MATRIC NUMBER: 17\LAW01/178

There are public institutions in Africa whose mandate is the promotion and protection of human rights. These institutions try their possible way to achieve their set mandate concerning the rights of humans. In trying to achieve and fulfill their mandates, there are quite a lot of challenges they face which make the fulfillment of these human rights mandates difficult. These public institutions in Africa are the African Commission, the African Court of Human and Peoples Rights (ACtHPR), the Ecowas Community Court of Justice (ECCJ). I will be combining and analyzing few of their challenges and try to proffer solutions to them in the subsequent paragraphs.

First of all, enforcement is a major challenge faced by the three institutions I mentioned above. They just pile up laws, mandates and the rest of that and don’t even take up measures for the content of these laws to be enforced. The protection and promotion of human rights I believe is just evident in the laws and not in enforcement. The laid down rules and laws need to be strictly enforced in order for the mandates to come to fulfillment. This problem of enforcement extends to the problem of lack of binding decision. The decisions of these institutions are not binding because of state sovereignty. This is evident in the case of *SERAP V. FEDERAL REPUBLIC OF NIGERIA AND UBE* although Nigeria was held liable. The solution to this challenge is that, less or no attention should be paid to state sovereignty so that the decisions of the institutions can be binding. The state wouldn’t have to decide whether or not the decision should be adopted but compulsory.

Secondly, these institutions have their concentration on Interstate matters instead of being focused only on actual human rights problems because that is basically what their mandate is about. Even though in the African Court, the court is precluded from deciding matters that are not based on human rights instruments at the suit of individuals as was demonstrated in the case of *EFOUA SAMUEL V. THE PAN* *AFRICAN* *PARLIAMENT*, they still fail to do this. It is safe to say that these institutions uphold state sovereignty over human rights just like I earlier mentioned. The solution I’d proffer to this is that these institutions should just stay focused on their mandate which is human rights and leave interstate matters.

Furthermore, individuals are restricted or limited from going before these institutions for help. This one is a major problem as individuals’ human rights are being violated every time and going to their various governments for help does solve the matter but only prolongs it. For example, *ARTICLE 55 AFRICAN CHARTER* makes us to understand that the African Commission may not consider communications from individuals or persons but state parties except if a simple majority of the members accept the communication. The condition here now makes it a challenge because an individual would have to wait for the approval of the members of the commission which means that if the members do not approve, the individual would be left to suffer the violation of his human rights. For the African Court, *ARTICLE 5(3) PROTOCOL TO THE AFRICAN CHARTER* makes it known that individuals and NGOs can apply directly to the court but subject to some conditions in *ARTICLE 34(6) OF THE* *PROTOCOL*. The condition which is that a state shall make a declaration accepting the competence of the court to receive cases under *ARTICLE 5(3*) now becomes a challenge because some states might not make the declaration making it impossible for an individual to approach the court. The solution here is that the restrictions and conditions placed on individuals’ access to these institutions should be removed and individuals should be allowed to access these institutions without stress.

Finally, the exhaustion of local remedies; even though the ECOWAS Court of Justice does not need the exhaustion of local remedies before one can approach the court, the African Commission and the African Court both need the exhaustion of local remedies. The exhaustion of local remedies is an issue because it only prolongs the violation and the effects of the violation. To exhaust local remedies takes time and most times, the government might not even give listening ears. The solution to this is that the rule of exhausting local remedies before approaching the commission or the court should be scrapped out and states and individuals should be allowed to approach the Commission and the Court directly whether or not local remedies have been exhausted.

Conclusively, amidst all these challenges, there are still some achievements that these institutions have attained. It is safe to say that the challenges of these institutions cannot be totally wiped out but appropriate measures should be taken by these institutions to order to minimize them.