



THE LEGAL MANDATE, INSTITUTIONAL STRUCTURE, AND ENFORCEMENT MECHANISMS OF THE AFRICAN COMMISSION ON HUMAN AND PEOPLES' RIGHTS: ACHIEVEMENTS AND CHALLENGES

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ABSTRACT :

The African Commission on Human and Peoples' Rights (ACHPR) serves as a principal regional institution for promoting and protecting human rights in Africa. Established under the African Charter on Human and Peoples' Rights in 1987, the Commission operates through promotional, protective, and quasi-judicial enforcement mechanisms. This article examines the ACHPR's legal mandate, institutional composition, and enforcement procedures, highlighting both achievements and ongoing challenges. Through detailed case studies, an analysis of special mechanisms, and a review of interactions with member states, the study demonstrates the Commission's impact on human rights jurisprudence and domestic policy reforms. It critically evaluates constraints, including the non-binding nature of decisions, political resistance, financial limitations, and procedural delays. Finally, the article provides practical recommendations to strengthen ACHPR effectiveness, including enhanced collaboration with the African Court, institutional capacity building, and clarification of legal norms. By integrating theoretical and empirical perspectives, this study offers a comprehensive assessment of the ACHPR's role within the African human rights framework.

Keywords: ACHPR, African Charter, human rights, enforcement mechanisms, African Court

1.0 Introduction

The promotion and protection of human rights in Africa has historically been constrained by a combination of colonial legacies, authoritarian governance, economic inequalities, and social conflicts (Viljoen, 2012). During the colonial era, African populations experienced systemic violations of civil, political, economic, social, and cultural rights, with colonial administrations prioritizing state control over individual welfare. Following independence, many African countries faced political turbulence, coups, civil wars, and authoritarian regimes, which compounded human rights violations and undermined domestic mechanisms for accountability. These historical realities underscored the need for a regional human rights framework capable of monitoring state conduct, promoting norms, and providing remedies to victims of violations.

In response to these challenges, the Organization of African Unity, now the African Union (AU) adopted the African Charter on Human and Peoples' Rights in 1981, which entered into force in 1986. The Charter established the African Commission on Human and Peoples' Rights (ACHPR) as the principal body responsible for overseeing the promotion and protection of human rights on the continent (African Union, 1981). The ACHPR's mandate was explicitly designed to bridge gaps left by national human rights systems, to provide both preventive and remedial measures, and to engage with civil society organizations to foster awareness of rights and obligations.

Since its establishment, the ACHPR has operated in a complex political environment. While some member states have embraced its recommendations and incorporated them into domestic law, others have resisted, citing issues of sovereignty, political sensitivities, or financial limitations. This tension between legal authority and practical compliance has influenced the Commission's effectiveness and highlights broader challenges faced by regional human rights institutions globally (Mutua, 2008). Nonetheless, the ACHPR has contributed significantly to establishing norms, shaping jurisprudence, and enhancing the visibility of human rights issues in Africa. This article critically examines the ACHPR's legal mandate, institutional structure, and enforcement mechanisms. It also highlights achievements, identifies ongoing challenges, and offers practical recommendations for strengthening the Commission's role in the protection of human rights across Africa.

1.1 Legal Mandate of the African Commission on Human and Peoples' Rights (ACHPR)

The legal foundation of the African Commission on Human and Peoples' Rights (ACHPR) is enshrined in the African Charter on Human and Peoples' Rights (the African Charter), adopted in 1981 and entering into force in 1986. The Charter codifies a comprehensive catalogue of civil, political, economic, social, and cultural rights, as well as collective or peoples' rights, reflecting Africa's distinctive socio-political context and communitarian values (African Union, 1981). Articles 45 to 59 of the Charter explicitly define the Commission's establishment, powers, and functions, thereby conferring on it a tripartite mandate promotion, protection, and interpretation of human and peoples' rights across the African continent.

1.1.1 Promotional Mandate

The promotional mandate of the ACHPR constitutes a foundational pillar of its work. Under Article 45(1) of the Charter, the Commission is tasked with promoting human and peoples' rights through research, education, and dissemination of information. It undertakes activities aimed at cultivating awareness of human rights obligations and ensuring that domestic laws align with Charter standards. To achieve this, the Commission organizes seminars, workshops, and symposia that bring together state officials, legal practitioners, and civil society organizations to deliberate on human rights challenges and share best practices (Viljoen, 2012).

In addition, the Commission collaborates with non-governmental organizations (NGOs), academic institutions, and United Nations agencies to advance rights literacy and institutional capacity-building. Through the preparation of General Comments and thematic resolutions, the ACHPR provides interpretative guidance on the scope and application of Charter provisions. For instance, the General Comment on Article 14 of the Protocol on the Rights of Women in Africa (Maputo Protocol) elaborates on state duties regarding reproductive health rights, while the General Comment on Economic, Social and Cultural Rights (2014) clarifies the obligations of states to progressively realize rights to education, health, and adequate housing (Fombad, 2014). These interpretative outputs have influenced constitutional reforms and domestic jurisprudence in countries such as South Africa, Kenya, and Ghana.

The Commission's periodic reporting system, established under Article 62 of the Charter, further reinforces its promotional role. States are required to submit reports every two years detailing measures adopted to give effect to the rights and freedoms recognized in the Charter. Through this process, the Commission reviews national compliance, issues concluding observations, and offers recommendations aimed at improving human rights standards. Although compliance with this obligation remains inconsistent, the mechanism serves as a key accountability tool, fostering dialogue between the Commission and member states.

1.1.2 Protective Mandate

Complementing its promotional function, the ACHPR also exercises a protective mandate, which empowers it to address both individual and collective human rights violations. Articles 47–59 of the Charter outline this authority, allowing the Commission to consider communications submitted by states, NGOs, or individuals alleging violations. Under Article 55, the Commission may also initiate investigations on its own motion (*suo motu*) when it receives reliable information about serious or massive violations.

Through these mechanisms, the ACHPR has developed a significant body of jurisprudence that has shaped the understanding and application of human rights norms in Africa. Notably, in *Social and Economic Rights Action Centre (SERAC) and Another v. Nigeria* (2001), the Commission held Nigeria responsible for failing to protect the rights of the Ogoni people against environmental degradation and socio-economic deprivation caused by oil exploitation. The decision was instrumental in recognizing the interdependence of civil and socio-economic rights and inspired legislative and judicial reforms within Nigeria and beyond.

Similarly, in *Centre for Minority Rights Development (Kenya) and Minority Rights Group International on behalf of the Endorois Welfare Council v. Kenya* (2010), the Commission found that the forced displacement of the Endorois community violated their rights to property, culture, and development. The ACHPR's recommendations for restitution and compensation underscored the growing recognition of indigenous peoples' rights within Africa. The Communication 155/96, *The Social and Economic Rights Action Centre and the Centre for Economic and Social Rights v. Nigeria* (2001) and *The Ogoni Case* reaffirmed the Commission's capacity to address collective rights and environmental justice concerns (Viljoen, 2012).

Furthermore, the Commission conducts fact-finding missions and country visits to investigate alleged violations and engage directly with state authorities. These on-site investigations have proven essential in contexts where access to justice is limited or domestic remedies are ineffective. The findings are documented in activity reports submitted to the Assembly of Heads of State and Government of the African Union, enhancing transparency and accountability.

1.1.3 Interpretative and Advisory Role

Beyond its promotional and protective functions, the ACHPR also performs an interpretative mandate under Article 45(3), which authorizes it to provide opinions on any legal issues relating to the Charter at the request of a state party, an AU organ, or an African organization recognized by the African Union. Through this function, the Commission contributes to the progressive development of African human rights jurisprudence. Its interpretative opinions often bridge gaps between the Charter's broad provisions and contemporary human rights concerns, such as gender equality, digital privacy, and climate justice.

1.1.4 Limitations and Challenges

Despite its broad legal framework, the ACHPR's effectiveness is constrained by several structural and political challenges. The Commission's decisions and recommendations are non-binding, relying primarily on moral persuasion and the political goodwill of member states for implementation (Mutua, 2008). This lack of enforceability often leads to non-compliance, especially in politically sensitive cases involving state responsibility.

Moreover, the Commission operates under resource constraints, inadequate funding, and a limited secretariat, which hinder the timely handling of communications and follow-up on recommendations. Ambiguities in the Charter particularly concerning the Commission's authority to enforce remedies

or compel compliance further weaken its practical impact. The overlapping mandates between the Commission and the African Court on Human and Peoples' Rights have also created institutional tensions, occasionally resulting in procedural duplication or jurisdictional uncertainty. Nonetheless, the ACHPR remains a vital cornerstone of Africa's human rights architecture. Its legal mandate provides the normative and institutional framework for promoting and protecting rights across the continent. Through its evolving jurisprudence, interpretative guidance, and persistent advocacy, the Commission continues to shape African human rights discourse, even as it navigates challenges of enforcement and legitimacy.

1.2 Institutional Structure of the African Commission on Human and Peoples' Rights (ACHPR)

The institutional structure of the African Commission on Human and Peoples' Rights (ACHPR) reflects its dual mission of *promotion and protection of human rights* within the African continent. The African Charter on Human and Peoples' Rights establishes the Commission as a *quasi-judicial body* responsible for overseeing the implementation of Charter provisions by member states. The structure is designed to ensure independence, inclusivity, and functional efficiency while aligning with the broader institutional framework of the *African Union (AU)*. Although the ACHPR has recorded notable achievements in norm-setting and rights protection, its institutional capacity continues to face significant structural and operational limitations that constrain its effectiveness.

1.2.1 Composition of the Commission

Under *Article 31 of the African Charter*, the ACHPR is composed of *eleven commissioners*, each elected in their personal capacity by the *AU Assembly of Heads of State and Government* from a list of nominees submitted by state parties. The election process aims to reflect *equitable geographical and gender representation* and requires that commissioners possess "the highest reputation for integrity, impartiality, and competence in matters of human and peoples' rights" (African Union, 1981). Commissioners serve *six-year terms*, which are *renewable once*, ensuring both continuity and periodic renewal of leadership.

The independence of commissioners is fundamental to the Commission's credibility. Although they are elected by states, commissioners do not act as state representatives but as independent experts. This design is intended to shield the ACHPR from political interference and to foster impartial adjudication of communications. However, in practice, the election process has at times been criticized for being influenced by *political patronage*, resulting in the appointment of commissioners with close ties to governments that are frequently under human rights scrutiny (Heyns, 2004). This tension between independence and state influence remains one of the enduring institutional challenges confronting the ACHPR.

1.2.2 The Secretariat

The *Secretariat* serves as the administrative and technical backbone of the Commission. Headed by the *Secretary to the Commission*, who is appointed by the Chairperson of the African Union Commission, the Secretariat provides *administrative, logistical, and research support* to the commissioners and special mechanisms. Its responsibilities include organizing ordinary and extraordinary sessions, coordinating communications and reports, managing documentation, and maintaining relations with state parties and civil society actors (ACHPR, 2020).

The Secretariat also plays a key role in the *preparation of activity reports, drafting of resolutions, and follow-up on the implementation* of Commission decisions. It ensures continuity between sessions and facilitates institutional coordination with other AU organs, including the *African Court on Human and Peoples' Rights* and the *African Committee of Experts on the Rights and Welfare of the Child (ACERWC)*. Despite its critical role, the Secretariat remains *understaffed and underfunded*, with limited financial autonomy. This has negatively affected the Commission's ability to process communications promptly, conduct investigations, and engage in field missions (Murray and Long, 2015). The Secretariat's reliance on donor funding, particularly from external partners such as the European Union and the United Nations Development Programme, has further raised concerns about sustainability and institutional independence.

1.2.3 Special Mechanisms

A distinctive feature of the ACHPR's institutional structure is its system of *special mechanisms*, established to enhance thematic and situational responsiveness. These mechanisms include *Special Rapporteurs, Working Groups, and Committees*, each focusing on specific areas of human rights concern. Their creation reflects the Commission's adaptive capacity to respond to evolving human rights challenges across the continent.

Among the most prominent special mechanisms is the *Special Rapporteur on Human Rights Defenders in Africa*, established in 2004, which monitors and reports on the situation of human rights defenders, investigates threats and violations against activists, and engages with states to promote their protection (ACHPR, 2020). This mandate has been crucial in highlighting systemic patterns of intimidation, arbitrary detention, and extrajudicial killings of human rights defenders in countries such as Sudan, Egypt, and Cameroon. The Special Rapporteur also engages in *preventive diplomacy*, encouraging states to adopt national laws and policies that safeguard the activities of defenders, in line with the *UN Declaration on Human Rights Defenders (1998)*. Another notable mechanism is the *Working Group on Indigenous Populations/Communities in Africa*, established in 2000, which investigates the human rights situation of indigenous communities and advocates for their recognition and protection within domestic legal systems. Its *2003 Report* provided a landmark definition of "indigenous peoples" in the African context, emphasizing historical marginalization, cultural distinctiveness, and attachment to ancestral lands. This Working Group has played a pivotal role in promoting jurisprudence on indigenous rights, notably influencing the *Endorois v. Kenya (2010)* and *Ogiek v. Kenya (2017)* cases, which advanced the recognition of collective land and cultural rights.

Similarly, the *Special Rapporteur on Freedom of Expression and Access to Information* has contributed to the development of soft law instruments, such as the *Declaration of Principles on Freedom of Expression and Access to Information in Africa (2019)*. These thematic mechanisms extend the Commission's reach beyond formal complaint handling by enabling it to engage in *proactive monitoring, standard-setting, and advisory interventions*. Furthermore, the ACHPR has established the *Committee for the Prevention of Torture in Africa (CPTA)*, the *Working Group on the Rights of Older Persons and People with Disabilities*, and the *Special Rapporteur on the Rights of Women in Africa*, among others. Collectively, these mechanisms

enhance specialization and thematic coverage, enabling the Commission to address a wide array of issues from gender equality to digital privacy, environmental rights, and migration.

1.3 Sessions and Decision-Making

The ACHPR holds *two ordinary sessions annually*, usually lasting around two weeks each, in different host states or at its permanent headquarters in *Banjul, The Gambia*. These sessions are open to state representatives, NGOs with observer status, and other stakeholders, ensuring transparency and inclusivity in the Commission's deliberations. Extraordinary sessions may also be convened when urgent issues arise.

During these sessions, the Commission examines *state periodic reports*, reviews *individual and inter-state communications*, adopts *resolutions*, and considers *activity reports* from its special mechanisms. The sessions also provide a platform for dialogue between state delegations and civil society actors, thereby promoting participatory governance in human rights implementation. The *Rules of Procedure (2020)* govern deliberations, voting, and documentation, ensuring procedural consistency and due process.

Decisions of the Commission, including *findings on communications* and *recommendations*, are adopted by a majority vote of the commissioners and subsequently published in the Commission's *Annual Activity Reports*, which are submitted to the AU Assembly for endorsement. However, the requirement of Assembly approval for publication has occasionally been used by states to delay or suppress politically sensitive findings, thus limiting the Commission's autonomy and transparency (Murray, 2007).

1.4 Institutional Relationship with Other AU Organs

The ACHPR operates within the broader institutional structure of the *African Union*, and its effectiveness is interdependent with other AU organs. The Commission reports to the *Executive Council* and the *Assembly of Heads of State and Government*, which possess the authority to consider its recommendations and take appropriate measures. The ACHPR also maintains a collaborative relationship with the *African Court on Human and Peoples' Rights*, established under the *1998 Protocol to the African Charter*. While the Commission serves primarily as a quasi-judicial and promotional body, the Court provides binding judgments on human rights violations.

The interaction between the two institutions is formalized through a *referral mechanism*, allowing the Commission to submit cases to the Court for adjudication when states fail to implement its recommendations or where urgent judicial intervention is warranted. However, tensions have occasionally arisen due to *overlapping mandates* and differences in interpretation, leading to calls for clearer delineation of their respective roles. The proposed merger between the African Court and the *African Court of Justice* into a single *African Court of Justice and Human and Peoples' Rights* further complicates the institutional landscape, raising questions about the future of the Commission's autonomy.

1.5 Institutional Challenges

Despite its elaborate structure, the ACHPR faces enduring *institutional and operational challenges*. Limited financial and human resources remain a major impediment. The Commission's budget, drawn primarily from the AU and supplemented by external donors, is insufficient to cover the growing number of communications, field missions, and special mechanism activities. Staffing shortages within the Secretariat have also led to delays in the processing of cases and follow-up actions.

Political interference poses another serious constraint. In several instances, the AU Assembly has failed to publish or endorse the Commission's reports that criticize powerful member states. The *withdrawal of observer status* from certain NGOs, such as the Coalition of African Lesbians in 2015, at the direction of the AU Executive Council, underscored the vulnerability of the Commission to political pressure (Viljoen, 2012). Furthermore, the *relocation of the Commission's sessions* from host states over diplomatic disagreements illustrates the fragility of its institutional independence.

Nevertheless, the ACHPR's structural design combining a *collegial body of experts*, a *professional Secretariat*, and *dynamic special mechanisms* provides a viable institutional foundation for advancing human rights in Africa. Its adaptability, engagement with civil society, and thematic innovations have strengthened Africa's regional human rights system despite persistent challenges.

1.5.1 Enforcement Mechanisms of the African Commission on Human and Peoples' Rights (ACHPR)

The African Commission on Human and Peoples' Rights (ACHPR) occupies a central position within Africa's regional human rights enforcement framework. However, unlike traditional judicial bodies, the Commission is primarily a quasi-judicial organ, meaning its decisions are not directly binding upon states. Instead, it relies on moral persuasion, dialogue, and political endorsement to ensure state compliance. This institutional design reflects the historical context in which the African Charter on Human and Peoples' Rights was adopted one in which African leaders sought to balance the protection of individual rights with state sovereignty and non-interference (Fombad, 2014).

The ACHPR employs a range of enforcement mechanisms, including the communications procedure (individual and inter-state), on-site investigations, referrals to the African Court on Human and Peoples' Rights, and follow-up through activity reports and resolutions. Together, these mechanisms form a multi-layered system aimed at promoting accountability and encouraging states to fulfill their Charter obligations.

1.5.2 Individual Communications Procedure

The individual communications procedure represents the cornerstone of the ACHPR's protective and enforcement functions. Under Articles 55 and 56 of the African Charter, individuals, groups, or non-governmental organizations (NGOs) may submit complaints alleging violations of Charter rights by a state party. This procedure is particularly significant because it provides a regional avenue for redress when domestic remedies have been exhausted or proven ineffective.

Upon receiving a communication, the Commission determines its admissibility based on criteria outlined in Article 56 these include requirements that the complaint not be anonymous, that it be compatible with the Charter, and that all local remedies have been exhausted unless they are unduly prolonged or ineffective. Once a communication is declared admissible, the Commission engages in a confidential dialogue with the concerned state, inviting it to submit observations and to engage in amicable settlement efforts. If these fail, the Commission proceeds to a merits determination, assessing whether a violation of the Charter has occurred.

The outcomes of these proceedings are contained in the Commission's final decisions, which typically include a finding of violation and a set of recommendations directed at the state concerned. These recommendations often include restitution, compensation, legislative reform, or guarantees of non-repetition. The Commission then transmits its findings to the African Union Assembly of Heads of State and Government, which may take political action to encourage compliance.

One of the most influential examples is the *Social and Economic Rights Action Centre (SERAC) and another v Nigeria* (2001) case. Here, the Commission found that Nigeria violated multiple rights, including the rights to life, health, and a satisfactory environment, by failing to protect the Ogoni people from environmental damage caused by oil exploitation. The decision was groundbreaking because it interpreted socio-economic rights as justiciable and imposed positive obligations on states to regulate private actors. While implementation was partial, the decision contributed to the emergence of environmental justice movements in Nigeria and inspired legal reforms such as the National Oil Spill Detection and Response Agency Act (2006).

Similarly, in *Centre for Minority Rights Development (Kenya) and Minority Rights Group International on behalf of Endorois Welfare Council v Kenya* (2010), the Commission found that Kenya's eviction of the Endorois people from their ancestral lands for tourism development violated their rights to property, religion, and culture. The Commission recommended restitution of ancestral lands, adequate compensation, and recognition of indigenous peoples' rights. This decision represented a landmark moment in African indigenous rights jurisprudence, influencing subsequent cases before both the ACHPR and the African Court on Human and Peoples' Rights.

These cases demonstrate how the Commission's interpretative and quasi-judicial functions exert normative influence even without direct coercive power. By interpreting Charter provisions expansively, the ACHPR has progressively shaped African human rights norms and inspired legislative and policy reforms in several member states.

1.5.3 Inter-State Communications

The inter-state communications procedure, outlined in Articles 47 to 54 of the African Charter, allows one state party to bring a complaint against another for violations of the Charter. This mechanism was intended to foster mutual accountability among states and to promote interstate cooperation in enforcing human rights obligations.

However, despite its inclusion in the Charter, this procedure has been rarely invoked. Political sensitivities, the principle of non-interference, and the reluctance of African states to accuse their peers of human rights violations have limited its use. Most African governments prefer to resolve disputes diplomatically rather than through formal litigation. As a result, while the inter-state mechanism exists in theory as a collective enforcement tool, in practice it remains dormant (Viljoen, 2012).

Nonetheless, the mere existence of this provision underscores the collective nature of the African human rights system, which recognizes that the protection of rights is a matter of continental concern rather than solely domestic jurisdiction.

1.5.4 On-Site Investigations and Fact-Finding Missions

Another key component of the ACHPR's enforcement architecture is its capacity to undertake on-site investigations and fact-finding missions. These missions are authorized when the Commission receives reliable information indicating the occurrence of serious or massive violations of human and peoples' rights (Article 46). They allow commissioners to visit the concerned country, collect evidence, meet victims, engage state authorities, and issue mission reports containing findings and recommendations.

Such missions serve both a protective and preventive function. They not only document violations but also encourage states to cooperate with the Commission and to demonstrate transparency. Fact-finding missions have been conducted in contexts such as Sudan (Darfur), Zimbabwe, and Eritrea, where widespread violations prompted international concern. The findings of these missions have often informed subsequent resolutions by the African Union Peace and Security Council and have strengthened advocacy by regional civil society organizations.

However, the Commission's ability to conduct investigations is contingent on state consent, which is sometimes withheld or delayed. Moreover, the findings of these missions depend on the AU Assembly's willingness to act upon them another reflection of the ACHPR's reliance on political rather than judicial enforcement.

1.5.5 Referrals to the African Court on Human and Peoples' Rights

A significant enhancement of the ACHPR's enforcement capacity came with the establishment of the African Court on Human and Peoples' Rights (ACtHPR) under the 1998 Protocol to the African Charter. The Court serves as the judicial arm of the African human rights system, providing binding and enforceable judgments. The ACHPR is empowered under Article 5(1)(a) of the Protocol to refer cases to the Court, particularly where states have failed to comply with its recommendations or where a case requires judicial determination.

This referral mechanism creates an important bridge between the Commission's quasi-judicial authority and the Court's binding jurisdiction. In several instances, the Commission has referred cases to the Court to enhance enforcement. For example, in *African Commission on Human and Peoples' Rights v Kenya* (Ogiek case) (2017), the Commission referred the matter to the Court, which found Kenya in violation of the Ogiek people's rights to property, culture, and development. The Court's judgment was binding and ordered reparations, marking a milestone in indigenous rights protection.

However, the effectiveness of this mechanism depends on whether the concerned state has ratified the Protocol and made the Article 34(6) declaration, which allows individuals and NGOs direct access to the Court. As of 2025, fewer than ten states maintain this declaration, as several have withdrawn it under political pressure following adverse judgments. This significantly limits the Court's reach and, by extension, the Commission's ability to secure binding enforcement of its findings.

1.5.6 Follow-Up and Monitoring of Implementation

The ACHPR employs post-decision monitoring as part of its enforcement process. Under Rule 112 of the Commission's 2020 Rules of Procedure, states are required to report on the implementation of recommendations contained in the Commission's decisions. The Commission also includes information on compliance in its Activity Reports, which are submitted annually to the AU Assembly. These reports publicly identify states that have failed to implement decisions, thereby exerting reputational pressure.

In addition, the Commission uses resolutions and public statements to call attention to non-compliance and to urge corrective action. Special Rapporteurs and Working Groups may also follow up on specific cases to ensure sustained advocacy. Nonetheless, the absence of a legally binding enforcement mechanism means that compliance depends largely on political will. Studies have shown that states are more likely to comply with Commission decisions when domestic civil society and international actors apply sustained pressure (Murray and Long, 2015).

1.5.7 Persistent Challenges in Enforcement

Despite its normative progress, the ACHPR's enforcement mechanisms face persistent challenges that undermine their effectiveness. Chief among these is the non-binding nature of its recommendations, which allows states to disregard or delay implementation without legal consequence. This has led to a compliance deficit, where many of the Commission's decisions remain unenforced years after adoption.

Resource constraints further weaken the enforcement process. The Commission lacks sufficient funding and technical capacity to monitor implementation or to conduct follow-up missions. Political interference within the AU system especially when the Commission's findings implicate powerful states has also hampered its independence. The requirement that the AU Assembly approve and publish the Commission's activity reports has occasionally resulted in censorship of politically sensitive findings (Murray, 2007).

Moreover, coordination between the ACHPR and the African Court remains imperfect. Differences in procedural timelines, communication admissibility, and interpretation standards have sometimes led to duplication or procedural inefficiencies. There is thus a pressing need for clearer institutional synergy between the two bodies to ensure a coherent and effective enforcement regime.

2.0 The Way Forward

To enhance the ACHPR's enforcement capacity, several reforms are necessary. First, the African Union Assembly should establish a mechanism for systematic follow-up on the implementation of Commission decisions, including periodic reviews and public reporting. Second, member states must demonstrate political commitment by ratifying the Protocol establishing the African Court and maintaining the Article 34(6) declaration, thereby strengthening judicial enforcement. Third, the Commission should be allocated adequate financial and human resources to conduct investigations, follow up on cases, and engage in capacity-building activities. Finally, stronger civil society engagement and media advocacy can help increase domestic awareness and pressure for compliance.

In essence, while the ACHPR's enforcement mechanisms have limitations, their significance lies in their normative and persuasive authority. Through sustained advocacy, strategic litigation, and collaboration with the African Court, the Commission continues to shape the continent's evolving human rights landscape, providing a moral and institutional foundation for accountability and reform.

2.1 Achievements

The ACHPR has significantly advanced human rights protection and awareness in Africa. Through workshops, seminars, and educational campaigns, the Commission has enhanced understanding of human rights among state officials, civil society actors, and the general public. Its General Comments, resolutions, and thematic reports provide normative guidance, clarifying state obligations under the African Charter. The Commission's recommendations have influenced domestic legislation and policy in areas such as environmental law, women's rights, children's protection, and minority rights (Viljoen, 2012).

Civil society engagement has been instrumental in amplifying the ACHPR's achievements. NGOs actively monitor state compliance, report violations, and advocate for the implementation of Commission recommendations. Special Rapporteurs have engaged successfully with governments to influence policy in thematic areas such as freedom of expression, human rights defenders, and indigenous populations. For instance, the work of the Special Rapporteur on Freedom of Expression has contributed to improved legal frameworks protecting journalists in several African states, while the Special Rapporteur on Indigenous Populations has facilitated land restitution and legal recognition of indigenous communities' rights.

2.2 Challenges

Despite its achievements, the ACHPR faces persistent challenges that hinder its effectiveness. One of the most significant limitations is the non-binding nature of its recommendations. While the Commission can investigate complaints and issue findings, member states are not legally obligated to implement them. This has led to inconsistent compliance, as some states ignore or delay implementing recommendations, citing political, economic, or sovereignty concerns. For example, in the *Endorois v. Kenya* case, the Kenyan government initially resisted implementing the ACHPR's recommendations regarding land restitution and compensation, highlighting the enforcement gap (African Commission on Human and Peoples' Rights, 2010). Similarly, Nigeria's delayed response to the *Ogoni Land* decision underscores how political sensitivities and state interests can impede compliance.

Financial and logistical constraints further challenge the Commission's operations. The ACHPR relies on funding from the African Union and external donors, which is often insufficient to cover the costs of investigations, country missions, workshops, and outreach programs. Limited resources restrict the Commission's ability to respond promptly to violations, conduct in-depth investigations, and support victims. Staffing limitations also reduce the efficiency of its Special Mechanisms, affecting their capacity to monitor, report, and advocate effectively on thematic human rights issues (Mutua, 2008).

Political interference and hostility from member states also undermine the ACHPR's effectiveness. In some cases, governments have obstructed investigations, restricted access to information, or retaliated against complainants and civil society actors. These challenges are compounded by the Commission's reliance on voluntary cooperation from states, creating a power imbalance that limits its practical enforcement capacity.

Legal ambiguities within the African Charter itself exacerbate these difficulties. Certain provisions are vaguely worded or open to multiple interpretations, leading to inconsistencies in application. Although the ACHPR has attempted to clarify these ambiguities through General Comments, thematic resolutions, and interpretative guidance, the absence of binding authority diminishes their practical effect (Fombad, 2014). Consequently, the Commission operates in an environment where legal, political, and practical constraints intersect, limiting its ability to fully realize its mandate.

2.3 Critical Discussion: ACHPR and the African Court

The African Court on Human and Peoples' Rights complements the ACHPR by providing a binding judicial mechanism to enforce human rights obligations. While the ACHPR investigates complaints and issues recommendations, the Court has the authority to adjudicate disputes and issue legally binding decisions where states have recognized its jurisdiction. This creates a synergistic relationship, as cases referred by the ACHPR to the Court can be enforced judicially, bridging the gap between advisory recommendations and binding enforcement (Fombad, 2014).

However, the effectiveness of this collaboration is limited by several factors. Not all member states have accepted the Court's jurisdiction under Article 34(6) of the African Court Protocol, restricting direct access for individuals and reducing the potential for binding enforcement. Additionally, the Court's capacity to handle cases depends on cooperation from states, availability of resources, and the political climate. Despite these limitations, enhanced cooperation between the ACHPR and the African Court has led to successful adjudication in landmark cases, such as the *Endorois v. Kenya* decision, which involved coordination between the Commission and the Court to secure restitution and recognition of indigenous rights (African Commission on Human and Peoples' Rights, 2010).

This relationship highlights the need for a multi-layered approach to human rights protection in Africa. The ACHPR serves as the investigative and promotional arm, while the African Court provides judicial enforcement. Strengthening collaboration, ensuring greater state acceptance of the Court's jurisdiction, and increasing awareness of legal avenues for redress are critical for improving accountability and human rights protection across the continent.

3.0 Recommendations

To enhance the ACHPR's effectiveness, several practical measures should be prioritized. First, strengthening enforcement mechanisms is essential. This can be achieved through closer collaboration with the African Court, enabling the escalation of cases for binding adjudication, particularly where states are non-compliant. Increasing the number of states recognizing the Court's jurisdiction under Article 34(6) would facilitate direct individual access and improve enforcement outcomes.

Second, enhancing institutional capacity is crucial. The AU and donor partners should provide sustainable funding to support investigative missions, staffing, workshops, and outreach programs. Increasing the number of skilled personnel in the Secretariat and Special Mechanisms would allow the ACHPR to respond more efficiently to complaints and expand its thematic coverage. Training programs for commissioners, rapporteurs, and staff could further strengthen institutional expertise and promote effective case management.

Third, clarifying legal ambiguities within the African Charter would reduce inconsistencies in application and improve compliance. The ACHPR should continue issuing General Comments and thematic resolutions to provide guidance to member states while promoting harmonization of domestic legislation with Charter provisions. This approach would enhance the predictability and authority of Commission decisions.

Fourth, enhancing collaboration with civil society is essential for monitoring compliance, reporting violations, and advocating for implementation of recommendations. Civil society organizations can amplify the Commission's impact by providing information, supporting victims, and engaging in awareness campaigns that promote accountability.

Finally, political engagement and advocacy at the AU level should be strengthened. Public reporting to the AU Assembly and regional bodies on state compliance could increase pressure on member states to implement recommendations. Additionally, recognizing and rewarding states that demonstrate leadership in human rights protection could create incentives for compliance and strengthen the ACHPR's authority.

4.0 Conclusion

The African Commission on Human and Peoples' Rights plays a pivotal role in promoting and protecting human rights in Africa. Its legal mandate, institutional structure, and enforcement mechanisms provide a framework for addressing human rights violations, fostering awareness, and influencing domestic law and policy. Through landmark cases such as *SERAC v. Nigeria*, *Endorois v. Kenya*, and *Communities of Ogoni Land v. Nigeria*, the ACHPR has demonstrated its capacity to protect both individual and collective rights, shape jurisprudence, and contribute to policy reforms.

However, the Commission faces persistent challenges, including the non-binding nature of recommendations, political resistance, resource limitations, procedural delays, and legal ambiguities. These challenges limit the ACHPR's practical impact and highlight the need for strengthened enforcement mechanisms, increased institutional capacity, and enhanced collaboration with the African Court and civil society organizations.

To address these challenges, practical steps include promoting binding enforcement through the African Court, expanding institutional and financial resources, clarifying legal norms, and engaging both states and civil society in monitoring and advocacy. By implementing these measures, the ACHPR can enhance its effectiveness, fulfill its mandate more robustly, and contribute to the realization of human rights for individuals and communities across Africa.

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