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**THE CHALLENGES PLAGUING THE PUBLIC HUMAN RIGHTS INSTITUTIONS IN AFRICA**

1. **THE AFRICAN COMMISSION ON HUMAN AND PEOPLE’S RIGHTS:**
2. **The requirement of the exhaustion of local remedies:**

This is provided for in **ARTICLE 56 OF THE CHARTER**. This serves as a challenge because it prevents the commission from dealing with issues or violations which require immediate redress and the victims may suffer irreparable loss if they should wait for all local remedies to be exhausted.

1. **The control of the Commission by the Assembly of Heads of State:**

This is provided for in **ARTICLE 58 OF THE CHARTER**. This was done to guard against arbitrariness, but it does not allow the Commission to be independent thereby rendering it ineffective.

This can be seen in the case of ***International Pen. Constitutional Rights Projects, Interights on behalf of Ken Saro-wiwa JR. and Civil Liberties Organization v Nigeria***, where the commission or council of heads of states did not reprimand Nigeria for not adhering to or complying with the interim order they gave to forestall the execution of Ken Saro-wiwa.

1. **The impunity of the Commission:**

This is provided for in **ARTICLE 59 OF THE CHARTER**. This impunity is as a result of the ability of the court to hide the details of its reports from the public.

This was also seen in the case of ***Constitutional Rights Project (in respect of Zamani Lekwot and six others) v Nigeria***, where the commission found Nigeria guilty of the violations of **ARTICLE 7 (1) (a) (c) AND (d) OF THE CHARTER** and recommended that Nigeria should free the applicants and so they did a follow up to ensure that the violations were repaired, but the commissions reports were never published.

**Solutions**

* The decisions of the commission should be made binding on all states through the use of the **MAPUTO PROTOCOL**.
* There should be a creation of awareness of the existence of the commission to all individuals.
1. **THE AFRICAN COURT ON HUMAN AND PEOPLE’S RIGHTS:**
2. **The problem of access of individuals and NGOs to the court:**

This is provided for in **ARTICLE 5 (3) AND (6) OF THE PROTOCOL**. This shows that the court cannot entertain matters that are before the commission and it must seek the opinion of the commission concerning cases to entertain.

1. **Non-compliance of African states with the ARTICLE 5 (3) and the optional ARTICLE 34 (6) declaration:**

This has affected the functioning of the court because only 7 states out of 26 member states have ratified the protocol and made the declaration. This has led to the dismissal of cases for lack of compliance with the provisions of the charter.

This was seen in the case of ***Amir Timan v Republic of the Sudan***, where the application for the enforcement of some provisions of the **ICCPR** was dismissed due to the lack of the optional declaration.

1. **Lack of Observer’s status of NGOs in accordance with the provisions of ARTICLE 34 (6) OF THE PROTOCOL:**

This is when NGOs do not possess the required observer’s status.

This is seen in the case of ***National Convention of Teachers Trade Union v Gabon***, where the application was dismissed due to lack of observer’s status as well as the optional declaration.

**Solutions**

* The jurisdictions of the commission and courts should be broadened concerning human rights cases in order to give individuals and NGOs easy access to the courts.
* The powers of the courts should be decentralized through the inclusion of the national human rights commission.
1. **THE ECOWAS COMMUNITY COURT OF JUSTICE:**
2. **The inability to enforce the decisions of the court:**

This is done by member states and so it undermines the efficiency of the court. There are rules that allow for the judgements to be binding on member states as seen in **ARTICLE 15 (4) OF THE ECOWAS REVISED TREATY** and when this is not adhered to the sanctions provided in **ARTICLE 2 (3) OF THE SUPPLEMENTARY ACT** would be utilized.

1. **Hinderance of easy access to court:**

There are some factors which hinder access to the court for individuals. They include

* The geographical location of the court.
* The Lack of provision for the approach of court by indigent litigants.

**Solutions**

* Member states should endeavour to demonstrate greater political will in the enforcement of the court’s decisions.
* Member states should also comply with the provisions of **ARTICLE 10 (f) OF THE 2005 SUPPLEMENTARY PROTOCOL** when dealing with the interpretation of the ECOWAS treaty as well as their texts.