Name: Araka Anyakora Onyedika.

Matric no: 17/law01/067.

Challenges of African Human Rights Enforcement Mechanisms include:

* Limited Access to Redress:

 Most human rights promotion and protection mechanisms in Africa have as part and parcel of the law creating and enabling them, limited access to redress. Taking a look at the continental mechanisms that is the African Commission and the African Court on Human and Peoples’ rights, their enabling statutes (i.e. The African Charter and the Protocol to the ACtHPR) included clauses particularly, Article 56 of the Charter and Articles 5(3), 34(6) and 6 of the Protocol to the court, to the effect of limiting the number of people that can actually approach the court. This is evidenced in the ACtHPR cases of ***Michelot Yogogombaye v Senegal*** and ***Ekollo v The Cameroon and Nigeria***. where the court did not have jurisdiction as a declaration was needed from the various countries. Also, Article 55 of the African Charter enjoins the Commission to pick what cases or communications to hear.

* Solution:

The EU court access to court system should be adopted to replace the current ones.

Secondly, the Au should see to it that its member states make the necessary ratification and declaration needed.

* Bureaucracy:

 African human rights protection mechanisms are seriously plagued with bureaucracy to a suffocating point. Looking at the African Commission and the ACtHPR, there are lots of tapes to cut through for action to be taken. In the case of the African Commission, almost all its vital actions are being controlled by the Assembly of Heads of State.

Articles 58 and 59 of the African charter gives the Commission the duty of preparing reports and recommendations on human rights violations. These articles however, also make the publishing of these reports and recommendations subject to the request of the Assembly of Heads of State. This bureaucracy can be seen as a form of check on the arbitrariness of the commission, but it also makes the Commission ineffective. In the cases of ***Inter Rights on behalf of Ken-Saro Wiwa & Ors v Nigeria*** and ***Constitutional. Rights Project in Respect of Zamani Lekwot & Ors v Nigeria***, the Commission’s inquiry into the Nigerian government’s alleged violation of human rights was fatally late, and the eventual reports and recommendations were never published.

In the case of the ACtHPR, Article 2 of its protocol tied it to the African Commission, thereby, making it a supplement to it. This meant that the Court inherited certain flaws. For example, Article 6 of the Court which deals with admissibility of cases incorporated the opinion of the Commission as one of the classes.

 Also, the Human Rights Commissions of various states are answerable to the executive arm of government of those various states which makes almost impossible to effectively function as they would be protecting and promoting human rights at the detriment of the government particularly, the executive.

* Solution: Control of these institutions should only be to prevent arbitrariness and not making them ineffective thus, they should be allowed to publish reports and recommendations without seeking permission of the government or the Assembly of Heads of State. The protocol of the ACtHPR should be amended to make it free of the Commission and by extension, the Assembly of Heads of State.
* Lack of Independence:

This can take the form of dependence on funds or staff. Almost all H.R institutions are designed to be dependent on a parent institution to serve as a check, but in the case of African H.R institutions, the degree of their dependency is to the effect of rendering them ineffective.

For example, the African Commission under Article 41 of the ACHPR depends on the General Secretary of the AU for all its resources. It also needs instructions from the Assembly of Heads of State to function under Articles 58 and 59.

Also, the ACtHPR depends on the Commission under Article 6 to admit cases and also depends on the Commission under Article 33 for its rules of procedure. As stated earlier, the Human Rights Commission depends on the Executive arm of various state governments for virtually everything from funds to appointment of its staff and remuneration.

* Solutions:

The Human Rights Commission should be distanced from the claws of the Executive by giving it total freedom only to be checked by the Judiciary.

The ACtHPR and the Commission should be separated from each other as that of the European system and the unnecessary grip the Assembly of Heads of State and the General Secretary have on the Commission should be loosened.

Other problems include:

* Nonchalance of states to domesticate and make the necessary declarations for the proper functioning of the institutions;
* Gross disregard of the decision of the institutions;
* Lack of enforcement of institutional decisions;
* Lack of accountability, etc.