Table of Contents

List of Contributors				
Lis	List of Abbreviations			
1.	Introduction: Essays in Honour of Frans Viljoen Aderomola Adeola 1. Introduction 2. Structure of the Book	1 1 7		
2.	Compliance Studies and the African Human Rights System: Reflections on the State of the Field Japhet Biegon 1. Introduction 2. African System's Evolving Focus and Priorities	10 10 13		
	2.1. The ACHPR 2.2. The ACERWC 2.3. The ACtHPR	15 18 19		
	 Trends and Issues in Compliance/Implementation Studies Increasing Usage of Empirical Research Preference for In-Depth Case Studies Interrogating and Challenging Assumptions 	21 22 25 26 28		
	 3.4. Redirecting the Analytical Lens to Sub-Regional Courts 3.5. Evaluating Mechanisms for Monitoring Compliance 4. Future Research Agenda and Trajectory 4.1. Interdisciplinary Research and Collaborations 4.2. Broader Impact of Decisions 5. Conclusion 	29 30 31 32 34		
3.	Beyond Compliance: Do Decisions of Regional Human Rights Tribunals in Africa Make a Difference?	35		
	 Victor Ayeni Introduction What Constitutes the Impact of a Human Rights Decision? Examples of the Impact of the Decisions of Human Rights Tribunals 	35 40		
	in Five Selected States3.1. Amicable Settlement and Proactive Remediation of Violations3.2. Provision of Tangible Benefits for Victims	45 46 49 54		
	3.3. Legislative and Policy Reforms3.4. Judicial Impact of HRTs' Decisions3.4.1. Transnational Judicial Communication	59 59		

xviii TABLE OF CONTENTS

	3.4.2. The 'Knock-On or Spill-Over Effect'	63		
	3.4.3. Norm-Setting and Creation of Authoritative Jurisprudence	66		
	3.5. Tool for Research, Advocacy and Social Mobilization	67		
	3.6. Other Forms of Impact of HRTs' Decisions	68		
	4. Conclusion	69		
4.	Compliance with Prohibition of the Death Penalty in Africa	72		
	Lilian Chenwi			
	1. Introduction	72		
	2. Desirability of Abolition of the Death Penalty	74		
	2.1. UN Standards	75		
	2.2. African Regional Standards	77		
	2.3. Compliance in Practice	80		
	3. Prohibition of the Mandatory Death Penalty	86		
	3.1. UN Treaties	86		
	3.2. African Regional Treaties	87		
	3.3. Compliance in Practice	89		
	4. Prohibition of the Death Penalty for Certain Offenders	92		
	4.1. UN Treaties	92		
	4.2. African Regional Treaties	93		
	4.3. Compliance in Practice 5. Prohibition of the Poorth Populary for Contain Offenson	95 96		
	5. Prohibition of the Death Penalty for Certain Offences 5.1. UN Treaties	96		
	5.2. African Regional Treaties	97		
	5.3. Compliance in Practice	97		
٠	6. Conclusion	98		
_				
5.	Compliance Beyond Anniversaries: The African Union Convention			
	for the Protection and Assistance of Internally Displaced Persons	100		
	(Kampala Convention) in Domestic Laws and Policies	100		
	Aderomola Adeola	100		
	1. Introduction	100		
	2. Contextual Relevance of the Kampala Convention	102		
	3. The Kampala Convention at Domestic Level	106 111		
	4. Building Compliance Beyond Anniversaries 4.1. Norm Influencers	111		
	4.2. International Support	111		
	4.3. External Spotlight	113		
	4.4. Post-Conflict Reconstruction	114		
	4.5. Peer-to-Peer Learning	115		
	5. Conclusion	115		
6.	Legitimacy as a Challenge to Compliance with the Norms on the			
	Protection of Children in Africa	117		
	Remember Miamingi	/		

	1. Introduction	117
	2. Raison D'etre for Adopting the African Children's Charter	117
	2.1. A Critique of the Process and Autochthony Arguments	119
	2.2. The African Charter on the Rights and Welfare of the Child as a	
	Transplant of Foreign Norms and Values into Africa	122
	3. How 'African' is the African Charter on the Rights and Welfare of the	
	Child?	123
	3.1. Who is a Child?	124
	3.1.1. Childhood End Point	125
	3.2. Autonomy Rights of the Child	126
	3.3. The Best Interest of the Child	135
	3.4. Children's Participation Rights	138
	4. Cultural Legitimacy as a Challenge to the Implementation of the	
	African Children's Charter	141
	5. Conclusion	147
7.	Member States' Compliance with the Recommendations of the	
	African Commission on Human and Peoples' Rights	149
	Lirette Louw	
	1. Introduction	149
	2. Measurement of State Compliance with the Recommendations of the	
	African Commission	151
	3. Comparative Evaluation of State Compliance Under Individual	
	Complaints Mechanisms	154
	4. Factors that Influence State Compliance	158
	5. Conclusion	165
8.	'Horizontal' Compliance with Decisions of the African Court on	
-	Human and Peoples' Rights	168
	Adem K Abebe	
	1. Introduction	168
	2. Vertical and Horizontal Compliance	169
	3. The African Court as a Constitutional Court for Africa and	
	Opportunities for Horizontal Compliance	171
	4. Horizontal Compliance as a Means to Bypass Challenges of Access to	
	the Court	175
	5. Avenues for Enhancing Horizontal Compliance	177
	6. Conclusion	181
Q	Enforcing Compliance with the Judgments of the African Court on	
٦.	Human and Peoples' Rights: Prospects and Challenges	183
		.03
	Tarisai Mutangi	183
	Introduction Link Between International Remedies and Domestic Enforcement	189
	2.1. Specificity of Remedial Order	189
	2.1. Specificity of Remedial Order	191

XX TABLE OF CONTENTS

Index

3.	Basi	s of Sta	te Obligation to Enforce Orders Domestically	193	
	3.1.	Pacta	Sunt Servanda Principle	193	
	3.2.	Obliga	ation to Repair	195	
	3.3.	Effet U	Jtile Principle	197	
	3.4.	State I	Responsibility	198	
4.	The	Role of	f the Executive, Judiciary and Legislature in Domestic		
	Enforcement of Remedial Orders				
	4.1. Executive			201	
	4.2. Judiciary			203	
		4.2.1.	Creative Adjustment of the Procedure for the Execution of		
			Foreign Judgments	203	
		4.2.2.	Court's Judgment as Basis for Reopening of National		
			Proceedings	210	
	4.3.	Legisl	ature	212	
		4.3.1.	Domestication of the Substantive Provisions of the African		
			Charter	212	
		4.3.2.	Giving Domestic Effect to the Enforcement Provisions of the		
			African Court Protocol	213	
		4.3.3.	Ad Hoc Legislative Measures in Response to the Court's		
			Specific Remedial Orders	215	
		4.3.4.	Parliamentary Oversight	216	
		4.3.5.	Pre-legislative Intervention	217	
5.			tional Human Rights Institutions in Domestic Enforcement	218	
	5.1. Monitoring Domestic Enforcement of Judgments is Integral to the				
		Protec	ctive Mandate of NHRIs	219	
	5.2.	Repor	ting on Measures Taken to Enforce Judgments	220	
	5.3.	Identi	fying Systemic Problems in National Law	221	
	5.4.	Advis	ing on Measures to be Adopted in Enforcing a Judgment	223	
			ing States on the Orientation Effect of International Judgments	224	
6.	Role of Regional Courts in Supporting Domestic Enforcement of				
	Ord	ers		225	
	6.1.	Europ	pean Court	226	
		6.1.1.	The 'Pilot Judgment Procedure'	226	
		6.1.2.	Implications of Protocol No. 14	227	
	6.2.	Inter-	American Court	228	
7.	Cor	ıclusio	n	229	

233