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Course: Human Rights.

Challenges of Public human rights institutions in Africa.

Introduction

There are certain public institutions in Africa established for the purpose or with the mandate of promoting and protecting human rights amongst member states. These Institutions such as the African Commission on Human and People's Rights, the ECOWAS Court of Justice and soon. All these institutions have their achievements as well as their challenges. This writer shall focus majorly on the challenges of these Institutions.

Challenges of the public human rights institutions in Africa.

1. Enforcement mechanism: This is one of the most important part in any human rights system. The human rights institutions do not have enforcement mechanism put in place and so have to rely on the member states to enforce the judgements made and the states are largely unwilling as the judgement are usually against them. The African court can only make recommendations but no enticement. One serious injustice of the Human Rights mandate of the ECCJ is in its procedure where an applicant does not need to first explore the local remedies for the violation of his rights before resorting to the ECCJ. Where is justice in a case where the applicant has not given his country the benefit of the doubt to help him before resorting to the ECCJ to claim damages against the government of his country who neither violated his Human Rights nor was notified of the violation of his Human Rights? The ECCJ mandate should have made it mandatory for the applicant to first notify his country/ government of the violation of his Human Rights and seek for protection, and it is only after the government fails to help that he can now resort to the ECCJ.
2. Exhaustion of local remedies: some institutions provide that the victims must exhaust local remedies while some other institutions do not have such provisions. Article 50 of the ACHPR provides that the victim must exhaust all local remedies before seeking redress in the African Commission or it is obvious to the commission that the local procedure is unduly prolonged.
3. Lack of funds or resources for the institutions.
4. Diversity of African continent: this makes it hard to bring them under a particular jurisdiction as they are heterogeneous group of members under the African union.
5. The court rules and it's procedures are not detailed enough. The scope and nature of the Human Rights mandate of the ECCJ is not defined by law and ECOWAS does not have a catalogue of rights. There is therefore usually confusion for an applicant in sticking to which of the treaties or conventions or charter to invoke in seeking remedy in Human

Right cases.

6. Inadequate commitment by member states: this is largely because the states are sovereign states and are usually reluctant to bring their cases to then as they believe they are interfering with their matters. National courts of member states do not refer questions of interpretation of the treaty, protocol or ECOWAS legal text to the court as required as most member states believe that by so doing they are donating a part of their sovereignty to a foreign body.