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ANSWER

The human rights commission is an association of authorities in human rights law that oversees the implementation of International Covenant on Civil and Political Rights by its State Members. The mechanisms for enforcing it may be divided into International, regional and national mechanisms. In this paper it’s the regional mechanisms we shall focus on. These are the African Court on Human and Peoples’ Rights, African Commission on Human and People’s Rights and ECOWAS Court of Justice.

Article 30 of the African Charter provides for the African Commission on Human and Peoples Rights which are embodied with the duty to ensure fundamental human rights are protected and upheld in African countries.

The African Charter did not provide for the Institution of the African Court of Human Rights. In 1998, the OAU endorsed the Protocol to the African Charter on Human and Peoples’ Rights on the establishment of the African Court on Human and Peoples’ Rights which came into force 25th January 2004. Its decisions are final and binding on state parties to the protocol.

The functions of the three regional mechanisms are similar, for instance they all promote and protect Human and Peoples’ Rights.

CHALLENGES

The challenges of the public institutions shows that the powers of the Courts are overly restrictive for instance;

1. Article 34(6) of the protocol limits the access of NGOs and individuals as the state concerned must make a declaration accepting the competence of the court to receive cases under Article 5(3) of the protocol. This has led to situations where the judicial functions of the court have mostly dismissed cases for lack of compliance with Article 34(6). In the case of **Ekollo Alexandre V. Cameroon& Nigeria**, the action against Cameroon and Nigeria failed because Nigeria had not made the Article 34(6) declaration and Cameroon had not ratified the protocol of the court.
2. Another challenge plaguing the public institution (ECOWAS) is the lack of means to enforce its decisions. The ECOWAS Court of Justice has held 374 court sessions and handed down 108 decisions since its supplementary protocol came into force. It would have been better if the court had a better means of enforcing its decisions and if there had been cooperation between the court and the institutions of Member States. Nevertheless the court has handed down some far reaching decisions with a good prospects, for instance in the case of **Ebrimah Manneh V. The Republic of Gambia**, the court held that Niger was in breach of the charter for failing of the Charter for failing to protect 24 year old Ms Mani from slavery and ordered damages of ten million CFA to be paid to Ms Mani.
3. One of the problems of the African Commission is that Article 55 of the African Charter on Human Peoples’ Rights provides that the commission may consider communications from person other than state parties, only if a simple majority of its members accept such communication. Article 56 also provides that such communications may be accepted if they were made after the exhaustion of local remedies, unless it is obvious to the commission that the local procedure is unduly prolonged.

This Article is difficult to comply with by individuals or non-state parties because certain violations require immediate redress and victim might suffer irreparable loss should he await exhaustion of local remedies. In the case of **International Pen, Constitutional Rights Project, Interights on behalf of Ken Saro-Wiwa Jr. and Civil Liberties Organization V. Nigeria** the Commission had ordered interim measure to forestall the trials and eventual execution of Ken Saro-Wiwa, without due process, but the order was not complied with by the Nigerian Government. At its October, 1995 session, the commission nominated the case and others to be discussed with the Nigerian Government during the Commission’s proposed visit to the country. The visit did not occur before 1997, long after Ken Saro-Wiwa along eight others had been executed.

SOLUTIONS

1. The solution to the first challenge is that AU should be able to make all the Member States to ratify the protocol and make the Article 34(6) declaration so that the cases can be admissible in the Court.
2. The solution to the second challenge which involves the ECOWAS is that the ECOWAS Court of Justice should have a way of enforcing its rules and should also be able cooperate with institutions of member states so that its rules and decisions can be enforced.
3. The solution to the last challenge involving the African Commission is that the laws should be reviewed because the procedure to use the local remedies may be prolonged and the individuals or victims violated may need immediate redress.