

ADDIS ABABA UNIVERSITY
SCHOOL OF GRADUATE STUDIES

**ETHIOPIAN ANTI-TERRORISM LAW AND HUMAN RIGHTS NEXUS:
AN APPRAISAL**

BY
SHIMELIS HAILU

ADDIS ABABA

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**A THESIS SUBMITTED TO THE SCHOOL OF GRADUATE STUDIES OF
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SCIENCE AND INTERNATIONAL RELATIONS**

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DEDICATION

This thesis is dedicated to all innocent victims of terrorist acts and counter-terrorism measures!

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LIST OF ABBREVIATIONS

ACHPR	African Charter of Human and People's Rights
AI	Amnesty International
AIAI	Al Itihad Al Islamiya
AU	African Union
BTI	Bertsmann Stifling's Transformation Index
CAT	Convention Against Torture and Other Cruel, Inhumane or Degrading Treatment or Punishment
CERD	Convention on the Elimination of Racial Discrimination
CEDAW	Convention on the Elimination of Discrimination against Women
CRC	Convention on Rights of Child
CSA	Charities and Societies Agency
CSIS	Center for Strategic and International Studies
CSO	Civil Societies Organization
CUD	Coalition for Unity and Democracy
EAPCCO	East African Police Chiefs Committee
ECHR	European Covenant on Human Rights
EHAHRDP	East and Horn of Africa Human Rights Defenders Project
EHRCO	Ethiopian Human Rights Council
EHRC	Ethiopian Human Rights Commission
EIO	Ethiopian Institute of Ombudsman

EJP	Eminent Jurists Panel
ENDF	Ethiopian National Defense Force
EPRDF	Ethiopian People’s Revolutionary Democratic Front
ESCR	Economic, Social and Cultural Rights
ERTA	Ethiopian Radio and Television Agency
ETV	Ethiopian Television
EWLA	Ethiopian Women Lawyers Association
FIDH	International Federation for Human Rights
FDRE	Federal Democratic Republic of Ethiopia
FPCIS	Federal Police Crime Investigation Sector
HRCO	Human Rights Council
HOF	House of Federation
HPR	House of People’s Representatives
HRD	Human Rights Defenders
HRW	Human Rights Watch
ICCPR	International Covenant on Civil and Political Rights
ICESCR	International Covenant on Economic, Social and Cultural Rights
ICG	International Crisis Group
ICJ	International Commission of Jurists
ICMLG	International Civil Liberties Monitoring Groups
IPI	International Press Institute

ISHR International Service of Human Rights

JFA-PFE Justice for All Prisoners Fellowship in Ethiopia

LOAC Law of Armed Conflicts

MOI Ministry of Information

NGO Non-Governmental Organization

NHRAP National Human Rights Action Plan

NISS National Intelligence and Security Service

OAU Organization of African Unity

OFC Oromo Federalist Congress

OHCHR Office of Higher Commissioner for Human Rights

OLF Oromo Liberation Front

ONLF Ogaden National Liberation Front

OPDO Oromo People's Democratic Organization

SIAC Special Immigration Appeals Commission

UDJ Unity for Democracy and Justice

UDHR Universal Declaration of Human Rights

UK United Kingdom

UN United Nations

USA United States of America

USSR Union of Socialist Soviet Russia

WAP World Association of Newspaper

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ABSTRACT

The advent of counter-terrorism as a major international objective after 9/11 and subsequent proliferation of new anti-terrorism laws by states brought a new challenge to human rights, especially civil and political rights. The analyses of certain countries' Anti-Terrorism Laws especially in developing countries show two major impacts of Anti-Terrorism Law on human rights. The first impact is the post September 11 Anti-Terrorism Laws become broad and give discretionary power to police and security forces which in turn lead to arbitrary violation of the fundamental rights of suspects of terrorist acts. The second and most worrying aspect is some developing countries are using Anti-Terrorism Law as a cover to control political dissent, civil society, media and individual activists critical of government.

The objective of this thesis is to identify and assess the impacts of the 2009 Ethiopian Anti-Terrorism Law has had on the promotion and protection of human rights. For the purpose of this research qualitative methodology is used. Both secondary and primary data were collected. As far as secondary sources were concerned; books, journal articles, newspapers, government enactments, legal instruments, organizational reports and official documents were used. To substantiate secondary sources with primary sources key informants interviews were done with 20 persons. For this purpose the research tried to answer the question whether or how the 2009 Ethiopian Anti-Terrorism Law put challenges to human rights.

As the analysis of data shows, the 2009 Ethiopian Anti-Terrorism Law impairs the promotion and protection of human rights. The proclamation represents a broad and vaguely defined government power to investigate, detain and prosecute individuals at the expense of due process, judicial overseeing and public transparency. It empowers police with absolute power of arrest, search and seizure. It grants the police to make arrest without warrant, as long as the police reasonably suspects that a person is committing or has committed terrorist acts. Also the reduction of procedural requirements has led police to detain first and find evidence later. Moreover, the proclamation gives legal cover for the admissibility of evidence obtained through torture. Thus, its ambiguous and vague definitions can provide a government a tool of infringing basic human rights like liberty, privacy, prohibition of torture, prohibition of arbitrary detention, freedom of expression, association, demonstration and assembly.

Furthermore, the 2009 Ethiopian Anti-Terrorism Law has had far reaching impacts on political pluralism and promotion and protection of human rights in the country. The proclamation provides the government with the tools to justify its intimidation of opposition political parties, CSOs, media and individual activists critical to government. As the analysis shows, the new Anti-Terrorism Law has been used to silence critics and punish political dissents, HRD and media's critical of government. The expanded law enforcement power's allowed incumbent government to apply the label to any groups or individuals. The vague and ambiguous definitions of terrorist acts in the proclamation led to the criminalization of act of political dissent such as public demonstrations, non-violent movements and minor acts of violence committed in the contexts of political activism. The provision which criminalizes 'encouragement of terrorism' is also ambiguous and highly affects journalists and their sources including surveillance and it highly forced to provide selected information. This is evident that, in Ethiopia, most of detainees of suspected and convicted under the 2009 Ethiopian Anti-Terrorism Law were journalists, HRD, opposition political parties' members and leaders and CSOs critical of government.

INTRODUCTION

1. BACKGROUND OF THE STUDY

The current international system for the protection of human rights was born on 10 December, 1948, the date of the adoption of the universal declaration of human rights by General Assembly of the United Nations (UN). Although, it has no legal binding force, the universal declaration of human rights (UDHR) serves as a mother text of human rights and a constant reference point in the international human rights systems. Following this, the UN adopted core human rights conventions¹ which have legal binding force on member states (Brems,2007).

Despite the growth and proliferation of legal instruments for the protection of human rights, there is a continuing disparity between official proclamations and actual performance. Indeed, the September 9/11, attack in the USA and the Anti-Terrorism movement that followed it changed the face of human rights considerably. On September 28, 2001 the Security Council reacted first by adopting 1373 resolution² which established the basic principles for combating terrorism. In the months that followed, the passing of Anti-Terrorism Law in USA influenced the world significantly; on 14 December the United Kingdom passed the Anti-Terrorism, Crimes and Security Act and Canada also passed Anti-Terrorism Act. Following resolution 1373, many states announced measures to combat terrorism, some of these measures or initiatives again become a cause for concern to the international bodies and mechanisms for protecting human rights at all levels: global, regional and national levels (FIDH, 2005).

In general, the counter terrorism laws issued in the aftermath of 9/11 by many countries compromised some fundamental human rights principles that were considered essential prior to the attack. In order to fight terrorism, states opted for aggressive measures that contradict the principles set under international human rights and criminal law (Ibid).

¹ International Covenant on Civil and Political Rights, International Covenant on Economic, Social and Cultural rights, Convention on the Elimination of all forms of Racial Discrimination, Convention against Torture and other cruel, inhumane or degrading treatment or punishment, Convention on the Elimination of Discrimination against Women, Convention on the Rights of Child, International Convention on the protection of Rights of all Migrant Workers and members of their Families, Convention on the Rights of Persons with Disabilities and Convention for the protection of all Persons from enforced Disappearance.

² United Nations (UN) Resolution No 1373 (2001) adopted by Security Council at its 4385th meeting, on 28 September 2001.

Ethiopia is party to international human rights instruments; which means that it has an obligation imposed up on it by the international body given the fact that the country has made itself part of internationally agreed human rights norms. The Federal Democratic Republic of Ethiopian (FDRE) Constitution makes all international human rights instruments ratified by Ethiopia an integral part of the law of the land. Furthermore, it recognizes that human rights and freedoms, emanating from the nature of humankind are inviolable and inalienable and thus shall be respected. It further provides that the fundamental rights and freedoms specified in the Constitution shall be interpreted in a manner conforming to the principles of the UDHR, international covenants on human rights and international instruments adopted by Ethiopia (FDRE Constitution, 1995:Article 13).

However, despite these constitutional promises, in the aftermath of 2005 controversial elections, different opposition groups, human rights activists, international human rights organization and other groups working on human rights and democracy begin to condemn most of the post election legislations as they are violating human rights in Ethiopia. Among the condemned legislations, the Anti-Terrorism Legislation is the most controversial and ever debatable law in Ethiopia (Abebe, 2012 and Seble, 2012).

Therefore, in this research an attempt is made to explore the enforcement of human rights in Ethiopia by analyzing the impacts that the Ethiopian Anti-Terrorism Law has had on human rights in general and Civil and political rights in particular based on the principles of UDHR, International Covenant on Civil and Political Rights (ICCPR) and the FDRE Constitution. To this end, the research explores the impacts that Ethiopian Anti-Terrorism Law has had on the enjoyment of human rights in Ethiopia. Also, the research appraises the impacts of Ethiopian Anti-Terrorism Law on human rights Defenders and opposition political parties and activists.

2. STATEMENT OF THE PROBLEM

Human rights have recently become a sensitive issue in Ethiopia, a major field of debates between the government and different opposition groups and between the government and national and international human rights organizations. Specially, following the 2005 election crisis, different proclamations enacted by Ethiopian government have been put to criticism as legalizing violations of human rights. For example the Freedom of Mass Media and Access to Information Law, Charities and Societies' Law and Anti-Terrorism Law are among the most debatable legislation in the aftermath of the controversial election of 2005 (Arriola, 2011 and Merera, 2010).

The most controversial and debatable legislation that is believed to be a challenge to democratic rights particularly of politically active individuals and entities has been the Anti-terrorism law. The law proclaimed with the objective of 'fighting terrorism in the country' has remained to be divisive and a topic of political and social debates, between the government on the one hand and opposition groups, political activists, international human rights organizations and human rights activists on the other hands (Abebe, 2012).

Many opposition members claim that the law is unconstitutional and politically motivated. International human rights institutions were kept condemning it by saying that the government is using it to put down the opposition and intimidate citizens. Especially, the accusation goes to the violations of freedom of expression that went under scrutiny by the proclamation. Furthermore, they argue that the Ethiopian Anti-terrorism Law has taken its toll on freedom of expression and association and is being used to stifle critical voices. Moreover, the listing of terrorist organizations is conducted exclusively by the legislative organ upon recommendations of the executive (Abebe, 2012, Article 19 law programme, 2010 and Seble, 2012).

In general, the provisions related to definition of terrorist acts, police and national intelligence agency powers are believed to be stifling the rights to freedom of expressions, speech, opinions and the press. These arguments are mainly supported by the report of human rights watch, amnesty international, article 19 law programme and several writers.

On the other hand, the government has a completely different position on this issue. The late prime minister, Meles Zenawi repeatedly tried to justify the law by saying it is the direct copy of the Western Act on terrorism. In particular, those of Germany, USA and British laws on the matters. The Anti-Terrorism Acts of these states are not only reference but also a direct guideline, according to the prime minister. That means the law has used arguably what the international community deems to be appropriate to fight terrorism (Seble, 2012).

Furthermore, supporters of the constitutionality of Ethiopian Anti-Terrorism Law argue that the Ethiopian Anti-Terrorism Law, as opposition leaders and their international supporters are claiming, is not another motive on the part the Ethiopian governments to silence the voice of its opponents. It is rather born out of the pressing needs of the Ethiopian people's and government to avert "the clear and present danger threatens the peace, security, development and democratization effort of Ethiopia" (Sassahulh, n.d).

These heated debates are more based on the debate of criticism and responses. Nonetheless, Ethiopia's obligations under international human rights instruments are not exhaustively analyzed. The way it legalizes violations of human rights, its political inclinations and the political and institutional difference between Ethiopia and Western powers from which it was copied is not clear, as well. In general, there is no exhaustive and comprehensive research done that explores the impacts of Ethiopian Anti-Terrorism Law on human rights in general and civil and political rights in particular. Therefore, this research is an attempt to fill this gap.

3. CORE/CENTRAL ARGUMENT OF THE STUDY

The central argument of this research is that, prior to the controversial 2005 election; violation of civil and political rights was largely in violation of existing laws – it was illegal persecution. Since the 2005 controversial election, however, most of the post election proclamations have provided government with legal shadow to justify the violation of these rights and the Ethiopian Anti-Terrorism Legislation is part of this debate which increased the scopes of violations of human rights in Ethiopia.

4. RESEARCH QUESTIONS

The central question of the research is to discuss whether the 2009 Ethiopian Anti-Terrorism Law poses challenge to human rights or not. The specific questions addressed under this are:

- How does the Ethiopian Anti-terrorism Law affect civil and political rights?
- How does the Ethiopian Anti-Terrorism Law affect human rights defenders and activists?
- How does the Ethiopian Anti-Terrorism Law affect opposition political parties and activists?

5. OBJECTIVE OF THE STUDY

The overall objective of this research is to assess and explore the impacts Ethiopian Anti-Terrorism Law has had on human rights in general. In identifying problems and analyzing issues, attempts are made to achieve the following specific objectives;

- To identify and discuss the impact of Ethiopian Anti-Terrorism Law on civil and political rights.
- To assess the situation of human rights defenders and individual activists in Ethiopia vis-vis 2009 Ethiopian Anti-Terrorism Law.
- To explore the situation of opposition political parties and political activists in Ethiopia vis-vis 2009 Ethiopian Anti-Terrorism Law.

6. METHODOLOGY AND METHODS OF DATA COLLECTIONS

The approach adopted to undertake this research is qualitative. Qualitative approach employs different strategies of inquiry, methods of data collection, analysis and interpretation. It emphasizes the qualities of entities, process and meanings that are not experimentally examined or measured in terms of quantity, amount, frequency or intensity. Thus, this would enable the researcher to provide interpretive tools to explore the nexus between Ethiopian Anti-Terrorism Legislation and human rights by focusing on the impact of Ethiopian Ant-Terrorism Law on the

enforcement of civil and political rights. Therefore, in order to accomplish the purposes of this research, both secondary and primary sources of information would be collected.

As far as secondary sources are concerned, books, journal articles, newspapers, government enactments, legal instruments, organizational reports and official documents would be taken as sources. To this end, reviewing relevant literature to compile in a form of over view of what is currently known about the nexus between Anti-Terrorism Law and human rights would be carried out. Also, document analysis would be made to draw together existing data on impacts of Ethiopian Anti-Terrorism Legislation on human rights in general and civil and political rights in particular. To substantiate information collected from secondary sources, interviews would be conducted through key informant interviews.

INTERVIEWS

As far as interview is concerned the researcher purposively selects the following officials or personalities:

Officials from The Ethiopian Human Rights Commission (EHRC): this institution has a direct role in the protection and promotion of human rights in Ethiopia. Therefore, the researcher planned to interviews the officials from this institution to get primary information from them as well as refers the reports and documents of the Commission.

Ministry of justice: this office is concerned with justice administration in Ethiopia. It is the drafter of Ethiopian Anti-Terrorism Proclamation. Thus, an attempt would be made to get primary information from this office, as well.

Opposition political parties' leaders and Politicians: these groups are highly criticizing the Ethiopian Anti-Terrorism Law and argue that their members and supporters are suffering as a result of the introduction of this proclamation. So, an attempt would be made to get primary information from them too. Since, consulting all opposition political parties are impossible, Mederek, Unity for Democracy and Justice Party (UDJ) and Blue Party were selected and interviewed. Therefore, the researcher purposively plans to interview the officials of these opposition political parties having their own stands toward Anti-Terrorism Law.

Federal Police Crime Investigation Sector (FPCIS) and federal prisons administration: almost, all federal prisoners are first investigated in FPCIS, traditionally known as *makealawi*, (Ahmaric name for center). Thus, the researcher interviewed the senior officials of the center to substantiate the secondary data gathered on detainees in pre-court time.

Civil Society Organizations: human rights based civil society organization is planned to be interviewed to get information on human rights situation in Ethiopia in general and impacts of 2009 Ethiopian Anti-Terrorism Law on human rights in particular. For this purpose both Human Rights Council (HRCO) and Ethiopian Women Lawyers Association (EWLA) officials would be selected for interviews. Visiting their official reports, press release and documents, as well. But EWLA official declined to give interviews.

Journalists: one from ERTA and another from private media would be interviewed to explore information on human rights situation in Ethiopia as a general and impacts of 2009 Ethiopian Anti-Terrorism Law on freedom of expression in particular. However, the selected private media journalists decline to give interviews.

Individuals released from prisons who were suspects of terrorist acts, ‘the Muslim Arbitration Committee Members’ who were later released and some of the family members of suspects of terrorist acts were interviewed.

Academics from Addis Ababa University were also interviewed to substantiate the above primary and secondary sources. To this end, three academicians would be selected from different disciplines especially those working on the topic reflecting on Ethiopian Anti-Terrorism Law and its impact on human rights. However, the researcher’s attempt to interview academician from political science and international relation department was unsuccessful. In general, as far as primary source is concerned 20 key informants’ interviews and personal observation would be conducted.

7. SIGNIFICANCE OF THE STUDY

The study has some significance as it adds the literature on the topic. It may contribute in clarifying and explaining the heated debate of the nexus between the Ethiopian Anti-Terrorism Legislation and human rights. By doing so it may add to studies on the role of the international, regional and national human rights and democratic institutions in protection and implementation of human rights by giving attention to violations linked to Anti-Terrorism Law. Furthermore, the study may contribute to and serve as source to aware the world community in general and Ethiopian in particular about the impact of Anti-Terrorism Law on human rights. Last but not least, it is stepping stone for further research in the area.

8. LIMITATION OF THE STUDY

The first limitation in the performance of this thesis is finance. The second is time. Since time is short it is difficult to see cases in detail. The third limitation is the reluctance of informants to give information. For example, among the purposively selected offices, EHRC, EWLA, Sandeq newspaper and Afro-times newspaper declined to give interviews and felt a sense of apprehension.

9. THE SCOPE OF THE STUDY

In general, this research is mainly about the assessment of the human rights situation in Ethiopia in light of the Ethiopian Anti-Terrorism Legislation based on available international and national legal, institutional and procedural frameworks. In effect, the research focuses on the assessment of the nexus between Ethiopian Anti-Terrorism Law and Ethiopia's obligation under international law and FDRE Constitution and enforcement of human rights in light of Ethiopian Anti-Terrorism Law. Thus, since discussing all human rights-Anti-Terrorism Law nexus is so difficult, the paper focus on selected human rights issues closely associated with the coming of Anti-Terrorism Law.

10.ORGANIZATION OF RESEARCH PAPER

This research is organized into four chapters in addition to introduction and conclusion. The first chapter is about conceptual framework and literature reviews. In this chapter an attempts would be made to see the concepts of terrorism, counter-terrorism and human rights in order to explore the Anti-Terrorism Legislations and human rights violations nexus. Literature reviews would be conducted on the impacts of Anti-Terrorism Law of USA, United Kingdom and Kenya, as well. The second chapter deals with synopsis of human rights situations in Ethiopia since 1991. Under this chapter an attempt would be made to assess the legal frameworks and enforcement of human rights in Ethiopia since 1991.

The third chapter is about the nexus between Ethiopian Anti-Terrorism Law and enforcement of civil and political rights. The fourth chapter is about Ethiopian Anti-Terrorism Law and its impacts on human rights. Here, the impacts of this law on human rights would be evaluated against existing legal, institutional and political practices. The research ends by a conclusion from the finding.

CHAPTER ONE

CONCEPTUAL FRAMEWORK AND LITERATURE REVIEW

This chapter has the objective of gauging the implications of post 9/11 Anti-Terrorism legislations have had on the promotion and protections of human rights and reviewing the counter-terrorism policies and practices of selected countries. To this end, first, the researcher tried to see the controversial definitions of terrorism and counter-terrorism by focusing on Anti-Terrorism Law. Then, the researcher tries to see what human rights are. Finally, the researchers attempted to show the link between Anti-Terrorism Law and violations of human rights. For this purpose reviewing of the counter terrorism policies and practices of USA, UK and Kenya have been made.

1.1. DEFINITIONS OF CONCEPTS

1.1.1. TERRORISM

The word ‘terrorism’ comes from the word *terror* which in turn derived from Latin word, *terr*, meaning to frighten. The term has been widely used all over the world by media, academics and by common peoples. However, most attempts to define it at international and regional levels have been unable to agree on specific definition of terrorism. The inability by states, academics, policy makers and researchers to establish a unified definition of terrorism is due to the existence of the different perspectives and interests from each side. They have employed a different criterion to define terrorism and such criterion has been a reflection of specific interests and thoughts (Aljazy, 2010 and Qureshi, 1976).

Questions such as who is terrorist; a person, organizations, groups or states cannot be answered precisely. One of the reasons is that the criteria vary from one country to another, not even in national legal codes is there a single definition of what ‘terrorist’ is. Politically, the situation is even more confusing, for someone may be a freedom fighter whereas a terrorist for others, which illustrates the variation in the use of the terminology (Redress, 2004). For example, the USSR considered Afghanistan as a terrorist state whereas it recognized Palestinian struggle as a legitimate armed conflicts. During the same period the USA took the opposite position, condemning Palestinian as terrorist and Afghanistan as freedom fighters (Dedeoglu, 2005).

In legal terms, the international community has yet to adopt a comprehensive definition of terrorism. However, existing declarations, resolutions and universal “sectoral” treaties relating to specific aspects of it define certain acts and core elements of terrorism. In 1994, the General Assembly’s Declaration on Measures to Eliminate International Terrorism, set out in its resolution 49/60, stated that terrorism includes “criminal acts intended or calculated to provoke a state of terror in the general public, a group of persons or particular persons for political purposes” and that such acts “are in any circumstances unjustifiable, whatever the considerations of a political, philosophical, ideological, racial, ethnic, religious or other nature that may be invoked to justify them.” (UN, 1994 and OHCHR, 2008).

Also, the Security Council, in its resolution 1566 (2004), referred terrorism to

criminal acts, including against civilians, committed with the intent to cause death or serious bodily injury, or taking of hostages, with the purpose to provoke a state of terror in the general public or in a group of persons or particular persons, intimidate a population or compel a Government or an international organization to do or to abstain from doing any act (UN, 2004).

Later that year, the Secretary-General’s High-level Panel on Threats, Challenges and Change described terrorism as any action that is “intended to cause death or serious bodily harm to civilians or noncombatants, when the purpose of such an act, by its nature or context, is to intimidate a population, or to compel a Government or an international organization to do or to abstain from doing any act” (FIDH, 2005, Marks, 2006).

The General Assembly and Security Council with other UN agencies repeatedly resorted to adopt a universally agreed upon definition of terrorism. Each effort, however, failed based on the perceived subjectivity of any such definition, as certain elements of a proposed definition were rejected by various nations whose interests were not served. Some nations emphasized the need to except freedom fighting, anti-colonial uprisings, or other related violence from the definition of terrorism (Setty, 2011).

Although, not reach at comprehensive definition of terrorism, many scholars also tried to identify the core elements used in defining terrorism. For instance, Tiefenbrum, in his Article entitled, ‘A Semiotic Approach to a Legal Definition of Terrorism’, identified five basic structural elements in definition of terrorism: the perpetration of violence by whatever means, the targeting of innocent civilians, with the intent to cause violence or with wanton disregard for its

consequence, for the purpose of causing fear, coercion and intimidating an enemy and in order to achieve some political, military, ethnic, ideological and religious goal (Tiefenbrum, 2003).

Furthermore, Maskaliunaite, in his Article, 'Defining Terrorism in the Political and Academic Discourse' attempt to see how terrorism is defined in the political discourse and social science. In light of this he tried to identify the main elements in the definition of terrorism by using study conducted by Alex Schmid on 109 scholarly definition of terrorism. From this Maskaliunaite, derived seven main elements in the definition of terrorism with their percent share: violence, force (83.5%), political (65%), fear terror emphasized (51%), threat (47%), psych effects and anticipated reactions (41.5%), victim target differentiation (37.5%) and purposive, planned, systematic organized reaction (32%) (Maskaliunaite, 2002). This shows that most of the definition of terrorism contains the element of violence, although, the term violence by itself is unclear.

To sum up, the definitional question of terrorism left open and subjective, which some scholars opined as "tell me what you think about terrorism and I will tell you who you are" (Setty, 2011). The UN Member States still have no agreed-upon definition of terrorism and this fact has been a major obstacle to meaningful international counter terrorism measures. Also, lack of uniform and universally accepted definition of terrorism coupled with a mandate for strong counter terrorism law and policies has open the door for potential abuse for states in those areas in which the piecemeal international definition does not provide clarity. These situations are even more crucial in developing countries where the democratic institutions are at infant stage.

1.1.2. COUNTER-TERRORISM

Before discussing about Anti-Terrorism Legislation it is better to discuss the concept of counter-terrorism in general. The term counter-terrorism has been complicated due to the difference on the practical implementation and the meaning given on paper as well as due to the problem inherited from controversial definition of terrorism. That means, it has not been clearly defined and there are many confusions between empirical conditions on the ground and elusiveness put at principle level (Maskaliunaite, 2002 and Setty, 2011).

As a result of this confusion, some scholars have tried to define the concept of counter-terrorism based on the practical activities adopted by different organs. In other words, they defined it in conformity to the observable acts on the ground. Thus, in terms of its abstract sense, counter terrorism can be defined as domestic as well as foreign policy practices which are designed to combat violent attack caused by international terrorism. Or it is a mechanism or strategy adopted to protect the people from the violent terrorist's action (Omelicheva, n.d).

Scholars of 'terrorism' identified two distinct models of Counter-terrorism. These are the military (war approach) and legislative (criminal justice approach). The military approach advocates considers terrorism as a mortal threat to the state which can only be addressed by military force. For this model counter-terrorism is described as an action of revolutionary warfare taking of response based on military and preferring the use of harmful actions, practice of illegal punishment and troop recruitment. This approach is primarily war model based in a direct military measure individually or multilaterally and often has extensive violation of fundamental rights and freedoms (Summy and Ram, 2008). Therefore, military counter-terrorism advocates believe that the correct response to the terrorist threat was a military track down and killing a hardcore of extremists using military forces (Hughes, 2011).

Secondly, criminal or legislative approach principles with regard to countering-terrorism could be applied in relation to developed international law and basic requirements of the Security Council resolution. Some states already may have developed legislation in relation to the resolution and such developed legislations will be enough to satisfy the significant obligations.

The other states may need solely to add to or modify developed legislation and could use part of the principles of the resolution. Still other states may need extensive legislative measure, in which case the principles, in general or in part, could be enacted to enforce Security Council resolution 1373. Lastly, there may be also some states that want simply to take ideas from the resolution, the Explanatory Guide and Expert Group Report to adopt internal or domestic policy and legislation (HRW, 2012 and Summy and Ram, 2008).

As far as terrorism has a sever effect on a variety of fundamental human rights and freedoms, the government of states are obliged to take and implement effective counter-terrorism measures. Both effective counterterrorism actions and the protection of human rights are complementary

and equally reinforcing objectives which must be done simultaneously as one of states' obligation to protect the people. However, the current practice is otherwise. Like the serious impacts of terrorism on protection and implementation of human rights, counterterrorism enacted by states had been also impaired human rights (OHCHR, 2008). The detail is discussed in section 1.2 below.

1.1.3. HUMAN RIGHTS

Human rights are rights that human being has by virtue of being human. Human rights are the most fundamental rights of human beings. They define the relationship between individuals and power structures, specially the state. Human rights delimit state power and at the same time require state to take positive measures ensuring an environment that enables all peoples to enjoy their human rights. History in the last 250 years has been shaped by the struggle to create such an environment starting with the French and American revolutions in the late eighteen century (Vijapur, 2009).

From the point of views of law, human rights can be defined as “the sum total of individual and collective rights recognized by sovereign states and enshrined in their constitutions and international law”. Since the Second World War the UN has played a leading role in defining and advancing human rights which until then had developed mainly with in the nation states. As a result of the establishment of UN, human rights have been codified in various international and regional treaties and instruments that have been ratified by most countries have begun to emerge as the only universally recognized value systems (Nowak, 2005).

The concept of human rights though is central to the objective of UN (preamble of UN charter and Chapter 1, Article 3), is poorly understood. There is no agreement on its meaning, nature, and content. Specially, during Cold War it is a concept very much contested between East and West³ as well as between developed and developing countries. The liberal-democratic States asserted the primacy of civil and political rights. While, the former communist States gave priority to economic, social and commune rights and insisted that they could not be separated from the class character of society in which they existed. This debate of priority of one set of

³ East represents the former socialist blocks which advocate group or collective rights whereas the West represents liberal-democratic states which advocate individual rights

rights over another continued to occupy the agendas of national and international human rights during major part of the 20th century (Vijapur, 2009).

The then newly emerging States of the Third World, while adopting the Eastern or Western model of human rights paradigms in their constitutions, or a combination of both, focused on solidarity or group rights such as right to self-determination of peoples, including sovereignty over their natural resources, the right to development, the right to a healthy and ecologically balanced environment, the right to peace and the right to ownership of the common heritage of mankind. Although they insist on interdependence and indivisibility of all human rights – be they civil, political, economic and social, they aim to achieve economic development and eradication of poverty at the cost of freedom and civil liberty (Nowak, 2005 and Vijapur, 2009).

However, despite these variations, the ideal modern concept of human rights includes three basic classes of rights: civil and political rights, economic, social and cultural rights and the group or collective rights. The contemporary concepts of human rights are guided by the principles of universality, non-discrimination, inalienability and interdependence and indivisibility⁴ (Vijapur, 2009). Furthermore, both the scope of human rights and states recognition to these rights are increasing. Although, not comprehensive almost all states begun to agree on most rights codified under UN. For example, the UDHR principles are began to be accepted as customary international human rights law (Nowak, 2005).

Despite these positive developments since the end of Cold War, human rights have also faced challenges in the present situations. That means in addition to the negative effects of War, repressions and conflict within or among states, currently terrorism and counter-terrorism measures taken by sates has been emerged as the major threats to human rights in the 21st century (Vijapur, 2009).

⁴ see Nowak, 2005

1.2. THE NEXUS BETWEEN ANTI-TERRORISM LAW AND HUMAN RIGHTS VIOLATIONS

Terrorism has dual impacts on human rights which is paradoxical in nature. Mrs. Kalliopi.k.Kuofa clearly explains these points as cited in FIDH report;

Thus, it is clear that there is a close link between terrorism and the enjoyment of human rights and freedom. This link is seen directly when groups or individuals, deprive them of their freedom, destroy their property or use threats and intimidations to sow fears. The link can be seen indirectly when states response to terrorism leads to the adoption of policies and practices that exceed the bounds of what is per-missible under international law and results in human rights violations, such as extrajudicial executions, torture, unfair trails and other acts of unlawful repressions, that violates the human rights not only of the terrorists but also of innocent civilians (FIDH, 2005: 12).

This shows that just as terrorism impacts on human rights and functioning of society, so too can measures adopted by states to counter-terrorism. With increase of terrorist attacks, what is more alarming is that in those states that are least democratic inclined a new effect of terrorism on human rights can be felt, when governments use the need to combat terrorism as an excuse to incriminate political opponents and to silence those who might put them in an embarrassing position like human rights defenders (Redress, 2004). The focus of this section is on the later concepts: the impacts of Anti-Terrorism Legislations on human rights.

There has been a proliferation of security and counter-terrorism legislations and policies throughout the world since the adoption of Security Council resolution of 1373 (2001) and America's declaration of 'war on terrorism', much of which has an impact on the enjoyment of human rights. Most countries when meeting their obligations to counter-terrorism by rushing through legislative and practical measures have created negative consequences for civil liberties and fundamental human rights (FIDH, 2003 and HRW, 2012). Here under an attempt has been done to assess the impacts of Anti-Terrorism Legislation on human rights from both legal and enforcement perspectives.

“One overarching rule in criminal and universal law found in human right treaties is the principle of legality of crime and punishment according to which no crime can be committed and no punishment is meted out in the absence of penal law” (FIDH, 2005). The criminal behavior can only be `considered as an offence if it has been defined as such by law at earlier

date. The definition must be sufficiently precise to avoid any arbitrary application (OHCHR, 2008).

However, as many scholars argue (Hoffman, 2004, Setty, 2011 and Whitakers, 2007), the definition of terrorism involved in Anti-Terrorism measures taken since September 11, 2001 is short of this legality. In the aftermath of September 11 governments have used vague and over broad definition of terrorism. Such definition run the risk of sweeping peaceful expressive activities into the definition of terrorism and can be the basis for repressive regimes attacking political opponents or other pre-textual uses of Anti-Terrorism campaign. Such Anti-Terrorism Laws violate the principle of legality and provide a basis for governments to label political opponents or human rights defenders as ‘terrorists’. In addition, it can subject them to exceptional security measures that would not be tolerated in other contexts (Hoffman, 2004).

Further the 2004 Redress report explain that vaguely worded definition of terrorism in domestic laws is particularly worrisome when applied by states lacking general human rights safeguards. In these types of states the use of label ‘terrorism’ can legitimize the measures applied by the government to counter opposition groups on the basis of political considerations. For example, “the Russian Federation, by comparing its own campaign in Chechnya with the US led campaign against Al-Qaeda and Osama Bin-Laden, has been able to reduce significantly the international scrutiny of its human rights record in Chechnya” (Redress, 2004).

Moreover, the adoptions of vaguely defined Anti-Terrorism Law in the third world countries provide governments with the tools they need to justify anti-democratic practices. In many countries, as has been documented extensively by human rights groups (FIDH, 2005, HRW, 2012c, Redress, 2004 and Redress and Reprieve, 2009), the new laws have been used to silence critics and punish political opponents. Expanded law enforcement power capabilities have allowed incumbents to apply the label to any groups or individuals that permitted officials to keep taps on the communications and activities of civil society organizations. The reduction of procedural requirements has led police to detain first and ask questions later (Hoffman, 2004).

Likewise, scholars argued that Anti-Terrorism Legislation around the world, along with previously adopted immigration legislation and regulations, has contributed to an increase in racial profiling and institutionalized racism. Guilt by association has had a chilling effect on the

fundamental rights of freedom of expression, freedom of association and freedom of movement as well as on the basic democratic rights to protest and to simply assert one's rights (ICLMG, 2004).

When we come to the practical aspects of Anti-Terrorism Law and human rights violations nexus, as many scholars and international human rights organization reports show, the current states counter-terrorism measures implicate numerous fundamental human rights including the right to life, absolute prohibition of torture, the right to liberty and security through arbitrary detentions, freedom of assembly and association, freedom of expression and information, the right to fair trial, prohibition of extradition, the rights to privacy and other social, economic and cultural rights (FDIH, 2004 and OHCHR, 2008.).

One area of concern in counter terrorism policy practice is lack of transparency and judicial oversight for measures that significantly infringe on human rights like the prohibition of torture and other cruel, inhumane treatment and punishment, due process and privacy (ICJ, 2009) This issue is aggravated due to the fact that many counter terrorism measures are shrouded in secrecy, creating difficulties for human rights protection. Although, torture is strictly prohibited in the convention against torture and ICCPR, yet many states are still engaging in torture of individual accused of terrorism (HRW, 2012c). For example, the United States violates human rights in the 'war on terrorism' through arbitrary detention and torture of Guantanamo Bay detainees. Many states have collaborated with the United States and facilitated detentions, torture and ill treatments of terrorist acts detainees (Fisher, 2007).

Many states employ intelligence and surveillance measures contrary to international human rights law, justifying by fight against terrorism. Some have established intelligence agency that have "legally acquired the power to arrest and detain people who are expected to have information about terrorist activities". These agencies are not subject to judicial oversight and this may increase the risk of arbitrary detention and other human rights violations (FIDH, 2005 and Redress, 2004).

The Eminent Jurist Panel (EJP) on "Terrorism, Counter-Terrorism and Human Rights", addressed the consequences of counter-terrorism by mentioning that "the terror sowed by terrorists allowed the states to rush into hasty responses which in turn resulted in violations

of human rights including torture, enforced disappearance, secret and arbitrary detentions and unfair trials with little accountability for these abuses” (ICJ, 2009). The EJP further explains its worries with the expansion of intelligence agencies powers to the extent of arrest and interrogate terrorist suspects under the umbrella of counter-terrorism measures (*Ibid*).

Another concern in states current counter terrorism measures are procedures infringing on the right to privacy. Article 17 of the ICCPR specifically prohibits arbitrary arrest or unlawful interference with privacy, subject to a few exceptions. However, action taken by states in response to terrorist acts of post September 11 violates this right due to the use of extensive surveillance (FIDH, 2005). For example, actions taken by United States under the patriot act have raised concerns due to extensive surveillance techniques employed to combat terrorism. Many of the provisions of the patriot act are under scrutiny for failing to provide judicial oversight for intelligence and surveillance procedures that may violate the right to privacy. The criteria for search were broad that police had authority to stop and search almost anyone, including members of the press and peaceful organizations (Pitt, 2013 and Podesta, 2002).

The right to life is also non-derogable rights under international law. It is non-derogable even in states of emergency threatening the life of the nations under international and regional laws. No one can be deprived of his/her right to life except in accordance to the law of the land for capital punishment in states which do not abolish it. In practice, however, states often adopt policies and methods to confront terrorism that in effect, circumvent and undermine this non-derogable right (OHCHR, 2008).

To sum up the post September 11 Anti-Terrorism Laws, represent a broad and vaguely defined expansion of government powers to investigate, detain and prosecute individuals at the expense of due process, judicial oversight and public transparency (HRW, 2012). Thus, the current counter terrorism policies and practices have a corrosive impact on the rule of law, good governance and human rights especially.

1.3. REVIEWING THE IMPACTS OF SELECTED COUNTRIES ANTI-TERRORISM LAWS ON HUMAN RIGHTS

Since 11 September 2001 many countries have adopted Anti-Terrorism Laws that limit civil liberties and expand law enforcement powers in the name of national security. Counter-terrorism legislation is promoted through the United Nations counter-terrorism committee where as USA is the real driving force behind the enactment of Anti-Terrorism Law (Whitaker, 2013). In this section an attempt is made to examine the impacts of USA ‘war on terror’ and Patriot Act, UK’s Anti-Terrorism, Crime and Security Act and Kenya’s Anti-Terrorism Law on human rights.

This is because the UK and USA are among the few countries that have been victims of terrorist attacks in recent years. They are also at the forefront of ‘war on terror’. Both countries have been facing with litigation challenging of legislative and other measures they have taken in countering terrorism. Kenya is another allies of western power on ‘war on terror’, which face challenging in its introduction of Anti-Terrorism Law. Therefore, reviewing the counter terrorism policies and practices of these countries can give insight for this research.

1.3.1. USA ‘WAR ON TERROR’ AND PATRIOT ACT

On September 11, 2001 nineteen Muslim male extremists hijacked four commercial airplanes in New York and Washington DC, Approximately 3,000 people died including the hijackers. Immediately following these events the United States responded with the beginning of ‘war on terror’ by invading Afghanistan to bring terrorist like Al-Qaeda and Taliban to justice. Introduced Patriot Act which condemned by many scholars as the law which violating USA Constitution, as well (Pitt, 2013). Here under an attempt has been made to examine the impacts of USA ‘global war on terrorism’ on the protection and promotion of human rights by taking its tactic the ‘ticking time bomb scenario and target killing as focus. The impacts of Patriot Act on the enjoyment of human rights, as well.

Immediately as a response to the 9/11 attack the Bush administration declare ‘a global war on terror’ through target killing of suspected terrorist acts in abroad as well as ticking time bomb to detect future action of terrorists. The two tactics of USA are in controversial debate among

scholars, international human rights organizations and USA officials⁵ (Fisher, 2007, IP, 2009 and Kovarovic, 2010).

Since September 11, USA has greatly increased the use of target killing to engage identified terrorists, especially through the use of drone. But, the disclosure of this information a raise a legal debate on target killing; on the one hand, there were those who view the fight against terrorism from a classic law enforcement stand points believing that identified terrorists should be detained, charged and tried in the court of law for their actions. They condemned targeted killing policy is unconstitutional. On the other side there is who view terrorism as an act of war and therefore, argue that these targeted engagements are legal under the Law of Armed Conflicts (LOAF)⁶ (Fisher, 2007).

However, the existing reality that many legal scholars (Alston, 2011, Kovarovic, 2010 and Sung, 2003,) believe is that the USA target killing policy is unconstitutional because of the executive branch of government can not be the jury or judge and executioner of US terrorist operating abroad. They argue that “all the president has to do is label an individual terrorist which is enough to target individuals” (Alston, 2011). Therefore, freedom of speech and due process must be resolved by courts, especially concerning the imposition of a death sentences (Sung, 2003).

The other controversial USA counter terrorism policy and practices in war on terror is the use of ticking time bomb tactic on high value detainees especially in Guantanamo Bay, Cuba and Abu Grhaib, Iraq, save other small detention centers. The concept of ticking time bomb as used by USA officials, as cited by Kovarovic means that “the individuals in custody is known or at least suspect to possess critical information about an imminent threat that could kill thousands of US citizens”. With this assumption in mind, the US officials believe that they have only one option; they must torture the suspect to acquire the information they need to save thousands of innocent lives (Kovarovic, 2010). Using this approach, the US officials subject the suspect to any number of torturous methods in the hope of compelling him/her to speak. The suspect might be chained

⁵ For example the FBI and many military lawyers of USA oppose the ticking time bomb tactic (the use of torture and coercion) on the basis of its inefficacy and long run-cost. See IP, 2009.

⁶ Opponents of target killing base their arguments on international human rights law while the proponents of target killing base their arguments on international humanitarian law and revoke the principle of international law of armed force to justify legality of the act of target killing.

to a chair and severely beaten. He/ she could be electrocuted, suffocated, drugged or waterboarded (IP, 2009).

Despite the US government's frequent invocation of the ticking time bomb exception to justify its acts of torture, most experts (Alston, 2011, Sung, 2003 and Brooks, 2004), argue that except alarming regularity in an attempt to garner public support for the use of torture and violating the rights of terrorists and civilians suspects of terrorist acts, the tactic never achieve the assumed goals. They identify two reasons inter alia: the first is that prisoners have been conditioned to withstand torture and choose to die at the hand of their captors rather than reveal what information they have. The second reason is victims forfeit already- known details or create falsified evidences in an effort to placate their torture (Brooks, 2004).

Likewise there has been much debate over whether the USA Patriot Act is in fact constitutional. While the US Patriot Act's main objective is 'to deter and punish terrorists in the United States and around the world, to enhance law enforcement investigatory tools.' Many scholars argue that the patriotic act violates even more than one amendment of US Constitution (O'Leary and Platt, 2003 and Pitt, 2013). The act reduces constraints on the government's ability to conduct searches, deports suspects, eaves drop on internet communications, monitor financial transactions, crackdown on immigrants and contains vaguely defined new crimes of domestic terrorism which might be applied to acts of civil disobedience (Pitt, 2013 and Sinnar, 2003). Among other, the provisions on Electronic surveillance and Racial Profiling and discrimination are the most debatable part of the Act.

As far as electronic surveillance is concerned, Podesta explains that:

US Patriot Act substantially changes the law with respect to law enforcement access to information about computer use including Web surfing. The Act extends provisions written to authorize installation of pen registers and trap and trace devices, which records outgoing and incoming phone numbers to authorize the installation of device to record all computer routing, addressing and signaling information. The computer users surf the web and download the file using phone lines, mobile devices and cable modems (Podesta, 2002: 3).

The government can learn a tremendous amount of information about you, from where you shop, what you read and who your friends are using the transactional records. Therefore, the potential for abuse, invasion of privacy and profiling of citizens is high (US Patriot act section, 216 and Podesta, 2002).

Under the Patriot Act, immigrants ‘certified’ as threats to national security must be held in government custody without bond pending deportation proceedings and removal from the country. Detention could become indefinite for those aliens found to be deportable but whom other countries decline to accept (Patriot Act section, 411 and 412). As soon as the Patriot Act came in to effect, several hundreds of immigrants remained in government detention under a separate emergency order allowing them to be held without charge for an extended period. The lengthy detention of so many aliens, few of whom were suspected involvement in terrorist attacks, generated concern that efforts to protect national security in the wake of September 11 had infringed on the constitutional rights of non-citizens⁷ (Sinnar, 2003).

1.3.2. UNITED KINGDOM’S ANTI-TERRORISM, CRIME AND SECURITY ACT

“The UK has had a long history in dealing with terrorism and particular terrorist offences at home within its domestic legal framework and abroad in former colonies as well” (Opoku, 2011). Short after the events of 9/11, however, the UK with US assumed a leadership role in the ‘war on terror’ while at the same time announcing a proposal to adopt a new legislative measures in order to counter the threat of international terrorism (Helling, 2002).

The response of the United Kingdom to the events of September 11 has taken a number of forms. It has offered significant military support to the United States action in Afghanistan. With its European partners it has engaged in diplomatic activities designed to reduce support for terrorist groups and deny them access to funds and weapons. Domestically, it has introduced significant new Anti-Terrorism Legislation and give prevention of terrorism a higher priority in the work of its police and intelligence agencies (Breau et al, n.d). In this section the researcher tries to focus on the impacts of UK Anti-Terrorism, Crime and Security Act of 2001 on the enjoyments of human rights.

On 14th December, 2001 the British Anti-Terrorism, Crime and Security Act became law with the objective of “ensuring the government to have adequate powers to counter the increased threat of terrorism in the United Kingdom following the events of September 11”. The UK home secretary, David Blunkett as cited in Henning 2002 laid the order before the parliament saying

⁷ The provision for certification and mandatory detention contravene the Fifth Amendment’s guarantee of due process of law.

the state of “public emergence threatening the nation” existed, necessitating derogation from Article 5 of the European Convention on Human Rights (ECHR) provisions which guarantee personal security. However, many human rights organizations and scholars raised questions ‘does the UK really face public emergence within the meaning of Article 15 of the Convention and is the law temporary as the principles of derogation of rights permit?’ (FIDH, 2012 and Helling, 2002).

This legislation represents the shift in UK Anti-Terrorist strategy toward a proactive approach which as its primary aim the prevention of terrorist attacks rather than a reactionary response designed to culminate in finding solutions to crimes after they have occurred. Positive as this proactive approach may seem, it is treacherous in its use of preventive detention which leads to the imprisonment of persons based on an unfounded fear of what they are yet to or might do rather than on the basis of what they have actually done (Opoku, 2011).

This provision of imprisonment without trial for an unspecified length of time is by far the most controversial feature of the UK Anti-Terrorism, Crime and Security Act. On the grounds of ‘national security’ and suspicions, non-UK citizens who cannot be deported are likely to become victims of human rights violations. Having such rights as the right to fair trial and the presumption of innocence until proven guilty arbitrary curtailed without reasonable limits. These wide powers of detention without charge or trial granted in the Act have made it necessary for the UK to derogate from Article 5(1) of the ECHR (Henning, 2002 and Opoku, 2011).

Although, the government justifies internment of non-citizens by derogation principle, the legislation has been challenged in the courts under the human rights Act, as it was found to be incompatible with Article 14⁸ of the Convention. Under Article 14, it is permissible to draw a distinction between two groups of people, if there is an objective justification for the distinction. Special Immigration Appeals Commission (SIAC) found that there was no objective justification; the aim of the provision is to protect the security of the UK against international terrorism, but, the existing evidence show that such a threat emanated from both British and foreign nationals. Thus, the legislation was disproportionate: under inclusive of the British and over inclusive of non-British nationals to suspected international terrorism (Wadham, 2003).

⁸ Article 14 of ECHR is about the prohibition of discrimination in the enjoyment of conventional rights.

The Act also places new restriction on refugees seeking asylum, empowering the government to deport them if certified as ‘conducive to the public good’ by the secretary of state. The legislation also limits grounds for appeal of deportation on to a commission called the SIAC. No further consideration of such asylum claims may be made and not further consideration of the balance between the individuals’ fear of persecution and the government’s perceived threat to national security can be carried out (Helling, 2003 and Wadham, 2003).

1.3.3. KENYAN ANTI-TERRORISM LEGISLATION

Since 1998 there have been three major terrorist attacks in Kenya, in which large number of civilians have been killed and injured. On 7 August 1998, the United States embassy in the heart of Nairobi business centre districts was bombed, killing 213 and wounding 4,600 others. On 28 November 2002, two suicide bombers drove a car bomb in to a hotel in Kikamala, near Mombasa, popular with Israeli tourists, 15 people died and 80 were wounded (Amnesty International, 2005). On September 21, 2013, masked gunmen attacked upscale West Gates shopping mall in Nairobi, Kenya, taking hostages and killing at least 67 people and almost 200 people were wounded (Blanchard, 2013).

As a response to terrorism, in Kenya, extensive arrests were carried out through most of 2003 and to date. Also Kenya tried to introduce Anti-Terrorism Law which faces great resistance from opposition political parties, human rights organizations and other activists (Redress and Reprieve, 2009). Therefore, in this section the researcher tried to see both the critics on the attempt to introduce bill and the practice of Kenya’s counter-terrorism measures. As far as bills are concerned: the flawed suppression of terrorism bill of 2003 and prevention of terrorism act of 2012 were seen. In practical aspects, the violation of the rights of arrested, absolute prohibition of torture, prohibition of incommunicado detain, principles of non-refoulement, prohibition against forced disappearance and extradition cases during 2003s and 2006s were seen.

Kenya has been unable to enact Anti-Terrorism Law until 2012⁹, although the government extensively argues that after September 11, “the existing domestic legislative framework was inadequate to effectively deal with the multifaceted aspects of terrorism” (Otiso, 2009).

⁹ Kenya Gazette supplement (2012), ‘prevention of terrorism act 2012’, Nairobi, 24 October 2012.

2003 bill was introduced and lapsed. Currently the government introduced new Counter Terrorism Law on October 2012(Kenya Gazette supplement, 2012). Here under an attempt is done to examine the failure of the 2003 bill and the criticism a raise over the current Prevention of Terrorism Act.

Many of the provisions in 2003 bill were criticized on the grounds that it failed to adhere to human rights obligation set out in the Kenyan Constitution and international law. Among others, the major critically condemned provisions of the bill are: definition of terrorism, admission of incommunicado detention, exclusion order, extradition of terror suspects without legal safeguards and immunity of police officers (Otiso, 2009).

After nearly a decade of disagreement, the 2003 bill lapsed and a new bill was enacted as the prevention of terrorism act in 2012. The new act marks great improvement, especially in safeguards to the rights of persons and entities in the process of counter terrorism. However, the Act still leaves open the definition of terrorism and the appeals process for the proscription of entities (Mwazighe, 2012).

Although, the criticism on the introduced bill leads to the improvement of legal framework of Kenya's response to terrorism attack, the practice is still unchanged. As reports of many international human rights organizations show (Amnesty International, 2009, Redress and Reprieve, 2009, FIDH, 2007), a large numbers of arrests conducted in Kenya in the context of counter-terrorism investigation could be unlawful and arbitrary. The circumstances of arrest included heavily armed operations and deceit and intimidation (AI, 2009).

International standards require that no one is detained without their being able to communicate with the outside world, specifically lawyers, doctors and family members. The practice of detaining people incommunicado, which is without such access, increases the risk of torture and ill-treatment and "disappearances". As Amnesty International (2009) report shows, in Kenya, relatives of detainees were unable to establish where their detained relatives were being held, most of the time.

Many reports show that there were further removals from Kenya to Somalia and Ethiopia without consideration of potential refugee status and assessment to whether reasonable grounds exist to believe that they were at risk of torture and other cruel, inhumane or degrading treatment or punishment. According to joint report of Redress and Reprieve of 2009, in 2006 and 2007 alone, Kenya by violating its obligation under international law basically the principles of absolute prohibition of torture and absolute principles of non-refoulement, transfer 117 individuals to Somalia, Ethiopia and Guantanamo Bay, where they suffer more torture and other ill-treatment (Redress and Reprieve, 2009, FIDH).

In general the review of the counter-terrorism policies and practices of USA and UK implied that, though they face the highest terrorism attack in the world, their counter-terrorism measures violate internationally protected rights basically the rights of immigrants and refugee seeking asylums (Opoku, 2002, Pitt, 2013 and Sinnar, 2003). All in all the counter-terrorism measures of USA and UK violate more of the rights of non-citizens, save minor violations at home, while Kenya's counter-terrorism policies and practices in turn violate human rights of Kenyan especially politically active citizens.

To conclude, terrorism is a controversial concept which has no precise meanings both in political and legal connotations, save its wider use. This absence of clear legal definition for the term terrorism has spillover effect to counter terrorism. Because in legal languages when the term lacks precise meanings, it opens the way for practitioners to include things which have not been actually included. Thus, these situations lead many scholars to narrate; terrorism has currently triple impacts on human rights. The first is when terrorists violate human rights. The second impact is when states violate human rights while trying to investigate terrorists. The third aspect is the new impacts born out of the increasing attacks of terrorism. When the terrorists attack increases, it increases the discretionary powers of government to enact Anti-Terrorism Laws. Then, government in least democratic states use this discretionary power of enacting counter terrorism policies and practices as excuse for incriminating political opponents and human rights defenders critical of governments.

CHAPTER TWO

2. SYNOPSIS OF HUMAN RIGHTS SITUATIONS IN ETHIOPIA SINCE 1991

The main objective of this chapter is to explore the situations of human rights in Ethiopia since 1991. To this end the chapter would discuss inter alia, three points. First the general legal and institutional framework of human rights in Ethiopia since the coming to power of the Ethiopian People's Revolutionary Democratic Front (EPRDF; the practice of human rights in Ethiopia from 1991 to 2005; and finally the impacts of post 2005 Ethiopia's legislations on the promotion and protection of human rights. The 2005 year is selected because it is the land mark in EPRDF politics-human rights nexus in Ethiopia. For this purpose the Freedom of Mass Media and Access to Information Proclamation and Charities and Societies Proclamation are discussed in this chapter.

2.1. LEGAL AND INSTITUTIONAL FRAMEWORKS OF HUMAN RIGHTS IN ETHIOPIA SINCE 1991

Ethiopia's record in the area of human rights protection was not admirable, for several decades, even by the average standard of Africa. The previous government documents and constitution of the country did not even pretend to require human rights protection as an integral component of the national legal system, except the 1955 revised constitution and 1987 PDRE Constitution. However, the current Ethiopian Constitution including several international and African human rights instruments adopted by Ethiopia since 1990s contains explicit commitment to ensure protection of human rights with in the new federal political structure (Mohammad, 2011 and Tsegaye, 2009). This sub-section explores the legal and institutional guarantees of FDRE Constitution, international and African human rights charter adopted by Ethiopia. The claw backs clauses and other debatable human rights related provisions of the FDRE Constitution were discussed, as well.

As far as the law of the country is concerned about one-third of the FDRE Constitution covers matters related to human rights¹⁰. The Constitution incorporates several human rights in its chapter three. This recognition ranges from traditional civil and political rights to socio-economic rights and group or solidarity rights (Tsegaye, 2009).The constitution robustly enshrines several civil and political rights, most of which are the carbon copies of the provisions of the UDHR. The list includes the right to life, which outlaws the deprivation of life except as a punishment for a serious offense determined by law (Article, 15) to security of a person and liberty which prohibits arbitrary arrest and deprivation of liberty and protection against cruel, inhuman treatment or degrading treatment or punishment including the banning of slavery and trafficking in human beings for whatever reason and forced or compulsory labor (Article 17 (1&2) and Article 18 (2&3)).

The Constitution also includes guarantees that are pertinent to the criminal justices system (FDRE Article, 19). The rights of arrested persons to remain silent (Article 19 (2)), to be promptly informed in a language she or he understands of the reasons for their arrest (Article 19 (1)), to be brought before a judge within 48 hours and to habeas corpus are entrenched (Article 19 (3)). The Constitution also over rules and excludes confessions or admissions obtained through coercion and establishes the right to bill (Article 19 (5&6)).

In a similar vein, accused persons have the right to a public trial in an ordinary court within a reasonable time, to be informed of the particular of charge, to the privilege against self-incrimination and the presumption of innocence until proven guilty, to access and challenge evidence presented against them and to adduce evidence on their behalf, to be represented by legal counsel of their choice and if they cannot afford to pay for such counsel and if miscarriage of justice would result, to be provided with one at the expense of the state and to appeal to a competent court(Article, 20 (1, 2, 3, 4, 5&6)).

Persons in custody have the right to treatment that respects their human dignity (FDRE Constitution, Article, 21). They also have the right not to be held incommunicado¹¹ and hence to

¹⁰ From 106 total articles of FDRE constitution 31 articles directly deal with human rights (human rights, article 14-28, democratic rights article 29-44 and other articles related to human rights)

¹¹ Incommunicado detention means detaining peoples in a place which is not open for visit by spouses, families, friends, legal counsel and religion counsel. It is a place which exposes detainees to torture.

be visited by their spouses or partners, close relatives, friends, religious counsels, medical doctors or their legal counsel (FDRE Constitution, Article 21 (2)). The retroactive application of criminal laws is also prohibited and hence unconstitutional (FDRE Constitution, Article 22). The Constitution also prohibits double jeopardy in the form of an offense upon which a final conviction or acquittal has been entered as per criminal law and procedures (FDRE Constitution, Article 23).

The Constitution also guarantees equality and equal protection (FDRE Constitution, Article, 25), the right to privacy (Article, 26) which may only be limited if ‘compelling circumstances’ exists in accordance with law. The rights of freedom of religion, belief and opinion, the right to freedom of thought and expression including, access to information of public interests. The right of assembly, demonstration, petition and association for any causes and purposes, the right to freedom of movements including: the right to reside anywhere within the national territory as well as the right to leave and return to Ethiopia (FDRE Constitution, Article, 27-32). Individuals or groups have the right to access to justice to obtain a decision or judgment over any justifiable matters in the court of law or other competent body with judicial power (Article, 37). Similarly the right to vote and to be elected is guaranteed to all Ethiopians of age (FDRE Constitution, Article, 38). The right to property is ingrained for the benefit of Ethiopians, as well.

Although, with some variations from the UDHR and ICESCR¹², the FDRE Constitution guaranteed the Economic, Social and Cultural Rights (ESCR) and solidarity rights, as well. The Constitution incorporates various ESCR. Every Ethiopian has the right to choose his or her means of livelihood, occupation and profession and an equal access to publically funded services (Article 41 (1, 2 &3)). It further requires the state to allocate ever-increasing resources to provide social services, provide funds for the rehabilitation of persons with disabilities, the aged and children without parents or guardians subject to available means and to pursue policies aimed at expanding job opportunities for the poor through undertaking programmes and public works project (FDRE Constitution, Article 41 (4, 5&6)).

Moreover, the Constitution recognizes the third generation of rights- solidarity rights. The right to development is recognized as a benefit of the peoples of Ethiopia as a whole and in the form

¹² The FDRE constitution guaranteed the economic, social and cultural rights and solidarity rights for Ethiopian citizens alone.

of right to participate (FDRE Constitution, Article 43). The right to clean and healthy environment also recognized as the right for the benefit of all persons (FDRE Constitution, Article 44). The other basic and controversial right is the right of nations, nationalities and peoples of Ethiopia to self-determination up to and including secession¹³ (FDRE Constitution, Article 39).

The FDRE Constitution classified the above mentioned fundamental rights and freedoms provisions into two: human rights (Article 14-28) and democratic rights (Article 29-44), without clear differences shown in the texts. However, Article 10¹⁴ of the Constitution creates the impression that human rights are those that emanated from the nature of mankind and democratic rights are those inherent in democracy. The preparatory works of the constitution suggests, as Adem explain that human rights are those rights that a person is entitled to merely because of he or she is a human being and democratic rights are those conferred only on citizens (Adem, 2011). Tsegaye further mentioned that “human rights in FDRE Constitution are entitlements bestowed on us by virtue of being human, democratic rights are rights we claim only as a consequences of our being members of a political community” (Tsegaye, 2009).

The other debatable provision related to human rights under FDRE Constitution is the existence of claw back clauses within most of the protected rights. It is obvious that human rights are not absolute. There are, therefore, certain limitations¹⁵ to the exercises of these rights. Some constitutions and international instruments include internal individualized limitation clauses within each particular right, set out in different details. Others have adopted general limitation clauses whose application cuts across all provisions. Still others adopt combined approaches in that in addition to general limitation clauses, certain limitation clauses include their own internal limitation clauses (Adem, 2011).

¹³ The right of nations, nationalities and people of Ethiopia to self-determination up to secession (article 39) is the most controversial and ever debatable FDRE constitution provisions among politicians, activists and scholars.

¹⁴ Article 10 of the FDRE constitution stipulates that ‘human rights and freedoms emanating from the nature of mankind are inviolable and inalienable,’ article 10 (1). Article 10 (2) further provides that ‘the human and democratic rights of citizens and peoples shall be respected.’ This implies that human rights are the rights of all human beings simply and merely by the virtue of humanity-universal. While democratic rights which are the rights of citizens and peoples derived from their judicial and political status. For more information see FDRE constitution article 10 and Gedion, Timothewos, (2010), ‘freedom of expression in Ethiopia: the jurisprudential dearth’

¹⁵ Limitation refers to infringement or encroachment on guaranteed rights under narrowly defined permissible circumstances.

The FDRE Constitution contains claw-back clauses within most of the protected rights. Some of the internal limitation simply refers to those limitations determined or established by law, while others are more detailed and require compelling circumstances and specific laws necessary to safeguard public security, peace, the prevention of crimes, public morality and the protections of the rights and freedom of others. These imply that there are, different standard of limitations depending on which rights the constitution purports to limit. Therefore, problem posed by the claw back clauses is exacerbated by the absence of more sweeping general limitation clauses in the Constitution that would have ensured uniformity of standards in scrutinizing the conformity of limitation of rights with the basic tenor of the Constitution (Adem, 2011).

Scholars identify several problems concerning the possible limitations of rights in FDRE Constitution. First there is no requirement in some cases such as right to life and security that the limitation be necessary, proportional and rationally connected with the purpose it inspire to achieve. So long as limitation is determined or established by law, there is no inquiry into the fairness and justness of the law. The minimum threshold for restraining fundamental rights and freedom is significantly law (Gedion, 2011). But, as Adem explains that there is no definition of what ‘law means’ in the Constitution: whether it includes parliamentary statutes only, or it also include regulations, directive or even rules and code of conducts of administrative agencies is unclear (Adem, n.d).

The FDRE Constitution also recognizes exigent possibilities that may require the suspension of protected rights. Means, derogation clauses related to provision that permit the temporary suspension of the application and enjoyment of rights in response to emergency incidents that threaten the life of the nations. Article 93 of the FDRE Constitution prescribes the requirements for derogation from rights. The Constitution authorizes the possible suspension of most of the fundamental human rights and freedoms to the ‘extent necessary’ with the helpful of exception. The only non-derogable rights are the prohibition against cruel, inhuman and degrading treatment or punishment, slavery or servitude and trafficking, the right to equality and equal protection of the law and the right to self-determination including secession (Tsegaye, 2009).

Furthermore, the human rights provisions of the FDRE Constitution, also presumably includes those rights under the Constitution are required to be interpreted and enforced in conformity with

the principles of UDHR, international covenant on human rights and international instruments adopted by Ethiopia. Ethiopia is party to six of the seven core human rights treaties¹⁶ and ACHPR. Furthermore, it should be noted that Ethiopia has not any reservation under the substantive provisions of any of these Conventions except the second ICCPR protocol on abolishing the death penalty (Brems, 2007). Except Convention on the Elimination of Racial Discrimination (CERD) and Convention on the Elimination of All forms of Discrimination against Women (CEDAW), almost all major international and regional human rights instruments are adopted in Ethiopia since 1991. These facts help some scholars to opine the 1993 year as bright year for human rights in Ethiopia¹⁷.

The second, promise of protection of human rights in Ethiopia in 1990s is promoting the growth of democratic institutions that ensure adequate implementation of such rights in real life society. In addition to the primary institutions¹⁸ responsible for the promotion, protection and enforcement of human rights, there are autonomous institutions established for the sake of promotion and protection of human rights: the Ethiopian Human Rights Commission (EHRC) and the Ombudsman Institutions in Ethiopia (Tsegaye, 2009). To this end, although, with some delay the Ethiopian House of People's Representative has established national human rights Commission and institution of the Ombudsman in 2000, both institutions coffering on them to take various measures necessary for human rights protection and good governance in the country (Mohammad, 2011).

The establishing proclamation of the Ethiopian Human Rights Commission (EHRC) states that the Commission is established primarily for the enforcement of human rights as are enshrined in the FDRE Constitution. It is designed to act as one of the organs in enforcing rights and freedoms of Ethiopian, with one of the primary functions being “to advocate and promote respect for and an understanding of human rights and other beings to advocate the public regarding the nature and contents of such rights. The Commission is also entrusted with the task of investigating cases of violation of human rights enshrined in the Constitution, in its own initiatives or upon complaint submitted to it. The Commission can also engage in activities

¹⁶ See supra note 1 above

¹⁷ The major parts of international bill of human rights, ICCPR and ICESCR were ratified by Ethiopia in 1993.

¹⁸ The primary institutions for the promotion, protection and enforcement of human rights are the three organs of government; legislative, executive and judiciary.

aimed at awareness creation and educating people on human rights (FDRE, Proclamation No. 210/2000, Article 5 (1-11)).

In similar vein, Ethiopia has expanded the human rights regime by providing for the establishment of the Institution of Ombudsman. As it is set out in the establishing legislation of Ethiopian Institution of Ombudsman (EIO) which was passed by the parliamentary proclamation No 211/2000; the basic function of the Ombudsman is “to protect citizens against administrative injustice and bureaucratic oppression and to provide citizens with accessible avenue for complaint when such injustices and oppression occurs” (FDRE, Proclamation No. 2011/ 2000). The objective is to make government organs a duty bound to respect and enforce human rights as are enshrined in FDRE Constitution or any others legislations. The institution can investigate action taken by ministry or department of government or any members of such ministry or departments. In general, this institution is much important especially in redressing human rights violation at work place (Mohammed, 2011).

To sum up, it is possible to draw a conclusion that human rights protection should receive maximum attention as constitutional primary obligations under FDRE Constitution, especially civil and political rights. To this effect the development of democratic institutions should be encouraged and facilitated so that the wider society would increasingly benefit as the federal system takes root within the constitutional framework. However, as many scholars argue and human rights organizations reports show, the practice is otherwise. Despite, the guarantees on fundamental rights and freedom as inalienable human rights, the government of Ethiopia has been criticized for compromising these rights and the practice of human rights in Ethiopia is not brought great changes, especially on civil and political rights although it got high legal coverage. The detail on practice of human rights in Ethiopia since 1991 would be seen below.

2.2. HUMAN RIGHTS PRACTICE IN ETHIOPIA FROM 1991 TO 2005

Following its capture of state power in 1991, the EPRDF promised the country and its people: multiparty democracy, respect for human rights, decentralized system of governance and liberalized economy. To this end, it proclaimed a Charter for the transitional period which later promulgated into national Constitution in 1994, effective in 1995 (Merera, 2010). One third of the new Constitution contains provisions on human rights. Furthermore, the Constitution

declares all international and regional human rights instruments adopted by Ethiopia as integral part of the Constitution (Tronvoll, 2008). However, in practice the issue is in perspective; there is a huge gap between constitutional promise and the reality on the ground.

Some informants argue that Ethiopia's record of human rights has been improving, when measured against international standards, since the country's transition from derg regime to the EPRDF¹⁹. The government has also been repeatedly dismissing the allegations of human rights organizations as well as others as grossly exaggerated and misleading. Human rights situations, as government claim, has improved dramatically after the derg was overthrown and that, the majority of violations that occurred were not instigated or condemned by government. However, contrary to the claims made by the government and some individuals about the improvements recorded in human rights protection in the country, there have been recurrent reports of serious infringements of human rights by both government and non-government bodies (Arriola, 2011).

Hereunder the researcher tries to see the major allegations of human rights violations in Ethiopia from 1991 to 2005 by focusing on civil and political rights. The researcher focus on civil and political rights because, on the one hand as other researches and human right organizations reports show, civil and political rights are the most allegations of human rights violated in Ethiopia. On the other hand the post 2005 Ethiopian legislations in general and Ethiopian Anti-Terrorism Law in particular is criticized for their antagonism with civil and political rights. Therefore, an exploration of the violations of abovementioned rights help the researcher to analyses the difference between the allegations of human rights violations in Ethiopia before and after the introduction of the Ethiopian Anti-Terrorism Law to clarify an appraisal of 2009 Ethiopian Anti-Terrorism Law- human rights nexus.

The right to life is enshrined under Article 15 of FDRE Constitution and Article, 6 of ICCPR. Both documents similarly describe the right to life as absolute rights. This right is expressed in similar ways in Article 3 of UDHR and Article 4 of the African Charter on Human and Peoples Rights (ACHPR). Despite such legal provisions regarding the right to life, there have been reports and allegations made by national and international bodies claiming the presence of serious violations of the right to life in the country, both by state agents and private actors (ICG,

¹⁹ Interview with ETV Senior Journalist, name confidential, April 22, 2014, Addis Ababa.

2009). According to many of these reports, the police and the army have allegedly carried out the major offences violating the right to life. Particularly, they have been condemned for repeatedly committing politically motivated killings on suspected armed insurgents, such as the Ogaden National Liberation Front (ONLF) and the Oromo Liberation Front (OLF) in Somali and Oromia regional states respectively (HRW, 2005).

Also clashes with government forces on numerous occasions resulted in the death of an unknown number of civilians such as students, government security forces and troops of armed insurgents and members of different political parties. For example, according to national and international reports, some 193 people died in the riot after May election though different reports put the number variously. Both International Crisis Group and Center for Strategic and International Studies reports that, “police and special army called ‘Agazi’ killed around 200 and imprisoned around 30,000 demonstrators”. FIDH reported that at least 187 demonstrators were killed during the year (FIDH, 2009).

The right to personal liberty and security of a person are well recognized under Article 17 of FDRE Constitution, Article 9 of ICCPR, Article 3 of UDHR and Article 6 of ACHPR. As well, the Constitution provides the full protection to the Ethiopian citizens against arbitrary arrest and detention (FDRE, Article, 17 (2)). But as the human rights organization reports show, the rules mentioned above are not applied in Ethiopia at satisfactory level. The various security agents, like the common police and special police force have arrested and detained or take other arbitrary measures, without warrant, charge or bail, and without time limits. Political and security suspects have sometimes been taken away secretly without notice to family, friends or close relatives, without notifying of their destination or reason for their arrest (ICJ, 2009).

According to the report of ICJ, 2009 and Lyons, 2011, arbitrary arrest is considered as a powerful tool for the repression of political dissent. For instance, ICJ and CSIS reports have claimed that more than 30,000 persons detained in November 2005 following the large scale anti-government demonstration (ICJ, 2009 and Lyons, 2011). Most of the arrested and detained persons were released without trail. As the result of the unrest, many of opposition leaders, human rights defenders, journalists, publishers and ordinary citizens were charged with offenses such as genocide, treason and attempt to overthrow the constitutional order through the use of

force. According to the report of AI (2009), in some of the peripheral areas especially areas known for insurgents' police enjoy wide discretions in arresting members of political groups.

Likewise, despite the presence of the laws prohibiting the use of torture and mistreatments there are numerous credible reports of torture and inhuman treatment in the country as well. According to the report of EHRCO²⁰, 2007 security officials often beat or mistreated detainees. In 2007, EHRCO reported that some members of the Coalition for Unity and Democracy (CUD) and Ethiopia's Teachers Association officials arrested in December 2006 claimed in the court that they had been tortured in the Federal Police Investigation Sector in Addis Ababa (EHRCO, 2007). Also the HRW, 2010 in its report entitled "regarding serious patterns of torture and other cruel, inhumane and degrading treatment in Ethiopia" stated its worries by explaining the seriousness of torture and ill-treatments of detainees arrested on suspicion of involvement with armed insurgents groups such as ONLF and OLF (HRW, 2010).

2.3. POST 2005 ETHIOPIAN LEGISLATIONS AND HUMAN RIGHTS NEXUS: OVERVIEW

"The 2005 national election was sharply contested and offered Ethiopian citizens a democratic choice for the first time in the long history of Ethiopia, with opposition parties winning at least one-third of the parliamentary seats" (Arriola, 2011). Further ICJ described the situation as 'historical watershed' in Ethiopia (ICJ, 2009). The incumbent government took the initiative to negotiate with the opposition and level playing field and agreed to a number of important electoral reforms that created conditions for a more open and genuinely competitive process. The early negotiations between parties were also a step forward for the democratization process in Ethiopia. While the pre-election and Election Day process were generally commendable, the post election period was disappointing. The period following May 15 was marked by highly charged political tensions (Carter Center, 2005).

Following the post election political unrest the government began the process of cleaning political stalemate that composed of two interlinked measures: on the one hand the government declared state of emergency to hand over demonstration begun in Addis Ababa which

²⁰ EHRCO- Ethiopian Human Rights Council which changed its name into HRCO-Human Rights Council in 2009 due to its area coverage is deemed doesn't cover at least five regions of Ethiopia to have Ethiopian name.

humiliated much life of civilians. On the other hand the government continued in introducing new subsidiary laws which condemned as repressive laws by many scholars and commentators (Lyons, 2011 and Merera, 2010).

Thus, many scholars criticize the post 2005 elections legislations in Ethiopia as the tool of rule by law which violates constitutional rights of citizens, save the previous minor criticism²¹. Following the initial announcement of the results of the 2005 elections, which revealed that the opposition had won nearly 100 percent seats in the Addis Ababa city council, the departing parliament quickly enacted new law which had the effect of making it difficult for the opposition to implement freely its policies and programmes. The law particularly stripped the city administration of its control over financial resources and the security apparatus. Most of the revenue sources for the city administration were moved to the federal government and the city police force was brought directly under federal control (Abebe, 2012).

Furthermore, in response to the significant increase in the number of the opposition forces to the federal parliament, the departing federal parliament amended the law that regulated its operation which requires 20 out of 547 members of federal parliament to register an agendum for discussion to about 187 to even propose an agendum for discussion by parliament. Thus, this new parliamentary rule effectively controls the opposition from meaningfully participating in the parliament even if they had taken their seats. The new law undermined the possibility even of discussing controversial issues which is the responsibility of parliamentarian (Abebe, 2012 and Merera, 2010).

²¹ The most open manifestation of rule by law begin by EPRDF at the early stages, during the split of the central committee of the ruling EPRDF party over the handling of the Ethio-Eritrean War of 1998-2000 and subsequent imprisonment of siye Abraha and resignation of Dr. Negaso Gidada from FDRE president. Following the split, the winning faction, including the late prime minister, enacted anti-corruption law which provides the base for the arrest and prosecution of most of the splinters. Soon after, the court orders the release of accused on bill, a law which deprived bail to all persons accused of corruption offences was enacted. In similar vein when Dr. Negaso Gidada resign from the FDRE president, immediately the HPR introduced a new law prohibiting FDRE president from partisan politics, although previously Dr. Negaso was member of OPDO (Abebe, 2012 and interview with Dr. Negaso Gidada, Aril 9, 2014, Addis Ababa).

Nonetheless, among the post 2005 Ethiopian legislations, the Freedom of Mass Media and Access to Information Proclamation, Charities and Society's Proclamation and Anti-Terrorism Proclamation are the most controversial and ever debatable laws in Ethiopia (Arriola, 2011). Below, the researcher tries to explore the first two proclamations, while Anti-Terrorism Proclamation is the theme of this research and analysis in this study.

2.3.1. PRESS LAW

The UDHR, drafted in December 1948, was the foundation of international human rights law and the standards of achievement for all peoples and nations. Article 19 of the document states that “everyone has the rights to freedom of opinion and expression: these rights include freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers” (Ross, 2010). In the same vein, the FDRE Constitution lays out the legal rights of citizens to hold opinions, thought and free expression under Article 29. This Article protects freedom of expression without interference including the freedom to seek, receive and impart information and ideas of all kind regardless of frontiers, either orally, in writing or in print, in the form of art or through any media of once choice. It also affords freedom of the press and the mass media by ensuring the opportunity for access to information of interest of the public and prohibiting censorship (FDRE Constitution, Article 29).

Article 29 of the FDRE Constitution also provides the right of the media to institutional independence and legal protection to enable the accommodation of differences as necessary to democratic society (Article, 29) Furthermore, the Constitution takes all international agreements ratified by Ethiopia to be an integral part of the law of the land, which give assurance for Ethiopian peoples to exercise the rights provided under international human rights treaties adopted by Ethiopia (Tsegaye, 2009).

Despite the guaranteeing on freedom of expression and access to information as inalienable human rights, the government of Ethiopia has been criticized for compromising these rights. Subsidiary laws on the mass media and freedom of information has been criticized as a restrictive and abusive, especially to the private media (Arriola, 2011). The 2008, Freedom of Mass Media and Access to Information Proclamation is criticized, among other things for discouraging especially the private media from engaging actively in several topics including

human rights, through its restrictive provisions on defamation, excessive fine and registration system.

The Freedom of Mass Media and Access to Information Proclamation provides that defamation and false accusation against ‘constitutionally mandated legislators, executives and judiciaries’ will be prosecuted ‘even if the person against whom they were committed chooses not to press charge’. In this law, journalists and other members of the media can be criminally prosecuted, fined or jailed for defamation when there is no charge from victim. The provision threatens freedom of expression, members of the private media and the public will likely to be intimidated by the possibility of prosecution for any comments they make about government officers. Without the freedom to comment on any and all news, whether regarding the government or not, the media cannot fulfill its responsibilities to provide complete and accurate information to the public. The public’s right to receive the information is violated, as well. On the other hand, the provision protects the government indirectly; the government has the ability to prosecute any statement or article written about an official, even if no official feels the report impacted his/her reputation (Ross, 2010 and Arriola, 2011).

Another debatable provision of the press law which deemed by many commentators as violation of freedom of expression is the means which the government may be able to use is excessive fine for a conviction of defamation which is up to 100,000 birr. The seriousness of this fine can be understood when compared with the fines for other serious criminal acts and human rights violations like rape and child labor abuse (Ross, 2011).

Registration is also another challenge for the media to engage and contribute to the development of freedom of press and promotion of human rights. The press law grants the power of licensing and registration to the Ministry of Information (MOI). Where the freedom of the press is in any way linked to the whims of the government, there seems to be contradiction in the world of freedom. The licensing regime established by the proclamation creates, not just a link between the two but a relationship in which the media cannot operate without the approval of the government. The likely result of this fear of reputation is that journalists cannot or will not speak out when the government violate human rights and tries to pass additional repressive laws. In this sense the limits on free expression could lead to even greater expansion of government powers

and control in several areas and create significant challenges for the development of democracy and promotion of human rights (Arriola, 2011).

2.3.2. CHARITIES AND SOCIETIES LAW

The full realization of human rights requires the participation of other actors than the government and intergovernmental monitoring bodies, particularly, NGOs and civil societies (Marcinkute, 2011). These actors, through their different strategies and engagement, provides significant asset to back up the existing system of human rights protection, promotion and enforcement. Especially, now a day, the significance of NGOs in the international human rights law has come to light with the ever increasing acceptance and influence of their advocacy to monitor, investigate, promote and educate the society about human rights (Tiwana, 2008).

However, the relationship between governments and NGOs, especially in Africa, is mostly characterized by conflict. Indeed, the relationship of NGOs with government is partly depends on the nature of services they provided to the society. NGOs which engaged in welfare provision and humanitarian relief are the least likely to experience conflict with government. They are usually welcomed by the government since they reduce the burden of the government to provide welfare to the citizens (Sandberg, n.d).

On the other hand, NGOs which experience hostility from the governments are those who engaged in advocacy works like promotion of human rights and democracy. These types of NGOs are commonly considered as opponents of government policies and structures. And the government is most likely attempt to control and monitor their activities in any means possible (Sandberg, n.d and Cakmak, 2004). The 2009 Ethiopian Charities and Societies proclamation is part of these contentions.

In January 2009 the Ethiopian Parliament passed into law the Charities and Societies Proclamation No 621/2009. The law regulates non-governmental organizations, mass membership based societies, charitable trusts and foundations. The proclamation has established the Charities and Societies Agency (CSA) with the objective to “enable and encourage charities and societies to develop and achieve their purposes in accordance to the law and to create a situation in which their operation is transparent and accountable” (FDRE, Proclamation No

621/2009, Article 5 (1&2)). This objective is appreciated because it fulfills the legal vacuum existing in the previous law.

But, the proclamation could be highly criticized as it places excessive restrictions on the work of human rights Non-Governmental Organization. Following the enactment of this new law, human rights non-governmental organizations have decreased in number, many have changed their mandate and those human rights organizations who survived have significantly scaled down their activities due to the major impacts of fund restriction (Amnesty International, 2012). Among others, provisions related to funding, administrative cost and power of charities and societies' agency are the most criticized provisions of the proclamation.

The Charities and Societies Proclamation prohibits Advocacy organizations not to receive more than ten percents of their funding from foreign sources. Further, the organizations are not permitted to spend more than thirty percents of their budget on 'administrative costs', although the definition of administrative costs by itself is unclear (FDRE, Proclamation No 621/2009, Article 88). It may be read to include inter alia, the associated costs of investing and documenting human rights abuses, the provisions of free legal aid, advocacy activities and other essential activities conducted by human rights organizations in the promotion and protection of human rights (Martinez, 2009).

The law further places restrictions on the funding of human rights organization by stipulating that organizations must have written approval from the CSA for all income generating activities they undertake and must gain permits from the Agency to conduct the public collection. The law prohibits charities and societies from receiving any anonymous donations and all accounting records including full details of donations received must be disclosed and explained at any time upon request by the Agency (Amnesty International, 2012).

The agency also has the power to suspend or cancel the license of an organization and further has the power to order that all assets belonging to the organization are confiscated and transferred to a charity and society with similar purpose. On the other hand, the law imposes restrictions on NGOs right to appeal. Only the Ethiopian charities and societies may appeal to the federal high court against the decision of the board. All others (Ethiopian resident and foreign charities and societies) cannot be allowed to appeal (Martine, 2009).

The law also authorized the CSA with broad discretionary powers over non-governmental organizations including surveillance and direct involvement in the management and operation of organizations. Article 85 of the CSO law enables the CSA to demand the disclosure, at any time, of any information or documents in a charity or society's possessions in violation of the right to privacy protected by ICCPR Article 17 and FDRE Constitution Article 26. As well as, contravenes the principle of confidentiality which is essential to the conduct of most human rights work (Tiwana, 2008).

Also, the CSO Law violates the rights guaranteed under Article 31 of FDRE Constitution and Article 22 of ICCPR. The FDRE Constitution under Article 31 and ICCPR under Article 22 guaranteed the right to work for human rights organization and the right to form or join human rights organization as essential aspect of freedom of association. Moreover, Article 22 of ICCPR obliged member states including Ethiopia to create an enabling environment for non-governmental organizations. However, the 2009 Ethiopian Charities and Societies Proclamation place a direct legislative restriction on the realization of these rights. It further places major restrictions on the collection, collation and distribution of human rights information. The law therefore, significantly impinges on the right of staff members of human rights organizations and the Ethiopian peoples to 'seek, receive and impart information' and ideas of all kinds in violation of the right to freedom of expression enshrined in Article 19 of ICCPR and Article 29 of FDRE Constitution (Amnesty International, 2012).

To sum up since 1991 human rights get high constitutional recognition in Ethiopia. One-third of the FDRE Constitution discusses about fundamental rights and freedom. The FDRE Constitution also makes the international human rights conventions and other instruments ratified by Ethiopia an integral part of the Constitution. Furthermore, the FDRE Constitution declares the interpretation of constitutionally accepted human rights in line with the principle of UDHR. Despite these legal guarantees allegations of violations of human rights in Ethiopia is reported by governments and non-governmental organizations especially on civil and political rights.

The constitutionally protected rights of life, right of liberty and security of a person, rights of privacy, prohibition of torture, freedom of expression, assembly, association, demonstration, prohibition of arbitrary arrest and rights of arrested persons are violated by both government and

other bodies at different times. Moreover, the situation becomes worsened since 2005 controversial elections in which the government began to use proclamation to justify the violations of human rights occurred. Among others, Freedom of Mass Media and Access to Information Proclamation and Charities and Societies Proclamation are the most criticized one.

CHAPTER THREE

3. ETHIOPIAN ANTI-TERRORISM LAW AND ITS IMPACTS ON HUMAN RIGHTS

3.1. MAJOR ALLEGATIONS OF HUMAN RIGHTS VIOLATIONS ASSOCIATED WITH 2009 ETHIOPIAN ANTI-TERRORISM LAW IN ETHIOPIA

The 2009 Ethiopian Anti-Terrorism Law-human rights nexus is in perspective. The government and some writers claim that, the government save the Ethiopian people from clear and present terrorist attacks by using 2009 Anti-Terrorism Law²². According to them this law helps the government to investigate terrorists before great human rights violation and destruction occur. On the other hand this law stirred up a lot of negative attention and criticism from different stakeholders. The main theme of this criticism is that the law could be used by the government as an instrument to suppress political opposition, human rights activists, journalists and political activists critical to the government which intern lead to the violations of certain human rights guaranteed under FDRE Constitution and international conventions to which Ethiopia is the member²³.

Here under the researcher tried to assess the practice of human rights in Ethiopia vis-vis the 2009 Ethiopian Anti-Terrorism Law. Since discussing all allegations of human rights under this section is difficult, the researcher tried to discuss only selected civil and political rights sensitive in the era of counter-terrorism such as, the right to life and prohibition of torture and other cruel, The right to personal liberty and security of a person, The right to privacy, The right to due process, The right to assembly, association and demonstration, The freedom of expression and opinion and due process rights and prisons conditions.

²² Interview with ETV Journalist, name confidential, April 22, 2014, Addis Ababa and Yibekal Gizaw, head office of NHRAP, March 12, 2014, Addis Ababa.

²³ Interview with Gebru G/Mariam, Mederek Secretary General, March 23, 2014, Addis Ababa and Dr. Yacob H/Mariam, former CUD official and lawyer, April 7, 2014, Addis Ababa.

3.1.1. THE PROHIBITION OF TORTURE AND OTHER CRUEL, INHUMANE OR DEGRADING TREATMENT OR PUNISHMENT

Ethiopia is party to international and regional treaties that impose legal obligations regarding the treatment of detainees and the conduct of law enforcement personnel. These conventions include ICCPR, the Convention against Torture and Other Cruel, Inhumane or Degrading Treatment or Punishment (CAT) and ACHPR. These treaties prohibit arbitrary arrest and detention and the use of torture and other ill-treatments. They uphold the rights of detainees to be held in humane conditions and the right to due process and fair trial, including the right not to be compelled to confess to guilty or testify against themselves (EHRC, 2012).

The FDRE Constitution under Article 18 proclaimed that everyone has the right to protection against cruel, inhuman or degrading treatment or punishment. Despite, these and other legal guarantees many international human rights organizations, the committee against torture (2011), human rights committees (2011) and many of the informants were explained the existence of consistent allegations concerning the routine use of torture by police and other members of the security forces, as well as military officers especially in FPCIS, against political dissents and opposition party members, students, alleged terrorist suspects and alleged supporters of insurgent groups such as OLF and ONLF.

The committee against torture is concerned about frequently occurring of torture in Ethiopia with the participation or with the consent of commanding officers in police stations, detention centers, federal prisons, military bases and in unofficial or secret places of detentions, although the government denied the existence of unofficial and secret detention center currently in Ethiopia. The committee also takes notes of consistent reports that torture is commonly used during interrogation to extract confessions when the suspect is deprived of fundamental legal safeguards, in particular access to legal counsel which the 2009 Ethiopian Anti-Terrorism Law further give a legal shadow to do so (the committee against torture, 2011).

The informant released from prison explains that Police investigators at FPCIS use coercive methods on detainees amounting to torture or other ill-treatment to extract confessions, statements and other information from detainees by provoking Article 23 of the 2009 Anti-Terrorism Proclamation which permit admissibility of intelligence reports without disclosing

sources or methods of gathering²⁴. The Muslim arbitration committee lawyer confirmed this view by mentioning that the court admits any reports coming from National Security and Intelligence Services (NSIS) including information from mobile without mentioning the number of mobile and cross checking sounds of the detainees²⁵. “Depending on their compliances with the demands of investigators, detainees are punished or rewarded with denial or access to water, food, light and other basic needs” (HRW, 2013).

“The ill-treatment and service in FPCIS, *maekelawi* is based on the information the police need and weight of the crime,” mentioned one of the informant from the member of Muslim arbitration committee who were released after 18 months in prison. He explained that those who believed to be accused of terrorist acts and danger to government have been detained in single class ‘challama bet’ and coerced to give their statements. From the Muslim committee, mentioned the former prisoner, Abubaker Ahmed, Kalid Ibrahim, Ahmed Mustafa, Ahmed Injabel, Sheih Sultan Jamal and Yusuf Getachew are those who detained in single class, ‘challama bet’ alone and ill-treated. He further said that in addition to physical injury in FPCIS during investigation, verbal abuses, ethnic slur and lengthy investigation time is the common problem and most difficult situations that the detainees face there²⁶. All other informants from prisons admitted the existence of these abuses in FPCIS.

Various sources indicate that officials in FPCIS are ill-treated detainees by various methods. According to human rights watch (2013), US department of states (2013) reports and the key informant released from prisons; frequent verbal threats, inadequate food, poor sanitary conditions, ethnic slur, crime related abuse, illegal disciplinary measures, limited medical treatment and prolonged investigation time were cited as common problems of almost all detainees alleged to have committed crime of terrorism, treasons and attempt to overthrow constitutional order through the use of force in both FPCIS and regular federal prisons²⁷.

²⁴ An interview with former OFC member, name confidential, April 30, 2014, Addis Ababa.

²⁵ An interview with one of the Muslim Arbitration Committee Lawyer, name confidential, April 8, 2014, Addis Ababa.

²⁶ Interview with one of the member of the 17 Muslim affairs fact finding committee released from prisons, name confidential, March 31, 2014

²⁷ Interview with 5 persons suspects of terrorist acts and released from prisons, name confidential.

The Ethiopian Human rights Commission in its 2012 primary report of prisons condition in Ethiopia recommends as there is ill-treatment like beating in crime investigation sector while the report witnesses as there is no coercion amounting to torture. Nonetheless, the Commission's officials denied the researcher to give their views on the current Ethiopian Anti-Terrorism Legislation. Although, the Commission's establishment proclamation No.210/2000 article 6 (2) authorize the Commission to ensure the laws, regulations and directives as well as government decisions and orders do not contravene with constitutionally protected rights, the Commission's officials' choice silence. "We are intentionally become silent on the 2009 Ethiopian Anti-Terrorism Law, there is no official interviews and documents that I give for you relating to this law," said the EHRC research and human rights monitoring senior officer²⁸. But they provide the researcher documents and press release the Commission published.

Furthermore, the officials from FPCIS, *Maekelawi*, denied the presence of torture or ill-treatment in FPCIS, *maekelawi*, noting that;

Maekelawi carries still the name of the derg, due to lack of awareness among society. But, in practice there are no violations of the rights of detainees; any police who does so is responsible for his actions. Human right is the main stream in police station and currently annual measurement of federal police is human rights violations. Therefore, in *Maekelawi*, the rights of detainees are respected as far as the country's capacity permit; allowed to contact with their families, contact with legal counsel, periodical health care check up, provided enough food and imprisoned in common place, there is no detainees detained alone. As far as detainees of terrorist acts are concerned there are no different treatments from other detainees except their investigation time is long as compared to others²⁹.

In the same way the EHRC, Chief Commissioner, Ambassador Teruneh Zenna, in his replay letter to HRW request, provides as the Commission has never face any difficulty in having access to detainees irrespective of nature and types of crime they are charged with. The Chief Commissioner letter shows as there is proper treatment in detention sector irrespective of nature and gravity of crime they are suspected for or charged with. Concerning detainees of suspects of terrorist acts, the Chief Commissioner's letter talk as the Commission see their case separately by mentioning the name of political figures they deal with like Mr. Bekele Gerba, Olbana Lelisa and Debebe Eshetu as examples. As far as the suspects of terrorist acts concerned the Chief

²⁸ Interview with Mitiku, EHRC research and human rights monitoring senior officer, March 23, 2014, Addis Ababa.

²⁹ Interview with one of the senior official in federal crime investigation sector, name confidential, March 22, 2014

Commissioner letter concluded that there is no major mistreatment but the basic problems is regards to the rights of detainees to have access to their families and legal counsel (HRW, 2012).

3.1.2. THE RIGHT TO PERSONAL LIBERTY AND SECURITY OF A PERSON

The rights to personal liberty and security of a person are well recognized in FDRE Constitution under Article 16 and 17. Article 16 of the 1995 FDRE Constitution stated that everyone has the right to protection against bodily harm. Article 17 (1) prescribes that “no one shall be deprived of his or her liberty except on such grounds and in accordance with such procedures established by law”. The same Article under sub-article (2) provides that “no person may be subjected to arbitrary arrest and no person may be detained without charge or conviction against him”. This requisite repeated in Articles 49 through 63 of the criminal code of Ethiopia, which set out rules for arrest, detention and release on bail. The criminal code also contains a provision which punishes unlawful arrest and detention ‘with rigorous imprisonment not exceeding ten years and fine’. An arrested person must, according to the law, be shown the warrant for his/her arrest and brought before the issuing authority.

However, the analysis of the data shows that the abovementioned rules are violated by the 2009 Anti-Terrorism Law. Several human rights organizations have issued a number of reports on arbitrary arrest and detention contrary to the laws for a long period in Ethiopia. Moreover, the introduction of the 2009 Anti-Terrorism Law has been criticized for giving a legal cover for police and security to do so and arbitrary arrest and detention increased. The police force and security forces have arrested and detained or taken other arbitrary measures, without warrant, charge or bail and without time limits. Political and security suspects have sometimes been taken away secretly without notice to family, friends or close relatives, without telling anything about their destination and reasons for their arrests (AI, 2012, HRW, 2011 and US State Department, 2013).

To cite the example, the Blue party head, financial affairs, waretaw Bassie describes that “on June 2012 while our party executive is on meeting, the security police arbitrarily enter in to the office by breaking office door and took all of us to unknown places. After a prolonged beating,

kicking, verbal abuse and other physical harms the police allowed us to go our homes³⁰. In the same way on March 8, 2014 at the celebration of ‘March 8’ police arbitrarily arrested 11 members of Blue Party including head public relations for 11 days and release on bail. The informants from Mederek and UDJ support this view by explaining their worries with the NISS agencies interference in their party works using Anti-Terrorism Law as Justification³¹

3.1.3. THE RIGHT TO PRIVACY

Privacy is one among the fundamental human rights which underpins human dignity and other values. It is protected in the UDHR, ICCPR and in many other major international and regional human rights. Article 26 of the FDRE Constitution describes the right to privacy as follow:

(1)Everyone has the right to privacy. This right shall include the right not to be subjected to searches of his home, person or property, or the seizure of any property under his personal possession.....(2) everyone has the right to the inviolability of his notes and correspondences including postal letters and communications made by means of telephone, telecommunications and electronic devices.....(3) public officials shall respect and protect these rights. No restrictions may be placed on the enjoyment of such rights except in compelling circumstances and in accordance with specific laws whose purpose shall be the safeguarding of national security or public peace, the prevention of crimes or the protection of health, public morality or the rights and freedom of others.

However, in practice, especially since the introduction of 2009 Ethiopian Anti-Terrorism Law police searched property and vehicles without obtaining warrants, according to reports³². International and national human rights bodies express their worries that the 2009 Anti-Terrorism Proclamation could seriously impact the right to privacy. They express their concerns regarding the wide definition of terrorist acts marred with broad discretion of police power to search without warrant (HRW, 2010, AI, 2012 and HRCO, 2013).

The US department of state in its 2013 report expressed that police often ignored the law which requires authorities to obtain judicial warrant to search private property by invoking Anti-Terrorism Law. The report also mentioned that “throughout the year police carried out nighttime searches of Muslims homes in Addis Ababa to collect evidence against persons they alleged to be terrorists” (US State Department, 2013:8). Opposition political party leaders reported

³⁰ Interview with Waretaw Wassie, Blue Party, head Financial Affair, March 24, 2014, Addis Ababa.

³¹ Interview with Gebru G/Mariam, Mederek Secretary General, March 22, 2014, Habtamu Ayalew, UDJ head public relations March 11, 2014 Addis Ababa.

³² For example, the 2014, UDJ report on human rights in Ethiopia.

suspicious of telephone tapping and other electronic eavesdropping and alleged government agents attempted to lure them into illegal acts by calling and pretending to be representatives of groups designated by the HPR as terrorist organizations (Freedom House, 2013). “During the year opposition members reported ruling party operatives and militia members made intimidating and unwelcome visits to their homes and offices,” (US department of state, 2013). These arguments are admitted by my informants from opposition political parties like blue party, Mederek and UDJ³³.

3.1.4. DUE PROCESS RIGHTS

The FDRE Constitution under Article 20 stated that:

(2) accused persons have the right to be informed with sufficient particulars of the charge brought against them and to be given the charge in writing....(3) during proceedings accused persons have the right to be presumed innocent until proved guilty according to law and not to be compelled to testify against themselves.....(4) accused persons have the right to full access to any evidence presented against them, to examine witnesses testifying against them, to adduce or to have evidence produced in their own defense and to obtain the attendance of an examination of witnesses on their behalf before the court.

The FDRE Constitution also guarantees an independent judiciary whereby the courts, as per Article 79(2), are “free from any interference of influences of any governmental body, governmental official or from any other source”. Furthermore, sub-article 3 states that “judges shall exercise their functions in full independence and shall be directed solely by the law”. Such and other important prescriptions for the exercise of justice are found in the different international and regional human rights instruments which Ethiopia acceded to.

Despite these legal guarantees, the police and security forces are often accused of regularly engaged in arbitrary arrest and detention in violation of basic due process rights by sighting the 2009 Anti-Terrorism Proclamation as justification. Those particularly vulnerable to such abuses include activist students, protesters, journalists, members of political oppositions particularly those, alleged supporters of insurgent groups such as OLF and ONLF (HRW, 2012).

³³ Interview with Gebru G/Mariam, Mederek Secretary General, March 22, 2014, Habtamu Ayalew, UDJ head public relations, March 11, 2014 and Waretaw Wassie, Blue Party head Financial Affairs, April 24, 2014, Addis Ababa.

The informants released from prisons further argued that, “There is no respecting of presumption of innocence, the rights of fair, speedy and public trial within the reasonable time for detainees suspects of political cases.” Former OFC youth league vice president who released from prison mentioned that the federal court could not impartially answer the questions of detainees, the defendants always request the court to investigate allegation of ill-treatment in prisons and delay in trial proceeding but the response is nonexistent. Another former prisoner mentioned that the court do not admit any challenges forwarded against evidences held on him and his co-defendants³⁴.

The other issues related with procedural justice is the courts responsibilities to impartially hear and rule on allegations of torture and ill-treatment including claims of coerced confessions and restriction of visits by international observances, independent human rights organizations and Diplomats. Many human rights organizations express in their reports (HRW, 2013, AI, 2013 and US State Department, 2012&2013) that the Ethiopian judiciary lacks independence in politically initiated cases, particularly in trials under the new Anti-Terrorism Law. Since the application of 2009 Anti-Terrorism Law, the courts response to complaints from detainees on torture or ill-treated by police and the violation of their rights to presumption of innocence by the public broadcasting was nonexistent.

According to reports of HRW, 2013 and US department of state, 2013 the most worrying aspects of the torture and ill-treatment of detainees of terrorist acts in FPCIS is the inability of the court to redress. Ethiopia courts do not demonstrate independence in political cases. The main indicators of this are, as many reports (Committee against torture, 2011, HRW, 2013 and US state department, 2013) and the informants told the researcher, there is no impunity or no polices or security officers punished or take the responsibility for ill-treatment of the detainees, although some detainees publically show their injuries to court³⁵.

³⁴ An interview with former OFC youth league vice president, name confidential, March 30, 2014, Addis Ababa and former member of Macca-Tulama self-help Association board member, name confidential, April 7, 2014, Addis Ababa.

³⁵ Arrested persons always alleged to the court that they had been tortured during pre-trial in federal crime investigation sector. For example, both Wubshet Taye and Zerihun alleged in court that they had been tortured including being beaten and otherwise ill-threatened in Maekelawi. All these mistreatments are not investigated by court. See HRW report of 2013

Furthermore, HRW in its 2012 report demonstrated that the case of Ethiopian convicted under the Anti-Terrorism Law was marred by serious due process concerns. The defendants have no access to legal counsel during three months in pre-trial detention and the court did not investigate their allegation of torture and mistreatment in detention. Evidences submitted by the prosecution pointing to the criminalization of basic human rights works as well (HRW, 2012). For example, among other evidences present against Reyot Alemu is a picture posted on her face book which says enough, ‘baqa’ in Amharic, about the EPRDF regime, according to the interviews with Dr. Negaso Gidada, former FDRE and opposition UDJ President and Waretaw Wassie, Blue Party head, Financial Affairs³⁶. The views of Muslim affairs fact finding committee lawyers, Tamam A/Bulgu and other confirm this views³⁷.

In Ethiopian courts when Anti-Terrorism Law is applied, the former detainees complains that their rights to presumption of innocence violated by public broadcasting. The two questionable documentary films are ‘Aceldama’ and ‘Jihadawi harakat.’ In case of the Aceldama video broadcast on ETV, the court reportedly dismissed the complaints of due process violations against the defendants on the grounds that the video footage was not produced as evidence by the prosecutors. However, currently UDJ charged ETV and the court decided that UDJ can prepare anti-Aceldama video to rebuilt its image, said the former UDJ president Dr. Negaso Gidada³⁸.

In case of ‘Jihadawi Harakat’ video, following a complaint by the defendants lawyers, the high court granted an injunction prohibiting the broadcast but ETV ignored the court order and broadcast by claiming that the office appeal to supreme court and got permission. Although, defendants’ lawyer, claim that it is in violation of the principle of independence of court since ETV has no Supreme Court warrant to do so³⁹.

Also, the informant from ETV⁴⁰ explained that the case with ‘Jihadawi Harakat’ is beyond the ETV journalists’ decision. The journalist said that the video is displayed by National Anti-Terrorism Groups. Furthermore, the informants who were released from prisons concluded that

³⁶ Interview with Dr. Nagaso Gidada, former FDRE President and opposition UDJ president, April 9, 2014, Addis Ababa.

³⁷ Interview with Tamam A/Bulgu, lawyer and legal counsel, April 8, 2014, Addis Ababa.

³⁸ Supra note 45

³⁹ An interview with one of Muslim accused of terrorist acts lawyers, name anonymous, April 8, 2014

⁴⁰ Interview with ETV senior journalist, name confidential, March 26, 2014, Addis Ababa.

as there is violation of the right to presumption of innocence, delay in trial proceedings, lack of impartiality and lack of informing detainees the reasons for their detention even some times detainees simply stay in prisons without charges and were later released.

3.1.5. THE RIGHT TO ASSEMBLY, ASSOCIATION AND DEMONSTRATION

The FDRE Constitution provides every person with the right to assembly and demonstration together with others peaceably and unarmed and petition to the concerned body (FDRE Constitution, Article 30). Furthermore, Article 21 of the ICCPR, to which Ethiopia is party, guaranteed freedom of peaceful assembly. Also, Article 31 of FDRE Constitution guarantees the right to freedom of association stating that, “every person has the right to freedom of association for any cause or purpose”. Furthermore, Article 22 of ICCPR, to which Ethiopia is party, guarantees the freedom of peaceful association. However, in contrast to these guarantees, as informants told the researcher, the government impedes the freedom of assembly, demonstration and association using 2009 Anti-Terrorism Law as pretext⁴¹.

“Government security forces routinely used disproportionate excessive lethal force to disperse demonstration across the country” (HRCO, 2013). On numerous occasions, Ethiopian activists were subject to arbitrary arrest and detention for organizing and participating in non-violent protest in the country by the name of national security. The crackdown followed months of widespread peaceful protests beginning in 2012 in which thousands of Muslims called on the government to cease attempts at dictating the internal religious affairs of Muslims communities, imposition of Al-Ahbash sects Islam and engineering the elections for the supreme council of Islamic affairs (CIVICUS, EHAHRDP and HRCO, 2013). All members of Muslim Affairs Arbitration Committee interviewed are admitting this argument. Dr. Negaso Gidada, former FDRE and opposition UDJ president supports this view by explaining that the Muslim Arbitration Committee condemned as terrorist was leaders of peaceful demonstration which the government by itself recognized at the beginning⁴²

⁴¹ Interview with one member of Muslim affairs Arbitration Committee who released from prison, name confidential, March 31, 2014, Addis Ababa.

⁴² Interview with three of the members of Muslim Committee released from prison, name confidential, March 18, 27 and 31, 2014 and Dr. Negaso Gidada, former FDRE President and opposition UDJ President, April 8, 2014, Addis Ababa.

On 13 July, 2012 federal police violently dispersed thousands of Muslim protestors gathered at Awalia and Anwar Mosque. Following the protest 29 individuals were arrested and later charged on 29 October 2012 under the Anti-Terrorism Proclamation with the crime of terrorist acts and planning and incitement of act of terrorism (Article 3 and 4 of the Proclamation) (*Ibid*). However, by December 15, 2013, ten individuals including two organizations released freely and the rest 18 individuals allowed resisting by court but their charge changed from Anti-Terrorism Law to ordinary criminal code of law.

Opposition groups attempting to hold demonstrations have also been subjected to unwarranted interference, including mass arrests, under the umbrella of 2009 Anti-Terrorism Law. For example, on 16 July 2013 at least 40 members of the opposition UDJ were arrested in Addis Ababa. The arrests occurred as UDJ party members publically distribute pamphlets encouraging people to sign a petition calling for the release of imprisoned activists (UDJ human rights report, 2013). Dr. Negaso Gidada, former FDRE and opposition UDJ president confirm this view by saying that, “arbitrary arrest of opposition is normalized in Ethiopia especially since the controversial 2005 elections while the 2009 Anti-Terrorism Law legalize this acts.” He also confirms as he is imprisoned for half day while initiating people for peaceful demonstration around Sheromeda, in Addis Ababa⁴³.

Dr. Negaso further explains that the incumbent government criminalizes public demonstration by provoking ambiguous phrase of, ‘serious interference or disruption of public services’ enshrined under Article 3 of the Anti-Terrorism Proclamation. This open an opportunity for government to ban all peaceful demonstrations, said Dr Negaso⁴⁴. HRW in its 2012 report admitted this view by stating that, ‘serious disruption’ under the 2009 Anti-Terrorism Law, open a broad interpretation and makes illegal disruption of transport services caused by demonstration as terrorist acts (HRW, 2012).

3.1.6. FREEDOM OF EXPRESSION AND OPINION

Freedom of expression and opinion is recognized by almost all international instruments as multi-faceted rights that include much more than merely the right to express or disseminate

⁴³ Interview with Dr. Negaso Gidada, former FDRE and opposition UDJ president, April 9, 2014, Addis Ababa.

⁴⁴ *Ibid*

information and ideas (Commonwealth Secretariat, 2002). The right to freedom of expression is guaranteed in very similar terms by article 19 of UDHR, a UN general assembly resolution, Article 19 of ICCPR and Article 29 of FDRE Constitution. For example, the FDRE Constitution Article 29 reads as follow;

- (1) Everyone has the right to hold opinions without interference....(2) everyone has the right to freedom of expression without any interference. This right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any media of his choice.....(3) freedom of the press and other mass media and freedom of artistic creativity is guaranteed. Freedom of the press shall specifically include the following elements: prohibition of any form of censorship [and] access to information of public interest.....(6) these rights can be limited only through laws which are guided by the principles that freedom of expression and information cannot be limited on account of the content or effect of the point of view expressed...

Likewise, it is illegal under international human rights law for any form of expression concerning terrorism or any form of violence can be prohibited unless it is clearly intended to directly incite such conducts. It is underlined that any such restriction for the purpose of preventing terrorism is closely linked to prevent imminent violence (Commonwealth Secretariat, 2002).

Under the ‘Johannesburg principles’, a set of principles on freedom of expression and national security developed by a group of experts from around the world and endorsed by the UN special rapporteur on freedom of opinion and expression claim that restriction on freedom of expression in the name of national security may be imposed only where the speech was intended to incite imminent violence and there is a direct and immediate connection between the expression and likely hood or occurrence of such violence (UN, 1996). The Johannesburg principle under principle No 7 (a (i)) further provides that expressions like advocates non-violent change of government policy or the government itself shall not be considered as a threat to national security or subject to any restrictions.

In line with this, Dan Yirga, HRCO senior human rights officer describe that the Ethiopian journalists are forced to practice self-censorship by fearing Anti-Terrorism Law while journalism is not possible in the condition of fear⁴⁵. However, the researcher’s attempt to ask the opinion of Ethiopian private media journalists on Ethiopia’s Anti-Terrorism Law is unsuccessful. The

⁴⁵ Interview with Dan Yirga, HRCO senior human rights officer, March 13, 2014, Addis Ababa.

researcher tried to interview journalists from Sandeq and Afro-times newspapers, but after a prolonged appointment, the journalists from both news papers decline to express their views on the 2009 Ethiopian Anti-Terrorism Law.

Nonetheless, the researcher tried to review different publications dealing with the views Ethiopian private newspapers journalists and bloggers have had on Ethiopian Anti-Terrorism Law and the result reveals that the private media's journalists express their worries of the 2009 Ethiopian Anti-Terrorism Law spread the seed of fear to journalists. For example, IPI/WAN-IFRA press freedom missions joint report (2013), IJCSL Newsletter, 2009 and CPJ, 2010 explain repeatedly as the Ethiopian Anti-Terrorism Law stifles private journalists and bloggers by citing Ethiopian journalists who express their worries in secret by fearing persecution under the legislation.

On the other hand one ETV senior journalist describes that the current Ethiopian Anti-Terrorism Law is a law that promulgated to protect human rights. It never violates the rights of journalists. The informant further explain that both the private and government owned media's in Ethiopia are at infant stage in case of loudly speaking about public problems. However, despite a few private Medias which try to base their publication on evidences and balanced position, said the informant, many of the private Medias in Ethiopia always took the extreme position and focuses on publication about resistance to the current government. Thus, the informant concluded that many of the private journalists have their own problem, in which they are partial against the government. They always publish condemning the government and the criticism toward the current Anti-Terrorism Law is not new but the extension of their condemning without evidences⁴⁶.

In practice, number of journalists and human rights defenders exposing human rights violations or discussing sensitive topics have been arrested and detained to prevent from continuing their work under broad and vague phrases found in the 2009 Anti-Terrorism Proclamation. The legislation, which severely restricts freedom of expression, has had chilling effect among independent media in the country (CIVICUS, EHAHRDP and HRCO, 2013).

⁴⁶ Interview with ETV journalist, name confidential, April 22, 2014

Analysis of the data reveal that the government has repeatedly invoking the law as justification for its unprecedented crackdown on independent dissent. To date many people (no official number known) have been convicted under this law, including opposition figures, Ethiopian and international journalists, UN staff and civil society activists many of them in absentia (*Ibid*). Since, 2011, 12 journalists have been convicted of terrorism, making Ethiopia the second largest prisoner of journalists in Africa⁴⁷, save the current journalists detained whose case is not identified. Many other journalists have fled the country in fear of accused under Anti-Terrorism Law (HRCO, 2013).

Adding Dr. Negaso explain that it is evident sign of the government's effort to silence independent criticism, many of the accused were arrested as a reprisal for reporting on government human rights violations and calling for democratic reforms⁴⁸. Among other evidence cited during the trial were published articles discussing the Arab Spring and article critical of government policy. For example, on 14 September 2011, prominent journalist and human rights activist Eskinder Nega was arrested shortly after writing an article condemning the Ethiopian government's use of the country's 2009 Anti-Terrorism Law to persecute those who express dissenting views. In support of this view, Dan Yirga, HRCO senior human rights officer, explains that criticizing the 2009 Anti-Terrorism Law and working with opposition by itself is seen as terrorist acts by Ethiopian government⁴⁹.

3.1.7. THE RIGHTS OF PRISONERS AND PRISONS CONDITIONS

Article eight of the UN standard minimum rules for the treatment of prisoners states that 'the different categories of prisoners shall be kept in separate institutions or part of institutions taking account of their sex, age, criminal records, the legal reason for their detentions and the necessities of their treatment' (UN, 1995). Another important international human rights instrument applicable for prisoners is the convention on 'Basic principles of the treatment of prisoners' Article one of the convention reads as 'all prisoners shall be treated with due respect

⁴⁷ According to the report of the committee to protect journalists (CPJ), sighted in 2013 Amnesty international report, Ethiopia is the 2nd highest number of journalists in jail in Africa next to Eritrea and the 8th biggest jailer of journalists in the world

⁴⁸ Interview with Dr. Negaso Gidada, former FDRE president and opposition UDJ president, April 9, 2014, Addis Ababa.

⁴⁹ Interview with Dan Yirga, HRCO senior human rights officer, March 13, 2014, Addis Ababa.

to their inherent dignity and value of human beings.’ Also, the FDRE Constitution under Article 21 reads as:

- (1) All persons held in custody and persons imprisoned upon conviction and sentencing have the rights to treatments respecting their human dignity [and] (2) all persons shall have the opportunity to communicate with and to be visited by, their spouses or partners, close relatives, friends, religious councilors, medical doctors and their legal counsel.

Given the abovementioned principles and legal guarantees, EHRC has found in its report as the general human rights conditions in prisons are improving. There is improvement in categorizing prisoners or detainees, between juveniles and adults, men and women, pre-trial detainees and convicted prisoners in federal prisons. The medical care has also shown advancement while the sanitary is still inadequate. However, there are still prisons where prisoners overcrowded, especially in sleeping room. Water shortages caused unhygienic conditions and most prisons lacked appropriate sanitary facilities, according to the 2012 EHRC report. Some problems, such as shortage of food and clean water have been reported by many prisons. Lack of separating prisoners based on criminal records, legal reasons for their detention and the necessities of their treatment is also another problem in Ethiopian federal prisons⁵⁰.

Furthermore, the US state department report of 2012 describes prisons condition in Ethiopia as life threatening especially during pre-trial investigation and for selective detainees. The US state department explained its worries of authorities beating prisoners and insufficiencies of medical attentions following beatings. Also, mentioned the report, there was overcrowding in sleeping quarters, lack of sufficient food, water and health care in which many prisoners, Supplemented food scarcity with daily food deliveries from family members or purchasing food from local vendors, although the authority prevented some prisoners to do so (US Department of State, 2012). One of the informants from families of detainees of terrorist acts admit this report by mentioning that in Zuway prison, only one hundred birr per month permitted for detainees of terrorist acts to receive from his/her visitors⁵¹.

Prisoners have limited access to potable water, unhygienic conditions and most prisoners’ lack appropriate sanitary facilities. Many prisoners had serious health problems in detention but

⁵⁰ An interview with former Macca-Tulama self help association board members released from prisons, name confidential, April 7, 2014

⁵¹ Interview with one of the families of suspects of terrorist acts, name confidential, April 1, 2014, Addis Ababa.

receive little treatment. Using the information released by FDRE Ministry of Health, the 2012 US department state report describes that 62 percent of inmates in various jails across the country suffered from mental health problems as a result of solitary confinement, overcrowding and lack of adequate health care facilities and services (US state department, 2012).

One of the informants who was released from Kilinto prison describes the problems of health services in federal prisons in two ways: the first problem is lack of willingness to give treatment for detainees and delay in giving services, especially for detainees accused of terrorist acts and related crimes. The second problem is lack of enough professionals in prisons clinics. For all patients, they gave the same medicine⁵². In support of this one of the informants from the families of accused of terrorist acts mentioned that there is no diversified medicine in prisons clinics, for all prisons the same tablet is given as well as the prisons administrations intentionally delay the treatment⁵³.

Also, the federal prisons administration does not permit the visit of international observers, international human rights organizations and diplomats (US state department, 2012). In near, time only EHRC and Justice for All Prisoners Fellowship in Ethiopia (JFA-PFE) are permitted to visit, although one of the informants who released from prisons claim that the EHRC representatives are not independently deals with human rights since they accompanied with officials of FPCIS and their visits are not more than formality⁵⁴. Furthermore, the US department of state admit this argument by describing the situations as follow; “there were reports that the federal police commission and EHRC sometimes investigated allegations of abuse, although detainees discussion with them were not done in private, which could limit their ability to speak freely” (US State Department, 2013:4).

Amnesty International in its 2014 press release entitled ‘opposition leaders denied medical treatment: Olbana Lelisa and Bekele Gerba are being denied medical treatment,’ enriched the various reports associated with problem of medical treatment in Ethiopian federal prison by

⁵² Interview with former Mecca-Tulama self-help Association board member, name confidential, April 7, 2014, Addis Ababa.

⁵³ An interview with one of the family members of detainee accused of terrorist acts, name confidential, April 1, 2014 and Ibid

⁵⁴ Interview with one of the member of 17 Muslim affairs fact finding committees, name confidential, March 27, 2014

explaining that ‘the two men were moved from Ziway prison to Kaliti prison, reportedly after the doctor in Ziway referred the two men for hospital treatment, however, since the transfer, the two men have been denied access to a hospital (AI, 2014).

In addition to the above mentioned problems in Ethiopian federal prisons, the detainees accused of terrorist acts and related crime face additional psychological, social, economical and physical abuses.⁵⁵ Prisoners charged with terrorist acts and related crimes were blocked to contact with their family members, at the initial stage of their detention and restricted while at regular prisons. There were also reports those charged with terrorist activities were denied visits with their lawyers or representatives of their political parties to which they belonged. (US state department, 2013).

Also, the time to be visited by their friends, relatives, legal counsels and families different from others and short for detainees suspects and sentences of terrorist acts. For some, the number of people visiting is restricted and there should be prior notification. For example, the number of people visiting Reyot Alemu is limited including her sister, said Blue Party head financial affairs⁵⁶. As informants told the researcher, suspects of terrorist acts can contact with their relatives 10 minutes a day and later this time increase to 30 minutes on Saturday and Sunday.

Two of the informants from 17 Muslim Arbitration Committee members acknowledge this report by confirming that they were contact with their families after one month when the investigation process is at last stages, in FPCIS. ‘Until one month, we never contact with our relatives and we do not know whereabouts of our families and the same too them,’ the informants said. The only thing is the police brought a food and told us it is from Mr. ‘x’’. In the same way two of the informants confirm that they never contact with their legal counsel during their stay in Maekelawi for four months while one informant acknowledge as he contact with his lawyer twice when he was there. The EHRC chief commissioner also admitted these problems in its replay letter to HRW request. Furthermore, Gebru G/Mariam, secretary general of Medrek mentioned that the higher officials of their party is blocked from visiting their members accused of terrorist acts and related crimes.

⁵⁵ An interview with 5 detainees accused of terrorist acts and related crimes and released from prisons.

⁵⁶ Interview with Waretaw Wassie, Blue Party head financial affairs, March 24, 2014, Addis Ababa.

The EHRC report of 2012 further mentioned as favorable conditions have been created for detainees to engage in income generating activities to support themselves and their families. However, the informants released from prisons explain that detainees' suspects and sentences of terrorist acts are prohibited from engaging in income generating activities and different committees organized in prisons. Former OFC youth league vice president⁵⁷ told the researcher as he elected as one committee leader in kaliti Zone 2 but refused by prison administration since he was sentenced on the grounds of terrorist acts. The same person confirmed to the researcher as he is prohibited from engaging in income generating activities for the same reason. All of the informant released from prison and their families' member the researcher interviewed acknowledge this argument⁵⁸.

But, the most worrying aspect of the 2009 Anti-Terrorism Law is, said the former prisoners, spillover effect to political prisoners, although the incumbent government denied the existence of political prisoners in the country. Though some court charges not linked with terrorist acts mentioned in the 2009 Anti-Terrorism proclamation, many political prisoners are called as terrorists in prisons, said the informants⁵⁹. All political prisoners are claimed as terrorists irrespective of court charges and reaching at court alone enough to be convicted, no examining of witnesses,' mentioned one of former prisoners⁶⁰.

Also, describes the informant, the disciplinary measures in federal prisons especially for detainees of suspects of terrorist acts are illegal. 'If one detainee do wrong no one can take him to court or other administrative office rather the police kick, beat or take other ill-treatment or measures'. AI in its April 2014 suggested recommendations to states considered in the 19th rounds of Universal Periodic Reviews admitted the existence of illegal disciplinary measures in federal prisons by recommending that 'the government should ban disciplinary measures in prisons which constitute torture or other ill-treatment. EHRC also confirms the existence of

⁵⁷ Interview with former OFC youth league vice president, name confidential, March 30, 2014, Addis Ababa.

⁵⁸ Interviews with 5 persons released from prisons.

⁵⁹ Interviews with former Macca-Tulama self-help Association board member, name confidential, April 7, 2014, former OFC youth League vice president, name confidential, March 30, 2014, as well as the 69 prisoners letter entitled as 'To the FDRE Prime Minister Office' and 'To whom it may concerned', Addis Abab.

⁶⁰ The informant said that there is a professional witnesses who repeatedly witnessed on Oromo's suspects of OLF terrorist acts. For example, the informants told the researcher, Labata Tufa, former OFC member, Mohammed Fato, student previously dismissed from Arat Kilo and Tekle Melese from Wollega are constant witnesses against Oromo political prisoners. They are individually witnessed against at least 200 individuals. The two letters written by these 69 persons also, confirm this view except there is no the name of Labata Tufa in both letters.

illegal disciplinary measures in Ethiopian prisons in general and including federal prisons in its 2012 prisons condition primary report.

To sum up the analysis of the data reveal that the 2009 Ethiopian Anti-Terrorism Law, when viewed as a whole, represents a broad and vaguely defined government powers to investigate, detain and prosecute individuals at the expense of due process, judicial oversight and public transparency. Thus, the rights of accused and arrested persons FDRE Constitution and international covenants provided to Ethiopian citizens like the right to presumption of innocence, fair trial, speedy and public hearing, the right not to be compelled to testify against them, to examine witnesses testifying against them, to adduce or to have evidence produced in their own defense and to obtain the attendance of an examination of witnesses on their behalf before the court was threatened by the application of the 2009 Ethiopian Anti-Terrorism Law. Also, the Ethiopian courts do not show impartially in dealing with case of suspects of terrorist acts.

Furthermore, the government has been widely accused of restricting the freedom of expression, association, demonstration, assembly and petition of citizens using 2009 Anti-Terrorism Law as justification. The right to privacy is violated when NISS got discretionary power under 2009 Anti-Terrorism Law as well. Above all the main impacts of the Ethiopian Anti-Terrorism Law is its spreads of the seed of fear to politically active citizens. The researcher personal observation at a time of data collection reveals that all peoples irrespective of political differences, professional backgrounds and other differences have one stands on Ethiopian Anti-Terrorism Law, all fear to speak loudly about this legislation.

CHAPTER FOUR

ETHIOPIAN ANTI-TERRORISM LAW AND HUMAN RIGHTS AT CROSSROADS: AN APPRAISAL

The advent of counter-terrorism law as a major international objective after 9/11 and subsequent outsourcing of the obligation to criminalize and punish terrorists to states brought a new challenge to human rights basically civil and political rights. The analysis of certain countries Anti-Terrorism Laws especially in developing countries shows two major impacts of Counter-Terrorism Law on human rights. The first impact is the post September 11 Anti-Terrorism Law is broad and gives discretionary power to police and security forces which intern lead the arbitrary violation of the fundamental rights of suspects of terrorist acts. The second and most worrying aspect is some developing countries are using Anti-Terrorism Law as a cover to control political dissent, civil society, media and individual activists critical of government (Hoffman, 2004). The next sections shed lights on the general impacts of the 2009 Ethiopian Anti-Terrorism Law by discussing its contradiction with FDRE Constitution and international human rights convention as well as its practical impacts on political dissents, civil society, media and individual activists critical to government.

In chapter three the researcher discussed the possible impacts the 2009 Ethiopian Anti-Terrorism Law has had on civil and political rights using existing secondary sources and key informants interviews. The next sections shed lights on an appraisal of the 2009 Ethiopian Anti-Terrorism Law-human rights nexus in its broad sense by discussing its connections with FDRE Constitution and International Human Rights Conventions adopted by Ethiopia as well as its far reaching impacts on political dissents, civil society, media and individual activists critical of government.

4.1. THE NEXUS BETWEEN THE 2009 ETHIOPIAN ANTI-TERRORISM LAW AND BILL OF HUMAN RIGHTS IN ETHIOPIA

As reports of many international and national human rights organizations and the informants views show, the 2009 Ethiopian Anti-Terrorism Proclamation contains provisions which contravene the pillar of human rights provisions of both FDRE Constitution and International Human Rights Convention ratified by Ethiopia while the government argued that the proclamation is a response to clear and present terrorist threats to Ethiopia which promulgated in global standards by adopting the experience of USA, UK and Germany.

Thus, analyzing and reviewing the 2009 Ethiopian Anti-Terrorism Proclamation provides a number of sections of the proclamation that destabilize international protection and promotion of human rights. However, the next sub-sections begins with a discussion on the major provisions of the Ethiopian Anti-Terrorism Proclamation those have a direct bearing on the promotion and enjoyment of human rights: definition of terrorism and terrorists acts, encouragement of terrorism, expansion of police power without due processes, long pre-trial detention period and permissible rules of evidences and proscription without judicial review and due processes.

4.1.1. DEFINITION OF TERRORISM AND TERRORIST ACTS IN THE ETHIOPIAN ANTI-TERRORISM LAW

Following the imposition on states of the obligation to criminalize and punish terrorism, states have increasingly adopted broad and vague definition of terrorism in domestic legislation because of the absence of a comprehensive definition of terrorism agreeable to all (Article 19 law programme, 2010). The 2009 Ethiopian Anti-Terrorism Legislation is also not escaping this criticism. Article 3 of the 2009 proclamation stated terrorist acts as:

Whoso ever or group intending to advance political, religious or ideological causes by coercing the governments, intimidating the public or section of the public or destabilizing or destroying the fundamental political, constitutional or economic or social institution of the country....causes serious damage to property; causes damage to natural resources, environment, historical or cultural heritages; endangers, seizes or puts under control, causes serious interference or disruption of any public services;.....is punishable with rigorous imprisonment from 15 years to life or with death.

From the stand point of human rights, the most threatening aspects of this provision is its ambiguity and the inclusion of property crimes and disruption of public services committed

without any intent to cause death or serious injuries. Act of political dissent such as public demonstrations, non-violent marches and minor acts of violence committed in the contexts of political activism are categorized as terrorist acts carrying a penalty of minimum of 15 years imprisonment or death so long as they causes the results in sub-articles (4), (5) and (6) (HRW, 2009).

HRW further in its 2012 report argued that:

The definition of terrorism includes acts that do not involve violence or injury to people, such as property crimes and disruption of public services. The United Nations special rapporteur on counterterrorism and human rights has stated that the concept of terrorism should be limited to acts committed with the intention of causing death or serious bodily injury, or the taking of hostages, and should not include purely property crimes. In addition, permitting the death penalty for property crimes would violate the requirement under international law that the death penalty only be imposed for “the most serious crimes” (HRW, 2012b:4).

‘It is worrying that this law now risks further violating FDRE Constitution and Ethiopia’s obligations under international human rights laws,’ said Tamam A/Bulgu, lawyer and legal counsel⁶¹. He added that this Anti-Terrorism Law is expected to provide Ethiopian authorities with unnecessary far reaching power which could lead to further arbitrary arrests of all Ethiopians except the last man.

4.1.2. CRIMINALIZATION OF ‘ENCOURAGEMENT OF TERRORISM’ AND THE FATE OF THE MEDIA

Article 6 of Ethiopian Anti-Terrorism Proclamation defines ‘encouragement of terrorism’ as:

Whoso ever publishes or causes the publication of a statement that is likely to be understood by some or all of the member of the public to whom it is published as a direct or indirect encouragement or other inducement to them to the commission or preparation or instigation of an act of terrorism stipulated under article 3 of this proclamation is punishable with rigorous imprisonment from 10 to 20 years.

Many human rights organizations and scholars have reviewed and analyzed the 2009 Ethiopian Anti-Terrorism Proclamation and found that the interpretation in Article 6 of ‘encouraging terrorism’, threaten the internationally protected and promoted human rights-freedom of expression (AI, 2010, HRW, 2009, Abebe, 2012 and Seble, 2012). The Proclamation highly affects journalists and their sources and it highly forced them to provide only selected

⁶¹ Interview with Tamam A/Bulgu, lawyer and legal counsel, April 8, 2014, Addis Ababa.

information. They have no freedom of using and exposing information related to terrorism. The phrase ‘encouraging terrorism’ is vaguely defined and it will criminalize the peaceful exercise of the rights of freedom of expression. This law forced journalists to be silent from expressing their feelings and opinions on critical political issues (Article 19 Law Programme, 2010).

The inclusion of the terms ‘Encouraging,’ ‘advancing’ and ‘in support’ of terrorist acts whether there is a direct incitement to violence action or not, is lead to the conviction and sentence to ten to twenty years individuals who solely speak in favor of any of the ‘terrorist acts’. For example, in case of students participating in a peaceful demonstration looking for the influence of government policy and activity or even some only voicing support for such a demonstration without directly participating could be subject to a 10 to 20 years imprisonment (HRW, 2009). Many of the informants like Tamam A/Bulgu, Dr. Yacob H/Mariam, Dr. Dagnachew Asefa, Dr. Negaso Gidada and Habtamu Ayalew corporate with the argument indicated⁶².

Further adding Article 19 Law Programme (2010) commented that there is no legal definition of ‘encouragement’. The introduction of these penalties is likely to result in criminalization of lawful statements and chilling of political speech and debate. It is very clear that these prohibitions violate the rights to freedom of expression. The offenses of ‘direct or indirect encouragement’ or ‘other inducement’ are extraordinarily broad and vague offenses that fail the limitations for restrictions on rights required under international human rights law. “While ‘encouragement’ and ‘inducement’ are vague terms, indirect encouragement or other inducement is so vague as to without meanings (Article 19 Law Programme, 2010).

⁶² Interview with Tamam A/Bulgu, lawyer and legal counsel, Dr. Yacob H/Mariam, former CUD official and lawyer, Dr. Dagnachew Asfaw, University Professor, Dr. Negaso Gidada, former FDRE President and opposition UDJ President and Habtamu Ayalew, UDJ head public relations on April 8, 7, 7, 9 and March 11, 2014 respectively, Addis Ababa.

4.1.3. THE POWER OF POLICE AND SECURITY OFFICERS: IMPLICATIONS FOR DUE PROCESSES

The 2009 Ethiopian Anti-Terrorism Proclamation provides police unlimited powers without due process in many Articles. Among others Article 14 about gathering information, Article 16 about sudden search, Article 17 and 18 about covert search, Article 19 about power of arrest, Article 21 about duty to give samples and Article 22 about duty to give information are inter alia the main articles a raise question of police power-due process nexus.

The Article 14 ‘gathering information’ gives broad powers to the NISS to conduct electronic surveillance of telecommunications. Using Anti-Terrorism Proclamation as pretext, NISS search the mobile, e-mail address and websites of opposition without court warrant, said Gebru G/Mariam, Mederek secretary generals. From the informants Habtamu Ayalew, UDJ head public relations, Dr. Negaso Gidada, former FDRE and opposition UDJ president, Tamam A/Bulgu, lawyer, Waretaw Bassie, Blue party head financial affairs and Dr. Yacob H/Mariam, former CUD member and lawyer were admit this view by explaining their worry of the NISS arbitrary interference in privacy of opposition political parties and activists using Anti-Terrorism Law as justification⁶³.

Also, Article 16 of the proclamation provides that, “where a police officer has reasonable suspicion that a terrorist act may be committed and deems it necessary to make a sudden search in order to prevent the act...” Here, the concept of “reasonable suspicion..... and....deems it necessary” is ambiguous and open to abuse, said lawyer⁶⁴. “In a country where the police see opposition as enemy of the country and believe in force, this provision opens the opportunity for police to search the house, vehicles and correspondents of a person whom they deem critical to government,” said Habtamu Ayalew, UDJ head public relations. Tamam A/Bulgu, lawyer, also agree with this view by mentioning that reasonable suspicion is legally vague and open for interrogation⁶⁵.

⁶³ *Ibid*

⁶⁴ Interview with lawyer of Muslim committees, name confidential, April 8/2014

⁶⁵ Interview with Habtamu Ayalew, UDJ head public relations, March 11, 2014 and Tamam A/Bulgu, lawyer and legal counsel, April 7, 2014, Addis Ababa.

Article 17 and 18 also give broad power to police to conduct covert searches without any explicit protection for confidential information held by the media, lawyers, religious officials or other persons who are internationally recognized as a legal obligation to protect confidential information (Article 19 Law programme, 2010). The power of arrest stated in Article 19 (1) of the proclamation read as “the police may arrest without court warrant any person whom he reasonably suspects to have committed or is committing a terrorist act as provided under this proclamation.” Furthermore, Article 21 of the proclamation proclaims the duty to give samples;

The police may order a person suspected of acts of terrorism to give samples of his hand writing, hairs, voice, finger print, photograph, blood, saliva and other body fluids, for investigation. Moreover, he may order the suspects to undergo medical tests. If the suspect is not willing for the test, the police may use necessary and reasonable force to take samples.

From point of views of law the ‘necessary and reasonable force’ is vague and ambiguous, which open an opportunity for abuse. ‘What is reasonable force? It may be torturing for some polices while it may be beating detainees by gun putts for others,’ said Habtamu Ayalew, UDJ head public relations⁶⁶. Furthermore, Article 22 of the proclamation provides the duty to provide information as, “the police may request from any government institutions, official, bank or a private organization or an individual’s to be given information or evidence which he reasonably believes could assist to prevent or instigate terrorism cases. Any one so requested shall have the duty to give information or evidence.” This provision also gives discretionary power for police to get any secret information without limitation, mentioned by Yacob H/Mariam, former CUD official and lawyer⁶⁷.

4.1.4. PROLONGED DETENTION AND QUESTIONS ABOUT THE CREDIBILITY OF EVIDENCES

In addition to the broad definition of terrorism and questionable phrase of ‘encouraging terrorism’, the provisions on pre-trial detention and rules of evidence during trial is equally under question. Although the FDRE Constitution provides the rights to be brought before a court within 48 hours of arrest, the merit of this right is devalued by a provision that allows the police to detain the person without charges for up to four months by requesting additional investigation periods of minimum of 28 days each (Proclamation No 652/2009, Article 20 (3)). This is in

⁶⁶ *Ibid*

⁶⁷ *Ibid*

violation of international human rights law which guarantees the right of arrested persons to be promptly brought before a judicial authority and charged. This de jure permission of long pre-trial detention is likely to lead to even further abuses.

‘Using this gap the federal police begin to arrest first and going to find evidence later, in violation of the principal rule of police function,’ said Dr. Negaso Gidada, former FDRE and opposition UDJ President⁶⁸. One of FPCIS senior official also admitted the problem linked with long pre-trial under Anti-Terrorism Law by mentioning that there is no problem with 2009 Ethiopian Anti-Terrorism Law except a provision which allow a police to request 28 additional days of investigation up to four months⁶⁹.

Another concerning aspect of the proclamation is that it sets highly lenient standards of evidence for terrorist cases. Article 23 of the Ethiopian Anti-Terrorism Proclamation read as:

Without prejudice to the admissibility of evidences to be presented in accordance with the criminal procedures, code and other relevant legislations, the following shall be admissible in court for terrorism cases; (1) intelligence reports prepared in relation to terrorism, even if the report does not disclose the sources or the method it was gathered; (2) hearsay or indirect evidence.....

The proclamation allows hearsay as admissible evidence in all cases without limitations. Dr. Negaso Gidada mentioned that the admissibility of hearsay as evidence in court lead to the arbitrary punishment of people. It goes as far as permitting the use of torture to obtain evidence by allowing intelligence reports be used as evidence without the report having to disclose the source of the intelligence and method it was gathered in⁷⁰. Furthermore, Article 32 of the proclamation proclaims protection of witnesses as:

- (1) where the court, on its own motion or on an application made by the public prosecutor or by the witness, is satisfied that the life of such witness is in danger.....(b) [avoid] ...the mention of the names and addresses of the witnesses in its orders, judgments and in the records of the case...

This provision is criticized as it is believed to open an opportunity for police to use unknown persons as witnesses against detainees and one person against many detainees with different

⁶⁸ Interview with Dr. Negaso Gidada former FDRE and opposition UDJ president, April 9, 2014, Addis Ababa.

⁶⁹ Interview with one senior official from FPCIS, name confidential, March 22, 2014, Addis Ababa.

⁷⁰ Interview with Tamam Abbaa Bulgu, lawyer and legal counsel, April 8, 2014 and lawyer of Muslim affair fact finding committee, name anonymous, the same day.

names. For example, the witness against one of the member of 17 Muslim affairs Arbitration Committee's and former OFC youth league vice president, did not know them. When the judge ask him show me Mr. 'x', the witness shows Mr. 'y', in both cases⁷¹. Adding, the informants said that there are professional witnesses who are permanently witnessed against detainees of terrorist acts, especially against Oromo's suspects of OLF terrorist acts using this Article as the green lights⁷².

4.1.5. PROSCRIPTION OF 'TERRORIST ORGANIZATION': THE QUESTION OF JUDICIAL REVIEW AND DUE PROCESS

Article 25 of the Anti-Terrorism Proclamation provides:

The house of peoples' representatives shall have the power, upon the submission by the government, to proscribe and de-proscribe an organization as terrorist organization' [and] 'Any organization shall be proscribed as terrorist organization if it directly or indirectly: commits act of terrorism, prepares to commit act of terrorism, supports or encourages terrorism or is otherwise involves in terrorism.

International and national human rights organizations explain their worries concerning lack of due process in proscription of an organization as terrorist organization. The power to proscribe terrorist organization is given to HPR, a law making organ of the federal government. "Given the legacy of the government's label targeting political parties and civil society organizations, this poses a serious threat to the space for political dialogues in the country", said Dr. Yacob H/Mariam, former CUD official and lawyer⁷³. With this legacy, the enactment of the law alone is enough to silence government critics with no need for the government to actually start proscribing organizations under this provision. What is more, the decision of the HPR does not afford due process and not subject to judicial reviews or oversight. This is a violation of the right to be heard and the right to judicial reviews (HRW, 2010 and AI, 2009). In similar vein one lawyer of Muslim committee mentioned that lack of safeguards against abuse of proscription and

⁷¹ Interview with one member of Muslim affairs Arbitration committee, name confidential, March 27, 2014 and interview with former OFC youth league vice president, name confidential, March 30, 2014. Both are released from prisons.

⁷² Interview with one of the Macca-Tulama self help association board member, name confidential, April 7, 2014 and Ibid.

⁷³ Interview with Dr. Yacob H/Mariam, former CUD official and lawyer, April 7, 2014, Addis Ababa.

the inclusions of the term ‘support and encouragement’ seriously discourages strong political criticism and opposition in the country⁷⁴.

Likewise, Tamam A/Bulgu, a lawyer describes that giving absolute power of proscribing for the government leads to the proscription of all strong opposition in the country. Also, he said that proscription by nature is the power of the court, not of the legislative or executive. On the other hand, Dr. Negaso Gidada, former FDRE and opposition UDJ president viewed the provision positively. He explains that giving proscription power to the HPR is good because the house has the highest power in the country.

4.2. ETHIOPIAN ANTI-TERRORISM LAW AND ITS IMPLICATION TO HUMAN RIGHTS DEFENDERS AND ACTIVISTS

Although, states are the principal actors, the role of human rights advocates and civil society organizations in ensuring the realization of human rights and complementing democratic and development efforts both at national and international level cannot be underestimated (Cakmak, 2004).

At the international level the UN general assembly resolution on human rights defenders reaffirmed that individuals, groups, institutions and non-governmental organizations have an important role and responsibility in “safeguarding democracy, promoting human rights and fundamental freedoms and contributing to the promotion and advancement of democratic societies, institutions and process”. Accordingly, the Declaration recognizes the right “individually or in association with others to promote and to strive for the protection and realizations of human rights and fundamental freedoms both at national and international levels” (UN, 1990).

At the African level, the African Commission on Human and People’s Rights recognized, “the crucial contribution of the work of human rights defenders in promoting human rights, democracy and rule of law”. The FDRE Constitution also guarantees the right to association of every one for any causes or purposes. In contrary to these legal guarantees, the Ethiopian government is condemned as discontent towards CSO and individual activists, especially against

⁷⁴ Interview with one lawyer of Muslim affairs Arbitration Committee, name confidential, April 8, 20014, Addis Ababa.

those who work on politics, sharpened particularly following the active role of CSOs during May 2005 elections.

Thus, the situation facing human rights defenders in Ethiopia has significantly deteriorated following the disputed elections of May 2005 and the subsequent demonstration of November 2005. In the aftermath of November demonstration, 131 Coalition for Unity and Democracy (CUD) including several human rights defenders were officially charged with crimes of genocide, treason and attempt to overthrow constitutional order by force (Lyons, 2011). Since then the Ethiopian government pressure human rights defenders especially journalists to practice self-censorship using different legislations ⁷⁵(EHAHRDP, 2008).

The 2009 Ethiopian Anti-Terrorism Law was one of the post 2005 legislations which claimed as a law that severely undermine civil society and independent media which are the back bone of promotion and protection of human rights, along with Charities and Societies proclamation. “It spreads fear and official restrictions to prevent human rights defenders (HRD) from engaging in international mechanism” (ISHR, n.d). The proclamation gave new powers to the government to arrest those deemed disloyal including journalists who step beyond the bounds of politically acceptable reporting or commentary. This law prosecutes journalists for reporting about or interviewing those deemed terrorists (IPI/WAN-IFRA, 2013). AU rapporteur on freedom of expression, Pansy Tlakula, as cited in IPI report claims that the Ethiopian government used the Anti-Terrorism Law to “clampdown on free expression, particularly against those who are critical of the government.”

Moreover, the IPI/WAN-IFRA joint report mentioned that journalists are practicing self-censorship within the domain of what is politically acceptable by fear of prosecution under the 2009 Anti-Terrorism Law (IPI/WAN-IFRA, 2013). AI, HRW and HRCO confirms this views in their reports and press releases at different time by claiming that journalists and activists convicted under 2009 Anti-Terrorism Law as political prisoners and prisoners of consciences. While the government responses that the private media in Ethiopia are biased, irresponsible and seditious and international human rights organizations like AI and HRW are agents of anti-Ethiopian forces.

⁷⁵ For example charities and societies law, freedom of mass media and access to information proclamation and anti-terrorism proclamation

Furthermore, HRW in its 2012 report, summarize its worry of the impacts of Anti-Terrorism Law on human rights defenders as, “it is nearly impossible or unsafe to work as human rights defenders in Ethiopia because one risks being jailed under the accusation of being terrorist or enemy of the state” (HRW, 2012).

Dan Yirga, HRCO senior human rights officer, admit this report by mentioning that this law violates the right of free expression, association and demonstration. Even, said Dan, criticizing the constitutionality of Anti-Terrorism Law by itself perceived as terrorist act by the government⁷⁶. Abebe also confirm the impact of Ethiopian Anti-Terrorism Law on human rights defenders and opposition political parties by explaining that there is arguably no other country in the world where Anti-Terrorism Laws have almost exclusively been applied against journalists and opposition political party members (Abebe, 2012).

Moreover, HRW argued that the Anti-Terrorism Law severely restricts the rights to freedom of opinion and expression of human rights defenders, because of its overly broad definition of terrorist acts, which include acts of peaceful protest that result in the disruption of any public services. The law also as HRW explains, includes vague provisions that proscribe support for, or encouragement of, terrorism, which can include public reporting on banned terrorist groups. Dr. Yacob H/Mariam admits this report by mentioning that the Anti-Terrorism Law violates the right to free expression, assembly, association and the right of thought and opinion. Also, said Dr. Yacob, the worry of HRW, AI, article 19 law programme and other international human rights organization on the impacts of Ethiopia’s anti-terrorism law is admissible.

Consequently, the existing realities are, the continued habitual accusations of media of affiliations to terrorist entities lead at least 41 Ethiopian journalists to have fled into exile in fear of conviction under Anti-Terrorism Law and 12 journalists are convicted of terrorist acts, save variation in number (CPJ, 2010)⁷⁷. “In December 2009, the private weekly newspaper Addis Neger, the leading independent political newspaper, with a circulation of 30,000, closed after several of its editors fled the country for fear of prosecution under the new Anti-Terrorism Law (IPI/WAN-IFRA, 2013). Abebe adds that, the whole staff of Addis Neger was forced to flee the

⁷⁶ Interview with Dan Yirga, HRCO senior human rights officer, March 13, 2014, Addis Ababa.

⁷⁷ For example, HRW puts down the number of journalists fled the country in fear of conviction under anti-terrorism law to 79.

country after they were warned of government plans to prosecute them under the Anti-Terrorism Law (Abebe, 2012).

This has seriously diminished the media's input in promotion of human rights and neutralized its role as a medium for channeling independent voices from different groups and providing a platform for dialogue. The intended use of the legislation is to give the government a potent tool in its 'ongoing war against dissents' and to the adverse implications for the promotion and protections of human rights in Ethiopia as well.

4.3. ETHIOPIAN ANTI-TERRORISM LAW AND ITS IMPLICATIONS TO OPPOSITION POLITICAL PARTIES AND ACTIVISTS

In May 2005 Ethiopia held an election which was dubbed as 'the most genuinely competitive election the country has experienced' (Lyons, 2011). Political opposition, civil society and media effectively exploited their first ever access to 'a limited but historical opening of democratic space' in the pre-election period (Arriola, 2011). However, the election was followed by 'the bloodiest electoral violence in the history of Ethiopia' (ICG, 2009). Dr. Negaso Gidada further explains that the opening hole of democracy in 2005 is not in open heart rather it is an attempt of EPRDF to get international attentions.

"Aftermath of the elections, the government devised a strategy of systematically closing down political space to make sure that the challenges it faced in 2005 do not surface again" (Merera, 2010). This systematic closing could be done using different legislations⁷⁸ mainly the 2009 Anti-Terrorism Legislation. Dr. Merera further argued that:

As soon as the EPRDF leaders recovered from their shock [of 2005 election crisis] they started to enact new laws whose objectives were to narrow down the political space for the opposition on the one hand, while organizing millions of young vigilantes to use against the opposition, on the other.

The 2009 Anti-Terrorism Law has been used to justify arrests of members and supporters of opposition political parties. In June 2011, the Ethiopian HPR officially proscribed OLF, ONLF

⁷⁸ Among the post 2005 Ethiopian legislations deemed have impacts on opposition political parties to discharge their political activities are: the amended electoral law No.532/2007, the political parties registration proclamation No. 573/2008, the freedom of mass media and access to information proclamation No.590/2008, the registration and regulations of charities and societies proclamation No. 621/2009 and the anti-terrorism proclamation No.652/2009. For more information see Merera, 010 and Abebe, 2012.

and Ginbot 7 as terrorist organizations and since then peaceful opposition political parties face great challenges from Anti-Terrorism Law. Government intimidates members and supporters of peaceful opposition political parties by linking them to abovementioned proscribed organizations (HRW, 2012).

FPCIS senior official confirm this arguments by mentioning that the main problem of terrorism in Ethiopia is terrorist organizations like OLF carried out terrorist attacks under the cover of OFC. Dr. Merera also admits the report of HRW by saying that whether peaceful organizations or armed forces, ‘we are the same for EPRDF’, it condemn all as terrorists and silence members and supporters of peaceful opposition political parties using the 2009 Anti-Terrorism Law⁷⁹.

Moreover, Abebe in his Article entitled ‘Rule by Law in Ethiopia: Rendering Constitutional Limits on Government Power Nonsensical’ explain his worries that the Proscription of the OLF, one of the biggest political parties during the Transitional Government of Ethiopia and Ginbot 7, part of the main opposition group during the 2005 elections, as terrorist organizations means that any politician who is in any way linked to those who are considered members of the groups is subject to terrorist charges. “Journalists who report on anything related to these listed organizations risk terrorism charges for directly or indirectly “encouraging” the listed organizations” (Abebe, 2012).

The fear of Abebe can also shared by opposition political parties leaders. For example, Gebru G/Mariam, Mederek secretary general explains that the Ethiopian government declares war of terror on opposition by equating all peaceful opposition political parties with armed organizations proscribed by HPR as terrorist organization like OLF. He further said that the government publically condemn legal opposition political parties as terrorist and spread the seed of fear to people⁸⁰.

Habtamu Ayalew, UDJ head public relations confirm this argument by saying that, the Ethiopian government views all oppositions and peoples critical to it as terrorist; having different political ideology or understanding from EPRDF is terrorist. He adds that the EPRDF regime equated

⁷⁹ Dr. Merera Gudina interview with OMN, April 16, 2014, available on youtube.

⁸⁰ Interview with Gebru G/Mariam, Mederek Secretary General, March 22, 2014, Addis Ababa.

peaceful political parties with armed one. The Blue Party head financial affairs, Waretaw Bassie, also admit this view⁸¹.

In support of the above arguments, EHAHRDP in its 2008 “Human Rights situations in East and Horn of Africa” report explained that, “since the elections of 2005 the government has come to perceive the political landscape in a binary manner and all form of criticism of the regime whether from the political opposition or members of civil society, as an attack on the state”.

BTI report of 2012 also admit the problems of Ethiopian opposition political parties in post 2005 election by explaining that “although, the Constitution guarantees freedom of association and assembly, the government did not allow opposition parties to organize freely or to campaign for new members and voters”. BTI report further confirm that before the parliamentary elections of 2010, several opposition party candidates were harassed or put into prison, with the government seeking to intimidate citizens away from siding with the opposition. The introduction of 2009 Anti-Terrorism Law and subsequent proscription of OLF, ONLF and Ginbot 7 as terrorist organizations serves as justification for government to silence opposition political parties’ members and supporters (BTI, 2012).

Moreover, Habtamu Ayalew, UDJ head public relations, mentioned that any serious challenges to EPRDF ideas by opposition leaders are equated with attempts to overthrow the government by force or with violating the Constitution, and are met with harsh sentences. Dr. Negaso Gidada admitted this view by saying that the EPRDF’s practice of intimidation and harassment of opposition political parties using Anti-Terrorism Law is a long lasting plan of the regime to crush any political parties with clear alternatives and this law gives the regime legal shadow to do so.

Long pre-trial detention without charge, often without access to legal counsel, is common, notably under the Anti-Terrorism Law which allows police to request additional investigation period of 28 days from court before filing charges, for up to four months. Also, the proclamation under Article 21 allowed police to search houses, vehicles and others if it deemed reasonable suspicion of terrorist acts. Using this legal cover, said Dr. Negaso Gidada, the government

⁸¹ Interview with Habtamu Ayalew, UDJ head public relations, March 11, 2014 and Waretaw Wassie, Blue Party head financial affairs, April 24, 2014, Addis Ababa.

arbitrarily imprisons opposition political parties' officials, members and supporters and search offices, houses and vehicles arbitrarily. Furthermore, the informants from Medrek, Blue Party and UDJ confirm this view by mentioning that the security police perform unwelcome visit to their office, intimidate their members and supporters using the green light the 2009 Anti-Terrorism Law gave them.

On the other hand, the FPCIS senior official mentioned that the peaceful opposition political parties basically Oromo based political parties are clandestinely working with OLF and OLF carried out terrorist attack under their umbrella. Yibekal Gizaw, head NHRAP, further adds that the Ethiopian opposition political parties who criticize the 2009 Anti-Terrorism Law are those who have another agenda on their backs⁸².

In practice, assail on the political opposition and dissent persisted throughout 2011, with mass arrests of members of political opposition and journalists. Since June 2011, more than 30 journalists and members and officials of opposition political parties, who are known for being critical of government, have been arrested after being accused of organizing terrorist networks, save the 200 Oromo's mass roundups at once and other people's suspects of terrorist acts at different times (HRW, 2013). For instance, Andualem Arage, UDJ Vice President, Bekele Gerba, OFC Vice President and Olbana Lelisa, OFDM spokesman are among the key opposition political parties convicted under this umbrella.

Many international and regional human rights organizations and the informants condemn the conviction of these peoples as prisoners of consciences. HRW and AI at different times condemn the Ethiopian journalists and opposition political parties convicted under Anti-Terrorism Proclamation as prisoners of consciences.

Habtamu Ayalew, UDJ head public relations mentioned that "Bekele Gerba and Andualem Arage, let alone, having rifles and other arms material, they have no enough pens and papers to do their day to day party activities." Dr. Negaso Gidada and Gebru G/Mariam also confirm this view by claiming that Andualem and Bekele are not opted for violence in their political position.

⁸² Interview with Yibekal Gizaw, head NHRAP, April 12, 2014, Addis Ababa.

To sum up the 2009 Ethiopian Anti-Terrorism Law has had far reaching impacts on political pluralism and promotion and protection of human rights in the country. The analysis of the data reveal that the Anti-Terrorism Proclamation seriously threatens political pluralism and the rights of human rights defenders especially journalists and political activists in Ethiopia.

CONCLUSION AND SUGGESTIONS FOR THE FUTURE

The transformation of Ethiopia from a unitary state to an ethnic federal state in 1991 was intended to herald a new era of human rights protection in the country. Human rights protection was supposed to receive maximum attention as the government's primary obligations under FEDRE Constitution, especially civil and political rights. One third of the FDRE Constitution deals with human rights. Also the FDRE Constitution further guarantees that the entire human rights convention ratified by Ethiopia as integral part of the Ethiopian law. Despite the introduction of a new human rights friendly Constitution and ratification of international and regional human rights conventions, as many scholars, human rights organizations reports and the informants' views show, the practice is otherwise. Contrary to the guarantees on fundamental rights and freedom as inalienable human rights, the incumbent government has been criticized for compromising these rights and the practice of human rights in Ethiopia is not brought great changes, especially on civil and political rights.

Violations of the rights to life, liberty and freedom from arbitrary arrest, right to privacy, prohibition of torture, freedom of association, assembly, demonstration and petition and rights related to criminal procedures were documented by different international, regional and national human rights organizations. Moreover, the 2005 elections crisis is the land mark in Ethiopian politics-human rights nexus.

As many reports and scholars papers show, the post 2005 Ethiopian legislations such as Freedom of Mass Media and Access to Information proclamation, Charities and Societies Proclamation and Anti-Terrorism Law were provided the government a legal cover to intimidate its opponents: opposition political parties, CSOs, HRD, media and individual activists critical to it. These proclamations gave legal cover for the government.

The 2009 Ethiopian Anti-Terrorism Proclamation provides government legal cover to impair the protection and promotion of human rights. It empowers police with unlimited power of arrest,

search and seizure. It grants the police to make arrest without warrant, as long as the police reasonably suspects that a person is committing or has committed terrorist act. Its ambiguous and vague definitions has provided a government a tool of infringing basic human rights like liberty, privacy, freedom of expression, association, demonstration, petition and assembly.

The law provides police and NISS discretionary power to investigate, detain and prosecute individuals at the expense of due process, judicial oversight and public transparency. The Proclamation also give legal cover for the admissibility of evidence obtained through torture by proclaiming the admissibility of NISS reports without disclosing the sources and method of gathering. Moreover, detainees suspects and convicted under the 2009 Ethiopian Anti-Terrorism Proclamation face additional psychological, physical and economical abuses.

The analysis of data of this thesis show that detainees suspects and convicted of terrorists acts did not be allowed to contact with their parents until the end of investigation periods, at regular prisons visiting time for them is odd from other and very short, ten minutes per day, Save 30 minutes on Saturday and Sunday. Also, detainees of terrorist acts are prohibited from participating in income generating activities and different Committees in prisons. In FPCIS some detainees of terrorist acts were ill-treated and imprisoned incommunicado, commonly known as *Challama bet*.

Furthermore, the analysis shows, the 2009 Ethiopian Anti-Terrorism Proclamation has had far reaching impacts on political pluralism and protection and promotion of human rights in the country. The proclamation provides the government with the tools to justify its intimidation of opposition political parties, CSOs, media and individual activists critical to government. The definition of ‘terrorist acts’ in Article 3 of the proclamation is broad and vague which allow the criminalization of peaceful political dissent such as demonstration, non-violent dissent and minor act of violence in the context of political activism. Such purpose of the law is accentuated by the legacy of the government’s practice allegation of terrorism against members of opposition parties, CSOs and media that has significantly narrowed the space for political pluralism and human rights defenders in the country by cultivating a climate of fear and repression.

The proscription system in the Proclamation is also worrying as the power to proscribe is given to a law making organ with no judicial review or oversight and subsequent proscription of ONLF, OLF and Ginbot 7 as terrorist organizations by HPR. This is concerning because the threat this poses to human rights in the country is evident given the legacy of members of opposition, CSOs and the media being accused of supporting OLF and Ginbot 7 terrorist activities.

Article 6 of the Proclamation entitled as ‘encouragement of terrorism’ is also equally vague and ambiguous which subject individuals to 10 to 20 years imprisonment for political speech and demonstration. Thus, the introduction of these penalties is likely to result in criminalization of lawful statements and frightening of political speech and debate, which in turn empower the government to silent political dissents and HRD to speak loudly. This law forced journalists to be silent from expressing their feelings and opinions on critical political issues as well.

As analysis shows, the new Anti-Terrorism Law has been used to silence critics and punish political dissents, HRD and media’s critical to government. The expanded law enforcement power’s allowed the incumbent to apply the label to any groups or individuals. Also the reduction of procedural requirements has led police to detain first and find evidence later. This is evident that, in Ethiopia, most of the detainees’ suspects and convicted under the 2009 Ethiopian Anti-Terrorism Law were journalists, HRD, opposition political parties and CSOs critical of government, save some other suspects. Hence in the nutshell suggestions of these finding are summarized as follow;

As many writers argued and the analysis of the data in this thesis show terrorist threats to Ethiopia are medium and mostly from domestic terrorist groups, which in the eyes of some scholars and politicians is regarded as political dissent. They argued that the main causes of this domestic terrorism or political dissent is lack of good governance, corruption, poverty, political and economic inequality and the absence of fair and free elections. Therefore, this suggested that the application of such law lead to the escalation of dissatisfaction which in turn leads to the increase in aggrieved parties. Hence, the Ethiopian government should begin to look into and solve the problems rather than keeping dissidents in prisons for prolonged period of time.

As analysis of the data show the 2009 Ethiopian Anti-Terrorism Law has vague and ambiguous provisions which are open for interrogation. Also, as government justification show, it is a direct copy of western Anti-Terrorism Law, from the countries which have high terrorist threats and strong democratic and human rights institutions. Thus, the finding suggested that there is the need to revise the 2009 Ethiopian Anti-Terrorism Law aligned with the standard of fear of terrorist threats Ethiopia has and the Country's institutional capacity.

Furthermore, the practice of this law reveals that most of the detainees prosecuted under 2009 Ethiopian Anti-Terrorism Law are Ethiopian journalists, opposition political parties' leaders, members and supporters, HRD and individual activities critical to government policy. These practice, if continued, intended to close the door of political pluralism and human rights protection and promotion in the country. Thus the finding suggested that the there is the need for pressuring the government to revise the application of Anti-Terrorism law which is promulgated to protected national security – state security to once own nations especially politically active citizens.

REFERENCE

BOOKS/ CHAPTER IN BOOKS

- Donnelly, Jack, (1993), *International Human Rights*, University of Denver, Boulder, Sanfransisco and Oxford: West View Press.
- Here, Y. wybo, (2003), *Terrorism and the Military: International Legal Implications*, The Hague, Netherlands: T.M.C Asser Press.
- Green, L.C (1976), 'Terrorism-the Canadian perspectives', in *International Terrorism: National, Regional and Global Perspectives*, ed. Yonah Alexander, New York: Praeger Publishers Inc.
- Qureshi, Saleen, (1976), 'Political Violence in the South Sub-Continent', in *International Terrorism: National, Regional and Global Perspectives*, ed. Yonah Alexander, New York: Praeger Publisher, Ink.
- Shinn. H. David, (2005), 'Ethiopia: Governance and Terrorism', in *Battling Terrorism in the Horn of Africa*, ed. Rotberg. I. Robert, Washington DC: Brookings Institution press.
- Summy Ralph and Senthil Ram, eds, (2008), *Non-violence: an Alternative for Defeating Global Terrorism*, New York: Science Publishers, Inc.
- Woldeeselase, Woldemicheal, (2011), *Terrorism in Ethiopia and the Horn of Africa: Threats, Impacts and Responses*, Addis Ababa: Rehobot Printers.

JOURNAL ARTICLES

- Abebe. Adem, (2012), "Rule by Law in Ethiopia: Rendering Constitutional Limits on Government Power Nonsensical", *CGHR working Paper 1*, Cambridge: University of Cambridge Centre for Governance and Human Rights.
- Adem, Kassie, (2011), "Human Rights under the Ethiopian Constitution: a Descriptive Over views", *Mizan Law Review*, vol.5,No.1.
- Aljazy, M. Ibrahim, (2010), "countering Terrorism and Protecting Human Rights: An Islamic and Arab League Dimensions", *European Journal of Social Science*, vol.5 (1), pp 64-75.

- Alston, Philip, (2011), "The CIA and Target killing Beyond Border", *Harvard National Security Journal*, vol.2(283).
- Arriola.R.Leonardo, (2011), "Countries at the Crossroads: Ethiopia", Freedom House.
- Beatrice, de Graff and Bob de Graff, (2010), "Bringing Politics Back in: the Introduction of the 'Performative Power' at a Counter- terrorism", *Critical Studies on Terrorism*, vol.3 (2), pp 261-275.
- Breau susan, Stephen Livingston and Rory O'Connell, (n.d), "Anti-Terrorism Law and Human Rights in the United Kingdom post September11", *Human Rights Center*, Queens University Belfast available at the university human rights center website <http://www.law.qub.ac.uk/humanrts>.
- Brems, Eva, (2007), "Ethiopia Before the United Nations Treaty Bodies", *Africa Focus*, vol. 20, pp 49-74.
- Brooks, Rosa, (2004), "Ticking Time Bombs and Catastrophes", *Green Bag.Inc*.vol.8(311).
- Burton, M. Emilie and Kiyoteru, Tsutsui, (2013), "Human Rights in Globalizing World: the Paradox of an Empty Promises", *American Journal of Sociology*, vol.110 (5), pp 1373-1411, the University of Chicago Press.
- Cakmak, Cenap, (2004), "The Role of Non-Governmental Organizations (NGOs) in the Norm Creation Process in the Field of Human Rights", *Alternative: Turkish Journal of International Relations*, vol.3(1).
- Dedeoglu, Beril, (2005), "Fighting Terrorism and Intervention: Paradoxes and Misinterpretations", *Perceptions*, winter 2005.
- Fisher, W. Jason, (2007), "Targeted Killing, Norms and International Law". *Journal of Transnational Law Association*, vol.45(711).
- Gearty, Conor (2005), "11 September 2001, Counter Terrorism and Human Rights Act", *Journal of Law and Society*, vol.33(1).pp 18-33.
- Gedion Timothewos, (2010), "Freedom of Expression in Ethiopia: the Jurisprudential Death", *Mizan Law Review*, vol.4(3).

- Henning, Helen, Virginia, (2002), "Anti-Terrorism, Crime and Security Act 2001: Valid Democratization from the European Convention on Human Rights?", *Am.U.Int'l.L.*, vol.17(1263).
- Hoffman, Paul, (2004), "Human Rights and Terrorism", *Human Rights Quarterly*, vol.26(4), pp 932-955.
- IP, John, (2009), "Two Narratives of Torture", *North Western University Journal of International Human Rights*, vol.7(35).
- Kovarovic, Kate, (2010), "Our Jack Bauer" Culture: Eliminating the Ticking Time Bomb Exception to Torture", *Florida Journal of International Law*, vol. 22(251).
- Marcinkute, Lina, (2011), "The Role of Human Rights NGOs: Human Rights Defenders or State Sovereignty Destroyers", *Baltic Journal of Law and Politics*, vol. 4(2), pp 52-77.
- Marks, P. Stephen, (2006), "International Law and the 'Global War on Terrorism': post 9/11 Responses by United States and Asian Pacific Countries", *Asia Pacific Law Review*, vol. 14(1).
- Maskaliunaite, Asta, (2002), "Defining Terrorism in the Political and Academic Discourse", *Baltic Defense Review*, Vol.2 (8), pp 36-50.
- Martinez, Nicloas (2009), "Sounding the Horn: Ethiopia's Civil Society Law Threatens Human Rights Defenders", Center for International Human Rights, North Western University School of Law, November 2009.
- Mohammad, Habib, (2011), "The Ethiopian Federal System: the Formative Stage", Forum for Federalism and Democracy: Friedrich Ebert Stiftung.
- O'Leary, Cecilia and Tony Platt, (2003), "Patriot Act", *Social Justice*, vol. 30 (1), pp 5-21.
- Omelicheve, P. Mariya, (n.d), "Perspectives on Terrorism", *Journal of Terrorism Research Initiative*, vol.1 (2), pp 1-8.
- Otiso, M.Kefa, (2009), "Kenya in the Crosshairs of Global Terrorism: Fighting Terrorism at the Periphery", *Kenya Studies Review*, Vol.1(1).
- Podesta, John, (2002), "US Patriot Act: the Good, the Bad and the Sunset", *American Bar Association*, Vol. 29(1).

- Pitt, Cassidy, (2013), "US Patriot Act and Racial Profiling; are there Consequences of Discrimination?", *Michigan Sociological Review*, vol. 25, pp 53-69.
- Ross, J. Tracy, (2010), "A Test of democracy: Ethiopia's Freedom of Mass Media and Access to Information Proclamation", *Penn State Law review*, vol. 114(3).
- Samarasinghe, S.W.R.deA, (1994), "Democracy and Democratization in Developing Countries", the American University and Institute of International Research, Washington, DC and International Centre for Ethnic Studies, Srilank, Series on Democracy and Health.
- Setty, Sudha, (2011), "What is a Name? How Nations Define Terrorism Ten Years after 9/11", *U.Pa.J.Intil L*, Vol.33 (1), accessed 10/30/2011.
- Sinnar, Shirin, (2003), "Patriot or Unconstitutional? The Mandatory Detention of Aliens under the US Patriot Act", *Sanford Law Review*, vol.55(4), pp 1419-1456.
- Sung, chanterelle, (2003) "Torturing the Ticking Tivme Bomb Terrorist: An Analysis of Judicial Sanctioned Torture in the Context of Terrorism", *Boston College third world Law Journal*, vol. 23(193).
- Tiefenbrum, Susan, (2003), "A Semiotic Approach to a Legal Definition of Terrorism", *ILSA Journal of International and Comparative Law*, vol.9 (357), pp 359-402.
- Tomas Ayalew, (2014), "EPRDF is worried by my position on terrorism, said Dr. Merera Gudina", Lomi, in Amharic 18th January 2014.
- Tronvoll, Kjetil, (2008), "Making Legal Sense of Human Rights: the Judicial Role in Protecting Human Rights in Ethiopia", *Mizan Law Review*, vol.3 (2), pp 288-330.
- Vijapur, Abdularahim.P, (2009), "The Concept of Human Rights: National and International perspectives", *International politics*, vol.2(4).
- Whitaker, Beth, Elise, (2010), "Compliance among Weak States: Africa and the Counter Terrorism Regime", *Review of International Studies*, British International Studies Association, vol.36, pp 639-661.
- _____ (2013), "Exporting Patriot Act? Democracy and the 'war on terror' in the third world", *Third World Quarterly*, vol.28(5), pp 1017-1032.

REPORTS, PAPERS AND INTERNET SOURCES

Adem Kassie, (n.d), “Ethiopia the ‘war on Terror’ and Trial of 28 Community Leaders”, Open Democracy, available at <http://www.opendemocracy.net/awol-allo/ethiopia-%E2%80%98war-on-terror%E2%80%99-and-trial-of-28-community-leaders>.

Amnesty International, (AI), (2005), “Kenya; The Impacts of “Anti-Terrorism” operation on Human Rights,” Amnesty International Report of 23 May 2005.

_____ (2009), “Ethiopia: New Anti-Terrorism Proclamation Jeopardizes Freedom of Expression”, 7 July 2009 <http://www.amnesty.org/en/formedia/press_releases/ethiopianew-antiterrorism-proclamation-jeopardizes-freedom-expression.

_____ (2010), “Annual Report for Ethiopia”, available at, <http://www.ai.org/en/world-report-2011/ethiopia>.

_____ (2012), “Stifling Human Rights Work: the Impacts of Civil Society Legislation in Ethiopia”.

_____, (2013), “Write for Rights: 2013’s Cases, Summary and Some Key Contextual Information”, AI Cases Document, 2 December.

_____, (2014), “opposition leaders denied medical treatment: Olbana Lelisa and Bekele Gerba are being denied medical treatment”, Press release.

Article 19 Law Programme, (2010), “Global Campaign for Free Expression: Comment on anti Terrorism Proclamation of Ethiopia”, Available at <http://www.artcle19.org/pdfs/analysis/ethiopia-comment-on-anti-terrorismproclamation 2009. Pdf>.

Bayenew Lisanework, (2011), “An Appraisal of the Enforcement of International and Regional Human Rights Obligations in Ethiopia”, Master Thesis, AAU.

Bertelsman Stiftung Transformation Index (BTI), (2012), “Ethiopian Country Report”, Gutersloh: Bertlesman Stiftung.

Blanchard, Lauren Ploch, (2013), “The September 2013 Terrorist Attack in Kenya: In Brief”, Congressional Research Service Report for Congress, 14 November.

Botha, Goredema, (2010), “counter Terrorism Legislation”, Available at <http://www.iss.co.za/pubs/other/ahsi/Goredema-Botha/pt2chap9.pdf>.

Carter Center, (2005), “Final Statement on the Carter Center Observation of the Ethiopian 2005 National Elections”, Carter Center News Release, September 15, 2005.

CIVICUS “Ethiopia: submission to the UN UPR”¹³ April 2009 Available at <http://www.civicus.org/csw-files/UPRSubmissionEthiopia-April2009.pdf>

Committee to Protect Journalists “Attacks on the Press 2009: Ethiopia”, 16 February 2010 <http://cpj.org/2010/02/attacks-on-the-press-2009-ethiopia.php>.

Ethiopian Human Rights Commission (EHRC), (2012), “Human Rights Protection Monitoring in Ethiopia Prisons”, Primary Report.

Ethiopian Human Rights Council (EHRC), (2007), Compiled Reports of EHRCO from December 2002 December 2006, Addis Ababa: Berhanena Selam Printing Enterprise.

Ethio-Horn Discourse (EHD), (n.d), “EPRDF on the 46th Session of the African Commission on Human and People Rights (ACHPR)”, New Release by Ethio-Horn Discourse.

Federal Democratic Republic of Ethiopia joint NGO submission to the UN United Periodic Reviews (UPR) 19th session of the UPR working group, submitted by CIVICUS, East and Horn of African Human Rights Defenders Project (EHAHRDP) and Human Rights Council (HRCO), submitted 16 September 2013.

FIDH (International Federation of Human Rights), (2005), “counter –Terrorism versus Human Rights: the key to Compatibility”, Analysis Report, No. 429/2.

_____,(2007), “Terrorism Must not be Used as an Excuse for Human Rights Violations ,” available at <http://www.fidh.org/IMG/pdf/Philippines-mission.pdf>.

_____,(2009), “Human Rights Situation in Federal Democratic Republic of Ethiopia”, 46th session of the African Commission on Human and Peoples Rights, 11-25 November 2009, Banjul, the Gambia.

Freedom House, (2013), “Ethiopia: Freedom of the Net 2013”.

Griffith, Patrick, (2013), “Ethiopia’s Anti-Terrorism Proclamation and the Rights to Freedom of Expression, Africlaw.”

Hughes, Geraint, (2011), “The Military’s Role in Counter-Terrorism: Examples and Implications for Liberal Democracies”, The Letort paper, available at <http://www.StrategicStudiesInstitute.army.mil/>

Human Rights Committee, (2011), “Ethiopia: concluding Observation of Human Rights Committee”, 102nd session, Geneva, 11-29 July, 2011.

Human Rights Council (HRCO), (2013), “Arrest of Journalists Highlights Continued Crackdown on Independent Media in Ethiopia”, Press Release on 19 November 2013.

Human Rights Watch (2005), “Suppressing Dissent: Human Rights Abuses and Political Repression in Ethiopia’s Oromia Region”, HRW Report of May 2005, Vol.17, No.7(A).

_____(2009), “Ethiopia: Amend Draft Terrorist Law”, 30 June 2009 <http://www.hrw.org/en/news/2009/06/30/ethiopia-amend-draft-terror-law>.

_____,(2010), “regarding serious patterns of torture and other cruel, inhumane and degrading treatment in Ethiopia”.

_____(2011), “Ethiopia: Crackdown on Dissent Intensifies”.

_____, (2012a), “Country Summary: Ethiopia,” January 2012.

_____, (2012b), “Ethiopian Anti-Terrorism Law used to crush free speech”.

_____, (2012c) “In the Name of Security, Counter –Terrorism law Worldwide since September 11”, Printed in the United States of America.

_____, (2013), “They want a Confession: Torture all I11-treatment in Ethiopia’s Maekelawi Police Station”, Printed in USA.

_____, (2014), “They know every think we do: telecom and internet surveillance in Ethiopia”, printed in USA, March 2014.

International Center for Civil Society Law (ICCSL), (2009), “Ethiopian anti-terrorism proclamation pose grave threat to journalists”, IJCSL Newsletter, volume 6, issue 9.

International Crisis Groups (ICG), “Ethiopia: Ethnic Federalism and Its Discontents”, Crisis Group African Reports No 153, 4 September 2009.

International Civil Liberties Monitoring Groups (ICLMG), (2004), “Anti-Terrorism and the Security Agenda: Impacts on Rights, Freedoms and Democracy”, Reports and Recommendations for Policy Directions of a Public Forum organized by the ICLMG, Ottawa, February 16-18, 2004.

IPI/WAN-IFRA, (2013), “Press Freedom in Ethiopia”, IPI/WAN-IFRA joint press freedom mission report.

International service for Human Rights (ISHR), (n.d), “The situation of Human Rights Defenders in Ethiopia”, ISHR briefing paper, see ISHR official website www.ISHR.CH.

Large, Juith, (2005), “Democracy and Terrorism; the Impacts of the Anti”, the paper prepared in advance of the Madrid summit on democracy, terrorism and security held in June 2005 and used in debate forums sponsored by the club Madrid and open democracy.net.available at <http://English.safe-democracy.org/contribute/index.html/>,

Lyons, Terrence, (2011), “Ethiopia: Assessing Risks to Stability”, Report of CSIS African programme.

Marin, Manuela, (2011), “Enhancing the Functional Protection of human rights in Ethiopia: two years project”, IDLO monitoring and evaluation unit.

Merera Gudina, (2010), “Twenty Years of Experimenting ‘Revolutionary Democracy’: Elections and Democratization in Ethiopia 1991-2010”.

Mwazighe, Charles Lenjo, (2012), “Legal Response to Terrorism: Case Study of the Republic of Kenya”, Master thesis, Naval Postgraduate school, Monterey, California.

Nowak, Manfred, (2005), “Human Rights: A handbook for Parliamentarians”, office of the United Nations High Commissioner for Human Rights, Inter-parliamentary Union, Printed in France: SADAG, Bellegarde-sur-valserine.

Office of the High Commissioner for Human Rights (OHCHR), (2008), “Human Rights, Terrorism and Counter-terrorism”, OHCHR fact sheet No.32.available at <http://www.ohchr.org/documents/publications/factsheet32En.pdf>,

- Opoku, Efua, Baboa, (2011), "Human Rights Violations under the guise of Counter-terrorism Measures: a Question of Reconciling Security Concerns and Protecting the Fundamental Right of Life", Master thesis, Queen's University, Kingston, Ontario, Canada.
- Pause wang, Siegfried, (2004), "Local Democracy and Human Security in Ethiopia: Structural Reasons for the Failure of Democratization", SAIIA reports, report No 45.
- Rado, Omaeyr, (2009), "Ethiopia: Fears over New Anti-Terrorism Law", All Africa Global Media (Africa. com), Available at <http://allafrica.com/stories/2009072240004.html>,
- REDRESS and REPRIEVE, (2009), "Kenya and Counter-terrorism: a Time for Change", a joint Report by REDRESS and REPRIEVE, February 2009.
- REDRESS, (2004), "Terrorism, Counter –Terrorism and Torture: International Law in the Fight against Terrorism", REDRESS report of July, 2004.
- Sandberg, Eve, (n.d), "Re-Conceptualizing Non-Governmental Organizations-African State Relations", Politics Department, Oberlin College, USA.
- Sasahulh Yalew, (n.d), "A Comparative Review of Ethiopian and Western Anti-Terrorism Legislations", Law lecture.
- Sable Teweldebiran (2012), "Ethiopian Anti-Terrorism Law and Human Rights", Addis Ababa, last updated Tuesday 10 May 2012.
- Tiwana, S. Mandeep, (2008), "Analysis of the Ethiopian Charities and Societies Proclamation No. 00/2009", Report of CIVICUS: World Alliance for Citizen participation, 17 September 2008.
- Tsegaye, Regassa (2004), "State Constitutions in Federal Ethiopia: A Preliminary Observation", A Summary for the Bellagio Conference, March 22-27, 2004.
- Unity for Democracy and Justice (UDJ), (2013), "Violations of Human Rights in Ethiopia", Report Prepared by UDJ Law and Human Rights Stand Committee, in Amharic.
- US Department of State, (2006), "Ethiopia: 2005 Human Rights Report", Available at <http://www.state.gov/9/drl/rls/hrrpt/2005/61569.htm>.
- _____ (2011), "Country Reports on Human Rights Practices for 2011: Ethiopia", available at <http://www.state.org/j/drl/rls/hrrpt/humanrightsreport/index.htm?dliid=186196>.

_____ (2012), “Country Reports on Human Rights Practices for 2012: Ethiopia”, available at <http://www.state.org/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2012&dclid=220113>.

_____ (2013), “country reports on human rights practices for 2012: Ethiopia”, available at <http://www.state.org/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2013&dclid=220113>.

Wadham, John, (2003), “Anti-Terrorism Legislation in the United Kingdom and the Human Rights Concern arising from it”, Commonwealth Human Rights Initiative Seminar 5th - 6th June 2003.

TREATIES, LEGISLATIONS AND RESOLUTIONS

African Charter on Human and Peoples’ Rights, adopted on 27 June 1981 entered into force on 21 October 1981 OAU Doc. CAB/LEG/67/3 rev.5,21.

Charter of the United Nations, June 26, 1945, 59 Stat 1031, T.S. 993,3 Bevans 113, entered into force October 24, 1945.

Committee against Torture (2011), Ethiopia: the Committee against Torture Concluding Observation of the Committee against Torture, forty-fifth sessions.

Commonwealth Secretariat, (2002), Freedom of Expression, Assembly and Association: Best Practice, London: Commonwealth Secretariat Human Rights Unit.

Constitution of the Federal Democratic Republic of Ethiopia, Federal Negarite Gazeta, year 1, no.1,21st August 1995, Addis Ababa.

Criminal Procedural Code of the Empire of Ethiopia, 1961, Negarite Gazeta, Extraordinary Issue, No.1of1961, Addis Ababa.

House of Peoples Representatives (HPR), (2000a), Ethiopian Human Rights Commission Establishment Proclamation No.210/2000, Federal Negarit Gazeta of FDRE, 6th year No.40,4th July 2000, Addis Ababa.

_____ (2000b), Institution of the Ombudsman Establishment Proclamation No. 211/2000, Federal Negarit Gazeta of FDRE, 6th year No. 41, 4th July 2000, Addis Ababa.

_____ (2009), Ethiopia's Anti-terrorism Proclamation No. 652/2009, Federal Negarit Gazeta of FDRE, 15 year No. 57, 28th August 2009, Addis Ababa.

International Convention on Civil and Political Rights (ICCPR), UNGA Res 2200 A (XXI) of 16 December 1966, entry into force on 23 March 1976.

Kenya Gazette supplement, (2012), The Prevention of Terrorism Acts No. 30 of 2012, Nairobi, 24th November 2012.

UN (United Nations), (1955), Standard Minimum Rules for the Treatment of Prisoners, Adopted by the first UN Congress on the Prevention of Crime and the Treatment of Offenders, held at Geneva and Approved by the Economic and Social Council's by its Resolution of 663, 31 July 1957.

_____ (1990), Basic Principles for the Treatment of prisoners, Adopted and Proclaimed by General Assembly Resolution 45/111 of 14 December.

_____ (1994), Measures of Eliminate International Terrorism Resolution 49/60, Adopted by the UN General Assembly.

_____ (1996), The Johannesburg Principles on National Security, Freedom of Expression and Access to Information, endorsed by UN Special Reporter on Freedom of Opinion and Expression.

UN Security Council Resolution 1373/2001, adopted by the Security Council at its 4385th meeting, on 28 September 2001.

APPENDIX

APPENDIX 1

List of informants

Profile of experts, public figures, government officials and non-government officials

No	Name of interviewees	Position	Educational level	Place of interview	Date of interview
1	Dr. Nagaso Gidada	Public figure	PhD	His home, A.A	09/04/2014
2	Dr. Dagnachew Asfaw	University professor and Public figure	PhD	AAU, Sidistikilo	07/04/2014
3	Dr. Yacob H/Mariam	University professor and public figure	PhD	His office, AA	07/04/2014
4	Habtamu Ayalew	UDJ head, public relations	1 st Degree	UDJ, Head Office	11/03/2014
5	Gebbru G/Mariam	Mederek Secretary General	MA	Mederek head office	22/03/2014
6	Waretaw Wassie	Blue Party head, financial affairs	1 st Degree	Blue Party, head office	24/03/2014
7	Dan Yirga	HRCO, Senior human rights officer	LLB	HRCO Head Office	13/03/2014
8	Yibekal Gizaw	Head, office of the NHRC ⁸³	-	Justice minister	12/03/2014
9	Mitiku	EHRC, research and human rights monitoring senior officer	-	EHRC, Head Office	23/03/2014
10	Tamam A/Bulgu	Lawyer	LLB	His office, Mexico, AA	08/04/2014

NB. The names of ten key informants involved in interviews are not in the list for their personal security.

⁸³ NHRAP – National Human Rights Action Plan

APPENDIX 2

Interviews guideline questions for experts, public figures, government officials and non-government officials

Addis Ababa University

College of Social Science

Department of Political Science and International Relations

The information you are asked to provide is required for research purposes only and will not be used to jeopardize your position or compromise in any way the integrity of your office, job or status. Any information that you will provide will be kept in strict confidence and used solely for the purpose of this study. Your cooperation is greatly appreciated.

Interviewee name: _____ date of interview _____ place _____

Time of interview: _____ gender _____ age _____ social status _____

Educational level _____ other (if necessary) _____.

1. INTERVIEW GUIDE QUESTIONS

- a. How do you see the situations of human rights in Ethiopia since 1991?
- b. The current Ethiopian Anti –Terrorism Law is in an issue of debate; some groups argued that it is “a legal response to clear present danger threaten the peace, security, development and democratization effort of Ethiopia” while other groups condemn it as “a law violating the FDRE constitution and it is politically motivated”. Thus, how do you see these controversies?
- c. Do you think Ethiopian Anti-terrorism Law is similar with some laws of western countries? Could you explain their inter-relationship?
- d. How do you see the relations between the 2009 Ethiopia’s Anti-Terrorism Law and allegation of human rights violations?
- e. How do you explain the constitutionality of the current Ethiopian Anti-Terrorism Law?
- f. How do you explain the current Ethiopian Anti-Terrorism Law from political point of views?
- g. What comments or recommendations do you have on current human rights progress in Ethiopia in general and Anti-Terrorism Law-human rights nexus in psarticular?

ፌዴራል ነጋሪት ጋዜጣ

FEDERAL NEGARIT GAZETA

OF THE FEDERAL DEMOCRATIC REPUBLIC OF ETHIOPIA

አሥራአምስተኛ ዓመት ቁጥር ፶፯
አዲስ አበባ ነሐሴ ፳፪ ቀን ፪ሺ፩ ዓ.ም

በኢትዮጵያ ፌዴራላዊ ዲሞክራሲያዊ ሪፐብሊክ
የሕዝብ ተወካዮች ምክር ቤት ጠባቂነት የወጣ

15th Year No. 57
ADDIS ABABA 28th August, 2009

ማውጫ

አዋጅ ቁጥር ፮፻፶፪/፪ሺ፩ ዓ.ም

የፀረ ሽብርተኝነት አዋጅ... ገጽ ፬ሺ፰፻፳፯

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ስለፀረ ሽብርተኝነት የወጣ አዋጅ

ሕዝቦች በሰላም፣ በነጻነትና በተረጋጋ ሁኔታ ለመኖር ያላቸው መብት ከሽብርተኝነት አደጋ ሁል ጊዜ መጠበቅ ያለበት በመሆኑ፤

ሽብርተኝነት ለሀገራችን ሰላም፣ ደኅንነትና ዕድገት ፀር እንደሆነ፣ ለአካባቢያችንና ለዓለም ሰላም እና ደህንነትም ከፍተኛ ስጋት እንደሆነ ግንዛቤ የተወሰደ በመሆኑ፤

በስራ ላይ ያሉት የሀገሪቱ ሕጎች በበቂ ሁኔታ ሽብርተኝነትን ለመከላከልና ለመቆጣጠር የሚያስችሉ ባለመሆናቸው ጠንካራ የሕግ አቅም መፍጠር በማስፈለጉ፤

ሽብርተኝነትን ለመከላከል፣ ለመቆጣጠርና ለማምከን በቂ መረጃዎችንና ማስረጃዎችን ለማሰባሰብና ለማጠናቀር፣ በሽብርተኝነት የተጠረጠሩ ሰዎችን ወይም ድርጅቶችን ለሕግ ለማቅረብ የሚያስችሉ የተጠናከሩ የምርመራና ክስ የማቅረብ አዳዲስ ስልቶችንና ስርዓቶችን በሕግ ማቋቋም አስፈላጊ በመሆኑ፤

ሽብርተኝነትን በሚገባ ለመዋጋት የፀረ-ሽብርተኝነት ዓላማ ካላቸው የአካባቢያችን፣ የአሕጉራችንና የሌላው የዓለም ክፍሎች መንግስታትና ሕዝቦች ጋር መተባበር እና በተለይ ከተባበሩት መንግስታትና ከአፍሪካ ሕብረት አባል ሀገራት ጋር የተደረጉትን ስምምነቶች ስራ ላይ ማዋል አስፈላጊነቱ የታመነበት በመሆኑ፤

በኢትዮጵያ ፌዴራላዊ ዲሞክራሲያዊ ሪፐብሊክ ሕገ መንግስት አንቀጽ ፶፭(፩) መሠረት የሚከተለው ታውጧል፡፡

PROCLAMATION NO. 652/2009

A PROCLAMATION ON ANTI-TERRORISM

WHEREAS, the right of the people to live in peace, freedom and security has to be protected, at all times, from the threat of terrorism;

WHEREAS, terrorism is a danger to the peace, security and development of the country and a serious threat to the peace and security of the world at large;

WHEREAS, it has become necessary to legislate adequate legal provisions since the laws presently in force in the country are not sufficient to prevent and control terrorism;

WHEREAS, it has become necessary to incorporate new legal mechanisms and procedures to prevent, control and foil terrorism, to gather and compile sufficient information and evidences in order to bring to justice suspected individuals and organizations for acts of terrorism by setting up enhanced investigation and prosecution systems;

WHEREAS, in order to adequately fight terrorism, it is necessary to cooperate with governments and peoples of our region, continent and other parts of the world that have anti-terrorism objectives and particularly, to enforce agreements that have been entered into under the United Nations and the African Union;

NOW, THEREFORE, in accordance with Article 55(1) of the Constitution of the Federal Democratic Republic of Ethiopia, it is hereby proclaimed as follows:

ያንዱ ዋጋ
Unit Price

ነጋሪት ጋዜጣ ፖ.ሣ.ቁ. ፹፲፩
Negarit G. P.O.Box 80001

ከፍል አንድ
ጠቅላላ

፩. አጭር ርዕስ

ይህ አዋጅ “የፀረ ሽብርተኝነት አዋጅ ቁጥር ፯፻፶፪/፪ሺ፩” ተብሎ ሊጠቀስ ይችላል።

፪. ትርጓሜ

የቃሉ አገባብ ሌላ ትርጉም የሚያሰጠው ካልሆነ በስተቀር በዚህ አዋጅ ውስጥ፡-

፩/ “ንብረት” ማለት ማናቸውም ግዙፍነት ያለው ወይም የሌለው ወይም ተንቀሳቃሽ ወይም የማይንቀሳቀስ ሀብት ሲሆን፣ የባንክ ሂሳብን የመሰሉ የዚህ ንብረት ወይም ሀብት ባለሃብትነትን ወይም ጥቅምን የሚያስረዱ ሰነዶችና ደብተሮችን ያካትታል፤

፪/ “ከሽብርተኝነት ድርጊት የተገኘ ንብረት” ማለት ገንዘብን ጨምሮ በማንም ስም፣ ይዘታ ወይም ቁጥጥር ስር ቢገኝም ከሽብርተኝነት ድርጊት በመነጨ ንብረት አማካኝነት የተገኘ ወይም የተፈራ ማናቸውም ንብረት ነው፤

፫/ “የሽብርተኛ ንብረት” ማለት ከሽብርተኝነት ድርጊት የተገኘ ንብረት፣ የሽብርተኛ ድርጅት ንብረት ወይም የሽብርተኝነት ድርጊት ለመፈፀም የዋለ፣ እየዋለ ያለ ወይም የሚውል ንብረት ነው፤

፬/ “ሽብርተኛ ድርጅት” ማለት፡-

ሀ) የሽብርተኝነት ድርጊትን የመፈፀም ዓላማ ያለው ወይም የሽብርተኝነት ድርጊት ለመፈፀም ያቀደ፣ የተዘጋጀ፣ የፈፀመ፣ ያስረጸመ ወይም እንዲፈፀም በማናቸውም ሁኔታ የረዳ ወይም ያነሳሳ ከሁለት ያላነሱ አባላትን የያዘ ቡድን፣ ማህበር ወይም ድርጅት፣ ወይም

ለ) በዚህ አዋጅ መሰረት በሽብርተኝነት የተሰየመ ድርጅት፣ ነው፤

፭/ “እገታ ወይም ጠለፋ” ማለት ሰውን በመያዝ ወይም በቁጥጥር ስር በማድረግ የያዘውን ሰው ለመልቀቅ መንግስት አንድ ነገር ካላደረገ የያዘውን ሰው እንደሚገድል፣ ከባድ ጉዳት እንደሚያደርስበት ወይም እንደማይለቀው መዛት ነው፤

፮/ “ማነሳሳት” ማለት ድርጊቱ ባይሞከርም ሌላውን ሰው በመጎትጎት፣ ተስፋ በመስጠት፣ በገንዘብ፣ በስጦታ፣ በማስፈራራት ወይም በማናቸውም ሌላ ዘዴ የሽብርተኝነት ድርጊት እንዲፈጸም ማግባባት ነው፤

፯/ “የህዝብ አገልግሎት” ማለት ለህዝብ አገልግሎት ለመስጠት የተደራጁ የኢ.ሌ.ክትሮኒክ፣ የኢንፎርሜሽን ኮሚዩኒኬሽን፣ የትራንስፖርት፣ የፋይናንስ፣ የህዝብ ግልጋሎት መስጫ፣ የመሳሰሉ ሌሎች ወይም አንዳንድ የመሰሉ ተቋማት ወይም ስርአቶች ነው፤

PART ONE
GENERAL

1. Short Title

This Proclamation may be cited as the “Anti-Terrorism Proclamation No.652/2009”.

2. Definitions

In this Proclamation, unless the context otherwise requires:

1/ "property" means any asset whether corporeal or incorporeal or movable or immovable, and includes deeds and instruments evidencing title to or interest in such asset such as bank accounts;

2/ "proceeds of terrorism" means any property, including cash, derived or obtained from property traceable to a terrorist act, irrespective of a person in whose name such proceeds are standing or in whose possession or control they are found;

3/ “terrorist property” means proceeds of terrorism, properties of a terrorist organization or property which has been or is being or will be used to commit a terrorist act;

4/ “terrorist organization” means:

a) a group, association or organization which is composed of not less than two members with the objective of committing acts of terrorism or plans, prepares, executes or cause the execution of acts of terrorism or assists or incites others in any way to commit acts of terrorism; or

b) an organization so proscribed as terrorist in accordance with this Proclamation;

5/ “hostage taking or kidnapping” means seizing or detaining and threatening to kill, to injure or to continue to detain a person in order to compel the government to do something as a condition for the release of the hostage;

6/ “incitement” means to induce another person by persuasion, promises, money, gifts, threats or otherwise to commit an act of terrorism even if the incited offence is not attempted;

7/ “public services” means electronic, information communication, transport, finance, public utility, infrastructure or other similar institutions or systems established to give public service;

፰/ “ዲጂታል ማስረጃ” ማለት በዲጂታል ቅርፅ የተቀመጠ ወይም የተላለፈ የማስረጃነት ዋጋ ያለው ሆኖ በማናቸውም ማስተላለፊያ ላይ በኮምፒውተር፣ በኮምፒውተር ውስጥ ወይም በሌላ ተመሳሳይ መሳሪያ የተቀረፀ ወይም የተቀመጠ በሰው፣ በኮምፒውተር ወይም በተመሳሳይ መሳሪያ መነበብ ወይም መረዳት የሚችል መረጃ ሲሆን በመግለጫ፣ በህትመት ወይም በሌላ መንገድ የሚወጣ የዚህኑ መረጃ ውጤት ይጨምራል፤

፱/ “መንግስት” ማለት የፌዴራል መንግስት ወይም የክልል መንግስት ወይም የመንግስት አካል ወይም የውጭ ሀገር መንግስት ወይም የዓለም አቀፍ ድርጅት ነው፤

፲/ “ፍርድ ቤት” ማለት እንደ አግባብነቱ የፌዴራል ከፍተኛ ፍርድ ቤት ወይም የፌዴራል ጠቅላይ ፍርድ ቤት ነው፤

፲፩/ “ፖሊስ” ማለት የፌዴራል ፖሊስ ወይም የፌዴራል ፖሊስ ሥልጣን በውክልና የተሰጠው የክልል ፖሊስ ማለት ነው፤

፲፪/ “ሰው” ማለት የተፈጥሮ ሰው ወይም በህግ የሰውነት መብት የተሰጠው አካል ነው፤

፲፫/ ማንኛውም በወንድ ጾታ የተገለጸው አነጋገር ሴትንም ይጨምራል፡፡

ክፍል ሁለት

ስለሽብርተኝነት እና ተያያዥ ወንጀሎች

፫. የሽብርተኝነት ድርጊቶች

ማንኛውም ሰው ወይም ቡድን የፖለቲካ፣ የሃይማኖት ወይም የአይዲዮሎጂ ዓላማን ለማራመድ በማሰብ በመንግሥት ላይ ተፅዕኖ ለማሳደር፣ ህብረተሰቡን ወይም የህብረተሰቡን ክፍል ለማስፈራራት ወይም የሃገሪቱን መሠረታዊ ፖለቲካዊ፣ ህገመንግሥታዊ፣ ኢኮኖሚያዊ ወይም ማህበራዊ ተቋማትን ለማናጋት ወይም ለማፍረስ፡-

፩/ ሰውን የገደለ ወይም በአካሉ ላይ ከፍተኛ ጉዳት ያደረሰ እንደሆነ፤

፪/ የህብረተሰቡን ወይም የህብረተሰቡን ክፍል ደህንነት ወይም ጤና ለከፍተኛ አደጋ ያጋለጠ እንደሆነ፤

፫/ እገታ ወይም ጠለፋ የፈፀመ እንደሆነ፤

፬/ በንብረት ላይ ከፍተኛ ጉዳት ያደረሰ እንደሆነ፤

8/ “digital evidence” means information of probative value stored or transmitted in digital form that is any data, which is recorded or preserved on any medium in or by a computer system or other similar device, that can be read or perceived by a person or a computer system or other similar device, and includes a display, printout or other output of such data;

9/ “government” means the federal or a state government or a government body or a foreign government or an international organization;

10/ “court” means Federal High Court or Federal Supreme Court, as the case may be;

11/ “police” means Federal Police or Regional State Police to whom the power of the Federal Police is delegated;

12/ “person” means a physical or juridical person;

13/ any expression in the masculine gender includes the feminine.

PART TWO

TERRORISM AND RELATED CRIMES

3. Terrorist Acts

Whosoever or a group intending to advance a political, religious or ideological cause by coercing the government, intimidating the public or section of the public, or destabilizing or destroying the fundamental political, constitutional or, economic or social institutions of the country:

1/ causes a person’s death or serious bodily injury;

2/ creates serious risk to the safety or health of the public or section of the public;

3/ commits kidnapping or hostage taking;

4/ causes serious damage to property;

፭/ በተፈጥሮ ሀብት፣ በአካባቢ፣ በታሪካዊ ወይም የባህል ቅርስ ላይ ከፍተኛ ጉዳት ያደረሰ እንደሆነ፤

፮/ ማናቸውንም የህዝብ አገልግሎት ለከፍተኛ አደጋ ያጋለጠ፣ የያዘ፣ በቁጥጥር ስር ያደረገ፣ ያቋረጠ ወይም ያበላሸ እንደሆነ፤ ወይም

፯/ በዚህ አንቀጽ ከንዑስ አንቀጽ (፩) እስከ (፮) ከተመለከቱት ድርጊቶች መካከል ማናቸውንም ለመፈጸም የዛተ እንደሆነ፤

ከ፲፭ አመት እስከ እድሜ ልክ በሚደርስ ጽኑ እስራት ወይም በሞት ይቀጣል፡፡

፬. የሽብርተኝነት ድርጊት ለመፈፀም ማቀድ፣ መዘጋጀት፣ ማሰራጨት፣ ማነሳሳትና መክራ

ማንኛውም ሰው በዚህ አዋጅ በአንቀጽ ፫ ከንዑስ አንቀጽ (፩) እስከ (፮) የተመለከተውን ማናቸውንም የሽብርተኝነት ድርጊት ለመፈፀም ያቀደ፣ የተዘጋጀ፣ ያሰራጨ፣ ያነሳሳ ወይም የሞክረ እንደሆነ በዚሁ አንቀጽ በተቀመጠው መሠረት ይቀጣል፡፡

፭. ለሽብርተኝነት ድጋፍ መስጠት

፩/ ማንኛውም ሰው የሽብርተኝነት ድርጊት አፈፃፀምን ወይም የሽብርተኛ ድርጅትን የሚረዳ መሆኑን እያወቀ ወይም ማወቅ ሲገባው፡-

ሀ) ሀሰተኛ ሰነድ ያዘጋጀ፣ ያቀረበ ወይም የሰጠ እንደሆነ፤

ለ) የሙያ፣ የልምድ፣ የሞራል ምክር ወይም ድጋፍ የሰጠ እንደሆነ፤

ሐ) ማናቸውንም ዓይነት ንብረት በማናቸውም ሁኔታ ያቀረበ፣ ያሰባሰበ ወይም እንዲቀርብ ያደረገ እንደሆነ፤

መ) የገንዘብ ወይም የፋይናንስ ወይም ሌሎች ተያያዥነት ያላቸው አገልግሎቶችን ያቀረበ ወይም የሰጠ እንደሆነ፤

ሠ) ማናቸውንም ፈንጂ፣ ዳይናሚት፣ ሊቀጣጠል የሚችል ነገር፣ የጦር መሳሪያ ወይም ሌላ ገዳይነት ያለው መሳሪያ ወይም መርዛማ ነገር ያቀረበ ወይም የሰጠ እንደሆነ፤ ወይም

ረ) ማናቸውንም አይነት ሥልጠና ወይም ትምህርት ወይም መመሪያ የሰጠ እንደሆነ፤

ከ፲ እስከ ፲፭ አመት በሚደርስ ፅኑ እስራት ይቀጣል፡፡

5/ causes damage to natural resource, environment, historical or cultural heritages;

6/ endangers, seizes or puts under control, causes serious interference or disruption of any public service; or

7/ threatens to commit any of the acts stipulated under sub-articles (1) to (6) of this Article;

is punishable with rigorous imprisonment from 15 years to life or with death.

4. Planning, Preparation, Conspiracy, Incitement and Attempt of Terrorist Act

Whosoever plans, prepares, conspires, incites or attempts to commit any of the terrorist acts stipulated under sub-articles (1) to (6) of Article 3 of this Proclamation is punishable in accordance with the penalty provided for under the same Article.

5. Rendering Support to Terrorism

1/ Whosoever, knowingly or having reason to know that his deed has the effect of supporting the commission of a terrorist act or a terrorist organization:

a) provides, prepares or gives forged or falsified document;

b) provides a skill, expertise or moral support or gives advice;

c) provides, collects or makes available any property in any manner;

d) provides or makes available monetary, financial or other related services;

e) provides or makes available any explosive, dynamite, inflammable substances, firearms or other lethal weapons or poisonous substances; or

f) provides any training or instruction or directive;

is punishable with rigorous imprisonment from 10 to 15 years.

፪/ ማንኛውም ሰው በዚህ አዋጅ የተመለከተ የሽብርተኝነት ድርጊት የፈፀመ መሆኑን እያወቀ ለማንኛውም ሰው ከሌላ የሰጠ ወይም እንዲያመልጥ የረዳ ወይም የደበቀ እንደሆነ ከ፲ ዓመት እስከ እድሜ ልክ በሚደርስ ፅኑ እስራት ይቀጣል።

፭. ሽብርተኝነትን ስለማበረታታት

ማንኛውም ሰው መልእክቱ እንዲታተምላቸው የተደረገው የህብረተሰቡ አባላት በከፊል ወይም በሙሉ በዚህ አዋጅ በአንቀጽ ፫ የተመለከተ ማንኛውንም የሽብርተኝነት ድርጊት እንዲፈጽሙ ወይም ለመፈጸም እንዲዘጋጁ ወይም እንዲነሳሱ በቀጥታ ወይም በተዘዋዋሪ መንገድ የሚያበረታታቸው ወይም በማንኛውም ሌላ ሁኔታ የሚገፋፋቸው እንደሆነ አድርገው ይረዱታል ተብሎ ሊገመት የሚችል መልዕክት ሆነ ብሎ ወይም በግዴለሽነት ያተመ ወይም ያሳተመ እንደሆነ ከ፲ እስከ ፳ ዓመት በሚደርስ ፅኑ እስራት ይቀጣል።

፮. በሽብርተኛ ድርጅት ውስጥ ስለመሳተፍ

፩/ ማንኛውም ሰው ለሽብርተኛ ድርጅት ወይም የሽብርተኝነት ድርጊቶችን ለመፈፀም ሰው የመለመለ ወይም አባል የሆነ ወይም ስልጠና የወሰደ ወይም በድርጅቱ በማንኛውም መልክ የተሳተፈ እንደሆነ እንደየተሳተፎ ደረጃው ከ፭ እስከ ፲ አመት በሚደርስ ፅኑ እስራት ይቀጣል።

፪/ ማንኛውም ሰው በሽብርተኛ ድርጅት ውስጥ በአመራርነት ወይም በውሳኔ ሰጪነት የሰራ እንደሆነ ከ፳ ዓመት እስከ እድሜ ልክ በሚደርስ ፅኑ እስራት ይቀጣል።

፭. ለሽብርተኝነት ድርጊት መፈፀሚያነት እንዲውል ንብረት መያዝ ወይም መጠቀም

ማንኛውም ሰው የሽብርተኝነት ድርጊት ለመፈፀም ወይም እንዲፈጸም ለማመቻቸት እንደሚውል እያወቀ ወይም እንዲውል በማሰብ ማንኛውንም ንብረት የያዘ ወይም የተጠቀመ እንደሆነ፣ የንብረቱ መወረስ እንደተጠበቀ ሆኖ፣ ከ፭ እስከ ፳ ዓመት በሚደርስ ፅኑ እስራት ይቀጣል።

፬. በሽብርተኝነት ድርጊት የተገኘ ንብረት ስለመያዝና መገልገል

ማንኛውም ሰው ከሽብርተኝነት ድርጊት የተገኘ ንብረት መሆኑን እያወቀ ወይም ማወቅ ሲገባው አንድን ንብረት በባለቤትነት የያዘ ወይም በይዞታው ስር ያደረገ ወይም የተጠቀመ ወይም የለወጠ ወይም የደበቀ ወይም ያመሰሰል እንደሆነ፣ የንብረቱ መወረስ እንደተጠበቀ ሆኖ፣ ከ፭ እስከ ፲፭ ዓመት በሚደርስ ፅኑ እስራት ይቀጣል።

2/ Whosoever harbors or helps to escape or conceals someone whom he knows to have committed terrorist act mentioned under this Proclamation is punishable with rigorous imprisonment from 10 years to life.

6. Encouragement of Terrorism

Whosoever publishes or causes the publication of a statement that is likely to be understood by some or all of the members of the public to whom it is published as a direct or indirect encouragement or other inducement to them to the commission or preparation or instigation of an act of terrorism stipulated under Article 3 of this Proclamation is punishable with rigorous imprisonment from 10 to 20 years.

7. Participation in a Terrorist Organization

1/ Whosoever recruits another person or takes training or becomes a member or participates in any capacity for the purpose of a terrorist organization or committing a terrorist act, on the basis of his level of participation, is punishable with rigorous imprisonment from 5 to 10 years.

2/ Whosoever serves as a leader or decision maker in a terrorist organization is punishable with rigorous imprisonment from 20 years to life.

8. Possessing or Using Property for Terrorist Act

Whosoever possesses or uses property knowing or intending it to be used to committing or facilitating a terrorist act is punishable, subject to the property being forfeited, with rigorous imprisonment from 5 to 20 years.

9. Possessing and Dealing with Proceeds of Terrorist Act

Whosoever knowingly or having reason to know that a property is a proceed of terrorist act acquires or possesses or owns or deals or converts or conceals or disguises the property is punishable, subject to the property being forfeited, with rigorous imprisonment from 5 to 15 years.

፲. ፖስብር ማባባል ወይም ማስፈራራትና ማስረጃ ማጥፋት

ማንኛውም ሰው፣

፩/ በሽብርተኝነት ድርጊት ላይ ምስክር የሆነን ወይም ለመሆን የሚችል ሰውን እንዳይመስክር የደለለ ወይም ያስፈራራ ወይም በምስክሩ ወይም ከምስክሩ ጋር የቅርብ ግንኙነት ባለው ሰው ላይ የሀይል ድርጊት የፈፀመ እንደሆነ፣ ወይም

፪/ ማስረጃ ያጠፋ ወይም የደበቀ እንደሆነ፣

ከ፩ እስከ ፳ ዓመት በሚደርስ ፅኑ እስራት ይቀጣል።

፲፩. በሀሰት የሽብርተኝነት ድርጊት ስለማስፈራራት

ማንኛውም ሰው ሀሰተኛ መሆኑን እያወቀ ወይም እያመነ የሽብርተኝነት ድርጊት እንደተፈፀመ ወይም እየተፈፀመ እንደሆነ ወይም እንደሚፈፀም በማናቸውም መንገድ ለሌላ ሰው ሆን ብሎ የገለፀ እንደሆነ ከ፫ እስከ ፲ ዓመት በሚደርስ ፅኑ እስራት ይቀጣል።

፲፪. የሽብርተኝነት ድርጊቶችን አለማስታወቅ

ማንኛውም ሰው በዚህ አዋጅ የተመለከተ የሽብርተኝነት ድርጊት ሳይፈፀም ለመከላከል የሚረዳ መረጃ እያለው ወይም የሽብርተኝነት ድርጊትን የፈፀመን ወይም ሊፈፀም የተዘጋጀን ሰው ለመያዝ ወይም ለመክሰስ ወይም ለማስቀጣት የሚያስችል መረጃ ወይም ማስረጃ እያለው ያለበቁ ምክንያት መረጃውን ወይም ማስረጃውን ለፖሊስ ወዲያውኑ ያልገለፀ ወይም ሀሰተኛ መረጃ የሰጠ እንደሆነ ከ፫ እስከ ፲ ዓመት በሚደርስ ፅኑ እስራት ይቀጣል።

ከፍል ሦስት

የመከላከልና የምርመራ እርምጃዎች

፲፫. ለሽብርተኝነት ጥቃት የተጋለጡ ሰዎችን ስለ ማዳን

፩/ ፖሊስ በአንድ የተወሰነ ቦታ ላይ የሽብርተኝነት ድርጊት የተፈፀመ ወይም እየተፈፀመ ለመሆኑ ወይም ሊፈፀም እንደሚችል ወይም በዚህ አካባቢ ያሉ ሰዎች ለሽብርተኝነት ጥቃት የተጋለጡ ወይም ሊጋለጡ እንደሚችሉ በቁ ምክንያት ሲኖረው፡-

- ሀ) በአካባቢው ያሉ ሰዎች ወደ አንድ ሥፍራ እንዲገቡ ወይም እንዳይገቡ ወይም ሥፍራውን እንዲለቁ ወይም በተገለለ ቦታ እንዲቆዩ፤

10. Inducing or Threatening Witness and Destroying Evidence

Whosoever:

- 1/ induces or threatens a person who is or can be a witness for an act of terrorism or uses violence against the witness or a person who has close relationship with the witness to prevent the witness from testifying; or
- 2/ destroys or hides evidence;

is punishable with rigorous imprisonment from 5 to 20 years.

11. False Threat of Terrorist Act

Whosoever while knowing or believing that the information is false, intentionally communicates or makes available by any means that a terrorist act has been or is being or will be committed, is punishable with rigorous imprisonment from 3 to 10 years.

12. Failure to Disclose Terrorist Acts

Whosoever, having information or evidence that may assist to prevent terrorist act before its commission, or having information or evidence capable to arrest or prosecute or punish a suspect who has committed or prepared to commit an act of terrorism, fails to immediately inform or give information or evidence to the police without reasonable cause, or gives false information, is punishable with rigorous imprisonment from 3 to 10 years.

PART THREE

PREVENTIVE AND INVESTIGATIVE MEASURES

13. Protecting Individuals Exposed to Terrorist Attacks

1/ A police officer, having reasonable grounds to believe that a terrorist act has been or is being or will be committed in a particular place, or that people around such place are exposed or may be exposed to terrorist attacks, may:

- a) order people around the place to enter into a premise or prevent their entry into a premise or order them to evacuate a premise or keep them in a secluded area;

ለ) ለአደጋው ምንጭ የሆነው ወይም ሊሆን የሚችለው ዕቃ እንዲወድም፣ እንዲወሰድ ወይም ከነበረበት ቦታ እንዲነሳ፤

ሐ) ሰዎችን ከመመረዝ ለማዳን ተገቢ የሆኑ ትእዛዞችን እንዲፈፀሙ፤

መ) የተመረዘው ቤት ወይም ቦታ በቁጥጥር ስር እንዲውል፤ ወይም

ሠ) አደጋውን ወይም መመረዙን ለመከላከል ወይም ለመቀነስ የሚያስችል ማንኛውም እርምጃ እንዲወሰድ፤

የፅሁፍ ወይም የቃል ትእዛዝ ለመስጠትና ይህንንም ለማስፈፀም አስፈላጊ ሆኖ ሲያገኙ የማስገደድ እርምጃ ሊወሰድ ይችላል፡፡

፪/ በዚህ አንቀጽ በንዑስ አንቀጽ (፩) የተሰጠ ትእዛዝ በፖሊስ በሚነገር ማስታወቂያ ሊነሳ ወይም ሊራዘም ይችላል፡፡

፫/ ለሽብርተኝነት አደጋ የተጋለጠ ማንኛውም ሰው ፖሊስ የሰጠውን ትእዛዝ የመፈፀምና የመተባበር ግዴታ አለበት፡፡ እንዲሁም የህንፃ፣ የምድረ ግቢ ወይም ሥፍራ ባለቤት ወይም አስተዳዳሪ የሆነ ሰው በዚህ አንቀጽ መሠረት የተሰጠውን ትእዛዝ የማስፈፀም ኃላፊነት አለበት፡፡

፬/ መንግስት እንደ አስፈላጊነቱ በሚያወጣው መመሪያ መሰረት ማናቸውም አምራች ወይም አገልግሎት ሰጪ ተቋም ከድንገተኛ አደጋ ሰውን ለማዳን እቅድ እንዲኖረው ሊያደርግ ይችላል፡፡

፲፬. መረጃ ስለማሰባሰብ

፩/ የሽብርተኝነት ድርጊትን ለመከላከልና ለመቆጣጠር የብሔራዊ የመረጃና ደህንነት አገልግሎት ከፍርድ ቤት ፈቃድ በመውሰድ፡-

ሀ) በሽብርተኝነት ወንጀል የተጠረጠረን ሰው የስልክ፣ የፋክስ፣ የሬድዮ፣ የኢንተርኔት፣ የኢሌክትሮኒክስ፣ የፖስታና የመሳሰሉ ግንኙነቶችን ለመጥለፍ ወይም ለመከታተል፤

ለ) ጠለፋውን ለማስፈፀም ወደ ማናቸውም ቤት ውስጥ በሚስጥር ለመግባት፤ ወይም

ሐ) ይህንኑ ለመፈፀም የሚያስችሉ መሳሪያዎችን ለማስቀመጥ ወይም ለማንሳት፤

ይችላል፡፡

፪/ በጠለፋ የሚገኝ መረጃ በምስጢር መጠበቅ አለበት፡፡

b) destroy, take away or remove the thing which is or may be a source of the danger;

c) order individuals to follow any procedures which protects them from poisoning;

d) put under control the contaminated building or land; or

e) take any measure that enable to prevent or reduce the danger or contamination;

by issuing oral or written order and, if necessary, by using compelling measure.

2/ An order given under sub-article (1) of this Article, may be lifted or extended by way of police annocument.

3/ Any individual exposed to danger of terrorism shall have the duty to execute and cooperate in the execution of the order given by the police. Furthermore, an owner or person in charge of any building or premise, or place shall have the duty to enforce the order given under this Article.

4/ The government, when finds it necessary, may, by issuing a directive, make any manufacturing or service rendering institution to have contingency plan in order to save people from danger in case of emergency.

14. Gathering Information

1/ To prevent and control a terrorist act, the National Intelligence and Security Service may, up on getting court warrant:

a) intercept or conduct surveillance on the telephone, fax, radio, internet, electronic, postal and similar communications of a person suspected of terrorism;

b) enter into any premise in secret to enforce the interception; or

c) install or remove instruments enabling the interception.

2/ Information obtained through interception shall be kept in secret.

፫/ ማናቸውም የመገናኛ አገልግሎት አቅራቢ በብሔራዊ የመረጃና ደህንነት አገልግሎት ጠለፋውን ለማካሄድ ሲጠየቅ አስፈላጊውን ትብብር ማድረግ አለበት።

፬/ የሽብርተኝነት ድርጊትን ለመከላከልና ለመቆጣጠር የብሔራዊ የመረጃና ደህንነት አገልግሎት ወይም ፖሊስ ክትትል በማድረግ መረጃዎችን ሊያሰባስብ ይችላል።

፲፭. ተከራይን ስለሚመለከቱ መረጃዎች

፩/ ማንኛውም ቤት፣ ቦታ፣ ክፍል ወይም ተሽከርካሪ ወይም ተመሳሳይ መገልገያ አከራይ የሆነ ሰው የተከራዩን ማንነት በዝርዝርና በፅሁፍ የመያዝ እና በአቅራቢያው ላለ ፖሊስ ጣቢያ በሃያ አራት ሰአት ውስጥ የማሳወቅ ግዴታ አለበት።

፪/ ማንኛውም ሰው በቤቱ ውስጥ የውጭ ሀገር ዜጋን ሲያኖር በአቅራቢያው ላለ ፖሊስ ጣቢያ ስለሚያኖረው ሰው ማንነት ዝርዝር መግለፅና የፓስፖርቱን ኮፒ የማቅረብ ግዴታ አለበት።

፲፮. ድንገተኛ ፍተሻ

ፖሊስ የሽብርተኝነት ድርጊት ሊፈፀም እንደሚችል በቂ ጥርጣሬ ሲኖረውና ድርጊቱን ለመከላከል ድንገተኛ ፍተሻ ማድረግ አስፈላጊ ነው ብሎ ሲያምን በፌዴራል ፖሊስ ዋና ዳይሬክተር ወይም እርሱ በሚወክለው ሀላፊ ፈቃድ በአካባቢው ያለን ተሽከርካሪ እና እግረኞችን በማስቆም በማንኛውም ጊዜ በድንገት ለመፈተሽና አስፈላጊ የሆኑ መረጃዎችን ለመያዝ ይችላል።

፲፯. በድብቅ የሚደረግ ብርብራ

ፖሊስ፣

፩/ የሽብር ድርጊት የተፈፀመ እንደሆነ ወይም ሊፈፀም እንደሚችል፣ ወይም

፪/ በሚበረብረው ቤት ውስጥ ነዋሪ ወይም ባለይዘታ የሆነው ሰው የሽብርተኝነት ድርጊት ለመፈፀም ዝግጅት ስለማድረግ ወይም ዕቅድ ስለመንደፉ፣ እና

፫/ የሚደረገው ብርብራ የሽብርተኝነት ድርጊት ወይም በሽብርተኝነት ድርጊት የሚጠረጠር እንቅስቃሴን አስቀድሞ ለመከላከል ወይም እርምጃ ለመውሰድ ከፍተኛ አስተዋፅኦ እንደሚኖረው፣

በበቂ ምክንያት ያመነ ከሆነ በድብቅ የሚደረግ የብርብራ ማዘዥ ከፍርድ ቤት እንዲሰጠው በፅሁፍ ወይም አስቸኳይ ሁኔታ ሲኖር በስልክ ፈቃድ ሊጠይቅ ይችላል።

3/ Any communication service provider shall cooperate when requested by the National Intelligence and Security Service to conduct the interception.

4/ The National Intelligence and Security Services or the Police may gather information by surveillance in order to prevent and control acts of terrorism.

15. Information about a Lessee

1/ Whosoever leases a house, place, room, vehicle or any similar facility shall have the duty to register in detail the identity of the lessee and notify the same to the nearest police station within 24 hours.

2/ Any person, who lets a foreigner live in his house, shall have a duty to notify the nearest police within 24 hours, about the identity of the foreigner and submit a copy of his passport.

16. Sudden Search

Where a police officer has reasonable suspicion that a terrorist act may be committed and deems it necessary to make a sudden search in order to prevent the act, with the permission of the Director General of the Federal Police or a person delegated by him, may stop vehicle and pedestrian in an area and conduct sudden search at any time, and seize relevant evidences.

17. Covert Search

A police may request the court in writing or, in urgent cases, by telephone for covert search warrant where he has reasonable grounds to believe that:

1/ a terrorist act has been or is likely to be committed; or

2/ a resident or possessor of a house to be searched has made preparations or plans to commit a terrorist act; and

3/ covert search is essential to prevent or to take action against a terrorist act or suspected terrorist activity.

፲፰. በድብቅ የሚደረግ ብርብራ ለማካሄድ ስለሚሰጥ ትእዛዝ

፩/ ፍርድ ቤቱ በአመልካች በሚቀርብለት መረጃ መሰረት፤

- ሀ) የተፈጸመውን ወይም የተጠረጠረውን የሽብር ድርጊት ባህሪ ወይም አደገኛነት፤ እና
- ለ) በማዘገፍ መሰረት የሚወሰደው እርምጃ የሽብር ድርጊቱን ለመከላከል ወይም ተጠርጣሪውን በቁጥጥር ስር ለማዋል የሚኖረውን አስተዋፅኦ፤

ከግምት ውስጥ በማስገባት በድብቅ የሚደረግ ብርብራ ማዘገፍ ይሰጣል።

፪/ በዚህ አንቀጽ መሰረት የሚሰጥ ማዘገፍ፡-

- ሀ) ማዘገፍ የሚመለከተውን ቤት አድራሻና የሚታወቅ ከሆነ የቤቱን ነዋሪዎች ስም፤
- ለ) ከፍተኛው ሠላሳ ቀናት መሆኑ እንደተጠበቀ ሆኖ ማዘገፍ ተፈጻሚ የሚሆንበትን ጊዜና ማዘገፍ የተሰጠበትን ቀን፤ እና
- ሐ) እንደ አስፈላጊነቱ የሚበረብሩትንና የሚያዙትን ማስረጃዎች አይነት ወይም ዝርዝር፤ መያዝ አለበት።

፲፱. የመያዝ ሥልጣን

፩/ በዚህ አዋጅ የተመለከተ የሽብርተኝነት ድርጊት ለመፈፀሙ ወይም እየፈፀመ ያለ ስለመሆኑ በሚገባ የሚጠረጥረውን ማንኛውንም ሰው ያለ ፍርድ ቤት ትእዛዝ ፖሊስ ለመያዝ ይችላል።

፪/ የተያዘው ሰው በ፵፰ ሰዓታት ውስጥ ፍርድ ቤት የመቅረብ መብት አለው። ይህም ጊዜ ከተያዘበት ቦታ ወደ ፍርድ ቤት ለመድረስ አግባብ ባለው ግምት የሚጠይቀውን ጊዜ አይጨምርም።

፳ በእስር የማቆይ ትእዛዝ

፩/ በዚህ አዋጅ አንቀጽ ፲፱ በተመለከተው መሠረት የተያዘ ሰው የቀረበለት ፍርድ ቤት ለምርመራ ወይም ክስን በፍርድ ቤት ለመስማት የተያዘው ሰው በማረፊያ ቤት እንዲቆይ ሊወስን ይችላል።

፪/ ምርመራው ያልተጠናቀቀ እንደሆነ መርማሪው ፖሊስ ምርመራውን የሚፈጽምበት በቂ ጊዜ እንዲሰጠው ፍርድ ቤቱን መጠየቅ ይችላል።

18. Warrant Given to Conduct Covert Search

1/ The court on the basis of the information presented to it by the applicant, may give covert search warrant by having into consideration:

- a) the nature or gravity of the terrorist act or the suspected terrorist act; and
- b) the extent to which the measures to be taken in accordance with the warrant would assist to prevent the act of terrorism or arrest the suspect.

2/ A warrant issued in accordance with this Article shall specify:

- a) the address of any premise to which the warrant relates, and the names of the occupiers, if known;
- b) the maximum duration being 30 days, the period during which the warrant is valid and the date on which the warrant is issued; and
- c) if necessary, the type or description of evidences to be searched for and seized.

19. Powers of Arrest

1/ The police may arrest without court warrant any person whom he reasonably suspects to have committed or is committing a terrorist act as provided under this Proclamation.

2/ The arrested person shall have the right to be brought before a court within 48 hours of his arrest. Such time shall not include the time reasonably required for the journey from the place of arrest to the court.

20. Detention and Remand Order

1/ The court, before which an arrested person is presented in accordance with Article 19 of this Proclamation, may give an order to remand the suspect for investigation or trial.

2/ If the investigation is not completed, the investigating police officer may request the court for sufficient period to complete the investigation.

- ፫/ በማረፊያ ቤት ለምርመራ ለማቆየት የሚሰጠው እያንዳንዱ ጊዜ ቢያንስ ለጾታ ቀናት ይሆናል፤ ሆኖም በአጠቃላይ የሚሰጠው ጊዜ ከአራት ወራት መብለጥ አይኖርበትም፡፡
- ፬/ በዋስትና ጉዳዮች ላይ ዐቃቤ ህግ ይግባኝ ለማቅረብ ይችላል፡፡
- ፭/ በዚህ አዋጅ መሰረት በሽብርተኝነት ወንጀል ክስ የቀረበ እንደሆነ ፍርድ ቤቱ ክስን ሰምቶ ውሳኔ እስከሚሰጥ ድረስ ተከላኸው በማረፊያ ቤት እንዲቆይ ያዛል፡፡

፳፩. ናሙናዎችን የመስጠት ግዴታ

ፖሊስ በሽብርተኝነት ወንጀል ጉዳይ የተጠረጠረ ሰው የእጅ ጽሑፍን፣ የጣት አሻራውን፣ ፎቶግራፍን፣ የፀጉሩን፣ የድምፁን፣ የደሙን፣ የምራቁንና ሌሎች በሰውነቱ የሚገኙ ፈሳሽ ነገሮችን ናሙናዎች ለምርመራ እንዲሰጥ ሊያዝ ይችላል፡፡ በተጨማሪም የህክምና ምርምራ እንዲያደርግ ሊያዝ ይችላል፡፡ ተጠርጣሪው ለምርመራው ፈቃደኛ ካልሆነ ፖሊስ አስፈላጊ የሆነ ተመጣጣኝ ሀይል ተጠቅሞ ከተጠርጣሪው ናሙና ሊወስድ ይችላል፡፡

፳፪. መረጃ የመስጠት ግዴታ

የሽብርተኝነት ወንጀል ለመከላከል ወይም ምርመራ ለማከናወን ፖሊስ ለምርመራው የሚረዳው መሆኑን በሚገባ የሚያምንበትን መረጃ ወይም ማስረጃ ከማናቸውም የመንግሥት መሥሪያ ቤት፣ ባለሥልጣን፣ ባንክ፣ የግል ድርጅት ወይም ግለሰብ እንዲሰጠው ሊጠይቅ ይችላል፡፡ መረጃ ወይም ማስረጃ የተጠየቀው ወገን መረጃውን ወይም ማስረጃውን የመስጠት ግዴታ አለበት፡፡

ከፍል አራት
የማስረጃና የሥነሥርዓት ደንቦች

፳፫. ተቀባይነት ስለሚኖራቸው ማስረጃዎች

በወንጀለኛ መቅጫ ሥነሥርዓት ህግና ሌሎች አግባብነት ባላቸው ህጎች የሚቀርቡ ማስረጃዎች ተቀባይነታቸው እንደተጠበቀ ሆኖ የሚከተሉት ማስረጃዎች በሽብርተኝነት ጉዳዮች በፍርድ ቤት በማስረጃነት ተቀባይነት ይኖራቸዋል፡-

- ፩/ የመረጃውን ምንጭ ወይም መረጃው እንዴት እንደተገኘ ባይገልጽም በሽብርተኝነት ወንጀል የተዘጋጀ የመረጃ ሪፖርት፤
- ፪/ የሰሚ ሰሚ ወይም በተዘዋዋሪ የተገኘ ማስረጃዎች፤
- ፫/ ዲጂታል ወይም ኤሌክትሮኒክ ማስረጃዎች፤

- 3/ Each period given to remand the suspect for investigation shall be a minimum of 28 days; provided however, that the total time shall not exceed a period of four months.
- 4/ Public prosecutor may appeal on bail cases.
- 5/ If a terrorism charge is filed in accordance with this Proclamation, the court shall order the suspect to be remanded for trial until the court hears and gives decision on the case.

21. Duty to Giving Samples

The police may order a person suspected of acts of terrorism to give samples of his hand writing, hair, voice, finger print, photograph, blood, saliva and other body fluids, for investigation. Moreover, he may order the suspect to undergo medical test. If the suspect is not willing for the test, the police may use necessary and reasonable force to take samples.

22. Duty to Give Information

The police may request from any government institution, official, bank or a private organization or an individual to be given information or evidence which he reasonably believes could assist to prevent or investigate terrorism cases. Any one so requested shall have the duty to give the information or evidence.

PART FOUR
EVIDENTIARY AND PROCEDURAL RULES

23. Admissible Evidences

Without prejudice to the admissibility of evidences to be presented in accordance with the Criminal Procedure Code and other relevant legislations, the following shall be admissible in court for terrorism cases:

- 1/ intelligence report prepared in relation to terrorism, even if the report does not disclose the source or the method it was gathered;
- 2/ hearsay or indirect evidences;
- 3/ digital or electronic evidences;

፬/ በጠለፋ ወይም በክትትል የተገኙ ማስረጃዎች ወይም በውጭ ሀገር የህግ አስከባሪ አካላት በተደረገ ጠለፋ የተገኙ መረጃዎች፤ እና

፭/ በሽብርተኝነት ድርጊት ከሚጠረጠር ሰው በፅሁፍ፣ በድምፅ መቅረጫ፣ በቪዲዮ ካሴት፣ ወይም በማናቸውም ሌላ ሜካኒካል ወይም ኤሌክትሮኒክ መሳሪያ የተቀረፀ የእምነት ቃል፡፡

፳፬. የሽብርተኝነት ወንጀል በይርጋ የማይታገድ ስለ መሆኑ

በዚህ አዋጅ የተመለከተ ማናቸውንም የሽብርተኝነት ወንጀል በፈፀመ ሰው ላይ የሚቀርብ ክስ በይርጋ አይታገድም፡፡

ክፍል አምስት

የሽብርተኛ ድርጅቶችንና ከሽብርተኝነት ድርጊት የተገኙ ንብረቶችን የመቆጣጠር እርምጃዎች

፳፭. ድርጅት በሽብርተኝነት ስለሚሰየምበት ሥርዓት

፩/ የሕዝብ ተወካዮች ምክር ቤት በመንግስት አቅራቢነት አንድን ድርጅት በሽብርተኝነት የመሰየም እና የሽብርተኝነቱን ስያሜን የመሻር ሥልጣን ይኖረዋል፡፡

፪/ ማንኛውም ድርጅት በሽብርተኛ ድርጅትነት የሚሰየመው በቀጥታ ወይም በተዘዋዋሪ፡-

- ሀ) የሽብርተኝነት ወንጀል ከፈጸመ፤
- ለ) የሽብርተኝነት ወንጀል ለመፈፀም ከተዘጋጀ፤
- ሐ) ሽብርተኝነትን ከደገፈ ወይም ካበረታታ፤ ወይም

መ) በሌላ መንገድ ከሽብርተኝነት ጋር ተያያዥነት ያለው ሆኖ ከተገኘ፤ ይሆናል፡፡

፫/ በዚህ አንቀጽ ንዑስ አንቀጽ (፩) እና (፪) መሰረት በሽብርተኝነት የተሰየመ ድርጅት ህጋዊ ሰውነቱን ያጣል፡፡

፬/ በዚህ አዋጅ መሰረት የሚቋቋመውን የሽብርተኝነት ተጎጂዎች ፈንድ የሚያስተዳድረው አካል በዚህ አንቀጽ ንዑስ አንቀጽ (፫) መሠረት ህጋዊ ህልውናውን ላጣ ድርጅት ንብረት አጣሪ ይመድባል፤ የማፍረስ ሂደቱን ያስፈፅማል፡፡

4/ evidences gathered through interception or surveillance or information obtained through interception conducted by foreign law enforcement bodies; and

5/ confession of a suspect of terrorism in writing, voice recording, video cassette or recorded in any mechanical or electronic device.

24. Inapplicability of Statute of Limitation for Terrorism Cases

Criminal liability of persons who commit terrorism crimes as stipulated under this Proclamation shall not be barred by statute of limitations.

PART FIVE

MEASURES TO CONTROL TERRORIST ORGANIZATIONS AND PROPERTY

25. Procedure of Proscribing Terrorist Organization

1/ The House of Peoples' Representatives shall have the power, upon submission by the government, to proscribe and de-proscribe an organization as terrorist organization.

2/ Any organization shall be proscribed as terrorist organization if it directly or indirectly:

- a) commits acts of terrorism;
- b) prepares to commit acts of terrorism;
- c) supports or encourages terrorism; or
- d) is otherwise involved in terrorism.

3/ Where any organization is proscribed as terrorist in accordance with sub-article (1) and (2) of this Article, its legal personality shall cease.

4/ The body that administers the terrorism victims fund to be established in accordance with this Proclamation shall assign a liquidator to the organization the legal personality of which has ceased pursuant to sub-article (3) of this Article, and enforce the process of the liquidation.

፳፮. የሽብርተኛ ንብረት ስለማገድና ስለመያዝ

- ፩/ ፖሊስ በሚያካሂደው ምርመራ የባንክ ሂሳብን ጨምሮ ማናቸውም ንብረት በዚህ አዋጅ የተመለከተ የሽብርተኝነት ወንጀል የተፈፀመበት ወይም ሲፈፀምበት እንደሚችል በሚገባ የጠረጠረ እንደሆነ ከፍርድ ቤት በሚያገኘው ፈቃድ መሰረት ንብረቱን በቁጥጥሩ ስር ለማድረግ ይችላል።
- ፪/ ፍርድ ቤቱ በዚህ አንቀጽ ንዑስ አንቀጽ (፩) መሠረት በሚሰጠው ትዕዛዝ የተጠቀሰው ንብረት ለሌላ ሦስተኛ ወገን እንዳይተላለፍና ማናቸውም ሌላ ሕጋዊ ግንኙነት እንዳይፈጸምበት ጊዜያዊ የእግድ ትዕዛዝ ይሰጣል።
- ፫/ የእግዱ ትዕዛዝ ግልባጭ ለሚመለከተው የአስተዳደር መሥሪያ ቤትና ለንብረቱ ባለቤት ወይም ባለይዘታ እንዲሰጥ ይደረጋል።
- ፬/ የተያዘው ወይም የእግድ ትዕዛዝ የተጣለበት ንብረት ባለቤት ወይም ባለይዘታ ቅር የተሰኘ እንደሆነ ይግባኝ ማቅረብ ይችላል።
- ፭/ ፍርድ ቤቱ ንብረቱ የተያዘው ወይም የታገደው በዚህ አንቀጽ ንዑስ አንቀጽ (፩) እና (፪) መሰረት አለመሆኑን ሲያረጋግጥ ንብረቱ እንዲለቀቅ ወይም ዕግዱ እንዲነሳ ማድረግ ይችላል።

፳፯. የሽብርተኛ ንብረት ስለመውረስ

- ፩/ በሽብርተኝነት ድርጊት የተገኘ ንብረት ወይም የሽብርተኛ ድርጅት ወይም የሽብርተኛ ንብረት በመንግሥት ይወረሳል።
- ፪/ የሽብርተኛ ንብረት እንዲወረስ ለማድረግ በጉዳዩ ላይ የወንጀል ክስ ቀርቦ እንደሆነ በዚሁ የክስ መዝገብ ዐቃቤ ህግ መጠየቅ ይችላል። የወንጀል ክስ ባልተመሰረተበት ሁኔታ ማመልከቻው ለብቻው መዝገብ ተከፍቶለት ለፍርድ ቤቱ ይቀርባል።
- ፫/ በዚህ አንቀጽ ንዑስ አንቀጽ (፩) መሠረት የመውረስ ትእዛዝ ከመሰጠቱ በፊት ፍርድ ቤቱ በተጠቀሰው ንብረት ላይ መብት ወይም ጥቅም አለኝ ለሚል ማንኛውም ሰው የመሰማት እድል መስጠት ይኖርበታል።
- ፬/ የተወረሰው ንብረት በዚህ አዋጅ መሠረት ወደ ተቋቋመው የሽብርተኝነት ተጎጂዎች ፈንድ ገቢ ይደረጋል።

26. Freezing and Seizure of Terrorist Property

- 1/ Where the police, while conducting investigation, has reasonable ground to suspect that any property including bank account has been or may be used to commit terrorist act as stipulated under this Proclamation, he may seize the property in accordance with court authorization.
- 2/ The court shall, in the authorization issued pursuant to sub-article (1) of this Article, pass a temporary freezing order to prevent the transfer of such property to a third party and any other legal transactions involving such property.
- 3/ A copy of the freezing order shall be given to the concerned administrative office and to the owner or possessor of the property.
- 4/ If the owner or possessor of the seized or frozen property is aggrieved by the order, he may lodge an appeal.
- 5/ When the court finds that the property was seized or frozen contrary to the provisions of sub-article (1) and (2) of this Article, it may order the release of the property or the lifting of the freezing.

27. Forfeiture of Terrorist Property

- 1/ Proceeds of terrorism or property of a terrorist organization or a terrorist shall be forfeited by the government.
- 2/ Where a criminal charge is instituted on the matter the public prosecutor may request for an order of forfeiture within the same criminal charge file. If criminal charge is not instituted the application may be presented to the court under a separate file.
- 3/ Before making forfeiture order under sub-article (1) of this Article, the court shall give every person appearing to have an interest in the property an opportunity to be heard.
- 4/ The property shall be transferred to the terrorism victims fund established in accordance with this Proclamation.

ክፍል ስድስት

የሽብርተኝነት ጉዳይ የሚከታተሉ ተቋማት

፳፰. የሽብርተኝነት ድርጊትን ስለሚከታተል ዐቃቤ ሕግና ፖሊስ

፩/ በሕግ በተሰጠው ሥልጣን መሠረት የሽብርተኝነት የወንጀል ጉዳይን የሚከታተል ዐቃቤ ሕግ ወይም ፖሊስ፡-

ሀ) አግባብነት ባለው ሙያ ቢያንስ ከአምስት ዓመት በላይ የሥራ ልምድ ያለው፣ ሥልጠና የወሰደና በሥራው ታታሪ የሆነ፤ እና

ለ) እንደ አግባብነቱ ከፍተኛ ሚኒስቴር ወይም ከፌዴራል ፖሊስ የበላይ ኃላፊዎች የሙያ ብቃትና የሥነ ምግባር ማረጋገጫ ምስክርነት ያገኘ፤

መሆን አለበት፡፡

፪/ የፍትህ ሚኒስቴር የሽብርተኝነት ጉዳዮችን የሚከታተል የተለየ የሥራ ክፍል ያደራጃል፡፡

፫/ የፌዴራል ፖሊስ የሽብርተኝነት ጉዳዮችን የሚከታተል የተለየ የሥራ ክፍል ያደራጃል፡፡

፳፱. የሽብርተኝነት ጉዳይ ስለሚከታተሉ የደህንነት ሠራተኞች

በብሔራዊ የመረጃና ደህንነት አገልግሎት የሽብርተኝነት ጉዳዮችን የሚከታተሉ የመሥሪያ ቤቱ ሠራተኞችን መርጦ ይመድባል፡፡ የሽብርተኝነት ጉዳይን የሚከታተል የተለየ የሥራ ክፍል ያደራጃል፡፡

፴. ስለብሔራዊ የፀረ ሽብርተኝነት አስተባባሪ ኮሚቴ

፩/ የሽብርተኝነት ድርጊትን ለመከላከልና ለመቆጣጠር የፍትሕ ሚኒስቴር፣ የብሔራዊ የመረጃና ደህንነት አገልግሎት እና የፌዴራል ፖሊስ መሥሪያ ቤት ኃላፊዎችን ያቀፈ ብሔራዊ የፀረ ሽብርተኝነት አስተባባሪ ኮሚቴ ይዋቀራል፡፡

፪/ የብሔራዊ መረጃና ደህንነት አገልግሎት ዋና ዳይሬክተር ኮሚቴውን ይመራል፡፡

፫/ ኮሚቴው የጋራ የፀረ ሽብርተኝነት እቅድ ያወጣል፣ የጋራ የፀረ ሽብርተኝነት ግብረ ሀይል በማደራጀት ተቋሞቹ ሽብርተኝነትን ለመዋጋት የሚያደርጉትን ጥረት በማቀናጀት በጋራና በተደጋጋሚነት እንዲሠሩ ያደርጋል፡፡

PART SIX

INSTITUTIONS THAT FOLLOW UP CASES OF TERRORISM

28. Prosecutor and Police Following up Cases of Terrorism

1/ A public prosecutor or police officer who follows up terrorism cases in accordance with the powers conferred up on by law shall:

a) have more than five years of relevant work experience and the appropriate training and be hard working; and

b) have obtained testimonials from the relevant senior officials of the Ministry of Justice or the Federal Police as to his professional competency and ethics.

2/ The Ministry of Justice shall organize a separate specialized department which follow up terrorism cases.

3/ The Federal Police shall organize a separate specialized department which follow up terrorism cases.

29. Intelligence Personnel Following up Cases of Terrorism

The National Intelligence and Security Service shall select and assign officers who follow up cases of terrorism. It shall organize a separate specialized department which follow up terrorism cases.

30. National Anti-Terrorism Coordinating Committee

1/ In order to prevent and control terrorist acts a National Anti-Terrorism Coordination Committee comprising the heads of the Ministry of Justice, National Intelligence and Security Service and Federal Police shall be established.

2/ The Director General of the National Intelligence and Security Service shall lead the Committee.

3/ The Committee shall draw up joint counter terrorism plan and set up joint counter terrorism task force and shall work together in coordinating their efforts.

፴፩. በሽብርተኝነት ወንጀል የዳኝነት ሥልጣን

፩/ የፌዴራል ከፍተኛና ጠቅላይ ፍርድ ቤቶች፡-

- ሀ) በዚህ አዋጅ መሠረት የሚቀርቡ ጉዳዮችን፤
- ለ) በዚህ አዋጅ ከተመለከቱ ወንጀሎች ጋር ተያይዘው የሚፈፀሙ ሌሎች ወንጀሎችን፤ ወይም
- ሐ) በዚህ አዋጅ መሠረት የቀረበን ክስ ፍርድ ቤቱ የክሱን አንቀጽ የሚቀይራቸውን ጉዳዮች፤

የመዳኝነት ሥልጣን ይኖራቸዋል።

፪/ የሀገር መከላከያ ሠራዊት የሀገሪቱን ለ-ዐላ ዊነት ለማስከበር በሚያደርገው ውጊያ የተማረከ ሰው የጦር ምርኮኛ መሆን ወይም ያለመሆኑን የመወሰን ሥልጣን በዚህ አዋጅ ለቀዳሚ ወታደራዊ ፍርድ ቤት ተሰጥቷል።

፫/ የዳኝነት ሥልጣንን የተመለከቱ የ፲፱፻፺፮ የኢትዮጵያ ፌዴራላዊ ዲሞክራሲያዊ ሪፐብሊክ የወንጀል ህግ አንቀጽ ፲፫ እና ፲፯(፩)(ለ) ድንጋጌዎች የሽብርተኝነት ወንጀሎችንም ያካትታሉ።

ክፍል ሰባት
ልዩ ልዩ ድንጋጌዎች

፴፪. ለምስክሮች ጥበቃ ስለማድረግ

፩/ ፍርድ ቤት ማንኛውንም የሽብርተኝነት ጉዳይ በሚያይበት ጊዜ በራሱ ተነሳሽነት ወይም በዐቃቤ ህግ ወይም በምስክሩ ጠያቂነት የምስክሩ ህይወት አደጋ ላይ መሆኑን የተረዳ እንደሆነ የምስክሩን ማንነትና አድራሻ በሚስጥር ለመጠበቅ አስፈላጊ እርምጃዎችን ሊወስድ ይችላል። የሚወስዳቸው እርምጃዎችም በተለይ የሚከተሉትን ሊያካትቱ ይችላሉ፡-

- ሀ) ክሱ የሚሰማበትን ቦታ መወሰን፤
- ለ) የምስክሮች ስሞችና አድራሻዎች በፍርድ ቤቱ ትእዛዞች፣ ውሳኔዎችና መዝገቦች ላይ እንዳይገለፁ ማድረግ፤
- ሐ) የምስክሮች ማንነትና አድራሻ እንዳይገለጹ ትእዛዞችን መስጠት፤ እና
- መ) በፍርድ ቤቱ እየተካሄዱ ያሉ የክስ መስማት ሂደቶች በከፊልም ሆነ በሙሉ እንዳይታተሙ ወይም በማናቸውም መንገድ እንዳይገለፁ መወሰን።

31. Jurisdiction over Terrorism Crimes

1/ The Federal High Court and the Federal Supreme Court shall have jurisdiction over:

- a) cases presented in accordance with this Proclamation;
- b) other crimes committed together with crimes mentioned under this Proclamation; or
- c) criminal cases presented in accordance with this Proclamation, which the court changes the article of the charge.

2/ The power to determine the status of a prisoner, captured by the Defense Forces during war conducted to defend the sovereignty of the country, as a prisoner of war or not is hereby given to the Primary Military Court.

3/ Articles 13 and 17(1)(b) of the 2004 Criminal Code of the Federal Democratic Republic of Ethiopia relating to jurisdiction shall also include terrorism offences.

PART SEVEN
MISCELLANEOUS PROVISIONS

32. Protection of Witnesses

1/ Where the court, on its own motion or on an application made by the public prosecutor or by the witness, is satisfied that the life of such witness is in danger, it may take the necessary measure to enable the withholding of the name and identity of the witness. The measures it takes may, in particular, include:

- a) holding of the proceedings at a place to be decided by the court;
- b) avoiding of the mention of the names and addresses of the witnesses in its orders, judgments and in the records of the case;
- c) issuing of any directions for securing that the identities and addresses of the witnesses are not disclosed; and
- d) ordering that all or any of the proceedings pending before the court shall not be published or disseminated in any manner.

፪/ ማንኛውም ሰው በዚህ አንቀጽ ንዑስ አንቀጽ (፩) መሠረት የተሰጠን ውሳኔ የተላለፈ እንደሆነ ከአምስት እስከ አሥር ዓመት በሚደርስ ፅኑ እስራትና ከብር ፲ሺ እስከ ፴ሺ በሚደርስ የገንዘብ መቀጮ ይቀጣል።

፴፫. የፍርድ ሂደትን ስለመርዳት

ማንኛውም ሰው በዚህ አዋጅ የተመለከተ ወንጀል በመፈፀሙ በአድራጎቱ የተፀፀተ እንደሆነና ስለወንጀሉ አፈፃፀም በዝርዝር ለማስረዳት የተባበረ እንደሆነ ወይም ወንጀሉን በመፈፀሙ ክርሱ ጋር የተሳተፉ ሰዎችን ያጋለጠ እንደሆነ በዐቃቤ ህግ ጥያቄ መነሻነት ፍርድ ቤቱ ቅጣቱን ሊያቀልላት ይችላል።

፴፬. ፈንድ ስለማቋቋም

የሚኒስትሮች ምክር ቤት በሚያወጣው ደንብ መሠረት የሽብርተኝነት ተጎጂዎች ፈንድ ይቋቋማል።

፴፭. የመተባበር ግዴታን መጣስ

በዚህ አዋጅ አንቀጽ ፲፫፣ ፲፬፣ ፲፭፣ ፳፩ ወይም ፳፪ መሠረት የተጠየቀውን ትብብር ያላደረገ፣ ለመተባበር ፈቃደኛ ያልሆነ ወይም በፖሊስ የወንጀል መከላከል ወይም ምርመራ ሥራ ላይ ሆኖ ብሎ ማናቸውንም እንቅፋት የፈጠረ ማንኛውም ሰው ከሦስት እስከ አሥር ዓመት በሚደርስ ፅኑ እስራት ይቀጣል።

፴፮. ተፈጻሚ የማይሆኑ ሕጎች

፩/ ከዚህ አዋጅ ጋር የሚቃረን ማናቸውም ሕግ፣ ደንብ፣ መመሪያ ወይም የአሠራር ልምድ በዚህ አዋጅ በተመለከቱ ጉዳዮች ላይ ተፈጻሚነት አይኖረውም።

፪/ የዚህ አንቀጽ ንዑስ አንቀጽ (፩) እንደተጠበቀ ሆኖ የወንጀል ሕግና የወንጀልኛ መቅጫ ሥነ/ሥርዓት ሕግ ድንጋጌዎች ተፈጻሚ ይሆናሉ።

፴፯. ደንብ የማውጣት ስልጣን

የሚኒስትሮች ምክር ቤት ይህንን አዋጅ ለማስፈፀም የሚያስፈልጉ ደንቦችን ሊያወጣ ይችላል።

2/ Any person who contravenes any decision or order issued under sub-article (1) of this Article shall be punishable with rigorous imprisonment from five to ten years and with fine from Birr 10,000 to Birr 30,000.

33. Assisting Judicial Proceedings

The court may mitigate the punishment, upon a request made by the public prosecutor where the defendant repents about his act of committing any of the crimes mentioned under this Proclamation and cooperates in elaborating in detail the manner of the commission of the crime or discloses the identities of the persons who participated in the commission of the crime.

34. Establishment of Fund

Upon the issuance of regulation by the Council of Ministers, terrorism victims fund shall be established.

35. Breach of Duty to Cooperate

Whosoever fails or is unwilling to make the requested cooperation, pursuant to Article 13, 14, 15, 21 or 22 of this Proclamation, or intentionally makes any hindrance on the crime prevention or investigation functions of the police is punishable with rigorous imprisonment from three to ten years.

36. Inapplicable Laws

- 1/ No law, regulation, directive or practice shall, in so far as it is inconsistent with this Proclamation, be applicable with respect to matters provided for by this Proclamation.
- 2/ Without prejudice to the provisions of sub-article (1) of this Article, the provisions of the Criminal Code and Criminal Procedure Code shall be applicable.

37. Power to Issue Regulations

The Council of Ministers may issue regulations necessary for the implementation of this Proclamation.

፴፰. አዋጅ የሚፀናበት ጊዜ

ይህ አዋጅ በፌዴራል ነጋሪት ጋዜጣ ታትሞ ከወጣበት ቀን ጀምሮ የፀና ይሆናል።

አዲስ አበባ ነሐሴ ፳፪ ቀን ፪ሺ፩ ዓ.ም

ግርማ ወልደጊዮርጊስ

የኢትዮጵያ ፌዴራላዊ ዲሞክራሲያዊ ሪፐብሊክ ፕሬዚዳንት

38. Effective Date

This Proclamation shall enter into force up on the date of publication in the Federal Negarit Gazeta.

Done at Addis Ababa, this 28th day of August, 2009

GIRMA WOLDEGIORGIS

PRESIDENT OF THE FEDERAL DEMOCRATIC REPUBLIC OF ETHIOPIA