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COURSE TITLE: HUMAN RIGHTS II

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TOPIC: PUBLIC INTERNATIONAL INSTITUTIONS

QUESTION

With the aid of legal authorities, identify and examine the challenges plaguing Public Institutions in Africa, whose mandate is the promotion and protection of human rights. In a creative way, proffer solutions to each problem identified.

ANSWER

The status of human rights in Africa compared to the status of human rights in other parts of the world specifically the western world leaves much to be desired in Africa. Thus the need for Public institutions in Africa such as Economic Commission of West African States (ECOWAS), African Commission on Human and Peoples Rights (AFCHPR), Human Rights Commission etc which not only promote but also protect human rights in Africa cannot be understated. These, public institutions are usually established with the aim to respect, ensure and fulfill human rights, this was laid down with respect to the AFCHPR in *Zimbabwe Human Rights NGO forum v. Zimbabwe* (2002).

CHALLENGES AND POSSIBLE SOLUTIONS OF PUBLIC INSTITUTIONS IN AFRICA

Public institutions are bedeviled with a number of challenges. Such as:

- 1) Lack of funding
- 2) Lack of political support which creates enforcement problems
- 3) Lack of awareness
- 4) Difficulty in individual access to these institutions

1. LACK OF FUNDING

Usually the source of funds for public institutions comes from donations made by member states. However, a challenge that cuts across almost all public institutions in Africa is the lack of financial support. Monetary resources are needed in order to conduct the day-to-day activities of these institutions, where there are not enough funds; the public institution suffers and as such is not able to carry out its mandate with respect to the promotion and protection of human rights.

A possible solution to this problem is to establish an independent fund for the public institutions or ensure a strict fund allocation regimen from member states. The organization of possible fund raiser events or mechanisms should also be considered.

2. ENFORCEMENT OF POLICIES

These institutions usually have little to no political support from the government of member states. The member states hide under the umbrella of the need to preserve state sovereignty but it is clear that they do not wish to relinquish too much power to public institutions so that no matter how many recommendations or suggestions these institutions make, they can only be implemented at the discretion of the member state government. Together with the problem of constant political instability it is no wonder that no enforcement mechanism exists. The challenge arising here is that as a result, policies remain for the larger part on paper and are not implemented. The absence of an enforcement mechanism means that all the recommendations and suggestions made by the institutions are not implemented. Thus states have no obligation to implement these suggestions or recommendations made by public institutions in carrying out their mandate.

To solve the above issue, a mechanism for the purpose of enforcing policies, suggestions and recommendations of the public institutions must be established. This will ensure compliance on the part of member states and further assist in ensuring that the mandate to protect and promote human rights is achieved.

3. LACK OF AWARENESS

Public institutions are set up to protect individual rights. This means that there is a need for individuals to be aware of their rights and thus know the right bodies to approach when these rights are violated. This poses a challenge for public institutions in the sense that only a handful of individuals are actually aware of their rights and only a smaller amount know these public institutions exist and should be contacted when their rights are violated. This problem stems from mass illiteracy and little to no appreciation for education especially in Africa; as such individuals have no knowledge of the existence of these public institutions or their rights.

A possible solution to this issue is the sensitization of individual about their rights and the necessary steps to take when they are violated. An effective way of doing this is by embarking on public awareness programmes, organizing seminars, making use of the press and mass media etc. This is why *Article 45(ii) of the African Charter on human and peoples rights* highlights one of the functions of the commission is to, “organize seminars, disseminate information ...” Similarly, the National Human rights commission also has the aim to “publicise human rights and efforts to combat all forms of discrimination by

increasing public awareness, especially through information and education and by making use of all press organs”. Thus the most effective way of solving the issue of lack of awareness is to embark on public awareness programmes.

4. DIFFICULTY IN INDIVIDUAL ACCESS TO THESE INSTITUTIONS

Up until recently individual access to these public institutions were impossible. They usually required or still require exhaustion of local remedies. Thus this creates a challenge especially with respect to human rights because individuals whose rights have been violated are unable to seek recourse.

A possible solution will be a reform or review of the constituting documents of these institutions to accommodate easy and direct access especially for individuals.