NAME: AKPOME-EBOJOH OGHENETEJIRI EMMANUELLA

MATRIC NUMBER: 17/LAW 01/047

ANSWER

Promotion and protection of human rights has been the core for all international states. In Africa, public institutions have been put in place for the promotion and protection of the human ang people’s rights. some of which include:

The African commission was established by article 33 of the ACHPR to ensure that the fundamental rights are protected and upheld in African countries.

Challenges faced include:

1. **The commission’s ability to pick communications from non-state parties:** According to article 55 of the charter, non-state parties and individuals may bring information to the commission but the secretary of the commission will compile the communication and its members by a simply majority will choose the information which will be considered.
2. **The requirement of exhaustion of local remedies:** Article 56 states that communication will be accepted after the exhaustion of local remedies, unless the process of exhaustion of local remedies is unduly prolonged. There are certain human rights violation that must be redressed immediately if not the non-state party or individual will suffer unavoidable loss.
3. **Restraint by the assembly of heads of state and government:** the AHSG keeps the commission of a tight leash which has rendered the commission in effective. They can even decide whether a report may be published

In **International pen, constitutional rights project interights on behalf of Ken Sawo-Wiwa jr and civil liberties organization v Nigeria,** the commission ordered interim measures that were not obeyed by the Nigerian government. In their 1994 meeting the commission agreed on a visit to Nigeria. They visited two years later after ken saro-wiwa had been long executed and nothing was done about it.

1. **The commission may conceal from the public:** This is seen in article 59(1) In **constitutional rights project in Zamani Letwok & six other v Nigeria,** the commission found Nigeria to be in breach of the carter and having made their recommendations. The commission decide to bring the file to Nigeria; the commission visited Nigeria, but the file never saw the light of day.

The AcHPR was established by article 1 of the protocol of the ACHPR on the establishment of the AcHPR.

Challenges faced include:

1. **The advisory jurisdiction of the court:** The court has both contentious and advisory jurisdictions. The court has advisory jurisdiction to give opinion to members of the AU, its organs and any other African organization that is recognized by the AU. this is not compactable with the exercise of its contentious jurisdiction.
2. **Dependence on the commission:** African commission has made it impossible for the court to survive and function fully independent of the commission. This can be seen in article 33 of the protocol of the court where it states that the court and draw up its rule in consultation with the commission, article 5(1)b states that the court cannot entertain any case that is already before the commission.
3. **The problem of access of individuals and NGOs to the court:** article 5(3) and 6 are a major clog on the access of individuals and NGOs to the court. This has left a lot of individuals high and dry because their states have refused to make the declaration therefore gaining them access. In **falana v African Union**, Falana brought but this concern and requested that the court make the article 34(6) inconsistent with the African charter but this action failed. Article 6 provides for admissibility. this shall be ruled based on article 56 of the charter
4. **Non-compliance of African states to comply with the comply declaration under article 34(6):** this just shows that African states are yet to be comfortable with the idea of enforcement of the charter independent of member states. In **delta international SA AGL De Lange& M De Lange v south Africa**, the applicant’s claim failed because south African had not made the compulsory declaration; similarly, in **Amir timan v Sudan**. The claim failed because Sudan had not made the declaration

ECOWAS court: The supplement protocol of A/SP1/01/05 expanded the jurisdiction of the court to accommodate human rights violations

Challenges faced include:

1. **Problem of enforcement of decisions:** Member states are not pulling their weight in the enforcement of the court’s decisions. Article 24 states that the states should determine the competent national authority for the purpose of receipt and processing of execution and notify the community court accordingly. Only three member states have done this.

**SOLUTIONS.**

The solutions to some of the issues for the ECOWAS court will include the involvement and willingness of states to comply and enforce the court decisions as required by the community law.

Under the African court, the member states should accept the competence of the court to receive cases by the court to given NGOs and individuals access to court and the court should be made independent of the African commission

Under the African commission, the decisions of the court should be made binding on all states through the use of the MAPUTO protocol and good solution will be to abolish the commission and give the individual direct access to the court has was done by the council of Europe.