

AN EXAMINATION OF ACCESS TO REPORTING MECHANISMS WITHIN REGIONAL HUMAN RIGHTS SYSTEMS

Yewande Olasunmibo Fatoki*, Dolapo Omotolani Olutayo and Matilda Adedoyin Chukwuemeka*****

Abstract

Human rights, a universal entitlement, face infringements that demand robust protection mechanisms. Instances of violations, whether by individuals or governments, underscore the necessity of vigilant monitoring. Regional human rights systems therefore play a pivotal role as the next resort when national remedies prove insufficient. This paper examines and analyzes the reporting mechanisms employed by regional human rights bodies. It asserts that these mechanisms are crucial in guiding reporting parties and ensures redress for contraventions committed by member states. The main argument revolves around the significance of reporting mechanisms as a tool for preserving the rights of regional body members. The research considers the statutes, laws, and rules governing each regional body, and offers an insight into their respective frameworks. Hence, a doctrinal methodology was adopted using primary and secondary sources. Findings reveal the diversity of mechanisms in place across regional bodies by discussing their role in safeguarding human

* PhD, Senior Lecturer, Faculty of Law, Lead City University, Ibadan, Nigeria. fatoki.yewande@lcu.edu.ng

** PhD, Senior Lecturer, Faculty of Law, Lead City University, Ibadan, Nigeria. Email: olutayo.dolapo@lcu.edu.ng

*** LL.M, Lecturer and Doctoral Candidate, Faculty of Law, Lead City University, Ibadan, Nigeria. Email: chukwuemeka.matilda@lcu.edu.ng

rights. The paper concludes by suggesting improvements to regional bodies to enhance accessibility and ensure member states' compliance with established human rights standards. Recommendations include procedural enhancements in reporting mechanisms, harmonization of standards across regional bodies, and increased public accessibility.

Keywords: Human rights, Regional bodies, Reporting mechanisms, Human rights systems

1. Introduction

Human rights have been defined in various ways by different writers. It was defined by Brendalyn¹ as entitlements due to each person for being human. Human rights are inherent rights afforded to all individuals solely by virtue of their humanity, irrespective of distinctions such as age, gender, race, socioeconomic class, religious beliefs, and other factors. The universality of these rights is predicated on the idea of equality, emphasizing the innate worth of every person. As Henkin asserts, human rights possess a universal and fundamental nature that transcends geographical and cultural boundaries. He contends that these rights are inalienable and impervious to deprivation, constituting an essential and irrevocable aspect of human existence.² Human rights are universally applicable to all individuals, fostering equality and fair treatment. While individual countries maintain their distinct human rights frameworks, the role of international human rights is paramount. The efficacy of human rights laws and standards hinges on their incorporation into national systems, demanding adherence by sovereign states. This integration of international human rights standards at the national level is crucial to realizing the 'promotion and protection of human rights'. Oversight at universal, regional, and national levels through

¹ Brendalyn Ambrose, *Democratization of the protection of Human Rights in Africa* (Greenwood Publishing Group 1995) 29

² Louis Henkin, *The Age of Rights* (New York, Columbia University Press 1990) 2.

diverse monitoring bodies ensures the efficient execution of these local human rights instruments.³

In instances where the domestic jurisdiction neglects the enforcement of human rights laws within its confines or when the national authority itself becomes a transgressor of such laws, the prospect of pursuing remedies beyond the confines of the nation's legal apparatus may arise.⁴In such circumstances, the recourse lies in the regional human rights system. This system is constituted by nations sharing a common geographical proximity, often characterized by shared cultural, economic, and political attributes. This shared context facilitates enhanced mutual understanding among these nations compared to interactions with international bodies. Consequently, these countries unite to form a regional framework for human rights.⁵The regional human rights system provides a recourse for a victim of human rights violations to present their case before a regional body. This option is premised on the condition that the implicated country is a member of the regional human rights system, and attempts to address the matter within the national legal framework have proven futile despite due consideration.⁶The significance of the regional human rights system cannot be overstated, given its role in promoting and protecting inherent rights." Within this framework, the regional system employs specific instruments to ascertain the responsibilities of states concerning alleged human rights violations brought forth by individuals.⁷The utilization of various legal instruments

³ Flavia Kroetz, 'Between Global Consensus of Local Deviation: A Critical Approach on the Universality of Human Rights, Regional Human Rights Systems and Cultural Diversity' (2016) 3 *Revista de Investigacoes Constitution 1*

⁴Right to Education Initiative, 'Regional Human Rights Mechanisms' <<https://www.right-to-education.org/page/regional-human-rights-mechanisms>> accessed 28 December 2023

⁵ Ibid.

⁶Ibid.

⁷ Universal Rights Group, 'A rough Guide to the Regional Human Rights Systems' available on

serves to instill and guarantee adherence to the global standard of human rights. These mechanisms are essential in fostering compliance with established norms. Additionally, specific regional human rights mechanisms are in place to oversee the implementation of these instruments, ensuring their practical application.⁸ This paper will discuss the development of regional human rights system. It will consider the various regional human rights systems and analyse their state and country reporting mechanisms. It will also identify the functions of the regional human rights bodies and their guidelines. The conclusion underscores the necessity for ongoing adaptation to address the changing landscape of human rights protection. The paper recommends a cooperative strategy to strengthen regional human rights systems and uphold their effectiveness in safeguarding and promoting human rights norms. Other recommendations include procedural improvements in reporting mechanisms, alignment of standards among regional entities, and enhanced public accessibility.

2. Regional Human Rights Systems

The essential functions performed by regional human rights systems are vital. These entities serve as vigilant overseers, advocates, and custodians of human rights across diverse global regions. Their significant impact is evident in their diligent efforts to safeguard human rights among member states within their respective regions. The creation of regional human rights systems was driven by the necessity to reflect and uphold unique regional values, offering a framework that is more specifically tailored to the needs of each region compared to the broader United Nations system.⁹

<<https://www.universal-rights.org/human-guide-to-the-regional-human-rights-systems>>
accessed 3 December
2023

⁸ *ibid*

⁹ Child Rights International (2018) 'Regional Mechanisms'

<<https://archive.crin.org/en/guides/un-international-system/regional-mechanisms.html>>
accessed 3 December
2023

The regional systems are:

- a. African Regional System.
- b. American Regional System
- c. European Regional System
- d. Arab Human Rights and
- e. Association of Southeast Asian Nations (ASEAN)

3. The Development of Regional Human Right System

The foundational framework of international human rights laws originates from the United Nations Charter and the Universal Declaration of Human Rights (UDHR). In adherence to these standards, states from diverse regional zones converged to formulate regional rules and institutions. This collaborative effort aimed safeguard basic rights, while concurrently preserving and endorsing regional characteristics and shared values among the participating states.¹⁰Regional human rights can be referred to as an appendage of the international human rights framework, with states holding a prominent role in guaranteeing human rights performance. While the growth of the regional system is autonomous, due consideration is given to the Universal Declaration of Human Rights (UDHR), acknowledging its significance in shaping and influencing regional human rights standards.¹¹Initially, skepticism surrounded the efficacy of regional systems, with many anticipating potential shortcomings. However, to date, these systems have demonstrated their effectiveness, dispelling earlier doubts.¹²

¹⁰Christof Heyns, Magnus Killander, 'Towards Minimum Standards for Regional Human Rights

Instruments' in Jacobs katz Cogan et al (ed), *Looking to the Future* (Brill | Nijhoff 2011).

¹¹Universal Rights Group, 'A rough Guide to the Regional Human Rights Systems' <<https://www.universal-rights.org/human-guide-to-the-regional-human-rights-systems>> accessed 3 November 2023.

¹² Carolyn Shaw, 'The Evolution of Regional Human Rights Mechanism: A focus on Africa' (2007) 6 *Journal of Human Rights*.

Within the framework of regional human rights systems, states are responsible for any infringements upon human rights. Individuals are not subject to prosecution or sanctions within this system, and the determination of individual responsibility for human rights transgressions is not within its purview. Membership in a regional human rights law system implies the state's commitment to safeguarding, respecting, and ensuring specific freedoms for its populace. Failure to fulfill these obligations, whether due to unfavorable laws, actions of the state or its agents, or neglect in preventing abuses or violations, renders the state liable for contravening its human rights responsibilities.¹³ The international standard for human rights is founded upon the principles of human dignity and justice. However, variations exist due to the diversity in cultural perspectives and social views.¹⁴

Shelton emphasized that regional systems necessitate the inclusion of a comprehensive list of human rights internationally guaranteed, alongside corresponding state duties and permanent establishments, and mechanisms for adherence or application. Despite disparities in historical and political contexts among regional bodies, Shelton highlighted shared characteristics and elements aligning with global human rights norms. Established criteria form the foundation of human rights instruments employed by regional human rights systems, encompassing both individual rights and the duties of member within the system.¹⁵ Several regional human rights mechanisms have been instituted to safeguard and impose human rights within specific

¹³International Justice Resource Center, 'Regional systems'
<<https://ijrcenter.org/regional/>> accessed 28 June 2023.

¹⁴Elvin Hatch, *Culture and Morality: The Relativity of Values in Anthropology* (New York: Columbia University Press 1983) 8.

¹⁵ Dinah Shelton, *Regional Protection of Human Rights* (New York: Oxford Press 2008) 15.

regions, ensuring compliance with standardized criteria. These mechanisms encompass:¹⁶

- a. Inter-state complaints mechanisms
- b. Individual complaint mechanisms
- c. Reporting mechanisms which are State report and Country report mechanisms

4. Functions of Regional Human Rights Bodies

The functions¹⁷ of the main regional bodies which are-Africa, America and Europe Regional Systems are:

- a. Deciding on complaints that have to do with the infringement on human rights by any member and give direction to concerned states to make necessary amends.
- b. They monitor situations on human rights through “rapporteurs¹⁸” and other special mechanisms with focus on specific countries.
- c. They make request for emergency protection when there is a complaint that a person is in danger of irreparable harm.
- d. They conduct public hearings and programs on concerned topics that involve human rights.
- e. They give advice on interpretation or application of regional standards.
- f. They provide for a state reporting mechanism through which the government or regional body reports the implementation of its regional human rights activities/treatise.

¹⁶Lisa Reinsberg, (2014) *What are regional human rights mechanisms and why engage them?*

<<https://www.newtactics.org/engaging-regional-human-rights-mechanisms/mondaytuesday-what-are-regional-human-rights-mechanism>>accessed 28 July 2023.

¹⁷Ibid

¹⁸ This means ‘a person appointed by an organization to report on the proceedings of its meetings’.

This paper discusses and accesses the reporting mechanism of the regional system.

5. Reporting Mechanism

The available reporting mechanism could be a state report or a Country report. State reporting is when a State communicates on a specific agreement or pact regarding the reporting States concession to certain treaty obligations.¹⁹ One of the requirements for most UN treaties is the submission of regular reports of adherence of regional human rights systems to treaty obligations²⁰. After it is submitted and examined, some questions on the “accuracy and legitimacy” of the report will be asked from the reporting State.²¹ There are two (2) assumptions²² to State reporting. The number one assumption is effect that publicity will have on the attitudes of states that have come to report. Reporting States try as much as possible to avoid bad publicity within the international system. They try to avoid being seen as failing to comply with international law standards as there is no State that wants to be seen to be opposing the international human rights law standards.²³ Every State always seeks ways to avoid publicity of their inactions or wrong actions when human rights are violated.²⁴

The number two assumption is that the reporting State is given a chance in its reports to properly look into the circumstances of human rights in its State while compiling the report²⁵. The reporting State ensures that its

¹⁹ Mark Freeman, Gibran van Ert, *International Human Rights Law* (Irwin Law 2004) 386

²⁰ See Art 40(1) of the ICCPR. See also Art 17 of ICESCR, Art 18 of CEDAW, Art 9 of CERD

²¹ Rhona K.M. Smith, *International Human Rights* (Oxford University Press 2003) 65.

²² *ibid*

²³ Scott Davidson, *Inter-American Human Rights System* (Dartmouth, 1997) 22

²⁴ Example is the Lekki Massacre of youths that happened in Lagos State in October, 2020 where the Nigerian Government is finding every means to deny its involvement in the killing.

²⁵ Rhona K.M. Smith, *International Human Rights* (Oxford University Press 2003)

members take a proper look into their “internal human rights situation” before submitting their reports. By this, they have the opportunity to make the report look good as necessary improvements may be made in it where needed. Minor points that may include certain information which may be helpful for any “new government” to know more about the position or level of human rights in the reporting state may also be added in the report.²⁶

The first step to consider in writing the report begins with the national reports which gives comprehensive analysis of the status of politics and the legal system of the State and compares it with international system.²⁷ The report primarily focuses on fundamental rights, although there is an increasing demand for the inclusion of socio-economic rights. Following the submission of the national report by the State, the regional human rights system incorporates its recommendations. These recommendations can vary, ranging from requests for states to conduct investigations into specific incidents to more minor or seemingly inconsequential implementations.²⁸ Subsequent to the formulation of recommendations, the reports are presented before the political bodies of the pertinent region to exert pressure on the State for compliance. As previously highlighted, due to the aversion of states to public scrutiny regarding human rights violations, the report being turned in may apply substantial pressure on a state found lacking in safeguarding human rights within its jurisdiction.²⁹

6. African Human Rights System

The framework outlined in the African Charter on Human and Peoples' Rights encompasses provisions pertaining to civil, political, economic, social, cultural, individual, and collective rights. This initiative resulted in the establishment of the African Commission on Human and Peoples'

²⁶ *ibid*

²⁷ Carolyn Shaw, 'The Evolution of Regional Human Rights Mechanism: A focus on Africa' (2007) 6 *Journal of Human Rights*.

²⁸ *ibid*.

²⁹ *Ibid*.

Rights (ACHPR), which is tasked with promoting and safeguarding human rights in Africa.³⁰ Additionally, the commission is responsible for reviewing reports concerning human rights matters in member states.

For any form of human right violation, Article 55 of the African Charter³¹ makes provision for complaint to be filed by the affected person or NGO with the African Commission within a rational time after all national redress have been tried to no avail. The complaints must comply with Article 56 of the African Charter that states the expected way in which complaints of infringement of human rights are to be communicated. The commission cannot enforce its decisions on its members.³²

7. State Reporting Mechanism of the African Human Rights System

According to Article 62 of the African Charter, every state party is required to provide a report every two years that lists all of the laws and other actions that have been passed since the current Charter's creation. Implementing the freedoms and rights recognised and guaranteed by the aforementioned Charter is the goal. While the article mandates all states to submit reports, it does not delineate the competent body for submission. As such, the commission was granted the authority to accept the reports by the Assembly of the heads of State and Government. The responsibility for defining the content of the reports was entrusted to the African Commission, which was tasked with establishing instructions for submitting reports.³³ The report is expected to be well detailed, stating the issues to be tackled.³⁴ The reports undergo public scrutiny during sessions conducted by the commission.

³⁰ESCR-NET, 'Regional Systems' <https://www.escr-net.org/resources/regional-systems> accessed 01 February 2024.

³¹ African (Banjul) Charter on Human and People's Rights (adopted 27 June 1981)

³²Heyns *op. cit.* 308-320.

³³Malcolm Evans, Rachael Murray, *'The African Charter on Human and Peoples' Rights: The System in Practice, 1986-2000'* (Cambridge University Press 2002)

³⁴Evelyn Ankumah, *'The African Commission on Human and People's Right: Practice and Procedures'* (1996) 83

States retain the prerogative to dispatch representatives to these sessions, affording them the opportunity to present the report, address queries, and engage in discussions on any issues raised.³⁵

8. Guidelines for Reporting³⁶

The first (1st) guideline for reporting is that the reports is to handle various rights under subject matter organisations which are placed under separate headings. They are:

1. Economic and Social rights
2. Civil and Political rights
3. Peoples' right
4. Specific obligations outlined in the Charter
5. Removal of Racism
6. Putting an end to prejudice against women

The next (2nd) guideline compliments the first guideline. After the consideration that the first guideline was too detailed, the new guideline was created and this guideline was straightforward and brief. It states briefly and clearly what the content of a report should be.³⁷ The report is expected to contain a succinct description of the state's legal system, form of governance, relationships between the different arms of the government, copies of the constitution and other relevant laws are submitted as well.³⁸ Despite the guidelines put in place, African States still lag behind when it comes to timely submission of reports³⁹. Relevant and concise information are also found missing in their reports⁴⁰.

³⁵Rules and Procedure of the African Commission, Rule 81-85.

³⁶ Chapter I – VII, Guidelines for National Periodic Reports
<<https://ihrda.uwazi.io/en/document/94pg4ayowbgig7dro6jchm2t9?page=6>> accessed 3 August 2023.

³⁷Evans *op.cit.*

³⁸ Rhona Smith, '*International Human Rights*' (Oxford University Press 2003) 133

³⁹ African Human Rights Commission <www.achpr.org> accessed 4 July 2024.

⁴⁰Evans *op.cit.*

9. Country Report Mechanism for African Human Rights System

The African system has no requirement that relates to country report and therefore does not engage in it. Though on several instances, country reports have been issued on some African nations including Nigeria,⁴¹

10. The Inter- American Human Rights System

The American Declaration on the Rights and Duties of Man was adopted by the Organisation of American States (OAS) in 1948, marking the inception of this regional framework. Subsequently, the Inter-American Commission on Human Rights (Commission) was established in 1959 to promote the enforcement of human rights. Later, the Inter-American Court of Human Rights (Court) was established in 1979. Both organizations are tasked with the responsibility of protecting and promoting human rights within their respective regions among participating governments.⁴² In line with Article 41 of the Convention, the Commission's principal responsibility is to safeguard and advance human rights.

11. State Reporting Mechanism of the IACHR

The IACHR releases reports on topics and countries of interest, while also overseeing the status of human rights across the hemisphere.⁴³ By the provision of Article 43⁴⁴, the IACHR has the power to make requests from

⁴¹Report Overview, '2019 Country Reports on Human Rights Practices: Benin' (2019) available on

<<https://www.state.gov/reports/2019-country-reports-on-human-rights-practices/benin/>> accessed 5 February

2024 see also 2019 Country Reports on Human Rights Practices: Nigeria (2019)

<<https://www.state.gov/reports/2019-country-reports-on-human-rights-practices/nigeria/>> accessed 5 February 2024.

⁴² Human Rights Council, 'Draft report on regional arrangements for the promotion and protection of human rights' (2017).

⁴³Lea Shaver, 'The Inter-American Human Rights System: An Effective Institution for Regional Rights Protection?' (2010) 8Washington University Global Studies Review4.

⁴⁴ACHR O.A.S Treaty Series No 36.

member states as regard the circumstances of their human rights. Using its discretion, conducts research and makes country visits and then compiles its report based on its findings. The IACHR also makes use of rapporteurs who are assigned to cover certain countries. They also compile their findings and make a report of it. The IACHR also releases annual reports which comprises of full detailed information of places visited, information on individual cases and reports of the rapporteurs.⁴⁵Included in the report prepared by the IACHR are recommendations to the State on ways to redress violations with deadlines given for when the State is expected to give information on how it wants to comply with the recommendations. The reports and recommendations of the IACHR is not binding.⁴⁶

The Inter-American Economic and Social Council of Education, Science, and Culture receives reports detailing the measures implemented to fulfill the rights outlined in the agreement, as mandated by Article 42. Subsequently, these findings are transmitted to the Inter-American Convention on Human Rights. However, the utilization of this system as a data source for the Human Rights in its nation reports poses a notable challenge, as it may lead to disparities due to the irregular activities of the Inter-American Commission.⁴⁷

Section four (4) of the Convention provides for the procedure for handling complaints on human rights violation. According to Article 48(1) (a – d), for every petition alleging violation that is received by the IACHR, based on the admissibility of the petition, certain information from the government of the state that has been accused of the violation must be gotten. The same government shall be furnished with a portion of the

⁴⁵ Right to Education Initiative, ‘Regional Human Rights Mechanisms’ <<https://www.right-to-education.org/page/regional-human-rights-mechanisms>>accessed on 4 January 2024.

⁴⁶Shaver *op. cit.*

⁴⁷ Kidanemariam Fekadeselassie, ‘Enforcement of Human Rights under Regional Mechanisms: A Comparative Analysis’ (2006) LLM Thesis and Essays, Paper 80.

petition within a reasonable time. It shall then later ascertain whether the ground for the petition still exists. If it exists and is admissible, the petition shall be examined to ascertain the facts provided in it. The concerned State shall be requested to furnish any pertinent information. Oral or written statements shall be heard on request.

Article 48(2) provides that if it is a serious and urgent case, only petitions that fulfill all the requirements of admissibility will be all the IACHR will need to investigate the complaint although with the permission of the concerned State. If a settlement is reached Article 49 provides that a report shall be drawn stating the facts and solutions reached. If a settlement is not reached, Article 50 provides that within the established time in statute, a report stating the conclusion of the IACHR shall be drawn. Separate opinion from any member shall be attached too if any. According to Article 51(1) where the issue is not settled within three months counting from the day the report was transmitted to the concerned state, the IACHR by unanimous voting may express its viewpoint and draw conclusions on the subject.

Article 51(2) stipulates that when deemed necessary, the Inter-American Commission on Human Rights (IACHR) is empowered to provide suitable recommendations and specify a timeframe within which the implicated state must undertake remedial actions. If the stipulated time elapses without adequate measures being implemented, the IACHR, through a voting process, determines whether the state's actions were sufficient or opts to publish the report. The Inter-American Court of Human Rights possesses the authority to issue precautionary measures in cases of 'extreme gravity and urgency'. It can also interpret member states' human rights commitments by issuing advisory opinions, and its directions are legally enforceable on governments that do not comply.⁴⁸

As an autonomous judicial institution, the Court serves as the ultimate recourse for addressing disputes and providing legal advice on questions of

⁴⁸Shaver *op.cit.*

law, particularly in instances involving the violation of human rights. Functioning as the final authority, it interprets the convention and adjudicates controversies pertaining to human rights issues. States that recognise the Court's authority and are parties to the American Convention on Human Rights are included in the Court's jurisdiction. Section 61 of the Convention does not grant anyone immediate access to the court; rather, it restricts admission to the court to members of the Inter-American Commission on Human Rights (IACHR).⁴⁹ For the court to hear the case, the procedures in Article 48 – 50 of the Convention must be adhered to.

12. Country Reporting Mechanism of the IACHR

Despite the lack of a clear protocol, this regional system makes use of the nation reports method. Its applications were established by the Commission claim of the Inter-American Commission's 1960 Statute, from which it derives its authority to advise states and to enter states with their permission.⁵⁰ The Commission decides on a country that it wants to prepare a country report on by considering the numbers of complaints received against such country. It would also consider the undemocratic governance of such a country. It also considers country where there is blatant violation of human rights. It can also make a request to the commission to prepare a country report on its behalf. In preparing a country report, the Commission may seek information from the concerned state, get information from different organisations. It may visit the country in question and also call and listen to witnesses. The political and legal system of the country is also looked into. Communication from individuals is also not left out. When all the necessary information has been gathered, the country report will be concluded and may sometimes include recommendations. Until recently, concerned countries were not allowed to respond to reports. But now, they are allowed to air their views as regard the report against them. The

⁴⁹Comparison with other Regional Human Rights Systems available on <humanrightsasean.info/mechanism/comparispn-with-other-regional-human-rights-system/> accessed 4-2-2024.

⁵⁰Fekadeselassieop.cit.

Commission still holds final decision as to the content of the country report. After going through the proper due process, the country report will be published, and forwarded to the Organisation of American States for discussion.⁵¹

13. The European Human Rights System (EHRS)

Following the establishment of the Council of Europe in 1949 and the enactment of the European Convention on Human Rights and Fundamental Freedoms in 1950, the European human rights framework was significantly reinforced. The European Court of Human Rights (ECHR), which underwent restructuring in 1998, was officially instituted in 1959 under Article 19 of the European Convention. Recognized as the primary instrument for safeguarding human rights in Europe, the European Convention on Human Rights (ECHR) plays a crucial role in upholding fundamental rights across the continent.⁵²

14. State Reporting Mechanism of the European Human Rights System

The European human rights system comprises the European Committee of Social Rights (ECSR) and the European Court of Human Rights (ECHR). Under Article 34 of the European Convention, the court has jurisdiction to adjudicate claims brought by individuals, non-governmental organizations (NGOs), or other parties alleging violations of their human rights. The Committee of Experts oversees the implementation of judgments and decisions, although it does not engage in direct supervision. The European system operates on the principle of 'individual application' outlined in Article 34, enabling complaints of various human rights violations to reach the European Court. The issue with individual complaint is that because it is overly dependent on individual's communication, other necessary information may not be detected as individual complaint might not disclose

⁵¹ *ibid*

⁵² Human Rights Council, 'Draft report on regional arrangements for the promotion and protection of human rights' (2017).

them⁵³ and where violation is enmasse, making individual complaint may not be adequate.⁵⁴ Article 38 provides that the court shall go through the case in the presence of representatives of the parties and when necessary, investigation is carried out. Article 39 provides that friendly settlement may be initiated at any level the proceeding has gotten to and if effected, the case shall be struck out with the decision forwarded to the appropriate committee for execution terms of settlement. Article 40 provides that the hearing of the matter be held in public except when the court thinks otherwise.

Based on Article 44, decisions rendered by the Chambers of the European Court of Human Rights (ECHR) become definitive. This is subject to the parties agreeing, within three months of the judgement that no request should go to the Grand Chamber. Additionally, in the event that the Grand Chamber declines the request or no such reference is made within this time frame, the Chambers' decision is final. Serving as an adjunct to the European Convention on Human Rights (ECHR), the European Committee of Social Rights (ESC) is charged with defending certain economic and social rights throughout Europe. Its system of collective complaints, which is described in Article 1 of the Additional Protocol to the European Social Charter Providing for a System of Collective Complaints, is one of its standout features. The ESC's adaptability gives member states the freedom to choose which clauses from the available charter to accede to. Furthermore, the ESC arranges for periodic reports to be available to the European Committee on Social Rights (ESCR), also referred to as committee of independent specialists. Member states submit reports detailing the implementation of the charter. Following careful examination of these reports, the committee issues a report indicating whether the

⁵³ C Medina, 'The Role of Country Reports in Inter-America System of Human Rights' 91997) NQHR 457,459.

⁵⁴ Fekadeselassie *op.cit.*

respective country is adhering to the ratified articles or not.⁵⁵ The conclusions are published annually in compliance to the provisions of the charter.⁵⁶

For the collective complaint system, the committee has power to hear matter brought against states that have ratified the Protocol. The complaint is then forwarded to the ECSR who then requests for information on admissibility. After the necessary procedure has been complied with, the ECSR issues a report which states the investigation and conclusion and it is made available to the complainant, committee of Ministers and all member states. A satisfactory vote to determine if the ESC was properly applied is then taken by the Committee of Ministers.⁵⁷ The European conventions do not utilize state reporting as an enforcement mechanism, unlike other treaties under the Council of Europe, which may necessitate periodic reporting.⁵⁸ The European Social Charter, for instance, mandates that the state provide reports.⁵⁹

15. Country Reporting Mechanism of the European Human Rights System

This system does not have any legislative nor statutory provisions on how member countries are to lodge reports. However, power to visit places of reports is made available to the Human rights commissioner and this could be annually, it could relate to certain issues or certain countries. During the report visit, places like prisons and detention facilities must be visited so as

⁵⁵ James Hart, 'The European Human Rights System' (2010) 102 Law Library Journal 533

⁵⁶ *ibid*

⁵⁷ *Ibid*

⁵⁸ Kim Lane Scheppele, Dimitry Vladimirovich Kochenov, Barbara Grabowska-Moroz 'EU Values are Law after all: Enforcing EU Values through Systemic Infringement Actions by the European Commission and the Member States of the European Union (2020) 39 Yearbook of European Law 13-19.

⁵⁹ See Article 21 of the European Social Convention.

to have first-hand information in the report. The report is compiled and it usually has no recommendation.⁶⁰

16. Arab Human Rights System

Arab States are not confined to a specific geographic region in the traditional sense, as they span across Africa and Asia. The Arab Charter on Human Rights (ACHR), which has been in force since 2004, was ratified by the Council of the League of Arab States. Following this, in 2009, the Arab Human Rights Committee was founded, whose job it is to monitor how its member governments are implementing the Charter by submitting state and monthly reports. The ACHR still support some provisions that contravene with human rights at international standard.⁶¹ Example is death penalty and gender inequality.

17. Reporting Mechanism of the Arab Human Rights System

The reporting system of this regional system is provided for in Article 48 (1)- (6) of the Arab Charter⁶² stating the time period which members are expected to submit their report. The charter stipulates that the initial report must be submitted within one year of the charter's entry into force, followed by subsequent reports every three years thereafter. Upon receipt, the committee reviews and deliberates on the reports, engaging with representatives of the concerned member states. Subsequently, recommendations are formulated in line with the charter's objectives. The committee is required to compile an annual report that incorporates states' responses to its inquiries and recommendations. This report is then formally presented to the standing Committee on Human Rights at the Arab League.

⁶⁰ Fekadeselassieop.cit.

⁶¹ Human Rights Council, 'Draft report on regional arrangements for the promotion and protection of human rights' (2017).

⁶² Arab Charter on Human rights (2004)

<http://www.eods.eu/library/LAS_Arab%20Charter%20on%20Human%20Rights_2004_EN.pdf>

accessed 5 February 2024.

The observations and recommendations issued by the committee are subsequently disseminated as public documents for wider accessibility.

18. Association of Southeast Asian Nations (ASEAN) Human Rights System Reporting Mechanism

Founded in 1967, the Association of Southeast Asian Nations (ASEAN), which aspired to advance peace, security, and the region's development, has laboured to create a strong intergovernmental Commission on Human Rights that would effectively protect inherent rights according to international standards. The human rights mechanism in Asia, particularly within the ASEAN framework, is notably weaker when juxtaposed with other regional human rights systems.⁶³ ASEAN has no court of human rights/ judicial body to file complaints to or to seek redress from when there is violation of human rights against a member state.⁶⁴

19. Conclusion

This paper has carefully and concisely analysed the regional human rights systems with focus on the reporting mechanisms of each system. The reporting mechanism is a system that is worthy of applaud as it enables member states to act as check on one another and member states are able to engage in meaningful dialogues that will not lead to confrontations. The international human rights system's provisions have been successfully superseded by procedures provided by the regional human rights framework. There is optimism that human rights violations that go unaddressed at the national level will be addressed at the regional level instead. The approach also incorporates sources from international human rights instruments. The system has also given more room of openness to

⁶³ Forum-Asia, 'Joint Statement: ASEAN needs a stronger Human Rights Mechanism' (2019), available on <<https://reliefweb.int/report/world/joint-statement-asean-needs-stronger-human-rights-mechanism>> accessed 5 August 2023.

⁶⁴ Hein Bui, 'The ASEAN Human Rights System: A critical Analysis' (2016) 11 Asian Journal of Comparative Law 1.

member states who can always voice out once there is an issue of violation against them either as a state, individual or NGO. Unlike the international system, the regional system is closer to the people, they are more accessible to persons to pursue their cases. Sanctions that are imposed by regional systems are usually more effective than international sanctions as no member state would want negative publicity.

20. Recommendations

A distinct method for reporting contraventions against a member state has been developed by each regional human rights system. However, given that the purpose of the reporting method is to better the conditions around human rights, there are still some infractions that cannot be ignored. The worldwide and regional standards must to be balanced. The following are therefore recommended:

- i. **Strengthening State Reporting Mechanisms:** There is a need for robust state reporting mechanisms and member are to be encouraged provide comprehensive and timely reports on human rights situations. Allegations against member states should be promptly reacted to. Member states or their representatives should be present during court proceedings regarding violation of human rights. Members should endeavor to participate fully in the reporting of human rights violations for many human rights violations still go unreported.
- ii. **Addressing Lapses in Reporting Protocols:** Lapses in reporting mechanisms should be identified, analyze and addressed. Member are enjoined to turn in their reports timely with all necessary details clearly given and whichever state defaults to be sanctioned. Concrete measures to overcome challenges in the reporting process should also be proposed and the efficacy of these systems in promoting and protecting inherent rights should be ensured.
- iii. **Comparative Analysis with Universal Systems:** A comparative analysis of the usefulness of regional reporting

systems should be conducted alongside the universal systems. Areas where regional mechanisms can learn from or contribute to global human rights reporting practices should be identified.

- iv. **Promoting Active NGO Participation:** There is a need for increased participation of Non-Governmental Organizations (NGOs) in reporting mechanisms. NGOs should be given the opportunity to participate in country reports and their role in state reporting should be made more robust. They should be allowed to participate fully and conspicuously in state reporting. For those already participating, their valuable contributions to the reporting process should be recognised. .
- v. **Publicity and Awareness Campaigns:** Adequate publicity should be given as regard country reporting and state reporting. This will make concerned states to sit up and avoid bad publicity. It will also prompt effective communication strategies for concerned states and human rights issues will be promptly addressed. However, negative publicity should be discouraged.
- vi. **Guidelines and Uniformity:** Member state especially in Africa should maintain openness. They should report when necessary and not cover up for member states. Guidelines should be laid down and followed by member states as it was laid down for the African region for human rights. This will encourage uniformity in contents of the report.
- vii. **Inclusive Reporting Scope:** Non-African organizations should be allowed to report African member states human right contraventions engaged in by them. This will give room for a comprehensive view of human rights violations beyond member states.
- viii. **Empowering Individual Complaints:** Individual complaints should be encouraged especially before the Inter-American Court. Hence, reports should not be limited to member states. This will contribute to a more inclusive and accessible human rights reporting framework.