**AFE BABALOLA UNIVERSITY, ADO – EKITI, EKITI STATE.**

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**17/LAW01/051**

**COLLEGE OF LAW**

**COURSE TITLE: HUMAN RIGHTS LAW**

**COURSE CODE: LPI 306**

**LECTURER: MR HILLARY ANSWER:**

The public institutions saddled with the protection and promotion of human rights are mostly faced and saddled with a lot of challenges, this writer will be listing out the public institutions involved. These institutions are:

1. The ECOWAS Community Court of Justice
2. The African Commission
3. The African Court on Human and People’s rights

**ECOWAS Court of Justice:**

The ECOWAS Court of Justice is the judicial organ of the Economic Community of West African States {ECOWAS} and is charged with resolving disputes related to the Community’s treaty, protocols, and conventions. The ECOWAS Court of Justice has competence to hear individual complaints of alleged human rights violation.

The ECOWAS Court of Justice was created pursuant to the revised Treaty of the Economic Community of West African States in 1993, and is headquartered in Abuja, Nigeria. In addition to providing advisory opinions on the meaning of Community law, the Court has jurisdiction to examine cases involving:

* an alleged failure of Member State to comply with Community law;
* a dispute relating to the interpretation and application of Community acts;
* dispute between Community institutions and their officials;
* Community liability
* Human rights violations, and

In its 15years of operation as a human rights court, the ECOWAS Court has survived several political controversies and challenges. The first challenge stemmed from the Court’s intervention in a contested Nigerian election—which triggered protests from Nigerian politicians, judges, and lawyers. A second, more serious threat involved an effort by the Gambia to curtail the Court’s jurisdiction in response to decisions finding that state responsible for the torture of journalists. As we explain, the ECOWAS Court emerged from these two events largely unscathed and arguably strengthened. The third challenge, which is ongoing, focuses on improving member state compliance with the Court’s judgments.

**African Commission on Human and People’s Rights:**

The ***African Charter on Human and Peoples Rights*** charges the Commission with three principal functions: examining State reports, considering alleged violations, and expounding the Charter. Every two years, States must submit a report on the normative measures taken to give effect to the individual and group rights and the obligations of the States. While the examination of States' reports has served as a forum of discussion with NGOs and normative understanding of the Charter through interpretation of its provisions, many critics have been addressed to the process of examination. The Commission does not issue concluding remarks or a 'concluding evaluation' of state reports. Individual commissioners express views in the course of examining state reports but no uniform position is taken by the Commission on the various issues raised. The Commission does not adequately advise state parties on how to improve their human rights situation. The Commission's primary mission is considering communications alleging violations. The Charter places no restriction as to who is able to seize the Commission with individual complaints. Thus, any individual, group or NGO can lodge a petition, whether or not they are the direct victims of the violation complained. However the complaints should be sent after the petitioner exhausts local remedies, unless they are unduly prolonged or are ignored. A very controversial provision of the Charter is ***Article 59(1)*** that provides "all measures taken within the provisions of the present Charter shall remain confidential until such a time as the Assembly of Heads of States shall otherwise decide". Another big constraint to the Commission's effectiveness is the principle of non-interference between States seems still entrenched. The Commission's shortcomings are mostly practical and political matters. These include matters such as the funding of the system, the absence of compliance and supportive political will on the part of State

**The African Court:**

Scholars were initially divided on the establishment of the Court as a likely solution for the inefficiencies of the Commission. 17 But a general opinion was to accept that Africa needs a fully functioning Commission as well as a Human Rights Court ("the Court") .18 Adopted in June 1998 by the OAU Assembly, the Protocol for the Court became effective in 2004. The Court's eleven judges have been appointed but the Court is still not functional. Also, the Court is severely underfunded, thus compounding the Court's ineffectiveness. One of the objections to the idea of a Court was due to the scarcity of resources, leading few scholars to recommend prioritizing the promotion of human.

SOLUTIONS:

The charter carters specifically for African continents, the normative clause discussed above can only be corrected through reformation of the charter. There is an urgent need for clear allocation of responsibility in order to increase cooperation and efficiency between institutions involved in promoting and protecting human and people’ s rights.