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**TEST ANSWER**

There are various public institutions charged with the responsibility of promoting and protecting human rights in Africa. Some of them include; the African Commission, the African Court on Human and Peoples’ Rights and the ECOWAS Community Court of Justice. They are charged with the responsibility to uphold the respect for human rights across Africa.

These institutions stated above, however face underlying challenges in the fulfilment of their mandate. These challenges shall be examined below.

One of the major challenges in which these institutions face is the fact that their decisions are not regarded as binding upon the member states. Some member states may go against the principles or policies laid down by these institutions as a result of state sovereignty. Furthermore, there is lack of proper relationship between intra state institutions and these public institutions. The principles laid down by institutions in member states may go against the ones laid down by these public institutions.

In the case of **SERAP v the Federal Republic of Nigeria and Universal Basic Education**, Nigeria was held to have violated **Article 17 of the African Charter**, by not providing adequate and quality education for her people.

Another challenge faced by these institutions is the problem that comes with Individual access to these public institutions. This is mostly not a problem for the ECCJ as the protocol in 1991 which established it was amended in 2005 to allow individual access to it.

The African Commission and the African Court also allow individual access but this might be subject to some conditions. Individuals can approach the African Commission but they must first of all exhaust all local remedies in their state. It is a laid down principle of the African Court that an individual must exhaust all local remedies in his/her state before he approaches any of these institutions to seek for redress. This could be a major problem because there are certain violations that require immediate attention and there may be great loss suffered by an individual if he goes through the process of seeking local remedies first.

As for the African Court individuals can approach the court for redress subject to the conditions laid down in **Article 34(6) of the Protocol of the African Charter**. It provides that;

*“At the time of the ratification of this protocol or any time thereafter, the State shall make a declaration accepting the competence of the Court to receive cases under Article 5(3) of this Protocol. The Court shall not receive any petition under Article 5(3) involving a State Party which has not made such a declaration.”*

This is to say that an individual cannot approach the African Court if his/her state does not permit it.

Lastly, these institutions mostly handle cases on interstate matters and as a result of this; they pay less attention to actual matters of human rights violation. This is a challenge because, the major mandate of these public institutions is to promote and protect human rights. Therefore it is a challenge if there to no proper attention given to human rights violations.

It can be inferred from the foregoing that there are various challenges in which these public institutions face in fulfilling their mandate. However there are solutions to each challenge stated above and they shall be examined respectively.

Firstly, these public institutions should create proper enforcement measures for their laid down policies and principles. These institutions should go the extra mile to ensure that their principles are strictly adhered to.

Secondly, individuals should be given a free access to the court. The African Commission gives a condition of exhaustion of local remedies. This can serve as a problem because there are certain violations that require immediate attention and there may be great loss suffered by an individual if he goes through the process of seeking local remedies first. More so, the African Court cannot permit an individual approach unless his/her state approves it. These conditions serve as a challenge to these individuals. Therefore these institutions should provide free access for individuals.

Lastly, these institutions should also ensure that proper attention is paid to the cases of human rights violations. Adequate studies and research should be made on the state of respect of human rights and the rate of human rights violation in every member state.

In conclusion, there is much progress to be made by these institutions. However, despite these challenges, they have immensely contributed to the promotion and protection of human rights in Africa. Their policies and principles have created a level of great respect for human rights across Africa. To this end, member states should also endeavour to assist these public institutions in the promotion and protection of human rights.