

THE BENEFITS AND IMPLICATIONS OF ETHIOPIA JOINING INTERNATIONAL AND REGIONAL HUMAN RIGHTS ADJUDICATORY BODIES

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Acronym

ACHPR: African Commission on Human and Peoples' Rights

ACRWC: African Charter on the Rights and Welfare of the Child

ACERWC: The African Committee of Experts on the Rights and Welfare of the Child

AU: African Union

CCAT: Committee against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment

CAT: Convention against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment

CEDAW: Convention on the Elimination of All Forms of Discrimination against Women

CESCR: Committee on Economic, Social, and Cultural Rights

CRPD: Convention on the Rights of Persons with Disabilities

CSOs: Civil Society Organizations

EAC: East African Community

EACJ: East African Court of Justice

EHRC: Ethiopian Human Rights Commission

EPRDF: Ethiopian People's Revolutionary Democratic Front

FDRE: Federal Democratic Republic of Ethiopia

HRC: Human Rights Committee

ICC: International Coordinating Committee of National Human Rights Institutions

ICCPR: International Covenant on Civil and Political Rights

ICESCR: International Covenant on Economic, Social, and Cultural Rights

ICJ: International Court of Justice

IDP: Internally Displaced People

LHR: Lawyers for Human Rights

NGOs: Non-Governmental Organizations

NHRAP: National Human Rights Action Plan

OCHA: Office for the Coordination of Humanitarian Affairs

OHCHR: Office of the High Commissioner for Human Rights

OP-CRC-AC: Optional Protocol on the Involvement of Children in Armed Conflict

OP-CRC-SC: Optional Protocol on the Sale of Children, Child Prostitution, and Child Pornography

SGBV: Sexual and Gender Based Violence

TOR: Terms of Reference

UDHR: Universal Declaration of Human Rights

UN: United Nations

WWII: World War Two

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EXECUTIVE SUMMARY

Executive Summary

Human rights violations and accountability of the state and individual perpetrators have increasingly become a great concern over the last decades in Ethiopia. Although they vary in terms of their degree of magnitude and context, the last three decades are marked by human rights violations by government authorities, individuals, and organized groups. Whereas looking at recent events, the armed conflict in Tigray and parts of Afar and Amhara regions has resulted in gross human rights violations which have reached the level of crimes against humanity due to their severity and systematic nature. However, the national human rights accountability mechanisms to address past and present human rights violations through existing legal and institutional structures have become exigent especially in the face of the political context, structural challenges, and protracted conflicts in different parts of the Country.

The current government upon taking power has put in place concerted efforts to redress human rights violations perpetrated during the EPRDF regime. These efforts include criminal prosecution, removing officials, and reconstruction of state structures. Such endeavors have encountered several challenges and are not sufficient to redress the various human rights violations and address the needs of the victims. On the other hand, attempts to address present human rights violations including those occurred in the armed conflict context are also proceeding through several challenges. The lack of the legal basis to claim redress for human rights violations against the state including reparation to victims, the resource constraints, and the capacity limitations of state structure for a coordinated and effective response could be regarded as a few such challenges. Furthermore, the independence and impartiality of state structures to ensure accountability of government officials for human rights violations could be a threat to the national human rights mechanism. This policy paper makes a compelling argument for the need to adopt regional and international human rights accountability mechanisms which will complement the inadequate and sometimes unwilling national human rights accountability mechanisms. The policy paper recommends the rati-

fication of international and regional instruments that set regional and international human rights accountability mechanisms for human rights violations in Ethiopia.

Key Points

- The increasing nature of human rights violations and abuses and the deeply rooted culture of impunity in the country require greater commitment and an enhanced accountability mechanism that provides viable prospects and redress to the needs of victims and survivors. The regional and international human rights accountability mechanisms enhance victims' rights to get relief and bridge the structural and logistical gaps in the national human rights mechanism.
- When a country fails to ratify individual complaint mechanisms, it is restricting the universal rights of citizens to claim a right to a remedy for human rights violations, and also it is a setback to the disadvantage of the state not being able to participate in the development and shaping of international human rights case law.
- The individual complaint mechanism provides the opportunity for the state to show its commitment to discharge its human rights obligations through every possible means, to present its national circumstances to the international community, and to interpret and apply the requests and recommendations of the treaty bodies based on its context.
- The regional and international human rights accountability mechanisms operate within the principle of subsidiarity without infringing state sovereign power and responsibility. The state has the right to primarily address human rights violations occurring in its jurisdiction. Upon ratifying the regional and international human rights instruments, the country has waived its exclusive jurisdiction on domestic human rights issues.
- Given that Ethiopia is a pioneer in the establishment and the birthplace of the African Union, a high level of political commitment to ensure human rights and fundamental freedoms is expected including joining regional human rights accountability mechanisms which will also contribute to the country's increased influence in the continent. The regional and sub-regional human rights accountability mechanisms represent the architecture of recognizing and amplifying continental human rights concerns, and failure to join weakens the development of common institutions and norms in the continent. Ethiopia's accession to such a mechanism will strengthen its claim and reputation of being a pioneer and a leader in the establishment and strengthening of the AU and its organizations, and a legacy to lead by example in the fight against impunity and ensure the protection and enforcement of human rights on the African continent.

Introduction

In recent times, Ethiopia is back in the spotlight for human rights violations due to several reasons including the armed conflict in northern, inter-communal conflicts, and protracted violence in many parts of the country. Both the previous and current regimes have to account for human rights violations in Ethiopia that they commit during their regime. Moreover, the present human rights violations in Ethiopia are attributed to two folds, abuses committed under normal circumstances and armed conflict context in Tigray, Afar, and Amhara regions. The armed conflict has particularly created a humanitarian disaster and resulted in serious and massive violations of human rights. Some of the human rights violations have allegedly reached the level of crimes against humanity and war crimes due to their severity and systematic nature.¹ On the other hand, the human rights violations perpetrated under normalcy and state of emergency also demand equal attention. There is a constant call for justice on the national government to take steps towards strengthened and independent investigations, prosecution, and punishment of the perpetrators of human rights violations and abuses including those associated with the armed conflict. In this regard, some argue strengthening the formal justice system and the rule of law is a priority for the government of Ethiopia to override the culture of impunity for human rights violations. The escalation of widespread human rights violations and the increasing demand for accountability by victims, CSOs, activists, women's rights organizations, and human rights defenders demanded the administration of timely, affordable, sufficient, and accessible justice for human rights violations. On the other hand, there is a reasonable fear that the context and the complexity of the violations question the independence and capacity of the national accountability mechanisms to redress such violations. Therefore, there is a pressing need to complement the existing national framework for accountability, to provide a wide forum for the victims, their relatives, and independent actors including CSOs. Widening access to justice for human rights violations requires expanding the national accountability framework and possible policy options including the introduction of a domestic system for state responsibility for human rights violations and abuses. Furthermore adopting other regional and international mechanisms for individual and state responsibility for human rights violations and abuses could be another option.

¹ Report of the Ethiopian Human Rights Commission (EHRC)/Office of the United Nations High Commissioner for Human Rights (OHCHR) (2021), Joint Investigation into Alleged Violations of International Human Rights, Humanitarian and Refugee Law Committed by all Parties to the Conflict in the Tigray Region of the Federal Democratic Republic of Ethiopia.

The international system of accountability may include joining the International Criminal Court, establishing ad hoc tribunals for individual criminal responsibility, and utilizing the International Court of Justice (ICJ) and UN treaty bodies inter-state and individual complaint procedures as mechanisms for state responsibility.

The regional accountability mechanisms such as the African Commission on Human and Peoples Rights, the African Court on Human and Peoples Rights, and also the East African Court of Justice which has extended mandate in receiving complaints of human rights violations are also important options. These all are the policy options to ensure accountability of the gross human rights violations that had happened and are happening in the country. However,

the legality of such options, whether the state has recognized the competence of such institutions to oversee and adjudicate the human rights violations is the fundamental criteria in exploring feasible options. Furthermore, while advocating policy alternatives to redress human rights violations, it is also vital to consider the acceptability, appropriateness, and responsiveness of the policy alternatives we are proposing.

This policy paper builds upon research that asked whether and how regional and international human rights accountability mechanisms can be relevant, and their role in a broader process of ensuring the state's obligations to redress human rights violations in Ethiopia. The focus is on the relevance of the regional African Court on Human and People's Rights, the sub-regional East African Court of Justice, and the international human rights individual complaint mechanisms. The paper introduces the obligations of the state accountability for human rights violations in general and examines fundamental contextual factors and human rights accountability in Ethiopia within the current policy framework. It also assesses structural and practical challenges in the national accountability mechanisms before making a series of recommendations on how several actors should advocate for the adoption of regional and international human rights accountability mechanisms.

Methodology

This policy document is informed by the objectives of the TOR prepared by Lawyers for Human Rights (LHR) and aspires to serve as an input for advocacy on the Benefits of Ethiopia joining regional and international human rights accountability mechanisms. The policy paper builds upon existing research and human rights reports.

The paper consulted reports by the Ethiopian Human Rights Commission, the UN human rights office, and international and local CSOs, as well as academic and empirical researches.

For primary sources, the paper referred to national and international legal frameworks on human rights. Cases decided by regional, sub-regional and international human rights adjudicatory bodies were also considered. Semi-structured interview guide questions were used to collect contextual data from stakeholders such as the Ministry of Justice, Ministry of Foreign Affairs, local Human rights CSOs, Ethiopian Human Rights Commission, academics, and the Judiciary. The data is organized based on thematic categories and analyzed using a descriptive method.

1.1 Human Rights Violations and Accountability in Ethiopia

Looking back at the history of Ethiopia, the culture of human rights and its fundamental concepts of freedom, dignity, and equality have not been practiced for very long. The historical relationship between the government and the individual was based on spiritual and secular instruments which have a very limited concept that is related to human rights. The monarchial and imperialist government systems in the country's history were generally considered authoritarian, endowed with a political culture of violence, suppressing freedom of expression and freedom to participate in political affairs.² As with the international development of human rights in post-WWII, it was in the 1960s that few concepts of fundamental rights of individuals were reflected in the Ethiopian legal regime.³ Nevertheless, both the imperialist and the Derg regimes are characterized by a lack of government recognition and ignorance of the people about their fundamental rights and freedoms⁴, human rights were not considered as a limitation on the exercise of government power. The progressive human rights developments began to happen after the adoption of the 1995 FDRE Constitution. The Constitution is acclaimed for setting extensive protections for human rights. The constitution characterizes human rights as inviolability; inalienability; and inherent rights. It also recognizes both civil and political rights and economic, social, and cultural rights that are incorporated in international human rights instruments.

2 Tafesse Olika (2013), Political Violence in Ethiopia: Some Reflections on the Red Terror and its Legacies, African Journal Online Vol.8 No.1, P.68. available at <https://www.ajol.info/index.php/ejossah/article/view/84372>[accessed 10 February 2022].

3 See the introduction of written constitution and codified laws in the 1950' and 1960's.

4 Tafesse Olika *Supra* note 2.

Human rights violations that are different in magnitude and context have been occurring in Ethiopia during different regimes. During the imperial regime from the year, 1948-1974 severe human rights violations such as detention or unfair trial of political opponents of the government, inhumane and degrading conditions of imprisonment, the use of torture, and execution of the death penalty for both political and criminal offenses, enforced disappearance and killing, and killings of civilians in the areas of armed conflict has occurred.⁵ The human rights violations in the Derg regime included extra-judicial killings of officials of the imperial regime and the onset leaders of the Derg movement to power.⁶ Furthermore, the regime accounted for large-scale human rights violations of unlawful detentions usually associated with the political context, torture, harsh prison conditions, enforced disappearances, and widespread politically motivated killings associated with the red terror and white terror campaign.⁷ Although the 1995 FDRE Constitution provides the normative legal framework for human rights, the EPRDF failed to ensure the implementation of such guarantees in practice.⁸ Extrajudicial killings, torture, inhumane and degrading treatment, rape and other sexual abuses, unlawful arrest, and detention are the most prominent human rights violations that characterized the regime.⁹ The regime is also known for shrinking the civic and political space through the instrumentality of restrictive laws that hinder the exercise of freedom of expression, association, and assembly. The recurrent declarations of a state of emergencies were also systemic methods and created a conducive arena for extended human rights violations and abuses. When it comes to the current regime, there are commendable changes in the legal and government practices following the 2018 reform in the country. Nevertheless, the human rights situation in the country is increasingly deteriorating.

5 Amnesty International (1978), Human Rights violation in Ethiopia, Amnesty International Index: A FR 25/09/7, available at <https://www.amnesty.org/en/documents/afr25/010/1978/en/> [accessed 10 February 2022].

6 Tiruneh, Andargachew (1991), *The Ethiopian revolution (1974 to 1984)*, PhD thesis, London School of Economics and Political Science. p. 207. Available at <https://etheses.lse.ac.uk/1115/1/U044491.pdf> [accessed 10 February 2022].

7 Amnesty International Human Rights Violations in Ethiopia (1978); Amnesty International Ethiopia the End of Brutal Era- A New Chance for Human Rights (1991); Marcus HG *A History of Ethiopia, (1994) p. 183*; *Human Rights Watch, Ethiopia: Reckoning Under the Law* (1994), pp. 6-7; Zewde B *A History of Modern Ethiopia, 1855-1991* (2002); Zewde B (2009) *The History of the Red Terror: Contexts and Consequences*. In: Tronvoll K Schaefer C, Aneme GA (eds) *The Ethiopian Red Terror Trials: Transitional Justice Challenged*, pp. 17-32.

8 Andinet Adinew Tesfaye and Endalkachew Abera Mekuriya, *Conditions of Human Rights in Ethiopia in the Aftermath of Political Reform*, 19 *Nw. J. Hum. Rts.* 23 (2021). available at <https://scholarlycommons.law.northwestern.edu/njihr/vol19/iss1/3> P. 26. [accessed 10 February 2022].

9 Human Rights Watch, *Human Rights Watch World Report (1995) - Ethiopia, 1 January 1995-2018*, available at: <https://www.refworld.org/> [accessed 10 February 2022]. Amnesty International Report (1996)- Ethiopia, available at: <https://www.refworld.org/docid/3ae6aa0014.html> [accessed 10 February 2022].

Following the reform, arbitrary deprivation of life and other unlawful or politically motivated killings by both government security forces where they used force disproportionately, and organized armed groups attacking civilians are reported.¹⁰ Increasing tensions among ethnic lines, inter-communal conflicts, internal disturbances, and violence, including mob violence and killings are the major patterns witnessed in this period. Some of the notorious violence and human rights violations include the June 22, 2019 killings of regional and military officials and the July 18-22, 2019 clash between security forces and civilians in the Sidama region. The three days of violence and unrest following the death of Hachalu Hundessa on June 29, 2020, that resulted in several killings, physical and mental injuries, property destruction, displacement, and harassment¹¹ is also another incident. On the other hand, the armed conflict in the Tigray region that broke out in November 2021 and its extension to Amhara and Afar regions have resulted in widespread human rights violations. The massive human rights violations during the armed conflict context include attacks on civilians, extrajudicial killings, systematic looting, torture, enforced disappearances, sexual and gender-based violence including gang rapes, rape in detention, sexualized torture, and ethnically targeted sexual violence.¹² Similar human rights violations are also reported in Afar and Amhara regional states.¹³ Furthermore, there are several human rights violations and abuses by other organized armed groups in Benshangul Gumuz¹⁴ and Oromia regions including abduction, taking hostage of individuals, killings, threats, intimidation and harassment, and looting of properties. Moreover, the widespread effects of the armed conflict and the IDPs situation, arbitrary deprivation of liberty in connection with the state of emergency, the arrest of media personnel, and human rights violations that occurred during the June 2021 election are the major human rights situations highlighting the period June 2021-2022.¹⁵

10 <https://www.state.gov/wp-content/uploads/2020/03/ETHIOPIA-2019-HUMAN-RIGHTS-REPORT.pdf> [accessed 10 July 2022].

11 <https://ehrc.org/download/violence-human-rights-violations-following-musician-hachalu-hundessas-assassination-investigative-report/> [accessed 10 July 2022].

12 Joint Investigation Report by EHRC and OHCHR, *Supra* note 1.

13 Ethiopian Human Rights Commission Investigation Report in Afar and Amhara regions, available at <https://ehrc.org/wp-content/uploads/2022/03/Full-AAIR-WITHOUT-Annexes.pdf> [accessed 8 July 2022].

14 <https://ehrc.org/benishangul-gumuz-another-round-of-killings/> and <https://ehrc.org/benishangul-gumuz-region-killings-and-displacement/> [accessed 8 July 2022].

15 <https://ehrc.org/in-a-first-of-its-kind-human-rights-situation-report-on-ethiopia-ehrc-submitted-to-the-house-of-peoples-representatives-the-commission-call-for-government-to-protect-respect-and-guarantee-hu/> [accessed 10 July 2022].

Dissonance to the violations and abuses, the accountability mechanisms for human rights violations in Ethiopia is still in its infancy stage. The human rights accountability efforts witnessed in Ethiopian history are characterized by new governments holding accountable authorities of previous regimes, as the Derg regime did with the imperialist authorities, the EPRDF with the Derg authorities, and the current PPE administration with the EPRDF officials. The prosecution of such officials usually brought about the criminal liability of individual officials without the government being able to provide a proper form of reparation for the victims. It is also argumentative whether such measures are being taken by the government for the sake of upholding the values of ensuring accountability for human rights violations or if it is a politically motivated measure. On another note, the mechanisms and procedures through which such accountability measures are undertaken exhibited further human rights violations, as alleged acts of torture, inhumane and degrading treatment during investigations and detentions, and violations of due procedural guarantees were allegedly reported.

1. Accountability for Human Rights Violations and Abuses: the Current Policy Environment

2.1. International and the African Regional Human Rights Systems

The conceptual, legal, and institutional framework of human rights has its foundations since the establishment of the UN. The UN Charter is the first international instrument to enshrine the commitment of states to the promotion and encouragement of respect for human rights and fundamental freedoms. Then in 1948, the General Assembly restated this commitment to the promotion of human rights and freedoms with the adoption of the Universal Declaration of Human Rights (UDHR). Since then the UDHR has been expounded upon by a wide-ranging framework of multilateral conventions that are widely ratified by states, including ICCPR and the ICESCR. The UDHR, ICCPR, and ICESCR are the bill of international human rights and have been serving as the cardinal maxims for the development of additional other seven core international human rights instruments.

The institutional arrangement for the supervision and monitoring of implementations of such human rights instruments includes the treaty bodies which are established by the respective human rights conventions as well as the UN charter-based organizations. The international human rights system is composed of several mechanisms with different mandates, procedures, and activities to ensure the realization of human rights and better protections. Such

mechanisms also provide for the elaboration of the human rights norms and serve as guidance for practical measures towards achieving the full realization of human rights. The treaty-based supervision and monitoring mechanisms include periodical reporting, complaint procedures for individual and interstate complaints, and inquiry procedures, the applications of which depend on each country's stated commitment. The special procedures with the thematic and country-specific mandates as well as other investigative mechanisms within the UN charter-based system are also significant platforms to ensure accountability of human rights obligations. However, the system is criticized for its politicization, privileged political interests, and concerns over human rights issues.¹⁶ Particularly the system is challenged to maintain legitimacy, as its considerations of human rights violations and intergovernmental decisions are criticized for hardly being rooted in international law. Similarly, the international system functions at the risk of sustaining credibility, applying resolutely uniform standards based on international law and principles. In many instances, the system was commended to avoid activities that could be regarded as applying double standards.¹⁷ The human rights treaty bodies, on the other hand, offer a much more independent and expert-based review of human rights obligations and allegations of violations.

On the other hand, the regional human rights mechanisms also established similar legal and institutional arrangements under the auspices of the regional inter-governmental parent organization. The African Human Rights mechanisms are founded within the AU, based on the African Charter on Human and Peoples Rights. There are also other human rights instruments protecting specific vulnerable groups and institutionalizing procedures and mandates for supervision and monitoring. The African Commission on Human and People's Rights is the only supervisory body established by the Charter and entrusted with the interpretation of the Charter. The Commission interprets the Charter by taking into account 'the Charter of the Organization of African Unity, the UDHR, other instruments adopted by the UN and by African countries in the field of human and people's rights'.¹⁸

16 <https://www.un.org/en/chronicle/article/human-rights-and-un-progress-and-challenges> [accessed 15 March 2022].

17 Theodor Rathgeber (2013), Performance and Challenges of the UN Human Rights Council, an NGOs' View. International Policy Analysis, Friedrich-Ebert-Stiftung, Geneva. Available at <https://library.fes.de/pdf-files/iez/global/09680.pdf> [accessed 15 March 2022].

18 Organization of African Unity (OAU), African Charter on Human and Peoples' Rights ("Banjul Charter"), 27 June 1981, CAB/LEG/67/3 rev. 5, 21 I.L.M. 58 (1982), Art. 60 available at: <https://www.refworld.org/docid/3ae6b3630.html> [accessed 30 May 2022].

The mandate of the Commission comprises to consider complaints, both inter-state and any complaints by individuals or collective entities or organized groups including NGOs. Besides, the commission receives periodical reporting from states on their human rights commitment, scrutinizes the submissions, and provides its concluding observation and recommendations. Furthermore, it has numerous special procedure mechanisms mandated to investigate and report on specific human rights issues through special rapporteurs, working groups, and committees. The African Court on Human and People's Rights is the second supervisory body not foreseen in the Charter but later established by a protocol adopted in Ouagadougou, Burkina Faso, on 9 June 1998 and entered into force on 25 January 2004. The Protocol created a court with the authority to issue legally binding and enforceable decisions to complement and reinforce the protection mandate of the Commission.¹⁹ The court has a broader jurisdiction, as it is mandated to entertain human rights cases based on the African charter as well as other relevant human rights instruments ratified by the concerned state.²⁰ The African human rights system managed to set revolutionary jurisprudence in accountability of human rights violations although it is constantly challenged with lingering lack of cooperation by states, delayed or no response to its urgent appeals, hostility, backlash, and withdrawals.²¹

2.1.1. State Responsibility and Accountability for Human rights Violations

Human rights regulate the relationship between states and individuals by imposing obligations of states towards individuals as the right-holder. The state responsibility in human rights instruments pertains to the obligation to respect, protect and fulfill human rights and freedoms. The obligation to respect entails the government not to act in a way that violates or unlawfully restricts the rights and freedoms of individuals.

¹⁹ Organization of African Unity (OAU), the Protocol to the African Charter on Human and Peoples' Rights on the Establishment of an African Court on Human and Peoples' Rights (Ouagadougou Protocol), 10 June 1998, Art. 2. Available at https://au.int/sites/default/files/treaties/36393-treaty-0019_-_protocol_to_the_african_charter_on_human_and_peoplesrights_on_the_establishment_of_an_african_court_on_human_and_peoples_rights_e.pdf [accessed 20 March 2022]

²⁰ Id, Art. 3 & 7

²¹ Tom Gerald Daly and Micha Wiebusch (2018), the African Court on Human and Peoples' Rights: mapping resistance against a young court, *International Journal of Law in Context* Vol. 14, Issue 2 Pages 294-313, Cambridge University Press. Available at https://www.researchgate.net/publication/325436019_The_African_Court_on_Human_and_Peoples'_Rights_Mapping_resistance_against_a_young_court [accessed 30 May 2022].

On the other hand, the obligation to protect requires the government to take positive actions including adopting legislative, diplomatic, and other measures to protect individuals from violations of their rights by government organs or agents and acts of private actors. The duty to fulfill is more focused on the government to deliver the rights where the individual could not enjoy such rights on her own and take progressive steps for the realization of the rights for all people.²² The obligation of the state to respect and protect human rights also encompasses the state's obligation to secure the human rights and freedoms of individuals within its jurisdiction and prevent the commission of human rights violations. The obligation to take reasonable steps to prevent human rights violations and abuses is usually understood as the obligation of due diligence.²³

Furthermore, the state responsibility does not end at prevention but it also extends to the obligation to properly investigate, prosecute, punish human rights violations and abuses and provide redress to the victims of such violations and abuses.²⁴ Such investigations into alleged human rights violations and abuses must be prompt, effective, thorough, and conducted by an independent and impartial body.²⁵ These human rights principles on state responsibility establish the government's indisputable accountability for violations of human rights by its forces or agents, and its obligation to prosecute and punish human rights abuses by private actors. Accordingly, state responsibility and accountability for human rights violations and abuses emanates from the general human rights obligations against the state and also from specific human rights.

22 UN Committee on Economic, Social and Cultural Rights (CESCR), *General Comment No. 3: The Nature of States Parties' Obligations (Art. 2, Para. 1, of the Covenant)*, 14 December 1990, E/1991/23, available at: <https://www.refworld.org/docid/4538838e10.html> [accessed 315 May 2022]

23 UN Human Rights Committee (HRC), *General comment no. 31 [80], The nature of the general legal obligation imposed on States Parties to the Covenant*, 26 May 2004, CCPR/C/21/Rev.1/Add.13, available at: <https://www.refworld.org/docid/478b26ae2.html> [accessed 15 May 2022] Para. 8

24 UN Human Rights Committee (HRC), *CCPR General Comment No. 20: Article 7 (Prohibition of Torture, or Other Cruel, Inhuman or Degrading Treatment or Punishment)*, 10 March 1992, available at: <https://www.refworld.org/docid/453883fb0.html> [accessed 15 May 2022]

25 General Comment No 31 *Supra* note 23, Para. 15

These rights include but are not limited to:

(a) Equal and effective access to justice; including access to administrative and other bodies, as well as mechanisms, modalities, fair and impartial proceedings,²⁶

(b) Adequate, effective and prompt remedy; including reparation for harm suffered; that individuals have accessible and effective remedies to vindicate the rights violations.²⁷

2.1.2. Lack of Accountability as a Violation of Human Rights: the right to an effective remedy as a Human Right

The very basic notion of human rights is the fact that it is not only a substantive claim but also a procedural guarantee to access a national judicial or administrative authority. Every citizen who claims his/her right has not been respected, protected, or fulfilled has the right to access such institutions. For this right to materialize, the State is under obligation to set an effective, competent, and independent domestic body vested with the power to order reparations and enforcement of decisions. According to General Comment No. 31, of the Human Rights Committee, the obligation of the state enshrined under Article 2(3)(a) of the ICCPR obliges States to take effective steps to investigate violations of human rights “promptly, thoroughly, and effectively through independent and impartial bodies.”²⁸ Failure to do so may in and of itself amount to a violation of the ICCPR. Furthermore, the state also should “bring to justice” perpetrators of certain violations, including torture, cruel, inhuman, or degrading treatment, summary and arbitrary killing, and enforced disappearance.²⁹ States should investigate³⁰ alleged violations and take further action; appropriate legislative and administrative measures to prevent violations, provide victims with effective remedies, and equal and effective access to justice.³¹

26 UN General Assembly, Universal Declaration of Human Rights, 10 December 1948, 217 A (III), available at: <https://www.refworld.org/docid/3ae6b3712c.html> [accessed 10 May 2022] Art. 8.

27 UN General Assembly, International Covenant on Civil and Political Rights, 16 December 1966, United Nations, Treaty Series, vol. 999, p. 171, available at: <https://www.refworld.org/docid/3ae6b3aa0.html> [accessed 10 May 2022] Art. 3(a)

28 UN Human Rights Committee (HRC), *General comment no. 31 [80], The nature of the general legal obligation imposed on States Parties to the Covenant*, 26 May 2004, CCPR/C/21/Rev.1/Add.13, Para 15, available at: <https://www.refworld.org/docid/478b26ae2.html> [accessed 15 May 2022]

29 Id, 18.

30 UN General Assembly, *Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment*, 10 December 1984, United Nations, Treaty Series, vol. 1465, p. 85, available at: <https://www.refworld.org/docid/3ae6b3a94.html> [accessed 10 May 2022] Art. 12.

31 Naomi Roht-Arriaza (1995), “Sources in International Treaties of an Obligation to Investigate, Prosecute, and Provide Redress,” in *Impunity and Human Rights in International Law and Practice*, ed. Naomi Roht-Arriaza, Oxford University Press, P. 24.

The right to an effective remedy is the foundation for accountability of human rights violations. It requires equal and effective access to justice, and adequate, effective, and prompt reparation for harm suffered.³² Another very fundamental component of the right to effective remedy relates to how the investigation of human rights violations and abuses are conducted, that is, the independence; impartiality; thoroughness; effectiveness; promptness; and transparency of the investigations.³³

2.1.3. Accountability Mechanisms for Human Rights Violations and Abuses

The accountability mechanisms for human rights violations the state may adopt may include criminal proceedings, inquiry, disciplinary measures, and administrative investigations. These range of accountability mechanisms are not mutually exclusive, rather they are complimentary, contribute to the realization of effective redress to the violations, prevent future violations and guarantee respect for the rights of survivors.³⁴ While framing specific accountability mechanisms, it is a fundamental requirement to have a broader perspective and consider the rights, needs, and perspectives of the survivors, the victims, the witnesses, and the relatives of the human rights violations and abuses.³⁵ In addition to the national accountability mechanisms, the international and regional human rights systems have criminal proceedings, a commission of inquiry, and individual and inter-state complaint procedures to entertain violations and abuses of human rights.

In international human rights accountability, the violations and abuses may entail both individual criminal responsibilities against perpetrators who ordered or committed the violations and state responsibility for the action or omission that lead to the violations of the rights. The available accountability mechanism for individual criminal responsibility includes the ICC and ad-hoc tribunals and the Universal Jurisdiction in the criminal system of nations. For state responsibility, the alternatives include the ICJ and the UN Human Rights treaty bodies' individual and inter-state complaint mechanisms.

32 Naomi Roht-Arriaza (1990), "State Responsibility to Investigate and Prosecute Grave Human Rights Violations in International Law," *California Law Review* 78: 449, 462. Available at <https://lawcat.berkeley.edu/record/1113717/files/fulltext.pdf> [accessed 15 May 2022].

33 UN General Assembly, *Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law : resolution / adopted by the General Assembly*, 21 March 2006, A/RES/60/147, available at: <https://www.refworld.org/docid/4721cb942.html> [accessed 15 May 2022]

34 Joint Investigation Report by EHRC and OHCHR, *Supra* note 1, P. 85

35 *Ibid.*

The individual complaint mechanism of treaty bodies' is that anyone may bring a complaint against a State party alleging a violation of treaty rights to the body of experts monitoring the treaty. These treaty bodies are usually Committees composed of independent experts elected by States parties to the relevant treaty. The treaty bodies are mandated to observe compliance through monitoring the implementation of the rights enshrined in the treaties and rendering decisions on complaints brought against state parties. However, as with all other international mechanisms, a state has to provide prior consent for the UN treaty bodies to consider complaints or cases against it. It is fundamental that based on the international-law principles of equality and sovereignty³⁶, states can only be subjected to those judicial proceedings for which they consented beforehand or ad hoc. As mentioned above, although Ethiopia has ratified many core international human rights treaties, such ratifications do not include core international treaties that entail international responsibility. Furthermore, Ethiopia has not agreed to the automatic jurisdiction of the ICJ and has not ratified the Rome Statute of ICC. Similarly, Ethiopia has not acceded to the protocol that establishes the African Human and People's Right Court.

2.2. National Human Rights System

To ensure human rights accountability, the national government has the obligation to promulgate domestic laws consistent with international human rights norms and standards, and establish institutions and entities that ensure the laws are equally enforced. Besides, the government shall ensure the independent adjudication of human rights violations. The obligation of the state to protect and redress human rights violations rests on the legislative, executive, and judiciary branches of the national government. Moreover, the role of national human rights institutions which are independent state bodies mandated with the promotion and protection of human rights is also significant. These institutions have a broader mandate, although varied in several states, ranging from monitoring the human rights situation, receiving and investigating complaints, devising recommendations, and reporting concerns to the public and international human rights mechanisms. The existence of these institutions plays a vital role to ensure human rights accountability of national governments.

³⁶ Charter of the United Nations Art. 2(1), United Nations, 24 October 1945, 1 UNTS XVI, available at: <https://www.refworld.org/docid/3ae6b3930.html> [accessed 1 May 2022].

The primary responsibility for accountability of human rights violations rests on the national government. Human rights systems either international or regional are not meant to replace the national judicial and quasi-judicial mechanisms. The international and regional human rights accountability mechanisms are established on the principle of subsidiarity or complementarity. The principle lays down the rule that regional or international mechanisms are available once a complainant attempts to resolve the alleged violations of human rights using the available and appropriate local remedies.

Ethiopia has dedicated one-third of its Constitution to human rights. The Constitution stipulates that its provisions shall be interpreted in line with international human rights treaties ratified by the country.³⁷ Moreover, institutional-wise, the Constitution mandates all the legislative, executive, and judiciary to uphold the constitutionally guaranteed human rights.³⁸ On the other hand, an independent national human rights institution, the Ethiopian Human Rights Commission is one of the institutional structures for ensuring the realization of the rights. Furthermore, there is a national mechanism for reporting and follow-up under the auspice of the Federal Ministry of Justice. The Ministry is mandated to coordinate and prepare reports and engage with international and regional human rights mechanisms. There is also the National Human Rights Action Plan/NHRAP that is designed to guide the human rights actions of the country every five years.

Ethiopia is one of the few African countries which ratified seven out of the nine major international human rights instruments; namely, the International Convention on the Elimination of All Forms of Racial Discrimination (CERD); the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW); the Convention on the Rights of the Child (CRC) and its Optional Protocols on the Involvement of Children in Armed Conflict (OP-CRC-AC), and the Sale of Children, Child Prostitution and Child Pornography (OP-CRC-SC); the International Covenant on Civil and Political Rights (ICCPR); the International Covenant on Economic, Social and Cultural Rights (ICESCR); the Convention against Torture and Other Cruel Inhuman or Degrading Treatment or Punishment (CAT); and the Convention on the Rights of Persons with Disabilities (CRPD).

In addition, Ethiopia is a State Party to the following regional human rights treaties: the African Charter on Human and Peoples' Rights (the African Charter); the African Charter on the Rights and Welfare of the Child (ACRWC); the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (Maputo Protocol); and the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Older Persons in Africa.

³⁷ *Constitution of the Federal Democratic Republic of Ethiopia*, Art 13 (2) Federal Negarit Gazeta of the Federal Democratic Republic of Ethiopia, 1st Year No. 1, dated 21 August 1995

³⁸ *Id.*, Art. 13 (1).

Ethiopia is also bound by relevant rules of international human rights law that form part of customary international law.

2.2.1. The Interplay between National and the Regional and International Accountability Mechanisms: the Principle of Subsidiarity

Prior exhaustion of local remedies is complaint admissibility criteria adopted by all regional³⁹ and international human rights mechanisms.⁴⁰ The term usually denotes the requirement of the complainant to seek and utilize all the available national judicial or administrative procedures to redress the human rights violations before resorting to supranational mechanisms. On the other hand, the concept has also developed into a substantive rule questioning the instance when the international system should be called into the national matter for breach of international human rights obligations. The substantive aspect of the requirement to exhaust local remedies is allied to the respect for the sovereignty⁴¹ of the state which allegedly violated the human rights obligations and giving it the opportunity to correct the alleged violations through the domestic means of jurisdiction. Accordingly, victims of human rights violations are legally expected to primarily opt for and exhaust domestic remedies available in the country.

Similarly, the state is under obligation to put in place remedial structures which citizens can access in pursuit of relief for human rights violations. This way the national mechanisms hold primacy while the international and regional human rights accountability mechanisms have a supplementary role, complementing the national system when the state is not able or willing to give redress to human rights abuses. Furthermore, the principle of subsidiarity somehow divides tasks among the three mechanisms and reinforces one another.

The interdependence among the mechanisms requires a greater institutionalization which will enable improved cooperation.

39 Banjul Charter, art. 56(5). European Convention for the Protection of Human Rights and Fundamental Freedoms (as amended), Art 35; American Convention on Human Rights Art 46(1)(a). Article 46(1) (a) of the American Convention on Human Rights.

40 UN General Assembly, Optional Protocol to the International Covenant on Civil and Political Rights, 19 December 1966, United Nations, Treaty Series, vol. 999, p. 171, available at: <https://www.refworld.org/docid/3ae6b3bf0.html> [accessed 1 May 2022] art. 5(2)(b)

41 Edwin M. Borchard (1930), *Theoretical Aspects of the International Responsibility of States*, P. 237, Max-Planck-Institut für ausländisches öffentliches Recht und Völkerrecht available at https://www.zaoerv.de/01_1929/1_1929_1_a_223_250.pdf [accessed 15 May 2022]

Where a state adopts regional and international mechanisms it enhances the opportunity for institutionalized cooperation which justifies ‘a progressive increase the system’s capacity to ensure the basic interests of people, giving rise to new justice-based responsibilities associated with human rights, which enables the consolidation and expansion of protection claims.’⁴²

In addition to the Charter⁴³ the jurisprudence of the African Commission on Human and Peoples Rights⁴⁴ consistently affirmed the subsidiary nature of the regional human rights mechanism by encouraging states to develop effective domestic remedies and enforcing the mandatory application of exhaustion of such domestic remedies by complainants. The Commission grounded the exhaustion requirement in the principle that a government should have an opportunity to remedy human rights violations before being called before an international body.⁴⁵ Hence the interplay of the national human rights mechanisms on the one hand and the regional and international accountability mechanisms on the other is based on the principle of subsidiarity.

2.2.2. Fundamental Contextual Factors Affecting National Accountability Mechanisms for Human rights Violations and Abuses

Several factors have a significant impact on guaranteeing the right to an effective remedy at a national level. The following are some of the major challenges affecting the national accountability mechanism for human rights violations and abuses.

a. Lack of National Reparation Framework for Human Rights Violations: Reparations

are sets of measures that provide redress to victims of gross violations of international human rights law and serious violations of international humanitarian law and they are often provided by the State. A State is also obliged to provide reparations where it fails to take reasonable steps to protect the human rights of its citizens from being violated, or in a broader context if there is a lack or absence of due diligence on its part.

42 Ibid.

43 Banjul Charter *Supra* note 18, Art. 56.

44 *Jawara V Gambia* (Communication No. 147/95, 149/96) [2000] ACHPR 17; (11 May 2000) available at <https://africanlii.org/afu/judgment/african-commission-human-and-peoples-rights/2000/17> [accessed 15 May 2022] Para. 30.

45 International Justice Resource Center (2017), *Exhaustion of Domestic Remedies in the African Human Rights System*, available at <https://ijrcenter.org/wp-content/uploads/2017/11/7.-Exhaustion-of-Domestic-Remedies-African-System.pdf> [accessed 7 May 2022]

Reparations include restitution, compensation, rehabilitation, satisfaction, and guarantees of non-repetition.⁴⁶ Looking at the legal frameworks of Ethiopia, there is no comprehensive human rights adjudicative mechanism that guarantees state responsibility to provide various forms of reparation for victims, survivors, and their relatives of human rights violations and abuses. The limited capacity of existing frameworks to address the widespread human rights violations and abuses is also a challenge to the national accountability mechanism

b. The Ineffectiveness of the right to remedy for Human rights abuses by Non-state Actors:

legally speaking, civil and criminal legislation⁴⁷ of the country provide for victims' right to claim various forms of reparations including compensation, restitution, and injunctions, which equally provide the legal basis to claim redress for human rights abuses by non-state actors and individuals. Nevertheless, due to the nature and context of the human rights abuses by non-state actors particularly in the context of armed conflicts, the effectiveness of such relief mechanisms is constrained by several pragmatic challenges. The identification of the individual wrongdoer who committed the human rights violations is a great challenge for survivors and the victims that could bar any prospect of initiating legal action for relief.⁴⁸ Furthermore, the availability of the wrongdoer for the trial is another factor that defies the survivors' right to a remedy, as a trial in absentia affords limited relief for the survivors.⁴⁹ Most significantly, the wrongdoer's ability to comply with the compensation orders, such as the ability to pay compensation for survivors, is another determinant factor that deprives victims and survivors of human rights abuses to enjoy appropriate relief.⁵⁰ These practical difficulties along with other factors stated render the accountability mechanism ineffective.

46 UN General Assembly, *Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law* : resolution / adopted by the General Assembly, 21 March 2006, A/RES/60/147, available at: <https://www.refworld.org/docid/4721cb942.html>

Principle 19-23.

47 The FDRE Criminal Code (2005), Art. 101 and the Civil Code (1960) Extra-Contractual obligation provisions.

48 Brook Kebede Abebe (2020), the Accountability of Non-State Armed Groups for Human Rights Abuses in Ethiopia, paper submitted to LHR, P. 28.

49 Ibid.

50 Ibid.

c. The Shadow of Amnesty and Discontinuing of Prosecutions as a Threat against the Right to effective Remedy:

The practice of scarifying victims' persistent claim for justice in the interest of peace, through peace negotiations and agreements was witnessed in several nations. However, as it has been well established in Latin American countries since the 1990s, impunity is regarded as detrimental to any reconstruction of society and incompatible with the process of individual and community healing and moving on in life.⁵¹ In the Ethiopian context, the recent decision of the government to discontinue the prosecution of high-profile political leaders and activists, including local government authorities who were suspected of being responsible for the death, destruction, and looting of properties, threat, intimidation and harassment, and the arbitrary displacement of citizens across Oromia regional state following the death of the famous singer Hacalu Hundessa, affirmed that the domestic justice system could be compromised in favour of diverse sub-national and political interests. This kind of practice could lead to the erosion of public trust in the administration of the justice system, shadowing the possibility of an effective remedy for the human rights violations and abuses in the country.

d. Violation of Human rights as a Norm and the Culture of Impunity:

Accountability or human rights violations can be understood as “an explicit acknowledgment of past grave human rights violations, and of state involvement in or responsibility for them, through means that can include but are not limited to the recovery and diffusion of truth, criminal prosecution, reparations to victims, and efforts to guarantee non-repetition.”⁵² There are several historical accounts of efforts to bring accountability for human rights violations in Ethiopia, including the 1990s EPRDF trials of the Derg officials, and also in the year 2018 when over 60 high-level government officials were arrested on charges of torture and corruption following the coming into power of the current administration.

51 Nora Sveaass (2013), Gross human rights violations and reparation under international law: approaching rehabilitation as a form of reparation, *European Journal of Psych traumatology*, 4:1, 17191, DOI: 10.3402/ejpt.v4i0.17191 available at <https://doi.org/10.3402/ejpt.v4i0.17191> [accessed 14 February 2022]

52 Skaar, Elin; García-Godos, Jemima; Collins, Cath (2013), *From Impunity to Accountability for Human Rights Violations in Latin America: Towards an Analytical Framework*, P. 14, available at <https://open.cmi.no/cmi-xmlui/bitstream/handle/11250/2474862/From%20Impunity%20to%20Accountability%20for%20Human%20Rights%20Violations%20in%20Latin%20America%3a%20Towards%20an%20Analytical%20Framework?sequence=1&isAllowed=y> [accessed 14 February 2022]

Nevertheless, these efforts only focus on certain crimes, and vast human rights violations remain unaddressed and remedy for the victims was not considered an obligation. Furthermore, there has not been a Victims-Centered justice process that was initiated to address the human rights violations that took place during the Red Terror or the EPRDF's leadership. Based on these patterns, the culture of impunity is one of the practical challenges that could still be a trait for the national mechanism to make a breakthrough to ensure accountability of the human rights violations that are occurring now.

e. The Systematic Nature of the Human Rights Violations as Barriers against

accountability: For the human rights violations occurring in the country, there is a reasonable assumption that the government cannot legitimately claim ignorance of such violations, as it is also the government forces and officials who violated the human rights either through action or omission. Similarly, for the human rights violations and abuses by other individuals and groups, the state is responsible to prevent or prosecute such violations and failure to do so is intrinsically another violation of its human rights obligations. The government is expected to exert efforts to document and investigate human rights violations systemically and comprehensively. It also extends to the state's duty of due diligence in exploring and determining the combination of law, regulation, and policy that is best suited to address the violations, including a committed implementation of judicial and non-judicial mechanisms.

In this regard, although the regional justice bureaus in several areas affected by the armed conflict are non-functional, the Federal Ministry of Justice has announced that it has conducted investigations of the human rights violations in the Tigray region that are within their jurisdiction. Yet, the investigations faced difficulties to identify perpetrators.⁵³ Similar investigations are carried out by the Ministry of Justice in collaboration with the Federal Police for human rights violations in the armed conflict context in the Amhara and Afar regions. For other violations, recently, the Ministry of Justice reported that it has completed investigations into the extrajudicial killings that occurred in Benshanguel Gumuz Metekel Zone by government forces.⁵⁴

⁵³ <https://ethiopianembassy.org/press-release-concerning-criminal-investigation-on-crimes-committed-in-axum-city-attorney-general-may-10-2021/> [accessed 25 July 2022]

⁵⁴ <https://www.theguardian.com/world/2022/mar/12/ethiopia-says-it-will-act-after-video-shows-uniformed-men-burning-civilians-alive> [accessed 25 July 2022]

Yet the prosecution is challenged to bring members of the government armed forces to justice, as the regional Special Forces failed to hand over the members who allegedly committed the violations. Moreover, investigations are completed and prosecution is under proceeding against the human violations perpetrated recently in Gondar, Worabe, and Jinka areas.⁵⁵ Overall the investigation, identification of suspects, prosecution, and trial of the perpetrators has been carried out on certain human rights violations and against a limited number of perpetrators. This shows that human rights violations are being addressed through the criminal justice system. Most of the criminal charges and trials for human rights violations are being carried out in absentia, and subtle for violations perpetrated by government forces and officials. Parallel to the criminal justice system, the military justice system has few prospects of success in the trial of human rights violations in armed conflict. As of August 2021, 14 soldiers are tried and convicted of rape by the military courts.⁵⁶ Based on the above facts, one can discern that the investigation and prosecution of human rights violations are not systematic and well organized. The participation of the victims at each stage of the proceeding, including access to legal advice, remains unavailable.

This has limited the informed decisions of victims and their relatives on how they can exercise their rights and obtain redress. Furthermore, the independence, impartiality, willingness, and capacity of government structures including courts to properly consider the cases and provide relief for victims remains a concern. The political commitment of the legislative, the executive, and judiciary at all levels to punish and redress human rights violations is a major factor. Additionally, the financial and technical capacity of such institutions and the individual experts working on human rights violations taps one of the practical challenges to ensuring accountability. Other alternative explanations founded on empirical research about the experiences of other countries have also revealed that human rights accountability failed due to the lack of will on the part of the executive body to implement human rights policies owing to its strong link with the political regime or continued threat or intimidation by the political leaders.⁵⁷ Nevertheless, the new Federal Courts establishment proclamation⁵⁸ and the evolving judicial activism of courts which is witnessed recently is a positive development that could lighten these concerns relatively.

55 <https://www.ena.et/en/?p=35961> [accessed 25 July 2022]

56 Joint Investigation Report by EHRC and OHCHR, *Supra* note 1, P. 89

57 Skaar Elin (1999), Truth commissions, trials-or nothing? Policy options in democratic transitions, *Third World Quarterly*, 20:6, PP.1109-1128, at 1125, DOI: [10.1080/01436599913316](https://doi.org/10.1080/01436599913316) available at <https://www.tandfonline.com/doi/abs/10.1080/01436599913316> [accessed 01 March 2022]

58 Federal Courts Proclamation. No. 1234/2021, 27th Year No.26 ADDIS ABABA 26th April, 2021

f. Substantive and Procedural Legal Gaps on accountability for human rights violations and abuses: It is well-established that accountability for gross human rights violations and abuses, including individual accountability under the criminal procedure, is central to restoring public trust in the justice and security institutions' capacity to ensure the rule of law and sustainable peace. In Ethiopia, efforts are being made to ensure accountability for human rights violations and abuses through the criminal justice system. In terms of legal gaps, the definitional elements of the criminal acts for some crimes against humanity are not sufficient in the 2005 Criminal Code. A few of the human rights violations such as the various forms of SGBVs including 'rape in detention'⁵⁹ as is described in the joint reports of EHRC and OHCHR, and other atrocity crimes are missing in the crimes against humanity and war crimes list of the criminal code.

The lack of clear definitional elements of the criminal acts in the law coupled with the limited experience, and technical and institutional capacity of the criminal justice system, jeopardizes the effectiveness of ensuring justice for victims of such human rights violations. Furthermore, the criminal justice system only provides for individual criminal responsibility and is not inclusive of the concept of state responsibility for human rights violations. On the other hand, accountability for human rights is equally important. However, there is also a need to pay attention to the lives of the victims, unfortunately, accountability efforts have not been accompanied by corresponding strong measures to address the physical, psychological, and material loss and plight of victims. Therefore, the absence of a national legal framework on the responsibility of the government to ensure the reparation of victims of human rights violations is another challenge in the current policy context of the country.

g. Peace, Security, and Political Instability as Challenges for accountability of human rights violations: Considering the major issue of peace and political instability in the country, the human rights agenda is not a priority for the national government or the justice system. Nevertheless, the national government must take measures to prioritize human rights among the public policies, to reinforce the peace and political stability of the state by ending impunity, and ensuring justice and rule of law in the country.

59 Joint Investigation Report by EHRC and OHCHR, *Supra* note 1. P. 43.

The government at all levels is much more occupied with the humanitarian crisis, inflation, peace, and security, and human rights accountability is considered a luxury in the context of such plights. The fact that human rights are not urgent matters of the state hampers measures to be adopted by the government to improve criminal accountability and provide full and effective reparation to victims on time, and hence impinges the accountability mechanisms.

2. Evaluation of Policy Alternatives: Individual Complaint Mechanisms

2.1 Regional Mechanisms as Policy Alternatives

A. The African Commission on Human and People's Rights/ACHPR and The African Committee of Experts on the Rights and Welfare of the Child/ACERWC

The African Commission is an available policy option for human rights accountability in Ethiopia. Nevertheless, the commission provides for a decision on complaints in the form of recommendations and there are no procedures to supervise the implementation of such recommendations. Yet the Commission's Secretariat normally issues correspondence reminding states that are found to have violated provisions of the African Charter to uphold their obligations. The African Committee of Experts on the Rights and Welfare of the Child is the monitoring body established in 2001, based on Articles 32-46 of the African Charter on the Rights and Welfare of the Child.

The committee's mandate includes monitoring the implementation of the Charter, providing recommendations to governments, considering individual complaints about violations of children's rights, and examining measures adopted by the Member States to implement the Charter. The Committee has jurisdiction to examine complaints against Ethiopia, as the country has acceded to the charter. Nevertheless, considering the magnitude of human rights violations in the country, these two mechanisms are unutilized or if not underutilized. Accordingly, increasing activism is expected particularly from CSOs to utilize and engage with regional and international human rights mechanisms to ensure accountability.

B. The African Court on Human and People's Rights (ACHPR)

The African Court on Human and People's Rights is a court established to complement the protection mandate of the commission. It is endowed with the mandate to entertain contentious cases and the jurisdiction to provide an advisory opinion to the AU or any African organization acknowledged by AU.⁶⁰ The court has the power to interpret the charter, its establishment protocol, and other relevant human rights instruments ratified by the states. In terms of access to the court, as provided under Art. 5(1) of the protocol, it is only the commission, state parties, and African Intergovernmental Organizations that have the right to bring cases directly to the attention of the court.⁶¹ The state parties could be those which submitted a complaint to the commission, or against which a complaint is submitted to the commission, or a state whose citizen is a victim of human rights violations. In the interest of political sovereignty, the Court Protocol makes direct access to the African Court conditional. According to Art. 5, individuals and NGOs could only bring cases directly, as of a right in their private capacity, only if the state against which they are complaining has signed a separate declaration, under Article 34(6) of the Protocol, accepting the competence of the Court to hear such cases.⁶²

Most significantly the court has no jurisdiction to entertain cases unless a given state ratified the protocol establishing the court. Ethiopia, in this regard, is one among the many African States who have not ratified the Protocol. For Ethiopia, the responsibility of ratifying the protocol is strongly presumed to maintain its reputation and claim of being the pioneer in establishing AU and its organizations. Furthermore, it would be a confirmation of Ethiopia's historic legacy as a country for the birth of black's people freedom, and a commitment of the state to maintain people's freedom, dignity, and equality through comprehensive national and regional human rights mechanisms. The African Court represents 'African solutions to African problems' and states accession to the court ensures the development of common institutions and norms and the uniform application of human rights on the continent.⁶³ Ethiopia, as a pioneer in establishing the AU, should also take the lead and contribute to the development of strong regional human rights accountability mechanisms.

60 Ouagadougou Protocol *Supra* note 19, Art. 6, 4, 10 and 15

61 *Ibid.*

62 *Id.*, Art. 5; 8; 9; 10. Art. 5; 11

63 Tom Gerald Daly, Micha Wiebusch *Supra Note* 21.

C. The East African Court of Justice

The East African Community (EAC) with its headquarters in Arusha, Tanzania, is a regional intergovernmental organization of 6 east African countries: namely, the Republics of Burundi, Kenya, Rwanda, South Sudan, United Republic of Tanzania, and the Republic of Uganda. Ethiopia is not a member of the East African Community (EAC) and hence by default not a party to the East African Court of justice. The East African Court of justice is established in the year 1999 through the East African Community treaty⁶⁴ to ensure rule of law in the community. Therefore, the primary jurisdiction of the court is to interpret and apply the establishing treaty of the EAC. Although the human rights jurisdiction of the court is coincidental, the broader mandate of the court can also be derived from the fundamental and operational principles of the community, which are “good governance including adherence to the principles of democracy, the rule of law, accountability, transparency, social justice, equal opportunities, gender equality, as well as the recognition, promotion, and protection of human and peoples’ rights in accordance with the provisions of the African Charter on Human and Peoples’ Rights”⁶⁵ (emphasis added).

On the other hand, the EAC treaty stipulates that the court shall have such other original, appellate human rights, and other jurisdiction as will be determined by the council at a suitable subsequent date.⁶⁶ Although the role of the EACJ in protecting and promoting human rights is limited by its existing contentious and undefined human rights competence, the contentious human rights mandate of the EACJ on human rights issues is reflected in many cases determined by the court. One of the best cases that can be mentioned as an example here is the Managing Editor Mseto versus the Attorney General of the United Republic of Tanzania. On 2 June 2020, the Appellate Division of the East African Court of Justice delivered a final decision against Tanzania. The dispute is about the Tanzanian newspaper, Mseto, which was banned in the year 2016 after it publicized a report that alleges the Deputy Minister took a bribe to finance President Magufuli’s election campaign. The applicant, editor, and publisher of Mseto reasoned that the banning order violated the right to freedom of expression and hence presented as Tanzania has breached its obligations as a member of the EAC.

64 East African Community (EAC), Treaty for the Establishment of the East African Community (as amended in 2006 and 2007), available at <https://www.eacj.org/wp-content/uploads/2012/08/EACJ-Treaty.pdf> [accessed 18 February 2022]

65 Id, Art. 6,7 and 8.

66 Id, Art. 27.

The Applicant alleged that the relevant section of the Tanzanian Newspaper Act contravenes the rights to freedom of expression and press freedom. Furthermore, the applicant argued that these actions of the state infringe the fundamental principles in Articles 6 (d), 7(2), and 8(1) (c) of the Treaty for the Establishment of the EAC.

Article 6(d) of the Treaty stipulates that the objectives of the Community include good governance, adherence to democracy, the rule of law, accountability, transparency, and equality. Article 7(2) states that “Partner States undertake to abide by the principles of good governance, including adherence to the principles of democracy, the rule of law, social justice and the maintenance of universally accepted standards of human rights.” Article 8(1) (c) requires that states “abstain from any measures likely to jeopardise the achievement of those objectives or the implementation of the provisions of this Treaty”.⁶⁷

While the case was being entertained at the EACJ⁶⁸, Tanzania repealed its law which was restricting freedom of expression and freedom of press. Yet the banning remained in force pending appeal. In the end, the Appeal Division of the EAC Court of Justice ruled that the newspaper banning violates freedom of press based on the principles of democracy and state obligation to adhere to the principles of good governance, the rule of law, and principles of accountability and transparency.⁶⁹ In the year 2022, the Tanzanian government ended the ban on Mseto and three other Newspapers in the country.⁷⁰ Notwithstanding such signs of progress in the region, Ethiopians have no access to the EACJ, as the country is not a member of the East African Community which bestowed existence to the EACJ. The decision of the government whether to join the community or not solely based on its opportunity for an extended human rights accountability mechanism may not result in a desirable outcome as there other interests that have to be considered.

67 Id, Art. 6, 7 and 8.

68 <https://www.eacj.org/wp-content/uploads/2020/11/Reference-No.-7-of-2016-The-Managing-Editor-Mseto-Another-v-The-Attorney-General-of-the-United-Republic-of-Tanzania.pdf> [accessed 8 July 2022]

69 <https://www.eacj.org/?cases=the-managing-editor-mseto-another-v-the-attorney-general-of-the-united-republic-of-tanzania> [accessed 8 July 2022]

70 <https://www.voanews.com/a/media-in-tanzania-relieved-as-government-lifts-ban-on-four-newspapers-/6437601.html> [accessed 8 July 2022]

2.1 International Mechanisms: Individual Compliant mechanism of Treaty Bodies

Individual complaint mechanisms of treaty bodies are established either by the treaty itself or a separate additional protocol such as the first protocol to ICCPR which entrusted individual complaint mandate to the Human Rights Committee (the treaty body/group of experts) of the ICCPR. Therefore the complaints procedures are optional where in addition to the main treaty, the State party has to formally accept the complaints procedure (usually by ratifying an optional protocol)⁷¹ before it can be claimed for accountability mechanism. These complaint mechanisms are not appellate or a retrial of cases, but a review mechanism of domestic remedies. However, not many states, including Ethiopia ratified the international individual complaint mechanisms. The lack of recognition of such jurisdiction by states partly relates to the government official's commitment to ensure human rights accountability and misunderstandings as it ought to be seen as a complement rather than a substitute to national jurisdictions. Where a country fails to ratify individual complaint mechanisms, it restricts the universal rights of citizens to claim the right to a remedy for human rights violations. On the other hand, the state itself sets back to the disadvantage of not being able to participate in the development and shaping of international human rights case law. The individual complaint mechanism provides the opportunity for the state to mark its commitment to fulfil its human rights obligations through every possible means. It also allows the state to present its national circumstances to the international community, and interpret and apply the requests and recommendations of the treaty bodies based on its context, state by state basis. In another perspective, the state availing itself for scrutiny by an international treaty body allows the right holders a wider forum to present their cases and get relief for alleged human rights violation abuses.

71 Office of the United Nations High Commissioner for Human Rights (OHCHR) 23 Frequently Asked Questions about Treaty Body Complaints Procedures, available at <https://www.ohchr.org/sites/default/files/Documents/HRBodies/TB/23FAQ.pdf> [accessed 16 February 2022]

2.2 Policy Option Evaluations: Regional and International Human Rights Mechanisms

To realize the protection and promotion of human rights at the national and international level, international human rights instruments set a monitoring mechanism to ensure the protection and fulfillment of human rights. Among the modalities of the international human rights monitoring mechanisms, the individual complaint procedures provide the forum for individuals to pursue remedies and justice for violations of their human rights. Yet, these supra-national mechanisms operate under the principle of primacy of the domestic legal system to redress human rights violations. It should also be underscored that although the international human rights system is pivotal in setting standards and precedents, it could also be argued that the regional human rights systems are better placed, and can therefore be more effective in promoting and protecting human rights.

The regional human rights systems are created to strengthen the protection and enjoyment of human rights by taking into account regional contexts, such as shared regional culture, customs, values, and practices.⁷² While the protection and realization of human rights obligations ultimately fall on the domestic mechanisms, when the domestic institutions fail to uphold the rights, or when the state itself is the violator of the rights, it may be necessary to seek redress outside national boundaries. Accordingly, the international and regional legal frameworks afford victims and survivors of human rights violations the possibility of bringing their cases to consideration of cases by adjudicatory bodies, provided that the country in question is part of this framework, and that all national remedies have either been exhausted or deemed unavailable and ineffective.⁷³ Based on the construction of arguments stated above, accountability for human rights violations in Ethiopia, particularly the victim's and survivor's right to effective remedy and reparation is unavailable due to the absence of human rights adjudicative mechanism and the concept of government responsibility for acts and omission associated to the human rights violations.

Accordingly, this policy paper sets equity/inclusiveness, independence, effectiveness, cost and efficiency, and feasibility as key criteria/framework of analysis to evaluate the regional adjudicatory bodies as policy options to address the human rights accountability in Ethiopia.

⁷² European Parliament (2010), the Role of Regional Human Rights Mechanisms, available at [https://www.europarl.europa.eu/RegData/etudes/etudes/join/2010/410206/EXPODROI_ET\(2010\)410206_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/etudes/join/2010/410206/EXPODROI_ET(2010)410206_EN.pdf) p. 11 [accessed 05 March 2022]

⁷³ Henry Onoria (2003), the African Commission on Human and Peoples' Rights and the exhaustion of local remedies under the African Charter, *African Human Rights Law Journal Vol. 3, P.5*, available at <https://www.corteidh.or.cr/tablas/R21568.pdf> [accessed 13 March 2022]

3.4. Evaluation of the Policy Alternatives

1. Equity/Inclusiveness: all human rights violations and abuses are governed by the human rights system; therefore, all are bound by legal commitments on an equal footing. These legal commitments emanate from a set of regional treaties and the appropriate procedures put in place for the implementation. The regional accountability mechanisms provide an umbrella of accountability against the state for all human rights violations and abuses. The regional human rights system encourages and guarantees individuals to submit applications with great initiation and without the fear of reprisal. This basic element of the regional human rights mechanisms makes it a preferred policy option to address accountability for gross and systematic human rights violations not addressed through the domestic mechanisms. Furthermore, in comparison with national institutions, the regional mechanisms provide for a well-articulated, broader, and clearer interpretation of human rights as well as the corresponding government obligations of the states on each respective right.

2. Independence: The regional human rights mechanisms are founded on the principle of institutional, personal, and financial independence from the national governments of a state party. The regional human rights courts are composed of independent experts acting in their personal and professional capacity, performing an independent adjudication of human rights violations and abuses against a given state. This independence and expert pool of the regional systems offer the impartiality, technical capacity, and expertise to adjudicate a vast magnitude of human rights violations and abuses often much better than the national mechanisms.

3. Justiciability: in the absence of a domestic legal basis to claim state accountability for human rights violations and abuses, the national mechanism restricts the right to claim reparation from the government as a justiciable matter. Even for those human rights violations and abuses to be entertained through the domestic criminal justice system, the system is biased, it will only bring violations to the scrutiny of the public and the justice system that are beneficial for political and other reasons. However, the regional human rights mechanisms guarantee a human rights protection system through indispensable access for individuals to bring all human rights violations and abuses, within the jurisdiction of the system in which appropriate redress is sought.

As witnessed in the Latin American countries, the national enforcement mechanisms operate under the political framework of a national administrative body, which exposes them to extortion and censure by the executive branch⁷⁴, thereby compromising their accessibility, sufficiency, and enforceability. In comparison, regional mechanisms are relatively insulated from such interference and have better accessibility. The EACJ for example allows partner States, Secretary General, national court, and legal/natural person residents of East Africa to bring cases before it; therefore, the court is accessible by a range of stakeholders from the State level to that of individuals.⁷⁵

4. Follow-up Mechanism and Effectiveness: a regional human rights body, be it a commission or a court, once adjudicating human rights violations and abuses, will prepare a report accompanied by recommendations or a binding decision against a state. To follow the implementation of such judgment, a regular monitoring system is placed. Most States incline to show more predispositions to obey regional initiatives rather than international ones and thus this complements the advantage of better enforceability to decisions of regional mechanisms over their international counterparts.⁷⁶ It is also true that regional sanctions seeking enforcement of decisions and recommendations by human rights bodies can be more effective than other international sanctions.⁷⁷

5. Cost and Efficiency: The cost and efficiency evaluation in the policy outline inform effective decision-making by identifying the costs and benefits associated with human rights violations and abuses of accountability mechanisms. When it comes to regional human rights mechanisms, they are located closer than the international human rights organization and are more accessible for individuals to pursue redress for human rights violations and abuses. This also explains the cost implications associated with accessing the mechanisms where the admissibility, hearing, and judgment of the cases are easily accessible in terms of physical proximity, finance, and procedural promptness. These regional mechanisms are also preferable against the unavailable, unduly prolonged, and insufficient national accountability mechanisms for human rights violations and abuses. In recognition of the fact that individuals may fail to file a complaint on grounds of impecuniosity, the EACJ provide a forum where such individual can file an application to the court for the consideration of the case without fees.

74 Christina M. Cerna ed. *Regional Human Rights Systems* (2014), 'The Inter-American System for the Protection of Human Rights', *Florida Journal of International Law*, 16, pp. 195–212 available at <https://www.perlego.com/book/1633597/regional-human-rights-systems-volume-v-pdf> [accessed 13 March 2022]

75 East African Community establishment treaty, *Supra* note 53, Art. 28-30.

76 Smith, R. K. M. (2007), *Textbook on international human rights*. Oxford: Oxford University Press, P. 84. Available at <https://www.academia.edu/RegisterToDownload/BulkDownload> [accessed 13 March 2022]

77 *Ibid.*

Once it is settled that the applicant lacks the means to pay the required fees and that the allegation has a prospect of success, the court may decide for the application to be submitted without prior payment of fees, or payment of any less amount than the required fee, or the court may order for the losing party to pay the court fees.⁷⁸ The African Court has also a legal aid scheme- you may wish to add this

6. Feasibility: this framework of analysis evaluates the likelihood of the policy options.

Political Feasibility:

- I. **Withdrawal and setback in recognition of the ACHPR jurisdiction:** the court has encountered some setbacks by states' withdrawal of their declaration under Art. 34/6/ which allows individuals and CSOs to file applications against a state for human rights violations and abuses. However it is noteworthy here to discern the relevance of the court considering the context of the human rights violations in Ethiopia til now, and that Ethiopia's ratification of the protocol establishing the Court will contribute for Ethiopia to strengthening the court and increase the country's role and influence in the continent.

- II. **Political willingness:** the lack of political determination of the government to recognize the court's jurisdiction and cooperate with and participate constructively in the regional human rights accountability mechanism. Here, consistent and sustained advocacy is important, including constructive engagement with states and the political bodies of the continent, such as the Pan-African Parliament, and the Peace and Security Council to lobby one another toward joining the court.

- III. **Economic and Political Considerations for membership:** for the EACJ, Ethiopia is not a member of the East Africa Community which established the EACJ.
 - The decision to join the community is dependent on considerations of several historical backgrounds, geopolitical complexities, economic factors and regulations, and the political context of the country and its interaction with the members' states in the community.

⁷⁸ John Eudes Ruhangisa (2011), The East African Court Of Justice: Ten Years of Operation (Achievements And Challenges) Registrar, East African Court of Justice, A Paper for Presentation During the Sensitisation Workshop on the Role of the EACJ in the EAC Integration, Imperial Royale Hotel, Kampala, Uganda, 1st – 2nd November. Available at <https://www.eacj.org/wp-content/uploads/2013/09/EACJ-Ten-Years-of-Operation.pdf> [accessed 01 March 2022]

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- Given where the economy is at the moment, the political instability, and armed conflicts, it is highly unlikely for Ethiopia to join the community. The focus of the country right now is controlling inflation and bringing about macroeconomic stability.
 - Although Ethiopia's admission to the EAC will increase its trade within the region, the structural differences between Ethiopia and the other EAC economies are deep enough that the country is skeptical about potential gains from being part of the community at this point.
 - The decision whether to join the community or not is unlikely to consider accountability of human rights violations and abuses as a desirable outcome.

7 Social Acceptability: refers to the extent to which the public at large will accept and support regional human rights accountability mechanisms, EACJ and ACHPR. In the determination of whether the public views the policy options as appropriate and responsive, the respondents who participated in the development of this policy paper mentioned that

- There are still a considerable amount of experts which consider the regional human rights mechanisms as inaccessible to local communities, physically, financially, and procedurally,
- Deficiencies in the institutional capacity of the ACJHR to entertain the case and deliver enforceable judgment remain a concern that affects public acceptance of the policy option,
- Ineffective in the sense that the enforcement of the decision or judgment of the regional mechanism depends upon the whim of the state, and loose mechanisms of monitoring and supervision.

3. Conclusions

The state accountability for human rights violations and abuses has gained a lot of ground in the last three years in Ethiopia. Nevertheless, it is not sufficient to insist on accountability without questioning the legal, institutional and practical challenges in the system. It is also equally important to recognize political willingness and ability as a constraint. For any gross human rights violations and abuses, documentation and affirmation of the human rights violations and abuses primarily provide the knowledge base for accountability, and such knowledge has to be combined with adequate institutional capacity for the implementation of accountability measures. In this vein, the political commitment of the government to ensure accountability for human rights violations and abuses and to further cooperate with regional human rights protection mechanisms is vital. Simply put knowledge, capacity, and commitment mark the ground rules for establishing an effective accountability mechanism for human rights violations and abuses.⁷⁹ The most significant issue is not to consider imposing on the national government a set of obligations but to discover the means by which the regional and international community can successfully support efforts made by the national government and CSOs to realize accountability. It is also equally significant to acknowledge that the regional and international accountability mechanisms do not replace the national system; rather they are a complimentary procedure that supplements domestic efforts. Accordingly, while the government focuses on strengthening the national accountability mechanisms, the regional and international accountability mechanisms as possible policy options should not be overlooked.

Policy Recommendations

Based on the above premises, here are general policy recommendations:

- The Ethiopian government should recognize the past and present human rights violations and abuses and understand the high costs of impunity for such violations and abuses. In line with its obligation to punish the crimes and provide reparation for victims and survivors, the government should design national human rights accountability mechanisms that are integrated, holistic and victims-centered. This may require reforming the national accountability framework to include state responsibility for human rights violations and abuse.

79 Navanethem Pillay (2012), Establishing Effective Accountability Mechanisms for Human Rights Violations, UN Chronicle, available at <https://www.un.org/en/chronicle/article/establishing-effective-accountability-mechanisms-human-rights-violations> [accessed 10 March 2022]

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- For human rights violations in the armed conflict context, it is also imperative to conduct informed and practical dialogue, through the involvement of CSOs and other stakeholders, to incorporate expertise, best practices, and opinions of the public in crafting the domestic accountability framework. This requires key legal and institutional reforms, especially in the justice sector.
 - Integrating reparation for human rights violations and abuses into crises response and peacebuilding i.e. providing relief for victims of human rights violations in many of its forms including reparation contributes to the objectives of peacebuilding, mending, and improving relations between state and society, and re-affirming the rule of law. It is also significant to exploit existing frameworks such as the national dialogue, for the public to express their preferences for truth, justice, and reconciliation and consider a possible role for domestic and regional accountability mechanisms to remedy the various human rights violations and abuses.
 - Nevertheless, the state, in addition to ensuring that justice is delivered by domestic actors, is also expected to consider a broader legitimacy of accountability frameworks, including regional human rights accountability mechanisms to complement the national one. Policymakers should acknowledge and consider joining regional and international human rights accountability mechanisms as part of reforming and strengthening the national justice sector.
 - The government's policy decisions for accountability of human rights violations and abuses partially depends, though not a sufficient condition, on the demand of the public for justice and other political interest. Therefore, the public demand for justice should be constant and sustained until the government takes concrete robust measures to redress the human rights violations, including recognition of the legitimacy of regional and international human rights accountability mechanisms. The awareness creation and advocacy role of CSOs in this regard is expected.
 - Reviewing the experience of other countries' membership in the economic community, joining the EAC would have manifold growth-enhancing (and hence poverty-reducing) benefits for Ethiopia in the medium to long run. However, more research is needed to estimate the positive and negative effects. Nonetheless, Ethiopia must undertake

domestic reforms and capacity-building to improve its low institutional capability and be in a better position for EAC membership. As it is an economic community, human rights were not among the priorities of its objectives, but rather evolving. The EACJ is influential in the respect and promotion of human rights in the sub-region. Despite the lack of political support by member states for the EACJ as an independent defender of human rights, the court has shown the capacity to affirm its independence, promote respect for human rights and impel support for its functioning and decisions.⁸⁰

Recommendations to Advocate on the Relevance of Regional and International Human Rights Accountability Mechanisms

Policy Makers

- Policymakers at all levels should consider the potentially positive role that international and regional human rights accountability mechanisms can play as part of a broader accountability process in response to human rights violations, as well as national structural limitations.

For CSOs

- Promote and advocate for Ethiopia to ratify the African Court establishing protocol by lobbying governments both at the domestic and international levels, such as summits of the AU or African Commission; EAC; and other platforms,
- Promote the need and significance of making an additional declaration under article 34 (6) of the Court Protocol in terms of ensuring access to justice for victims of human rights violations as well as advancing effective and credible court in the African continent,
- Obtain observable status with the African Union, the African Commission, and its other organizations, to be able to exploit the sessions and advocate and organize discussions on the African Court, and publicize the work of the Court and its importance for the enforcement of human rights on the continent,

⁸⁰ Political Economic Dynamics of Regional Organizations in Africa (PEDRO), The East African Court of Justice: The hard road to independent institutions and human rights jurisdiction, available at www.ecdpm.org/pedro/backgroundpapers

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- CSOs should monitor, document, and expose human rights violations and abuses, and make consistent advocacy that calls for accountability of such violations and abuses. Furthermore, CSOs should be vocal in ensuring that inadequate mechanisms are not allowed to pretense as the fulfillment of the state's duty to redress human rights violations and abuses, and pressing on the need to adopt complimentary regional and international accountability mechanisms,
 - It is also equally imperative for CSOs to initiate court proceedings domestically against human rights violations, which will contribute to the development of the national human rights jurisprudence, and exhaust local remedies as an impetus to ripe supra national mechanisms further,
 - In partnership with CSOs, the media should investigate and publicize the accountability actions and practices regarding human rights violations and abuses, calling for a wider national, regional and international accountability framework.
 - To enhance advocacy through networks, create platforms like the international and regional accountability platform which aims to gather, consolidate, substantiate, and preserve information, documentation, and evidence of human rights violations committed by government forces and authorities either by action or omission.
 - Denounce all acts of impunity against human rights violations and abuses, and call upon the state to ensure redress and relief to victims and survivors including reparation.
 - Engage states in the nominations process of African Court judges, publicize the decisions and monitor the proper and timely domestic enforcement of judgments of the African Court.

For African Union

- Promote the resolution of human rights violations and abuses in Africa by continental institutions, engage and encourage African states to ratify the protocol establishing the African Court.

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