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***17/law01/135***

***Human Rights Test***

***LPI 306***

**Answer:**

The African commission on Human Rights is examples of a public institution charged with aiding Africans protect their rights. The African Charter on human and peoples’ right emerged under the protection of the African Union and it eventually gave rights to the African commission, which is a public institution. **Article 30 of the ACHPR** talks about the creation or establishment of the African commission on human and peoples’ rights and ensure their protection in Africa.

The mandate of the African Commission of human and peoples’ rights by virtue of **Article 45 of the African Charter on Human and People’s Rights.** They include:

1. To promote human and people’s rights.
2. To the protection of human and peoples’ rights under conditions laid down by the present charter
3. Interpret all the provisions of the present charter at the request of a state party, an institution of the OAU or an African organisation recognized by the OAU.
4. Perform any other tasks which may be entrusted to it by the assembly of Heads of Government.

Another public institution can be the African courts on Human and peoples’ rights. This court was established in **Article 1 of the Protocol to the African Charter on Human people’s rights.** It was adopted in Ouagadougou, Burkina Faso in June, 1998.

By virtue of **Article 2 of the Protocol to the African Charter on Human people’s rights,** the court is mandated to complement the protective mandate of the African Commission. It has both contentious and advisory jurisdiction. By virtue of **Article 7 of the protocol,** the court shall apply the provisions of the charter and any other relevant human rights instrument ratified by the States concerned. Hence the court is only here cases relating to human rights instruments. This can be seen in **Efouna Samuel v The Pan Africa Parliament.**

Another public institution can be the ECOWAS court of Justice. It is an organ of ECOWAS. It was established by virtue of **Protocol A/P1/7/91,** as well as **Article 11 of the Revised Treaty. Article 3 on the protocol on the community Court of Justice,** gives the composition of the ECOWAS court of Justice and its tenure of office.

**Challenges of the Public Institutions in Africa**

1. **Lack of enforcement ability**

The public institutions in Africa do not have any actual power and enforcement over laws. This ends up in them drafting up proposals to send up the chain of command to the Assembly of Heads of State and Government and they wouldn’t act accordingly. This was established or seen in the case of **Ken Saro-Wiwa Jr. v Nigeria.**

1. **Lack of Communication and visibility**

This can be seen when Member States fail to effectively disseminate the decisions of the public institution. Also, when Member States fails to respond or quickly attend to urgent appeals, communications and emergency needs can also be seen as a challenge. The institutions as well lack a communication strategy to effectively promote its visibility in the continent and beyond. Finally due to non publication or delayed publication for appropriate action and or public consumption, has led to the lack of awareness of the institutions’ recommendations and decisions. This can be seen in the case of **Zamani Lekwot & ors v Nigeria.**

1. **Inadequate commitment by Member States**

Some State members lack political will to implement the institutions’ decisions and recommendations, including provisional measures. This also includes States giving out false binding nature of the institutions’ decisions which results to alternative approach or false approach to their implementation. The non-compliance of States to the provisions of ***Article 62 of the African Charter on Human and Peoples Rights*** which provides that member states should report every two years issues concerning rights and freedoms in their States.

**Solutions to the challenges of the Public institutions**

1. **Communication**

The Member States should report regularly to the institutions on the status of implementation of recommendations and decisions of the institutions and when challenges arise from the implementation of such recommendation or decision, such should also be communicated to the institutions. The States should equally ensure continuous engagement with the institutions at all stages of the complaints handling procedure.

1. **Improved Commitment by Member States**

The Member States should strive to be more committed to the provisions of the public institutions statues. This would help in the enforcement of the rights of its citizens. Hence by constantly reporting the issues concerning the rights and freedoms of the citizens in their states, the rights would be enforced.

1. **Improved enforcement ability**

The institutions should issue out sanctions for the lack of enforcements of their decisions and recommendations by the Member States this would aid in improved enforcement of their decisions made pertaining to the parties.