

Towards Enhancing the Role of Ethiopian Human Rights Commission in Implementing African Commission on HPR Recommendations

Ayalnesh Alayu *

Abstract

This article assesses the frameworks and practical engagements of the Ethiopian Human Rights Commission (EHRC) in monitoring the national level implementation of recommendations provided by the African Commission on Human and Peoples' Rights. A qualitative study has been conducted based on laws, data, document analysis and interviews. The findings of the study indicate that prior to its reform (which began in 2019), EHRC had neither established frameworks for its engagement in monitoring the implementation of recommendations issued by African Commission, nor had it started practical engagement in this area. Following its reform, although EHRC has established institutional frameworks for engagement with international and regional human rights monitoring bodies, it has yet to adopt specific guidelines or directive to guide its involvement in monitoring the implementation of the African Commission's recommendations on cases of human and peoples' rights violations. Furthermore, it has not initiated practical engagement in this particular area. This article suggests that –as an institution with a statutory duty to coordinate international and national efforts to enhance the implementation of recommendations offered by regional human rights monitoring bodies and to advocate for ensuring justice to victims of human rights violations– EHRC should adopt specific guidelines to guide its engagement in this specific area and begin effective engagement with all stakeholders in monitoring the implementation of recommendations issued by the African Commission.

Keywords:

African Commission, Ethiopian Human Rights Commission, monitoring, communication procedures, constructive discussion, human rights

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* Ayalnesh Alayu (LLB, LLM; PhD candidate at Addis Ababa University, Centre for Human Rights).

Email: neshayal@gmail.com

ORCID: <https://orcid.org/0009-0007-7328-5691>

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1. Introduction

The African Commission on Human and Peoples’ Rights (African Commission) employs different procedures to monitor the compliance of African states with the African Commission on Human and Peoples’ Rights (ACHPR). One of these procedures is the communication procedure. Using this procedure, the African Commission adjudicates allegations of human and peoples’ rights violations and it issues recommendations to be complied with by the respondent states thereby providing remedies to victims of human rights violations.

However, the African Commission faces significant challenges in ensuring the implementation of its recommendations as efforts at the national level to follow up and promote compliance are negligible and concerned states are often reluctant to comply.¹ This adversely affects the African Commission’s

Frequently used acronyms:

AC	African Commission on Human and Peoples’ Rights
ACHPR	African Charter on Human and Peoples’ Rights
AU	African Union
EHRC	Ethiopian Human Rights Commission
NANHRI	Network of African National Human Rights Institutions
NGOs	Non-governmental organizations
NHRIs	National Human Rights Institutions
UN	United Nations

contribution in the enhancement of access to justice at the national level through its protective mandates. Non-compliance with the Commission's recommendations further undermines the effectiveness of its communication or case system.

Scholars have suggested that this challenge can be mitigated if National Human Rights Institutions (NHRIs) play active role in following up and coordinating national efforts to implement the decisions of the African Commission.² NHRIs are national focal centres with a statutory mandate to coordinate efforts and engage in promoting and monitoring the implementation of decisions and recommendations of international and regional human rights monitoring bodies at the national level. The important roles of NHRIs to follow up and promote the implementation of decisions of the regional human rights bodies are also provided under the African Union Human Rights Strategy for Africa.³

Moreover, the Network of African National Human Rights Institutions (NANHRI) recognizes the vital roles of NHRIs in reducing this implementation challenge by monitoring, coordinating and strengthening national efforts to implement the recommendations and decisions of the African Commission and the African Court on Human and Peoples' Rights (African Court).⁴ To this effect, there should be sufficient legal framework in the enabling legislations of NHRIs that empowers them to actively engage in the monitoring the implementation of the African regional human rights mechanism decisions and recommendations on human and peoples' rights violations.

The Ethiopian Human Rights Commission Establishment Proclamation No. 210/2000,⁵ (both prior to and after its amendment under the Ethiopian Human Rights Commission Establishment (Amendment) Proclamation No. 1224/2020) contains provisions requiring the EHRC to engage in monitoring

¹ Chairman Okoloise (2018). "Circumventing obstacles to the implementation of recommendations by the African Commission on Human and Peoples' Rights", *African Human Rights Law Journal*, Vol.1, No.1 p. 32.

² Roger-Claude Liwanga (2015). "From Commitment to Compliance: Enforceability of Remedial Orders of African Human Rights Bodies" *J.Int'l L.* Vol. 41, No.1, p. 151.

³ African Union Human Rights Strategy for Africa (2011), para. 38.

⁴ The Network of African National Human Rights Institutions(NANHRI): The Role of NHRIs in Monitoring Implementation of Recommendations of the African Commission on Human and Peoples' Rights and Judgments of the African Court on Human and Peoples' Rights,(2016), p. 7.

⁵ Ethiopian Human Rights Commission Establishment Proclamation, Proclamation No. 210/2000 as Amended by Proclamation No. 1224/2020.

and facilitating the implementations of global and regional human rights monitoring bodies' decisions and recommendations. Article 6(4) of the Proclamation (which is not altered in the Amendment Proclamation) mandates EHRC to investigate all cases of human rights violations committed within the territory of Ethiopia. Cases of human rights violations on which the African Commission has issued its decisions and recommendations squarely fall within the broad investigation mandate and duties of EHRC. Hence, the work of African Commission in this regard significantly contributes towards fulfilling the investigation mandates of EHRC.

While Proclamation No.1224/2020 retains Article 6(4) unaltered, it has also made key changes of reform that enable EHRC to effectively and independently execute its legal duty of monitoring and facilitating the implementation of decisions and recommendations provided by international and regional human rights monitoring bodies.⁶ In addition to the amendment of EHRC's Establishment Proclamation, the reform encompasses series of changes such as structural and operational adjustments aimed at strengthening its independence and effectiveness in fulfilling its mandate.

Active engagement of the EHRC and other African NHRIs with statutory mandate in monitoring and facilitating the implementation of decisions and recommendations of the African Commission enables victims to get remedies. This article examines the engagement of the EHRC with the African Commission and concerned government bodies at the national level in order to monitor and facilitate the implementation of recommendations provided by the African Commission.

Ethiopia accepted the complaint hearing and adjudicating mandate of the African Commission upon its ratification of the ACHPR in 1998 as this mandate of the African Commission is in-built within the ACHPR itself. Cases of human and peoples' rights violations have been submitted to the African Commission against the government of Ethiopia prior to and following its ratification of the ACHPR. Overall, until November 2022, the African Commission had received thirteen claims of human and peoples' rights violations filed against the Government of Ethiopia.⁷ Out of these, eleven allegations were deemed inadmissible by the African Commission for

⁶ Ethiopian Human Rights Commission Establishment (Amendment) Proclamation No.1224/2020, Art 2(6) and Art 2(11).

⁷ Although there may be allegations or claims of human and peoples' rights violations before the African Commission filed (against the government of Ethiopia), the African Commission has not yet issued its ruling and decisions.

different reasons.⁸ The remaining two cases, namely, *Haregewoin Gebre-Sellaise & IHRDA* (on behalf of former Derg officials) v. *Ethiopia* and *Equality Now and Ethiopian Women Lawyers Association (EWLA) v. Ethiopia*, were admitted and the African Commission has issued its final decisions and recommendations. However, the Ethiopian government has not implemented these recommendations.

The specific objective of this article is to examine the frameworks and practical involvement of EHRC (both before and after its reform) in monitoring the implementation of recommendations put forward by the African Commission, at the national level. The assessment on the practical involvement of the EHRC in monitoring such recommendations has relied on the aforementioned two cases, namely *Haregewoin Gebre-Sellaise & IHRDA* and *Equality Now*.

The basic research question addressed in this article relates to (i) identifying the frameworks that are established for EHRC's engagement in monitoring the implementation of recommendations issued by the African Commission, and (ii) how EHRC engages with concerned bodies to follow-up the implementation of these recommendations. To this end, qualitative research method is used. Interview and document analysis have been used to collect the necessary and relevant data. Interviews have been conducted with purposefully selected and directly concerned members of the EHRC. Relevant documents of the EHRC have also been reviewed.

⁸ Most of these cases were made inadmissible by the African Commission because they were submitted before the ratification of the ACHPR on Human and Peoples' Rights by Ethiopia; and in such a case the African Commission has no mandate against non-member states to the ACHPR. Those submitted following the ratification were made inadmissible by the African Commission for failure to fulfil the admissibility criteria listed under Art 56 of ACHPR. These cases include *International Pen v. Malawi, Ethiopia, Cameroon, and Kenya*, Communication 19/1988; *Dr. Abd Eldayem Ae Sannussi v. Ethiopia*, Communication 14/1988; *Centre Haitier Des Libertes Publiques v. Ethiopia*, Communication 21/1988; *Association International Des Jurists Democratres v. Ethiopia*, Communication 28/89; *Commission Francaise Justice Paix vs Ethiopia*, Communication, 29/1989; *International Lawyers Committee for family Reunification v. Ethiopia*, Communication 9/1988; *Getachew Abebe v. Ethiopia*, Communication 10/1988; *Anuak Justice Council v. Ethiopia*, Communication 299/05; *Interights (on behalf of Gizaw Kebede and Kebede Tadesse) v. Ethiopia*, Communication 372GTK/2009 and *Human Rights Council and Others v. Ethiopia*, Communication 445/2013.

Available at <https://achpr.au.int/en/category/decisions-communications>

This article briefly discusses the Communication procedure of the African Commission. It also analyses the challenges in ensuring the implementation of the African Commission recommendations at the country level. It then examines the role of NHRIs in enhancing the implementation of the decisions and recommendations of international and regional human rights monitoring bodies. The article also assesses and analyzes the frameworks and practical engagements of EHRC (prior to and following its reform) in monitoring and promoting the implementation of African Commission's recommendations in Ethiopia.

2. The AC Communication Procedure and Challenges in Ensuring the Implementation of its Recommendations

2.1 Overview of the African Commission's Communication Procedure

The African Commission is the main regional quasi-judicial supervisory body in the African human rights system. It was established under Article 30 of the ACHPR and it has been operational since 1987. The functions of the African Commission include the promotion and protection of human and peoples' rights and interpreting the provisions of the ACHPR.⁹ Its protective functions include receiving allegations of human and peoples' rights violations and investigating the existence (or otherwise) of human rights violations through its communication procedure.

The ACHPR provides two types of communication (or complaint) procedures. The first one is interstate communication procedure by which a State brings a complaint alleging violations of human rights by another State.¹⁰ The second one is the individual communication procedure through which the African Commission receives and considers communications lodged by individuals and non-governmental organisations (NGOs).¹¹ Any communication to be seized by the Commission, should first fulfil the admissibility criteria provided under Art 56 of the Charter.¹²

⁹ African Charter on Human and Peoples' Rights (1981), Art 45.

¹⁰ *Id.*, Arts 47–54 set out the procedures for interstate complaints; So far, the Commission has received and handled a few inter-state complaints; DRC v. Burundi, Rwanda and Uganda, Sudan v. South Sudan, and Djibouti v. Eritrea.

¹¹ *Id.*; Although the caption of Arts 55 -59 of the ACHPR reads 'Other communications' and even if these provisions set out the procedures for considering other communications generally, the African Commission considers communications lodged by individuals and non-governmental organisations based on these provision

¹² According to Art 56 of the ACHPR, Communications relating to violations of human and peoples' rights can be considered by the African Commission if they, indicate their

Since it became operational, the African Commission has received a number of communications, and almost all of them were from individuals, human rights NGOs, or groups alleging violations of human rights enshrined in the ACHPR and its protocols.¹³ The African Commission has developed well-established communications receiving and adjudicating practices.¹⁴ When it proves the existence of an alleged violation of human rights by the concerned states, after deliberating on the submissions of the parties, it recommends remedial measures to be complied with by states and rectify the violations.¹⁵

The ACHPR is silent on the types of remedies that the African Commission may recommend. Yet, over the years, the African Commission has recommended specific non-monetary remedies such as the release of unlawfully imprisoned persons, the duty to respect the right to fair trial, and remedies relating to adequate compensation.¹⁶ These remedial measures of the Commission have significant potential to provide redress to victims of human rights violations and to prevent future infringements in Africa.¹⁷ However, this requires the full implementation of remedial measures by the concerned states which is one of the main challenges in the African human rights system.

2.2 Challenges in the Implementation of African Commission's Recommendations

Studies show that only a few recommendations have been implemented by the respondent States.¹⁸ This is, *inter alia*, attributable to the resistance of concerned states to comply with the recommendations claiming that they are

authors; are not written in disparaging or insulting language directed against concerned and its institutions or to the Organisation of African Unity; are not based exclusively on news disseminated through the mass media; are sent after exhausting local remedies, if any, unless it is obvious that this procedure is unduly prolonged; are submitted within a reasonable period from the time local remedies are exhausted or from the date the Commission is seized of the matter; and have not been settled by other regional or international monitoring bodies.

¹³ Manisuli Ssenyonjo, (2018), "Responding to Human Rights Violations in Africa: Assessing the Role of the African Commission and Court on Human and Peoples' Rights (1987-2018)", *International Human Rights Law Review*, p. 10.

¹⁴ *Id.*, p. 2.

¹⁵ *Ibid.*

¹⁶ *Id.*, pp. 17-18.

¹⁷ Rachel Murray & Elizabeth Mottershaw (2014). "Mechanisms for the Implementation of Decisions of the African Commission on Human and Peoples' Rights", *Human Rights Quarterly*, Vol. 36, No. 2, p. 350.

¹⁸ Roger-Claude Liwanga, *supra* note 2, p. 102; see also, Chairman Okoloise, *supra* note 1; Rachel Murray and Elizabeth Mottershaw, *supra* note, 17.

not legally binding.¹⁹ For example, the Botswana government expressed its unwillingness to comply with the recommendations of the Commission in the case between *Good v. Botswana*²⁰ in 2010, and argued that as the African Commission is not a court, Botswana is not required to comply with its recommendations.²¹

However, when state parties show resistance of this nature towards the recommendations issued by the African Commission, it constitutes a breach of the obligations they have willingly accepted upon ratifying the ACHPR. Acceptance of the Commission's Communication adjudication mandate is inherently automatic upon the ratification of the Charter. Adherence to the recommendations or remedial orders of the African Commission by state parties forms part of the essence of the ACHPR. However, if they are simply ignored by the respondent states, the effect of the ACHPR can be eroded and the regional mechanism loses an important part of its *raison d'être*.²²

The other reason for the non-implementation of the Commission's decisions is the absence of a judicial enforcement mechanism at the regional level and the lack of sanctions against non-complying States.²³ In case of non-compliance with its decisions, the Commission has the authority to notify the same to the AU Assembly and the Council of Ministers.²⁴

However, studies show that these policy decision organs of the AU have gaps in political commitment to take coercive measures against non-

¹⁹ Murray & Mottershaw, *supra* note 17, p. 53.

²⁰ *Good v. Botswana* (2005), Communication No. 313/05, African Commission Human and Peoples' Rights; In this case, the African Commission concluded that the deportation of the applicant by the President of Botswana on national security grounds was unjustified, disproportionate, and inconsistent with international human rights standards and the ACHPR. The Commission recommended that Botswana compensate the applicant and amend its Immigration Act to align with international human rights standards, particularly the ACHPR.

²¹ *Ibid.*

²² ESCR-Net: Implementation of decisions of the Inter-American Commission on Human Rights, Discussion Paper of the International Network for Economic, Social and Cultural Rights (ESCR-Net) Strategic Litigation Working Group.

ESCR-Net was established in 2003 under the UN High Commissioner for Human Rights. It has more than 280 members who work together to make human rights and social justice a reality for all. The Discussion Paper is available at: <https://www.escr-net.org/sites/default/files/201802-discussion-paper-of-escr-nets-strategic-litigation-working-group.pdf>

²³ Roger-Claude Liwanga, *supra* note 2, p 103.

²⁴ Rules of Procedures of the African Commission on Human and Peoples' Rights (2020), Rule 125(8).

complying states.²⁵ Moreover, failure to empower national courts to participate in the implementation process of regional human rights bodies' decisions is an additional factor that challenges the implementation of recommendations issued by of the African Commission.²⁶

Particularly, due to the absence of coercive measures, such as sanctions or diplomatic pressure by the AU coupled with lack of political commitment by concerned states, African states are reluctant and sometimes resist complying with the decisions of the African Commission issued against them. For example, the Ethiopian government in the case between *Equality Now and Ethiopian Women Lawyers Association (EWLA) v. Federal Democratic Republic of Ethiopia*²⁷ resisted to implement a list of remedial measures of the African Commission and submitted an application to the Commission for the review of the decision in June 2016. Even through the African Commission did not accept the application for the review of the first decision in March 2020,²⁸ the government of Ethiopia did not comply with the remedial measures of the Commission.²⁹

The act of state parties including Ethiopia has been usually to ignore the recommendations without any consequences.³⁰ This state of affairs leaves

²⁵ Chairman Okoloise, *supra* note 1, p. 32.

²⁶ Roger-Claude Liwanga, *supra* note 2, p 103: This failure is often attributed to national governments as they often lack political will to set adequate legal frameworks that mandate national courts to participate in African regional human rights monitoring bodies' decisions and recommendations implementation process. For example, in the case of Ethiopia, despite the existence of the African Commission's recommendations on human rights violations, there has been no engagement from national courts to implement these decisions, partly due to the lack of clear legal mandate to involve in the implementation process of such recommendations at the domestic level.

²⁷ *Equality Now and Ethiopian Women Lawyers Association (EWLA) v. Federal Republic of Ethiopia*, (2016) Communication No. 341/2007. The African Commission reviewed and confirmed its decision at its 27th Extra-Ordinary Session from 19 February to 4 March 2020. Available at:

<https://africanlii.org/akn/aa-au/judgment/achpr/2021/523/eng@2021-10-14>

²⁸ *Id.*, para 61.

²⁹ Interview with Esther Waweru, Senior Legal expert at *Equality Now - Kenya* delegate, (Zimbabwe, 23 October 2022). *Equality Now*' is an International Nongovernmental Organization founded in 1992 to advocate for the promotion and protection of human rights of women and girls. Its delegate in Kenya has represented the victim in this specific case before the African Commission until the final decision was rendered, and it is now looking for local institutions in Ethiopian to facilitate the implementation of the African Commission recommendations on the case.

³⁰ Chairman Okoloise, *supra* note 1, p 31; Rachel Murray and Elizabeth Mottershaw, *supra* note, 17, p. 353.

victims of human rights violations without justice and reparation.³¹ Therefore, although the African Commission has commendable contributions in interpreting and elaborating the substantive contents of the rights guaranteed in the ACHPR and respective obligations of states through adjudicating communications and its decisions,³² it faces serious challenges in ensuring the implementation of its recommendations or remedial measures at the national level. This adversely affects its function and pursuits as an effective protector of the rights enshrined in the ACHPR and its protocols.³³

3. The Role of NHRIs in Monitoring and Promoting the Implementation of AC's Recommendations

According to the Paris Principles,³⁴ NHRIs are institutions with constitutional and/or legislative mandates to promote and protect human rights at the national level.³⁵ The Paris Principles are minimum standards endorsed by the United Nations that all NHRIs should comply with (in order to be considered independent and credible institutions). Hence, these Principles provide minimum standards against which NHRIs are evaluated. The Global Alliance of NHRIs accredits NHRIs with A, B, or C status depending on whether they fulfil the minimum standards in the Paris Principles.³⁶ NHRIs that meet the minimum standards provided in the Paris principles –“A” status– are acknowledged as independent and effective institutions in promoting and protecting human rights.³⁷

There are also regional NHRIs alliances or networks that coordinate and strengthen the capacity of NHRIs such as the Network of African NHRIs, and the Network of Inter-American NHRIs. In general, NHRIs are cornerstones of the national human rights protection and promotion system as they are national focal points or centres with the sole objective of working and coordinating national, regional and international efforts to realize human

³¹ Roger-Claude Liwanga, *supra* note 2, pp. 102-103.

³² Manisuli Ssenyonjo, *supra* note 13, pp. 11-12.

³³ Rachel Murray and Elizabeth Mottershaw, *supra* note 17, p. 353.

³⁴ Paris principles, General Assembly Resolution 48/134, (1993), section 1, para. 1& 2.

The minimum standards for NHRIs under the Paris Principles mainly include independence, broad mandate, collegiate structure, constitutional or statutory guarantee, cooperation with civil society and adequate resources.

³⁵ *Ibid.*

³⁶ European Union Agency for Fundamental Rights: Strong and effective National Human Rights Institutions: Challenges Promising Practices and opportunities (2020), p. 6.

³⁷ *Id.*, p. 5.

rights guaranteed under international, regional and national human rights laws.³⁸

The regional and international human rights mechanisms are increasingly relying on NHRIs to obtain information on the national implementation of international human rights norms and to ensure the follow-up of their concluding observations and findings on cases of human rights violations.³⁹ Therefore, they are important national bodies that enable international and regional human rights monitoring bodies to contribute to the promotion and protection of human rights at the national level and assist governments in discharging their human rights obligations under international, regional and national laws.

The important roles of NHRIs in monitoring and following up the implementation of international and regional human rights monitoring bodies' decisions and recommendations are recognized by international and regional human rights systems. The UN human rights bodies have made significant efforts towards developing frameworks for their engagement with NHRIs in the area of monitoring and following up of their recommendations and findings at the national level. One of the important efforts in this regard is the Conclusion of the International Roundtable on the Role of NHRIs and UN treaty bodies⁴⁰ which was the outcome of the roundtable discussion among the treaty bodies, NHRIs and CSOs (civil society organizations) on the engagement between NHRIs and the UN treaty bodies.⁴¹

The roundtable discussion provided two important recommendations on the role of NHRIs. Their first role relates to monitoring recommendations and it states that NHRIs should follow up on treaty-bodies' assessments of complaints to monitor state party action undertaken to that end.⁴² The second recommendation is related to provisional orders and it states that NHRIs should follow up on interim orders of treaty bodies given to state parties in relation to complaints where irreparable harm is envisaged.⁴³

³⁸ Ibid.

³⁹ Wondmagegn Goshu (2015). "The Ethiopian [National] Human Rights Commission and its Contribution to Constitutionalism", *Ethiopian Constitutional Law Series*, Vol. 6, p. 27.

⁴⁰ OHCHR, Conclusions of the International Roundtable on the Role of National Human Rights Institutions and Treaty Bodies (21-22 June 2007), HRI/MC/2007/3.

⁴¹ Id., para. 1.

⁴² Id., para 4.

⁴³ Ibid.

While this marks an understanding on how NHRIs and UN treaty bodies could engage more effectively, it represents a critical step towards developing frameworks that can guide the engagement of NHRIs with treaty bodies. This is confirmed by the subsequent adoption of a common approach to the engagement of UN treaty bodies with NHRIs⁴⁴ and treaty bodies' specific framework for their engagement with NHRIs.

The common engagement framework is yet to be implemented because UN treaty bodies vary in their approaches of engaging with NHRIs.⁴⁵ For this reason, different treaty bodies adopt their own specific framework to engage with NHRIs in their various procedures including communication procedures. For example, the Committee on the Elimination of All form of Discrimination against Women has issued a Statement on its relationship with NHRIs which provides for the engagement of the Committee with NHRIs in its different procedures including its Communication procedure.⁴⁶

Therefore, UN treaty bodies have established frameworks for their engagement with NHRIs to promote the implementation of their recommendations at the national level. In monitoring the implementation of these recommendations given by international human rights bodies, NHRIs could engage with the concerned government bodies within their respective countries and could inform the treaty bodies about measures that have been taken to give effect to their recommendations within a defined period.⁴⁷

For example, the first decision against Senegal by the UN Human Rights Committee was rendered in the case between *Famana Koné vs Senegal*⁴⁸ and

⁴⁴ OHCHR, 'Common Approach to Engagement with National Human Rights Institutions' (9 June 2017) UN Doc HRI/MC/2017/3.

⁴⁵ OHCHR, 'Identifying Progress Achieved in Aligning the Working Methods and Practices of the Treaty Bodies' (23 March 2018) UN Doc HRI/MC/2018/3.

⁴⁶ CEDAW, 'Statement by the Committee on the Elimination of Discrimination against Women on its relationship with national human rights institutions' (2008) UN Doc E/CN.6/2008/CRP.1.

⁴⁷ Amrei Müller & Frauke Lisa Seidensticker, (2007), *The Role of National Human Rights Institutions in the United Nations Treaty Body Process*, Hand book of the German Institute for Human Rights, p. 65.

⁴⁸ *Famana Kone v. Senegal*, (1989), Communication No. 386/1989, UN Human Rights Committee; The case involved Mr. Famana Kone, a Senegalese citizen and member of the 'Movement for Justice in Africa,' who alleged violations of his rights by the Senegalese government. He claimed to have been arbitrarily arrested, detained and tortured on multiple occasions between 1981 and 1990, violating his rights to liberty, security, freedom of expression and protection from torture. The UN Human Rights Committee found that the government of Senegal violated his rights under Article 9 of the ICCPR and recommended that the government should provide effective remedies,

this decision was successfully implemented by the engagement and effort of the Senegal Human rights Committee- an NHRI in Senegal.⁴⁹ This shows that NHRIs' engagement and discussion with the concerned government bodies on the implementation of recommendations (non-confrontational engagement with concerned government bodies) can enhance the implementation of decisions and recommendations provided by international and regional human right monitoring bodies.

Rachel Murray and Elizabeth Mottershaw argue that constructive dialogue or discussion with the concerned government bodies should start while the case is pending before the African Commission.⁵⁰ They argue that if concerned stakeholders like NHRIs conduct constructive discussions with the concerned bodies of the government on the cases of human rights violations pending at the African Commission, there will be a high probability of rectifying the problem at issue and this has the potential to assist the implementation of eventual recommendations.⁵¹

Monitoring the implementation of recommendations can also be considered as integral to the process of submitting and processing the communication itself and NHRIs can play a role at various stages of the process.⁵² Therefore, NHRIs have a fundamental role in (i) contributing for the resolution of cases of human rights violations while pending before human rights monitoring bodies and (ii) after it has been decided by the monitoring bodies. The latter task involves follow-up and conducting constructive discussion with the concerned government bodies to facilitate the implementation of the decisions and recommendations of the regional human rights monitoring bodies.

Among the regional human rights systems, the European Court has established a clear framework for NHRIs' participation in the monitoring of its decisions at the national level.⁵³ This is because it is necessary to establish

including compensation, and report to the Committee about the measures taken to give effect to its recommendations within 90 days.

⁴⁹ Christian M. De Vos (2013). *From Rights to Remedies: Structures and Strategies for Implementing International Human rights Decisions*, Open Society Foundations, p. 98.

⁵⁰ Rachel Murray & Elizabeth Mottershaw, *supra* note 16, p. 360.

⁵¹ *Ibid.*

⁵² The Network of African National Human Rights Institutions (NANHRI): The Role of NHRIs in Monitoring Implementation of Recommendations of the African Commission on Human and Peoples' Rights and Judgments of the African Court on Human and Peoples' Rights, (2016), p. 8.

⁵³ Christian M. De Vos, *supra* note 49, p. 98.

a clear understanding of the relationship between the regional human rights monitoring bodies and the NHRIs specifically in the area of monitoring the national level implementation of recommendations and decisions given by regional human rights monitoring bodies.⁵⁴ In the African Human Rights System, Articles 26 and 46(1)(c) of the ACHPR provide for the Commission's relationship with NHRIs.⁵⁵ Based on these provisions, the African Commission Resolution on the Granting of Affiliate Status to NHRIs provides that NHRIs granted Affiliate Status shall have the duties to assist the Commission in the promotion and protection of human rights.⁵⁶ However, this could not be sufficient in the absence of clear framework for NHRIs' participation in monitoring the national level implementation of the African Commission's decisions and recommendations.

The AU's human rights strategy for Africa clearly provides important roles to NHRIs in enhancing the implementation of recommendations issued by the African regional human rights monitoring bodies. In the view of the NANHRIs, the existing gaps between the decisions and recommendations of the African Commission and the African Human Rights Courts and the efforts of concerned states towards implementing them can be bridged if NHRIs actively engage in coordinating and strengthening national efforts to implement such recommendations at the national level.⁵⁷

Scholars such as Murray & Mottershaw⁵⁸ and Mutangi⁵⁹ contend that NHRIs have considerable roles to promote and monitor the implementation of African human rights bodies' decisions and recommendations at the national level. With regard to the scope of the mandate of NHRIs, they are required to act in accordance with their enabling legislation. Scholars argue that monitoring and promoting the implementation of decisions and

⁵⁴ Ibid.

⁵⁵ ACHPR on Human and Peoples' Rights, Arts 26 & 46(1)(c).

⁵⁶ The African Commission Resolution on the Granting of Affiliate Status to National Human Rights Institutions and Specialized Human Rights Institutions in Africa - ACHPR/Res. 370 (LX) 2017, Sec 2, No. 5.

⁵⁷ The Network of African National Human Rights Institutions(NANHRIs) : The Role of NHRIs in Monitoring Implementation of Recommendations of the African Commission on Human and Peoples' Rights and Judgments of the African Court on Human and Peoples' Rights, (2016), p. 8.

⁵⁸ Rachel Murray & Elizabeth Mottershaw, *supra* note 17, p. 360.

⁵⁹ Tarisa Mutangi "Enforcing Compliance with the Judgments of the African Court on Human and Peoples' Rights" (2022), Aderomola Adeola, editor, *Compliance with International Human Rights Law in Africa: Essays in Honour of Frans Viljoen*, Oxford University Press, p. 218.

recommendations of regional human rights monitoring bodies fall under the general statutory mandates of NHRIs. Tarisa Mutangi, for instance, argues that monitoring the domestic enforcement of the African Human and Peoples' Rights Court decisions and recommendations is derived from the existing mandates of NHRIs.⁶⁰ This is because the protection mandate of NHRIs mainly focuses on effective remedies for people whose rights have been violated and ensuring that those responsible for human rights violations are held accountable.⁶¹

The fact that decisions and recommendations on human rights violations (committed at the national level) issued by regional human rights bodies need to be actually implemented at the national level require the protective mandate of NHRIs. Therefore, when NHRIs are informed about the remedial measures of the regional human rights monitoring bodies by the regional bodies themselves via NHRIs web sites or by the victims or by other possible means, NHRIs have the responsibility to engage with the concerned government bodies and facilitate the implementation of the decisions and recommendation of the regional bodies and thereby ensure that the victims of human rights violation or maladministration get effective remedies.

Accordingly, following up and facilitating the implementation of the recommendations provided by the African Commission is one of the statutory duties of the EHRC. This is in tandem with its broad investigation mandate provided under Article 6(4) of its establishment proclamation.⁶² EHRC's active involvement in facilitating the implementation of these decisions and recommendations substantially contributes toward remedies and justice to victims of human rights violation.

Moreover, African regional human rights monitoring bodies should create a clear framework for NHRIs' participation in the follow up and monitoring of their decisions and recommendations. This envisages effective engagement between African regional human rights monitoring bodies and NHRIs on one hand and NHRIs and the concerned government bodies on the other hand to

⁶⁰ Id., p. 219.

⁶¹ UNDP-OHCHR: National Human Rights Institutions: History, principles Roles and responsibilities (2010). Toolkit for Collaboration with National Human Rights Institutions, p. 5.

⁶² From the cumulative reading of Art 4(1) which states *this Proclamation shall also apply to violation of human rights committed in any Region* and Art 6(4) which requires undertaking 'investigation, upon complaint or its own initiation, in respect of human rights violations', EHRC has broad power and duty to investigate cases of human rights violations committed in any place within the territory of the country.

ensure the full implementation of the remedial measures issued by the regional bodies.

4. The Role of EHRC in Monitoring the Implementation of African Commission's Recommendations in Ethiopia

4.1 Framework and practical engagement of EHRC before the Reform

As discussed above, NHRIs that have affiliate status before the African Commission have the duty to assist the African Commission in the promotion and protection of human rights at country level.⁶³ Assistance that can be provided by NHRIs to the African Commission includes monitoring the implementation of its recommendations at the national level. To those NHRIs that are empowered by legislations to protect human rights in their respective countries, providing such support to the African Commission is part of their statutory duty. These integrated efforts of the African Commission and NHRIs can strengthen human rights protection. Therefore, NHRIs should have specific frameworks to effectively execute this monitoring activity thereby contributing to the efforts of ensuring justice to victims of human rights violations in their respective countries.

The frameworks and practice of EHRC in monitoring the implementation of the African Commission's recommendations before the reform began could be understood through assessment of relevant documents of the EHRC including its practice. As indicated above, facilitating and monitoring the implementation of recommendations issued by the African Commission is one of the statutory duties of EHRC, and hence it has to incorporate this activity in its strategic plans and set clear directive to guide its effective execution.

However, an assessment of relevant directives including EHRC's investigation and mediation directive⁶⁴ indicates the absence of any rules guiding its activity in the area of monitoring the implementation of the above-mentioned decisions and recommendations. The assessment of EHRC's successive strategic plans also reveals gaps in the implementation of this

⁶³ African Commission's Resolution on the Granting of Affiliate Status to National Human Rights Institutions and Specialized Human Rights Institutions in Africa - ACHPR/Res. 370 (LX) 2017, Sec 2, No. 5; see also Guidelines for Granting Affiliate /Associate Status to NHRIs before the African Committee of Experts on the Rights and Welfare of the Child, (2018), Section 8, No. 3.

⁶⁴ Ethiopian Human rights Commission's Investigation and Mediation Directive, Directive No. 2/2014.

particular statutory duty by the EHRC.⁶⁵ This shows that prior to its reform, the EHRC had neither incorporated monitoring of the implementation of recommendations issued by the African Commission into its core activities nor established formal frameworks for engaging with relevant stakeholders in this regard.

In 2013, the African Commission rendered a decision against Ethiopia on the case of Derg officials who were arrested and detained by the government that was in power since 1991 on account of genocide committed during the Derg regime.⁶⁶ The African Commission found that Ethiopia had violated Article 7(1)(b) and (d) of the ACHPR (the right to be presumed innocent until proven guilty and the right to speedy trial of the officials).⁶⁷ The African Commission decided that Ethiopia should pay adequate compensation to the victims for violations of their right to be presumed innocent until proven guilty by a competent court and to be tried within a reasonable time by an impartial court or tribunal and to report its compliance with the decision within three months.⁶⁸

The then Government did not comply with the remedial orders.⁶⁹ As a national focal centre with a statutory mandate to coordinate and monitor the national level implementation of the recommendations issued by of regional human rights bodies, the active engagement of EHRC in facilitating the implementation of these recommendations could have resulted in a positive contribution towards the provision of effective remedies for the victims. However, EHRC did not attempt to engage with any government body to facilitate and ensure the implementation of these recommendations.

Although the EHRC made no effort, the litigants of the case began engaging with the Ministry of Foreign Affairs to ensure the payment of the compensation to the victims.⁷⁰ The Ministry declined to implement the

⁶⁵ For example, the strategic plan adopted for the period of 2012-2016 said nothing about EHRC's engagement with the global and regional human rights monitoring bodies in general and its legal duty to monitor and facilitate the level national implementation of decisions and recommendations issued by African Commission in particular.

⁶⁶ *Haregewoin Gebre-Sellaise & IHRDA (on behalf of former Derg officials) v. Ethiopia and Equality Now and Ethiopian Women Lawyers Association (EWLA) v. Ethiopia* (2005), Communication No 301/2005, African Commission on Human and Peoples' Rights.

⁶⁷ *Id.*, para. 240.

⁶⁸ *Id.*, para. 56.

⁶⁹ Interview with Meskerem Geset, Women and Children Affairs Commissioner, (Addis Ababa, 24 August 2022).

⁷⁰ *Ibid.*

decisions claiming that the decisions lacked specificity and had no sufficient detail to effect commendation for the victims.⁷¹

The failure of EHRC to take any initiative could be due to a lack of independence, because before the reform, EHRC operated under the influence of the government and not as an independent institution. This is because the older proclamation was open in prohibiting the appointment of politically affiliated individuals as commissioners of EHRC. The situation assessment made by EHRC leading to its reforms indicates the instances where politically affiliated individuals had been appointed as commissioners and as a result, it was not able to put pressure on the government.⁷²

This is also supported by its status under the evaluation against the Paris Principles which at that time was 'B'. It was seriously criticized as being the mouthpiece of the government rather than being a true watchdog of human rights in the country. As a result, prior to its reform, EHRC had not developed a structured framework to regulate and direct its involvement in monitoring the implementation of recommendations provided by the African Commission.

4.2 Framework and practical engagement of EHRC after the Reform

4.2.1. Specific reforms relating to International and Regional engagement of EHRC

Following the political transition in 2018, a new Chief Commissioner was appointed in July 2019, who gave a new strategic direction to the EHRC. Radical and massive structural and legal reforms have been undertaken to make EHRC a Paris Principles compliant national institution. One of the modifications related to this is an amendment of EHRC's founding Proclamation No. 210/2000 which was amended by Proclamation No.1224/2020. The former proclamation did not provide clear guidelines regarding the eligibility of politically affiliated individuals for appointment as commissioners of the EHRC. As mentioned above, a situation analysis conducted by the EHRC leading to its reform reveals instances where politically affiliated individuals had been appointed as commissioners.⁷³

The amended proclamation addresses this gap by explicitly stipulating non-affiliation with any political organization as a criterion for eligibility in the appointment of EHRC commissioners. Specifically, one of the conditions

⁷¹ Ibid.

⁷² Ethiopian Human Rights Commission's Strategic Plan adopted for the period of 2021-2025, p. 2.

⁷³ Ibid.

for assignment under Article 2(6) of the new proclamation reads a person who “*is not a member of a political organization*”⁷⁴ thereby securing the independence of the EHRC.⁷⁵ This has enabled EHRC to be given ‘A’ status by the Global Alliance of NHRIs after it was evaluated based on the Paris Principles minimum standards.⁷⁶

With regard to EHRC’s duty to monitor and facilitate the implementation of decisions and recommendations issued by the African Commission, the amendment proclamation has not changed Article 6(4). The amendment has rather empowered EHRC to effectively and independently execute this specific legal duty in particular and its international and regional engagement in general. As mentioned above, it has eliminated appointment of politically affiliated commissioners and ensured the independence of ECRC.

Moreover, Article 2(11)⁷⁷ of the amendment proclamation empowers the EHRC’s Council of Commissioners to adopt policies and strategies relating to its activities and human rights mandates. These broad human rights mandates and duties of EHRC embodied in the amendment proclamation are operationalized through policies and strategic plans. Pursuant to Article 2(11) of the amendment proclamation, the EHRC has adopted a five-year strategic plan (2021-2025)⁷⁸ which explicitly outlines that one of its core activities is to monitor the implementation of decisions and recommendations issued by international and regional human rights monitoring bodies. This represents one of the shifts that can be attributed to the amendment of the proclamation in particular and the reform in general.

Therefore, the strategic plan adopted based on the amended proclamation sets out monitoring recommendations issued by the above mentioned human rights bodies across its nine programme areas⁷⁹ as one of EHRC’s core

⁷⁴ Ethiopian Human Rights Commission Establishment (Amendment) Proclamation No.1224/2020, Art 2(6).

⁷⁵ Ethiopian Human Rights Commission’s Strategic Plan adopted for the period of 2021-2025, p. 2.

⁷⁶ Interview with Albab Tesfaye, Directorate Director of the Office of the Chief Commissioner (Addis Ababa, 24 August 2022).

⁷⁷ Ethiopian Human Rights Commission Establishment (Amendment) Proclamation No.1224/2020, Art 2(11).

⁷⁸ The Strategic Plan provides detailed guidance on how EHRC effectively executes them and it elaborates core activities that EHRC should execute to fulfill its human rights mandates and duties.

⁷⁹ The nine Program Areas of the EHRC Under the Strategic Plan are
Programme Area 1: Human Rights Education;
Programme Area 2: Human Rights Monitoring and Investigation;

activities. For example, the first programme area of the EHRC as stated in its Strategic Plan is human rights education. The Strategic Plan explicitly states that to achieve the objective of this programme area, one of its core activities is monitoring the implementation of recommendations provided by international and regional human rights monitoring bodies related to the right to education.⁸⁰ These recommendations include recommendations of international and regional human rights monitoring bodies on cases of human rights violations and state reports.⁸¹ Thus, after the reform, monitoring and facilitating the implementation of recommendations provided by the African Commission on cases of human and peoples' rights violations is one of the core activities of the EHRC.

As a tool to cascade the core activities provided in the Strategic Plan into yearly activities, the annual plan of the EHRC also specifically identifies activities to be carried out through its engagements with international and regional human rights monitoring bodies. According to the interview data, the specific activities of the EHRC to be implemented through engagement with these human rights monitoring bodies have a separate section in its annual plan and the engagement is guided accordingly.⁸² This indicates that while preparing its annual performance report, EHRC envisages a separate section on activities accomplished through such engagements as the report is prepared based on annual plan.

However, an assessment of EHRC's relevant legal documents shows that EHRC has not adopted specific guideline or directive that guides its engagement in the area of monitoring the implementation of the African Commission's decisions and recommendation on cases of human and peoples' rights violations. Adopting a clear guideline to this end is important to effectively guide EHRC's engagement with African Commission, concerned ministries or government bodies and other stakeholders regarding the implementation of the above mentioned decisions and recommendations.

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- Programme Area 3: Women and Children's Rights;
 - Programme Area 4: Rights of Persons with Disabilities and Older Persons' Rights;
 - Programme Area 5: IDP, Refugees and Migrants' Rights;
 - Programme Area 6: Civil and Political Rights;
 - Programme Area 7: Socio Economic Rights;
 - Programme Area 8: Communications and partnership; and
 - Programme Area 9: Institutional Reform, ICT and Sustainability.

⁸⁰ Ethiopian Human Rights Commission's Strategic Plan for 2021-2025, p. 8.

⁸¹ Ibid.

⁸² Interview with Albab, *supra* note 76.

In terms of institutional framework, structuring the EHRC has been conducted towards its effective engagement with international and regional human rights bodies.⁸³ EHRC's international and regional engagement is led by the Directorate of the Office of the Chief Commissioner.⁸⁴ There is also a Coordinator and Human Rights Officer within EHRC for international and regional engagements that coordinate the engagement of each thematic department of EHRC with their respective international and regional thematic treaty bodies.⁸⁵ These institutional adjustments specifically aimed at strengthening EHRC's effective engagement with global and regional human right bodies (which could include engagement with the African commission in facilitating the implementation of its decisions and recommendations), represent a reform as there was no department designated for this purpose prior to its reform.

Using the above frameworks, EHRC has started practical engagements with the African Commission.⁸⁶ For example, it submits different human rights reports such as human report on issues identified under its investigation and monitoring activities and human rights situations or status reports every six months starting from November 2020.⁸⁷ However, such a report of EHRC should also include information about its efforts in facilitating the implementation of the decisions and recommendations of the African Commission in Ethiopia.

4.2.2 Practical engagement of EHRC in monitoring the implementation of African Commission's Recommendations

The assessment in this section relies on recommendations of the African Commission issued on the *Equality Now v. Ethiopia* case.⁸⁸ As stated in the summary of facts in ACHPR Communication Note 341/2007, this case involves a victim (13 years old at the time) who was abducted by the offender and four accomplices. "The abduction was reported to the police who rescued her and arrested" the offender who was "later freed on bail, after which he

⁸³ Ibid.

⁸⁴ Ibid.

⁸⁵ Ibid.

⁸⁶ Ibid

⁸⁷ Ibid

⁸⁸ *Equality Now* case, *supra* note 27. After exhausting local remedies, representatives of the victims submitted the case to the African Commission in 2007. At the beginning, the parties expressed their desire to resolve the case amicably and the African Commission lent its good offices through one of its members to facilitate the amicable settlement process based on pre-set terms of amicable settlement which finally broke down, on 05 October 2012.

once again abducted the Victim and hid her in his brother's house. She was held there for a month and was forced to sign a marriage contract. A month later, she escaped and ran to a police station." On 22 July 2003, the offender was sentenced to 10 years imprisonment without parole and his four accomplices were each convicted of abduction and sentenced to 8 years imprisonment".⁸⁹

Upon appeal on 4 December 2003, the High Court "quashed the decision of the lower court on the basis that the "evidence suggests that the act was consensual", and released the five men from prison. Furthermore, instead of supporting the Victim's case, the Zonal Prosecutor recommended that the verdict of the lower court be reversed and stated that he had no objection if the defendants were set free." As paragraphs 5 and 6 indicate the ruling of the High court we not reversed in spite of appeal to the regional Supreme Court and cassation petition to the Cassation Bench of the Federal Supreme Court.⁹⁰

The victim's legal representatives, *Ethiopian Women Lawyers Association* (at the early stage of the case) and *Equality Now–Kenya* submitted application to the African Commission in 2007 alleging that: "Ethiopia has failed in its obligation under the ACHPR to provide the victim equal protection of the law and respect for her rights to security of person, dignity and freedom from cruel, inhuman or degrading treatment as evidenced by the conduct of its courts"⁹¹ that rejected the allegations of the victim and denied her justice. The Complainants requested the African Commission to:

- (i) Give recourse to [the victim] under the Charter for the violation of her rights, and to ensure equal protection of the law, and end discrimination for girls subjected to abduction and rape in the Respondent State;
- (ii) Request the Respondent State to mandate comprehensive training in human rights for all law enforcement officials, including all levels of the judiciary, on the law against rape in Ethiopia and to take appropriate remedial action in this case;
- (iii) Award compensation to [the victim] for the violations she has endured because of the Respondent State's failure to provide equal protection of the law, protection from cruel, inhuman or degrading

⁸⁹ *Equality Now* case, *supra* note 27, paragraphs 2 to 6.

⁹⁰ *Id.*, para. 5-13.

⁹¹ ACHPR Communication 341/2007, 19th Extra-Ordinary Session, from 16 to 25 February 2016, para. 9. Available at: <https://www.globalhealthrights.org/wp-content/uploads/2018/07/Equality-Now-Ethiopia.pdf>

- treatment, and protection from discrimination against women, as well as the right to the integrity and security of the person guaranteed by the African Charter; and
- (iv) Request the Respondent State to file charges against [the offender], as indicated in its submissions to the Commission.⁹²

The African Commission gave its first decision and remedial orders on the case in 2016 and lastly confirmed its former decisions in March 2020 after examining Ethiopia's application for the review of the 2016 decision.⁹³ In 2016, the African Commission held Ethiopia responsible for failing to prevent the abduction and rape of the victim and urged the government to "monitor instances of marriage by abduction and rape; and diligently prosecute and sanction offenders".⁹⁴ The African Commission also decided that "Ethiopia violated its obligations under the ACHPR to protect the right of a person to integrity, liberty, security, and dignity, and protection from inhuman and degrading treatment".⁹⁵

The African Commission recommended that "the victim should be compensated USD 150,000 by the Ethiopian government for the physical, psychological, and emotional trauma that she suffered as a result of the primary violations by the private individuals and the denial of justice by the Ethiopia government"⁹⁶ and urged the government to report on its compliance with the decision within 180 days.⁹⁷ However, Ethiopia had applied for the review of the 2016 decision and as such the case was pending before the African Commission until March 2020 when the African Commission rejected Ethiopia's claim stating the absence of a compelling reason to review the case and rendered final decision on the case by approving its first decision.⁹⁸

⁹² Id., para. 15.

⁹³ *Supra* note 27, (2020), para. 61.

⁹⁴ *Supra* note 91, (2016), para.160(d).

⁹⁵ Id., para. 160 (d).

⁹⁶ Id., paras. 158 and 160(c).

⁹⁷ Id, para. 160 (e).

⁹⁸ In justifying its decision on the case, the African Commission stated that because the Ethiopian government did not settle the case amicably under the facilitator assigned by the African Commission and pre-set terms of settlement reference, the African Commission terminated the settlement negotiations in 2012 after it was noticed and requested repeatedly by *Equality Now* to proceed its decision on the admissibility of the case. (para. 43, 2016). In September 2011, the victim notified the African Commission that she has relieved EWLA from its duty to represent her and retained *Equality Now* as her only representative in her case. (para. 156 (2016), para, 35 (2020))

Information on interview with a senior legal expert working in *Equality Now- Kenya* delegate indicates that since March 2020, it has been looking for local institutions in Ethiopia through whom it can engage with the Ethiopian government to facilitate the implementation of the remedial orders of the African Commission and ensure justice for the victim.⁹⁹ However, it could not find a local institutional partner to collaborate with it in facilitating the implementation of the decision of the African Commission; and as a result, the victim could not get the compensation decided by the African Commission.¹⁰⁰

The recommendations of the African Commission on this particular case represent an instance for EHRC's active engagement with relevant government bodies and other stakeholders to facilitate their implementation. This is because, as discussed above, one of the statutory duties of the EHRC is to serve as a national focal centre for facilitating the national level implementation of decisions and recommendations issued by international and regional human rights mechanisms. It has also EHRC's legal duty to advocate for ensuring effective remedies for victims of human rights violations in Ethiopia.

The objective of the Women and Children Rights Department of EHRC (as indicated under *Programme Area Three* provided in the above-mentioned Strategic Plan) is to promote and ensure respect of women's and children's rights and to ensure effective remedies for violations of women's and children's rights. One of the core activities towards achieving this objective is engaging with international and regional human rights monitoring bodies specifically on issues related to protecting and remedying violations of women and children rights.¹⁰¹

This clearly includes the engagement of EHRC with concerned bodies to monitor and facilitate the implementation of the African Commission's decisions and recommendations on violations of women's and children's rights such as *the Equality Now* case discussed above. However, it has not started practical engagement with concerned stakeholders on the issue of how to implement the African Commission's decisions and recommendations on cases of human and peoples' rights violations including the decisions and recommendations on the *Equality Now* case.¹⁰² This indicates that even though monitoring implementation of the regional human rights bodies is

⁹⁹ Interview with Esther Waweru, *supra* note 29.

¹⁰⁰ *Ibid.*

¹⁰¹ Ethiopian Human Rights Commission's Strategic Plan for 2021-2025, p.16.

¹⁰² Interview with Albab, *supra* note 76. Interview with Meskerem, *supra* note 69.

formally included in its core activities, EHRC is expected to steadily enhance its level of engagement in this domain.

The African Commission has not officially notified the EHRC about its decisions and recommendations on the *Equality Now* case.¹⁰³ As provided under the ACHPR and the African Human Rights strategy, the African Commission has the mandate and duty to develop a clear working framework for its practical engagement with African NHRIs specifically in the area of monitoring and facilitating the implementation of its decisions and recommendations at national level. Hence, the African Commission should adopt a clear framework for NHRIs engagement in monitoring and following up the implementation of its decisions and recommendations at the national level.

According to interview respondents, EHRC's current primary focus relates to engagement in non-contentious issues of training to build litigation capacity of national NGOs.¹⁰⁴ However, EHRC has to give equal emphasis for facilitating and monitoring the implementation of decisions and recommendations given by the regional human rights monitoring bodies and providing capacity building-training to NGOs by discharging them side by side. Hence, it should conduct constructive discussions with the concerned government bodies on how to implement these recommendations.

So far, the EHRC has integrated the decisions and recommendations of the African Commission given on the above two cases (*Haregewoin Gabre-Selassie and IHRDA* and *Equality Now* cases) into its training programs for NGOs in order to capacitate national NGOs in effectively representing victims of human right violations before the African Commission.¹⁰⁵ While it is praiseworthy that the EHRC uses these decisions and recommendations in its training programs to address the skill deficiencies of national NGOs in litigating (by representing victims) before the African Commission, the primary purpose of the African Commission's decisions and recommendations on cases of human rights violations is to provide effective remedies and justice for the victims. EHRC should thus actively work towards facilitating the implementation of these decisions and recommendations.

In general, in the post reform period, the EHRC has incorporated monitoring recommendations provided by international and regional human rights monitoring bodies as part of its core activities towards fulfilling its

¹⁰³ Ibid

¹⁰⁴ Ibid.

¹⁰⁵ Interview with Albab, *supra* note 76.

human rights mandates. It has also set up institutional framework for its engagement with international and regional human rights bodies.

In light of the overall assessment and observations of EHRC's efforts in terms of setting up frameworks and starting practical engagement in monitoring the implementation of decisions and recommendations issued by the African Commission prior to and following its reform, there is indeed improvement in the post-reform period. Prior to the reform, EHRC had disregarded monitoring the implementation of recommendations issued by the African Commission as part of its core activities; nor did it establish frameworks for such engagement. Moreover, EHRC was not working towards practical engagement with relevant stakeholders in this specific area.

However, subsequent to the reform, the EHRC has incorporated the monitoring of decisions and recommendations of international and regional human rights bodies into its core activities towards fulfilling its mandates and duty to protect human rights in Ethiopia. Furthermore, it has established institutional frameworks for its collaboration with these international and regional human rights monitoring bodies. This shift demonstrates that EHRC has initiated the groundwork for its engagement with international human rights monitoring bodies and other relevant stakeholders, particularly in relation to monitoring and facilitating the implementation of decisions and recommendations offered by international and regional human rights monitoring bodies.

5. Conclusion

One of the challenges in the African human rights system is the non-compliance of member states with the decisions and recommendations of the regional human rights monitoring bodies which obviously makes the *communication procedures* or *case adjudication* mandates of these bodies ineffective (to meaningfully contribute to access to justice at the national level). It has been suggested that such challenges can be reduced by active involvement of NHRIs (at national level) in following up and monitoring the implementation of the decisions and recommendations of the regional human rights monitoring bodies.

This article has assessed the frameworks and practical engagements of the EHRC in monitoring the national level implementation of recommendations given by the African Commission, both prior to and following its reform. As discussed in the preceding sections, before the reform, EHRC had no framework as well as practical engagement in monitoring the implementation of decisions and recommendations provided by the African Commission. However, following its reform, EHRC has incorporated monitoring the

implementation of decisions and recommendations of the African Commission into its strategic plan as one of the core activities to fulfil its human rights protection mandate and duties. Moreover, EHRC has established institutional frameworks for its engagement with the international and regional human rights monitoring bodies and other stakeholders.

Using these frameworks, EHRC has started active engagements with the African Commission, relevant national CSOs and government bodies in various areas except monitoring the implementation of the recommendations issued by regional human rights monitoring bodies. However, EHRC has not yet adopted specific guideline or directive that guides its engagement in the area of monitoring and facilitating the implementations of the African Commission's decisions and recommendations on cases of human and peoples' rights violations. Moreover, it has not yet started practical engagement in monitoring the implementation of the above mentioned decisions and recommendations of the African Commission.

In light of the analysis in this article, EHRC is an institution with a statutory responsibility to coordinate efforts towards enhancing the implementation of recommendations offered by regional human rights monitoring bodies. It is also required to advocate for ensuring justice to victims of human and peoples' rights violations. To this end, EHRC should adopt clear guidelines that direct its engagement with African Commission, concerned government bodies and other stakeholders regarding the implementation of recommendations issued by the African Commission. It should also begin active engagement with all stakeholders in monitoring the implementation of recommendations issued by the African Commission in Ethiopia. The way forward further envisages collaboration between the African Commission and EHRC to develop a clear framework and effective working relationship that specifically deals with monitoring the national level implementation of the decisions and recommendations issued by the African Commission. ■

Cited References

- De Vos, Christian M (2013). *From Rights to Remedies: Structures and Strategies for Implementing International Human rights Decisions*, Open Society Foundations.
- Goshu, Wondmagegn (2015). ‘The Ethiopian [National] Human Rights Commission and its Contribution to Constitutionalism’, *Ethiopian Constitutional Law Series*, Vol. 6.
- Lirette, Louw (2005). *An analysis of State Compliance with the Recommendations of the African Commission on Human and Peoples’ Rights*, LLD Dissertation for Centre for Human rights at University of Pretoria.
- Liwanga, Roger-Claude (2015). ‘From Commitment to Compliance: Enforceability of Remedial Orders of African Human Rights Bodies’, *J. Int’l L.* Vol. 41, Issue 1,
- Müller A & Seidensticker FL (2007). ‘The Role of National Human Rights Institutions in the United Nations Treaty Body Process’, *Hand book of the German Institute for Human Rights*.
- Murray R & Mottershaw E (2014). ‘Mechanisms for the Implementation of Decisions of the African +Commission on Human and Peoples’ Rights’. *Human Rights Quarterly*, Vol. 36, No. 2.
- Mutangi, Tarisa (2022). ‘Enforcing Compliance with the Judgments of the African Court on Human and Peoples’ Rights’, Aderomola Adeola, editor, *Compliance with International Human Rights Law in Africa: Essays in Honour of Frans Viljoen*, Oxford University Press, p. 218.
- Okoloise, Chairman (2018). ‘Circumventing obstacles to the implementation of recommendations by the African Commission on Human and Peoples’ Rights’, *African Human Rights Law Journal*, Vol.1, No.1.
- Ssenyonjo, Manisuli (2018). ‘Responding to Human Rights Violations in Africa: Assessing the Role of the African Commission and Court on Human and Peoples (1987-2018)’, *Rights, International Human Rights Law Review*.

Other Major Sources

- African Charter on Human and Peoples’ Rights (1981).
- ESCR-Net: Implementation of decisions of the Inter-American Commission on Human Rights, Discussion Paper of the International Network for Economic, Social and Cultural Rights (ESCR-Net) Strategic Litigation Working Group.
- Establishment Proclamation of EHRC, Proclamation No. 210/2000 and the amendment Proclamation No.1224/2020.
- Ethiopian Human rights Commission’s Strategic Plan adopted for the period of 2012-2016.
- Ethiopian Human Rights Commission’s Strategic Plan adopted for the period of 2021-2025.
- European Union Agency for Fundamental Rights: Strong and effective National Human Rights Institutions: Challenges Promising Practices and opportunities, (2020).
- OHCHR: National Human Rights Institutions: History, principles Roles and responsibilities (United Nation 2010).
- Paris principles, General Assembly Resolution 48/134, (1993).
- UNDP-OHCHR: Toolkit Collaboration with National Human Rights Institutions (2010).