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ADDIS ABABA UNIVERSITY

SCHOOL OF LAW

Reparation for Victims of Terrorism in Ethiopia

BY

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Addis Ababa, Ethiopia

Reparation for Victims of Terrorism in Ethiopia

A thesis submitted to Addis Ababa University, School of Law, in partial fulfillment of the requirements for the degree of Master of Laws (LL.M) in Human Rights Law

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Declaration

I, Badasa Fekadu, hereby declare that the thesis entitled '*Reparation for Victims of Terrorism in Ethiopia*' is my original work. I certify that this work has not been submitted for any academic qualification or assessment at any other institution. To the best of my knowledge, all sources have been duly acknowledged.

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Acronyms

UN.....United Nations

OAU.....Organizations of the African Union

FDRE.....Federal Democratic Republic of Ethiopia

IHRL.....International Human Rights Law

IHL.....International Humanitarian Law

ICC.....International Criminal Court

UNHRC...United Nation Human Rights Council

GA RES...General Assembly Resolution

UDHR.....Universal Declaration of Human Rights

ICCPR.....International Convention on Civil and Political Rights

ICERD.....International Convention on the Elimination of all Forms of Racial Discrimination

CAT.....Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishments

CRC.....Convention on the Rights of the Children

ECHR.....European Convention on Human Rights

ACHR.....American Convention on Human Rights

ACHPR.....African Charter on Human and Peoples' Rights

ILC.....International Law Commission

ECtHR.....Europe Court of Human Rights

ACmHPR...African Commission on Human and Peoples' Rights

IACtHR.....Inter-American Court of Human Rights

Abstract

The human rights of victims of terrorism must be central to all efforts to prevent and combat terrorism. Under international law, states are obligated to prevent terrorism, conduct thorough investigations, prosecute offenders, and provide victims with necessary support and safeguards to uphold their reparation rights. Despite this, these victims have historically been overlooked, and no binding international legal instrument specifically addresses their needs. This legal gap leaves victims' right to reparation in a precarious state, as they often face heightened distress due to the magnitude of terrorist acts, which cause widespread victimization and make seeking remedies for their immense suffering particularly challenging.

Victims of terrorism in Ethiopia also face inadequate recognition and a flawed legal system that fails to ensure proper reparation. Existing provisions in the Civil and Criminal Codes are not designed to address human rights violations and fall short of international standards. Additionally, Ethiopia lacks an operationalized fund or victim-oriented reparation initiative to meet the urgent needs of terrorism victims. Thus, this paper examines reparation for these victims, analyzing international frameworks and evolving norms that define state obligations in their treatment and support. It employs a victim-centered approach, guided by the UN Basic Principles on the Right to Reparation for Victims, to assess national laws, implementation mechanisms, and the legal and practical challenges of ensuring effective remedies.

Keywords: Terrorism, Victims of Terrorism, Reparation

CHAPTER ONE

INTRODUCTION

1.1 Background of the Study

Terrorism aims to destroy human rights, democracy, and the rule of law while instilling fear, disruption, and harm in society.¹ Though rare, its impact is severe, causing mass victimization with lasting consequences, including civilian casualties, material destruction, physical injuries, and psychological trauma. Ultimately, it diminishes the quality of life for individuals and communities.²

Despite the absence of a legally binding international framework that caters to the needs of terrorism victims, the international counter-terrorism framework provides modest attention to their fate. The events of 11 September 2001³ have heightened global awareness of the importance of protecting the human rights of terrorism victims and ensuring they receive support to cope with their loss and grief.⁴ The International Convention on Taking Hostage proscribes restitution of objects which the offender has obtained as a result of taking hostage⁵ and the International Convention for Suppression of the Financing of Terrorism urges States parties to consider creating mechanisms to allocate forfeited funds for victim compensation.⁶

The United Nation adopted a Global Counterterrorism Strategy, a resolution and plan of action to enhance international, regional, and national counterterrorism initiatives, seeks to suppress the terrorist threat through four pillars. The rights of victims of terrorism feature prominently as the key to the success of this strategy.⁷ It carved out a place for victims by acknowledging that the lack of support to victims and their increasing marginalization and discrimination contributed to

¹ Emily Gilbert, 'Victim Compensation for Acts of Terrorism and the Limits of the State' (2018) 11(2) Critical Studies on Terrorism 99, 99.

² United Nation Office on Drugs and Crime, *Handbook on Criminal Justice Responses to Terrorism* (2009) 107.

³ Peter L Bergen, "September 11 attacks" *Encyclopedia Britannica*, <https://www.britannica.com/event/September-11-attacks>, Accessed 8 November 2023.

⁴ 2005 World Summit Outcome, GA Res 60/1, UNGAOR, 60th Session, Supp No 49, UN Doc A/RES/60/1 (16 September 2005) para 89.

⁵ International Convention against the Taking of Hostages (Adopted by the General Assembly of the United Nations on 17 December 1979, entered in to force on 3 June 1983) 1316 UNTS 205, art 3(2).

⁶ International Convention for the Suppression of the Financing of Terrorism (Adopted 9 December 1999, opened for signature 10 January 2000) 39 ILM 270, art 8(4).

⁷ The United Nations Global Counter-Terrorism Strategy: **GA RES A/RES/60/288**, pillar I & IV (20 September 2006).

fostering an environment that enables terrorism and the importance of promoting, respecting and protecting victims' rights. The Strategy advocates for establishing national support systems to address the needs of terrorism victims and their families, aiding in their recovery and reintegration into daily life.⁸ At the regional level, Europe offers valuable insights, having established a comprehensive framework of victims' rights. This includes detailed provisions outlining specific measures for various categories of victims, including those affected by terrorism.⁹

Within the framework of international human rights law, States unquestionably have a duty to take human-rights compatible measures to protect against terroristic acts. When they occur nevertheless, governments must do more than merely affirm their solidarity with the victims. States must, in law and in practice, respect and fulfill their human rights, particularly as regards to reparation. The legal foundation for the right to remedy and reparation is firmly established, as evidenced by several international and regional human rights instruments.¹⁰ However, the detailed aspects of States' duty to guarantee reparation have been developed and refined through international jurisprudence. Based on these developments, the UN General Assembly adopted the Basic Principles and Guidelines, which provide a structured framework for States to uphold their obligations regarding remedies and reparations in cases of gross violations of human rights and serious breaches of humanitarian law.¹¹

Terrorism undoubtedly constitutes gross and systematic violations that create serious obstacles to the full enjoyment of human rights, contravening international human rights provisions and related instruments.¹² While all human rights violations entail the right to redress and reparation, the lack of terminological consensus or a comprehensive convention on terrorism should not

⁸ Handbook on Criminal Justice Responses to terrorism (n 2).

⁹ Council of Europe Committee of Ministers, *Revised Guidelines of the Committee of Ministers of the Council of Europe on the protection of victims of terrorist acts* (Adopted by the Committee of Ministers at its 127th Session, 19 May 2017); Committee of Ministers of Council of Europe, *Recommendation CM/Rec(2023)2 of the Committee of Ministers to member States on rights, services and support for victims of crime* (Adopted by the Committee of Ministers on 15 March 2023 at the 1460th meeting of the Ministers' Deputies).

¹⁰ Among them are: UDHR, Article 8; ICCPR, Article 2(3); ICERD, Article 6; CAT, Article 14; and CRC, Article 39; Rome Statute, Article 68 & 75; ECHR, Article 13; ACHR, Article 25; ACHPR, Article 7.

¹¹ United Nations Resolution on 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, GA RES A/RES/60/147 (16 December 2005) previously adopted by the Commission on Human Rights, under Resolution E/CN.4/RES/2005/35 (2005) para 19-23.

¹² The Vienna Declaration and Programme of Action, World Conference on Human Rights, (1993) para. 30.

undermine victims' equal rights to justice under international law.¹³ Therefore, victims of terrorism should be acknowledged as individuals who have suffered severe violations of human rights and entitled to reparation, including restitution, compensation, rehabilitation, satisfaction, and guarantees of non-repetition, similar to victims of other gross human rights violations.¹⁴

1.2 Statement of Problem

Terrorism often seeks large-scale victimization by targeting soft and symbolic targets.¹⁵ Globally used to pursue political and religious agendas, terrorism inflicts profound physical, psychological, and financial harm not only on direct victims, but also on their families and societies at large often disrupting the fabric of everyday life.¹⁶ International law provides mechanisms for victim reparations, but these largely depend on state responsibility and individual criminal liability, typically through standard legal proceedings. Hence, State must be party to these human rights instruments addressing reparation of victims and the perpetrator must join the proceedings and be solvent.¹⁷ Nevertheless, the States should establish national programs for reparation and assistance to victims when liable parties are unable or unwilling to meet their obligations.¹⁸

Obligations of States under IHRL encompass three distinct types of obligations: to respect, to protect and to fulfill human rights.¹⁹ While the obligations that derive from the obligation to protect rights apply equally to acts by State and non-State actors²⁰ that includes terrorists. When a State fails in its duty to safeguard civilians' rights, including against third-party violations, it must provide reparations not only to other States but also to affected individuals or groups.²¹ This includes, an obligation to provide funding to their citizens, especially as the perpetrators are

¹³ Kathleen Maloney-Dunn, 'Humanizing Terrorism through International Criminal Law: Equal Justice for Victims, Fair Treatment of Suspects, and Fundamental Human Rights at the ICC' (2010) 8 Santa Clara Journal of International Law 69, 75.

¹⁴ Ibid 82.

¹⁵ Hans Jörg Albrecht & Michael Kilchling, 'Victims of Terrorism Policies: Should Victims of Terrorism be Treated Differently?' (2007) 13 European Journal on Criminal Policy and Research 13, 13.

¹⁶ David Shichor, 'Thinking about Terrorism and Its Victims' (2007) 2(3) Victims and Offenders 263, 284.

¹⁷ M.A.A Koundy, 'Reparations for victims of terrorist acts in Sahel conflicts: The case of Niger' (2021) 103(918) International Review of Red Cross 883, 886.

¹⁸ United Nations Basic Principles and Guidelines (n 11) para 16.

¹⁹ Lene Guercke, 'State Responsibility for a Failure to Prevent Violations of the Right to Life by Organized Criminal Groups: Disappearances in Mexico' (2021) 211 Human Right Law Review 329, 333.

²⁰ Human Rights Committee, '*Nature of the Legal Obligation on States Parties to the Covenant*' (General Comment No.31), UN Doc. Ccpr/C/21/Rev.1/Add.13, 2004, at para 8.

²¹ M.A.A Koundy (n 17) 890.

indigent, deceased or untraceable they will not be able to provide reparation.²² This may be in the form of special funds for victims of terrorism that will go beyond other fiduciary provisions that are available for victims of violent crime.

Victims of offenses in Ethiopia can make a claim for restitution through a criminal prosecution or a separate civil claim against the offender. However, reparation according to ordinary court proceeding requires perpetrator to join court proceeding, be solvent, and victims to proof existence of considerable damage and pay court fees and cost of summoning witnesses in support of their claim. As a result, it is not victim friendly, effective and adequate.

Under Ethiopian Anti-terrorism proclamations, there is no firm approach toward victims of terrorism beyond the ambition of establishing a terrorism victims fund sourced by Forfeiture of Terrorist Property. As a result, the interests of victims of terrorism (reparation) are not given paramount attention, as seen in both the repealed Proclamation No. 652/2009²³ and the new special terrorism proclamation, Proclamation No. 1176/2020.²⁴

In Ethiopia, despite rampant human rights violations resulting from terrorism, victims' right to reparation remain futile. This situation stems from the state's failure to meet its obligations, either by facilitating reparation mechanisms or stepping in to provide reparation for victims who have suffered human rights abuses as a result of acts of terrorist.

Therefore, the writer tries to evaluate and critically examines reparation for victims of terrorism in Ethiopia.

1.3 Objective of the Study

1.3.1 General Objective

The general objective of this study is to investigate reparation for victims of terrorism in Ethiopia.

²² United Nations Human Rights Council 'Report of the Special Rapporteur on the Promotion and Protection of Human Rights and Fundamental Freedoms while Countering Terrorism' (2012) (A/HRC/20/14, hereafter called the Emmerson's Report) para 56.

²³ A proclamation to Provide for the Prevention and Suppression of Terrorism Crimes, proclamation No.1176/2020, Federal Neggarit Gazzeta of the Federal Democratic Republic of Ethiopia, Addis Ababa, 26th Year No. 20, 25 March 2020.

²⁴ A Proclamation on Anti-terrorism, Proclamation, No. 652/2009, Federal Neggarit Gazzeta of the Federal Democratic Republic of Ethiopia, Addis Ababa, 15th Year No.57, 28 August 2009.

1.3.2 Specific Objectives

The followings are specific research objectives;

- ✓ To explain the human rights implications of terrorism.
- ✓ To identify forms of reparation in international human rights law.
- ✓ To identify and evaluate forms of reparation for victims of terrorism in Ethiopia.
- ✓ To evaluate the strategies implemented by the State to ensure comprehensive reparations for victims of terrorism in Ethiopia.
- ✓ To suggest possible recommendations for improvements.

1.4 Research Questions

The main question of this paper is to inquire into reparation for victims of terrorism in Ethiopia.

Sub questions:

1. What is terrorism and its human rights implications?
2. What are forms of reparation in international human rights law?
3. What are forms of reparation for victims of terrorism in Ethiopia?
4. What are mechanisms for improving reparation for victims of terrorism in Ethiopia?

1.5 Literature Review

The writer has diligently sought out domestic literature on the subject matter of the study, but there are a few works that have only indirect bearing on the matter. For Example, Hiruy Wubie (2010) in his thesis, “The Impact of Terrorism and Counterterrorism on Human Rights Protection: The U.N’s Response and Ethiopian Experience”,²⁵ concluded that both terrorism and counterterrorism measures have negative impacts on human rights protection. He suggested that

²⁵ Hiruy Wubie, ‘The Impact of Terrorism and Counterterrorism on Human Rights Protection: The United Nations’ Response and Ethiopian Experience’ (LLM Thesis, Addis Ababa University 2010).

the effectiveness of anti-terrorism legislation should be measured by its ability to balance the interests of justice and human rights.²⁶

Another is article by Abdi Jibril (2020) on “Remedies for Human Rights Violations: A Reform Proposal for Addressing Victims of Criminal Proceedings in Ethiopia”.²⁷ This article examines the right to reparation for victims of human rights violations who are subjected to unfair trials and uncovered the existence of implementation gaps and urges concerned bodies to take legislative, institutional, financial, and educational measures.²⁸

According to article written by Markos Debebe (2021), the FDRE Constitution accords different protections for those who participate in the criminal justice as a suspect, accused and offender. However, it does not have even a single provision on the crime victim’s rights save the right to bring a case before the concerned organ; which is highly controlled by the State via the public prosecutor.²⁹ Thus, the crime victims are neglected and remain as spectators in their own case.³⁰

Lastly, the Right to Reparation for Human Right Violation in Ethiopia³¹ was studied by joint authors Kidus Meskele and Teketel Labena, in 2017. This article make an inquiries of whether victims of human right violation have a legally recognized substantive right to reparation within the current Legal frame work, and finally concluded that victims of human right violation currently do not have adequate recognition, and are without sufficient legal mechanisms which provide for their treatment and reparation in the justice system.³²

The above mentioned literatures are general consideration on constitutional protection for victims of crime, human rights protection during counterterrorism and remedies for victims of human rights violations. However, they do not consider the legal and institutional frameworks for the right to reparation for terrorism victims, nor the State’s obligations, especially when principal offenders are unable or unwilling to provide it. Therefore, this study focuses

²⁶ Ibid 121.

²⁷ Abdi Jibril Ali, ‘A Reform Proposal for Addressing Victims of Criminal Proceedings in Ethiopia’ (2020) 19(1) Northwest Journal of Law.

²⁸ Ibid 21.

²⁹ Markos Debebe Belay, ‘Crime Victims’ Rights under the Ethiopian Legal Framework: The Need for Constitutional Protection’ (2021) 1(1) Ethiopian journal of legal studies.

³⁰ Ibid 86.

³¹ Kidus Meskele and Teketel Labena ‘the Right to Reparation for Human Right Violation in Ethiopian’ (2017) 31 Journal of Poverty, Investment and Development 1.

³² Ibid 6.

specifically on evaluation of reparation for victims of terrorism in Ethiopia. In doing so, it will bridge the existing gaps of literature concerning specific area.

1.6 Research Methodology and Methods

Doctrinal and non-doctrinal legal research methods are employed to examine reparation for victims of terrorism in Ethiopia. Doctrinal research involves analyzing existing legal texts, such as statutes, case law, and treaties, to understand legal principles and obligations. Non-doctrinal research complemented this by exploring empirical data, including interviews, and personal observation.

1.6.1 Methods of Data Collections

This research employed a qualitative approach, drawing on both primary and secondary data sources. Primary data collection methods involve analyzing binding and non-binding legal instruments at global and regional levels, including treaties, conventions, and resolutions related to victim reparation. Specifically, the study examined Ethiopian laws, including the FDRE Constitution (Proclamation No. 1/1995), the Proclamation for the Prevention and Suppression of Terrorism Crimes (Proclamation No. 1176/2020), the FDRE Criminal Code (Proclamation No. 414/2004), and the Civil Code (Proclamation No. 165/1960). Additionally, the researcher has conducted interviews with key stakeholders, including officials from the Ethiopian Human Rights Commission, Ministry of justice, practicing criminal investigator, and public prosecutors involved in terrorism cases. Interviews were conducted with at least one individual from each institution. This method gathered firsthand information from stakeholders. Personal observations were also made to understand the challenges faced by the community.

As for secondary sources, this research utilized books, law review and journal articles, commentaries, newspaper and media reports, policy briefs, working papers, official reports, and online databases

1.6.2 Sampling Technique

The study employed purposive non-probability sampling techniques to deliberately select individuals who possessed the highest knowledge in terrorism and counterterrorism. Specifically, it targeted stakeholders, responsible organs, and other relevant parties who held strong positions in these issues and had special exposure to the subject matter under investigation.

1.7 Limitation of the Study

While conducting comprehensive research on the human rights of terrorism victims in Ethiopia was an area of interest, this study specifically centered on examining reparation for these victims. Due to resource and time limitations, this discussion focused only on the human rights implications and investigated the forms of reparation and their effectiveness in Ethiopia. This paper also used contemporary issues in Ethiopia following the designation of an organization as a terrorist organization by the House of People's Representatives on May 5, 2021, to demonstrate the urgent need of the victims.

1.8 Organization of the Thesis

This thesis consists of five chapters, each divided into sections and sub-sections. Chapter one introduces the study. Chapter two examines literature on terrorism concepts, victims of terrorism, and its human rights implications. Chapter three analyzes reparation and its forms, including international and comparative experiences, to identify best practices. Chapter four reviews Ethiopia's legal framework for reparations, with a focus on terrorism cases. The final chapter presents the major findings, conclusions, and recommendations.

CHAPTER TWO

CONCEPTUAL OVERVIEW OF TERRORISM

Introduction

Terrorism, in its myriad forms, represents one of the most significant threats to global peace and security.³³ The term ‘terrorism’ is inherently contentious and lacks a universally accepted definition, much like the term ‘victims’ within the context of terrorist acts.³⁴ Despite these definitional ambiguities and the diverse manifestations of terrorism, it is imperative to examine the multifaceted effects of terrorism on victims from their unique perspectives.

This chapter examines the complex nature of terrorism, exploring both its acts and their profound implications for human rights. Initially, this chapter will address the conceptual challenges of defining terrorism, followed by an analysis of its impact on civil, political, economic, social, and cultural rights. Finally, it discusses how victims' identities are identified across different frameworks, with a focus on victims of terrorism.

2.1. Legal Concepts and Definitions

A meaningful discussion about terrorism first requires identifying and defining the phenomenon being examined. This allows devising criteria for labeling actions, individuals, or organizations as ‘terrorist’, investigate the causes and objectives of terrorism, and set parameters for a legitimate response.³⁵ The definition of terrorism is a complex and contentious issue. Scholars and legal frameworks have extensively debated this topic, revealing the difficulty in advancing the study of terrorism due to its multifaceted and ambiguous nature, as well as differing perspectives.³⁶ Etymologically, the term ‘terrorism’ derives from ‘terror.’ Initially, it referred to a system or regime of terror without negative connotations. Over time, it evolved to describe any

³³ United Nations Security Council Resolutions Unequivocally condemns in the strongest terms the horrifying terrorist attacks as a threat to international peace and security; see for instance, Resolution 1368 (2001) para 1, Resolution 1377 (2001), preamble para 2, Resolution 1624 (2005) preambular, para 3.

³⁴ Sumanta Meher & Subramanian Ramamurthy, 'United Nations and the Protection of Human Rights of Victims of Terrorism' (2019) 88 *Journal of Law, Policy and Globalization* 130, 131.

³⁵ Tomis Kapitan, The Terrorism of ‘Terrorism’ in James Sterba (ed), *Terrorism and International Justice* (Oxford 2003) 1.

³⁶ Tomasz Walek, ‘Concept, Origin and Classification of Terrorist Phenomena’ (2018) No. 2 *Securitologia* 107, 108.

such policy or regime, now generally carrying a strongly negative connotation and typically applied to enemies or opponents.³⁷

The definition of terrorism is not merely a description of specific acts of violence, such as bombings or assassinations. Instead, it is a characterization of violence that depends on the speaker and the speaker's perspective.³⁸ The term has been defined in various ways, often contradicting each other, influenced by political ideology, location, and viewpoint.³⁹ These definitions are controversial not just due to conceptual issues, but because labeling actions as terrorism often carries ideological or political bias, leading to the condemnation of the actors involved.⁴⁰ Despite this, the term 'terrorism' is widely used in political debate and legal discourse. Its legal definition is crucial in determining the scope of severe criminal sanctions and the government's capacity to infringe upon human rights.⁴¹

Alex P. Schmid, a Dutch scholar, describes efforts to agree on a legal definition of terrorism, dating back to the League of Nations' 1937 proposal, as 'elusive.'⁴² In 1988, he developed an academic consensus definition with sixteen elements.⁴³ To fully understand terrorism in its various forms and manifestations, Schmid's work offers valuable insights through five conceptual lenses: as a crime, as politics by other means, as irregular warfare, as violent communication, and as religious fundamentalism.⁴⁴

Although states widely recognize the need to combat international terrorism, persistent disagreements on key issues have hindered the development of a unified definition for coordinated action. Consequently, terrorism lacks a universally accepted definition, even after

³⁷ Igor Primoratz, 'What Is Terrorism?' (1990) 7(2) *Journal of Applied Philosophy* 129, 129; see also Jean Marc Sorel, 'Some questions about the definition of terrorism and the fight against its financing' (2003) 14(2) *European Journal of International Law* 365, 366.

³⁸ Özden Çelik, 'Terrorism Overview' in Adil Duyan (ed), *Defence Against Terrorism: Different Dimensions and Trends of an Emerging Threat* (IOS Press BV 2012), 6.

³⁹ Peter G. Stillman, 'The Changing Meanings of Terrorism' (2003) 1(2) *Perspectives on Evil and Human Wickedness* 81, 81.

⁴⁰ Jack P. Gipps, 'Conceptualization of Terrorism' (1989) 54(3) *American Sociological Review* 329, 329.

⁴¹ Ben Golder and George Williams., 'What is 'terrorism'? Problems of Legal Definition' (2004) 27(2) *University of South Wales Law Journal* 270, 272.

⁴² Alex P. Schmid, 'The Definition of Terrorism' in Alex P. Schmid(Ed), *The Routledge Handbook of Terrorism Research* (Routledge 2011), 39.

⁴³ Alex P. Schmid, 'Terrorism: The Definitional Problem' (2004) 36(2 &3) *Case Western Reserve Journal of International Law* 375, 382.

⁴⁴ Alex P. Schmid, 'Frameworks for Conceptualising Terrorism' (2004) 16 (2) *Terrorism and Political Violence* 197, 221.

sixteen terrorism-related UN conventions since 1937. This lack of consensus hampers international counterterrorism efforts, weakens the UN's moral authority, and affects its credibility. Several resolutions have acknowledged that a widely accepted definition of international terrorism could strengthen the effectiveness of global anti-terrorism measures.⁴⁵ Legal systems often struggle with a one-size-fits-all definition of terrorism, as broad and vague definitions can be applied across various legal contexts.

Unlike the general approach of defining terrorism through overarching criteria like intention or motivation to define terrorism as a general concept per se, international legal scholars have focused on defining and proscribing specific actions, such as hijacking, hostage-taking and so forth.⁴⁶ While international law does not establish a universally binding definition of terrorist acts for states to adhere to, there is broad consensus within the global community that specific actions qualify as terrorism.⁴⁷ An act is considered terrorist when it aims to create a common or general danger, induce fear or intimidation, and exert pressure to fulfill the perpetrator's purposes or demands.⁴⁸

International humanitarian law (IHL) defines 'acts of terrorism' as referred to in the Fourth Geneva Convention of 1949,⁴⁹ Additional Protocol I of 1977,⁵⁰ and Additional Protocol II of 1977.⁵¹ These legal frameworks define violent acts that violate the principles of military necessity, proportionality, and distinction, with the primary aim of instilling fear among civilians. This definition incorporates widely recognized elements: civilians as innocent victims, violence as the means of action, and political motives as the driving force. The four Geneva Conventions of 1949 are considered customary law and have been universally accepted. Thus,

⁴⁵ These resolutions and strategies reflect the ongoing efforts and challenges in establishing a universally accepted definition of terrorism, which is seen as crucial for enhancing the effectiveness of global counter-terrorism measures: UN Security Council Resolutions 1566 (2004) and 1373 (2001); UN General Assembly Resolutions 49/60 (1994) and 42/159 (1987); and the UN Human Rights Council's Report A/HRC/48/66.

⁴⁶ Krzysztof Skubiszewski, 'Definition of Terrorism' (1989) 19 *Israel Yearbook on Human Rights* 39, 39.

⁴⁷ Saqib Jawad, 'Terrorism and Human Rights' (2015) 3(2) *Sociology and Anthropology* 104, 105.

⁴⁸ Krzysztof Skubiszewski (n 44) 42.

⁴⁹ Geneva Convention Relative to the Protection of Civilian Persons in Time of War (Fourth Geneva Convention) (adopted 12 August 1949, entered into force 21 October 1950) 75 UNTS 287, art 33.

⁵⁰ Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts (Protocol I) (adopted 8 June 1977, entered into force 7 December 1978) 1125 UNTS 3, art 51(2).

⁵¹ Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of Non-International Armed Conflicts (Protocol II) (adopted 8 June 1977, entered into force 7 December 1978) 1125 UNTS 609, art 13(2).

the interpretation of 'terror' within International Humanitarian Law (IHL) could serve as a foundation for establishing a universally accepted legal definition.

There are also a number of international conventions on combating different forms of 'terrorism'.⁵² Regional conventions in the Americas, Africa, and Europe also define terrorist acts, with the Organization of the African Union's Convention on the Prevention and Combating of Terrorism offering a detailed definition of 'terrorist acts'.⁵³ More recently, in response to the events of September 11, 2001, the Sixth Committee of the United Nations General Assembly sought to develop a broad, unified definition of terrorism under Article 2(1). However, the Convention is still in draft form. Indeed, the United Nations General Assembly Ad Hoc Committee on Terrorism is still debating the definition.

The United Nations has significantly influenced member States' actions against terrorism through various international instruments, notably Resolutions 1373 (2001), 2178 (2014), and 2462 (2019). These resolutions mandate States to prevent and suppress terrorist acts and take necessary steps to prevent their commission. However, they do not define 'terrorist acts,' leaving this determination to individual States.

2.2. Human Rights Implications of Terrorism

Terrorism impacts virtually every human right, affecting civil, political, economic, social, and cultural rights in various contexts.⁵⁴ Although mass victimization by terrorist attacks is less frequent, when it does occur, the direct physical impact is often more severe than that of ordinary crime, with higher rates of casualties and fatalities. Terrorism causes significant societal suffering and numerous human rights violations, including the right to life, equality, freedom

⁵² International Convention against the Taking of Hostages (adopted 17 December 1979, entered into force 3 June 1983) 1316 UNTS 205, art 1; International Convention for the Suppression of Terrorist Bombings (adopted 15 December 1997, entered into force 23 May 2001) 2149 UNTS 256, art 2(1); International Convention for the Suppression of the Financing of Terrorism (adopted 9 December 1999, entered into force 10 April 2002) 2178 UNTS 197, art 2; International Convention for the Suppression of Acts of Nuclear Terrorism (adopted 13 April 2005, entered into force 7 July 2007) 2445 UNTS 89, art 2.

⁵³ Organization of the African Union's Convention on the Prevention and Combating of Terrorism (adopted 14 July 1999, entered into force 6 December 2002) 2219 UNTS 179, art 1(3).

⁵⁴ Progress Report submitted by the Special Rapporteur on Terrorism and Human Rights, UN DOC E/CN.N/Sub.2/2001/31 par. 102: See also Security Council resolutions 1373 (2001) and 1377 (2001); General Assembly resolutions 48/122, 49/185, 50/186, 52/133, 56/160 and 58/174, as well as its Declaration on Measures to Eliminate International Terrorism (resolution 49/60); Commission on Human Rights resolutions 2001/37 and 2004/44, Human Rights Council resolution 6/28 and its recent resolution on the protection of human rights and fundamental freedoms while countering terrorism (28 March 2008).

from discrimination, liberty, personal security, and freedom from torture and other cruel, inhuman, or degrading treatment.⁵⁵ In addition to the higher chance of fatalities, injuries sustained from terrorist attacks are typically more severe than those from other types of trauma. Even survivors often require extensive medical care, necessitating the allocation of more hospital resources to treat victims of terrorism. Beyond causing physical harm and death, terrorists also aim to spread fear and mistrust within communities by taking hostages and kidnapping civilians for ransom.⁵⁶

The negative consequences of terrorism also extend to social security, family protection, health, and education. In countries affected by terrorism, daily life is marred by high stress and safety uncertainties, leading to widespread post-traumatic stress disorder, anxiety, and depression. Survivors often face substance abuse and psychosomatic disorders. Consequently, social life is disrupted, and restrictive measures become commonplace. Although terrorism is organized and systematic, driven by political or ideological motives rather than personal gain, it causes serious damage to public and private property, including places of public use, government facilities, public transportation systems, infrastructure, and the environment. Such damage often results in significant economic loss. Additionally, terrorists engage in assault, looting, and robbery.⁵⁷

Finally, Human Rights Council, in its resolution, emphasized that the destruction or damage of cultural heritage can have a detrimental and irreversible impact on cultural rights, particularly the right to participate in cultural life and access cultural heritage. The potential for non-State actors, notably by terrorist groups, to destroy cultural heritage is immense, with disastrous effects on the enjoyment of these rights. The cost extends far beyond monetary value, encompassing the total loss of invaluable cultural heritage to human civilization.⁵⁸

⁵⁵ United Nations General Assembly, 'Report of the Human Rights Council Advisory Committee, Negative effects of terrorism on the enjoyment of human rights' (Human Rights Council Forty-eighth session, 13 September–1 October 2021) UN Doc A/HRC/48/66, para 18.

⁵⁶ Alex P. Schmid, 'Strengthening the Role of Victims and Incorporating Victims in Efforts to Counter Violent Extremism and Terrorism' ICCT Research Paper August 2012, 2.

⁵⁷ Office of the United Nations High Commissioner for Human Rights, Human Rights, Terrorism and Counter-terrorism, Fact Sheet No. 32, 7.

⁵⁸ United Nations Security Council Resolution 2347 (24 March 2017) UN Doc S/RES/2347, preamble para 4.

2.3. Victim Identification in Terrorism Contexts

Effective protection and legal guarantees require a clear definition of terrorism victims, given the controversy surrounding terrorism itself and the diverse victim types.⁵⁹ However, international law, including UN and treaty-based frameworks, lacks a specific definition of ‘victim of a terrorist act.’⁶⁰ Bridging this gap necessitates applying definitions and common elements from various international norms related to different victim categories.

Several international instruments define the concept of ‘victim,’ widely recognized by the global community. The Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power covers all cases where individuals suffer due to crimes committed by terrorist organizations.⁶¹ When victimization stems from violations of human rights, humanitarian, or refugee law, the United Nations Basic Principles and Guidelines provide relevant definitions.⁶² If a terrorist act falls within the jurisdiction of the International Criminal Court (ICC),⁶³ Rule 85 of its Rules of Procedure and Evidence defines ‘victims,’ encompassing both natural and legal persons who have directly or indirectly suffered harm from crimes under ICC jurisdiction.

The Framework Principles for securing the human rights of victims of terrorism define victims of terrorism through a typology that distinguishes four major categories of victims:

- Direct victims of terrorism: Natural persons who have been killed or have suffered serious physical or psychological injury as a result of an act of terrorism.
- Secondary victims of terrorism: Natural persons who are the next of kin or dependents of a direct victim of terrorism.
- Indirect victims of terrorism: Individuals who have suffered serious physical or psychological injury as an indirect result of an act of terrorism. This includes members of

⁵⁹ United Nations Office on Drugs and Crime, “*Good Practices in Supporting Victims of Terrorism within the Criminal Justice Framework, Vienna*” (2016) 1.

⁶⁰ Radicalization Awareness Network, “Handbook: Voices of victims of terrorism” This handbook is a compilation of experiences shared during the Radicalization Awareness Network meetings of the Voices of Victims Working Group, held from 2012 to 2015, 7.

⁶¹ Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power, A/RES/40/34, Resolutions adopted on the reports of the Third Committee, 96th plenary meeting 29 November 1985, Annex, para 1& 2.

⁶² United Nations Basic Principles and Guidelines (n 11), Annex, V.8.

⁶³ Rome Statute of the International Criminal Court (adopted 17 July 1998, entered into force 1 July 2002) 2187 UNTS 90, art 5.

the public who have been killed or injured due to antiterrorism measures, eyewitnesses who have sustained serious psychological harm from witnessing a violent terrorist incident or its immediate aftermath, individuals subjected to potentially lethal force by a public authority after being mistakenly identified as suspected terrorists, and rescue workers who suffer serious physical or psychological harm as a result of participating in emergency relief efforts.

- Potential victims of terrorism: The principal beneficiaries of the State's positive obligations under Article 6 of the International Covenant on Civil and Political Rights.⁶⁴

Conclusion

The study of terrorism is complicated by the lack of a comprehensive legal definition, which hampers international cooperation and weakens counter-terrorism efforts. This chapter provided a conceptual overview of terrorism, covering its definition, acts, victims, and human rights violations. The meaning of terrorism has evolved over time and varies by context. It is distinct from other forms of violence due to its premeditated nature, intent to instill fear, targeting of broader audiences, symbolic attacks, societal perception as abnormal, and its goal of influencing political behavior.

Terrorism poses a significant threat by violating human rights, destabilizing governments, weakening civil society, and hindering social and economic development. The terror experienced by innocent victims is immeasurable, and these victims, spanning all demographics, often lack recognition and support. Despite extensive UN-led counter-terrorism efforts, international law does not specifically define victims of terrorism, though various international instruments outline essential elements of victimhood. Given that terrorism contravenes all provisions of international human rights and other instruments, victims are entitled to reparations as substantive remedies for their grievances.

⁶⁴ Ben Emmerson, 'Framework Principles for Securing the Human Rights of Victims of Terrorism' (Report of the Special Rapporteur on the Promotion and Protection of Human Rights and Fundamental Freedoms while Countering Terrorism, 2012) A/HRC/20/14, para 16: see also, African Commission on Human and Peoples' Rights, *Principles and Guidelines on Human and Peoples' Rights while Countering Terrorism in Africa* (2015), para 10 d.

CHAPTER THREE

REPARATION

Introduction

Remedies are fundamental for the protection of human rights, as rights without effective remedies are largely meaningless.⁶⁵ As part of the recognition of a 'right to remedy,' it is now established that individuals are entitled to a mixed batch of reparations.⁶⁶ The term 'reparation' is used in two key contexts, each with distinct meanings: in the juridical context, particularly international law, it broadly refers to measures providing redress for various harms suffered by victims of certain crimes, with the overarching goal of healing, restoring dignity, humanity, and trust.⁶⁷ International law has developed a sophisticated approach to reparations, particularly in human rights law. The term is also used in designing programs, which are coordinated sets of reparative measures with extensive coverage.⁶⁸ This distinction ensures clarity in addressing victims' needs through appropriate and tailored measures

This chapter explores 'reparation' from its conceptual overview to legal foundations, including an in-depth discussion of various forms of reparation, possible accountability, and jurisprudence on reparation for human rights violations in general, and the case of terrorism in particular. In this chapter, I will focus on the substantive meaning of remedies, often called reparations, within the specific context of human rights

⁶⁵ Nelson Enonchong, 'The African Charter on Human and Peoples' Rights: Effective Remedies in Domestic Law' (2002) 46(2) *Journal of African Law* 197, 2002.

⁶⁶ Carla Ferstman, Mariana Goetz and Alan Stephens (eds), *Reparations for Victims of Genocide, War Crimes and Crimes against Humanity; Systems in Place and Systems in the Making* (Martinus Nijhoff Publishers 2009) 9.

⁶⁷ African Commission on Human and Peoples' Rights; General Comment No. 4 on the African Charter on Human and Peoples' Rights: The Right to Redress for Victims of Torture and Other Cruel, Inhuman or Degrading Punishment or Treatment (Article 5), (Adopted at the 21st Extra-Ordinary Session of the African Commission on Human and Peoples' Rights, held from 23 February to 4 March 2017 in Banjul, The Gambia) para 10.

⁶⁸ Office of the United Nations High Commissioner for Human Rights, *Rule of Law Tools for Post-Conflict States; Reparations programmes* (New York and Geneva, 2008).

3.1. Conceptual Framework of Reparation

While contemporary international law prioritizes human rights protection, ambiguity in terminology complicates the issue of remedies.⁶⁹ Terms such as ‘remedy,’ ‘redress’ and ‘reparation’, are used in many international, regional, and domestic instruments, as well as in UN resolutions and reports in the context of HRs and IHL violations. Despite the clear dual obligations of States, various terms are often used interchangeably. For instance, Shelton uses ‘remedy’ to encompass both the procedural obligation to provide legal avenues and the substantive relief offered while ‘redress’ is commonly applied in literature and national law to refer to substantive remedies for victims of violations.⁷⁰ In contrast, ‘reparation’ is most frequently used in the context of inter-State claims and addresses individual harm from human rights violations. The UN Principles and Guidelines use ‘reparation’ to cover a wide range of measures addressing both the substance of the relief and the procedures to obtain it.⁷¹ Aligned with this terminology, the current study employs “reparation” as a broad term encompassing substantive remedies.

The definition and practice of reparations have evolved over time, focusing on addressing the harm to a victim by a responsible individual, organization, or State.⁷² In international law, ‘reparation’ is an umbrella term encompassing different forms of redress, such as restitution, rehabilitation, compensation, apologies, or memorials.⁷³ Fundamentally about fairness, reparations aim to restore what has been taken or destroyed. Derived from ‘repair,’ meaning to mend or fix, reparations seek to reduce inequity from the original injustice and alleviate suffering. Its core qualities are replacement and repair.⁷⁴ Reparation is thus the aspect of justice that provides redress for the consequences of human rights and humanitarian law violations.

⁶⁹ SL Haasdijk ‘The lack of uniformity in the terminology of the international law of remedies’ (1992) 5 *Leiden Journal of International Law* 245, 245.

⁷⁰ Dinah Shelton, *Remedies in International Human Rights Law* (3rd edn, OUP 2015) 16.

⁷¹ United Nations Basic Principles and Guidelines (n 11) VIII & IX.

⁷² James Gallen & Luke Moffett, ‘The Palliative Role of Reparations in Reconciling Societies with the Past: Redressing Victims or Consolidating the State?’ (2022) 16(4) *Journal of Intervention and State building* 498, 499.

⁷³ Roman David & Susanne Choi Yuk-ping, ‘Victims on Transitional Justice: Lessons from the Reparation of Human Rights Abuses in the Czech Republic’ (2005) 27 *Human Rights Quarterly* 392, 393.

⁷⁴ Claire Moon, ‘“Who’ll Pay Reparations on My Soul?” Compensation, Social Control and Social Suffering’ (2012) 21(2) *Social & Legal Studies* 197, 189.

The right to reparation is part of the right to an effective remedy, also known as the right to judicial protection or access to justice. This inherent obligation in the recognition of human rights cannot be suspended, even in states of emergency.⁷⁵ Reparation, as a means of addressing past abuses, is central to human protection. It is a victim-centered effort that extends beyond the limited scope of criminal prosecution.⁷⁶ It acknowledges the wrongs done to victims and serves as a vital element in addressing their complex needs in the aftermath of violations.⁷⁷ Reparations are often considered victim-centered transitional justice measures.⁷⁸ At their most basic level, reparations aim to address the harm inflicted on victims. However, victim reparations represent only one aspect of restorative justice, which aims to repair social relations, foster peace, and encourage forgiveness and reconciliation.

3.2. Normative Framework of Reparation

3.2.1. Legal Foundation of the Right to Reparation

Under the doctrine of state responsibility, a State that commits an international wrong must cease the wrongful conduct and provide adequate reparation. Reparation should, as far as possible, eliminate all consequences of the illegal act and restore the situation that would have existed if the act had not occurred.⁷⁹ While individuals were initially seen merely as objects of international law, lacking rights or obligations, the post-World War II era marked a significant shift towards recognizing individual rights within international law.

The right to an effective remedy is enshrined in all major global and regional human rights treaties and international humanitarian laws.⁸⁰ While the right to reparation is not explicitly mentioned, the right to remedy is generally interpreted to include both a procedural dimension

⁷⁵ Human Rights Committee, General Comment No. 29, on Article 4 of the International Covenant on Civil and Political Rights, States of Emergency and Suspension of Rights, CCPR/C/21/Rev.1/Add.11, (31 August 2001) para 14.

⁷⁶ Ron Dudai, 'Closing the Gap: Symbolic Reparations and Armed Groups' (2011) 93(883) *International Review of the Red Cross* 783, 787.

⁷⁷ United Nations Basic Principles and Guidelines (n 11) para 15.

⁷⁸ Luke Moffett, 'Transitional Justice and Reparations: Remediating the Past?' in Dov Jacobs (ed) *Research Handbook on Transitional Justice* (Edward Elgar, 2015), 1.

⁷⁹ Permanent Court of International Justice, *Chorzow Factory Case*, 1928 P.C.I.J., Sr. A, No. 17, para 124.

⁸⁰ See, inter alia, UDHR, art 8; ICCPR, arts 2(3), 9(5), 14(6); CERD, art 6; CAT, art 14; ACHR, arts 25 and 61; ECHR, arts 13 and 41 and also the Hague Convention (IV) respecting the Laws and Customs of War on Land and its annex: Regulations concerning the Laws and Customs of War on Land(1910), art 3; Additional Protocol to the Geneva Conventions of relating to the Protection of victims of International Armed Conflicts (Protocol I), 12 August 1949, 1125 UNTS 3, entered into force 7 December 1978, art 91.

(access to mechanisms and processes for redress) and a substantive dimension (the right to reparation for victims). The Human Rights Committee (HRC), which interprets the International Covenant on Civil and Political Rights (ICCPR),⁸¹ states that Article 2(3) requires States Parties to make reparation to individuals whose rights have been violated. Additionally, the HRC notes that States have a primary duty under Articles 9(5) and 14(6) to provide reparation for violations of rights, and a secondary duty to provide reparation for violations of all human rights contained in the ICCPR.⁸²

The right to reparation is also covered in several UN declarations, resolutions, and non-treaty texts.⁸³ The Basic Principles, adopted on 16 December 2005 following extensive consultation, emphasize a victim-oriented perspective and clarify the right to a remedy and reparation. As emphasized in the preamble, the Basic Principles do not create new legal obligations but identify mechanisms, modalities and procedure for implementing existing ones under international human rights and humanitarian law. The Basic Principles outline measures to extend reparation beyond monetary compensation, including restitution, rehabilitation, satisfaction, and guarantees of non-repetition.⁸⁴

The Basic Principles crystallize existing international law norms, aiding States in fulfilling their obligations to provide effective remedies and reparations for human rights abuses, but the Basic Principles are not a treaty and thus not binding on States. While there is debate over whether these Principles merely codify existing law, Dinah Shelton points out that the right of victims to receive reparations is now widely recognized. This clear articulation of a legal obligation for adequate reparation for gross human rights violations marks a significant advance in international law. Shelton further stresses that the Basic Principles should be considered alongside other UN efforts on reparations, such as studies on impunity and disappearances, and

⁸¹ International Covenant on Civil and Political Rights (adopted 16 December 1966, entered into force 23 March 1976) 999 UNTS 171.

⁸² Human Rights Committee General Comment No 31, The Nature of the General Legal Obligation Imposed on State Parties, CCPR/C/21/Rev.1/Add.13, 26 (May 2004) para 18.

⁸³ Other instruments adopted by the UN human rights Charter based and treaty bodies including the 'UN Declaration of Basic Principles of Justice for Victims of Crimes and Abuse of Power', UN GA Resolution 40/34 of 29 November 1985 and the 'Independent Study on Best Practices, including Recommendations, to Assist States in Strengthening their Domestic Capacity to Combat all Aspects of Impunity,' E/CN.4/2004/88, 24 February 2004.

⁸⁴ Marten Zwanenburg, 'The Van Boven/Bassiouni Principles: An Appraisal' (2006) 24(4) Netherlands Quarterly of Human Rights 641, 664.

the monitoring of State compliance by treaty bodies.⁸⁵ The widely recognized Joint Principles establish that any human rights violation entitles the victim or their beneficiaries to reparation, imposing a duty on the State to ensure restitution and permitting redress from the perpetrator.⁸⁶

Although there is extensive law on reparations, the norms and jurisprudence are fragmented, protecting specific rights with varied standards and interpretations.⁸⁷ This fragmentation can obscure the clear application of international norms. However, the Basic Principles have advanced the codification of these norms, serving as a reference for international and national practices. Several Latin American countries and the Inter-American Court have incorporated these Principles into their legislation and rulings on reparations.

3.2.2. Obligation and Accountability in Reparation

There is broad agreement that human rights violations necessitate reparation, but the question of who bears the responsibility for fulfilling this duty remains unresolved.⁸⁸ The issue of reparation becomes even more complicated when considering non-state actors in the context of armed conflicts, internal disturbances, acts of terrorism, or other forms of organized crime. From the victims' perspective, however, the suffering they endure remains unchanged, regardless of whether the perpetrator is a state or a non-state actor.⁸⁹

Reparations stem from deontological ideas of remedy, where victims of wrongful acts have the right to seek redress from perpetrators, who are legally obliged to comply.⁹⁰ In principle, there is no reason why individuals should not be made accountable for the offenses committed by them.⁹¹ Accountability symbolizes the acknowledgment of victims' suffering and directs blame

⁸⁵ Dinah Shelton, *Remedies in International Human Rights Law* (2nd edn, OUP 2005) 143.

⁸⁶ The Principles for the Protection and Promotion of Human Rights Through Action to Combat Impunity, UN Doc. E/CN.4/Sub.2/1997/20 of 26 June 1997 and E/CN.4/Sub.2/1997/20/Rev.1 of 12 October 1997 (called Joint Principles), Principle 36.\

⁸⁷ Marten Zwanenburg (n 84) 667.

⁸⁸ Gabriela Echeverria, 'Do victims of torture and other serious human rights violations have an independent and enforceable right to reparation?' (2012) 16(5) *The International Journal of Human Rights* 698, 698.

⁸⁹ Laura Íñigo Álvarez, 'The Obligation to Provide Reparations by Armed Groups: A Norm under Customary International Law?' (2020) 67 *Netherlands International Law Review* 427, 428.

⁹⁰ Belfast Guidelines on Reparations in Post-Conflict Societies, findings of a four year project 'Reparation, Responsibility & Victimhood in Transitional Societies', 1(a). These Guidelines recognize and build and complement on the foundations of International Human Rights Instruments and should be read in light of the 2005 United Nations Basic Principles and Guidelines.

⁹¹ Christian Tomuschat, 'Reparation for Victims of Grave Human Rights Violations' (2002) 10 *Tul J Int'l & Comp L* 157, 181.

to the responsible actors.⁹² Unlike the state-centric focus of international law, reparations emphasize the shared responsibility of various actors.⁹³ As globalization and internal armed conflicts have risen, non-state actors are increasingly implicated in atrocities, necessitating accountability. The UN Basic Principles on Reparations and the Nairobi Declaration advocate that all responsible entities, including non-state actors, must provide reparations to victims, addressing impunity comprehensively.⁹⁴ In cases where state armed forces or non-state armed groups commit acts of terrorism within the scope of IHL, they are obligated to offer reparations to victims after the conviction of those responsible. This victim-centered approach asserts the right of victims to be ‘fully’ repaired, emphasizing that excluding non-state actors from the reparation process would be discriminatory and unreasonable.⁹⁵ Therefore, as affirmed by Principles 3(c) and 15 of the Basic Principles, victims of atrocities are entitled to reparations regardless of whether the perpetrator is a state or non-state actor.

Furthermore, Rose argues that a developing norm recognizes States' legal obligation, in specific cases, to provide reparations for violations committed by non-State actors.⁹⁶ Support for this norm has been increasingly evident in rulings by the IACtHR and findings from various truth and reconciliation commissions.⁹⁷ Additionally, the duty of due diligence obligates the State to mobilize its full resources to prevent, investigate, prosecute, and provide reparations.⁹⁸ It requires the State to take reasonable measures to prevent human rights violations, conduct thorough investigations into violations within its jurisdiction to identify perpetrators, and ensure

⁹² Luke Moffett, ‘Transitional Justice and Reparations: Remediating the Past?’ in Dov Jacobs (ed), *Research Handbook on Transitional Justice* (Edward Elgar, forthcoming 2015) 25.

⁹³ Brandon Hamber, ‘Repairing the irreparable: Dealing with the double-binds of making reparations for crimes of the past,’ (2000) 5(3/4) (2000) *Ethnicity and Health* 215, 218.

⁹⁴ United Nations Basic Principle and Guideline (n 11), para 15 and 16; Nairobi Declaration on Women’s and Girls’ Right to a Remedy and Reparation, (held in Nairobi from 19 to 21 March 2007) para 1 (5 and 6).

⁹⁵ Nicolas Carrillo-Santarelli, *Direct International Human Rights Obligations of Non-State Actors: A Legal and Ethical Necessity* (Wolf Legal Publishers 2017) 371.

⁹⁶ Cecily Rose, ‘An Emerging Norm: The Duty of States to Provide Reparations for Human Rights Violations by Non-State Actors’ (2010) 33(2) *Hastings International and Comparative Law Review* 307, 310.

⁹⁷ Peruvian Truth & Reconciliation Comm’n, Programa de Reparaciones [Reparations Program], 143 (2003), [Hereinafter Peruvian TRC Reparations Program]; The Sierra Leone TRC Report Vol. 2, Ch. 1, At T 21 (2004); The Truth and Reconciliation Comm’n of Liberia, Consolidated Final Report vol. 2, at 276 [hereinafter The Liberian TRC Final Report].

⁹⁸ Stephanie Farrior and Brice Clagett, ‘State Responsibility for Human Rights Abuses by Non-State Actors’ (1998) 92 *The Challenge of Non-State Actors* 299, 302.

appropriate compensation, even when not directly responsible.⁹⁹ General international law also imposes a secondary obligation on states to provide reparations at the international level if they fail to fulfill their obligations. For instance, ICCPR requires States to undertake both "to respect and to ensure to all individuals within its territory..."¹⁰⁰ Thus, under the ICCPR, a State's failure to fulfill its positive duty to 'ensure' results in an obligation to provide a remedy. By interpreting this duty as requiring direct reparations, the Committee broadened the scope of Article 2(3) to include cases where States provide reparations for violations committed by non-State actors.¹⁰¹

The UN Basic Principles on Reparations endorse subsidiarity, emphasizing that states should establish national reparation programs and provide assistance to victims when those responsible are unable or unwilling to fulfill their obligations.¹⁰² Claiming that protection from non-state abuses falls outside the scope of international human rights law disregards legal possibilities, foundational principles, and normative developments. Such a stance undermines the full protection of human dignity, discriminates against victims based on the identity of violators, and that their protection must be increased *de lege ferenda* to overcome gaps in positive law.¹⁰³ It also sends a harmful message, leaving victims feeling abandoned, emboldening non-state offenders, fostering impunity, and closing the door to certain remedies contrary to the objectives of human rights law.¹⁰⁴

3.3. Forms of Reparation

The ILC's 2001 Articles on State Responsibility outline the legal consequences of inter-State responsibility.¹⁰⁵ A responsible State is required to halt ongoing violations, offer necessary assurances and guarantees to prevent recurrence, and ensure comprehensive reparation for the harm inflicted. Reparations for human rights violations take two forms: material and symbolic.

⁹⁹ Committee against Torture; General Comment No. 2 Implementation of article 2 by States parties, CAT/C/GC/2, para 18; See also, Monica Hakimi, 'Toward a Legal Theory on the Responsibility to Protect' (2014) 39 *The Yale Journal of International Law* 247, 261.

¹⁰⁰ International Covenant on Civil and Political Rights (n 81) art. 2(1) &(3).

¹⁰¹ General Comment No. 31 (n 80) para 8.

¹⁰² United Nations Basic Principle (n 11), para 16 & 17 and Chicago Principles of Post Conflict Justice (2008), The International Human Rights Law Institute, Principle 3.

¹⁰³ Nicolás Carrillo-Santarelli, *Direct International Human Rights Obligations of Non-State Actors: A Legal and Ethical Necessity* (Wolf Legal Publishers (WLP) 2017), 399.

¹⁰⁴ *Ibid* 400.

¹⁰⁵ Dinah Shelton, 'Righting Wrongs: Reparations in the Articles on State Responsibility' (2002) 96(4) *American Journal of International Law* 833, 856.

Material reparations address specific harms, offering tangible or intangible remedies or compensation, while symbolic reparations, such as apologies and expressions of remorse, acknowledge the wrongdoing itself.¹⁰⁶ Reparations can be distributed individually or collectively. The UN Basic Principles outline five main forms of reparations: restitution, compensation, rehabilitation, satisfaction, and guarantees of non-repetition. Depending on the violation and the harm caused, reparations may involve one or a combination of these forms.

A. Restitution

Recognized in numerous human rights instruments, restitution seeks to reverse or annul the act causing the violation, re-establishing the victim's situation before it occurred.¹⁰⁷ Restitution offers the most comprehensive reparations due to its adaptability to various circumstances, whether recovering social or political rights or material goods.¹⁰⁸ It aims to re-establish the status quo ante, reflecting the principle that a right is more than a commodity and cannot always be compensated monetarily. The primary purpose of restitution is to return the victim to their pre-abuse state, serving the injured party's interests best by restoring their previous condition. This approach fulfills the core objective of reparations, ensuring justice and dignity for victims.¹⁰⁹

Various violations necessitate specific forms of restitution. For example, restoring the right to a fair trial may involve a retrial and nullifying all records of the unfair trial.¹¹⁰ Restoring liberty is crucial in cases of arbitrary arrest and detention, as it can prevent further violations.¹¹¹ Restoring citizenship and immediate release from prison are forms of restitution.¹¹² Restitution also includes returning unlawfully obtained property or money.¹¹³ However, restitution should not put the

¹⁰⁶ Susan Sharpe, 'The idea of reparation' in the Gerry Johnstone and Daniel W. Van Ness (eds) *Handbook of Restorative Justice* (Willan Publishing 2007) 27.

¹⁰⁷ ACHR, Article 63(1); ECHR, Article 41; Rome Statute of the International Criminal Court, Article 75; Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power, Principles 8-10.

¹⁰⁸ Carlton Waterhouse, 'The Good, the Bad, and the Ugly: Moral Agency and the Role of Victims in Reparations Programs' (2009) 31(1) U. Pa. J. Int'l L 257, 261.

¹⁰⁹ Antoine Buyse, 'Lost and Regained? Restitution as a Remedy for Human Rights Violations in the Context of International Law' (2008) 68 (ZaöRV)/Heidelberg Journal of International Law (HJIL) 129, 133.

¹¹⁰ United Nations Human Rights Committee, *Ebenezer Derek Mbongo Akwanga v Cameroon*, Communication No. 1813/2008, CCPR/C/101/D/1813/2008, 19 May 2011, para. 9; IACtHR, *Loayza Tamayo v Peru*, Judgment (Reparations), 27 November 1998 para.122.

¹¹¹ African Commission, *Egyptian Initiative for Personal Rights and Interights v. Egypt*, Communication 334/06, dispositif.

¹¹² African Court on Human and Peoples' Rights, *Georgia J. Pennensis v. The United Republic of Tanzania*, Application No 013/2015, Summary of Judgment on the Merits and on Reparation (28 November 2019) 3.

¹¹³ International Convention against the Taking of Hostages, 3 June 1983, Article 3(2).

victim at risk of repeat violations. Reparation awards should specify the steps states must take to address the structural causes of the violation.¹¹⁴ While it may not always be possible to restore the situation that would have existed prior to the violation, victims should receive other forms of reparation, including compensation, if restitution is insufficient or impossible.¹¹⁵

B. Compensation

Compensation provides financial restitution for diverse losses, whether tangible or intangible, monetary or non-monetary.¹¹⁶ Although amounts vary by country, the obligation to ensure fair and adequate restitution proportional to the severity of the violation and the specific circumstances of each case sets a standard that excludes purely symbolic awards.¹¹⁷ Funds derived from forfeitures are to be used to compensate the victims of offenses or their families.¹¹⁸ Dinah Shelton argues that compensation is the next best option after restitution, as financial awards provide victims of severe human rights violations an opportunity to rebuild their lives following their suffering or loss.¹¹⁹

Several human rights instruments explicitly recognize an individual's right to compensation for violations. In others, this right is implicitly conveyed through terms such as "reparation" or "just satisfaction."¹²⁰ United Nations treaty bodies have recognized a right to compensation even when it's not explicitly mentioned in the specific treaty. The Human Rights Committee, as a matter of practice, recommends that States award compensation based on Article 2(3)(a) of the ICCPR,

¹¹⁴ Committee against Torture; General comment No. 3 (2012) Implementation of article 14 by States parties, CAT/C/GC/3, para 8.

¹¹⁵ Abdi Jibril Ali (n 27) 16.

¹¹⁶ The Right to a Remedy and Reparation for Gross Human Rights Violations: A Practitioners' Guide no.2 (Revised edition, 2008) 174.

¹¹⁷ See for instance, Commission on Human Rights resolutions 2003/32, para 10 (torture) and Report of the Special Rapporteur on torture, UN Doc E/CN.4/2003/68 (2002) para 26(1); Basic principle and Guideline (n 7) para 20.

¹¹⁸ International Convention for the Suppression of the Financing of Terrorism, 10 April 2002, art 8(4); Protocol to the Organization of the African Union Convention on the Prevention and Combating of Terrorism, 6 December 2002, art 3; Council of Europe Convention on the Prevention of Terrorism, 1 June 2007, art 13; Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism, 1 May 2008, art 25(2).

¹¹⁹ Dinah Shelton (n 85) 316.

¹²⁰ CAT, art14; art 9(5) ICCPR; art 5(5) ECHR; art 10 ACHR; Rome Statute of the ICC, art 75(1); Declaration on the Protection of all Persons from Enforced Disappearance, art 19; Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power, Principle 12; In the regional instruments, see: ACHR, art 63(1); Inter-American Convention to Prevent and Punish Torture, art 9; Charter of Fundamental Rights of the European Union, art 41(3); ACHPR, art 21(2); Protocol to the ACHPR on the Establishment of an African Court on Human and Peoples' Rights, art 27(1).

which guarantees the right to a remedy. This right has also been recognized in numerous resolutions of the UN Commission on Human Rights and its special procedures.¹²¹

Under the UN Basic Principles, compensation must be granted for any quantifiable economic damage, ensuring appropriateness and proportionality to the severity of the violation and the specific circumstances of each case. This encompasses: physical or psychological harm; deprivation of opportunities, including employment, education, or social benefits; financial losses, such as diminished earning capacity; non-material harm, including emotional and reputational damage; expenses incurred for legal representation, medical treatment, and psychological or social support services..¹²²

C. Rehabilitation

International human rights treaty law permits one to conclude that there is recognition of rehabilitation as a form of reparation for torture survivors and other victims even if the word is not found in such explicit terms as in CAT.¹²³ Although rehabilitation is recognized, its definition is unclear. It ranges from a limited understanding focused solely on physical and psychological care to a more holistic approach that includes social and legal services. Though the Convention on the Rights of the Child does not explicitly mention reparations, it includes medical and psychological care, as well as legal and social services.¹²⁴ The goal of rehabilitation is to help victims regain and maintain maximum independence and full physical, mental, social, and vocational abilities, ensuring their full inclusion and participation in all aspects of life.¹²⁵ It must be tailored to the victim, guided by an impartial, comprehensive, and expert assessment of their needs, ensuring their active involvement in selecting service providers. The duty to offer

¹²¹ Ibid.

¹²² United Nations Basic Principles and Guidelines (n 11) para 20.

¹²³ ICCPR, art 10 and 14; CAT, art 14; CRPD, art 16; ICPPED (not yet in force), art 24; CRC, art 23 and 24; art 27 of the Protocol to the African Charter on the Establishment of an African Court (1998); African Youth Charter (2006), art 17; Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (adopted 11 July 2003, entered into force 25 November 2005) art 4, 10 & 12;

¹²⁴ Convention on the Rights of the Child (adopted 20 November 1989, entered into force 2 September 1990) 1577 UNTS 3, art 39.

¹²⁵ United Nations Human Rights Council, Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development, HRC/RES/22/21 (Resolution adopted by the Human Rights Council 12 April 2013) preamble.

rehabilitation is immediate and must not be delayed or made contingent upon the state's available resources.¹²⁶

However, the Basic Principles extend rehabilitation as a form of reparation to include any gross human rights violation and serious violations of humanitarian law. While not legally binding, these principles reflect existing international law, article 75 of the Rome Statute of the International Criminal Court, which mentions rehabilitation as a form of reparation, supports the application of rehabilitation beyond torture and disappearances, including crimes against humanity, war crimes, and genocide.

D. Satisfaction

Satisfaction serves as a non-monetary form of reparation, addressing moral harm or harm to dignity and reputation. It can include a condemnatory judgment, acknowledgment of truth, responsibility and fault, punishment of the violators, expressions of regret, formal apologies, or other appropriate actions such as assurances of non-repetition.¹²⁷ Public awareness of the victims' suffering and the truth about the perpetrators and their accomplices is essential for rehabilitation and reconciliation. Another important aspect of satisfaction is a public apology, which, unlike monetary compensation or significant actions like restitution, rehabilitation, or guarantees of non-repetition, is adapted from interpersonal apologies or issued by states.¹²⁸ A public apology helps restore a victim's honor, reputation, or dignity. Public commemoration is particularly significant in cases involving group rights violations or a high number of individuals, especially when the violations occurred long ago or the victims are not individually identified. Such commemoration has symbolic value and serves as a measure of reparation for current and future generations.¹²⁹

¹²⁶ United Nations Committee Against Torture (CAT), 'General Comment No 3: Implementation of Article 14 by States Parties' (13 December 2012) UN Doc CAT/C/GC/3 para 12.

¹²⁷ A Practitioners' Guide no. 2 (n 114) 207-209.

¹²⁸ Devyta Wijaya, 'Public Apology as a Form of Reparation' (2019) 2(2) International Journal of Global Community 181, 184.

¹²⁹ A Practitioners' Guide no. 2 (n 116) 211.

E. Guarantee of Non-Repetition (GNRs)

From its inception, the Responsibility of States for Internationally Wrongful Acts has emphasized the importance of preventing the recurrence of wrongful conduct.¹³⁰ The duty to guarantee non-repetition (GNRs) of systematic and gross human rights violations stems from two obligations: first, GNRs are seen as a form of reparation, rooted in the victims' right to an appropriate remedy, as established in many human rights treaties. This understanding has been shaped by international judicial bodies, notably the Inter-American Court of Human Rights, which asserts that reparation includes measures to ensure such violations never recur.¹³¹

The second obligation underpinning GNRs is the general duty to comply with international law norms. Under IHRL, states are obligated not only to respect but also to ensure human rights.¹³² Accordingly, States are specifically obliged to "ensure that victims do not again have to endure violations of their rights," with the obligation to prevent repetition stemming from their broader responsibility to respect and ensure human rights.¹³³ For example, Article 2(1) of the ICCPR requires each State party to "respect and to ensure to all individuals [...] the rights recognized in the present Covenant."

HRC's General Comment No. 31 underscores that the ICCPR's objectives would be undermined without a duty to prevent repeated violations.¹³⁴ Thus, the duty to ensure human rights includes preventing future violations and recurrence of past violations. States must adopt legislative, judicial, administrative, educational, and other appropriate measures to fulfill this duty.¹³⁵

Besides the above-mentioned jurisprudence, the evolution of GNRs within IHRL has been significantly shaped by UN soft law, especially the Basic Principles and the Principles for the Protection and Promotion of Human Rights through Action to Combat Impunity. The legal term

¹³⁰ Maja Davidovic, 'The Law of 'Never Again': Transitional Justice and the Transformation of the Norm of Non-Recurrence' (2021) 15 International Journal of Transitional Justice, 386, 389.

¹³¹ Alexander Mayer-Rieckh, 'Guarantees of Non-Recurrence: An approximation' (2017) 39(2) Human Rights Quarterly 416, 423.

¹³² Ibid 424.

¹³³ United Nations Commission on Human Rights, Report of the independent expert to update the Set of principles to combat impunity, Diane Orentlicher, Addendum: Updated Set of principles for the protection and promotion of human rights through action to combat impunity, 8 February 2005, E/CN.4/2005/102/Add.1, Principle 35.

¹³⁴ United Nations Human Rights Committee, 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, par. 17.

¹³⁵ Alexander Mayer-Rieckh (n 131) 422-423.

‘guarantees of non-recurrence’ reflects core values in international law, emphasizing forward-looking measures. These measures are rooted in the early developments of Transitional Justice, shaped by transitions from oppressive regimes across Latin America, where the promise that violations will not be repeated held a prominent position.¹³⁶

3.4. Treatment of Victims of Terrorism in Reparation cases

Recent efforts have aimed to ensure effective remedies for human rights violations, with new treaties introducing complaint mechanisms for individual victims. However, human rights treaties primarily designate states as duty-bearers, limiting their implementation mechanisms to state actions or inactions relative to non-state actors. Consequently, human rights monitoring mechanisms are seen as 'one-sided' because they cannot hold non-state actors accountable and can only address state responsibility.¹³⁷ Thus, the issue of reparations and remedies for IHRL violations by armed non-state actors has been frequently raised, as there is currently no international judicial or quasi-judicial mechanism (such as the UN treaty bodies) to hold them accountable under IHRL.¹³⁸

Nevertheless, judicial rulings show that terrorist acts are classified under various violations of IHRL or IHL, such as crimes against humanity¹³⁹ and war crimes¹⁴⁰, rather than being directly adjudicated.¹⁴¹ That means depending on the context, they can constitute war crimes or crimes against humanity. Some cases deal with terrorism and reparations within State anti-terrorism operations.¹⁴² Since no international court has direct jurisdiction over terrorism crimes, victims can seek reparation through national courts under relevant legislation. However, the Rome

¹³⁶ Maja Davidovic (n 132) 395.

¹³⁷ Deborah Casalin, 'Human Rights Treaty Mechanisms and Reparation for International Humanitarian Law Violations: Fragmentation, Partiality, Selective Justice' (2019) 13 Human Rights & International Legal Discourse 2, 11.

¹³⁸ Geneva Academy, 'Human Rights Responsibilities of Armed Non-State Actors; Building on State Practice at the Human Rights Council, the General Assembly and the Security Council, Report of the Seminar Held on 8 November 2017' (2017) 8.

¹³⁹ Terrorism could be seen as being covered by the sub-categories of crimes against humanity pursuant to Article 7(1)(a), (b), (f) and (k) of the Rome Statute. The most relevant provision that could cover terrorism is the one of murder as in article 7(1)(a).

¹⁴⁰ Article 27 & 33(1) of the Fourth Geneva Convention (1949); Article 51(2) of Additional Protocol I; Article 4(2)(d) & 13(2) of Additional Protocol II.

¹⁴¹ The case of Prosecutor v. Stanislav Galić (Case No. IT-98-29-A, Appeals Chamber, Judgement, 30 November 2006); Prosecutor v Delalid et al, Case No IT-96-21-T, 16 ICTY TC Judgment November 1998; Prosecutor v Krstic, TC Judgment of August 2, 2001, Case IT-98-33, paras. 607 and 653.

¹⁴² ECtHR; Machalikashvili and Others v. Georgia (Application no. 32245/19) Strasbourg 19 January 2023.

Statute of the ICC allows the Court to order appropriate reparations against convicted individuals, including restitution, compensation, and rehabilitation.¹⁴³ International judicial reparation measures may be necessary when domestic programs trivialize victims' suffering or when truth and reconciliation commissions are merely symbolic.¹⁴⁴ The ICC orders both individual and collective reparations, as outlined in the UN Principles.¹⁴⁵ This marks the first instance of an international court having the authority to mandate an individual to pay reparations to another individual.

Generally, victims of terrorism are acknowledged both as crime victims¹⁴⁶ and as specific victims of terrorist acts¹⁴⁷ across various regional frameworks. Numerous reparation cases by Regional Human Rights Courts support their claims.

Conclusion

This chapter delved into the evolving landscape of reparations for human rights violations. The terminology used to describe remedies in both binding and non-binding human rights instruments has led to considerable confusion, although the definition and practice of reparations have evolved. The right to remedy, including substantive dimensions, is supported by extensive, yet fragmented, laws on reparations. These laws offer varied standards and interpretations, highlighting the primary responsibility of states under IHRL for human rights violations, including their obligation to protect specific rights, provide reparation when they are violated and establish reparation programs when necessary.

¹⁴³ Rome Statute of the International Criminal Court, July 17, 1998, U.N. Doc 183, 37 LL.M. 1002 (1998) [hereinafter Rome Statute], art 75(2).

¹⁴⁴ Elizabeth Salmo'n and Juan-Pablo Pe'rez-Leo'n-Acevedo, 'Reparation for victims of serious violations of international humanitarian law: New developments' (2022), 104 (919) *International Review of the Red Cross* 1315, 1338; see also L. Moffett, 'Reparations in Transitional Justice: Justice or Political Compromise?' (2017) 11(1) *Human Rights & International Legal Discourse* 63, 63.

¹⁴⁵ For example see, ICC, Lubanga, ICC-01/04-01/06-3129-AnxA, Order for Reparations, 3 March 2015, paras 67–8; ICC, Katanga, ICC-01/04-01/07-3728-tENG, Order for Reparations, 24 March 2017, para. 230.

¹⁴⁶ Council of Europe Convention on the Prevention of Terrorism, 16 May 2005, ETS No. 196, Article 13; European Convention on the Compensation of Victims of Violent Crimes, European Treaty Series ETS 116, Strasbourg, 24.XI.1983, 24 November 1983, Preamble of the convention; *Recommendation CM/Rec(2023)2 of the Committee of Ministers to member States on rights, services and support for victims of crime* (Adopted by the Committee of Ministers on 15 March 2023 at the 1460th meeting of the Ministers' Deputies); *Directive 2012/29/EU*, preamble and para 16 & 57.

¹⁴⁷ *Revised Guidelines of the Committee of Ministers of the Council of Europe on the protection of victims of terrorist acts* (Adopted by the Committee of Ministers at its 127th Session, 19 May 2017); Permanent Council of Organization for Security and Cooperation in Europe (OSCE), Decision No. 618, Solidarity with victims of terrorism, 513th Plenary Meeting.

Reparations take two forms: individual reparation and collective reparation in terms of its distribution where as it comprises mechanisms such as restitution, compensation, rehabilitation, satisfaction, and guarantees of non-repetition are essential for addressing harm caused to victims under IHRL and human rights treaties. Criticisms arise from implementation mechanisms that predominantly target state actions, neglecting accountability for non-state actors, such as terrorist groups. However, courts have addressed terrorist acts under crimes against humanity and war crimes, recognizing victims of terrorism within various regional frameworks.

CHAPTER FOUR

REPARATION FOR VICTIMS OF TERRORISM IN ETHIOPIA

Introduction

This chapter explores the multifaceted issue of terrorism in Ethiopia, starting with a discussion of possible reasons, definition and differing perspectives presented by two special terrorism legislations. It then assesses the system designed to ensure state adherence with its obligation to provide reparations to victims of terrorism, exploring mechanisms for investigation, prosecution, and institutional efforts to prevent and suppress such acts. Subsequently, the chapter addresses available reparation for victims, including those under civil remedies and criminal law. It examines whether a 'terrorism crime victim fund' is operational and reviews recent reparation initiative. In doing so, it analyzes forms of reparation and their effectiveness in Ethiopia. Finally, the chapter evaluates victim assistance, offering a comprehensive overview of terrorism response and support in the country.

4.1. Terrorism in Ethiopia

Ethiopia is among the countries significantly affected by terrorism, which has led to the loss of lives, extensive property destruction, and internal displacement, leaving victims in need of reparations.¹⁴⁸ The terrorism threat in Ethiopia stems from the proliferation of insurgent and political groups seeking unconstitutional change, inter-ethnic conflicts, and radicalized Islamic groups based in Somalia, such as Al-Shabaab.¹⁴⁹ This concern is further heightened by Ethiopia's proximity to countries like Kenya and Somalia, which have experienced numerous terrorist attacks. Moreover, modern terroristic tactics employed during armed conflicts since 2018 have further exacerbated the threat.

¹⁴⁸ Interview with Mr. Moroda Gulumma, Public Prosecutor, Oromia Attorney General (Addis Ababa, 29 March 2025); see also Statement by Betelihem Taye, Third Secretary, Legal Affairs of the Federal Democratic Republic of Ethiopia at the 78th Session of the United Nations General Assembly under Agenda Item 109 "Measures To Eliminate International Terrorism" October 2023 New York, 3.

¹⁴⁹ Hiruy Wubie, 'The Right to Privacy in the Age of Surveillance to Counter Terrorism in Ethiopia' (2018) 18 African Human Rights Law Journal 392, 395.

The Ethiopian government's special legislation to combat such threat has sparked debate over its necessity. The government argues that a special law is needed due to the clear and present danger of terrorism in Ethiopia.¹⁵⁰ It also argues that the existing laws are not efficient to prevent and control terrorism where the development, peace, and security of the country is threatened by the same.¹⁵¹ The special legislation also necessary to discharge international obligations such as those assumed under United Nations Security Council Resolution 1373 (2001) and the OAU Convention on Terrorism.¹⁵² Counterarguments on the other hand claim that the threat of terrorism in Ethiopia does not justify the special anti-terror law, suggesting that it is used to dismantle political opposition and dissent. Critics assert that the law compromises civil and political rights by broadly defining terrorism and conflating it with dissent.¹⁵³ The critics also argue that the law erodes procedural constitutional rights by expanding the power of the state security apparatus.¹⁵⁴

In 2009, Ethiopia promulgated the Anti-Terrorism Proclamation No. 652/2009.¹⁵⁵ While it was initially challenging to determine which arguments were more convincing, the content and application of the law over the years have validated the suspicions the critics.¹⁵⁶ Thus, it was necessary to address criticisms of the Anti-Terrorism Proclamation No. 652/2009.

In 2020, Prevention and Suppression of Terrorism Crimes Proclamation No. 1176/2020 was adopted.¹⁵⁷ The preamble of Proclamation No. 1176/2020 highlights that the Anti-Terrorism Proclamation No. 652/2009 had significant gaps in substance and enforcement, which adversely impacted citizens' rights and freedoms. Thus, the gaps justify the need for a new law that effectively safeguards individual rights and ensures accountability of law enforcement agents.

¹⁵⁰ Wondwossen Demissie Kassa, 'Examining some of the Raisons D'être for the Ethiopian Anti-Terrorism Law' (2013) 7(1) *Mizan Law Review* 49, 50.

¹⁵¹ Amerti Solomon, 'Appraising the Reform of the Anti-Terrorism Proclamation of Ethiopia Based on Applicable Human Rights Standards' in Sisay A. Yeshanew Abadir M. Ibrahim, *Righting Human Rights through Legal Reform Ethiopia's Contemporary Experience* (Ethiopian Human Rights Law Series (Volume-XII)) Addis Ababa University - School of Law, 127.

¹⁵² *Ibid*; see also Wondwossen D Kassa (n 150) 5.

¹⁵³ Wondwossen Demissie Kassa (n148) 50.

¹⁵⁴ Zelalem Kibret, 'The Terrorism of 'Counterterrorism': The Use and Abuse of Anti-Terrorism Law, The Case of Ethiopia' (2017) 13(13) *European Scientific Journal* 504, 517.

¹⁵⁵ Proclamation No. 652/2009.

¹⁵⁶ Amerti Solomon (n 151) 127.

¹⁵⁷ Proclamation No. 1176/2020.

Proclamation No. 1176/2020, like its predecessor, underscores the severe threat that terrorism poses to the peace and security of both Ethiopia and the international community.

Proclamation No. 1176/2020 aims to prevent and suppress terrorism while significantly departing from its predecessor, particularly in defining terrorism, planning, preparation, conspiracy, incitement, and attempts of terrorist acts. It also introduces changes in encouragement to terrorism, remand and bail, admissible evidence, jurisdiction, and the terrorism victims fund, while outlining human rights protections, the roles of the Federal Police and National Intelligence and Security Service (NISS), and the handling of violations. By building on insights from Anti-Terrorism Proclamation No. 652/2009, it brings significant improvements.

However, while the state justifies the need for special terrorism legislation, it fails to justify a separate response to the reparation needs of terrorism victims. Just as special legislation is considered necessary, addressing victims' reparation needs should also be justified, given that existing legal provisions are insufficient or ineffective and that fulfilling international obligations for victim reparations remains essential.

4.1.1. Definition of Terrorism

Having a clear legal definition of terrorism is crucial for society and governance, as it enables the successful investigation and prosecution of terrorists within the judicial system.¹⁵⁸ However, the problem with defining terrorism is that it can have broad human rights implications, making the law susceptible to abuse.¹⁵⁹ Although Article 3 of Proclamation No. 1176/2020 is titled “terrorist act,” its sub-article 1 appears to define what constitutes terrorist acts and addresses individuals involved in such acts. It does not define terrorism; rather, Article 2(2) specifies terrorism crimes as those outlined in Articles 3, 5-11, 29, and 30.

The definition emphasizes that terrorism is not an end goal for individuals or organizations but rather a tactic employed to achieve specific objectives. It underscores that terrorism is used to advance political, religious, or ideological causes, rather than to terrorize for its own sake. The intent behind a terrorist act is what sets it apart from other criminal acts, as the purpose of the act

¹⁵⁸ Petros Fanta Choram, 'Acts Considered as Terrorism Crimes and Compatibility of Counter-Terrorist Measures to International Standards: In Context of Ethiopia' (2022) 8(4) Athens Journal of Law 487,487.

¹⁵⁹ Hiruy Wubie, 'Some Points on the Ethiopian Anti-Terrorism Law from Human Rights Perspective' (2012) 25 Journal of Ethiopian Law 24, 40.

defines its terrorist nature. While the definition aims to avoid the overly broad and vague language of the Anti-Terrorism Proclamation No. 652/2009, challenges persist despite apparent changes. Crucially, the identification of victims remains ambiguous, as there is no clear determination of which victims qualify for remedies or benefits under Proclamation No. 1176/2020.¹⁶⁰

4.1.2. Investigation and Prosecution of Terrorism

An essential component of global counterterrorism efforts is ensuring that terrorists are brought to justice and held accountable. Holding perpetrators of serious human rights abuses accountable can serve as a form of reparation referred to as satisfaction and contributes to victims' and their families' right to truth, as well as to combating impunity as part of guarantees of non-recurrence.¹⁶¹ In such circumstances, the State's obligation to prosecute should be carried out in a way that also ensures reparation to victims of human rights violations. Additionally, all actions including gathering, managing, safeguarding, and disseminating information must adhere to international law, including international human rights standards.¹⁶²

Preventing and combating terrorism is a collective duty, requiring the involvement of individuals and coordinated efforts by state institutions and law enforcement.¹⁶³ Terrorism stands apart from ordinary crimes due to its severity, global condemnation, and the involvement of organized groups pursuing specific political, ideological, or religious goals. It often includes multiple offenses, such as robbery, rape, and murder. Thus investigating and prosecuting terrorism demands specialized techniques, extensive data collection, and prior court authorization, making these processes resource-intensive and requiring skilled professionals.¹⁶⁴

¹⁶⁰ Petros Fanta Choramo, 'Acts Considered as Terrorism Crimes and Compatibility of Counter-terrorist Measures to International Standards: In Context of Ethiopia' (2022) 8(4) Athens Journal of Law 487, 501.

¹⁶¹ A Practitioners' Guide; *the Right to a Remedy and Reparation for Gross Human Rights Violations*, (Revised Edition, 2018) 26.

¹⁶² Guidelines to facilitate the use and admissibility as evidence in national criminal courts of information collected, handled, preserved and shared by the military to prosecute terrorist offence, Counter-Terrorism Committee Executive Directorate (CTED)(2017) 6.

¹⁶³ Interview with Mr. Zarihun Bekele, Transnational and organized crimes Deputy Director General, Ministry of Justice (Addis Ababa, 11 March 2025).

¹⁶⁴ Interview with Inspector Galata Waqo, Head of the Higher Division of Murder and Organized Crime Investigation, Oromia Police commission (Addis Ababa, 22 March 2025) and Interview with Mr. Moroda Gulumma, public prosecutor, Oromia Attorney General (Addis Ababa, 29 March 2025).

Under Articles 36, 31, and 2(11) of Proclamation No. 1176/2020, the Federal Police has the authority to investigate terrorism crimes, unless this responsibility is delegated to regional police. The Federal Police Commission is tasked with preventing and investigating crimes under Federal Court jurisdiction, safeguarding the interests and institutions of the Federal Government, and addressing public violence, hooliganism, terrorism, and drug trafficking.¹⁶⁵ The NISS leads and coordinate national counter-terrorism efforts. When regular investigation methods are ineffective, the police can use special techniques like interception, surveillance, and simulated communication, with or without court permission.¹⁶⁶ To ensure testimonies from suspects, victims, and witnesses are effectively used as evidence in court, it is important that these tasks are primarily handled by law-enforcement personnel or military with law-enforcement roles and skills. The Ministry of Justice leads terrorism crime investigations and prosecutes all terrorism cases in federal court unless delegated to regional prosecution institutions.¹⁶⁷ Article 39 grants the Federal High Court and Regional Supreme Court jurisdiction over terrorism cases, allowing them to amend charges as necessary.

Ethiopia also has several institutions responsible for combating terrorism, including the Ethiopian Federal Police (EFP), NISS, and the Ethiopian National Defense Forces (ENDF). To address terrorism threats, Ethiopia established the Ethiopian Task Force for Counter Terrorism (ETF-CT), which coordinates counter-terrorism efforts among these agencies. The NISS focuses on intelligence collection for detecting and disrupting terrorism, aligning with the Ministry of Justice's mission to enhance law enforcement.

In Ethiopia, particularly in Oromia, security forces are advised to prioritize victims' interests amidst serious terrorism concerns. However, progress has been limited due to the organized nature of terrorist groups, resource constraints, and fear of retaliation hindering cooperation. While seized property is occasionally returned if captured as evidence, broader victim support is often falls short. Recent police strategies have shown improvement, with enhanced collaboration and thorough investigations based on reports or suspect information, utilizing evidence and

¹⁶⁵ Federal Police Commission Proclamation, Proclamation No. 313/2003, 9th year, No.30, Neggarit Gazette, 4th January, 2003, Art.6 and 7(2, 3 & 4).

¹⁶⁶ Proclamation No.1176/2020, art 42.

¹⁶⁷ Proclamation No.1176/2020, art 38.

confessions effectively.¹⁶⁸ Prosecution efforts primarily focus on punishing perpetrators, often neglecting victim reparations. Although the Public Prosecutor's Office is mandated to represent victims in civil claims, this role is frequently overlooked. Detailed judgments following thorough investigations could help victims pursue civil remedies, whether through the help of prosecutor's office or pro bono services, though challenges remain due to limited awareness and cooperation.¹⁶⁹

4.2. Reparation

Ethiopia is a party to several international and regional human rights treaties, and by ratifying them, it assumes obligations to guarantee the full implementation of human rights under international law.¹⁷⁰ Accordingly, Ethiopia is expected to implement legislative and institutional measures that uphold the rights outlined in these agreements, including enacting laws that safeguard human rights and establishing mechanisms for their effective enforcement.

Ethiopian laws guarantee human rights and provide procedural remedies for accessing courts or competent bodies, but there is no express and comprehensive constitutional provision for victim reparation.¹⁷¹ Even without an explicit provision guaranteeing the right to reparation, it is argued that this right has constitutional support in Ethiopia.¹⁷² The criminal Code contains provisions on reparation for victims of crime.¹⁷³ The civil code also acknowledges the entitlement to reparation for specific human rights infractions that qualify as offenses.¹⁷⁴ Ethiopia's legislative framework for securing reparations is in place but implementation is lacking.¹⁷⁵ Furthermore, the practical

¹⁶⁸ Interview with Inspector Galata Waqo (n 164).

¹⁶⁹ Interview with Mr. Moroda Gulumma (n 148).

¹⁷⁰ United Nations Treaty Body Data Base; Ratification Status for Ethiopia, available at tbinternet.ohchr.org/_layouts/15/TreatyBodyExternal/Treaty.aspx?CountryID=59&Lang=EN last seen 29 April 2025.

¹⁷¹ Robel Getu, 'Approaching Reparation to Victims of Gross Human Rights Violation as A Transitional Justice Measure: The Case of Ethiopia' (LLM Thesis, Jimma University 2021) 26.

¹⁷² Kidus Meskele Ashine and Teketel Labena Tera, (n 31) 4.

¹⁷³ The Criminal Code of the Federal Democratic Republic of Ethiopia 2004, Proclamation No.414/2004, Federal Negarit Gazeta, 9th of May 2005.

¹⁷⁴ The Civil Code of the Empire of Ethiopia, Proclamation No.165 of 1960, Negarit Gazeta, Gazette Extraordinary, 19th Year No.2, 5th May 1960.

¹⁷⁵ Abdi Jibril Ali (n 27) 21.

enforcement of human rights remains a subject criticism.¹⁷⁶ Thus, the pursuit of remedies for gross human rights violations under ordinary legislation, such as tort and criminal law, is not comprehensively designed to address human rights victims in general, or victims of gross violations in particular. It lacks a holistic approach aligned with international and regional standards.¹⁷⁷ Currently, victims of terrorism receive inadequate recognition and lack sufficient legal mechanisms for their treatment and reparation within the justice system. Their concerns are not being separately addressed by human rights institutions.¹⁷⁸

4.2.1. Forms of Remedy

Victims' right to remedy is now internationally recognized, though their scope and implementation may remain incomplete. In contexts where comprehensive and accurate avenues for remedies are scarce, it becomes imperative to explore alternative forms of reparation to ensure victims' rights are upheld and their needs are addressed in Ethiopia. Several provisions in the Criminal Codes and Civil Code provides legislative framework for victims reparation but there is no comprehensive law on reparation.¹⁷⁹ Ethiopia also has funds designated for terrorism victims and a recent victim-oriented reparation initiative. Therefore, discussing the remedies available under the Civil and Criminal Code, Proclamation No. 1176/2020, and the reparation initiative is essential, as they provide unique opportunities for solace and restitution to those affected by acts of terror.

A. Remedies for Crime Victims

The Criminal Code of the FDRE contains provisions that emphasize reparation; pecuniary compensation and restorative justice for victims of crime, with certain procedural norms outlined in the Criminal Procedure.¹⁸⁰ These statutory provisions, both substantive and procedural,

¹⁷⁶ Endalcachew Bayeh, 'Incorporation of Human Rights into Legal Frameworks of the three Successive Regimes of Ethiopia and their Treatment: A Comparative Analysis' (2014) 32(1) *European Journal of Humanities and Social Sciences* 1739, 1745.

¹⁷⁷ Robel Getu (n 170) 26.

¹⁷⁸ Interview with Dr. Alamu Meheretu, Monitoring and Investigation Director, Ethiopian Human Rights Commission (Addis Ababa, 14 March 2025)

¹⁷⁹ K.I. Vibhute, 'Compensating Victims of Crime In Ethiopia: A Reflective Analysis of Legislative Paradigm And Spirit' (2010) 17 *International Review of Victimology* 311, 311.

¹⁸⁰ Criminal Code, art 101-102 and The Criminal Procedure Code of Ethiopia, Proclamation No.185/161, *Negarit Gazeta Extraordinary Issue No. I, 2 November 1961*, art 154-157.

provides three legislative approaches for compensating victims of crime: some provisions allow victims to seek compensatory relief; others empower courts to award compensation at their discretion and additional provisions address compensatory claims when offenders are released under certain conditions, pardoned, or granted amnesty.¹⁸¹ The Criminal Code (Article 101) recognizes the right of injured persons or their representatives to claim restitution or compensation from offenders when a crime causes considerable damage, applying to all victims regardless of the perpetrator's identity. However, "considerable damage" is not defined, leading to potential arbitrary determination by judges using their own subjective parameters.¹⁸²

Article 102 of the Criminal Code addresses compensation for victims of crime when the offender or those responsible cannot provide compensation. The courts may direct that proceeds from the sale of distrained articles, sums guaranteed as surety, part of fines, or confiscated property be paid to the injured party.¹⁸³ However, the judges have wide discretion in choosing and combining these sources and determining the amount of compensation, which often falls short of the victim's needs.

The Criminal Code aims to rehabilitate criminals as stated in Article 1, allowing probation under Article 197 for criminals who have committed minor offences if conditions are met, including as far as possible fullest reparation for damage caused or paying indemnity to the victim. This fosters a sense of responsibility. Article 202 of Criminal Code outlines that probation is not granted if the offender fails to compensate the victim. Offenders can pay damages assessed by the court or agreed upon with the victim to achieve conditional release.

The Criminal Code explicitly recognizes the right of victims to claim compensation or restitution from offenders. However, victims are unable to receive compensation, regardless of the severity of harm, if the offender has not been identified, charged, convicted, or lacks the means to pay, as Ethiopia does not have a state-sponsored compensation scheme for crime victims. Consequently, the Criminal Code is inadequate in providing remedies for victims of terrorism. The Criminal Procedure Code allows the joinder civil case for compensation with criminal prosecutions, offering a potential avenue for victims of human rights violations to seek reparation (Articles 154

¹⁸¹ k.i. vibhute, (n 178) 312.

¹⁸² k.i. vibhute, (n 178) 314.

¹⁸³ Criminal Code, art 102(1).

– 159). However, this remains a significant challenge in practice, as criminal prosecutions have traditionally focused solely on ensuring justice. To date, no criminal case has incorporated civil remedies in its resolution.¹⁸⁴ Victims in need of legal assistance are supported through collaborations with legal practitioners who provide free or pro bono legal services, enabling them to pursue civil remedies through separate lawsuits. Many eligible victims benefit from such pro bono legal aid to address their civil claims arising from crimes.¹⁸⁵

B. Civil Remedies

Human rights abuses are both crimes and torts, harming society and individual victims. Civil lawsuits, although not a substitute for criminal prosecution of human rights abusers, are an important and complementary action, offering justice to victims of human rights abuses.¹⁸⁶ The commissions of a tort give rise to a civil proceeding by the victim against the tort-feasor.¹⁸⁷ Civil suits help restore justice by denouncing violations, identifying responsible individuals, and offering reparations. Enforceable damage awards aid victims in rebuilding their lives. Without official and public accountability, violations may continue with impunity.¹⁸⁸

Violating human rights constitutes a breach of law and is considered a tort under the Civil Code.¹⁸⁹ Any law infringement results in an offense with extra-contractual liability for the offender. Human rights treaties ratified by Ethiopia are integral to the law, and violating them is an offense.¹⁹⁰ Additionally, the constitution, which recognizes human rights, is part of the law, and infringing on it is also an offense.

The Civil Code, under the title Extra-Contractual Liability and Unlawful Enrichment, incorporates provisions that establish general principles of liability arising from offense or fault. It imposes an obligation on the person who caused damage to compensate for the harm caused to someone else's physical well-being, life, and property. In Ethiopia, victims of crime may

¹⁸⁴ Interview with Mr. Zarihun Bekele (n 163).

¹⁸⁵ Ibid.

¹⁸⁶ Beth Stephens, 'The Civil Lawsuit as a Remedy for International Human Rights Violations against Women' (1994) 5(2) *Hastings Women's Law Journal* 143, 163.

¹⁸⁷ Beth Van Schaack, 'The Civil Enforcement of Human Rights Norms in Domestic Courts' (1999) 6 *ILSA J. Int'l & Comp. L.* 295, 297.

¹⁸⁸ Ibid 303.

¹⁸⁹ Civil Code, Art 2035.

¹⁹⁰ FDRE Constitution, Article 9(4).

approach the civil court to claim compensation if they prefer to bring their claim before the civil court rather than the criminal court or if their claim is rejected by the criminal court based on grounds provided under the Criminal Procedure Code or if they withdraw their application before the close of the defense case as per the Criminal Procedure Code.¹⁹¹

Compensating victims for unlawful harm or loss aims to restore them to their pre-incident condition as much as possible. The Ethiopian tort law recognizes three forms of reparations: compensation, restitution, and injunction.¹⁹² Compensation covers material damage, equivalent to monetary values, and moral damage assessed based on equity.¹⁹³ Restitution, as per the Civil Code, remedies breaches of property rights but is narrowly defined to include only property or assets.¹⁹⁴ Courts also have the power to issue injunctions or make orders to stop violations.¹⁹⁵ Such injunctions and orders may be considered as satisfaction or guarantees of non-repetition, which are other forms of reparation in international human rights law.

According to the Civil Code, harm or damage suffered by victims is to be compensated by awarding an amount equal to, or possibly less than, the actual harm, but never exceeding it, as the primary purpose of such compensation is to restore victims to their condition prior to the crime.¹⁹⁶

The law provides for compensation, property restitution, and injunctions. Other forms of reparation such as full restitution, collective reparations, symbolic measures, and broader satisfaction (beyond prosecution and injunction), and guarantees of non-repetition are not clearly provided in the law. Furthermore, procedural gaps persist due to the nature of the violations and the context in which they occur. Massive and gross violations in armed conflict settings are inherently difficult for claimants to prove. The large number of victims could result in excessively prolonged trials, and perpetrators are often unidentified, unwilling, or unable to remedy their wrongdoing.

¹⁹¹ Criminal Procedure Code of Ethiopia, art 155 and 155(3).

¹⁹² Civil Code, art 2090-2123.

¹⁹³ Ibid art 2090-2123 & the UN Principles on Reparations, para 20.

¹⁹⁴ Ibid art 2118-2119.

¹⁹⁵ Ibid art 2120-2122.

¹⁹⁶ Silesh Abye, 'Compensation of Crime Victims in Ethiopia: Lessons Draw From the Experience of Selected Countries' (LLM Thesis, Bahardar University 2013) 88.

C. Operation of Terrorism Victims' Fund

Proclamation No. 1176/2020 ensures reparation for victims of human rights violations resulting from terrorism by confiscating the proceeds and property of terrorist organizations or individuals, and transferring them to a terrorism victims' fund. This initiative aims to remedy human rights violations and uphold human rights in general. Unlike the Criminal Code, which depends on the perpetrator's ability to pay, Proclamation No. 1176/2020 consolidates all proceeds into the Terrorism Victims' Fund, guaranteeing compensation for victims even when perpetrators lack sufficient funds.¹⁹⁷ Thus, Article 44 of Proclamation No. 1176/2020 explicitly establishes the Terrorism Crimes Victims Fund, with additional funding sources to be determined by a Council of Ministers regulation.

Furthermore, the fund is intended to prevent terrorism crimes, cover medical expenses for victims of terrorist acts, rehabilitate victims as appropriate, and assist in the rehabilitation of individuals indoctrinated with terrorist ideologies.¹⁹⁸ This makes the Proclamation No. 1176/2020 a crucial mechanism for addressing human rights violations resulting from terrorism cases.

Despite Proclamation No. 1176/2020 establishes a terrorism crime victims' fund and anticipates regulation to determine its sources. However, the fund remains inactive and non-operational.¹⁹⁹ Its primary source of funding is intended to be the confiscation of property from terrorists, terrorist organizations, or individuals directly or indirectly involved. However, no property has been confiscated so far, apart from exhibits. Furthermore, no regulation has been issued to specify additional sources of funding. As a result, it is premature to definitively identify potential sources for this fund. The absence of regulation to implement this fund impedes the effective functioning of victim compensation mechanisms. If the directive had been issued, it would have significantly impacted on the fund's operation, particularly in defining the authority responsible for overseeing its management.²⁰⁰

¹⁹⁷ Under Art 34 of the Anti-Terrorism Proclamation No. 652/2009, the possibility of establishing a terrorism victims fund was contingent upon the issuance of a regulation by the Council of Ministers, and there was no clear objective for the fund.

¹⁹⁸ Proclamation No. 1176/2020, art 44 (2).

¹⁹⁹ Interview with Mr. Zarihun Bekele (n 163): See also Interview with Dr. Alamu Meheretu (n 177).

²⁰⁰ Ibid

D. Victims-Oriented Reparation Initiative

In Ethiopia, the prevalence of widespread human rights violations, displacement, and abuse highlights the urgent need for a comprehensive, human rights-based, and victim-centered transitional justice policy (TJP). To break the vicious cycle, Ethiopia must confront its past while building a future and attempts to resolve human rights violations, civil conflicts, unwarranted narratives and abuses that had occurred and continue in different eras with a wide range of victims and perpetrators.²⁰¹ After thorough consultations, the Council of Ministers approved the Transitional Justice Policy in 2024. According to the expert group report, individuals or communities subjected to systematic, widespread, or repeated human rights violations impacting their lives, bodies, conscience, psychology, property, or other aspects are beneficiaries of the TJP provisions. On the other hand, those who commit, threaten, instigate, abet, or facilitate such violations are identified as perpetrators and held accountable under the policy.²⁰²

Non-state armed groups that engage in terroristic acts to advance political goals are typically classified as terrorist organizations.²⁰³ Accordingly, based on the Council of Ministers' recommendation, Ethiopia's House of Peoples' Representatives (HPR) unanimously designated TPLF and Shene as terrorist groups.²⁰⁴ However, the HPR later removed TPLF from the terror list.²⁰⁵ Terrorism undoubtedly results in gross violations of human rights, necessitating appropriate remedies to address the harm caused. Reparations serve as a crucial mechanism for redress and justice, as demonstrated by Ethiopia's TJP.²⁰⁶

Forms of reparation recognized under international frameworks, such as restitution, rehabilitation, commemorative and memorial events, truth-seeking, disclosure, acknowledgment

²⁰¹ Ethiopia Policy Options for Transitional Justice, Draft for Stakeholder Consultations, Ministry of Justice, January 2023, 7&8.

²⁰² Ethiopian Transitional Justice Policy Direction Options, Public Consultation and inputs Gathering Process Report(Draft), Transitional Justice Expert Group, 19 December 2016, Addis Ababa.

²⁰³ Brian J. Phillips, 'What is a Terrorist Groups? Conceptual and Empirical Implications' (2014) 27 Terrorism and Political Violence 1, 7.

²⁰⁴ Parliamentary News 'The 13th Regular Session of the 5th House of Peoples' Representative of Ethiopia', Addis Ababa, Ethiopia (6 May 2021) available at ["TPLF" and "Shene" designated as terrorists - House of Peoples Representatives](#) accessed on 21 April 2015.

²⁰⁵ Parliament News, 'The 6th round, 2nd year, first special meeting, the council of Minister approved the resolution number 12/2015 with 61 votes against, 5 abstentions and a majority vote to remove the TPLF from the terrorist designation(22 March2023) available at [The House removed TPLF from the terrorist designation - House of Peoples Representatives](#) accessed on 21 April 2015.

²⁰⁶ Interview with Dr. Alamu Meheretu (n 177)

of violations, official apologies, and other measures of satisfaction, are recognized by the Ethiopian National TJP. These reparation programs shall be implemented.²⁰⁷ An Implementation Roadmap was adopted to ensure the effective execution of the TJP.²⁰⁸ This roadmap includes a chronological sequence starting from public mobilization or advocacy activities, institutional capacity building and preparatory activities, criminal accountability, truth-seeking and amnesty activities, and reparation and institutional reform. However, early reparation efforts may begin simultaneously with the transitional justice process to provide immediate relief to victims and signal a commitment to justice.²⁰⁹

The implementation is being carried out in accordance with the roadmap. One of the methods outlined in the roadmap for implementing the TJP is the issuance of legislation to support the draft TJP. Accordingly, draft legislation is being introduced for the establishment of a special attorney, a special court, a truth commission, and for institutional reforms. They are already in the final draft phase and will soon be ready for public consultation.²¹⁰

The Truth Commission Establishment Proclamation, part of the draft legislation, incorporates provisions for reparations benefiting all victims, including victims of terrorism through measures such as restitution (restoring rights and services), compensation (for selected victims), rehabilitation (medical support), satisfaction (e.g., memorials, apologies), and guarantees of non-repetition (preventive reforms). Reparation is also categorized into interim (urgent support by the commission) and final (long-term reparations based on recommendations and budget). Funding sources include government contributions, proceeds from perpetrators' assets, revenue authorities, and international donations.²¹¹

²⁰⁷ National Transitional Justice policy of the Federal Democratic Republic of Ethiopia, adopted by council of Ministers, April 2024 (Unofficial Translation), 3, 4 & 13

²⁰⁸ Transitional Justice Implementation Roadmap (Unofficial Translation), Ministry of Justice, August 2024.

²⁰⁹ Interview with Mr. Sisay Asfaw, Deputy Director General, Civil Justice Administration Directorate General, Ministry of Justice (Addis Ababa, 28 February 2025).

²¹⁰ Ibid.

²¹¹ Ibid.

4.3. Assistance to Victims

The human rights situation in Ethiopia remains precarious, with systematic abuses committed by government security forces, militias, and non-state armed groups, often with impunity.²¹² The country faces multiple human rights crises driven by conflict, including the northern Ethiopia conflict(affecting Afar, Amhara and Tigray regions), which has garnered global attention, as well as continued conflicts in the Amhara, and Oromia regions, where systematic violations of international law.²¹³ Hundreds of thousands of people in the Oromia region of Ethiopia are seriously affected by the current violence.²¹⁴

Terrorism has exacerbated the crisis, leading to loss of life, property destruction, robbery, and widespread internal displacement across Ethiopia, particularly in Oromia.²¹⁵ Groups labeled as terrorist organizations and states counter terrorism have caused human rights crises, which includes kidnapping for ransom, destruction of assets and displacement, leaving communities in dire need basic goods and services. Gender-based violence, especially physical and sexual violence against women and girls, has worsened significantly.²¹⁶ Despite these widespread issues, victims receive minimal support under international and national policies, which primarily address crime and conflict in general rather than offering targeted assistance

The Ethiopian government, in collaboration with partners, prioritizes vulnerable populations and provides food, healthcare, and support to displaced families, while also working to restore public services such as healthcare and education.²¹⁷ Despite some progress, challenges persist as organizations like the ICRC and Ethiopian Red Cross are overstretched, and many displaced households continue to lack adequate shelter and resources. Initiatives such as the World Bank's Response-Recovery-Resilience Project and cash support from the International Organization for

²¹² **World Report 2024** available at [World Report 2024: Ethiopia | Human Rights Watch](#) last accessed on 30 may 2025.

²¹³ Human Rights Council, Report of the International Commission of Human Rights Experts on Ethiopia, A/HRC/54/55, Human Rights Council Fifty-fourth session 11 September - 6 October 2023 Agenda item 4 Human Rights situations that require the Council's attention, para 20.

²¹⁴ The International Committee of the Red Cross (ICRC), Ethiopia: Healthcare crisis in Oromia exacerbated by massive displacement, available at [Ethiopia: Healthcare crisis in Oromia exacerbated by massive displacement | International Committee of the Red Cross](#) last accessed on 3 March 2025.

²¹⁵ Interview with Mr.Moroda Gulumma (n 148).

²¹⁶ World Bank Supports Ethiopia's Conflict-Affected Communities, Targets over Five Million People, Press Release No: 2022/065/AFE, Washington, 12 April 2022.

²¹⁷ Office for the Coordination of Humanitarian Affairs, Ethiopia Situation Report, 13 December 2024 available at [Ethiopia - Situation Report, 13 December 2024 | OCHA](#) last accessed on 12 July 2024.

Migration aim to address immediate needs, rehabilitate infrastructure, and build resilience.²¹⁸ However, the scale of the crisis demands additional resources and greater cooperation.²¹⁹

Conclusion

Ethiopia adopted the Prevention and Suppression of Terrorism Crimes Proclamation No. 1176/2020; a special terrorism legislation, with specific procedures and institutions to prevent the growing concerns of internal and external terrorism. Positive developments in the Proclamation include the requirement of compensation for victims of terrorism and the establishment of a terrorism crime victims' fund. Another positive development is the adoption of the Transitional Justice Policy with its implementation roadmap, which can be applicable to victims of terrorism. The general provisions in the Civil Code and the Criminal Code provide potential redress mechanisms for all victims including victims of terrorism.

However, there are significant legislative, institutional and practical gaps in supporting victims of terrorism, particularly regarding reparation. The implementation of the general provisions in the Civil Code and the Criminal Code has been lacking. The Terrorism Victims' Fund is not yet operational. The Council of Ministers has not yet issued a regulation applicable to Terrorism Victims' Fund. Thus, victims of terrorism have largely been overlooked, receiving support only as part of broader conflict victim.

²¹⁸ World Bank Supports Ethiopia's Conflict-Affected Communities, Targets over Five Million People, Press Release No: 2022/065/AFE, Washington, 12 April 2022.

²¹⁹ Cashing in for the future: IOM provides cash for rent assistance to thousands of conflict affected families in Ethiopia 24 November 2020.

CHAPTER FIVE

CONCLUSION AND RECOMMENDATION

5.1. Conclusion

Terrorism is characterized by symbolic targets, asymmetrical tactics, and attacks designed to affect broad audiences and profoundly violate human rights. Victims of terrorism often endure indiscriminate violence, facing arbitrary and unlawful brutality that leaves devastating physical and emotional impacts on survivors, families, and communities. These effects are shaped by the adequacy of support systems, which can either mitigate or exacerbate the harm caused. While the needs of terrorism victims align with those of other crime victims, they differ in scope and feasibility of implementation. Terrorism perpetuates cycles of human rights abuses, including those arising from counterterrorism measures, and imposes lasting trauma and stigma on survivors. Barriers to accessing legal, psychological, and psychosocial support further compound their plight.

Victims of terrorism have been marginalized in counterterrorism efforts. National legal frameworks provide minimal focus on victim support and reparation. No binding international framework comprehensively addresses their needs. While the United Nations has called on member states to develop laws and programs to assist victims, the concept remains underdeveloped at the international level. UN resolutions advocating for victim support mechanisms lack standardization and clarity regarding reparation.

This research, though brief and limited in scope, has underscored the realities faced by victims of terrorism and their right to remedy, including reparation. Reparation encompasses restitution, compensation, rehabilitation, satisfaction, and guarantees of non-repetition and remains an essential response. Thus, accurately identifying victims both directly targeted and indirectly affected is vital to ensuring that they obtain reparation.

Many victims, including those in Ethiopia, continue to suffer without adequate recognition or support. Regional frameworks like those of the European Union and the Organization of African Union provide for compensation mechanisms, but national compensation funds often fall short of

fulfilling broader international obligations to deliver holistic reparation. This gap underscores the need for strengthened, standardized measures to address the profound and enduring harm experienced by victims of terrorism.

In Ethiopia, the Prevention and Suppression of Terrorism Crimes Proclamation No. 1176/2020, sought to address legal and procedural gaps while safeguarding individual rights. Despite these efforts, criticism remains over the lack of progress in recognizing victims' rights and providing reparations. Victim identification remains unclear, with no defined criteria for eligibility under Proclamation No. 1176/2020. Additionally, the terrorism crime victims' fund remains inactive, which by itself falls short of international reparation standard. No regulation has been issued to identify supplementary funding sources. The legal framework faces significant limitations. Domestic tort law limited to compensation, property restitution, and injunctions while excluding broader measures like collective reparations, symbolic recognition, or guarantees of non-repetition. Implementation gaps further hinder access to reparation, particularly for victims of large-scale violations during armed conflicts, who often struggle to prove harm as perpetrators remain unidentified or unwilling to provide redress.

Ethiopia's criminal justice system falls short of international standards, providing inadequate remedies for terrorism victims. Criminal prosecutions prioritize achieving conviction. Civil remedies are notably absent, leaving victims without comprehensive redress. Institutional guarantees to protect and support terrorism victims remain insufficient. Recent reparation initiative is too premature to address victims' urgent needs. Counterterrorism efforts have failed to effectively integrate reparation needs, with limited progress highlighting The state's inability to uphold its duty to enable reparation for terrorism victims. The absence of state-sponsored reparation mechanisms worsens the situation, reflecting the state's failure to step in when offenders cannot or will not. These issues highlight the urgent need for legal reforms to address procedural and substantive gaps; ensuring victims receive reparation while balancing national security with human rights obligations.

5.2. Recommendations

The following measures are suggested to bridge the identified gaps and enhance existing mechanisms to ensure meaningful reparation and support for victims:-

- ✚ Victims of terrorism in Ethiopia have been largely neglected, with no clear legal definitions. The lack of attention exacerbates their victimization and highlights the need to recognize them as a distinct category of human rights victims requiring specialized reparations. **To address this issue**, victims of terrorism in Ethiopia should be acknowledged as a separate group of human rights victims, highlighting this as a sensitive area of human rights concern.
- ✚ Victims of terrorism in Ethiopia are largely overlooked in counterterrorism efforts, with insufficient attention to their reparative needs. Despite UN emphasis on victim support, Ethiopia has yet to incorporate these needs into its strategies. Although Ethiopia's strategy claims to prioritize victims and survivors, law enforcement predominantly focuses on preventing, investigating, and prosecuting terrorism-related crimes, often neglecting victims' rights. **To address this gap**, victims' reparative needs should be integrated into Ethiopia's counterterrorism strategies to adopt a holistic and equitable approach.
- ✚ Ethiopia's legal framework for reparations lacks a holistic approach, emphasizing compensation and restitution while neglecting broader measures. Provisions for victims are scattered and insufficient, leaving them unsupported. **To address this gap**, comprehensive legislation should be enacted to consolidate diverse reparative measures for victims of terrorism.
- ✚ Ethiopia's special terrorism legislation (Proclamation No. 1176/2020) lacks a holistic approach, focusing on compensation while neglecting broader reparation measures. The terrorism crime victims' fund remains inactive, with no regulations to guide its funding. **To address these gaps**, Proclamation No. 1176/2020 should be amended to incorporate holistic reparation measures, operationalize the terrorism crime victims' fund, and issue directives to regulate its additional funding sources.
- ✚ Victims of terrorism in Ethiopia face marginalization due to weak legal frameworks, fragmented compensatory provisions, and barriers such as court fees and lack of legal

aid. Existing laws prioritize offenders while neglecting victims' reparative needs. Ineffective counterterrorism strategies and the absence of state-sponsored reparation mechanisms have rendered victims' reparation needs largely unmet. **To address this gap**, a state compensatory scheme should be established and tailored to ensure reparation for terrorism victims.

- ✚ Ethiopia lacks effective reparation initiatives for victims of human rights violations, including terrorism. Independent programs funded by various sources are inefficient or unimplemented, emphasizing the need for government action to uphold victims' rights. **To address this gap**, practical actions must be implemented to ensure the meaningful implementation of victims' reparation rights.
- ✚ Ethiopia lacks institutional guarantees prioritizing the protection and reparation of terrorism victims. Human rights institutions have not addressed this gap, necessitating the integration of victim support into their mandates. **To address this gap**, human rights institutions must prioritize the needs of terrorism victims within their mandates, ensuring systematic protection, urgent responses, and advocacy for comprehensive reparative measures.
- ✚ The absence of victims' associations in Ethiopia deprives terrorism victims of essential support, exacerbates their marginalization, and stalls policy progress. **To address this gap**, victims' associations should be established to offer essential support, protection, and advocacy for their rights and needs.
- ✚ Finally, further research has to be conducted to address the identified shortcomings in providing reparation to victims of terrorism in Ethiopia.

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- ✓ Interview with Mr. Zarihun Bekele, Transnational and organized crimes Deputy Director General, Ministry of Justice (Addis Ababa, 11 March 2025).
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- ✓ Interview with Dr. Alamu Meheret, EHRC Monitoring and Investigation Director, Ethiopian Human Rights Commission (Addis Ababa, 14 March 2025)
- ✓ Interview with Mr. Sisay Asfaw, Civil Justice Administration Directorate: General Deputy Director General, Ethiopian Ministry of Justice (Addis Ababa, 28 February 2025)

ANNEX

Preliminary Questions for Interviewees:

Name of the interviewee: - _____

Position in the institution: - _____

Date and time of interview: - _____

Ministry of Justice

Objective of the Interview

The purpose of this interview is to gather practical insights on the available remedies for victims of terrorism in Ethiopia, the extent to which the criminal justice system integrates civil remedies in criminal prosecutions, and the operational status of the Terrorism Crime Victims Fund, including its anticipated sources of funding.

Questions:

1. How does Ethiopia's criminal prosecution system address the challenge of victims especially victims of terrorism struggling to find remedies for violations of their rights?
2. In what ways does Ethiopia's criminal justice system incorporate civil remedies into criminal prosecution to ensure victims receive appropriate reparation?
3. Has Ethiopia's Proclamation No. 1176/2020 established the Terrorism Crime Victims Fund, and is it currently operational?
4. If operational, how is the Terrorism Crime Victims Fund being utilized to compensate victims of terrorism?
5. What is the source of the fund that is expected to be regulated by anticipated directives? Has the directive been issued, and can I get details?
6. What institutions are responsible for preventing terrorism, and what procedures ensure the protection of victims' human rights and their right to remedies?

Thank you for your precious time and kind cooperation!

Oromia Police Commission

Objective of the Interview

This interview aims to gather practical insights into the criminal investigation of terrorism crimes in Ethiopia, including the reporting process, how victims' concerns are addressed, and the effectiveness of suspect apprehension in ensuring victims' rights.

Questions:

1. How are criminal investigations of terrorism conducted in Ethiopia, particularly in Oromia, and how do they differ from other criminal investigations?
2. How are the needs of terrorism victims addressed to ensure justice and provide remedies during counterterrorism efforts?
3. How successful are criminal investigations of terrorism in Ethiopia in apprehending suspects and ensuring justice for victims?
4. How are terrorism-related crimes reported, and does the fear of revenge prevent their investigation, thereby ignoring victims' rights?
5. How is this issue being addressed, and what measures are in place to protect victims?

Thank you for your precious time and kind cooperation!

Oromia Attorney General

Objective of the interview

This interview aims to gather practical insights into the criminal prosecution of terrorism crimes in Ethiopia, focusing on how victims' interests are addressed, the integration of civil remedies within criminal proceedings, and the support available to victims in pursuing reparations.

Questions:

1. How are terrorism prosecutions conducted in Ethiopia, and what distinguishes them from other criminal prosecutions?
2. What measures are in place to protect the interests of crime victims, ensuring justice and access to remedies when prosecutions are filed?
3. How do victims of crime, particularly victims of terrorism, obtain civil remedies through criminal prosecution?
4. Does a joining civil remedy with criminal prosecution serve as an effective avenue for redress, and how have victims been supported so far?
5. Is there a pro bono service appointed by this institution to assist victims of human rights violations or terrorism in obtaining civil remedies alongside criminal prosecution?

Thank you for your precious time and kind cooperation!

Ethiopian Human Rights Commission**Objective of the interview**

This interview aims to understand how the Ethiopian Human Rights Commission/EHRC/ addresses the reparation needs of terrorism victims within its mandate and ensures their rights and support.

Questions:

1. Given the threat of terrorism in Ethiopia and the designation of various organizations as terrorist groups under special terrorism legislation, how should the concerns of victims of terrorist acts be addressed?
2. Since victims of terrorism are often chosen randomly and bear the impact on behalf of the state, why do their needs frequently remain neglected?
3. Is it necessary to address the challenges faced by victims of terrorism separately, rather than as part of broader human rights violations?

4. Could you clarify why victims of terrorism and terrorist organizations have not been explicitly mentioned in previous EHRC reports?
5. Does the commission's mandate include addressing the needs of these victims?
6. How does the EHRC, along with other organizations and government bodies, work to ensure that victims of terrorism receive reparations, including compensation, restitution, rehabilitation, psychological support, reintegration, legal assistance, and protection for those still at risk of repeated harm?
7. How does Ethiopia's Transitional Justice Policy impact efforts to address human rights violations, particularly in ensuring reparations for victims of terrorism?
8. What future initiatives or programs does the EHRC plan to implement to support victims of terrorism in Ethiopia?

Thank you for your precious time and kind cooperation!