- Government must ensure that the people enjoy their right to adequate housing and shelter by facilitating the acquisition and registration of land, promote the construction of cheap and affordable housing; develop and modernize traditional housing.
- Government must ensure that this right is enjoyed by all without distinction or discrimination irrespective of income or access to economic resources through regulation and policy that would include providing the people with the means of funding housing

projects like the Cameroon Housing Funds (*Credit Foncier du Cameroun*)

- Society should ensure that all its members have access to habitable land, to own or hold for the purpose of housing.
- Expropriation or destruction of houses shall be subject to prior resettlement and compensation for the affected persons to be capable of building new and adequate houses.
- Individuals shall have the duty to respect the right to housing and shelter of others. An individual or group of persons shall not violate or deprive others of their right to adequate housing.

4. CASE SCENARIO

Mr Obi is a dynamic politician who has always dreamt of developing his town Mbandzi if one day he became mayor. During the last elections, Mr Obi promised the electorate of his municipality he would create roads, bring water and electricity and construct streets. What he never told them is that he will have to demolish houses and home to realise this. Upon his election, Mr. Obi started demolishing houses along the streets to open up streets amidst serious criticism. When he was attacked, he brandished the land tenure law of 1974 justifying himself with the provisions that stated that houses built within the perimeter of five meters from the road were on state land. Many of these houses were built before 1974. Unfortunately too, most of them were without building plans and on land without land title.

Is Mr Oben justified in his acts?

Do the victims of this destruction merit compensation?

CHAPTER FIVE

RIGHT TO PARTICIPATION AND ASSOCIATED FREEDOMS

1. INTRODUCTION

The individual also has rights that enable him/her to participate in the social, cultural, political, economic and civil life of his/her community. These rights are defined by international instruments and guaranteed by national laws.

2. OBJECTIVES

- i. Educate the masses to know that participation in the affairs of one's community or country is a right every member should enjoy and a duty everyone should perform.

3. THE RIGHTS TO PARTICIPATION AND ASSOCIATED FREEDOMS

3.1. The Right to Political Participation and to Access Public Service

Art. 21 UDHR, Art. 20 ICCPR, Law No. Revised 1996 Constitution Article 2, Laws regulating municipal, parliamentary and presidential elections⁶.

(1) Everyone has the right to take part in the government of his country, directly or through freely chosen representatives.

(2) Everyone has the right to equal access to public service in his country.

(3) The will of the people shall be the basis of the authority of government; this will shall be expressed in periodic and genuine elections which shall be by universal and equal suffrage and shall be held by secret vote or by equivalent free voting procedures. The UDHR Art. 21

Explanation:

- Every citizen has the right without distinction as to sex, tribe, language, religion, social status, education, or otherwise, to take part in your country or community's political affairs either by choosing your leaders (councillors, mayors, parliamentarians, and the president) directly or through freely chosen representative in periodic elections, or by standing for elections yourself as a candidate for any elected position if you fulfil the conditions laid down by law.
- You can also participate by voicing your opinion about the issues of your community and in making decision that affect you.
- In a democracy, no qualified individual is supposed to be refused these rights.
- The right to political participation also include the right to access public service on general terms of equality with all other citizens.
- *Everyone has the right to equal access to public service in his country.*

Explanation:

Every citizen shall have the right and the opportunity, without any of the distinctions mentioned in article 2 and without unreasonable restrictions:

- The will of the people shall be the basis of the authority of government; this shall be expressed in periodic and genuine elections which shall be by universal and equal suffrage and shall be held by secret vote or by equivalent free voting procedures.
- To take part in the conduct of public affairs, directly or through freely chosen representatives;
- To vote and to be elected at genuine periodic elections which shall be by universal and equal suffrage and shall be held by secret ballot, guaranteeing the free expression of the will of the electors;
- To have access, on general terms of equality, to public service in his country.

However, to participate effectively, an individual should enjoy rights in the form of freedoms of opinion, expression, speech, assembly and association.

Duties

- Government should be voted for regularly and voting should be secret. You should get a vote and all votes should be equal. Elections shall be free and fair.
- It is a civic duty for individuals to get themselves involved in the business of their community.
- You also have the same right to join the public service as anyone else.
- **Public service is for the interest of all members of the public and should be rendered without discrimination.**
- **Public service should be free requiring only the token payment of a stamp duty where demanded.**

3.2. Freedom of Opinion and Expression.

Art 18 UDHR; Art 19 ICCPR

Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers either orally, in writing or in print, in the form of art, or through any other media of your choice.

Explanation:

- Everyone shall have the right to hold opinions, and to express such opinion freely without fear or interference.
- Persons are free to look for and to seek, receive and share information and ideas of all kinds, regardless of frontiers.

This must be done in respect of the law, respect of the rights or reputations of others.

Duties

- In the enjoyment of your right to expression, individuals shall ensure respect of the law, the rights and reputation of others, respect public order and protect national security;
- You are prohibited from saying, writing or circulating information or opinion that would constitute hate speech, or that may lead to the breach of the peace or jeopardize national security.

3.3. Freedom of thought, Conscience and Religion. Art 19 UDHR; Art 18 ICCPR

Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance.

Explanation:

- You are free to hold or practise a religion or belief of your choice, individually or in communion with others, in public or private and to manifest such believe in worship, observance, practice or teaching.
- You shall not be harassed for your religious beliefs or prevented from practicing your religion by anyone even the state.
- However, parents and legal guardians have the right to ensure the religious and moral education of their children in conformity with their own convictions.

Duties

- In the practise of ones religion, you must respect the rights and beliefs of others.

- In the practice, you shall respect public order and morals as well as protect national security.
- The state has the duty to protect religious freedom and this might include limiting the freedom to hold and practice ones religion.

Note: This is not an absolute right and must be enjoyed subject to state policy and public regulations.

3.4. Freedom of Movement. Art. 13 UDHR,

- Everyone has the right to freedom of movement and residence within the borders of each State.*
- Everyone has the right to leave any country, including his own, and to return to his country.*

See also Law No. 96-06 of 18 January 1996 to amend the Constitution of 2 June 1972 (the Preamble), Law No. 90-42 of 19 December 1990 to institute the National Identity Card (Section 1 (2)), Law no. 90-43 of 19 December 1990 relating to conditions for entry and residence in and exit from the national territory (Sections 1&2)

Explanation:

- Everyone lawfully within the territory of a state shall, within that territory, be free to move about and to stay in a place of their choice.
- It shall be the rule that persons should move about freely and unconditionally within the national territory without restriction or control of any kind.
- Everyone shall be free to leave any country, including his own.
- No one shall be deprived of the right to enter his own country.

Note: The above-mentioned rights shall not be subject to any restrictions except those which are provided by law. Excessive road controls are hereby prohibited!

In Cameroon, the Freedoms of movement may be subject to the possession of a national Identity Card (NIC) for citizens above 18 years. As for foreigners, they shall be required to possess their passports or other valid travel documents such as the laissez passer. (Law No. 90-42 of 19 December 1990).

The movement of persons could also be controlled for the purpose of maintaining public law and order (Section 2 of Law No. 90-54 of December 1990 relating to the maintenance of law and order).

3.5. Freedom of Peaceful Assembly and Association.

Art. 20 UDHR; Art 21, 22 ICCPR;

- a. *Everyone has the right to freedom of peaceful assembly and association.*
- b. *No one may be compelled to belong to any association.*

See also The 1996 Constitution (Preamble), Law no. 90-53 of 19 December 1990 relating to freedom of association (Sections 1,2,3, &5, Law no. 90-55 of 19December 1990 to lay down regulations governing public meetings and processions.

Explanation:

- Everyone shall freely associate with other persons of their choice. This freedom includes the right to form associations and join trade unions.
- Consequently, every person is free to become members of political parties, trade unions, religious or traditional association.
- Every person can participate and pursue their interests freely with others in peaceful assembly or meetings.
- However, members of the armed forces and the police may be restricted from the enjoyment of this right in the exercise of their duties.

Duties

- For the purpose of creating associations, everyone shall conform to the demands of the law
- Associations shall not be created with purposes that undermine the law and public policy, national security and the integrity of the state or the republican character of the state.
- Persons or groups shall not hold public meetings without prior declaration or authorisation of the district head or D.O.
- As for government, no restrictions may be placed on the exercise of these liberties other than those imposed in conformity with the law and which are necessary in a democratic society in the interests of national security or public safety.

3.6. Right to Cultural Participation

Art 27 UDHR, ICESCR Art 15

- a. Everyone has the right freely to participate in the cultural life of the community, to enjoy the arts and to share in scientific advancement and its benefits.
- b. Everyone has the right to the protection of the moral and material interests resulting from any scientific, literary or artistic production of which he is the author.

Explanation:

- You have the right to share in your community's arts and sciences, and in any good they do.
- Your works as an artist, a writer or a scientist should be protected, and you should be able to benefit from them.

Duties

- Nobody should exploit the works or inventions of others without proper acknowledgement.

3.7. Right to Education

Art. 26 UDHR, ICESCR Art. 13

- a. Everyone has the right to education. Education shall be free, at least in the elementary and fundamental stages. Elementary education shall be compulsory. Technical and professional education shall be made generally available and higher education shall be equally accessible to all on the basis of merit.*
- b. Education shall be directed to the full development of the human personality and to the strengthening of respect for human rights and fundamental freedoms. It shall promote understanding, tolerance and friendship among all nations, racial or religious groups, ...”.*
- c. Parents have a prior right to choose the kind of education that shall be given to their children.*

Explanation:

- You have the right to go to school and every one should go to school.
- Primary schooling should be free.
- You should be able to learn a profession or continue your studies as far as you wish at school, you should be able to develop all your talents and you should be taught to get on with others, whatever their race, their religion or the country they come from.
- Your parents have the right to choose how and what will be taught at school.

Duties

This right creates duties for the state, society and individuals.

- The state has to create schools and educational institutions, and train teachers who will teach in these schools.
- Schools have to be made accessible and affordable so that all who wish to attend should not be barred from doing so.
- Parents and guidance must ensure that children under their care attend school that would offer them proper education and learn a vocation that would help them develop and prosper in life.

4. CASE SCENARIO

The people of Oversight village have been cut off from mainstream activities of the nation for always due to their landlocked nature. They do not have electricity, water and are not covered by telephone, radio or television networks. They do not participate in the political life of the state. Since the reintroduction of multi-party politics, many politicians have visited Oversight village with promises that electricity, water, telephone and television connections and roads will be constructed to disenclave Oversight village and keep them abreast of what is happening in the country. This, they never did.

During the last elections, the people decided not to vote for who ever including the ruling PPP party, though the party was counting on their support to take the lone parliamentary seat in the region. As such, the local administration was detailed by the central government to mete out exemplary sanctions on Oversight village for refusing to participate in the elections. The Chief of the village was locked-up along many of his notables for weeks before being released on bail.

Did the people of Oversight village do wrong not to participate in the elections?

Was the administration justified in the punishment they were meting out on the village leaders?

CHAPTER SIX

ENVIRONMENTAL RIGHTS

1. INTRODUCTION:

The failure to protect, preserve and educate the public on the environment and its negative consequences may have a direct or an indirect effect or impact on other fundamental civil and political as well as socio-economic rights such as the rights to life, health, food, portable drinking water, security, education etc. Protection and promotion of environmental rights is a vital contributory factor to human development.

2. OBJECTIVES:

- i. To raise awareness on the existence of environmental rights
- ii. To inform the public to know that destruction, pollution or depletion of the environment is a crime and punished by the law.
- iii. To improve knowledge on the environment and its importance to present and future generations.

3. RIGHTS PERTAINING TO THE PROTECTION OF ENVIRONMENT

3.1. Right to a Sound, Healthy or Satisfactory Environment

Article 24 ACHPR, Principle 1 1972 Stockholm Declaration, Article 12(2) (b) ICESCR, Section 5 EM Law.

Article 24 ACHPR provides that:

“All peoples shall have the right to a general satisfactory environment favourable to their development”.

The preamble to the Cameroon constitution provides that,

“the peoples of Cameroon affirm their attachment to the fundamental freedoms enshrined in the Universal Declaration of

Human Rights, the Charter of the United Nations and the African Charter on Human and Peoples' Rights, and all duly ratified international conventions relating thereto, in particular, to the following principles:

“Every person shall have a right to a healthy environment, the protection of the environment shall be the duty of every citizen, and the state shall ensure the protection and improvement of the environment;

Explanation:

- The environment has to be protected and preserved as a means of livelihood for human beings and other living things on which the human beings' survival depends.

Duties:

- State:
 - Take positive steps through policy and law to ensure the respect for the environment.
 - The duty to regulate the disposal of household, chemical as well as industrial waste.
 - Implement and build an institutional framework for the protection of the environment.
 - The duty to set-up waste treatment, recycling and transformation units,
- Individuals:
 - Respect and preserve the environment for present and future use.

Note:

The state of Cameroon has recognized a constitutional “*right to a healthy environment*” for its citizens as well as a corresponding “*duty*” on the part of the citizens to protect the environment. The state has equally recognized this right by ratifying international instruments such as the ACHPR and the ICESCR.

3.2. Right to Information and Education about the Environment

Article 6, 7, 9(e) & 10(1) EM Law; Article 19(2) ICCPR, Principle 10 1992 Rio Declaration.

Article 7 EM Law provides:

“All persons shall have the right to be informed on the negative effects of harmful activities on man, health, and the environment, as well as on the measures taken to prevent or compensate for these effects.”

This right includes the right to seek, receive and impart information with regard to the environment and its management.

Duties:

State:

- The duty of public authorities to publish and disseminate information and make sure that each individual shall have appropriate access to information concerning the environment.
- This should also include;
 - ⇒ Information and education on the disposal and treatment of waste,
 - ⇒ Information on the harmful effects of waste material and dangerous activities in the communities.

For example it is the right of any person to approach the council and ask for information relating to how household waste is managed.

3.3. Right to Effective Remedy and Access to Environmental Justice

Article 7, 8(2) & 9(d) EM Law, Article 2(3) ICCPR, Principle 10 1992 Rio Declaration.

“All persons shall have the right to be informed... on the measures taken to prevent or compensate for these effects.” (Paraphrased)
Article 7 EM Law provides.

Explanation:

- Measures should be put in place to prevent violations of the right to a safe environment and to compensate victims where there is a violation. Article 8(2) further provides that authorized grassroots communities and associations working for environmental protection may exercise the right on behalf of any one who has suffered a wrong to bring an action.

Example:

- The Foundation for Environment and Development (FEDEV) recently filed a case against the Bamenda 1, 2 & 3 councils for polluting the environment through the poor management of waste at mile 6 Mankon.

3.4. Right to Environmental Impact Assessment

Article 17(1) EM Law provides,

“The promoter or owner of any development, labour, equipment or project which may endanger the environment owing to its dimension, nature or the impact of its activities on the natural environment shall carry out an impact assessment pursuant to the prescription of the specifications. This assessment shall determine the direct or indirect incidence of the said project on the ecological balance of the zone where the plant is located or any other region, the physical environment and quality of life of populations and the impact on the environment in general....”

Explanation:

- This right requires those responsible for any big industry, company or any big project to study to know if the project will damage the natural environment and endanger the quality of life of the people before starting it.

3.5. Right to Participation in Environmental Policy Making and Implementation

Article 9(e) EM Law, Principle 10 1992 Rio Declaration, Article 25(a) ICCPR, Article 21 UDHR.

“Every citizen shall have the right and the opportunity... to take part in the conduct of public affairs...” (paraphrased) Article 25(a) ICCPR provides,

Explanation

- Since environmental protection concerns everybody, the Rio Declaration suggests a participatory approach to address this.
- It is the right of everyone to take part in decisions relating to the management of the environment.
- States shall facilitate public participation through consultation meetings and public debates for example.

4. HYPOTHETICAL CASE STUDY

CASE SCENARIO 1

Mr John and others have their homes in an industrial area hosting chemical companies that release harmful chemical waste around. They have never been given appropriate information on the danger to which they were exposed until the running waste sunk a deep gutter in the area and their children started suffering from some chronic diseases. They were advised by the management of the industrial area to leave the area without any form of compensation. The town council soon arrived and began the destruction of the houses without having relocated the population of the industrial area and various families could be seen stranded with no where to go to.

1. Have the rights of Mr. John and others been violated?
2. Are they entitled to any form of compensation?
3. What are the responsibilities of the following:
 - The people of the industrial area,
 - the management of the industrial areas,
 - the town council.

PART II

SPECIFIC PROVISIONS

(PROTECTION OF VULNERABLE GROUPS)

CHAPTER SEVEN

PROTECTION OF CHILDREN

1. INTRODUCTION

As human beings children should enjoy all human rights except those they can only access upon maturity. Because children are young, weak inexperienced and ignorant, they are vulnerable, exposed to all forms of risks and most threatened in times of adversity. Hence, children deserve special protection and care. Various national laws and international instruments exist to recognise and guarantee the protection and promotion of the rights of the child.

The main instruments protecting the child in Africa are:

- ⇒ The UN Convention on the Rights of the Child (CRC)⁷ that was adopted on 20/11/89,
- ⇒ The Beijing Rules.
- ⇒ The African Charter on the Rights and Welfare of the Child.

Note: Ratified by Cameroon, these instruments all have the force of law and can be cited in our law courts.

2. OBJECTIVES:

- i. Inform the public that children are full human beings and that they too have rights adults must respect.
- ii. Get the public to understand that children are delicate and vulnerable; hence they deserve protection and care by their parents, society and the state in order to foster their full mental, physical, intellectual and moral development for an independent future.

3. GUIDING PRINCIPLE FOR THE ENFORCEMENT OF THE RIGHTS OF THE CHILD:

- The best interest of the child should be the overall guiding principle in dealing with children.

- Childhood is entitled to special care and assistance.
- The family is the fundamental unit of society and the natural environment for the growth and well-being of all its members and particularly children
- For the full and harmonious development of his or her personality, a child should grow up in a family environment in an atmosphere of happiness, love and understanding.
- A child should be brought up to live an individual and independent life, in a spirit of peace, dignity, tolerance, freedom, equality and solidarity.

4. RIGHTS OF THE CHILD

4.1. The right to life and to existence and to survival (Art. 6)

Explanation:

- State shall take appropriate measure to diminish child mortality.
- Ensure provision of medical assistance and health care
- Develop primary health care systems
- Combat malnutrition and provide adequate nutritious foods, clear water.
- Ensure pre/post natal care to mothers
- Guarantee access to information and education to parent about child health care.

4.2. Recognition of a child as a full human person

Explanation: the child has the

- Right to registration after birth (art 7)
- Right to a name at birth
- Right to a nationality
- Right to parental care.

4.3. Preservation of his/her identity.

Explanation:

- A child's name, family, nationality may not be interfered with unlawfully.
- The child shall not be illegally deprived of his or her right to an identity family or nationality.
- A child shall not be separated from his or her parents against his/her wish except following a legal process in the best interest of the child (art 9)

4.4. Protection of the dignity and worth of the child. Art. 11 and 16

*"A child shall not be illicitly transferred or returned abroad".
(Art. 11)*

"Right to privacy family, home or correspondence". (Art. 16)

Explanation:

- Child trafficking is illegal and punishable by the law (see Law No 2005/...)

4.5. Right to dignity and respect

Explanation:

- Children shall not be arrested or detained without cause.
- Where there is cause for arrest or detention they have to be treated humanely and in accordance with the law taking into account his/her dignity and worth, age and needs. (art 40)
- In case of detention, they shall have access to prompt decision as to their liberty and full access to justice art 40.

4.6. The right to participation, Freedom to hold and to express opinion.

Explanation:

- The child shall be given the opportunity to have his/her views heard in any proceeding affecting the child directly or through some body or institution representing him.

- The child shall be free to seek, receive and impart information and ideas of all kinds.

4.7. The right to a family life

Explanation

- Where the parents are legally living separately, the child's views shall be considered in determining custody.
- The child shall reserve the right to maintain personal relations and direct contact with both parents on a regular basis except if it is contrary to the best interest of the child.
- A child shall reserve the right to join a parent living in another state/place for the purpose of family reunion.

4.8. Right to adequate standard of living and upbringing

Explanation

No child shall be deprived of

- Access to adequate health services.
- Right to social security (art 26)
- Right to a standard of living adequate for the child's physical, spiritual mental and moral and social development.
- Right to education (art 28 and 29)

4.9. Right to protection from all forms of abuses and exploitation Art. 33, 35, 38 and 39

Explanation:

- No child should be used for economic gains like hawking, selling in bars etc.
- No child should be asked to do work that would disturb the Childs education or work that would affect the child's ability to learn.
- No child should be asked to do work that can affect their health or work that is dangerous either to their physical health, or moral, mental, spiritual or social development.

- No child should be employed below the age of 15 years of age. Even where a child is employed, they shall not be forcefully or compulsorily employed. (ILO minimum age convention 1973 Cameroon Labour code Law no: 92-007 of 14 August 1992 sect. 2)
- Children shall not be exposed to harmful drugs – cigarettes, marijuana, cocaine, heroine, alcohol etc. Children shall not be employed in the production of harmful drugs.
- Children shall not be engage in sexual activity. Exposing or using children in prostitution or places opened to sexual activity (Hotels, brothels, night clubs) is prohibited

5. DUTIES

5.1. States

- Provide the enabling environment for children to access and enjoy their rights;
- Facilitate through registration and other acts and policy in favour of children;
- Assist parents or foster institutions materially or financially to take care of children. School discipline shall be administered in respect for the child’s dignity.
- Enable the harmonious development of children through policy and legislation. The state pledges to progressively realize free primary and compulsory education.

5.2. Family: (Art 14 and 18)

Parents and legal guardians have the principal responsibility over children. These include the duty to:

- Provide direction to the child in the exercise of his or her right to religion.

- Both parents and legal guardians have common primary responsibility to bring up a child.

6. PROTECTION OF PARTICULAR CATEGORY OF CHILDREN

- Right to special protection of children deprived of their family environment (art 20)

6.1. Orphans and Related cases

- Alternative care needs to be arranged for such as foster placement and adoption placement in suitable institutions.
- A system of adoption (art 21) must ensure that
 - Adoption is authorized by law
 - Parent, relatives or legal guidance would have approved of it.
 - The child would have given his/her informed concern for it.
 - Inter-country adoption would have to first consider if the child could not have one or find placement in his country and the new situation should offer better care and standard than what is offered nationally.

6.2. Refugee Children (Art 22)

- They shall be given appropriate protection and humanitarian assistance in the enjoyment of applicable rights.
- States have to cooperate to facilitate their access to quality treatment, protect and assist such children and trace the parents or relative and ensure family reunion where possible.

6.3. Children with disabilities (Art 23)

Children with disabilities have needs and deserve particular state protection

- Eligible children (children living in environment that cannot ensure their proper care) and their parent shall be entitled within available resource to state assistance.
- Eligible children (taking into account the financial resource of parents) shall deserve state assistance in the form of :
 - Free education, training, health services
 - Rehabilitation services
 - Free accommodation for employment
 - Recreational facilities.

7. CASE SCENARIO

Evodia is a young girl 13 and an orphan from Nigeria. Evodia's parents were killed during the Biafra war in east Nigeria and she joined the thousand others who were fleeing the war into Cameroon for refuge. While in Cameroon, Evodia was found stranded on the streets of Bamenda by Madam Abong who runs a beer parlour. With the intension of helping her, madam Abong offered to host her while she served customers in her beer parlour.

In addition to the services Miss Evodia offered, her mistress encouraged her customers to have sex with Evodia against her concern. Subsequently she became pregnant and was thrown back to the streets by madam Abong. As she went begging without a place to go, she soon found herself arrested by the police taken for a pauper.

- a. Was Madam Abong right to have offered Miss Evodia a job in exchange for a home?
- b. Would it be proper for Miss Evodia to bring up a case against Madam Abong for forcing her to sleep with men and her subsequent pregnancy though Miss Abong rescued her from the streets?

CHAPTER EIGHT

PROTECTION OF WOMEN

1. INTRODUCTION:

The rights of women have gained universal, regional and national attention due to the injustices that women have been and are still being subjected to world wide. For this reason a number of instruments have been put in place to guarantee the full equality of women in any given society. Notably are:

- the UN Convention on the Elimination of all Forms of Discrimination against Women (CEDAW) and its Optional Protocol;
- the Protocol to the African Charter on Human and Peoples Rights on the Rights of Women in Africa (2000)⁸.

Both instruments have as objective to end traditions, practices and the laws that harm and discriminate against women. While Cameroon ratified the former in, Cameroon is still to ratify the Charter on the Rights of Women in Africa.

2. OBJECTIVES OF THE CHAPTER

- i. To create extensive awareness on the existence of women's human rights.
- ii. To enhance advocacy on the implementation of women's human rights.

3. SPECIFIC RIGHTS OF WOMEN

3.1. The Right to Equality and Freedom from Discrimination.

Article 2 CEDAW, Article 2 PACHPR on RWA, Article 2(2) ICESCR, Article 3 ICCPR, Article 2 & 18 (3) ACHPR, the 1996 Cameroon Constitution (The Preamble), the Vienna Declaration and Program of Action (Section B, Part 3).

“states parties condemn discrimination against women in all its forms, agree to pursue by all appropriate means and without delay a policy of eliminating discrimination against women...and undertake: to embody the principle of the equality of men and women in their national constitutions...”(paraphrased). Article 2 CEDAW

Explanation:

Governments condemn discrimination against women in all its forms and should work to end it. Government action should include:

- Abolishing all existing laws, customs and regulations that are discriminatory.
- Formulate policies that would accelerate the woman’s defector equality with men.

Note: Any custom which therefore ordains that a woman cannot own land or inherit property is discriminatory, and constitutes a gross violation of human rights.

3.2. The Right to Advancement and Full Development

Article 3 & 4 CEDAW, Article 13 PACHPR on RWA

“state parties shall take in all fields, in particular in the field of political, social, economic and cultural fields, all appropriate measures, including legislation to ensure the full development and advancement of women for the purpose of guaranteeing them the exercise and enjoyment of all human rights and fundamental freedoms on a basis of equality with men.” Article 3 of CEDAW

Explanation:

States shall further ensure that special measures are put in place to ensure practical equality between men and women and such measures shall not be considered discriminatory.

3.3. Right to Participate in Public Life

Article 7 CEDAW, Article 9 PACHPR on RWA, Article 25 ICCPR, Article 21 UDHR, Sections 2 & 3 of 1997⁹ and Sections 11 & 6 of 2006 Electoral Laws.¹⁰

“states parties shall take all appropriate measures to eliminate discrimination against women in the political and public life of the country...shall ensure to women on equal terms with men, the right: to vote in all elections...to be eligible for election to all publicly elected bodies, to participate in the formulation of government policy...to hold public office...”(paraphrased).
Article 7 CEDAW

Explanation:

Governments will work to eliminate discrimination against women in political and public life and will ensure women the right to vote, hold office and actively participate in political parties, lobby groups and NGOs.

3.4. Right to Education

Article 10 CEDAW, Article 12 PACHPR on RWA, Article 26 UDHR, Article 13 ICESCR

“States parties shall...eliminate discrimination against women in order to ensure to them equal rights with men in the field of education and in particular to ensure, on a basis of equality of men and women the same conditions for career and vocational guidance...access to the same curricula, same examinations, teaching staff...etc” (paraphrased). Article 10 CEDAW

Explanation:

Women and girl children shall have the same rights as men and boy children to education including career and vocational guidance, same curricula, examinations and same opportunities to benefit for scholarships and participate in sports etc.

3.5. Right to Work

Article 11 CEDAW, Article 13 PACHPR on RWA, Article 6 & 7 ICESCR, Article 23 UDHR, Sections 2, 61(2) LC, Section 74 (1) CSRO, 1996 Constitution (Preamble)

“states parties shall take all appropriate measures to eliminate discrimination against women in the field of employment to ensure... the right to work..., the same employment opportunities, free choice of profession, promotion, job security, equal remuneration, social security... etc.” (Paraphrased). Article 11 CEDAW

Explanation:

- Women, like men equal right to work and the same rights to choose a profession or occupation.
 - This rights includes and obligation in the reading of the 1996 constitution.
- “Every person shall have the right and obligation to work.”*
- The state shall ensure the equality of access by women to employment, transparency and equal opportunities in recruitment, promotion, non-discrimination in the benefits that accrue from work.

3.6. Rights accruing from Marriage and Pregnancy

Articles 11(e), 11(2), 12(2) CEDAW, Article 14 PACHPR on RWA, Sections 84(1), 84(2), 84(5), 85(1) LC

“in order to prevent discrimination against women on the grounds of marriage or maternity and to ensure their effective right to work, state parties shall take appropriate measures: to prohibit dismissal on the grounds of pregnancy or of maternity leave and discrimination in dismissals on the basis of marital status...”(paraphrased). Article 11(2) CEDAW

Explanation:

- Women by their nature have rights that accrue to them as a result of marriage or pregnancy. A woman must not be dismissed from work because she is not married or because of her pregnancy.
- It is also the right of any woman to go on maternity leave with all benefits during her employment period.
- In Cameroon, the protection of women's right to work is evident in the Labour Code:

Note:

Section 82: Ensures the right to health and safe working conditions. It also prohibits women's night time work in industrial facilities.

Section 84(1): Any pregnant woman whose pregnancy has been medically certified may terminate her contract of employment without notice and without being obliged on that account to pay the compensation provided for in s. 36. During such period the employer shall not terminate the employment contract of the woman concerned because of the pregnancy.

84(2): Every pregnant woman shall be entitled to **14 weeks of maternity leave....** Such leave may be extended by 6 weeks in case of a duly certified illness resulting either from the pregnancy or confinement. During such leave, the employer shall not terminate the employment contract of the woman in question.

84(5): Apart from the various benefits provided for by the legislation in matters of social and family welfare, the woman shall be entitled, during the maternity leave, to a daily allowance, payable by the National Social Insurance Fund and equal to the amount of the wages actually received at the time of suspension of the employment contract; she retain the right to benefits in kind.

Section 85(1): For a period of 15 months following the birth of the child, the mother shall be entitled to nursing breaks.

(2) The total duration of the breaks shall not exceed one hour per working day.

3.7. Reproductive Health Rights

Article 10 (h) CEDAW, Article 12 (1) CEDAW, Article 14(2) (b) CEDAW, Article 14 PACHPR on RWA, Article 10 (2) ICESCR

- *“States parties shall ensure that the right to health of women, including sexual and reproductive health is respected and promoted...”*. Article 14 PACHPR on RWA

Explanation:

- Women’s reproductive and health rights include:
 - the right to control their fertility,
 - the right to decide whether to have children, the number of children and the spacing of children,
 - the right to self-protection and to be protected against sexually transmitted infections including HIV/AIDS,
 - the right to be informed on one’s health status and on the health status of one’s partner particularly if affected with sexually transmitted infections including HIV/AIDS...,
 - the right to have family planning education, and the right to choose any method of contraception. (Article 14 PACHPR on RWA)
- The human rights of women include their right to have control over and decide freely and responsibly on matters related to their sexuality, including sexual and reproductive health free of coercion, discrimination and violence. (Para 96 of the Beijing Platform for Action)
- Women also have the right of access to health facilities and to be able to make informed choices about their sexuality including sexual and reproductive health free of coercion, discrimination and violence. The state has the obligation to guarantee to women all of these rights.

3.8. Right of Access to Credit

Article 13(b) CEDAW, Article 19 (d) PACHPR on RWA, Section 75 CSRO

“States parties shall take all appropriate measures to eliminate discrimination against women in other areas of economic and social life in order to ensure, on a basis of equality of men and women, the same rights, in particular: the right to bank loans, mortgages and other forms of financial credit.” Article 13(b) CEDAW

Explanation:

- Women have equal rights and should be accorded equal considerations to access bank loans, mortgages
- They also have the right to own a bank account and operate it in their own names.

3.9. Rights of Rural Women

“States parties shall take into account the particular problems faced by rural women and the significant roles which rural women play in the economic survival of their families,...and shall take all appropriate measures to ensure the application of the provisions of the present convention to women in the rural areas...”(paraphrased). Article 14 CEDAW

Explanation:

- Rural women have the right to participate in development planning and decision making especially in matters that concern them.
- Like women in urban places, they too deserve easy access to health care facilities including family planning, as well as the right to also benefit from training and education especially literacy programs, to organize themselves in groups and co-operatives aimed at their collective and individual development, to have access to agricultural credit and loans as well land ownership rights.

- Rural women also deserve to live decent lives and enjoy adequate housing, sanitation, electricity, portable water, transport and communication as a right.

3.10. Inheritance Rights

Article 15(2) CEDAW, Article 21 PACHPR on RWA, the Administration of Estate Act 1925, the Intestates' Estate Act 1952, the Probate Practice Non-Contentious Rules 1954, *Section 77(2) CSRO*.

“States parties shall accord to women...equal rights to administer property...” (Paraphrased). Article 15(2) CEDAW

Explanation:

- women's equality with men before the law, including rights to enter contracts, administer property, appear in court or before tribunals, and to choose residence and domicile should be guaranteed by government.
- Women and girl children should also enjoy the right to inheritance¹¹.

3.11. Right to Physical and Psychological Integrity.

Article 6 CEDAW, Article 5 PACHPR on RWA, and Article 3 DEVAW
According to Article 2 DEVAW, Violence against women shall include:

“Physical, sexual and psychological violence occurring in the family including battering, sexual abuse of female children in the household, dowry-related violence, marital rape, FGM, and other traditional practices harmful to women, non-spousal violence and violence related to exploitation...”

Explanation:

- Women have the right to their physical and moral integrity and are protected both from public and domestic violence. Hence, a girl child should not undergo breast ironing or Female Genital Mutilation FGM because her parents want it.
- Women should be free from all forms of violence and attacks be it domestic violence, trafficking and taking advantage of them as prostitutes.

3.12. Right to Consent to Marry and Equality in Marriage.

Article 16 CEDAW, Article 6 & 7 PACHPR on RWA, Article 16 UDHR
Articles 49, 52 & 64 of the CSRO

“Men and women of full age, without any limitation due to race, nationality or religion have a right to marry and found a family. They are entitled to equal rights as to marriage, during marriage and at dissolution. Marriage shall be entered into only with the free and full consent of the intending spouses...” Article 16 UDHR

Explanation:

- Under no circumstance should a woman be forced into marriage or re-marry.
- Women have the same rights to decide on the number and spacing of their children, the same rights and responsibilities towards their children.

3.13. CASE SCENARIO

Mrs. Betty is a widow and second wife to late Mr. Lukong and a mother of 3 minor children. One of her brothers –in –law wants to take her in for a wife or she refunds the bride price. Because she has not consented to this customary practice and because of no money to refund the bride price, she was chased out of the matrimonial home by her brothers-in-law. She wants to do trading for a living and has applied for a loan from Zanne Credit Union. One of the conditions for the loan being that Mrs Betty produces a land certificate as collateral security. She has not been able to do so and has been advised to look for alternative sources. Her first daughter is due to go to college and she has got no money to send her to school. In desperation her family has advised her to send her first daughter into marriage at the age of 14 to a man named Simon who is 41 years old. This will enable her have a roof over her head and the other two minor children as Mr. Simon has promised to give her the money to refund the bride price.

Identify the various rights that have been violate

CHAPTER NINE

PROTECTION OF PEOPLE WITH DISABILITIES

1. INTRODUCTION

People with disabilities are full and equal human beings. Thus, they too have rights that need to be recognized, protected, promoted and enforced at all levels. They enjoy all the other rights earlier enumerated above in addition to these rights making particular reference to the disabled contained in the Convention on the Rights of People with Disabilities.

2. OBJECTIVES OF THE CHAPTER.

- i. Inform and educate the public that people with disabilities are full human beings and they have equal rights and obligations.

Create awareness on the existence of the convention on the rights of people with disability.

3. SPECIFIC RIGHTS OF PEOPLE WITH DISABILITIES

In addition to enjoying basic human rights given to all human beings, people with disabilities enjoy the following specific rights:

3.1. Right to Equality, Non-Discrimination and Equal Recognition before the Law

Article 5, 12 & 13 CRPD, Article 18 (4) ACHPR, Article 16 & 26 of the ICCPR; Article 6 & 7 UDHR, Article 3 ACHPR

“States parties recognize that all persons are equal before and under the law and are entitled without any discrimination to the equal protection and equal benefit of the law

(2) States parties shall prohibit all discrimination on the basis of disability and guarantee to persons with disabilities equal and effective legal protection against discrimination on all grounds...”

Article 5, 12 & 13 CRPD

Explanation:

- All persons with disabilities have equal rights. These include equality before the law and equal protection of the law, the rights to political participation and decision making, right to education and work, rights to marry and to form a family, to own and inherit property, control their own financial affairs and have access to bank loans, mortgages and ensure that they are not arbitrarily deprived of their property.
- The state has to ensure through legislation and policy that every citizen is treated and protected equally without discrimination in all circumstances.
- Nobody shall discriminate against because they are disabled.

Duties:

States undertake to

- Make laws that protect and guarantee the equality of persons with physical, mental or sensory disabilities on equal grounds with every other human beings.
- Grant them equal protection and equal benefit of the law.
- Formulate and pursue policies that would guarantee equal legal capacity to people with disabilities;
- Promote, protect and enforce their enjoyment of all human rights and their specific rights as people with disabilities.

Individuals and communities

- Shall not discriminate against people with disabilities. In every action and situation, they shall be given equal considerations with able persons and special accommodation taking into consideration their levels of incapacity.

3.2. Rights of Women with Disabilities

Article 6 CRPD, Article 23 PACHPR on RWA

“States parties recognize that women and girls with disabilities are subject to multiple discriminations and in this regard shall take measures to ensure the full and equal enjoyment by them of all human rights and fundamental freedoms.” Article 6 CRPD

Explanation:

- Women and girls with disabilities shall enjoy all the human rights pertaining to the human person as well as the special rights contained in CEDAW, the PACHPR on RWA including the right to marry and to found a family, the right to work and to social security, as well as the right to participate in politics and to decision making.

Duties

- Governments have the duty to take special measures to ensure the full development, advancement and empowerment of women with disabilities by facilitating their access to education, employment, vocational training and participation in decision making.
- Individuals and communities shall not deprive women with disabilities of the opportunities to fully access and enjoy their human rights.
- Contrarily, society shall ensure that they are given more favourable considerations and treatment.

3.3. Rights of Children with Disabilities

Article 7 CRPD provides,

“States parties shall take all necessary measures to ensure the full enjoyment by children with disabilities of all human rights and fundamental freedoms on an equal basis with other children.”

Explanation:

- Children with disabilities are full human beings like other normal children.
- Thus, they shall enjoy all children’s rights including those found in the CRC on an equal basis with other children. They also have the right on an equal basis with other children to openly and freely express their views without any discrimination.

Appropriate Measures

The CRPD recommends appropriate and special measures to assist persons with disabilities access and enjoy human rights:

Article 9 CRPD provides that,

“to enable persons with disabilities to live independently and participate fully in all aspects of life, state parties shall take appropriate measures to ensure to persons with disabilities access on an equal basis with others to the physical environment, to transportation, to information and communications including information and communication technologies and systems and to other facilities and services open or provided to the public both in urban and in rural areas. These measures which shall include the identification and elimination of obstacles and barriers to accessibility shall apply to inter alia:

- (a) buildings, roads, transportation and other indoor and outdoor facilities, including schools, housing, medical facilities and work places*
- (b) Information, communications and other services including electronic services and emergency services...”*

3.4. Accessibility Rights

- right of access to the physical environment, transport*
- right to information and to access and enjoy new communication technologies and systems*
- Right to access public service and public facilities*

Explanation:

- The State has to develop policies to ensure that practical measures are put in place by public and private entities to assist and facilitate access to public places, services and institutions by the disabled such as schools, buildings and facilities, hospitals, roads, transportation, public offices and institutions, churches.
- The state shall also ensure that practical measures are put in place to assist the disabled to access information such as reading and listening devices, sign languages,

3.5. The Right to Live Independently

Article 19 CRPD provides that,

“States parties to this convention recognize the equal right of all persons with disabilities to live in the community with choices equal to others...”

(a) persons with disabilities have the opportunity to choose their place of residence and where and with whom they live on an equal basis with others and are not obliged to live in a particular living arrangement...”

Explanation:

- Persons with disabilities are full members of the community and have the right to choose where to live and with whom to live.
- They should not therefore be imposed a choice of where and with whom to live or be isolated/segregated from the community.
- They all have the right to community services and facilities on an equal basis with other persons.

Duties

- *States shall take effective and appropriate measures to facilitate full enjoyment by persons with disabilities of this right and their full inclusion and participation in the community by ensuring that;*
- *Individuals and communities shall not segregate against persons with disabilities except for medical and health reasons.*

3.6. The Right to Personal Mobility

Article 20 CRPD provides,

“States parties shall take effective measures to ensure personal mobility with the greatest possible independence for persons with disabilities, including by: (b) facilitating access by persons with disabilities to quality mobility aids, devices, assistive technologies and forms of live assistance and intermediaries, including by making them available at affordable costs;...”

Explanation:

- Ensuring personal mobility for persons with disabilities enables them to be fully independent and to go about daily life like any other person.

Duties

- States shall take effective measures towards achieving this by making sure that these aids are produced at affordable prices and providing training in mobility.

3.7. Right to Freedom of Expression and Opinion, and Access to Information

Article 21 CRPD, Article 19 UDHR, and Article 19 ICCPR

“States parties shall take all appropriate measures to ensure that persons with disabilities can exercise the right to freedom of expression and opinion, including the freedom to seek, receive, and impart information and ideas on an equal basis with others and through all forms of communication of their choice...” Article 21 CRPD

Explanation:

- This right will include providing information intended for the general public to persons with disabilities and appropriate for different kinds of disabilities and without any extra costs as well as accepting and facilitating the use of sign language, Braille etc. For instance the dissemination of information over the radio or television network should be able to include special forms of communication targeted towards persons with disabilities.
- Persons with disabilities have the full right to express their opinion any where and at any time without any interference whatsoever.

3.8. Right to Respect for Family Life

Article 23 CRPD, Article 16 UDHR, Article 23 ICCPR, Article 10 ICESCR

“States parties shall take effective and appropriate measures to eliminate discrimination against persons with disabilities in all matters relating to marriage, family, parenthood and relationships, on an equal basis with others...” Article 23 CRPD

Explanation:

- People with disabilities have the right like any other to consent to marriage, make a choice about whom to marry, decide on the number and spacing of children.

3.9. Right to Education

Article 24 CRPD, Article 26 UDHR, and Article 13 ICESCR

“States parties recognize the rights of persons with disabilities to education. With a view to realizing this right without discrimination and on the basis of equal opportunity, states parties shall ensure an inclusive education system at all levels and life long learning...” Article 24 CRPD

Explanation:

- Persons with disabilities have the right to fully develop their personality, talents and creativity, their mental and physical ability through education, training and acquiring of various skills.

Duties:

- States parties shall facilitate the learning of Braille and sign language and make sure that teachers and those who are skilled in sign language are recruited.

3.10. Right to Health

Article 25 & 26 CRPD, Article 25 UDHR, and Article 12 ICESCR

“States parties recognize that persons with disabilities have the right to the enjoyment of the highest attainable standard of health without discrimination on the basis of disability...” Article 25 & 26 CRPD

Explanation:

- Persons with disabilities have the full right to health.

Duties:

- The state shall provide those health services needed by persons with disabilities specifically because of their disability.
- Doctors, nurses and other health personnel shall provide services of the same quality and standard to persons with disabilities and prohibit discrimination at all levels and in all health provision.

3.11. Right to Work and Employment

Article 27 CRPD, Article 23 UDHR, and Article 6 & 7 ICESCR

“states parties recognize the right of persons with disabilities to work on an equal basis with others; this includes the right to the opportunity to gain a living by work freely chosen or accepted in a labour market or work environment that is open, inclusive and accessible to persons with disabilities...” Article 27 CRPD

Explanation:

- Persons with disabilities must be empowered to exercise their human rights, particularly in the field of work and employment.
- In both rural and urban areas, they must have equal opportunities for productive and gainful employment in the labour market. They have a right to just and favourable conditions of work, safety at the work place and protection from harassment.
- They also have the right to join trade unions of their choice for the purposes of protecting their interests.

3.12. Right to Participation in Political and Public Life

Article 29 CRPD, Article 21 UDHR, Article 25 ICCPR, Sections 2 & 3 of 1997¹² and Sections 11 & 6 of 2006 Electoral Laws.¹³

“States parties shall guarantee to persons with disabilities political right and the opportunity to enjoy them on an equal basis with others...” Article 29 CRPD

Explanation:

- Persons with disabilities have the full right to participate in the conduct of public affairs i.e. to vote, stand as candidates for election including standing as candidate for president of the Republic, parliamentarian, mayor etc.
- They are equally qualified to form political parties, hold office and take part in public functions without any discrimination and on an equal basis with other persons.

3.13. Right to Human Dignity.

Paragraph 3 & 10 DRDP, Article 1 UDHR, and Article 10 ICCPR

“Disabled persons have the inherent right to respect for their human dignity...” (paraphrased). Paragraph 3 DRDP

Explanation:

- Disabled persons must be accorded the same respect for their human dignity as any other fellow citizen.
- It follows that disabled persons have the right to enjoy a decent life free of exploitation and discrimination.

4. HYPOTHETICAL CASE STUDY

Rick recently graduated from the University and had throughout his educational career been a brilliant student. He has written a number of public examinations and passed but always failed at the orals. He has also applied for a job with some private and semi-private companies and each time he is called-up for an interview. At the end he is not selected. The last case was when he was called up by a company to begin work but when Rick showed up at the work place for the engagement contract to be signed his employers began hesitating and have refused to sign the contract claiming Rick will be put on a trial basis of 3 months without any written engagement. Each office he visited to deposit his application he had difficulties getting into the office because of his physical disability.

Rick has also in the main time fallen in love with Vera - 24 years old, with whom they had been school mates in secondary school. Vera's parents have not consented to the marriage.

What rights have been violated?

CHAPTER TEN

PROTECTION OF PEOPLE IN DETENTION

1. INTRODUCTION:

People in detention, otherwise known as peoples deprived of their liberties are people who are undergoing some form of custody in mental, police, gendarmerie and prison and similar institution. For the purpose of this manual, we shall discuss the rights of persons held in police, gendarme and prison custody.

People deprived of their liberty need special protection for reasons that include the following:

- Deprived of their liberty, they are vulnerable, their rights and freedoms are at the mercy of the detention authorities.
- Like other vulnerable persons, the chance of them suffering abuse is high.
- They are subjected to forms of authority capable of undermining their dignity and physical integrity.

2. OBJECTIVES

- i. Educate and inform the masses that though deprived of their liberty, people in detention still have rights they should enjoy because they remain human being.
- ii. Except condemned by a competent court or tribunal, people in detention are presumed to be innocent and should be treated as such.

3. WHAT ARE THE SPECIFIC RIGHTS OF PEOPLE IN PRISON DETENTION?

In addition to rights they should enjoy as other human beings, people deprived of their liberty have the following rights from the moment they are taken into custody (in police or gendarmerie cells, or awaiting trial section in prison) pending their trial and final judgment.

- a) The right to have your belongings including money kept safe by the custody authority and refunded to you upon release.
- b) The right not to be detained in a place that is not recognized as such by law.
- c) The right to be informed of the reasons for detention, and to be briefed on the code of conduct of prisoners and prison rules.
- d) The right to access the court.
- e) Right to bail and to be released on parole.
- f) The right of visit from public and communication (phonecalls, correspondence), notably family, friends and counsel.
- g) Right of respect for one's dignity and physical integrity.
"All persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human persons. Art. 10 ICCPR,
- h) The right to inform family or counsel immediately of his arrest / detention
- i) Right of protection against discrimination
- j) Right to be registered and to be held in prison custody only on grounds of a valid commitment order.
- k) Right to be detained in a place corresponding to his category.
- l) Right to register complaints or requests, in persons or in writing and to have such looked into.
- m) Right to commence legal proceeding in the court. While in prison, the prisoner has the right to start or go on with any legal or court proceedings as he/she would have done while out of prison.
- n) Right to be treated with equal considerations before the law.
- o) Right to marriage and to enjoy family life.

- While high risk prisoners may have their marriages celebrated in prison, low risk prisoners may on permission be escorted to have their marriages celebrated out of the prison.
 - Prisoner with long sentences may be allowed to raise a family by use of artificial insemination in situation where applicant is legally married.
 - Female detainees may keep their babies up to 9-18 months at the end of which they will have to surrender the care of their baby.
- p) People in detention have the right to their prison records. This right will be subject to prior application to the prison authorities.
- q) The right not to be held in temporary confinement when they cease to be violent. It is prohibited to put detainees in chains while in custody.
- r) People in detention have the same right to medical care and treatment as they should have had out of prison. People in detention have the right to their medical records and the right for such records to be treated with confidentiality.
- s) Prisoners have the right to leisure and to engage in physical and cultural exercises.
- t) Prisoners have the right to freedom of religion and of worship.
- u) Prisoners have the right to education.
- v) Right to an interpreter where necessary

Note: Detention of persons in police and gendarmerie custody is supposed to be a transitional or temporal measure pending final committal to prison custody, to last for a limited duration. See CPC

Note: Detention of persons in police and gendarmerie custody is supposed to be a transitional or temporal measure pending final committal to prison custody, to last for a limited duration. See CPC

4. POWERS OF POLICE OFFICERS

- 4.1. Right to stop and search persons and vehicles if they have reasonable grounds for suspicion.**
- 4.2. Right to seize incriminating items found during search. The police may not only search persons and vehicles but could also search houses, offices and homes.**
- 4.3. Right to detain where there is reasonable cause to suspect somebody to have committed offence that demands detention.**
- 4.4. Power of arrest. The police may arrest with or without a warrant notably where an offender of the law was caught flagrante delicto.**

5. RIGHT OF PRISON ADMINISTRATORS

In high security prisons, communication with the public may be limited for security reasons and for the purpose of discouraging crime:

- 5.1. Right to refuse or restrict visits on the grounds of security, good order.
 - Refuse visits from certain people because of their potential to compromise the case.
 - Order supervised visits for dangerous inmates.
 - Order closed visits for security reasons
 - Ban visits as a means of punishment
 - Search and strip-search visitors.
- 5.2. Correspondences may be censored for security reasons.
- 5.3. Prison officials have the right to check phone calls.
 - Calls may be recorded or monitored except those to legal counsel.
 - Use of the telephone may be limited but not restricted as a disciplinary measure.

6. DUTIES OF POLICE OFFICERS

- To conduct their duties in respect for the right of others.
- To justify their right and power of search before use.
- The duty to always consider whether their objective could be met by other less obtrusive means before acting.
- Make a formal risk assessment for the purpose of determining the category of risk relevant to the detainee's custody so that he might accord the security necessary with the said category.

7. CASE SCENARIO

Mr Che is a businessman living in crime quarter. One early morning at about 5.00 am while he was rushing to his business place, he was arrested by a group of police officers who were also out early on a calle calle operation. Mr Che pleaded with the Police he is a responsible businessman who was out that early because he had to open his business place early for his customers, but they did not listen. Instead, he was treated as a criminal. He was asked to sit on bare ground carrying his hands on his head, before he was latter taken to the police cell along others arrested in similar conditions.

At the station, Mr Che was emptied of everything including his money and cell phone he had to pay to make calls. He was not allowed contact with the public except when he asked to contact his wife for her to look for money to settle his release. He was only released that afternoon after his wife paid 15000 Frs. for bail and without receipt and without any charge after spending his whole day locked up in a stinking dark cell without toilet or other facilities.

Is there anything wrong with Mr Che's treatment?

What will you advise him to do if he reported his treatment to you?

CHAPTER ELEVEN

PROTECTION OF MINORITIES AND INDIGENOUS PEOPLES

1. INTRODUCTION

Minorities and indigenous peoples are entitled to the fullest enjoyment, and without discrimination, of all the rights recognized and enumerated in UN conventions and declarations. In addition to that, these groups of people have special rights and also deserve special attention by virtue of their vulnerable nature. Minorities could be national, linguistic, cultural, ethnic and to an extent religious in nature compared to a dominant group.

2. OBJECTIVE OF THE CHAPTER

- i. Raise public awareness of the existence of minority and indigenous rights and instil in them the culture of tolerance and respect for these rights and freedoms.

3. RIGHTS OF MINORITIES AND INDIGENOUS PEOPLES

3.1. Right to Enjoy Culture, Practice Religion, and use Language

Article 1 & 2 DRM, Article 11 & 15 DRIP, 27 ICCPR,

“Persons belonging to national or ethnic, religious and linguistic minorities...have the right to enjoy their own culture, to profess and practice their own religion, and to use their own language, in private and in public, freely and without interference or any form of discrimination.” (Paraphrased). Article 2 DRM

Explanation:

- Persons belonging to minorities should be allowed to freely express their characteristics and practise their culture, language, religion, traditions and customs.

- However, such specific practices should not be in violation of national laws and contrary to international standards.¹⁴ Examples of minorities in Cameroon are the Bororos, the Pigmies, and Anglophone Cameroonians etc.

Duties

- The state shall take measures to create favourable conditions for people belonging to minorities to enjoy their rights.
- Individuals are called to respect the rights and freedoms of minorities and to treat them with tolerance and respect for their dignity and inherent worth as human beings.

3.2. Right to Equality and Non-discrimination

Article 2 DRIP, Article 4 DRM, Article 3 ICCPR; Article 1 & 2 UDHR, Article 2 ACHPR.

“Indigenous peoples and individuals are free and equal to all other peoples and individuals and have the right to be free from any kind of discrimination, in the exercise of their rights, in particular that based on their indigenous origin or identity.”

Article 2 DRIP

Explanation:

- The UDHR provides that “everyone is entitled to all the rights and freedoms set forth in this declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status”.¹⁵ Consequently minorities and indigenous peoples have to enjoy all human rights without discrimination and on the basis of equality with the dominant group.

3.3. Right to Self Determination

Article 3, 4 & 5 DRIP, Article 1 ICCPR, Article 1 ICESCR, and Article 20 ACHPR

“Indigenous peoples have the right to self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development.” Article 3 DRIP

Explanation:

- Indigenous peoples have the right to seek for autonomy in matters relating to the functioning of their local affairs, to freely determine their political status thereby enhancing their economic, social and cultural development.
- They have the right to make or participate in making decisions affecting their lives,

3.4. Right to Nationality

Article 6, 9 & 33 DRIP, Article 15 UDHR

“Every indigenous individual has the right to a nationality.”

Article 6 DRIP

Explanation:

- Indigenous peoples have the right to belong to a nation, to determine their own identity in accordance with their customs and traditions.
- They equally have the right to seek and acquire citizenship or nationality in the state in which they live without any discrimination.

3.5. Right to Own Land

Article 10, 25, 26, 27, 28, 29, 30 & 32 DRIP

“Indigenous peoples have the right to the lands, territories and resources which they have traditionally owned, occupied or otherwise used or acquired.” Article 26 DRIP

Explanation:

- They have the right to own, use, develop and control the lands, territories and resources that they possess by reason of traditional ownership or other traditional occupation or use, as well as those which they have otherwise acquired without interference.
- Where there is need to take away the land, it should be for a project of community interest and this must be done in accordance with the law and after due compensation.

Duties:

- The state shall recognize and protect these lands and resources with respect to the customs, traditions and land tenure systems of indigenous peoples.
- Indigenous peoples shall not be forcibly removed from their lands unless when it is absolutely necessary and only with their prior informed consent and just compensation. Any such compensation shall take the form of lands, territories and resources equal in quality and size or of monetary compensation or other appropriate redress without discrimination.

3.6. Right to Education

Article 14 DRIP, Article 4 (4) DRM, Article 26 UDHR, Article 13 ICESCR

“Indigenous peoples have the right to establish and control their educational systems and institutions providing education in their own languages, in a manner appropriate to their cultural methods of teaching and learning.” Article 14 DRIP

Explanation:

- It is the absolute right of indigenous peoples and minorities to set up their own educational schools, learn in their languages and learn their history, traditions and culture if they so desire without any interference.

3.7. Right to Work and Employment

Article 17 DRIP, Article 23 UDHR, and Articles 6 & 7 ICESCR

“Indigenous individuals and peoples have the right to enjoy fully all rights established under applicable international and domestic labour law.” Article 17 DRIP

Explanation:

- They shall enjoy all labour and employment rights as guaranteed under national laws and policies, regional and international instruments without discrimination.

Duties:

- The state in particular, shall ensure that indigenous children are not exploited economically; and that child labour and trafficking that may interfere with the education and/or health as well as the social, physical and intellectual development of the child is prohibited.

3.8. Right to Participate in Decision-Making Processes

Article 18 & 23 DRIP

“Indigenous peoples have the right to participate in decision-making in matters which will affect their rights through representatives chosen by themselves in accordance with their own procedures, as well as to maintain and develop their own indigenous decision-making institutions.” Article 18 DRIP

Explanation:

- Indigenous peoples have the rights to participate in the political life of the state where they are found and particularly in decisions with regards to matters affecting their lives.
- Indigenous peoples have the right to determine priority projects and develop strategies for implementation.

3.9. Right to Prior Informed Consent

Article 19 DRIP provides,

“States shall consult and cooperate in good faith with the indigenous peoples concerned through their own representative institutions in order to obtain their free, prior and informed consent before adopting and implementing legislative or administrative measures that may affect them.”

Explanation:

- Indigenous peoples deserve to be consulted in advance and their free consent obtained before any legal or administrative decisions that would affect them are made and implemented.

For example the exploitation of any indigenous resources such as traditional forests must be carried out with their prior informed consent and they should be able to share in any benefits arising from any such exploitation.

3.10. Right to Health and Indigenous Medicines

Article 24, 31 DRIP, Article 25 UDHR, Article 12 ICESCR

“Indigenous peoples have the right to their traditional medicines and to maintain their health practices, including the conservation of their vital medicinal plants, animals and minerals. Indigenous individuals also have the right to access without any discrimination, to all social and health services.” Article 24 DRIP

Explanation:

- Indigenous minorities shall enjoy their cultural medicinal and health practices without interference, and should access all social and health facilities without discrimination.

Duties:

- The state shall take steps to ensure to indigenous peoples and individuals the highest standard of physical and mental health without any discrimination.
- Practices that violate the rights and abuses the dignity and respect of others shall not be authorized.

4. HYPOTHETICAL CASE STUDY

The Circa community is a community of people who are the indigenes of the Kara region in Balvaria. Because of the region's rich natural resources it became attractive to government and foreign investors who had undertaken agreements to go through processes of exploitation of the resources. The Circa people have an age old customary practice of visiting one of its virgin forests yearly for purposes of extracting medicinal plants. The government of Balvaria has agreed with foreign investors to resettle the Circa people. Most of them are illiterate and were only informed of this decision 6 months prior to when they actually have to leave their lands.

The government has agreed to build a school, health centre and permit them compete for jobs in several of the companies closer to the capital city.

Advise the community.

CHAPTER TWELVE

PROTECTION OF ALIENS

1. INTRODUCTION

While the movement of people has existed throughout history at various levels, modern immigration has been the subject of much human concern largely because of the growing population and pressure on natural resources.

This situation has provoked the passing of acts in international human rights law to protect these migrants/aliens. Aliens are foreign citizens, people who have willingly or have been forced to leave their homes or countries and moved to places under international law.

Alien (foreign citizen), in law, is a person residing in one country while being a citizen of another. There are many categories of aliens, however, the most commonly known are refugees, asylum seekers and migrants.

Another group of persons that are fast gaining international recognition are Internally Displaced Persons (IDPs) and stateless peoples. IDPs are refugees in every sense of the word but for the fact that they do not cross international borders in their movements.

2. OBJECTIVES

- i. Educate the public that alien populations are human beings and they too have rights and should also enjoy fundamental freedoms except those that are exclusively reserved for the nationals of a particular state.

3. SPECIFIC RIGHTS OF REFUGEES

For the purpose of this manual, we shall examine only refugee rights. Refugees are generally protected by the Geneva Convention of 1951 herein known as the Convention.

Provisions of the Geneva Convention of 1951

Generally, refugees are human beings and shall enjoy basic human rights and fundamental freedoms provided in international human rights instruments. In addition, they are accorded the following specific rights by host countries, parties to the 1951 convention:

3.1. Right to Security and integrity of persons

- The right not to be treated with discrimination particularly to race, colour, religion, origin. (Article 3)

3.2. Right to fundamental freedoms

- Freedom to practice his/her religion as much as he/she would have done in his/her country of origin (Art. 4)
- Freedom of association to the same extent as accorded to other foreigners in the same circumstance.
- They shall enjoy freedom of movement in the territory of residence, to choose their place of residence, right to identity papers for those without valid travel documents.

3.3. Welfare right:

- They shall enjoy their rights to property and the right to acquire both movable and immovable property, right to leases and other related rights.
- Legal refugees shall have the right to engage in agriculture, industry, arts and craft, commerce.

3.4. Legal refugees shall enjoy rights safeguarding their welfare notably:

- right to housing,
- right to public education
- right to public relief and assistance'
- family allowances'

3.5. Right to work and to social security

- They shall enjoy the rights to the protection of industrial property and artistic works same as is the case in the country of his origin or as is accorded to other national in the host country.
- Legal refugees shall enjoy the right to work and to reasonable wage and to be treated in matters of employment in the most favourable manner compared to other foreign nationals.
- Right to social security for industrial injury and incapacity, occupational diseases, maternity, sickness, disability, old age, death, unemployment, family responsibilities.

3.6. Legal Rights of Aliens

- Access to the courts without restriction of any sort, to the same extent as accorded to other foreign nationals.
- Freedom from arbitrary arrest and illegal detention
- Right to fair Trial

3.7. Administrative Rights

- Refugees shall enjoy administrative rights such as assistance for the procurement of documents and certification,
- They shall not be subject to any duties, charges or taxes other than that which would have been applicable to nationals in the same circumstance.
- Illegal refugees shall not be imposed penalties for entering the host state without authorisation. They shall be subject only to limitations that are necessary and only for the period pending their admission into the territory.
- Refugees, whether legal or illegal shall not be expelled safe on grounds of national security or public order. This shall only be through a legal process by a competent court of law.
- Refugees shall not be returned to the frontiers of territories where their lives or freedoms would be threatened. (Principle of non-refoulement).

3.8. Right to personal status

- Refugees shall have the rights to personal status they would have enjoyed if they were not refugees. These include the right to marriage.

Note: The right to non-refoulement shall not be claimed by refugees who are a danger to the security of the host country, or who having been convicted of a serious crime or constitute a danger to the community of that country.

Duties of Refugees

Every refugee has duties to the country in which he finds himself. This include

- They shall conform to the laws and regulations of host country
- They shall respecting public order
- They shall present themselves upon entry to authorities of the host country without delay and show good cause for their illegal entry or presence.
- They shall not form political parties or organisations, or engage in political activities in the host country.

4. LIMITATION TO THE ENJOYMENT OF THEIR RIGHTS

- Limitations imposed on refugees shall be those that are necessary and applicable to persons in the same circumstances for the purpose of public order and national security.

5. RIGHTS OF MIGRANTS

Unlike refugees and IDPs, migrants are principally people who move from one place to another, often for employment or economic improvement.

5.1. Categories of Migrants

There are two categories of migrants: legal and illegal migrants.

Legal migrants are immigrants who have sort and have been admitted to settle in the destination country and are permitted to work and to carryout their activities as permitted by the law.

Illegal migrants are immigrants who find themselves unlawfully within the borders of a country for the purpose of work or employment or other economic reasons.

Amongst illegal immigrants are smuggled and trafficked migrants.

5.2. Migrant's rights (ILO)

Migrants shall be entitled to the following rights:

1. RIGHTS PERTAINING TO SAFE PROCESS OF MIGRATION NAMELY

- The right to safe method of transport
- Right to access national courts for legal redress

2. RIGHTS PERTAINING TO DETENTION, PROSECUTION AND ILLEGAL ENTRY NAMELY

- freedom from unjust detention/imprisonment
- Procedural protection in the case of detention.

3. PROTECTION FROM EXPLOITATION, ABUSE AFTER ENTRY NAMELY

- Freedom from involuntary labour (Cameroon Labour Code Sect. 2)
- The right to safe and humane working conditions
- Fair remuneration for any work performed, social security and the right to organized
- Freedom from sexual and physical abuse

4. SOCIAL WELFARE GUARANTEES

- The right to housing,
- Right to health
- Right to food
- The right to social assistance
- The right to education

5. RIGHTS PERTAINING TO THE ENDING OF MIGRANTS IRREGULAR STATUS

- The right not to be refouled
- The right to favourable considerations in relation to the right to remain
- Procedural fairness/due process in relation to removal/expulsion
- Freedom to leave a country
- The protection of children born to irregular migrants

5.3. Protection of the rights of migrants in Cameroon

Amongst the laws protecting migrants in Cameroon are

- Law No. 96-06 of 18 January 1996 revising the Constitution of Cameroon
- Law No. 90-43 of 19 December 1990 relating to conditions of entry and residence in and exit from the national territory;
- Law No. 90-007 of 14th August 1992 relating to the Labour Code.
- The Penal Code
- The Criminal Procedure Code

The Constitution in the preamble outlines some fundamental human rights and freedoms guaranteed to all Cameroonians and all foreign national residing in Cameroon.

Law No. 90-43 of 19 December 1990 sets up the condition for entry and leaving Cameroon by everyone including aliens. This law provides that it is punishable for aliens to enter the Cameroon territory without valid travel documents which might be a passport with the required visa, or a *laisser passer* as the case may be. The Labour Code also lays down conditions for expatriate employment in Cameroon Section 24:

“Any contract of employment which shall be performed in Cameroon shall be governed by provisions of this law”.

6. CASE SCENARIO

Ijike is a Nigerian migrant who migrated to Cameroon for economic reasons. While in Cameroon, he did odd jobs around because he could not find regular employment as this was refused him because he is a foreigner. Mr. Ijike was recruited by Mr Ngang, a Cameroon businessman, as a shop keeper on the promise that he would serve for five years and he will settle him in his own business. Mr. Ijike his master served faithfully and diligently for eight years without settlement. When he demanded to be settled, he was thrown out into the streets. Mr Ijike had no where to go to. The authorities refused to look into his matter considering that his presence in Cameroon was illegal. Instead, they instructed his repatriation and Mr Ijike was forcefully thrown back at the frontiers of his country Nigeria with nothing to take home.

Did Mr. Ijike receive a fair and humane treatment?

Would he have had a cause if he sorts legal protection from the court?

CHAPTER THIRTEEN

PROTECTION OF PERSONS LIVING WITH HIV/AIDS.

1. INTRODUCTION:

The HIV/AIDS pandemic affects people without discrimination as to age, gender, or other differences. HIV/AIDS has become so real in our society. If you are not infected, you are affected. What is significant to note is that people living with HIV/AIDS have rights which must never be compromised. Stigmatization and discrimination against victims is therefore a gross violation of human rights.

There is a Declaration of Commitment on HIV/AIDS adopted by General Assembly resolution S-26/2 of 27 June 2001. The declaration challenges governments to take concerted action at global level towards fighting the epidemic. Effective implementation of human rights and fundamental freedoms is a step towards prevention and eventual eradication of the pandemic. This chapter will focus on the approaches to be adopted and commitments in fighting the pandemic and guaranteeing the human rights of persons living with HIV/AIDS thereby guaranteeing socio-economic development for the individual, family, community and nation as a whole. These approaches are outlined in the declaration itself.

The declaration provides that,

“Realization of human rights and fundamental freedoms for all is essential to reduce vulnerability to HIV/AIDS. Respect for the rights of people living with HIV/AIDS drives an effective response.”

2. OBJECTIVE:

- i. Create awareness on the rights of people living with HIV/AIDS,
- ii. Reduce stigmatization and foster prevention, treatment and support for victims.

3. SPECIFIC RIGHTS OF PEOPLE LIVING WITH HIV AND AIDS

3.1. Right to Equality and Non-discrimination

Paragraph 58 of the declaration provides that,

“We, heads of State and Government and representatives of States and Governments, assembled at the United Nations, from 25 to 27 June 2001... declare as a matter of urgency, to review and address the problem of HIV/AIDS in all its aspects, as well as to secure a global commitment to enhancing coordination and intensification of national, regional and international efforts to combat it in a comprehensive manner... Solemnly declare our commitment to address the HIV/AIDS crisis by taking action as follows... enact, strengthen or enforce, as appropriate, legislation, regulations and other measures to eliminate all forms of discrimination against and to ensure the full enjoyment of all human rights and fundamental freedoms by people living with HIV/AIDS”.

Explanation:

This statement of commitment calls on the government to take measures aimed at the elimination of discrimination against people living with HIV/AIDS everywhere and at all times hence making sure that they enjoy their human rights to the fullest.

3.2. Right to Education

Paragraph 63 provides that,

“... states shall develop and/or strengthen strategies, policies and programmes which recognize the importance of the family in reducing vulnerability, inter alia, in educating and guiding children and take account of cultural, religious and ethical factors, to reduce the vulnerability of children and young people by ensuring access of both girls and boys to primary and secondary education, including HIV/AIDS in curricula for adolescents; ensuring safe and secure environments, especially for young girls; expanding good-quality, youth-friendly

information and sexual health education and counselling services; strengthening reproductive and sexual health programmes; and involving families and young people in planning, implementing and evaluating HIV/AIDS prevention and care programmes, to the extent possible;” (paraphrased)

Explanation:

- in order to reduce the rate of HIV/AIDS both boys and girls should have access to primary and secondary education
- the teaching of HIV/AIDS and its negative effects, sexual health education should be included in school programmes.
- governments should ensure that by 2005, at least 90 per cent, and by 2010 at least 95 per cent of young men and women aged 15 to 24 have access to the information, education, including peer education and youth-specific HIV education, and services necessary to develop the life skills required to reduce their vulnerability to HIV infection.

3.3. Right to Employment

Paragraph 68 & 69

“states shall develop a national legal and policy framework that protects in the workplace the rights and dignity of persons living with and affected by HIV/AIDS and those at the greatest risk of HIV/AIDS, in consultation with representatives of employers and workers, taking account of established international guidelines on HIV/AIDS in the workplace; “ (paraphrased). Paragraph 69

Explanation:

- In addition to the rights of persons living with HIV/AIDS to be gainfully employed and to work, the state shall guarantee their protection in the workplace by making sure that they are not discriminated upon and that their rights are respected.

3.4. Right to Health Care, Support and Treatment

Paragraphs 55, 56, 57 and 64.

“States shall make significant progress in implementing comprehensive care strategies to:

- *strengthen family and community-based care, including that provided by the informal sector, and*
- *Establish health-care systems to provide and monitor treatment to people living with HIV/AIDS, including infected children, and to*
- *support individuals, households, families and communities affected by HIV/AIDS; and*
- *improve the capacity and working conditions of health-care personnel, and*
- *improve the effectiveness of supply systems, financing plans and referral mechanisms required to provide access to affordable medicines, including anti-retroviral drugs, diagnostics and related technologies, as well as*
- *ensure quality medical, palliative and psychosocial care;” (paraphrased). Paragraph 56*

Explanation:

- Persons living with HIV/AIDS have to be provided with adequate health care services and facilities; adequate and regular supply drugs, proper nutrition and psychological care.

Duties

- States have the duty to put in place strategies for the health care of persons living with HIV/AIDS which shall include provision of drugs at affordable prices, care and support for victims, training of health care personnel and provision of psychosocial care to individuals, families and communities affected by HIV/AIDS. Today there exist several pilot centres at government hospitals that deal with the provision of drugs to victims free of charge.

- States shall also promote and protect the health of those identifiable groups which currently have high or increasing rates of HIV infection especially the youthful population.
- Individuals and society in general have the bulk of the duty to exercise care and tolerance for people living HIV/AIDS. They should not be discriminated against or treated with rejection and respite.

3.5. Protection of Women Living with HIV/AIDS

Paragraphs 59, 60, & 61

“...states shall ensure development and accelerated implementation of national strategies for women’s empowerment, the promotion and protection of women’s full enjoyment of all human rights and reduction of their vulnerability to HIV/AIDS through the elimination of all forms of discrimination, as well as all forms of violence against women and girls, including harmful traditional and customary practices, abuse, rape and other forms of sexual violence, battering and trafficking in women and girls;” (paraphrased). Paragraph 61

Explanation:

Women constitute one of the groups of persons most vulnerable to HIV/AIDS.

- Pregnant women with HIV/AIDS shall be ensured proper care and protection against mother to child transmission.
- States are therefore called upon to ensure promotion and protection of women’s rights in the particular areas of sexual violence, sexual exploitation, rape, harmful traditional practices, trafficking in women and girls for economic reasons leading at times to prostitution etc.
- States also are called upon to promote shared responsibility of men and women to ensure safe sex; and empower women to have control over and decide freely on matters related to their sexuality

to increase their ability to protect themselves from HIV infection as well as the provision of health care and health services, including sexual and reproductive health.

Example: Traditional practices which promotes wife inheritance increases women's vulnerability to HIV/AIDS.

3.6. Protection of Children Living with HIV/AIDS

Paragraphs 63, 65, 66 & 67

"...states shall develop and implement national policies and strategies to build and strengthen governmental, family and community capacities to provide a supportive environment for orphans and girls and boys infected and affected by HIV/AIDS, including by providing appropriate counselling and psychosocial support, ensuring their enrolment in school and access to shelter, good nutrition and health and social services on an equal basis with other children; and protect orphans and vulnerable children from all forms of abuse, violence, exploitation, discrimination, trafficking and loss of inheritance;" (paraphrased). Paragraph 65

Explanation:

Children living with HIV/AIDS have their full rights just like any other children in addition to the special attention they deserve either as victims infected or affected b AIDS. States are called upon

- to ensure non-discrimination, de-stigmatization of children orphaned and made vulnerable by HIV/AIDS, and
- to safeguard their rights to education including sexual and health education, right to shelter, food, health care,
- To put in place policies and programmes that will help reduce their vulnerability

4. HYPOTHETICAL CASE STUDY

Harry is a 25 year old who graduated from the university 4 years back and is living with HIV/AIDS. For most government entrance examinations he has sat for he's required to conduct an HIV/AIDS test. For this reason, he has not been able to find a job. His health is also deteriorating as he lacks the means to receive treatment. He is engaged to Eve, who does not yet know that Harry is positive and Harry has not disclosed this fact to E. h however plans to inform Eve and to have protective sex at all times. Harry is a determined young man who has vowed to live despite his status.

What are the human rights issues raised?

CHAPTER FOURTEEN

PROTECTION OF OLDER PERSONS

1. INTRODUCTION

Amongst vulnerable persons recognized as holder of rights and freedoms by the international community are the aged. In this chapter we will examine the rights of Older People. Older persons are people who by virtue of their old age have been noted to be exposed to abuses of their dignity and rights.

2. OBJECTIVE

- i. Raise the awareness of the public on the need and urgency to ensure greater respect of the rights of older persons.

3. PROTECTION OF OLDER PEOPLE

The standard instrument we can refer to for the protection of elderly persons is the United Nations Principles for Older persons that were adopted by General Assembly Resolution 46/91 of 16 December 1991. The UN General Assembly recommended that all member governments incorporate them into their programs for older people.

3.1. Welfare Rights

Older persons have the right:

- *To access to adequate food, water, shelter, clothing, and health care through the provision of income, family and community support and help;*
- *To work and pursue other income generating opportunities with no barriers based on age;*
- *To retire and participate in determining when and at what pace withdrawal from the labour force takes place;*
- *To access education and training programs to enhance literacy, facilitate employment, and permit informed planning and decision making;*

- *To live in an environment that is safe and adaptable to personal preferences and changing capacities;*
- *To reside at home as long as possible;*

Explanation:

- *Older persons deserve to be empowered to be independent enough to be capable of affording their basic needs and ensuring their survival and well-being fully without necessarily depending on others.*
- *This empowerment shall be by allowing them the possibility to be engaged in income generating employment, receive education and training, and to evolve in an environment that is accommodating to enhance their capacity for autonomy.*
- *Society shall not discriminate against older people, or marginalise their efforts or refuse them the choice to remain economically active.*

3.2. Right to Participation

Older persons have the right;

- *To remain integrated and to participate actively in society, including the process of development and the formulation and implementation of policies which directly affect their well-being;*
- *To share their knowledge, skills, values and life experiences with younger generations;*
- *To seek and develop opportunities for service to the community and to serve as volunteers in positions;*
- *To form movements or associations of the elderly.*

Explanation:

- *Though aged, older persons are still members of the society and have the right to participate in the affairs of the community.*
- *They have knowledge and experiences gathered over the years they need to share and deserve to be heard.*

- Avenues have to be created to accommodate their active participation and opportunities for them to render services to the community.

3.3. Right to Social, family and health Care

Older persons have the right:

- *To benefit from family support and care consistent with their well being;*
- *To access health care to help them maintain or regain the optimum level of physical, mental and emotional well-being and to prevent or delay the onset of illness;*
- *to access social and legal services to enhance capacity for autonomy and provide protection and care;*
- *To utilise appropriate levels of institutional care which provide protection, rehabilitation and social and mental stimulation in a humane and secure environment;*
- *to exercise human rights and fundamental freedoms when residing in any shelter, care and treatment facility including full respect for their dignity, beliefs, needs and privacy and for the right to make decisions about their care and quality of life.*

Explanation:

- Care to older persons will include and not limited to family support, health care, access to social and legal services, appropriate structures that cater for old people, protection and rehabilitation, supply of adequate shelter and food.
- Older persons are not to be left without support first of all by their families; and the larger society where the immediate family does not exist.

3.4. Right to Self – fulfilment

Older persons have the right:

- *To pursue opportunities for the full development of their potential;*
- *To access the education, cultural, spiritual and recreational resources of society*

Explanation:

- *Older persons should not be perceived or made to feel they are useless and lack the capacity to develop their potentials.*
- *They should be given the possibility and access to those facilities that can help them improve on their potentials*

3.5. Right to Dignity

Older persons have a right;

- *To be treated fairly regardless of age, gender, racial or ethnic background, disability or other status, and to be valued independently of their economic contributions;*
- *To live in dignity and security and to be free of exploitation and physical or mental abuse;*
- *To exercise personal autonomy in health care decision making, including the right to die with dignity by assenting to or rejecting treatment designed solely to prolong life.*

Explanation:

- Older persons are full human beings who should be treated with full respect for their dignity and worth and humanely.
- They shall not be arbitrarily arrested or detained, tortured or refused equality before the law or access to justice.
- They shall not be subject to forced labour, slavery or servitude, sexual or other forms of abuse or exploitation, or used for scientific experimentation.

4. DUTIES TOWARD OLDER PERSONS

The state has the obligation to:

- respect, protect, promote and ensure the full realisation of their rights by older persons,
- take appropriate measures in the legislative, administrative and judiciary domains to guarantee the accessibility and enjoyment of their rights by older persons,
- Establish and ensure the smooth functioning of supportive institutions capable of rehabilitating as well as accommodating older person without immediate family support.

Society and individuals have the duty to:

- Treat older persons with dignity and respect;
- Offer them with appropriate care and support
- Provide them with adequate food, shelter, and proper means of livelihood.
- Respect their rights to political participation and to take part in decision making, and freedoms to hold opinion and to express them freely.

5. CASE SCENARIO

Pa Mbah is 87 years old and a retired civil administrator. Pa Mbah retired 5 years ago after serving 40 years in the public service. Pa Mbah suffers from arthritis but cannot afford basic pain relievers considering that since he retired 5 years ago, his pension is still to be paid. Pa Mbah has resigned to his faith as he is convinced his documents may never be treated since he cannot afford the money to corrupt the officers in Yaoundé to treat his retirement benefit promptly.

Ma Mbah his wife is equally very old and cannot continue with her farmwork. She could barely farm around the compound, making just enough for a meal for the two of them. No one else seems to care about these two old people. From all indication, they might not live to enjoy the much awaited pension if it ever comes.

Is there anything wrong with this society?

Does Pa Mbah merit a better treatment? If yes, would he still deserve to be treated better even if he had never worked anywhere before?

PART THREE

HUMAN RIGHTS AND GOOD GOVERNANCE

CHAPTER FIFTEEN GOOD GOVERNANCE

1. INTRODUCTION:

“Governance is the process whereby public institutions conduct public affairs, manage public resources and guarantee the realization of human rights”¹⁶.

We shall use the definition provided in the Cotonou Agreement between the EU and the ACP countries as a point of reference. According to this definition, good governance is: *“the transparent and accountable management of human, natural, economic and financial resources for the purposes of equitable and sustainable development, in the context of a political and institutional environment that upholds human rights, democratic principles and the rule of law.”¹⁷*

2. OBJECTIVE:

- i. To raise awareness on good governance and its contribution to the full realization of all human rights.

3. INGREDIENTS OF GOOD GOVERNANCE

3.1. Accountability

Accountability is an extremely vital principle in good governance. It requires all those in authority to give feedback on the conduct of public affairs. This goes a long way to guarantee an effective and credible management of the public sector for the good of all citizens. The Danish Development Assistance states that;

“Effective and accountable management of the public sector is a fundamental prerequisite for the effective and efficient use of resources in any society, for establishing and ensuring compliance with the legal and regulatory framework, for securing law and order and the protection of basic human rights, for designing policies and plans that facilitate the delivery of basic services and create an environment conducive to sustainable economic growth”.

The fundamental accountability relationship in a society is the one between those who govern and those who are governed. Those who

govern must be accountable to those whom they govern. No one is above the law and all are equal before the law and subject to the law. A strict adherence to this cardinal principle will go a long way to enhance accountability and promote the realization of human rights.

3.2. Transparency

Transparency in the conduct of public and all other affairs is also very vital for good governance. There can be no real effective and efficient management of public affairs when a system is not transparent. Transparency involves access to information across various organizations and to the public at large.

3.3. The fight against Bribery and Corruption

Corruption also weakens the public sector's legitimacy in the eyes of the rest of society.

The fight against Corruption is very important to advancing good governance. The state has taken steps recently to fight corruption through the indictment of high level public officials upon allegations of corruption.

Example: The Mfoundi High Court in Yaounde recently sentenced the former GM of the Council Support Fund (FEICOM) Mr. Ondo Ndong to 50 years imprisonment for stealing and misusing 11 billion F CFA. He was sentenced along side 13 others by the court on 28/06/2007.

3.4. Respect for the Rule of Law

It embodied three concepts: *the absolute predominance of regular law, so that the government has no arbitrary authority over the citizen; the equal subjection of all (including officials) to the ordinary law administered by the ordinary courts; and the fact that the citizen's personal freedoms are formulated and protected by the ordinary law rather than by abstract constitutional declarations*"¹⁸¹⁸ A Concise Dictionary of Law (second edition) defines the rule of law thus, "*the supremacy of law. A feature attributed to the UK constitution by Professor Dicey (Law of the constitution, 1885).*

Black

's Law Dictionary (Eighth Edition) defines the rule of law as,

“The doctrine that general constitutional principles are the result of judicial decisions determining the rights of private individuals in the courts...”

Respect for the rule of law is an extremely vital aspect in advancing good governance. Without respect for the rule of law, we cannot talk of good governance. A state and its citizens can be strong only if the laws are firm, applied strictly and respected by all. The law must be respected because failure to respect the law brings about disorder and a chaotic society. This also means respect for the constitution and the laws.

If governments could respect these cardinal principles of good governance, this will go a long way to advance not only good governance but also respect for human rights and fundamental freedoms in the country.

4. HYPOTHETICAL CASE STUDY

Mrs. Z, is a farmer living in Samkwe. She recently had a confrontation with a cattle rarer because cattle had encroached into her farming land and destroyed all her crops. She complains to the sub-divisional officer. Six months after her complain Mrs. Z heard the grazier boasting at their local market in Samkwe that he has money which he has given to the D.O and her matter will go no where.

Identify the issues involved and their relationship to good governance.

CHAPTER SIXTEEN

THE RIGHT TO INFORMATION

1. INTRODUCTION

Everybody has the right to information. The right to be informed is a composite right that includes and cut across all other rights that reinforce the right to knowledge. Without knowledge, persons would not be informed of their rights, where and how to claim them.

2. OBJECTIVES OF THIS CHAPTER

1. Examine the right to information in its full dimension, and its relation to other rights.
2. Examine the legal frame work governing the right to hold, seek, receive and impart information and ideas through the broad scope of the mass media.
3. Increase awareness on Cameroon's efforts towards the realization of the right to information¹⁹Other laws on the right to information include

3. THE RIGHT TO INFORMATION

UDHR Article 19; Law N° 90/52 of 19 December 1990, Law N° 96/06 of 18 January 1996, Penal Code Sections 115 (new) and 154

“Everyone has the right to freedom of opinion and expression, this right includes freedom to hold opinion without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers”. Art 19 UDHR.

Explanation:

- This provision highlights two dimensions of the right to information: freedom of opinion and freedom of expression.
- The presumption is that, information originates from the mind. It is conceived in the form of thought and evolves into an opinion which can then be the object of expression either through speech, sign, writing or imagery.

- Hence, not only should people be allowed to think freely, they should also be allowed to express their ideas and access information in all formats and through all media.
- The right to information further demands that,
 - No one should be persecuted or prosecuted for their opinions.
 - Everybody should be allowed to express their mind freely without fear of oppression or suppression.
 - The mass media should be free to disseminate information generally to the public and shall be opened and accessible to all those who wish to reach out to the larger public.
 - Information in the form of published material (the press, books and other forms of publication etc) shall not only be made available to the people, but shall also be affordable.
 - The people shall also have the right and facility to access information from other sources including public services and state institutions, except they are classified.

4. DIMENSIONS OF THE RIGHT TO INFORMATION

The right to information goes beyond its prescription under article 19 and transcends into other rights that include:

- The freedom of thought, conscience and religion (article 18 UDHR) or belief.
- Freedom of peaceful assembly and association
- The right to take part in one's government and access public service.
- Protection against arbitrary interference with one's right to privacy, family, home or correspondence.
- The right to be informed promptly and in detail in a language which one understands of the nature and cause of the charge against him during arrest, detention and trial.
- Right to participate in the cultural life of the community to enjoy the aids and share in scientific advancement.
- Right to Education

5. LIMITATIONS TO THE RIGHT TO INFORMATION

- Exercise of the right to information prohibits

- propaganda for war, any
- Attack on the person or reputation of others
- Diffusion of rumours and false information
- Advocacy for national, racial or religion hatred hostilities or violence.
- Restrictions shall be those provided for by law in the interest of public order, public moral general welfare in a democratic order and for the respect of the rights and freedoms of others.
 - Persons shall not engage in the propagation of information that is dangerous to public order.
 - Respect of the right and integrity of others. For this purpose the Penal Code punishes act of blackmail (sect 303), false report (sect 305) deformation; abuse (sect 306).
 - Failure to respect this law, defaulters shall be subject to the penalties laid down under section 60-86 of the Penal Code.
- Classification of public information (which is not state secret) gagging of the press and banning of press organs shall be exceptional situations that should only be for a given time and definite purpose.

6. GOVERNMENT ACTS TO GUARANTEE THE RIGHT TO INFORMATION

- Law N° 96/06 of 18 January 1996 revising the constitution. The preamble provides that “the privacy of all correspondence is invisible except by order of the judiciary. The freedom of communication, of expression of the press, of assembly, of association, and of trade unionism ...shall be guaranteed under the conditions fixed by law.
- Law N° 90/52 of 19 December 1990 relating to freedom of mass communication. This law fixes the conditions for the enjoyment of press freedom which is the core element of the right to information. The law applies to all forms and means of mass media through which people access information²⁰²⁰ Printing, books and bookselling, press organs, publishing houses, distribution agencies, bill-posting, audio and visual communication.

Glossary

Accused: an offender charged with an offence already standing trial in court

Appropriation: seizing, requisition,

Arbitrary arrest: arrest that does not respect conditions laid down by law.

Arrest: Arraigning or apprehending a person as provided for by law. An arrest can be conducted with or without a warrant of arrest depending on the circumstance.

Bail: the release from the custody of officers of the law of the court of an accused or convicted person, who undertakes to subsequently surrender to custody or make him/self available whenever needed. Bail may be unconditional or subject to some security or condition.

Bribery and corruption: giving or offering any reward to any person to influence his conduct or outcome of a situation, or the receipt of such reward to influence the results or outcome of a situation.

Child labour: worst forms of child labour

include slavery or practices similar to slavery such as trafficking of children, debt bondage, serfdom forced and compulsory labour, compulsory recruitment of children for use in the armed forces; the use, procuring or offering of a child for prostitution, pornography, use of children in the production or trafficking of illicit drugs.

(ILO Worst forms of child labour Convention of 1999)

Child: Any human being under the age of 18 years (ILO Minimum Age Convention 138 of 1973,)

Convention:International Rules of political practice which are regarded as binding by those to whom they apply, but which are

not laws as they are not enforced by the courts until they are ratified.

A treaty Convicts: a person who has been tried and found guilty by the court and sentence to a term of imprisonment.

Covenant: An agreement creating an obligation contained in a deed. A mutual agreement or bond.

Declaration: solemn pronouncement **without a legally binding effect, though may be morally binding on the parties.**

Defendant: A person against whom a preliminary inquiry has been commenced by the examining magistrate.

Detainees: persons held in detention (inmates)

Detention: hold someone in custody. (Could be by the police, gendarmerie or prison administration on instructions of a court officer).

Dignity: self-worth, esteem of person, Discrimination against women

“any distinction, exclusion or restriction made on the basis of sex which has the effect of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on the basis of equality of men and women, of human

rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field”.

Elimination: To remove, cancel, get rid of something or somebody

Equality: a principle of justice that demands equal treatment, equal opportunities.

Expropriation: Compulsorily depriving a person of his property by a public institution, generally for public use.

Fair hearing: hearing by a competent, impartial, public tribunal

Fair trial: trial that takes into consideration all the rights of the victim as well as the accused such as presumption of innocence, non-retroactivity of the law, freedom from self-incrimination, right to exclusionary rule, freedom from double-jeopardy.

Felony: an offence punishable with death or loss of liberty for a maximum of 10 years

Forced or compulsory labour: forceful employment of persons often compelled to do often for no or inadequate pay.

Freedom: is the absence of interference with the sovereignty of an individual by the use of coercion or aggression.

Liberty: the freedom to act according to ones will or believes without being stopped by unnecessary force.

Gender-based violence: violence that is directed against a person of a particular sex because she is of that sex

Good governance: this government that is governed by transparency, accountable, respect for human rights, rule of law.

Human rights: natural attribute which are inherent in our nature as human beings, without which we cannot live an autonomous and dignified life

Human Trafficking: is the recruitment, transportation, harbouring, or receipt of people for the purposes of slavery, forced labor (including bonded labor or debt bondage), and servitude.

Indictment: a formal document setting out the charges against the accused. A written accusation of one or more persons of a crime.

Litigation: taking matters before the court for hearing.

Misdemeanour: An offence punishable with loss of liberty for more than 10 days and less than 10 years or with a fine of more than 25000frs

Non-retroactivity of the law: the principle of law that nobody should be punished for a crime that was not made an offence at the time it was committed.

Optional Protocol: It is a document attached to a treaty providing for additional provisions or procedures with regard to the implementation of a treaty, or addressing a substantive area of the treaty.

Pluralism: the peaceful co-existence of multiple political ideas or opinions in a state.

Political processes: Processes that are spelled out by the constitution or some organic law that allow for alternance in government or fundamental changes to the nature and structure of the state demanding the massive participation or mandate of the people.

Prejudices: are discriminations and injustices (unfairness, intolerances, bigotry) a person may be subjected to which renders them vulnerable.

Presumption of innocence: The principle of law that holds that a suspect in a criminal offence is innocent until proven guilty by a competent court of law through a fair trial.

Proscription: banning, prohibiting, forbidding, barring, outlawing

Public meetings: meetings or assembly held in a public place or a place open to the public.

Rehabilitation: treatment usually mental or nervous (psychoanalysis, psychotherapy, physiotherapy)

Resolution: A well-worded statement of intent by the international community.

Rights: permission to do something or absence of prohibition, claims, entitlements, corollary of duties,

Rule of law: *“The doctrine that general constitutional principles are the result of judicial decisions determining the rights of private individuals in the courts (Black’s Law Dictionary).*

Separation of powers: the constitutional arrangement where the three arms of government (executive, legislature and judiciary) are organically independent of each other.

Servitude or serfdom: holding persons to work for you

Slavery: Slavery is a form of [forced labor](#) where a [person](#) is compelled to [work](#) for another.

Stereotypes: Social stickers or labels that have been used to tag somebody negatively and that affects the status of that person negatively in society.

Stigmatisation: negative tags attributed to somebody or group of persons and underlies the following rights:

- freedom to engage in printing and bookselling, press organs publishing houses, distribution agencies, bill posting, and audio-visual communication.
- Freedom to distribute press organs and other printed material (sect 30)
- Freedom to engage in bill-posting in public places and buildings in respect of the provision laid down by officials empowered to do so {mayor in a council area}
- Freedom to access information : *“Unless provided by the law and regulations, persons shall be free to access official documents”* (sect **49** of Law N° 90/52 of 19 December 1990)

Explanation:

- Everyone is free to access information from official sources without restriction.
- These documents include files, reports, studies, minutes, statistics, directives, instruction, memoranda and all documents relating to acts of positive law.
- **Protection of sources of information**
“Journalists and their collaborators shall not be found to disclose their source of information.” (Section **50** of Law N° 90/52 of 19 December 1990)

Explanation:

- Journalist shall not be forced to say where they got their information from except by the court and before a judge.
- **Protection of media houses**
“Except in case of judicial inquiry at the request of the state counsel, or on the authorization of the judge, it shall be forbidden to search premises used for the design, manufacture, production, printing and conservation of document of mass-communication”
(Sect. 51 of Law N° 90/52 of 19 December 1990)

Explanation:

- Media houses shall not be search except in case the state counsel is conducting judicial enquiry or by order of the judge.

7. Case Scenario

Mr Lainjo is a journalist with a local newspaper. Mr. Lainjo accompanied his brother to honour a summons he had been served by the department of Commerce on charges of inflating prices unduly. While at the department, Mr John was asked to pay an arbitrary sum of 30000 FRS against no receipt to the chief of the department. Mr Lainjo, understanding that this was corruption questioned the legality of the act. The Chief of Commerce grew angry and ordered Mr. Lainjo and his brother to quit his office. He promise to deal with them intimating that they should not think he was like his predecessor was incompetent. Mr Lainjo published the issue in his newspaper with the view to expose the Chief’s corrupt ways and quoted the Chief as saying that his predecessor was incompetent. On reading this, the Chief of Commerce sued Mr. Lainjo and his brother for defamation.

Was Mr. Lainjo right to have published the issue?

Is the Chief of commerce’s charge of defamation justified?

CHAPTER SEVENTEEN
DEMOCRACY AND CITIZENSHIP

1. DEFINITION:

In its simplest conception and widest understanding, democracy was defined by Abraham Lincoln as “government of the people, for the people and by the people.” In other words, democracy is a system of government where the people decide and choose through various political processes their leaders who in turn become accountable to them.

Democracy is a holistic concept though today it has been reduced to a few sign posts namely: periodic elections, separation of power, political pluralism and multiparty politics. In the human rights understanding of the term, democracy must be a system that ensures respect for fundamental human rights and freedoms, and respect for the dignity and worth of the human person and the right of every member of society to participate in the decision making process of his/her community. Such a system must be one that offers constitutional guarantees for the enjoyment of all civil, political, economic, social and cultural rights by all without distinction of any kind. Such access must only be limited by law in the interest of democracy and respect for public order.

2. OBJECTIVE

- i. Educate the public on the basics underlying the concept of democracy.
- ii. Highlight the role of the citizenry in a democratic society.

3. IS DEMOCRACY COMPATIBLE TO THE PRACTISE OF HUMAN RIGHTS?

Democracy and human rights are interchangeable. Human rights inform democracy and democracy reinforces enjoyment and greater respect of human right. Democracy is most conducive to the development of a human right culture. Un-democratic societies are less advanced in the culture of human rights and characteristically limit the enjoyment of rights to levels that deprive human rights of their essence and importance.

Democracy therefore offers a better ground for the practise of human right and democratisation should be the takeoff point if any government hopes to ensure sustained enjoyment of human right.

3.1. The principle of Democracy

- There is separation of power and independence of the three organs of government where each constitute checks and balances the powers of the others;
- There is transparency and public accountability of those in power ;
- There are opportunities for grater participation of the masses in decision making and in the designing of polices affecting their community and welfare either directly in periodic elections, or indirectly through elected officials.
- There is pluralism and tolerance of diverse opinions
- Rule of law and equality of all before the law guaranteed by an independent judiciary;
- constitutional guarantee of fundamental human rights and liberties;
- Freedom of thought, opinion, expression, speech peaceful assembly and association etc.

3.2. Institutional Manifestation of Democracy

There are many expressions of democracy. The specific form that democratic practise may take in a country is determined by the prevailing political, social, and economic circumstances and is greatly influenced by the historical and cultural evolution of the people over time. However, the most common forms of democratic practise include the following:

3.2.1. Representation Democracy

This is based on the principle that everyone has the right to take part in the government of his/her country however, through freely chosen representative.

The will of the people shall be the basis of the authority of government which shall be expressed in periodic and genuine elections held by

universal and equal suffrage, by secret ballot or through other equal free voting procedures (Section ... 1966 Constitution, Art 25 UDHR)

This is the ideal form of democracy which has become the aspiration of many peoples, and the form generally prescribed for new democracies including Cameroon.

3.2.2. Constitutional Democracy

This is democracy that is based on a supreme law – the written Constitution that prescribes the power balance of the institutions. The constitution is expected to guide legislation on the laws that have to be made. Constitutional democracies have their strength in that, constitutions permit the protection of certain fundamental human rights and freedoms, as well as fundamental principles on which democratic practise depends. It also sets the structure and function of government and provides guidelines for the making and the working of laws.

3.3. Core values of a democratic

- Control over government policies and action must be vested in the people directly or through elected representatives;
- Periodic elections of leaders in free and fair elections with universal suffrage during which every adult has the right to freely make an informed choice;
- Free expression of opinion, thought and speech without fear of repression and a free flow of information through a free mass media;
- Political pluralism whereby the people have the right to form political organisations and pressure groups and discuss freely, alternatives to government policy;
- Elected government pursue freely their political agenda without external influence or constraints.

The quality of any country's practise of democracy will largely depend on the extent of the presence of all of the above features.

4. CITIZENSHIP AND HUMAN RIGHT IN A DEMOCRATIC SOCIETY

In the practise of democracy and the promotion and protection of human rights the main actors are the citizens.

4.1. What is Citizenship?

To better understand citizenship, it will be proper to begin with defining a citizen. A citizen is a registered or naturalised member of a state or nation. Citizens in a democracy are those individuals that are related to the state by virtue of birth or naturalisation and who have rights and duties imposed by this relationship vis a vis the state. Those individuals who have legally defined set of rights and obligations vis a vis the state.

4.2. Approaches to citizenship

There are two major approaches to citizenship: the individual and the communal approaches. The individual approach views the citizen as a holder of rights. The role of the state is reduced to the benefit of the rights of the individual. Here emphasis is put more on the citizen's individual rights and in the manifestation of these rights than on the duties.

As for the communal approach, the citizen is viewed within the context of his community. It is a collective view in which the role of the state is much more active than that of the individual. Here more emphasis is put on the duties of the individual to his community.

The concept of citizenship is essentially legalistic. Citizenship is the role that is formally ascribed to those people who are formally recognised by the state as citizens. Hence the citizen can be defined as that person who has legal status that defines his/her rights and obligations towards a state. However, there are two categories of citizens: active citizens and passive citizens.

4.3. Active citizen

- This is an informed citizen who exercise his rights and performs his duties
- He/she contribute to the welfare of the state by:
 - Ensuring that laws are respected,
 - Paying taxes,
 - Participating in the government of his community in electing leaders,
 - Participating in the decision making process of his community,

- Scrutinising government action ensuring that public institutions and public servants function accordingly,
- Enforcing human rights as well as respecting the rights of others,
- Puts his services, resources and time at the disposal of the state to ensure that the state machinery functions effectively,
- Contribute to the moral rectitude, peace and welfare of the society.

4.4. The role of the citizen in fostering democracy

Citizens have the duty to be politically active in decision making and shaping the politics of their community. This takes place in a democracy through participation in elections. The citizen's duty demands that citizens should:

- Register in voter registers and obtain an elector's card;
- Militate in the political party of their choice
- Cast their votes when ever the electoral college is convened;
- Make informed choices based on political platforms and manifestoes that respond to their aspirations.
- And accept the verdict of the polls.
- Electors have the moral duty to vote for programmes and not persons, tribes or other selfish interests.

5. WHO IS A CAMEROON CITIZEN?

- One who is born to Cameroonian parents Cameroon,
- One who has acquired the Cameroonian nationality through naturalisation,
- a woman who is married to a Cameroonian and chooses to be a Cameroonian,
- One who is born in Cameroon and chooses to be a Cameroonian.

5.1. Rights of Cameroonian citizens

5.2. Right to form and become members of various associations

- Law N0- 92/006 of 14 August 1992 on cooperative and common initiative groups.
- Law N0 90/053 of Dec 19, 1990 on the Freedom of association
- Law N0 90/014 of 22 Dec 1999 to govern non-Governmental Organisation
- Law N0 92/07 of 14 August 1992 on trade Unions and Employees' Association.

Under these laws citizen can set up or belong to various association or groups including cooperatives common initiative group, economic interest groups, professional groups (such as tailors, driver's mechanics, Bayam Sellams) trade unions such as teachers etc.)

5.2.1. Participation in political life of the community

- Law No 90/056 of Dec 1990 on functioning of political parties
- Law No 91/020 of 16 December 1991 modified by law No 97/13 of 19 March 1997 to lay down the condition governing the election of the members of parliament.
- Law No 92/002 of 14 August 1992, fixing the conditions for the election of municipal counsellors, modified by law No 95/24 of December 1995
- Law No 92/10 of 17 Dec 1992, modified by law No-- 97/0020 of 09 Sept 1997 to lay conditions governing the vacancy of and elections to the presidency of the Republic.
- Law No 96/06 of 18 January 1996 reissuing the constitution of Cameroon.
- Law No 2000/16 of 16 December 2000, modified by law No setting up the National Election Observatory (NEO)

These laws provide the following rights to all Cameroonians.

- The right to vote and to have one's vote taken in to consideration
- The right to stand for elections

- The right to enter ones name in the electoral register and to be issued a voter's card.
- The right to a free, secret ballot (see the constitution) except other wise stated.
- The right to form political parties, or to choose and militate freely in a political party of one's choice. This includes the freedom not to belong to any political party, as well as the freedom to join and leave any political party as one pleases.

5.2.2. Right to participate in the Economic life of the nation:

- Law No ----- 92/007 of 14 August 1992 setting up the labour code.
- QHADA laws
- Tax code
- The Law governing the microfinance enterprise.
- COBAC Law governing the banking sector.
- The Investment Code of Cameroon.

5.2.3. Participation in upholding justice and in the enforcement of a state of law

- The Constitution of the Republic of Cameroon.
- The Penal Code
- The Criminal Procedure Code

The law also set others legal functionaries such as lawyers for the defence of citizen in litigation, bailiffs for the execution of court judgements and participation in local governance.

5.2.4. Right to participate in governance and decision making

These are:

- Law no. 2004/017 of 22 July 2004 on the orientation of decentralisation;
- Law no. 2004/018 of 22 July 2004 to lay down the rules applicable to councils;
- Law no. 2004/019 of July 2004 to lay down the rules applicable to regions

6. DUTIES OF CAMEROON CITIZEN

The above laws as well as other acts lay down duties demanded of every citizen which include:

- The duty to be law abiding and to respect state institutions.
- To pay taxes that shall form the revenue of the state.
- Register and participate in periodic election.
- The duty to ensure the public health and environmental protection of his/her society.
- The duty to be accountable for their action and responsibilities entrusted to them.

6.1. Duty to make proper stewardship of the public resources

- The duty to contribute to the peaceful development and welfare of the society.
- The duty to ensure moral saintly of the society by fighting discouraging societal ills public funds; injustices and all forms of exploitation and abuses.

6.2. Duty to respect the rights of non-citizens

- Non-citizens also have rights.
- In the enjoyment of their rights, citizens have the duty to respect the rights of non-citizens notably: aliens or strangers such as refugees and asylum seekers, legal as well as illegal resident.
- Aliens and other non-citizens shall not be exploited or abused in any form including, refoulement, genocide, arbitrarily arrested, detained; they shall not be physically/sexually or otherwise abused or exploited.

7. CASE SCENARIO

Mr Tabu is member of chopdie party. Chopdie party is the ruling party and has been in power for two mandates, and are interested in winning another mandate. Accordingly, the chopdie party hierarchy initiated a rigging plan to help them win the up coming elections. The plan is all about frustrating members of the opposition party from voting by displacing their voter's registration cards and giving them to supporters of chopdie party so that the latter could vote in their place. Mr Tabu, a local party official of the chopdie party was in charge of making this plan work in his locality. As such, he brought home over 50 party cards and supplied it to his wife and children including those below 18 years of age and detailed them to vote as many times as they could with these cards for chopdie party. He ensured that each member of his family brought back the ballot papers of the opposition party to ensure they voted for the ruling chopdie party.

Do you find anything wrong with this form of electoral practise?

Is it wrong for any of Mr. Tabus children to disobey their father's instruction and vote for the party of hiss choice?

ABBREVIATIONS USED:

SCHCL – Southern Cameroon High Court Law
ICCPR – International Covenant on Civil and Political Rights
ICESCR – International Covenant on Economic, Social and Cultural Rights
ACHPR – African Charter on Human and Peoples Rights
PACHPR on RWA – Protocol to the African Charter on Human and Peoples Rights on the Rights of Women in Africa.
CPC – Criminal Procedure Code
PC – Penal Code
LC – Labour Code
CSRO – Civil Status Registration Ordinance
EM Law – Environmental Management Law
DRDP – Declaration on the Rights of Disabled Persons
CRPD – Convention on the Rights of Persons with Disabilities
CRC – Convention on the Rights of the Child
DEVAW – Declaration on the Elimination of Violence against Women
FGM – Female Genital Mutilation
DRM – Declaration on the Rights of Minorities
DRIP – Declaration on the Rights of Indigenous persons
IHL = Imprisonment with Hard Labour

GLOSSARY

A refugee is a person who is forced to leave the country in which he or she lives because of a well-founded fear of persecution that may stem from race, religion, nationality, political opinions, or membership in a social group;

It defines the term refugee as:

“ any person who ... owing to well founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable, or owing to such fear, is unwilling to avail himself of the protection of that country; or who, not having a nationality and being outside the country of his former habitual residence as a result of such events, is unable or, owing to such fear, is unwilling to return to it.” art. 1(2)

An asylum seeker is a refugee who is unwilling to return to his/her country of origin and has applied to remain in the host country. In other words, people who flee their homes and seek asylum (safety and protection) in other countries.

A migrant is someone who has left his/her country of residence to settle in another mostly for economic or social reasons.

(Footnotes)

¹⁴ Article 4(2) of Declaration on Minorities

¹⁵ Article 2 UDHR

(Endnotes)

“For the purposes of this training manual, the term “torture” means

any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing

him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for **Any Reason** based on discrimination of any kind, when such pain or

suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity. It does not include pain or suffering arising only from, inherent in or incidental to lawful sanctions. “

(UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, Article 1)

² Concise dictionary of law definition (paraphrased)

³ The term ‘Right to Adequate Food’ is derived from ICESCR.

⁴The UN Special Rapporteur on the Right to food (2002)

⁵ General Comment 12 of the ICESCR

⁶ Law no. 97/020 of 9 September 1997 modifying certain dispositions of law no. 92/010 of 17 September 1992 laying the conditions for elections of the President of the Republic; Law no. 92/002 of 14 August 1992 modified by law no. 95/24 of 11 dec.1995 laying conditions for the elections of Municipal Councillors; law no. 97/13 of 19 march 1997 modifying law no 91/20 of 16 December 1991 laying conditions for electing members of the National Assembly.

⁷ The Convention on the Rights of the Child (CRC) is the most complete statement ever made (on the right of children) protecting and promoting the rights of children. Its aim is not only to protect children by addressing their present needs but also to ensure that they develop their full potentials for a full and satisfying adult life. Hence, it represents to the United Nations, a commitment by states into the future. The CRC is monitored by the Committee on the Rights of the Child.

⁸ This regional instrument is another mile stone in the protection of women’s rights in Africa. A much welcomed protocol that was adopted by the 2nd

Ordinary Session of the Assembly of the African Union in Maputo, CAB/LEG/66.6 on the 13th

of September 2000. The protocol entered into force on the 25/11/2005. Unfortunately Cameroon is yet to ratify this important instrument.

⁹ Law No. 97-020 of 09/09/1997 to lay down conditions governing the vacancy of and election to the Presidency of the Republic.

¹⁰ Law No. 2006/009 of 29/12/2006 governing the election of members of parliament and municipal councillors

¹¹ According to Rules 19 and 21 of the Probate Practice Non-Contentious Rules 1954, where a person dies without leaving a will the persons who are entitled to grant of letters of administration of the property will be according to the following order of priority: the surviving spouse, the children of the deceased, the brothers and sisters.

¹² Law No. 97-020 of 09/09/1997 to lay down conditions governing the vacancy of and election to the Presidency of the Republic.

¹³ Law No. 2006/009 of 29/12/2006 governing the election of members of parliament and municipal councillors

¹⁶ The United Nations Conference on anti-corruption measures, good governance and human rights, (Warsaw, 8-9 November 2006)

¹⁷ See paper by Clarissa Fourie,

Department of Geomatics, University of Cape Town, South Africa

- Law N° 90/53 of 19 December 1990 relating to freedom of association.
- Law N° 90/55 of 19 December 1990 to lay down regulations governing public meetings and processions.
- Law N° 90.56 of 19 December 1990 relating to political parties.
- Penal code sect 115 (new) on propagation of false information
- Section 154 (new) on contempt of public bodies and public servants.

Suspect: a person alleged to have committed an offence for which investigations have been opened by judicial police officers (police or gendarme).

Sustainable development: development that is capable of supporting it self and to endure

Torture: any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted by or at the instruction of a public official, or with his express or tacit consent, on a person for such purposes as obtaining from him or third person information or confession, or punishing him for an act he or a third person has committed or is suspected of having committed or intimidating or putting pressure on him or a third person or for any motive based on any form of discrimination or whatsoever.

Trade unions: A **trade union** or **labor union** is an organization run by and for workers who have banded together to achieve common goals in key areas such as wages, hours, and working conditions. The trade union, through its leadership, bargains with the employer on behalf of union members ([rank and file](#) members) and negotiates [labor contacts](#) ([Collective bargaining](#)) with employers. This may include the negotiation of wages, work rules, complaint procedures, rules

governing hiring, firing and promotion of workers, benefits, workplace safety and policies.

Transparency: Transparency means that decisions taken and their enforcement are done in a manner that follows rules and regulations. It also means that information is freely available and directly accessible to those who will be affected by such decisions and their enforcement. It also means that enough information is provided and that it is provided in easily understandable forms and media.

Participation: Participation by all, both men and women in the development of the society.

Participation could be either direct or through legitimate intermediate institutions or representatives. It is important to point out that representative democracy does not necessarily mean that the concerns of the most vulnerable in society would be taken into consideration in decision making. Participation needs to be informed and organized. This means freedom of association and expression on the one hand and an organized civil society on the other hand.

Accountability: The principle that those making decisions shall be responsible to those who shall be affected by these decisions.

Violence against women: “...

any act of gender-based violence that results in or is likely to result in physical, sexual or psychological harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or in private life.” (*Article 1,*

Declaration on the Elimination of violence Against Women)

