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**TEST.**

The African Charter is a regional treaty that strives to promote and protect human and peoples ‘rights in Africa. In order to perform these functions, certain institutions have been established and they include the African Commission for Human and Peoples Rights, African Court for Human and Peoples Rights and the ECOWAS Community Court of Justice. The African Charter is the legal backing for both the African Commission and the African Court and also the Ecowas Court. The cases which are brought before these courts are matters between state parties which are members to African Charter. These institutions can also receive cases from individuals as well as NGOs and corporate bodies in inter-state matters but these institutions focus more on the inter-state matters than focusing human rights problems.

Although, these institutions have been set for the sole purpose of promoting and protecting human rights in Africa, they still suffer some setbacks. Firstly, the core problem of the African Commission, African Court and the ECOWAS Court is the enforcement of their decisions. It is difficult to obtain adherence to judgements from member states as one of the basic principles of international law is that every state is sovereign and equal which means that no state can be compelled or forced to do what it doesn’t want to do. This affects the function of promoting and protecting the rights of people as the cooperation of state parties is needed. In the case of *SERAP v FRN*, the ECOWAS court held that the right to quality education is enforceable in Nigeria under *Article 17(1)* of the ACHPR as the CFRN did not oust its enforcement in the jurisdiction made by the Court’s Protocol. A solution to this challenge a decision be made by these institutions in order to prevent the Sovereignty of a state interfering with the protection of human rights.

Secondly, by virtue of *Article 50 of the ACHPR*, communication can be brought before the African Commission only after exhaustion of all local remedies but this isn’t necessary for both the African Court and the ECOWAS Court. These refers mainly to claims brought by individuals for wrongs done to them don by their states. Although, individuals are able to able to take claims before the courts directly, *Article 34(6)* of the Protocol to the African Charter sets a limitation on the African Courts which provides that only states which have accepted the ratification through a declaration made by member states while *Article 4 of the Supplementary* *Protocol* of the Ecowas Court provides a new Article 10 that gives individuals and NGOs direct access to the court for the violation of human rights member states of the ECOWAS. The need for states to make declarations for the ratification of the African Charter has set limitations on direct access to the courts. individuals would be unable to approach the courts directly because cases brought against states that haven’t made such declarations would not be accepted.

In the case of *Michelot Yogogombaye v Senegal*, it was held that the direct access by an individual is subject to a declaration by the respondent state authorisng such cases to be brought before the court. In order to solve this problem, it advisory that these limitations which have been set by the Protocols be removed so as to enable individuals whose states haven’t made these declarations to access the courts directly in cases where their rights have been infringed upon.

Furthermore, these institutions are unable to function independently of other forces. *Article 54* provides that a report of the activities of the commission be submitted to each ordinary session of the Assembly of heads of state and government and *Article 57* provides that the commission would have to make reference concerning a case to the Assembly of Heads of State and its only if they give their approval, ill an investigation be done. Also, the African Court has its dependence on the Commission given by various provisions of its Protocol. *Article 33* provides that it shall draw its rules in consultation with the Commission and *Article 6(3)* provides that the Court shall transfer any case that isn’t or doesn’t meet the threshold of its jurisdiction to the African Commission. Due to the firm grip and restraints put on the Commission and Court, it is pertinent to say that both the Commission and the Court may be ineffective and suffocated it is advisory that the checks made by the Assembly of Heads of State should be reduced and investigations by the Commission should be made without their approval.

Conclusively, the challenges faced by these institutions may prevent effective results in the promotion of human rights in Africa and without necessary corrections the protection of human rights would not be achieved.