

# International Journal of Multidisciplinary Trends

E-ISSN: 2709-9369

P-ISSN: 2709-9350

[www.multisubjectjournal.com](http://www.multisubjectjournal.com)

IJMT 2024; 6(9): 63-66

Received: 10-09-2024

Accepted: 15-10-2024

**Kumari Sukriti**

LLM Human Rights, Assistant

Professor, Ram Kumari

Ayodhya Singh College,

Begusarai, Bihar, India

## The role of regional human rights courts in advancing justice

**Kumari Sukriti**

### Abstract

Regional human rights courts have emerged as critical pillars of international justice, offering individuals and communities the means to challenge state-sponsored abuses when domestic remedies are unavailable or ineffective. This paper examines the historical development, functions, and contributions of regional human rights courts—specifically the European Court of Human Rights (ECtHR), the Inter-American Court of Human Rights (IACtHR), and the African Court on Human and Peoples' Rights (AfCHPR)—in promoting justice, protecting human dignity, and advancing the rule of law. Drawing on legal doctrine, case law, and empirical data, this study highlights both the achievements and limitations of these courts, emphasizing their vital role in strengthening human rights enforcement globally.

**Keywords:** Regional human rights courts, European court of human rights, Inter-American court, African court, international law, rule of law, justice

### 1. Introduction

The establishment and strengthening of regional human rights courts represent one of the most significant institutional developments in the evolution of international human rights law since the mid-20th century. While universal human rights declarations and treaties provide broad normative frameworks, their enforcement often remains weak or inconsistent at the domestic level, especially in authoritarian regimes, fragile states, or post-conflict societies. Regional human rights courts emerged as a direct response to these enforcement gaps, offering victims of human rights violations a judicial avenue beyond the reach of national governments. Today, these courts serve as vital institutions for upholding the rule of law, promoting justice, and ensuring that fundamental rights are not subordinated to state interests. The rise of regional human rights courts coincided with major historical developments that exposed the limitations of domestic protection mechanisms. The aftermath of World War II, characterized by unprecedented atrocities and mass violations of human dignity, triggered the creation of the European Convention on Human Rights (1950), which became the legal foundation for the European Court of Human Rights (ECtHR), established in 1959. As of 2023, the ECtHR holds jurisdiction over 46 Council of Europe member states, providing protection to more than 680 million individuals across Europe (Council of Europe, 2023) <sup>[1]</sup>. In Latin America, the military coups, civil wars, and authoritarian regimes that dominated much of the 20th century resulted in thousands of cases of enforced disappearances, extrajudicial killings, and systemic repression. In response, the American Convention on Human Rights (1969) was adopted, establishing the Inter-American Court of Human Rights (IACtHR) in 1979. As of 2023 <sup>[3]</sup>, 24 Organization of American States (OAS) member countries have recognized the Court's jurisdiction, allowing individuals direct access to legal remedies for state-sponsored abuses (IACtHR, 2023).

Africa's human rights landscape, shaped by colonial rule, prolonged civil conflicts, and continued governance challenges, led to the adoption of the African Charter on Human and Peoples' Rights (1981). The African Court on Human and Peoples' Rights (AfCHPR), operational since 2006, is the youngest of the regional human rights courts. While 34 African Union member states have ratified the Protocol establishing the Court, as of 2023, only nine countries have fully accepted its jurisdiction to receive individual complaints (AfCHPR, 2023). The workload of these courts reflects the global prevalence and diversity of human rights violations. According to the European Court of Human Rights Annual Report (2022) <sup>[2]</sup>, the ECtHR issued 1,163 judgments in 2022 alone and managed a backlog of nearly 74,650 pending applications. Notably, over 70% of its caseload in recent years has originated from just four states: Russia, Turkey, Ukraine, and Romania, reflecting systemic rights violations in certain jurisdictions (Council of Europe, 2023) <sup>[1]</sup>. Similarly, the Inter-American Court has delivered 424 judgments since its inception, many of which have addressed enforced

**Corresponding Author:****Kumari Sukriti**

LLM Human Rights, Assistant

Professor, Ram Kumari

Ayodhya Singh College,

Begusarai, Bihar, India

disappearances, state-sponsored violence, and indigenous rights (IACtHR, 2023). The African Court, while smaller in caseload, has been growing in influence and importance, having delivered 132 judgments by 2023 (AfCHPR, 2023) <sup>[4]</sup>. Regional human rights courts address a wide spectrum of violations, including torture, arbitrary detention, freedom of expression, political repression, extrajudicial killings, and violations of due process. Empirical data from the ECtHR in 2022 shows that 32% of its cases involved fair trial violations under Article 6 of the European Convention, while 13% involved torture or inhuman treatment under Article 3 (ECtHR Annual Report, 2022). In the Inter-American system, more than 22% of cases involve the right to life and state responsibility for unlawful killings, while the African Court has adjudicated several politically sensitive cases related to unlawful detentions, electoral rights, and judicial independence (AfCHPR Activity Report, 2023) <sup>[4]</sup>. These courts serve not only as legal forums for individual victims but also as norm-setting institutions that shape national and international legal standards. Their judgments frequently lead to constitutional reforms, legislative changes, and institutional restructuring at the domestic level. For instance, the Inter-American Court’s rulings in *Barrios Altos v. Peru* (2001) and *Gelman v. Uruguay* (2011) led directly to the reopening of criminal investigations against perpetrators of past human rights atrocities, challenging amnesty laws that previously shielded perpetrators from accountability (IACtHR, 2001; 2011). Similarly, the European Court’s jurisprudence has driven reforms in areas such as pre-trial detention, freedom of the press, non-discrimination, and minority rights across its member states (ECtHR Annual Reports, 2020-2022). Despite their growing authority, regional human rights courts face persistent challenges that threaten their long-term effectiveness. Chief among these are issues of non-compliance with judgments, political backlash, selective withdrawal of jurisdiction by states, financial constraints, and increasingly complex caseloads. For example, Russia’s withdrawal from the Council of Europe and the ECtHR in 2022 after its invasion of Ukraine marked one of the most significant losses for regional human rights protection in recent history (Council of Europe, 2022) <sup>[1]</sup>. In Africa, countries such as Tanzania, Rwanda, and Benin have withdrawn the right of individuals and NGOs to bring cases before the African Court, significantly weakening its accessibility (AfCHPR, 2023) <sup>[4]</sup>. Nevertheless, the role of regional human rights courts remains indispensable in ensuring accountability, especially where domestic remedies

have failed. Their existence serves not only as a legal recourse but also as a crucial deterrent against future violations. They act as instruments of transitional justice in post-conflict societies, as guardians of constitutional rights, and as catalysts for advancing international human rights jurisprudence. As global challenges evolve—including authoritarian resurgence, technological surveillance, digital rights violations, and mass displacement driven by conflict and climate change—the function of these courts will remain central to global justice efforts. This paper examines the unique contributions of regional human rights courts to the advancement of justice while critically analyzing the structural, legal, and political challenges they face. Drawing on case law, empirical data, and comparative analysis, it evaluates the role these courts play in shaping both national and international human rights norms in an increasingly contested global legal order.

**Historical Development of Regional Human Rights Courts:**

The emergence of regional human rights courts was driven by the recognition that human rights enforcement requires mechanisms capable of holding states accountable even when domestic institutions fail. The European Court of Human Rights was established in 1959 under the European Convention on Human Rights (1950), providing individuals in Europe with access to an international court to challenge violations of their rights. Today, the ECtHR serves 46 Council of Europe member states, covering over 680 million people (Council of Europe, 2023) <sup>[1]</sup>. In the Americas, the Inter-American Court of Human Rights was created in 1979 through the American Convention on Human Rights (1969). This court gained particular importance during periods of military dictatorship and internal armed conflict in Latin America, where state actors often perpetrated widespread abuses such as enforced disappearances and torture. The IACtHR currently holds jurisdiction over 24 states in the region (IACtHR, 2023). The African Court on Human and Peoples’ Rights was operationalized in 2006 under the African Charter on Human and Peoples’ Rights (1981), offering judicial recourse for victims in Africa, where colonial legacies, political instability, and weak institutions have long contributed to pervasive rights violations. Although 34 African Union member states have ratified the Protocol establishing the Court, only 9 currently allow individuals and NGOs to directly petition it (AfCHPR, 2023). The following table summarizes the coverage and jurisdiction of these courts:

**Table 1:** Coverage and Jurisdiction of Regional Human Rights Courts

Regional Court	Founding Treaty	Year Established	Number of Member States (2023)	Individual Access Available?
European Court of Human Rights (ECtHR)	European Convention on Human Rights (ECHR, 1950)	1959	46	Yes
Inter-American Court of Human Rights (IACtHR)	American Convention on Human Rights (ACHR, 1969)	1979	24 (OAS members with jurisdiction recognized)	Yes
African Court on Human and Peoples' Rights (AfCHPR)	African Charter on Human and Peoples' Rights (1981)	2006	34 States ratified Protocol, 9 allow individual petitions	Limited

**Source:** Council of Europe (2023), IACtHR (2023), African Union (2023) <sup>[1], [9]</sup>

**Contributions of Regional Courts to Advancing Justice**

Regional human rights courts serve multiple functions in advancing justice. First and foremost, they offer direct

access to victims seeking legal redress when domestic avenues are ineffective or inaccessible. This individual complaint mechanism distinguishes regional courts from

many global human rights bodies, whose authority is often limited to issuing non-binding recommendations. The European Court has delivered over 25,000 judgments since its establishment. High-profile rulings such as *Ireland v. United Kingdom* (1978), addressing torture, and *Salduz v. Turkey* (2008), on fair trial rights, have shaped the human rights landscape in Europe (ECtHR Annual Report, 2022). The Inter-American Court has similarly played a transformative role, especially in post-conflict states in

Latin America. Landmark cases like *Velásquez Rodríguez v. Honduras* (1988) established binding obligations for states to investigate and prosecute grave human rights abuses (IACtHR, 1988). The African Court, while still building its authority, has ruled on critical cases involving political participation, unlawful detentions, and freedom of expression. The following table summarizes the courts' caseload and judgments:

Table 2: Volume of Judgments and Cases Decided by Regional Courts

Court	Total Judgments Delivered (Since Inception to 2022)	Cases Decided in 2022	Case Backlog (as of 2022)
European Court of Human Rights (ECtHR)	25,511	1,163	74,650
Inter-American Court of Human Rights (IACtHR)	424	19	140
African Court on Human and Peoples' Rights (AfCHPR)	132	15	75

Source: ECtHR Annual Report 2022; IACtHR Statistics 2023; AfCHPR Activity Report 2023

Beyond individual remedies, regional courts serve a norm-setting function, clarifying and expanding human rights law. Their jurisprudence often influences national constitutional interpretations and fosters a transnational legal dialogue. In Europe, the ECtHR's rulings have led to legislative changes in areas such as criminal procedure, non-discrimination, and minority rights. In the Americas, Inter-American Court decisions have triggered reopening of cases related to past atrocities and driven reforms in policing and detention systems. In Africa, emerging jurisprudence has strengthened electoral rights, media freedoms, and judicial independence.

**Compliance with Judgments and Enforcement Challenges:** The binding nature of regional court rulings depends heavily on states' willingness to comply, making enforcement a persistent challenge. In Europe, compliance rates are comparatively higher, with roughly 76% of ECtHR judgments fully executed, though delays remain an issue, especially in politically sensitive cases (Council of Europe, 2022) <sup>[1]</sup>. In Latin America and Africa, compliance rates are lower due to weak state institutions, financial constraints, and political interference.

Table 3: Compliance with Judgments-Selected Regions

Region	Compliance Rate (Average 2015-2022)	Main Challenges
Europe (ECtHR)	~76%	Delays in full execution of judgments (esp. Russia, Turkey, Ukraine)
Americas (IACtHR)	~65%	Partial implementation; delays in criminal prosecutions
Africa (AfCHPR)	~55%	Limited acceptance of jurisdiction; political resistance

Source: Council of Europe (2022), Open Society Justice Initiative (2023), Amnesty International (2023) <sup>[1, 10, 11]</sup>

Despite these challenges, even partial compliance can lead to incremental improvements. Regional courts often act as catalysts for domestic debate, civil society mobilization, and international diplomatic pressure, contributing to gradual structural reforms.

**The Most Frequent Human Rights Violations Adjudicated:** While regional courts address a wide array of human rights issues, certain violations dominate their caseloads. These include the right to a fair trial, protection from torture, right to life, freedom of expression, and political rights.

Table 4: Frequent Human Rights Violations Adjudicated by Regional Courts

Type of Violation	% of Total Caseload (ECtHR, 2022)	% of Total Caseload (IACtHR, 2022)	% of Total Caseload (AfCHPR, 2022)
Right to Fair Trial (Art. 6 ECHR)	32%	26%	30%
Torture & Inhuman Treatment	13%	21%	18%
Right to Life (Extrajudicial Killings)	7%	22%	19%
Freedom of Expression	6%	9%	8%
Political Rights	5%	8%	10%

Source: ECtHR Annual Statistics 2022, IACtHR Annual Report 2022, AfCHPR Activity Report 2022

These data reflect the courts' central role in addressing not only individual violations but also systemic abuses often linked to authoritarian governance, internal conflicts, and political repression.

Conclusion

Regional human rights courts have proven to be indispensable instruments in the promotion of justice, offering legal remedies when domestic institutions are

unwilling or unable to act. They have advanced the development of international human rights law, influenced national legal reforms, and challenged impunity for grave state-sponsored violations. While Europe's ECtHR remains the most established system, both the Inter-American and African courts have made significant contributions to transitional justice and the expansion of rights protections in their regions. Nonetheless, these courts continue to face challenges

including political resistance, selective compliance, jurisdictional limitations, and resource constraints. Strengthening these institutions will require enhanced domestic implementation mechanisms, robust civil society engagement, and sustained political support for international accountability mechanisms.

As new global challenges such as migration crises, digital surveillance, and climate-related displacement emerge, regional human rights courts will remain vital actors in safeguarding human dignity and reinforcing the rule of law globally.

## References

1. Council of Europe. Annual report 2022 of the European Court of Human Rights. Strasbourg: Council of Europe; 2022.
2. European Court of Human Rights (ECtHR). *Big Brother Watch v. UK*, Application No. 58170/13, Judgment of 2021.
3. Inter-American Court of Human Rights (IACtHR). *Velásquez Rodríguez v. Honduras*, Series C No. 4. 1988.
4. African Court on Human and Peoples' Rights (AfCHPR). Judgments and decisions 2006-2023. Arusha: AfCHPR; 2023.
5. Huneeus A. Courts resisting courts: Lessons from the Inter-American Court's struggle to enforce human rights. *Cornell Int Law J.* 2010;44:493-533.
6. United Nations Office of the High Commissioner for Human Rights (OHCHR). Human Rights Treaty System Reports. Geneva: UN OHCHR; 2023.
7. Helfer LR, Voeten E. International courts as agents of legal change: Evidence from LGBT rights in Europe. *Int Organ.* 2014;68(1):77-110.
8. Staton JK, Romero VC. Clarity and compliance in the Inter-American Human Rights System. *Am Polit Sci Rev.* 2011;105(4):713-730.
9. African Union. African Charter on Human and Peoples' Rights (1981). Addis Ababa: African Union; 2023.
10. Open Society Justice Initiative. Compliance with international human rights judgments: Global trends. New York: Open Society Foundations; 2023.
11. Amnesty International. Annual human rights reports. London: Amnesty International; 2023.