EVALUATING THE IMPACT OF REGIONAL CONVENTIONS ON HUMAN RIGHTS: LESSONS FROM THE AFRICAN CHARTER, EUROPEAN CONVENTION AND AMERICAN CONVENTION ON HUMAN RIGHTS*

Abstract

The African Charter, the European Convention and the American Conventions on Human Rights remain the hallmark of human rights protection across the regions. Thus, the analysis how these regional conventions affect human rights in different regions of the world is imperative. This article evaluates the effectiveness of regional human rights mechanisms in protecting and promoting human rights. Through a comparative analysis of their structures, laws, and enforcement procedures, it examines how regional and national systems compliment each other in promoting human rights. The paper argued that regional promotions and protection of human rights remains an enduring mechanisms in the advancement of the cause of human dignity around the globe. The paper adopts doctrinal research methods in its analysis by examining relevant books, case laws and statutory provisions. It concludes with recommendations that regional collaborations are capable of fostering global protection and promotions of human rights. Ultimately, efforts in this regard will guarantee stability in the enforcement of human rights within the regions and by extension around the globe.

Keywords: Human, Rights, Regional, Conventions, African, European and Charter

1. Introduction

Prior to the emergence of regional human rights conventions, rights were seen as purely national issues. Although, many people expressed their anxiety that regional efforts would undermine the universal nature of human rights, doubts about the application and adoptions of regional approach were eventually resolved, and this paved way for the adoption of regional instruments.

Over the years, this regional human rights discourse managed to move the debate away from mere ideological principles to a more realistic programme capable of addressing regional human rights issues. As it grew in significance, there became an identified need for the regional protection of human rights. This was not to displace State's responsibilities in protecting the rights of its citizens, but to create an even greater protection and promotion of an all time need of human rights around the globe. It may be argued that due to historical, cultural, socio-economic and political disparities in the three main regions, it is ideal that each region has its own conventions on human rights. Drawing from the above, it must be emphasised that the European Convention on Human Rights (ECHR) was adopted in 1950,[1] the American Convention on Human Rights (AmCHR) emerged in 1967,[2] and in 1981, the African Charter on Human and Peoples' Rights (ACHPR) was adopted. These three conventions remain the key regional human rights instruments that promote human rights. This study will, *inter alia*, discuss the institutional structures and legal frameworks on regional protection of human rights and its interplay with national legal system. It further discusses the effectiveness of the regional regimes in promoting accountability and dialogue as well as a comparative analysis of the challenges faced by regional human rights systems.

2. The Phenomenon of Regional Human Rights Conventions

The European Convention on Human Rights being the very first regional convention, emerged after the Second World War (WW II) by the Council of Europe,[3] in light of the humanitarian catastrophe

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[1] The European Convention for the Protection of Human Rights and Fundamental Freedoms, opened for signature Nov. 4, 1950, 213 U.N.T.S. 222, 224 (entered into force Sept. 3, 1953).

[2] Organization of American States, 'American Convention on Human Rights.' Treaty Series, No. 36, Organization of American States, 1969 (hereinafter American Convention).

[3] The Council of Europe, established in 1949, is an international organization focused on promoting human rights, democracy, and the rule of law in Europe, comprising 46 member states and overseeing the European Court of Human Rights.

that led to the loss of lives of millions and properties as result of disregard of human rights. More importantly, the need to address several issues of human rights abuses and effectively prevent further occurrence of the events of WW2, informed the emergence of the Universal Declaration of Human Rights(UDHR).[4] This global human rights mechanism was adopted by the United Nations General Assembly (UNGA) on 10 December, 1948, through the establishment of a comprehensive framework of fundamental human rights which was to be universally respected.

The Council of Europe was actually founded in 1949 as a European organisation aimed at encouraging mutual relationship by governments and parliamentary cooperation of the States. More specifically, the whole essence of the Council of Europe was to promote greater unity and protection of common interests.[5] Shortly after its establishment, the European Convention was adopted in 1950 with ten (10) member States, and came into force in 1953. In developing common mechanisms of operation and uniform standards necessary for the operation of the European Convention, the preamble of the European Convention provides as follows:

> That every member of the Council of Europe works towards peace and unity based on the subject of human rights. It was to crystallize and give binding effect to rights in Universal Declaration of Human Rights.[6]

It is contended here that, one of the driving factors of the Convention is the fact that now, the ratification of the Convention is a prerequisite for joining the Council of Europe. Therefore, it is observed that in order to enjoy the benefits and acquire the status of member State of the Council of Europe, such State is required to ratify the Convention. In doing so, it will provide a platform for the government and give the European Convention the capacity to apply pressure on States in addressing issues of human rights abuses.

On the part of the American Convention, one would say that this Convention arose as a result of the adoption of the American Declaration of the Rights and Duties of Man[7] in Bogotá, Colombia in April of 1948. This Declaration emerged as the first global human rights mechanism of a general nature. The American Convention[8] was created in 1959, and held its first session in 1960, while in 1969, the American Convention on Human Rights was adopted, and entered into force in 1978. However, since August 1997, it has been ratified by 25 Countries. It is argued that, while the American Convention defines human rights, which the ratifying States agree to respect and ensure strict adherence, the Convention also creates the Inter-American Court of Human Rights[9] which clearly provides the functions and procedures of both the Commission and the Court. Worth mentioning is the fact that the Inter-American Commission on Human Rights (IACHR)[10] also possesses additional guidelines which evolved earlier, and does not emanates directly from the Convention. For instance, case analysis or prosecutions that involves countries that are contracting parties to the Convention.[11]

[4] The Universal Declaration of Human Rights (UDHR) was adopted by the United Nations General Assembly on December 10, 1948, establishing a comprehensive framework of fundamental human rights to be universally protected (herein after UDHR).

[5] MN Shaw, *International Law* (Sixth Edition, Cambridge 2008) 347.

[6] *Ibid* (n 6).

[7] The American Declaration of the Rights and Duties of Man, adopted in 1948, is the first international human rights instrument of a general nature and serves as a foundational document for the Inter-American human rights system.

[8] Organization of American States (n 2).

[9] The Inter-American Court of Human Rights, established in 1979, is an autonomous judicial institution of the Organization of American States (OAS) that adjudicates cases of human rights violations and provides advisory opinions on human rights issues in the Americas.

[10] The Inter-American Commission on Human Rights (IACHR) was established in 1959 as an autonomous body of the Organization of American States (OAS) to promote and protect human rights across the Americas. It investigates human rights violations, issues recommendations, and adjudicates individual complaints, often referring cases to the Inter-American Court of Human Rights.

[11] 'What is the IACHR?' (Inter-American Commission on Human Rights (IACHR)), available at <https://www.oas.org/en/IACHR/jsForm/?File=/en/iachr/mandate/what.asp>, accessed 2 October 2024.

In the region of Africa, after the creation of the Organization of African Unity (OAU)[12] in May 1963, a number of issues arose bordering on unwarranted violations of human rights, but the major concerns of the organization were on how to eradicate all forms of colonialism and apartheid in the region of Africa. While this remained the major focus of the Organisation, issues on the promotion and protection of human rights remained major challenges confronting the African region, despite its acceptance of the UDHR, 1948. In carrying out this mandate, a lot of resources were channeled into the programme aimed at decolonising Africa and eradicating all forms of apartheid that led to the deterioration of human rights situation in Africa. What is important to note here is that there were several allegations against the Organization on the basis that it claimed to condemn apartheid, but failed to condemn human rights violations in the region of Africa. This is one of the challenges that bogged down the Organisation, and later led to the emergence of regional human rights convention in Africa. However, the task of promoting and protecting rights in Africa gave rise to the 1979 United Nations (UN) sponsored Monrovia Seminar on the Establishment of Regional Commissions on Human Rights with special reference to Africa.

In this context, all efforts made were to ensure that the Organisation of African Union (OAU) now known as the African Union (AU) and its leaders uphold the spirit that gave rise to the struggle for political independence and restoration of the dignity of African people lost during slave trade by the colonial masters, an action that attracted global intervention and support.[13] On this basis, the Organization applauded the idea of establishing a regional convention to serve as a human rights mechanism, to guide the human rights jurisprudence and operations of the Organization. Thus, this led to the appointment of the OAU General Secretary[14] who formed a committee that drafted the contents of the Convention. Despite the challenges and several inconsistencies in the processes of the already existing regional conventions, the Charter was adopted in 1981 in a meeting held at Nairobi, Kenya, and on 21 October, 1986, the Charter came into force.

Also, in the context of sensitising human rights promotion in the region of Africa and ratification of global conventions on human rights, the importance of regional human rights conventions cannot be overemphasized. Although, there is evidence of progress with regard to ratification of global conventions relating to human rights, regional conventions have strengthened the enjoyment and protection of human rights across all regions, and due to shared culture, values and practices, it has really enhanced the level at which human rights are protected. This could be as a result of the emerging trends of non-governmental organisations and individuals involved in human rights violations as seen around the globe, today.

Moreover, these regional conventions complement the rules of Law of Nations. In contrast with the Law of Nations, regional conventions have a greater level of effect due to its proximity to the people; more pressure and forces capable of attracting obedience to the law. In the same vein, it may be stated that when domestic institutions fail to uphold the law, or when they appear to be the violators of the law, it then becomes necessary to seek redress beyond national boundaries. The question is, to what extent are our systems of justice ready to uphold the Conventions? Taking into consideration the fact that violations of human rights involve both agents of the State and private persons, implementation of these regional conventions face several challenges. In reality however, regional legal frameworks give violated rights-holders the possibility of bringing their cases before a regional body, provided that the Country in question remains an integral part of the framework, and in addition, all national remedies have either been exhausted or deemed ineffective.[15]

[12]The Organization of African Unity (OAU) was founded in 1963 to promote African unity and development and to eradicate colonialism and apartheid. It was replaced by the African Union (AU) in 2002, which continues these efforts with a broader mandate.

[13]'History' (African Commission on Human and Peoples' Rights, October 17, 2024) https://achpr.au.int/en/about/history accessed 5 October 2024.

[14]Peter Onu, as Secretary General of the Organization of African Unity (OAU), played a pivotal role in drafting the African Charter on Human and Peoples' Rights, adopted in 1981.

[15] 'Regional Human Rights Mechanisms' (Right to Education Initiative) available at <https://www.right-to-education.org/page/regional-human-rights-mechanisms>, accessed 10 October 2024.

3. Institutional Structures and Legal Frameworks

3.1. European Convention on Human Rights (ECHR)

The European Convention on Human Rights (ECHR) is very instrumental to global human rights law and freedom for individuals across Europe. In order to guarantee a sustainable implementation and efficiency of the Articles and Protocols of the Convention, the ECHR established several institutions. These institutions play a fundamental role in promoting and safeguarding human rights, providing a framework for ensuring accountability of States to their obligations under the Convention.

Aside from the European Convention on Human Rights, the European Court of Human Rights (ECHR) was created as a regional human rights judicial body based in Strasbourg, France, established under the auspices of the Council of Europe. Its functions are to interpret and apply the European Convention. The Court began sitting in 1959 and has delivered more than 10,000 judgments regarding alleged violations of human rights within the region of Europe.[16]
However, in 1998, the European Convention went through a series of reforms where the European Court and the Commission of Human Rights, were replaced in such a manner that a single Court functions on a full-time basis. The European Court of Human Rights is composed of 47 independent judges (one judge per State party). The Court receives applications from individuals, non-governmental organisations or groups of individuals who may be victims of violations by the States parties of the rights set forth in the Convention or the Protocols thereto as provided in Article 34 of Protocol 11.[17] In broad analytical terms, it should be noted that in 1998, as earlier stated, the European human rights system was overhauled in order to address several issues arising from the European Commission of Human Rights, which earlier presided over and accepted admissibility of complaints, oversaw friendly settlements, and referred some cases to the Court in a manner similar to the current Inter- American System. On this basis, this suggests that persons who are victims of any human rights abuses may submit their complaints on a personal capacity to the European Court of Human Rights.

The European Court, or 'Strasbourg Court' as it is also called, performs a complementary role with the European Committee of Social Rights,[18] which oversees the compliance of the European States in respect of matters bordering on social and economic rights. Through case-law, the European Court established the principle that the European Convention is to be interpreted as a living instrument, or to be construed in the light of present day conditions. Although, the Convention does not have direct horizontal effects on individuals, there are ways in which it can affect certain relationships between private individuals. One such area is where some articles are found to have imposed positive obligations on the States such as protection from domestic violence,[19] which obliges States to take measures to protect individuals from domestic violence including providing support services and investigating allegations and in the protection of children in which a positive obligation is imposed on States to take measures to protect children from abuse, neglect and exploitation.[20]

In assessing the applicability of the Human Rights Act, 1998, it is important to appreciate the fact that European Court of Justice (ECJ) is distinct from the European Court of Human Rights (ECtHR).[21] Formerly known as the Cour de Justice,[22] the ECJ is the Supreme Court of the European Union presiding over matters bordering on European Union law. With the decisions of the European Court of Justice (ECJ), issues of human rights have been recognised and construed as significant issues in the

[16] The Danish Institute for Human Rights 'The European Court of Human Rights' https://www.humanrights.dk/research/about-human-rights/human-rights-europe/european-court-human-rights, accessed 11 October 2024.
[17] 'Regional Human Rights Mechanisms' (n. 15).
[18] The European Committee of Social Rights (ECSR) is a body of the Council of Europe established under the article 24 & 25 that monitors compliance with the 1961 European Social Charter by examining national reports and adjudicating collective complaints regarding social and economic rights violations.
[19] European Convention on Human Rights (ECHR), Art. 3.
[20] *Ibid,* Art. 8.
[21] The European Court of Justice (ECJ), established in 1952, is the highest court in the European Union (EU) legal system, responsible for interpreting EU law and ensuring its uniform application across member states.
[22] French translation for Court of Justice.

agenda of the European Union (EU).[23] In this case, the Committee of Ministers is appointed to oversee the execution of judgment by member states, and to ensure compliance with ECtHR rulings.

Within the context of the powers of the Court to preside over matters, the European Court has adjudicated over several matters of notable nature that have remained landmark precedents. In the light of *Klass* Case in 1978, it is interesting to note that the European Court has warned against the risks of disregarding or even destroying democracy on grounds of defending it.[24] Bearing in mind public interest, the Court has carefully decided on several cases that have effects on the international community as provided in *Omojudi v. UK*,[25] and *Simpson v. UK.*[26]

3.2. **Inter-American Commission on Human Rights (IACHR)**

The Inter-American Commission on Human Rights (IACHR)[27] is one of the two frameworks used by the Inter-American system in achieving its primary aims and objectives. Its headquarters is located in Washington DC. The IACHR functions as an independent body within the Organization of American States (OAS), operating under mandates outlined in the OAS Charter and the American Convention on Human Rights. It represents all OAS member states, comprising seven members elected by the OAS General Assembly. The American Commission convenes regularly in Washington DC, conducting ordinary and special sessions throughout the year. Its Executive Secretariat provides administrative and legal support. Established in 1959, preceding the 1969 American Convention on Human Rights (ACHR), the IACHR's role is to safeguard and promote human rights in the Americas as outlined in Articles 34-51 of the ACHR. It receives and investigates petitions from NGOs, individuals, and communications from member states regarding human rights violations. It also makes recommendations to States to improve human rights situations.

The Commission convenes regular sessions twice a year, with additional extraordinary meetings as needed. Its workload significantly influences the Inter-American Court, as only the Commission and member states can submit cases to it. While theoretically equal, the Commission is increasingly assuming a quasi-judicial role. Currently, it comprises five male and two female commissioners who are appointed for a four-year term, and renewable once. Similarly, the Inter-American Court[28] consists of seven male judges serving six-year terms, renewable once. The Commission operates with a staff of seventeen lawyers, undertaking two main functions: processing individual petitions and carrying out visits around the Americas in order to gather human rights reports on member States. Some of its notable cases are *Velasquez Rodriguez v Honduras* (1988) which was the Commissions first contentious case which established the principle of disappearances as a human rights violation and *Myrna Mack Chang v Guatemala (2003)* in which the Commission's report led to the prosecution of those responsible for the murder of anthropologist Myrna Mack.

3.3. African Charter on Human and People's Rights

The African Charter also has its own Court although its mandate is not as expansive as the African Commission on Human and People's Rights. It plays a significant role in the promotion and protection of human rights in Africa. The Court is located in Arusha, Tanzania, and holds 4 ordinary sessions annually and extraordinary sessions when the President of the Court requests for it. Out of the 55 members of the African Union, 30 member states have ratified the Protocol to the African Charter on Human and Peoples' Rights on the Establishment of the African Court on Human and Peoples' Rights. The Court has jurisdiction to hear complaints on human rights violations allegedly committed by one of those States, when the complaints are submitted by the African Commission, a State party, or an

[23]The European Union (EU) is a political and economic union of 27 member states primarily located in Europe. It was established by the Treaty on European Union in 1993.

[24]"The European Court of Human Rights: The Past, the Present, the Future" [2007] American University International Law Review https://digitalcommons.wcl.american.edu/cgi/viewcontent.cgi accessed May 12, 2024.

[25](2009) 51 EHRR 10.

[26](1989) 64 DR 188.

[27]The Inter-American Commission on Human Rights (IACHR), (n. 10).

[28]The Inter-American Court, (n. 9).

African inter-governmental organization. Eight States authorized the Court to hear complaints presented by individuals and non-governmental organizations with observer status before the African Commission.[29] It must be emphasized that the celebrated Cases of *SERAC and CESR v. Nigeria*[30] which addresses the issue of socio-economic human rights violations has shown the need for human rights institutions in the region of Africa. In this sense, the emergence of the African Human Rights Court appears to be a panacea for a sustainable human rights system in Africa as found in other regions around the globe.

Looking at the three regional courts, one can conclude that their establishment in each region was necessary. The European Court of Human Rights covers mainly civil and political rights, and does not issue advisory opinions and tends to have a large caseload. However, the Inter-American Court of Human Rights and the African Court on Human and Peoples' Rights cover a wide range of areas spanning from social to economic rights. The Inter-American Court of Human Rights has a smaller caseload in comparison to the European Court of Human Rights while the African Court on Human and Peoples' Rights does not really have a caseload challenge. In similarity with the Inter-American system, the African system operates a dual human rights enforcement mechanism- the commission and the court. But the European human rights system since 1998 was structured to have a single permanent human rights enforcement mechanism, that is the European Court of Human Rights.[31]
The commission represents members of the Organization of the American States. The members of this commission are to serve for a tenure of 4 years and can only be re-elected once. It is a very autonomous and independent body as it makes its own rules and regulations which are however subject to the approval of the General Assembly.[32]

One of the primary enforcement mechanisms employed by the African Commission is the Communication Procedure, which allows individuals and non-governmental organizations (NGOs) to submit complaints or reports to the ACHPR regarding alleged human rights violations in African countries. Upon receiving a communication, the African Commission investigates the allegation, seeks clarification from the concerned state, and may engage in dialogue with relevant stakeholders to address the human rights concerns raised. This procedure serves as a vital avenue for victims of human rights abuses to seek redress and accountability at the regional level. It is a mechanism employed by the African Commission on Human and Peoples' Rights (ACHPR) to address human rights violations brought to its attention by individuals, groups, or non-governmental organizations (NGOs.[33]

Without prejudice to the obligations of other human rights Courts, it may be argued that European Court of Human Rights has handled relatively more cases alleging State responsibility for infringement of human rights than the African Commission and the Inter-American Court of Human Rights.[34] That said, it should be noted that the European Convention does not recognise economic, social and cultural rights. However, there are several instances of violations ranging from economic, social and cultural rights that were addressed indirectly under the umbrella of civil and political rights.[35]

[29]IJR Center, 'African Court on Human and Peoples' Rights', (2012), available at <https://adsdatabase.ohchr.org/> accessed 12 May 2024.
[30]No. 155/96 (2001).
[31]This was as a result of adopting the Eleventh Protocol to the European Convention (1994) 17 ELR 367, which provides in Article 19 that '…there shall be set up a European Court of human rights…it shall function on a permanent basis'.
[32]Inter-American Convention on Human Rights, Chapter 7, Article 34 to 39.
[33]TF Yerima, 'Human Rights Review', *An International Human Rights Journal*, (2010) Vol. 1.
[34]Many cases relating to civil and political rights are reviewed in Clapham, 'The "Drittwirkung" of the Convention'.
[35]CD Mzikenge, "The Doctrine Of State Responsibility As a Potential Means Of Holding Private Actors Accountable For Human Rights" *Melbourne Journal of International Law*, (2004) Vol 5.

4. Regional Human Rights Conventions Inter-play with National Legal Systems

The role of regional conventions in influencing national legislation has remained a very fundamental point in the promotion and protection of human rights around the globe. From a practical perspective, the role of regional human rights Conventions in enforcement of human right principles at the national levels would be thoroughly felt when they have the ability to influence the Laws and Acts passed by the legislative arms of the national governments in the defence and advancement of a greater safety of human rights. A very pertinent, but different question to ask is whether regional judicial practice influences national courts, other regional institutions and the international system. An important aspect of this question is whether the regional treaties and declarations are a source of law for national courts in their own internal human rights cases. The general question of whether conventional law can be transformed into Customary International Law (CIL) is obviously relevant to the application of the regional human rights conventions in national courts.[36] It may be argued that the scope of application of the regional conventions can be expanded when the sources for the creation of CIL are considered to include the principles and rules derivable from these conventions. In this sense, these norms could then be applicable by national courts within their regions. However, there are instances where the regional conventions themself cannot be invoked because of national constitutional impediments.[37] For example, the Nigerian and South African Constitutions require that international law be domesticated. Thus the African Charter on Human and People's Rights cannot be invoked in those countries without prior domestication. This is also the case in the United States and Cuba in the Americas and the United Kingdom and France in Europe. Consequently, the notions of agreement, decision and application are autonomous concepts of national governments. On this basis, it is worth noting that National governments should not under this regulation be precluded from adopting and applying in their territories stricter national competition laws that prohibit or impose sanctions on unilateral conducts engaged in by undertakings. However, regional conventions are to set standards by which member states are obliged to uphold as they are parties to the Convention. The above shows how domestic activities are regulated as the burden of promoting and protecting human rights of citizens lies on the State. More so, it should be noted that in trying to regulate the domestic affairs of the State, it sometimes creates a ripple effect in the harmonisation of the laws in that region while trying to protect the human rights of the citizens. Furthermore, there exists political and social pressure arising from States that violate the conventions. Thus, the above addresses the need for regional conventions, and implies that non-compliance associated with the Universal Declaration of Human Rights (UDHR) can be handled from the pressure orchestrated by the defaulting member States of the regional conventions. Regional conventions also create a legal obligation on the member states that have ratified the tenets of the convention to comply with them. Therefore, it ensures that the judicial interpretation and judgement should be in favour of the protection of human rights. Moreover, this means that cases decided in favour of human rights protection forms precedent for subsequent cases ensuring continuity and greater safety for human rights. Regional human rights also support member states with technical aid, funding and training to support the protection and promotion of human rights through capacity building.

In achieving all these duties and roles, the challenges which arise in the harmonisation of domestic laws are legal and cultural diversity. This could affect human rights protection when beliefs are in contradiction with the protocols of regional convention. Another challenge is that in agreeing to be a party to the regional convention member states have surrendered some of their sovereignty in the real sense. However, in practice member states are unwilling to surrender their sovereignty in compliance to the tenets of regional convention.

[36]GM Wilner, 'Reflections on Regional Human Rights Law' UNGA.
[37]*Ibid* (n 36).

A regional perspective provides a more nuanced understanding of the relative impact of international human rights institutions more generally as it allows for a contextualised examination of the actual processes underpinning the interaction between national, regional, and global human rights. The influence of each regional system is significantly shaped by several key factors. It depends on how domestic and transnational actors utilize the regional human rights system. These actors, which can include businesses, non-governmental organizations, and international corporations, play a crucial role in determining the system's effectiveness and reach. Another deciding factor is, the system's ability to adapt and respond to developments within its jurisdiction is essential. This includes how quickly and effectively the system can address issues of human rights violation, implement policies, and enforce regulations. The system's responsiveness can enhance or hinder its overall impact. Furthermore, the reactions of national governments within the regional system are critical. There is considerable variation in how different states engage with and implement the guidelines and frameworks provided by the regional system. These differences can lead to uneven application and effectiveness of the system's initiatives across the regions. National governments' policies, resources, and political will are all factors that influence their responses, thereby affecting the overall success and impact of the promotion and protection of human rights in the regional system.

The regional system in Europe has evolved into an intricate network of norms, institutions, and procedures, effectively regionalizing many facets of human rights law. The European system has achieved such a high degree of regional integration that it might be described as a case of shared sovereignty in the field of human rights.[38] While the Council of Europe serves as the primary human rights body in the region, the system also includes two other entities with some overlapping membership: the European Union (EU) and the Organisation for Security and Cooperation in Europe (OSCE). This development indicates a complex integration of various human rights frameworks across multiple organizsations, leading to a more unified approach to human rights issues within Europe. The collaboration and sometimes overlapping roles of these entities contribute to a comprehensive regional system dedicated to upholding and advancing human rights.

It is not sufficient for European states to simply enact domestic legislation as a means of implementing the European Convention of Human Rights. National governments also have an obligation to enforce the relevant laws and to affirmatively protect the rights of their citizens. This duty was recently affirmed in the 2009 case of *Opuz v. Turkey*,[39] which held that Turkey violated its obligation to protect women from domestic violence. The regional human rights system has generally dealt with few instances of extreme and widespread violations but the state has the duty to take positive steps to prevent such.

The democratisation of a broader Europe and the addition of new member states have posed significant challenges. These developments have made it increasingly difficult to maintain consistent regional standards and ensure high levels of compliance with the Court's judgments. The system is now overwhelmed with a large number of cases and operates with limited resources, complicating its ability to manage effectively.[40]

The inter-American human rights system has developed ambitious norms, heavily influenced by regional legal traditions that emphasize extensive formal constitutional protections for individual rights. A substantial body of literature has examined the political and quasi-judicial role of the inter-American Commission, which has a unique mandate to pressure regional states to comply with its

[38] CJ Petersen, 'Bridging the Gap?: The Role of Regional and National Human Rights Institutions in the Asia Pacific' *APLPJ* (April 2011).

[39] *Opuz v Turkey*, Appl. No. 33401/02, Eur. Ct. H.R. (2009), available at <http://www.unhcr.org/refworld/docid/4a2f84392.html.>, accessed 6 October 2024.

[40] P Engstrom, 'Effectiveness of International & Regional Human Rights Regimes', *ResearchGate* (February 2010).

recommendations, a mandate not present in the European system. The right of individual petition has improved the system. It now better addresses human rights issues. But, domestic litigants' ability to use the system varies by country. This is due to different levels of civil society mobilization.

Recent studies have increasingly focused on the Court's role in ensuring compliance with the system's norms. The Court's effectiveness is further limited by inadequate support from the Organisation of American State's political organs, evidenced by insufficient funding, poor quality control of elected judges, and the absence of a supervisory body akin to the Council of Ministers in the European system.

Despite these internal challenges, the spread of elected governments has generally improved human rights conditions in the region. The system now faces more cases of conflicts between state authority and individual rights. These arise from structural human rights violations due to weak states, not arbitrary power. These trends pose significant challenges for a regional human rights system designed to protect individuals from state actions, based on legal concepts of state responsibility, and assuming that states can be pressured to improve the situation when they are part of the problem and the solution.[41]

Summarily, regional conventions play a pivotal role in shaping national legislation, offering a framework for harmonized legal standards that enhance cooperation and integration among member states. While the process of harmonizing domestic laws presents considerable challenges such as legal diversity, sovereignty concerns, and varying administrative capacities; the opportunities for economic growth, improved human rights protection, and legal certainty are significant. Effective harmonization requires strong political will, inclusive dialogue, and robust mechanisms for compliance and enforcement. By addressing these challenges and leveraging the opportunities, regional conventions can profoundly impact national legal systems, fostering a more cohesive, cooperative, and just international community.

5. Promotion of Accountability and Dialogue

Beyond establishing institutions and structures, there is a role the regional conventions have to play in keeping member states accountable for their actions. When there is no means of keeping member states accountable and enforcing regulations and sanctions on defaulting states, the very essence and character of the convention is lost. This is because there would be no way to ensure progress and continuity.

It is settled that human rights generate three levels of duty for the state: to respect, protect and fulfil human rights.[42] This raises the issue of whether a state is responsible for every violation of human rights that occurs in the private sphere because the duty to protect is so wide. In the landmark case *Velásquez Rodríguez v Honduras*,[43] the Inter-American Court of Human Rights (IACHR) held that a state can be held responsible for violations occurring in the private sphere only where it can be shown that it failed to exercise 'due diligence' to prevent and respond to the violations. Other international and regional human rights monitoring bodies have since adopted the due diligence benchmark. This is one of the means by which states are kept accountable. The African Commission, for example, applied this test in the precedent-setting decision, *Social and Economic Rights Action Centre and the Centre for Economic and Social Rights v Nigeria.*[44] The African Commission determined that the Nigerian Government had violated the local people's rights to freely manage their wealth and natural

[41] *Ibid* (n 40).

[42] A Eide, 'Economic, Social and Cultural Rights as Human Rights' in Asbjørn Eide, and Others (eds), *Economic, Social and Cultural Rights: A Textbook* (Second Edition, 2001) 9 and 23; P Hunt, *Reclaiming Social Rights* (1996) 31-34.

[43] [1988] Inter-Am Court HR (ser C) No 4.

[44] African Commission, Communication No 155/96 (2001) ('SERAC Case').

resources, as well as their rights to health, a satisfactory environment, shelter, housing, food, and life. This violation stemmed from both the government's actions and its failures, as well as those of the oil companies. The Commission found that the government neglected its duty to protect the people from the harmful actions of the oil companies by failing to control and regulate their activities, thereby permitting these companies to deny or violate these rights without consequence.

The African Charter is one of the few human rights treaties that recognize both civil and political rights, and economic, social and cultural rights in one document, and subject both sets of rights to a complaints procedure. While the state responsibility doctrine is recognized, cases alleging the liability of states for violations of economic, social and cultural rights by private actors have rarely been brought before the African Commission. It is only in the *SERAC Case*,[45] mentioned earlier, where a state was found liable for violations of a range of economic, social and cultural rights by oil companies.[46]
Regular meetings, conferences, and working groups provide opportunities for states to exchange information, share best practices, and address common challenges related to human rights protection. By engaging in dialogue, states can learn from each others experiences, identify areas for improvement, and collaborate on initiatives to strengthen human rights protections regionally.[47]

The conventions often include provisions for monitoring compliance, such as reporting requirements and mechanisms for oversight by regional human rights bodies. Through these mechanisms, states are held accountable for their human rights obligations, as they are subject to review and scrutiny by their peers and independent expert bodies.[48] Moreover, regional conventions include provisions for dispute resolution mechanisms, which contribute to the resolution of conflicts and the promotion of dialogue. These mechanisms may include interstate complaint procedures, mediation, and arbitration, providing peaceful avenues for resolving disputes related to human rights violations. Regional conventions help foster cooperation and dialogue among member states. They do this by offering non-adversarial methods to resolve conflicts. This work contributes to peace and stability in the region.

6.1. European Convention on Human Rights (ECHR)

The European Convention on Human Rights has had a profound impact on the protection and promotion of human rights in Europe through its binding decisions, which member states are legally obligated to follow. This creates a strong incentive for states to align their national laws and practices with human rights standards. The court has also developed an extensive body of jurisprudence that has significantly advanced human rights protections across the continent. Furthermore, the ability of individuals to directly bring cases to the European Court of Human Rights enhances accessibility and provides a crucial avenue for redress beyond national courts.

However, the European Convention on Human Rights faces notable challenges. Compliance with the rulings of the court is inconsistent, with some member states delaying or resisting implementation, thereby undermining the court's authority. Additionally, the European Court of Human Rights is burdened by a substantial backlog of cases, which delays justice and negatively affects the timely protection of human rights. There is also tension between the European Convention on Human Rights and national governments, as the court is sometimes perceived as infringing on national sovereignty, leading to friction and reluctance in compliance.

[45] *Ibid* (n 44).
[46] CD Mzikenge (n 35).
[47] 'Workshops and Working Groups - Human Rights Education Youth Programme, available at <https://www.coe.int/en/web/human-rights-education-youth/worskhops>, accessed 5 August 2024.
[48] 'Instruments and Mechanisms', (OHCHR), available at <https://www.ohchr.org/en/instruments-and-mechanisms>, accessed May 17, 2024.

6.2. **Inter-American Convention on Human Rights (IACHR)**

The Inter-American Convention of Human Rights, which includes the Inter-American Commission on Human Rights and the Inter-American Court of Human Rights, plays a vital role in protecting and promoting human rights in the Americas. It offers a holistic approach to human rights oversight and protection, addressing both individual cases and broader systemic issues. The system's ability to issue precautionary measures allows for urgent protection in situations where individuals' lives or integrity are at imminent risk.

Despite these strengths, the Inter-American Convention of Human Rights faces significant challenges. Compliance with its decisions is inconsistent, with many states ignoring rulings or delaying implementation. This is compounded by resource constraints that limit the system's capacity to handle the increasing number of cases and precautionary measures effectively. The historical discrimination and exclusion faced by marginalized populations further complicate access to justice and underscore the need for stronger enforcement mechanisms and increased resources.

6.3. **African Charter on Human and People's Rights**

The African Human Rights System, consisting of the African Commission on Human and Peoples' Rights and the African Court on Human and Peoples' Rights, has contributed to the advancement of human rights across Africa through its binding court decisions and the Commission's oversight. The system addresses a wide range of human rights issues, reflecting the continent's diverse legal and cultural contexts.

However, the African Human Rights System faces similar challenges to those of the European Convention of Human Rights and Inter-American Convention of Human Rights. Enforcement of the African court's decisions is uneven, heavily influenced by the political will of member states. Many States fail to comply with rulings thereby diminishing the system's effectiveness. Resource limits also restrict the Commission and Court's operations thus impeding their ability to process cases and implement decisions. Additionally, marginalised groups, particularly those suffering from historical discrimination, face significant barriers to accessing justice.

7. **Effectiveness of the Regional Regimes**

7.1 Accessibility

Unlike state-to-state complaints, petitions by individuals and groups are subject to the threshold problem of accessibility. States Parties are presumed to have the capacity to avail themselves of the human rights regime that is their creation; private parties are not. A variety of factors essentially external to the human rights systems themselves ineluctably condition whether an individual or group can reasonably apply to a human rights regime to claim a human rights violation, and among these externalities one must certainly include the following: knowledge of one's human rights; knowledge of the existence of systems designed to promote and protect human rights; surrounding socio-economic and political conditions; expectations that the regime actually will provide redress versus expectations that the application will result only in retribution by the state; and the availability of counsel in the form of NGOs, lawyers and others to assist in the drafting and processing of complaints.[49] This last factor-the availability of counsel-may be at times the most critical. Taking these conditioning factors into account, it seems evident that, comparatively speaking, the European human rights regime is the most accessible of the three regional regimes. First, there is reason to believe that knowledge of the rights recognised by the European Convention and of the institutions and procedures designed to guarantee them is relatively widespread. Being the oldest of the three regional regimes, the European is, logically, a relatively familiar feature of the legal-political landscape. Operating in a First World setting where socioeconomic and political conditions favour high literacy rates and general access to the media, it is likely that knowledge about, and opportunity

[49] BH Weston and Ors, 'Regional Human Rights Regimes: A Comparison and Appraisal', *Vanderbilt Journal of Transnational Law*,[2021] (Vol.20), 614.

to know of, the regime is relatively easily accomplished.[50] The European regime appears to be not only impressively accessible by private individuals and groups but highly receptive to facilitating their access as well.

Regrettably because of the oftentimes oppressive socioeconomic and political conditions in the Americas and Africa, one cannot say the same thing about the Inter-American and African human rights regimes, or at least not to the same extent. The generally lower levels of literacy and education, the lesser availability of the media and of opportunities to exploit the media, and the strained if not altogether terminal economic conditions in these Third World regions necessarily cause the Inter-American and African human rights regimes to compare unfavourably to the European regime vis-a-vis their accessibility by private parties. Further compounding the problem, the legal systems of some of the Western Hemispheric and African countries-sometimes corrupt or ineffectual or both-frequently inhibit the belief that resort to a regional human rights regime will produce tangible positive results. Indeed, in those countries that arbitrarily deny the protection of law and that liberally employ military and paramilitary means to sustain the traditional power structures, there is not only scarce expectation that a human rights complaint will be justly redressed but a legitimate fear that it will result in retribution, not uncommonly of the most severe kind.[51]

The Inter-American regime makes up for these inadequacies to some extent by encouraging certain modalities and procedures that help to overcome some of the difficulties inhibiting or otherwise complicating individual access. Two techniques stand out in particular: the on-site study and the granting of standing to non-victims (i.e., NGOs and other interested parties) to bring petitions on behalf of victims.

Noting the importance of NGOs in the context of the African regime, the former Chief Justice of the Supreme Court of Zaire-Justice Lihau writes:

> It is essential that [private individuals and organisations] act without fail to send the Commission petitions and communications bluntly denouncing all those human rights violations in African countries that come to their attention - whether they are themselves victims of the violations or have seen, or been informed about others whose rights have been abused. If they take prompt action to alert the Commission to human rights violations as they occur, and if they act in concert to document these violations for the Commission and if at the same time they take steps to inform the public, there is no doubt but that they can in the long run contribute greatly towards changing the African human rights situation for the better.[52]

The African and Inter-American regimes authorise application by non-victims most liberally, allowing applications by nearly anyone as long as the application meets the tests of admissibility.[53] In contrast, as noted earlier, the European regime allows only victims or those with direct knowledge of a violation to make applications to the European Commission.[54] The threshold problem of accessibility thus revealed consequently serves as a basis not only for understanding but also for considering how the Member States might strengthen each of the regimes.

[50] This is not to disregard the reality that there exist in Western Europe many persons who are poor and illiterate or who, for other economic and social reasons, may lack opportunity to take advantage of the European human rights regime. It is a safe, though troubling, conclusion that those persons most in need of human rights protection often are the persons with the least access to the regimes designed to provide it.

[51] As Justice Lihau, former Chief Justice of the Supreme Court of Zaire and former Professor of Law at Kinshasa University, has noted of many of the African States:

Obstacles are inherent in the constitutional arrangements and the political systems of a large number of African States. Fundamentally oriented towards the establishment, the maintenance and the reinforcement of personal dictatorial power, the character of these national arrangements are as problematic as the Inter-African system itself, and only serve to facilitate all sorts of human rights violations. The attitude of the African masses-resignation in the face of the abuse of power, a heritage of the colonial and even the pre-colonial epochs-scarcely encourages them to firmly demand respect for their rights.

[52] BH Weston and Ors, (n 49), p 621.

[53] *Ibid*, (n 49), p 622.

[54] European Convention, (n 1), Art. 25(1).

7.2. Admissibility

Once a state, individual, group or NGO presents an application or petition to a regional commission, the issue arises as to whether or not the application or petition is "admissible"-that is, whether the commission to which it is brought is authorised to accept it. Reference to three considerations resolves this issue: first, whether the commission has jurisdiction over the parties; second, whether the application or complaint pertains to a right that the governing instrument expressly enumerates; third, whether the parties have proceeded according to the rules that the governing instrument prescribes.

(i) Party Jurisdiction: That the European, Inter-American, and African Commissions are limited in their jurisdiction over states and private parties bears repeating. The European Commission may entertain state-to-state complaints simply on the condition that the petitioner and respondent states are party to the European Convention,[55] but it may entertain individual petitions only if the respondent state "has declared that it recognises the competence of the Commission to receive such petitions."[56] Conversely, as an organ of the American Convention, the Inter-American Commission has automatic jurisdiction over individual applications,[57] but jurisdiction over state-to-state complaints exists only if the respondent state has formally recognised the competence of the Commission to receive and examine communications in which a State Party alleges that another State Party has committed a violation of a human right set forth in the Convention. Finally, the African Commission, granted perhaps the broadest jurisdiction among the three regional commissions, has authority to entertain both state-to-state complaints and private petitions automatically, subject almost alone to the requirement that the concerned states be party to the African Charter,[58] an arrangement that certainly improves on the European and Inter-American systems, whose jurisdiction of their commissions (and courts) could well stand expansion to the fullest possible extent, especially in respect of private individuals, groups and NGOs. On the other hand, the African regime is not without its own shortcomings. Regrettably, the African Commission may examine communications from private individuals and non-governmental institutions and groups only if the African Union (AU) Assembly of Heads of State and Government so requests and only if a majority of the Commission so decides, conditions that some informed observers have justifiably criticised.

(ii) Enumerated Rights

The second rule is that the interstate complaint and petition must allege a rights violation. The governing instrument must protect that right. This need is, on its face, unobjectionable. Two points merit attention. The three regional regimes show how well they protect rights. The three regional regimes recognise different rights. The narrower the scope of protected rights, the less effective the regime will be at safeguarding human dignity. For example, “second generation” rights under the reportorial regime of the European Social Charter. People prefer them to the European Convention's adjudicative protections. These rights include:

(a) Workers' right to earn a living in a job of their choice.

(b) The right of men and women to equal pay for equal work.

(c) The right of workers and employers to take collective action, including to strike, in cases of conflict.

The Council of Europe may have caused the protection of these rights to be less effective than they might otherwise have been, one may pause at the following differences:

(a) That the European Convention recognises the right to be free from debtor prison, but the American Convention and African Charter do not;

(b) That the American Convention recognises the right to juridical personality,[59] to reply,[60] to a name[61]

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[55] *Ibid*, Art. 24.
[56] *Ibid*, Art 25(1).
[57] American Convention, (n 2), art. 44.
[58] African Charter, (n 3), Art. 47-48, 55-56.
[59] American Convention, (n 2), Art. 3.
[60] American Convention, (n 2), Art. 14.
[61] American Convention, (n 2), Art. 18

and to a nationality[62] but the European Convention and the African Charter do not; or
(c) That the European and American Conventions recognise the right to privacy[63] and to legal protection[64] but the African Charter does not.

Of course, one also must acknowledge that the regional human rights regimes will be more or less effective in safeguarding human dignity depending on the way they define the rights they actually recognise in common. Like the European and American Conventions, for example, the African Charter recognises the right to a fair trial.[65] Unlike its European and American counterparts, however, it does not guarantee that the proceedings shall be public. Second, because clauses in the governing instruments allow the regimes to derogate from expressly enumerated rights (and in a potentially abusive manner if they interpret the clauses liberally), the three regional regimes are at some liberty to curtail even rights they formally recognise.

(iii) Rules of Procedure

Except for the general requirement that communications be in writing and addressed to the appropriate offices, only the Inter-American regime indicates any particular procedural preconditions for the lodging of inter-state complaints before its human rights commission. The American Convention's additional and previously noted proviso that inter-state complaints be inadmissible until the respondent state has formally recognised the competence of the Inter-American Commission is regrettable, even if explicable. The general picture is a bit more complicated when it comes to inter-state complaints before the European and Inter-American courts. First, States Parties to the conventions must have formally accepted the compulsory jurisdiction of the courts; and second, they must have at least attempted a friendly settlement. The compulsory jurisdiction requirement, though doubtless inescapable, is regrettable, and for the same reasons that one may rue the American Convention's optional inter-state complaint procedure. The friendly settlement requirement, on the other hand, seems unobjectionable-except, that is, for the possibility that States Parties might use it as a delaying tactic against the swift adjudication of otherwise admissible human rights complaints. In all three instances, before the respective commissions may assume jurisdiction the parties must have exhausted all domestic remedies. Also, the petition must have been filed within six months or a reasonable time thereafter, must set forth at least the name of the petitioner (no anonymous petitions are allowed)[66] and must not have been submitted to another international tribunal or proceeding.[67] Under the European Convention, in addition, the petition must be from an individual, group of individuals or NGO claiming to be a victim of a violation[68] and must not be "incompatible with the provisions of the Convention manifestly ill-founded, or an abuse of the right of petition". Under the American Convention, the only additional explicit requirements are that the petition states facts "that tend to establish a violation of the rights guaranteed by [the) Convention" and that it not be "manifestly groundless or obviously out of order". Under the African Charter, similarly, the only additional explicit requirements are that the petition be "compatible with the Charter of the [OAU] or with the present Charter" and that it be "not written in disparaging or insulting language directed against the state concerned and its institutions or to the [OAU]". In our world, where state power often abuse human dignity, the European Commission's petition process has a major flaw. It only allows victims to take part. It ignores the fight against oppression. Many people remain voiceless in the face of injustice.

[62] American Convention, (n 2), Art. 20.
[63] European Convention, (n 1), Art. 8.
[64] European Convention, (n 1), Art. 13.
[65] African Charter, (n 3), Art. 7(1).
[66] European Convention, (n 1), art. 56(1).
[67] European Convention, (n 1), art. 56(7).
[68] European Convention, (n 1), art. 25(1).

8. Comparative Analysis of the Challenges Faced by Regional Human Rights Systems

Human rights regional conventions, like any other framework experienced various setbacks in achieving their aims and objectives. These challenges can be in form institutional, procedural and or substantive in nature. However, these challenges are examined as follows:

8.1. The European Convention on Human Rights (ECHR)

The European Convention has been considered quite controversial for the sole reason that it is seen as an erosion of national sovereignty. The European Convention's jurisdiction extends over the 47 member states of the Council of Europe, which encompasses a diverse array of legal systems, cultures, and political ideologies. Some critics argue that the European Convention's authority undermines the sovereignty of these individual nations by subjecting their domestic laws and judicial decisions to international scrutiny. They argue that decisions made by an international court may override the democratic will of a nation's citizens or the rulings of its domestic courts. This tension between national sovereignty and supranational human rights standards is a fundamental aspect of the European Convention's existence and operation.

The European Convention also has a fatal case overload problem. The European Convention faces a significant backlog of cases, which has been termed a “fatal case overload problem”. The sheer volume of applications received by the court far exceeds its capacity to effectively process them in a timely manner. Delay in adjudicating cases can undermine the effectiveness of the European Convention as a mechanism for safeguarding human rights, as justice delayed is often justice denied. Furthermore, the backlog contributes to inefficiencies within the court system, potentially compromising the quality of decisions and impeding the court's ability to address pressing human rights issues. To fix the backlog, there are several efforts. They include procedural reforms, more court resources, and initiatives to promote domestic remedies for human rights violations. These aim to ease the ECHR's burden.

Many cases brought before the European Court of Human Rights involve intricate legal and factual issues that require careful consideration and analysis. These complexities can arise from the diverse legal systems and cultural contexts of the member states, as well as the evolving nature of human rights jurisprudence. Adjudicating such cases requires significant time and resources, further exacerbating the court's backlog problem and potentially delaying justice for the individuals whose rights have been violated. What makes this challenge even more complex is that, there have been claims that the judges[69] of the European Court of Human Rights are not actually qualified.[70] This claim has however, been debunked[71] in a verdict given by the Full Fact Organization, which reads: '*None of the judges at the Court are obviously unqualified based on their CVs, although they are voted in by a political body*'.

One potential solution to encourage compliance involves implementing financial penalties on states for prolonged failure to implement the court's decisions and comply with its rulings. The suggestion to establish a system of daily fines, known as "astreintes," for delays in fulfilling legal obligations was

[69]The Council of Europe, comprising 47 member states separate from the EU, selects three nominees from each state for assessment and voting by the Parliamentary Assembly. Members from each country, including the UK with its MPs and House of Lords members, participate in this process.

[70]"The European Court of Human Rights is no more than a joke. It is full of judges, many of whom are not even legally qualified, i.e. they are not actually real judges; they are pseudo-judges—who are political appointees from the member states who have been sent to make political decisions, not legal decisions"—*Philip Davies MP, 28 May 2015*.

[71]Concerns have arisen regarding the quality of nominees, with a 2003 report noting that political loyalty often outweighs merit in nominations. In response, the Council of Europe has revised its procedures, providing guidance to ensure nominees meet standards and requesting revised lists if necessary.

initially proposed by the Parliamentary Assembly of the Council of Europe (PACE) in 2000.[72] Another solution is that the principle of state sovereignty should not hinder the efficient enforcement of human rights. Jus cogens, a paramount customary legal principle that allows no exception and supersedes state sovereignty, holds a superior status within the hierarchy of international legal norms. This norm, including its application to certain human rights such as protection against torture, genocide, and crimes against humanity, has the potential to enhance the protection of rights under the European Convention on Human Rights (ECHR).[73]

8.2. The Inter-American Convention on Human Rights (IACHR)

With respect to the challenges and limitations of the Inter-American Convention, the Commission's mechanisms reveal a widespread issue: many people in various countries lack access to effective judicial protection, especially those historically marginalised due to factors like gender, race, ethnicity, or poverty. Despite some progress and legal reforms, significant gaps persist in due process at the national level. The regional human rights system serves as a crucial backup for victims, particularly evident in cases within the United States, highlighting urgent needs for national-level resolutions.

Another pressing challenge involves compliance with Inter-American Commission and Court decisions. Compliance has been a challenge, however, and only a minority of the Inter-American Court's judgments have been fully implemented.[74] While some positive steps have been taken by states to implement recommendations, many decisions remain unfulfilled, despite calls from the Organization of American States General Assembly for compliance. Greater efforts, including from political bodies within the Organization of American States, are necessary to meet the system's requirements effectively.

Furthermore, the effectiveness of the regional human rights system hinges on adequate resources to fulfill its mandate. Despite a surge in cases and requests for precautionary measures, resources remain insufficient. The Commission has a strategic plan in place, but it requires sufficient resources for implementation.

Given this context, strengthening regional systems poses a significant challenge, especially in the Americas' evolving geopolitical landscape. There's a growing need for local adherence to international human rights standards to assume leadership roles regionally and globally, moving beyond the past unipolar world order.The solution to these challenges involve a multifaceted approach. There is a need for enhanced compliance mechanisms to ensure that member states adhere to the decisions of the Inter-American Commission and Court. This could involve the imposition of sanctions for non-compliance and the provision of incentives for states to implement recommendations promptly.Additionally, streamlining procedures within the Inter-American system can expedite the handling of cases and reduce backlog. This may involve reviewing internal processes, enhancing efficiency, and allocating resources effectively.

8.3. The African Charter on Human and People's Rights (ACHPR)

This session appraises the limits and challenges of the African Charter. Amnesty International has, for two years, documented how African governments are undermining regional human rights bodies. They are ignoring their decisions, urgent appeals, and reports on national human rights. They are also starving them of needed resources. Governments also neglected the rights of people with disabilities

[1] [72]'Four Ways to Strengthen the Enforcement of the Judgments of the European Court of Human Rights' https://www.europeanleadershipnetwork.org/commentary/four-ways-to-strengthen-the-enforcement-of-the-judgments-of-the-european-court-of-human-rights/ accessed 30 September 2024.

[73] *Ibid* (n 72).

[74] JL Cavallaro and SE Brewer, 'Reevaluating Regional Human Rights Litigation in the Twenty-First Century: The Case of the Inter-American Court,' 102 AM. J. INT'L L. 791 (2008).

and older persons by failing to ratify treaties relating to their protection.[75] The Court embraces challenges by examining the approach taken with the European Court of Human Rights and the Inter-American Court of Human Rights, as it is useful in the issues related to legal reasoning and degree of independence from political authorities; issues to which the African domestic Courts are already confronted.[76] Besides the legal issues, the African human rights system is confronted with crucial issues of democracy, conflict resolution and development.[77] The Court confronts challenges by analyzing the methods utilized by the European Court of Human Rights and the Inter-American Court of Human Rights, as these approaches offer valuable insights into legal reasoning and the extent of autonomy from political influence. These are pertinent issues that African domestic courts already grapple with.[78]

9. Conclusion and Recommendations

In conclusion, while the European Convention of Human Rights, Inter-American Court of Human Rights, and African Court on Human and Peoples' Rights, each have distinct strengths in advancing human rights protections, and they also have similarities. In this regard, all three conventions established regional human rights mechanisms, emphasise state responsibility for human rights protection, and recognise individual and collective rights.

They also share common challenges such as inconsistent compliance, resource constraints, and accessibility issues for marginalized populations. The European Convention of Human Rights benefits from its binding decisions (strongest enforcement mechanism), and comprehensive jurisprudence but struggles with compliance and case backlog. The Inter-American Convention of Human Rights is notable for its holistic approach (its scope of rights has a broader rights catalogue), and precautionary measures but faces significant compliance and resource challenges. The African system's impact (Cultural relevance by incorporating regional values) is hindered by political will and resource limitations, despite its broad mandate. It is recommended that the United nations and the regional human rights bodies should ensure that the treaty implementation mechanisms embody strategies to secure stronger political backing for human rights protection, and foster regional collaboration while improving national execution. They should also embark on programmes aimed at raising public consciousness via targeted education initiatives. In addition, necessary resources should be allocated to support these critical efforts. More so, they should deliberate effort at fostering dialogue between regional and national institutions in order to bolster enforcement through robust mechanisms and sufficient funding.

[75] Amnesty International, 'Africa: Regional Human Rights Bodies Struggle to Uphold Rights amid Political Headwinds' (Amnesty International, August 8, 2022), available at <https://www.amnesty.org/en/latest/press-release/2020/10/africa-regional-human-rights-bodies-struggle-to-uphold-rights-amid-political-headwinds/>, accessed 11 November 2024.

[76] M Samb, 'Fundamental Issues and Practical Challenges of Human Rights in the Context of the African Union' [2009] (15) *Annual Survey of International & Comparative Law.*

[77] *Ibid* (n 76).

[78] African Charter (n 58).