



Jimma University
College of Law and Governance
School of Law

LLM Program in Human Rights and Criminal Law

THE CROSS-CUT BETWEEN TERRORISM AND POLITICAL VIOLENCE: A
CLOSE EXAMINATION OF THE PREVENTION AND SUPPRESSION OF
TERRORISM CRIMES PROCLAMATION NO.1176/2020

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Requirements of LL.M in Human Rights and Criminal Law

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Jimma, Ethiopia

DECLARATION

I declare that this thesis titled “**The Cross-Cut Between Terrorism And Political Violence: A Close Examination Of The “Prevention And Suppression Of Terrorism Crimes Proclamation No.1176/2020”**” is my own work, that it has not been submitted before for any degree or examination in any other university, and that the sources I have used or quoted have been indicated and acknowledged as complete references.’

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APPROVAL SHEET

As thesis research advisor, I hereby certify that I have read and evaluated this thesis prepared, under my guidance, by Dibora Bultuma, entitled “**The Cross-Cut Between Terrorism And Political Violence: A Close Examination Of The “Prevention And Suppression Of Terrorism Crimes Proclamation No.1176/2020”**”. I recommend that it be submitted as fulfilling the thesis requirement.

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05 June 2024

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As members of the Board of Examiners the LL.M thesis open defense examination, we certify that we have read and evaluated the thesis prepared by Dibora Bultuma. We recommended that the thesis be accepted as fulfilling the requirement for the degree of Master of Laws Degree (LL.M).

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LIST OF ABBREVIATIONS AND ACRONYMS

FDRE	Federal Democratic Republic of Ethiopia
IHL	International humanitarian law
IHRL	International human rights law
ICCPR	International convention on civil and political rights
ATP	Anti-Terrorism Proclamation
OAU	Organization of African Union
AU	African Union
EU	European Union
UN	United Nations
US	United States
FBI	Federal Bureau of Investigation
CAH	Crimes Against Humanity
CIA	Central Intelligence Agency
GTD	Global Terrorism Database
OLA	Oromo Libration Front
TPLF	Tigray People Liberation front
NV	Narodyan Volya
ISIS	Islamic state in Iraq and Syria
VOA	Voice of America

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Abstract

*Nowadays terrorism has become the most important term in the political vocabulary among all political violence's. There is no globally agreed definition of terrorism; but the counter-terrorism measures meant to suppress and prevent terrorism within state boundaries are well understood. The aim of the study is to examine what makes terrorism crime and how it needs due attention among all types of political violence. In doing so the distinctive feature of terrorism, the international and regional documents enacted on terrorism in relation with some groups recently declared terrorist organization globally is analysed. Accordingly, terrorism is not mere criminal law phenomena and the lack of agreed definition for terrorism helped governments to denounce opposing groups, as well as it's been used to silence violence in states. Violence is inevitable in hostile government; but terrorism is the most evil type of violence. To balance this two competing interests there has to be a clear demarcation. Doctrinal research type is employed to find that bottom line where terrorism can clearly be separated from other types of political violence to be addressed through criminal law. In doing so different jurisdictions definition is realized to explore how violence nature of terrorism is addressed as crime. Furthermore the definitional pattern of Ethiopian terrorism crime laws (both proclamations 652/2010 and 1176/20) are analysed to examine how terrorism is understood in Ethiopian law. The findings of this thesis in one way shows that terrorism is the **criminal means** of violence intimidated against the government filled with creating fear and terror; in addition the findings of the thesis shows that Ethiopian working proclamation has not solved the issue of definition to relief former critics; especially there is no room to cut other political violence from terrorism.*

Keywords: Terrorism, Political Violence, Ethiopia Anti-Terrorism Laws

CHAPTER ONE

1. INTRODUCTION

1.1. Background of the Study

“How do you define terrorism?” asked the Hezbollah leader Sheikh Nabil Kaouk.¹ When the Sheikh brought up the definition it was captioned; “One is a freedom fighter. The other is Terrorist. Can you tell the difference?” The same question is raised by Museveni before the UN general assembly; “*what is the difference between terrorism and a legitimate fight for liberation? Nelson Mandela has been a freedom fighter until recently. Was he a terrorist? Not at all. Did you ever hear of Mr Mandela hijacking a plane? Did you ever hear of him planting a bomb in a restaurant? Mr. Mandela was a freedom fighter, not a terrorist," he says.*”²

Terrorism was first coined in the 1790s during the French revolution.³ The sense of terrorism in 20th century is used most frequently to violence aimed, either directly or indirectly, at governments in an effort to influence policy or topple an existing regime.

The term “terrorism” is the most confusing, contested and disputed term, which has not attained global legal definition but scholars had consensus towards it especially after the 9/11 incident. It is often used with the connotation of something that is "morally wrong". Governments and non-state armed groups use the term to abuse or denounce opposing groups.⁴ Terrorists are beyond all norms; they don't recognize any laws. Terrorism refers to a set of military tactics that are part of military and political struggle, and which are designed to force the enemy to submit by some combination of killing and intimidation.⁵

¹Fran Quigley, terrorists or freedom fighters: Dateline: Lebanon an Indiana reporter seeks answers (Stanley center for peace and security Journal 2005). Available at <<https://stanleycenter.org/publications/terrorists-or-freedom-fighters/>> (accessed on June 2022)

² Voice of America (VOA), “*Terrorist or Freedom Fighter: What Difference? - 2001-11-12*” (October 29, 2009). Available at: <https://www.voanews.com/a/a-13-a-2001-11-12-26-terrorist-67242502/266327.html> (accessed on May 2022).

³ Jenkins, J. Philip. "terrorism" Encyclopedia Britannica. Available at<<https://www.britannica.com/topic/terrorism>> (accessed on 2nd May 2021)

⁴ Barclay Bram Shoemaker, “If terrorism and insurgency are the “weapons of the weak,” why do they sometimes win?” (2014) 5 (1) *International Affairs Forum*, 59-69

⁵ Haliday Fred, ‘terrorism in historical perspective: confusion of our times’ open democracy, 2011. Available at <https://www.opendemocracy.net/en/article_1865jsp/> (accessed on May 2022)

For instance, the general Assembly is working towards the adoption of a comprehensive convention against terrorism, which would complement the existing sectoral anti-terrorism conventions. Its draft article 2 contains a definition of terrorism which includes: *“unlawfully and intentionally” causing, attempting or threatening to cause:*

(a) Death or serious bodily injury to any person; or

(b) Serious damage to public or private property, including a place of public use, a State or government facility, a public transportation system, an infrastructure facility or the environment; or

(c) Damage to property, places, facilities, or systems..., resulting or likely to result in major economic loss, when the purpose of the conduct, by its nature or context, is to intimidate a population, or to compel a Government or an international organization to do or abstain from doing any act.”

In the same manner the global terrorism data base (herein after referred as GTD) defines terrorism as *‘acts of violence by non-state actors, perpetrated against civilian populations, intended to cause fear, in order to achieve a political objective.’*⁶ Its definition does not include violence initiated by governments (state-Terrorism is commonly understood to refer to acts of violence that target civilians in the pursuit of political or ideological aims) and open combat between opposing armed forces, even if they are non-state actors. National statutes define terrorism subjectively and that has caused inconsistency. For instance, FBI defines domestic terrorism as: *“Violent, criminal acts committed by individuals and/or groups to further ideological goals stemming from domestic influences, such as those of a political, religious, social, racial, or environmental nature.”*⁷ The Federal Emergency Management Agency's definition includes the use of illegal force or violence *“for purposes of intimidation, coercion or ransom,”* but does not require it to be politically motivated.⁸

⁶ Hannah Ritchie and others, *“Terrorism”* (Published online: OurWorldInData.org, 2nd ed. 2022). Available at <<https://ourworldindata.org/terrorism>> (accessed on August 2022)

⁷ US department of justice (terrorism, 2016) available at <<https://www.fbi.gov/investigate/terrorism>> (accessed on 6 May 2021)

⁸ ABCnews, *“How Do You Define Terrorism?”* Available at <<https://abcnews.go.com/US/story?id=92340&page=1>> (accessed on 5 May 2021)

Terrorism is a calculated use of violence to create 'general fear'. Terrorism is better understood to have an element of moral depravity and incompatibility with society. It always intends to create 'fear' towards not just the victim but to the large audience.

Terrorism also has political element beside the criminal nature of the act. Terrorism is motivated by political objectives. That has created redundancy with other forms of political violence. The counter-terrorism measures specially the laws have now become free size to all acts of violence. Not only political violence terrorism is overlapping with different crimes such as genocide, crimes against humanity, hate crimes and the like. Many movements in all regions of the world requesting exercise of democratic right has proved that counter terrorism measures has been a free size weapon to silence all political violence including riots, opposition acts, dissent, non-international armed conflicts: Egypt, China in Hong Kong, Russia, Chile, among others could be taken as example.⁹ Many reports and news has been heard states committing grave violations of human right while countering terrorism.¹⁰ Amnesty International and Human Rights Watch have witnessed that states are using anti-terror laws to silence most of the political violence acts.

That is what has been seen in Ethiopia since the EPRDF government; and still the government is not free from such critics though it has amended the provisions of the former proclamation No.652/2010. It was the most criticized, complained law during the regime. Much chaos, human right violations among which freedom of speech, freedom from torture, freedom of movement were put under threat as example.¹¹ Many opposition party leaders, journalists were detained to

⁹ Cate Brown, 'The Era of State Mobilization is Over: Welcome To The Streets' (Open Global Right). Available at < <https://www.openglobalrights.org/era-of-state-mobilization-is-over-welcome-to-the-streets/> > (accessed on 12 June 2021)

¹⁰ United Nations Human Rights, Report of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, 'Impact of measures to address terrorism and violent extremism on civic space and the rights of civil society actors and human rights defenders (2019) UN Doc A/HRC/40/52. available at <[Human Rights Documents \(ohchr.org\)](https://www.ohchr.org/)>

¹¹ Gebeyehu, H. Abebe, 'freedom of expression and the Ethiopian anti-terrorism proclamation: a comparative analysis' (year) 5 (1) *Haramaya law review*, 87-114. Peter sekyere and Bossman Asare, 'an examination of ethiopia's anti-terrorism proclamation on fundamental human rights' (2016) 12(1) *European scientific journal*, 351-371.

be charged with the provisions of the law; as well as different armed groups are declared terrorists by virtue of the proclamation.¹²

That proclamation appeared to be one of the reasons that cause the then reform of Ethiopian government in 2018/19 GC. In the later reform the parliament approved revision of the proclamation and it was enacted in 2020. Before the revision of the former law and enactment of the new law, in between, there were amnesty and pardon granted for many detainees of terrorism and armed groups as well as political party leaders were called to join the reform. Meanwhile a new proclamation which had a little variation from the former was enacted to bring the same result with the former proclamation.

1.2. Statement of the Problem

Terrorism has two competing aspects that contributed for creating gap on its globally accepted definition. In one way it is political violence which makes it inevitable and unpreventable in countries where democracy and good governance is not attained; on the other side terrorism is unjustifiable means of violence that have to be punished.

The first aspect of terrorism which is political violence, terrorism is an act intimidated against the government system not individuals or groups and their objects who became victim of the act. i.e political violence is a collective effort within defined goals through interactive strategies. The form could be many as the cause is diverse. The root cause of political violence could be: *‘the international system; material deprivation and economic grievances; processes of modernization or interrupted ones; political culture, such as cultural acceptance of violence’* ¹³ political violence is a part of political action which is violent.

What leads to violence is the environment. The relation the individuals or the group may have with its environment or existing system of government is what we so call it as political violence.¹⁴ What shapes the violence is the relational dynamics not only the collective effort or

¹² Zelalem Kibret, ‘The Terrorism of Counter-Terrorism: The Use and Abuse of Anti-Terrorism Law- The Case Of Ethiopia’ (2017) 13(13) *European scientific journal*, 504-538

¹³ Ibid, n (3)

¹⁴ A growing number of scholars studying Islamist groups and Islamist violence (Hafez 2004; Wiktorowicz 2004; Gunning 2007; Hegghammer 2010; Malthaner 2011) as well as those interested on civil wars and violent insurgencies (Wood 2003; Wiktorowicz 2004; Kalyvas 2006; Weinstein 2007; Hazen 2009; Hegghammer 2010; Malthaner 2011; McCauley and Moskalenko 2011; Pearlman 2012; Viterna 2013; Grisham 2014) have increasingly

behaviour. Violence is legitimate if the affected group has been blocked from full access to political institutions.¹⁵ ‘Failure to grant citizens effective means of peacefully gaining redress against tyrannical abuse of power result in a revolutionary activity causing violence that may also pave a way for terrorism.

The other aspect of terrorism is the means used to address the violence to government is evil. That evil act needs a law to punish the illegal acts bringing up terror and fear within the society. Crime nature of terrorism is abused for it is left incomplete in the criminal law as well as it helped dictator governments to legalize their criminal act as we will see in the coming chapters.

Indeed, it is uncontroversial that terrorism is a threat to most fundamental human rights. The acts of terrorism have far reaching impact on the enjoyment of fundamental freedoms with no exception. It has a direct impact on the enjoyment of a number of human rights, in particular the rights to life, liberty and physical integrity.

At the same time the counter-terrorism measures taken by the states also threatens human rights. Even more it serves as a weapon for governments or states to disobey their duty attached to human right. The act of terrorism always requires precautionary measures; preventing the act from being committed. Due to this rights may be restricted easily.

But terrorism is not mere criminal law phenomena rather it is also a political matter. These days it is the most important term within the political vocabulary. It is build up from both political and criminal elements; and its political sensitivity may cover the criminal nature of the acts.

All acts included to criminalize terrorism are conducts deemed crime by the criminal law. For instance the Ethiopian prevention and suppression proclamation no.1176/2020 lists some conducts establishing terrorism. On article 3(1) defines when the acts of Causing:

‘Serious bodily injury to person; Endangering the life of a person; Committing hostage taking or kidnapping; Causing damage to property, Natural resource or

adopted concepts and theoretical approaches from social movement studies, including the “classic” paradigms of resource mobilization, political opportunity structures, and framing, as well as elements of the “contentious politics” agenda as pioneered by Doug McAdam, Sidney Tarrow, and Charles Tilly (2001).

¹⁵ D Blackwell, ‘Fundamentalism’, ‘radicalisation’ and ‘terrorism’ revisited: Some notes on the application of group psychotherapy to the understanding of terrorism and political oppression’ (2012) 5 *Journal of the International Association for Group Psychotherapy and Group Process*, 78

environment; or seriously obstructs public or social service are executed with the intention political, religious or ideological causes to create fear within the public or to compel the government.’

Most acts perpetrated by terrorists are considered illegal, even if it may not be crime always in the eyes of both international law and national laws.¹⁶ The criminal nature of terrorism is uncontroversial but many claim that there is political motive that cause the act.¹⁷ That is why we cannot exclude terrorism from politics. However, even if the intention is politics the act is crime. The element ‘....with the intention political, religious or ideological causes to create fear or to compel the government...’ is what puts terrorism in separate law. Therefore, terrorism is an intentional crime; that is intended to compel the government by creating fear. The reason is it linked to political, religious or ideological causes.¹⁸ The target is government whoever is the victim or wherever the act could be committed. That is why terrorists engage in dramatic and violent acts such as plane hijackings, car bombings, and suicide bombings. The victims are intentionally selected to address the large population. The objects selected for terrorist acts are civilian objects like restaurants, schools, night clubs, hospitals, colleges.

The intention referred within the new proclamation that is backed with ‘political, religious or ideological’ causes requires another goal or end – to create fear or to compel the government. The act justifies the intention and the purpose for which the act is perpetrated. The acts listed down in the new proclamation are not given any degree except for the intention they are caused with; leaving a space for terrorism to be confused with many forms of political violence in a country where political instability has assumed more than a decade. Even more the intention is also defined insufficiently, creating a way for abuse of the laws. This thesis explores the distinctive features of terrorism to better understand terrorism.

1.3. Research Questions

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

¹⁷ Ibid

¹⁸ Prevention and Suppression of Terrorism Crimes, proclamation number 1176/2020, Federal Negarit Gazette 26th year, No. 20

- What makes terrorism different from other forms of political violence to be governed under a separate law regime?
- Does the terrorist act defined under art.3 of the Ethiopian suppression and prevention of terrorism crime proclamation differentiates terrorism from other political violence?
- Do the Ethiopian suppression and prevention of terrorism crime solved the definitional gap created by the former proclamation?

1.4. Objectives of the Study

1.4.1. General Objective

- To examine the crosscut between terrorism and political violence by closely examining the Ethiopian suppression and prevention of terrorism crimes proclamation No.1176/2020.

1.4.2. Specific Objectives

- To explain the distinctive features of terrorism;
- To elaborate how the Ethiopian suppression and prevention of terrorism crime proclamation No.1176/2020 has defined terrorism as terrorist act;
- To critically examine if the definitional gap surrounding terrorism is filled by the new suppression and prevention proclamation of Ethiopia.

1.5. Scope Of The Study

This thesis covered two issues in one paper: on one hand the demarcation between terrorism and political violence is dealt; while on the other hand the Ethiopian terrorism law is used by the author to closely examine if it has defined terrorism in way it does not overlap with other political violence; as the country is still surrounded by different violence in relation to the government system.

The scope of the study is generally to explain the distinctive features of terrorism as political violence in relation to Ethiopian Suppression and prevention of terrorism crimes. It will analyze the major legal problems related to terrorism and political violence. It emphasizes on analyzing and examining the law and proposing as to how to differentiate between the acts of political violence and terrorism crimes. The paper is not intended to justify political violence but it is

intended to show the distinctive feature of terrorism requiring it to be governed in separate regime of law. This thesis does not include acts of state terrorism.

1.6. Significance of the Study

This study has significance in different aspect. Particularly repeated misappropriate use of terrorism definition in Ethiopia really needs attention requiring a working solution to give rest to unrest and chaos within the country that is caused due to the government system. Powered with this motive the study first, serves as an input for legislators, practitioners and policy makers on the area. Second, it also serves the human right community as a referral guide on issues of counter-terrorism measures. Thirdly, it adds to an existing literature as well as knowledge and can serve as a fruitful reference for further studies on the areas of political violence, terrorism and human rights.

1.7. Limitation of the Study

As there can be no research work undertaken without challenges and limitations, this study is also expected to face certain limitations. Accordingly, as the issue is hardly researched, the researcher faced lack of domestic literatures on subject matter. Literature was the biggest challenge that is faced by the author as it is researched with doctrinal research method. Also the political sensitivity of the topic made the author to not freely explore. In addition time was another limitation as the courses were finalized lately; the author was bound to return to regular work to have less time for research. Furthermore family responsibility: being single mom, working and writing my thesis was so hard. And it became almost impossible when suddenly the father of my children, who was disappeared forcefully, was found dead. I was totally broken into pieces trying to stay strong only to raise my two children. While struggling for survival of my family i almost forgot about my thesis. So the biggest challenge is i couldn't and i didn't utilize my time appropriately. I failed to address in a way I planned to research on the topic.

1.8. Literature Review

There are different articles and research papers conducted on the area of terrorism from different subject matters. Particularly in Ethiopia there are many papers already published and conducted

on terrorism by focusing on the former anti-terror proclamation 652/2009.¹⁹ The multifaceted far reaching impact of the proclamation has been addressed by many authors. But there is no literature conducted on the criminal nature of terrorism and its difference from other forms of political violence.

To see some of them, an article written by Henock Gebeyehu titled as “Freedom of expression and the Ethiopian anti-terrorism proclamation: a comparative analysis”²⁰ The article is concerned about the impact of the then proclamation on the enjoyment of human rights, particularly freedom of expression. The author makes a comparative element and proposes the experiences of council of Europe and South Africa for the courts to transplant the principles and interpretation of the proclamation. It used three part test to reduce the impact of the proclamation on freedom of expression.

The other paper is written by two authors- Peter Sekyere and Bossman Asore titles “An examination of Ethiopia’s anti-terrorism proclamation on fundamental human rights.”²¹ The core content of the article is the proclamation limits the right to freedom of thought, opinion and expression provided within the FDRE Constitution.²² The paper is intended to answer the question: what influence has Ethiopia’s anti-terrorism proclamation got on the right of thought, opinion and expression since its enactment 2009? The authors checked the constitutionality of the law and its influence on art.29 of the FDRE Constitution. They have also argued that the definition provided for terrorism or a terrorist is too broad and it could be used on political dissent as the law is politically motivated. The paper proves that not only the definition but also the implementation is problematic to this specific right.

Tafesse Olika also writes on “Political violence in Ethiopia: some reflections on the red terror and its legacies”.²³ The paper explains the political violence and human right violation that took place in Ethiopia in the post imperial regime. The interest is to understand the contests of red terror resulting in the wanton human rights abuses in Ethiopia. It has also tried to bring the

¹⁹ Anti-Terrorism Proclamation, Proclamation No. 652/2009, Federal Negarit Gazette 15th year, No.57

²⁰ Supra note 12

²¹ Supra note 12

²² Ibid

²³ Tafesse Olika, ‘Political Violence in Ethiopia: Some Reflections on The Red Terror and It’s Legacies’ (2013) 8(1) *Ethiopian Journal of the social science and humanities*, 60-61

discussion to the then government. But, it has not touched anything about terrorism and everything about political violence.

Tewodros W. Workineh also writes on “Counter terrorism in Ethiopia: manufacturing insecurity, monopolizing speech”.²⁴ The author tries to justify that the government is neither developmental nor democratic rather it is a neo-patrimonial state. The paper justifies that the government is using rational legal bureaucracy to justify its actions. One of such incident is the anti-terrorism terrorism proclamation of the 2009. The author uses three ways to show how the anti-terror law was used as a means to safeguarding the ruling party’s dominance. These are curbing digital freedom, monopolizing the political narrative and manufacturing fear to incubate self-censorship.

Hassen Korso also wrote on “The impact of Ethiopian anti-terrorism law on human rights defenders: a difficult balancing act”.²⁵ It is a research paper examined the work and situation of human rights defenders has been put in danger by the anti-terror law. The author argued that the law has eroded fundamental freedoms granted by the constitution and international human right instruments signed by the country.

An article written by Zelalem Kibret titled as ‘The terrorism of counter-terrorism: the use and abuse of anti-terrorism law, the case of Ethiopia’, was intended to answer the how the Anti-terrorism law is implemented.²⁶ The author was victim of the misapplication of the law and started collecting data while he is in prison. To see the how of implementation of the law, 123 terrorism charges of 985 individual’s case is examined within sixty six months. The author has tried to discuss the global definitional vacuum that needs to be filled by states and how ATP has vaguely filled the gap. But he has not detailed definitional pattern of terrorism intended to be covered by this thesis. He criticized the government regarding the ATP for it was intended to legalize the government’s act to silence critics against it.

²⁴Tewodros workineh, ‘Counter-Terrorism in Ethiopia: Manufacturing Security, Monopolizing Speech’(2019) 8 (1) *Internet Policy Review*, 1-22

²⁵ Haru H. Korosso, ‘The Impact of Ethiopian Anti-Terror Law on Human Rights Defenders: A Difficult Balancing’ (2016), Thesis for the Master of Art in Development Studies, *Institute of Social Studies* (unpublished).

²⁶ Zelalem Kibret, *supra* note 13, p-

Finally, Hussein Tura wrote on “The impact of Ethiopia’s anti-terrorism law on freedom of expression”.²⁷ The article deals about the impact of the ATP on freedom of expression the right which is granted by the constitution and the ICCPR.

As we have seen here above most of the literature written on terrorism in Ethiopia is on the former proclamation. Furthermore, the literatures are on focus of specific rights that could be violated by the then proclamation. In addition the focus of most of the authors is implementation or the danger of the broad definition to legalize the governments act in violating fundamental human rights.

But this thesis is intended to discuss in detail the definition of terrorism from its criminal nature by distinguishing it from other forms of political violence. The reality that the counter-terrorism laws are being used as free size law to address all political violence’s including riots, acts of political opposition, insurgents, non-international armed conflicts and the like. So this work is intended to define terrorism within and without politics. For the reason that terrorism is committed for the purpose of violence intentionally and uses the population as a pulpit, the cause can be justified but the means through which the violence is delivered is crime. So the author wants to stress on the demarcations that need to be set in defining terrorism to avoid restriction of political field in countries where democracy is not yet attained like Ethiopia.

The author also takes different experiences appeared globally to define terrorism in two ways. In one way, international and regional organization’s documents are taken to show how terrorism is defined globally. The UN document on terrorism: the General Assembly and the Security Council draft definitions are taken to show the global consensus on terrorism/terrorist act. Among the regional documents the European Union, Arab League and OAU convention is used due to less exposure to terrorism (European union) and as countries being source for different terrorist groups denounced terrorist organization (the latter two: Arab league and Organization of Africa Union). The writer also took the United States laws on terrorism for America has been targeted and suffered from different terrorist acts. There has never been a terrorist group borne in

²⁷ Hasen Tura, ‘How Deep is Your Law? Brexit. Technologies. Modern Conflicts: ‘The Impact of Ethiopia’s Anti-Terrorism Law on The Freedom of Expression’ (2017) conference paper, *Vilnius University Faculty of Law Vilnius*, 393-404

that land, but the country has been threatened by many terrorist groups as we will see in the third chapter.

On the other hand, the comparative element is taken between Ethiopian former proclamation (proclamation No.652/2009) and the working proclamation (proclamation No.1176/2020) to refine on how terrorism is being unmanageable in state where violence is inevitable.

1.9. Research Methodology

This thesis is a doctrinal research type. The researcher uses primary and secondary sources of data to analyse the problem at hand. Therefore, this study is employed by using the existing laws as primary sources of data; analyse them in order to answer its research questions and achieve its objectives. The study uses secondary sources of data such as books, journal articles, working papers, reports, periodical reviews and internet sources to review the theoretical concepts in relation to political violence and terrorism.

As a tool of data collection the researcher analyses laws and other documents. The study has some comparative element and more of theoretical discussion is employed. The comparative element deals with a comparison of the former proclamation with the recent law. Furthermore, the experience of international, regional and local jurisdictions is assessed in the third chapter of the thesis to explore how terrorism is considered in different regime. The researcher used comparative element to elaborate how terrorism is entertained in Ethiopian counter-terrorism laws.

In addition, the underlying theories of terrorism and the notion that created the concept from multiple perspectives are discussed to elaborate on the definition of terrorism under the criminal law in separation with other laws.

1.10. Organization of the Study

The study is organized into five chapters. The first chapter is an introductory chapter which introduces the background, statement of the problem, questions, objectives, scope, limitation and methodology of the study. The second chapter is a general overview of terrorism and political violence. It makes brief account of the historical background, nature, meaning terrorism and

political violence. In the third chapter, different international and regional organizations as well countries experiences are referred to explain how both aspects of terrorism are taken in defining the acts at different level. Draft international and regional documents on terrorism are analyzed; while one countries experience is used to identify state practices. The fourth chapter, deals about Ethiopian proclamation on the suppression and prevention of terrorism crimes. The chapter makes a comparison with the former law; discuss the elements used to define terrorism in a way it cannot be confused with political violence. The researcher analyzes the definitional gaps and problems identified with the Ethiopian counter-terrorism laws. The fifth chapter provides conclusion and recommendations.

1.11. Ethical consideration

To conduct the study, the researcher took all the necessary and due ethical cares to avoid plagiarism, and to cite authorities accordingly. Hence, the researcher used doctrinal research type there have been many references used in the research, but each reference are used effectively cited to avoid academic theft.

CHAPTER TWO

2. Terrorism Within and Without Political Violence

2.1 Introduction

Terrorism is confused for it has different perspective. Among all it is a type of violence which is backed with evil means. Terrorism is an act that creates terror. Terrorizing is the means used to express the violence against the government. Whatever the type of the act could be and whoever has been victimized due to the act it is intimidated against the government. Terrorism is sending message through third party; for it is one form of political violence. Unlike other forms of violence it uses innocents/civilians who are not part of it and even not their target are targeted.

Beside its violence nature terrorism also resembles crimes against humanity, hate crimes, genocide, etc. To punish the act it can be attributed to some acts even criminalized by the criminal law at international or national laws. Acts of terrorist are crime from the beginning, as it can be inferred from existing definitions. Generally, Terrorism is made up of independent criminal acts.

The essence of terrorism that makes it different is its intention. The criminal act is committed in a way it creates, fear or panic among the large population so that the government (whether international or national) can give attention to them. But it has to be intended to result in terror and fear. That means not an occasional occurrence of terror justify terrorism.

In this chapter the confusions and contesting concepts of terrorism are dealt briefly to clear the doubts surrounding it. Beginning from the historical background of terrorism to its theoretical foundation; the meaning, nature of terrorism in relation to political violence is covered. The author will stick to the elements of terrorism in detail. As the term has not attained globally accepted definition, but elements are dealt under consensus, each element is defined. In addition terrorism as political violence, as an act of terror and as crime it is explained to frame the coming chapters.

2.1. Historical and Theoretical Foundation of Terrorism

2.1.1. History of Terrorism

The acts of terrorism are not new phenomenon.²⁸ 'Terrorism has surely existed since before the dawn of recorded history.'²⁹ Written sources show that terrorism has existed 2000 years back. But it has not been named 'terrorism' till the end of the 18th century. From time to time it emerged in different forms as its cause was diverse.

In the antiquities terrorism was deep rooted in religion.³⁰ The Christians, Muslims and Hindu's could be taken as good examples. To name some of the groups: Zealots-sicari, Assassins (Hashish eaters) and Thugees (bequeathed from the word Thug); used murder and killing to send their message to authorities, states or even to terrify the victim itself. Their acts are limited to kidnapping and killing in front of witnesses in day light spread their message either to internal or otherwise external targeted audience.

The word terrorism was first used by the French revolutionary government (since 1793-1794). The revolutionary leader Maximilien Robespierre speaks out about the act of terror in 1794 as follows: "Terror is nothing other than justice, prompt, severe, inflexible; it is therefore an emanation of virtue; it is not so much a special principle as it is a consequence of the general principle of democracy applied to our country's most **urgent needs**."³¹ The government used nationwide, 'regime de la terreur' as the law of the land.³² The notion of terrorism at this time was from and by the government; the government was the actor who used to cause terror to get its 'subversives' or traitors. The then French government used an act of terror to make all those who oppress the state, refrain from such an act. Use of terror was justified on the grounds of goodwill of the people and necessity since this moment.³³

²⁸Mark Burge, 'A Brief History of Terrorism', (2015) Project on Government Oversight. Available at: <[A Brief History of Terrorism \(pogo.org\)](http://www.pogo.org)> (accessed on July 2022.)

²⁹Jeff Victoroff, 'The Mind of the Terrorist: A Review and Critique of Psychological Approaches (2005) 49 (1) *Journal of Conflict Resolution*, 3-42

³⁰David C. Rapoport, 'Fear and Trembling: Terrorism in Three Religious Traditions,' (1984) 78 (3) *American Political Science Review*, 668-672

³¹ Ibid; also quoted in Modern History Source book: Maximilien Robespierre: Justification of the Use of Terror, available at <<http://www.fordham.edu/halsall>> Accessed in June 22, 2021.

³² Arthur Garrison, 'Terrorism: The nature of its history' (2003) 16 (1) *Criminal Justice Studies*, 39-52.

³³ Ibid; n, 44

Following the French revolution the definition of Nationalism and Citizenship began to grow largely to cause different root of terrorism. The birth of Narodnaya Volya (NV- translated as 'people's will') - Russian populist group in 1878 could be a good instance. The group was formed to oppose the Tsarist regime in Russia; their target was state officials and individuals who are highly linked to the regime.³⁴ That was the different version of terrorism. Since then and until World War I anarchist terrorists has emerged in different continents' including Europe and America. The terrorists act was still murder- targeted assassinations. Selective terrorism did not survive in the coming centuries; i.e targeting specific individual to avoid collateral injury or innocent bystanders.³⁵ In addition the group used 'propaganda by deed' principles which have made acts of terror or terrorism communicative by it.

Around the beginning of World War I in Europe (1914 and then) state sponsored terrorism and state terrorism has come to emerge in many forms. In the coming years Marks and Stalin refined the ideas of the Robespierre revolution government terrorism. It is believed fear helps to comply with government and terror helps to control society. Even more, governments extended to sponsor non-state armed groups to fulfill their will in enemy country. Many terrorist organizations has been formed as such even in recent decades.

Furthermore, Scholars begun to define state terrorism in different ways; one instance is whereby government attacks civilians to discourage non-state armed groups.³⁶ State terrorism has become more an issue after the World War II. The oppressive measures of Nazi Germany, Fascist Italy and Stalinist Russia were considered terror; even Americas bombing on Hiroshima and Nagasaki was considered one form of terrorism acts. But it is not terrorism rather mere act of terror as explained by some scholars.³⁷

After Second World War during the war against colonization there were different groups formed to fight colonization across the globe- from Africa to Asia. Many of them were nationalists motivated by ethnicity or other ideological causes. Some of them have become successful by publicizing their acts to the large audience and get supporters. Algeria, Cyprus, Kenya and Israel

³⁴Bruce Hoffman, '*Inside Terrorism*' (New York: Columbia University Press 1988) 17.

³⁵See, note 27

³⁶Jessica Stern, '*The Ultimate Terrorists*' (Cambridge: Harvard University Press, 2001) 16-17

³⁷Bruce Hoffman, note 36, 17-25; Adrian Guelke, '*The Age of Terrorism and the International Political System*' (New York: I. B. Tauris 1998) 3

could be taken as good examples of such instances. In addition groups such as the Palestinian Liberation Organization (and its many affiliates), the Basque ETA, and the Provisional Irish Republican Army, while the latter comprised organizations such as the Red Army Faction (in what was then West Germany) and the Italian Red Brigades are also instances of terrorism during the fight for liberation. The act of terrorism with those groups was by publicizing their deeds not only to the nation or region but to the international community. Their acts are not only targeted to the government but to get the attention of the world. One of such an example is the murder of 11 Israeli athletes in 1972 Olympic by Palestinian groups and the incident of Black September in America (September 11, 2001). Since the later incident terrorism became a global issue and countries started to engage in counterterrorism measures without defining terrorism under the call of the United Nations. However even the United Nations could not come up with a single definition of terrorism or convention which will help member states to take effective counter-terrorism measures.

Nowadays terrorism is a broad, complex, confused and contested term in the world. The sense of it in the antiquities and Middle Ages is not same with the modern concept of terrorism. Targets of terror acts earlier were those groups of people who have a direct link with the interest of the terrorizing groups. For example, Assassin's kill authorities;³⁸ NV's kill state officials or who have link with them;³⁹ or the Thugees of Hindu religion kills for ritual purposes to show their god. Even the Guillotine of French was killing only those people they believed are traitors. That sense of terrorism- 'individual or selective terrorism' is not what exists in the contemporary world. Especially following the world war second a new spirit of terrorism has come to emerge. Originally the term 'terrorism' was not negative;⁴⁰ but the current connotation of terrorism is not positive.

The existing terrorism definition (though not well defined) and the organizations considered terrorists' worldwide have a different nature. Their targets are not those individuals who have direct link to the government they are opposing. Even acts of modern terrorism are more diverse, sophisticated and complicated. Unlike the former currently the targets are innocent people and

³⁸ See note, 25

³⁹ Morozov, Nikolai "*The Terrorist Struggle*" (1880); Feliks, '*Terror and Political Assassination in Eastern Europe and Russia Grossed*' (Mouton: The Hague and Paris 1972).

⁴⁰ Mark Burge, note 30.

their objects such as schools, hotels, universities, colleges and so on. Sometimes foreigners who may have no interest with both the groups and their government even be victimized.

The modern sense of terrorism is linked highly to politics; in one way or other states have interest in it. Especially state sponsored terrorism and state terrorism are the very important tents of the newly emerged terrorism. This issue has made the definition of terrorism globally unattainable. Due to absence of single legal definition of terrorism we refer to the common elements of terrorism. In recent decades the only element one can find within modern terrorism from earlier terror acts is: intention and political motive or linkage with government or state. Otherwise even the victimization in early terror acts and modern terrorism is completely different. Formerly the victims of terror acts were focused; recently indiscriminate attacks have become common. Terror acts were formerly limited to murder, killing and assassinating unlike the modern. The early terror acts resemble the essence of recent political violence. Both will be referred in the forthcoming pages, but let me first explain the theoretical foundations of terrorism.

To summarize, in the antiquities there was no concept of terrorism and its name; but acts of terror existed based on religious grounds. In the middle ages, terrorism was coined and began to be justified on the grounds of people's will and necessity to even involve the state. The then groups were characterized with selective or individual terrorism mostly with political causes. Lately after World War I selective terrorism began to lapse and indiscriminate attacks characterized Terrorism to attract global attention. Hence the modern politics is more of caused by politics Propaganda by deeds is the major element. This is, victimization in the recent terrorism is completely different. Terrorists by whatever reason they might be invoked they do not oversee neither IHL nor IHRLs.

2.2. Understanding Terrorism

Obviously, terrorism is a threat to legitimately organized governments; it jeopardizes human right and undermines pluralistic civil society. There must be a strong measure towards terrorism as it is an evil perpetrated against civilians/innocents. Wherever the act is committed and whoever commits it, all acts of terrorism needs to be condemned.

However the fact that there is no universally accepted definition of terrorism but a clear need to counter-measure against terrorism; there has to be briefly defined elements for terrorism that may help us cut it from other political violence. This is to avoid the free-size laws of terrorism used to address much political violence in different countries of the world where democracy is not yet attained including Ethiopia.

However, terrorism is not a single act but a whole some of evil acts. Most acts perpetrated by terrorists are considered illegal, even if it may not be crime in the eyes of both international law and national laws.⁴¹ The criminal nature of terrorism is uncontroversial but many claim that there is political motive that cause the act.⁴² That is we cannot exclude terrorism from politics. However, even if the intention is politics the act is crime. The approach used to identify terrorism as crime in the international community is ‘mala per se’ (wrong or evil in itself).⁴³ This has been desirable, for terrorism constitutes gross violation of globally accepted rules.

In the Roman legal tradition, a distinction between ‘mala prohibita’ (‘wrong merely because it is prohibited by statute’) and ‘mala per se’ (‘wrong or evil in itself’) exists. The first refers to acts that are to be considered ‘bad’ because they are outlawed. The second refers to grave offences, which are bad by their very nature, independent of the political system of a particular state.⁴⁴ Some offences are so serious that they are considered morally wrong in all civilized societies. In particular, this applies to ‘murder’—the premeditated, unprovoked killing of a human being. Some terrorist acts are outlawed by their nature such as plane hijackings, car bombings, focused killings, attacks on diplomatic protections, attack on maritime platforms and sea transports. Those acts are indisputably evil and their intentions are clearer. For instance, the draft UN-adhoc committee on terrorism on its informal draft article 2 defines terrorism without clarifying the intention. ‘...*Any person commits an offence within the meaning of this Convention if that person, by any means, unlawfully and intentionally....*’ Causing serious bodily injury or damage to property for instance is a crime by itself. What brings it to the level of terrorism is the

⁴¹ Alex P. Schmid, See note 18

⁴² Ibid.

⁴³ Ibid.

⁴⁴ Jeffrey Ian Ross, ‘Controlling State Crime: Toward an Integrated Structural Model’, in J.I. Ross (ed) (New York: Garland 1995) 5.

‘purpose of the conduct’ is by intimidating the large population or section of the population; to compel the government or international organization to do or abstain from something.

If acts constituting terrorism are independent crimes, how can we identify terrorist separately from other criminals? What is the difference of a murderer and terrorist? All terrorists could be murderers, but not all murderers are terrorists. Not all acts of causing damage to property amounts to terrorism but properties could be damaged accidentally. Or to bring up the level, properties could be damaged in demonstrations, civil wars or non-international armed conflicts. So that we cannot condemn all this acts as terrorism.

Some acts condemned as terrorism might appear to be committed with no intention of terrorism. If violence is inevitable and some acts committed by man in its nature are evil acts (even in absence of intention to kill one may kill negligently and the consequence is not the same.) In terrorism are we requiring the more evil act of a human person? Can mere intention of committing evil establish terrorism as independent crime?

The problem is not limited to giving single definition but the elements should have to be well defined and understood. Assume a perpetrator killed a high government official while he is in public speech for personal reason. Can we say he is a terrorist? Or assume a farmer whose land was taken by the government for investment purposes without due compensation, burns down a school which is built on his own land. The message is for the government though victims are civilians; he caused damage to property. So can he be charged with the provisions of Ethiopian counter-terrorism law? Furthermore, can a single individual be a terrorist in absence of terrorist organizations? What is the sense of art.3 in absence of art.19 of the terrorism crime proclamation?

In all those controversial issues one have to realize there is difference between an act of terror and terrorism crime. It can also be understood that terrorism has a link to the government, the acts serve as media to disseminate their will and intentionally it is committed to convince the government (whether international or national). Simply, terrorism is a component of criminal acts considered punishable (in state law or international law) based on the purpose of the conduct it is committed for.

To better understand terrorism explaining political violence is mandatory.

2.2.1. Political Violence

Political violence has lived throughout human history. Many governments of the world acquired their power through coup d'état by which former leaders has been overthrown by violent means. Numerous world leaders today ascended to power as a result of insurrection and violence, including Fidel Castro in the 1959 Cuban Revolution.⁴⁵ Numerous kings of England ascended to the throne as a result of regicide or other acts of treachery.⁴⁶ Even American Revolution and the overthrow of British colonial rule were also as a result of political violence. The regime of colonialism in Africa and other continents of the world were lapsed by means of violence. In absence of democracy and good governance political violence is inevitable.

Political violence is caused relating to the government system. It is composed of different actions inflicted towards physical, psychological or/and symbolic damage caused to individual and/ or property to influence the large audience for affecting or resisting social, political, cultural or economical change.⁴⁷ It could be demonstrated through many actions such as: “attacks on property, bodily assaults, the planting of explosive devices, shooting attacks, kidnappings, hostage taking and the seizure of aircraft or ships, high profile assassinations, public self-immolation, etc” political violence ranges from police control of street protest to state-approved torture, to mass killings by militaries; it constitutes less organized forms of struggle such as riots, street demonstrations, and also well-organized violence’s such as non-state armed groups.

After 1960s political violence has been understood as ‘sui generis’ or social pathology; which considers political violence as collective behavior.⁴⁸ This view urges that political violence is a collective effort within defined goals through interactive strategies. The form could be many as the cause is diverse. The root cause of political violence could be: *‘the international system; material deprivation and economic grievances; processes of modernization or interrupted ones; political culture, such as cultural acceptance of violence’*⁴⁹ political violence is a part of

⁴⁵ Alan Riding, Ferment in Central America Adds to the Woes of the Region’s Poor, N.Y. Times A1 (July 8, 1980).

⁴⁶ Theodor Meron, ‘Crimes and Accountability in Shakespeare’ (1998), 92 (1) *Am. J. Intl. Literature* 5

⁴⁷ Bosi, Lorenzo, and Stefan Malthaner, ‘Political Violence’, in Donatella della Porta, and Mario Diani (eds), *The Oxford Handbook of Social Movements* (2015) online edn, Oxford Academic 2014) < <https://doi.org/10.1093/oxfordhb/9780199678402.013.50> > accessed 18 Dec. 2022 .

⁴⁸ Charles Tilly, ‘From Mobilization to Revolution’ (1978) 74 (4) *American Political Science Review*, 1071-1073)

⁴⁹ Ibid, n (3)

political action which is violent. That is the individuals or group chooses the means to achieve their goals; either it be violent or non-violent. The choice to use violence is not in isolation. What leads to violence is the environment. The relation the individuals or the group may have with its environment or existing system of government is what we so call it as political violence.⁵⁰ What shapes the violence is the relational dynamics not only the collective effort or behavior. The violence could be interactions between oppositions and state; such as policing which may extend the level of the violence. Otherwise it could be an interaction between different competitive groups which are rivalries such as armed groups or organizations. The most common type of political violence is interaction of oppositions/protests with state.⁵¹

Generally political violence is a legitimate, justifiable means to wage a long-term ideological battle against a hostile government. Violence is legitimate if the affected group has been blocked from full access to political institutions.⁵² ‘failure to grant citizens effective means of peacefully gaining redress against tyrannical abuse of power; when these matters are not respected revolutionary activity will be justified if there is a strong likelihood the government (or sovereign) can be toppled without ensuing tyranny or anarchy and bloodshed of an inordinate extent’.⁵³

If justice is not served; if government fails to set good governance; if institutions do not serve fairly, violence is inevitable. Political violence is all about government system; the reaction taken against the government on the power. It is not only the collective effort but also the relation between government the society. What shapes the violence is the interaction between the actors of the violence and response of the government. Violence can take many forms; the consequences, its results might not be determined. Due to this violence may even divert from its very first cause.⁵⁴ That is what brings about terrorism.

⁵⁰ see note 15

⁵¹Tim Sweijts, Nicholas Farnham, and Hannes Rööds, ‘The Many Faces of Political Violence Volatility and Friction in the Age of Disintermediation’ (2016/2017) The Hague Centre for Strategic Studies: HCSS StratMon Annual Report.

⁵² D Blackwell, ‘Fundamentalism’, ‘radicalisation’ and ‘terrorism’ revisited: Some notes on the application of group psychotherapy to the understanding of terrorism and political oppression’ (2012) *5Journal of the International Association for Group Psychotherapy and Group Process*, 78

⁵³Robert Young, ‘Revolutionary Terrorism, Crime and Morality’ (1977) 4(3) *Social Theory and Practice*, 287-302

⁵⁴ See chapter three, terrorist groups section, the history of Bokoharam.

2.2.2. Terrorism and Act of Terror

Acts of violence are immeasurable. Acts do not always result in the desired effect. It may cause less effect or high level of destruction. Intentionally in the normal course of conduct civilians could be targeted directly or they may become collateral damage. We do not attach the name terrorism to every act of political violence that resulted in terror. There are acts of violence which cause terror whether desired or otherwise.

Terrorism could be part of political violence; but not all political violence is terrorism. The act of terror may exist in many forms of political violence but terrorism always exists with acts of terror. Act of terror is not mere terrorism or it is not only political violence; but it is a component of violence. Act of terror is different from terrorism as well as it is not the same with political violence. Surprisingly act of terror is most common component included in almost all types of violence. It is violent acts that result in terror intentionally or otherwise. As violence cannot purely be without harm we choose between better harm and less harm. Killing civilians could be indispensable for the government, or destroying a civilian object might be necessary to save the life of many.⁵⁵ Furthermore, killings or loss of property becomes inevitable in violence; to save hundred you may kill one, two or relatively.⁵⁶

Simply act of terror is inevitable but terrorism is random. Act of terror existed before the history of man has started to be written down. During the age of antiquities there was no concept and name of terrorism; but acts of terror was common in different violent groups.

Terrorizing the person against whom the violence is unmanageable in violence. If so using some acts of terror such as NV's act, targeted killings or acts such as Robespierre of France are not terrorism. But it is an act of terror; because the Robespierre government of France was targeted (selective) and indispensable for the then government. It was a government using an act of terror to address the large audience.

Terrorism is always terrorizing; the foundation of their means to achieve their objective lies on terror. Even the mother word describes though the war on terror is more terrorizing. Terrorists

⁵⁵ Geneva Convention Relative to the Protection of Civilian Persons in Time of War (Fourth Geneva Convention), (adopted 12 August 1949, entered in to force 21 October 1950) 75 UNTS 287 (GC IV)

⁵⁶ Principle of proportionality, GC

worry or design in their violence on how to terrorize the large society. Act of terror existed long before terrorism became popular. Act of terror could be the conception of terrorism but terrorism has much aspect. Terrorizing is the target of terrorism. Act of terror is one part of that whole.

Many world revolutions has involved an act of terror; well known political violence's in the world used act of terror in any way or at some point. All this is to mean act of terror could be committed intentionally or otherwise.

2.2.3. Terrorism Crime

In absence of politics defining terrorism as a crime is not difficult. Justness of the cause of terrorist does not assert legality of the act. We have to view terrorism from the desired effect. Regardless of the reasons for the use of terror, it is a method of changing behavior through the use of force and intimidation. The reasons behind terrorist acts are politics; the law does not consider the cause of the act to determine its legality. Furthermore, the terrorist is not driven by personal desires or ambitions. The victim is not of the target or the criminal acts committed by terrorists are not ends. But the violence is the means to the result of the violence. That is the result of the violence is the main focus of acts of terrorism. Violence in terrorism is the means to an end.

According to criminal law Crime is a legal wrong; an act is crime when it is not according to the law or when the law is omitted.⁵⁷ Not every act we perceive as immoral are crime or not all acts prohibited in the custom of society are considered crime. To consider a conduct as crime there must be a law that prohibits the act.⁵⁸

While the acts are prohibited the law does not consider the cause which resulted in the act. Criminal law only refers about the act and its prohibition. Let's say for example, one takes the life of a certain person for good cause (may be religious purpose); that might be justifiable in many other ways. Whatever the cause could be it is murder (homicide) in the eyes of criminal law. Which means criminal law describes the legal, moral and material elements of an act.

To better define terrorism crime let see the following descriptive natures:-

⁵⁷ The Federal Democratic Republic of Ethiopia Criminal Code, Proclamation No.414/2004 (become effective in 9th May, 2005) art.23(1)

⁵⁸*Ibid*, Art. 2(1)

- Indiscriminate and indirect targeting of individuals:- *people killed in September 9/2011 in America or in the bombing of bus in Israel or at work in the world trade center; are not targeted specifically and the people killed are of no specific interest to the terrorist.*
- Rational acts: - *terrorism is not an irrational act; targets are chosen because they have a desired impact, such as destruction of infrastructure, significant loss of life and/or disruption of a society. However the victims of terrorism are random (they are victims because they are at the wrong place in the wrong time). The randomness causes public anxiety, fear and behavior change and that is what is needed.*
- Public act: - *the great society must see and react to the attack while the act is committed.* Targets are chosen if they have symbolic or economic value (such as the 9/11 or world trade center) or targets that have public value (buses or restaurants, etc) to get the society's attention and cause governments to change policies.

The above nature of terrorism crime illustrates that each act of terrorism is composed of the following elements. To determine an act as prohibited legal wrong for terrorism (according to the existing definitions) are the following components:-

☞ Intentional act

Always, terrorism is an intentional crime; there is no negligence in terrorism. Though the victims and targets of terrorists are civilians and indirect attacks are common the act is intentional. The intention is politics or creating fear or compelling the government. All the criminal acts within terrorism are rational even if it might be indiscriminate attack. It seems irrational act for the public but the message is communicated to the respective person (government most likely, whether national or international). Hence, ***'the acts are rational committed for political cause to create fear to the target audience.'*** In being intentional act its indications are:-

- Rationality of the act- killings, damages and whatever of persons not directly linked with their interest are targeted on purpose. Intentionally candidates are selected as they bring desired effect in the violence.
- Political cause:- even if terrorist organization is created on religious ideologies, it will have political goals-related to the government and its system, policy or law The

intention behind terrorism might be religion while the end goal is politics (government).

So the intentional act committed rationally is for political goal.

☞ Act of violence

As the acts are intentionally committed terrorists cannot be similar with other criminals. The intention of the act is violence. It is not personal intention. A person may commit crime purposefully to satisfy one's own plan. But that cannot happen in terrorism. Terrorism is an expression of violence. Every act committed by terrorist connotes violence. The acts have the message that government is against my religion or it could even be to compel the government to change some its policies or decisions also, to change behavior in that audience or society. So the crimes are committed as part of the violence.

To sum up, among other violence terrorism is characterized by the use of violence against civilians; with the expressed desire of causing terror or panic in the population.

☞ Target audience or society

Intentionally terrorists get involved in acts of violence to communicate the audience or the society and to have them as witness. The target is government; but civilians and their objects are victims while those who survive are witnesses. Early terror acts use the method of selective or individual terrorism. Nowadays, the acts of indiscriminate attacks have become common. Schools burned down to ash to convince the government or rethink on its decisions or policies. Civilians are used as weapon to address the government.

Producer of a certain product needs a channel to promote his/her product. In the same manner terrorists use the society as TV channel to promote its destination. Promotion results in reaction of fear. Creating fear within the large audience or society is what will be. The intentional act of violence has to create fear within the society. Causing terror within the society is terrorism. The overall components of terrorism must have to cause fear or terror to the society. During violence against the government terrorists use citizens as target population. What makes terrorism unjustifiable is the means of the violence- citizens, civilians and civilian objects.

2.2.4. Terrorism When Compared To Crimes against Humanity

The last issue at hand in this chapter is terrorism as an international phenomenon to better explain the definition dealt in the above topics, hereunder terrorism is compared with crimes against humanity.

A crime against humanity is as old as humanity. The past century witnessed more people killed in various types of conflicts and regime victimization than has ever occurred at any other point in the history of mankind. The definition of crimes against humanity, even if there is no common definition, shows that it is a crime committed against humanity. It focuses on inhuman acts. Be of similar with other prohibited acts and cause great suffering or serious injury to body or mental or health injury.

CAH includes all of which crimes that are criminalized under domestic law. An act prohibited under domestic criminal law becomes internationally prohibited act in case of crimes against humanity when large scale victimization that shocks the conscience of humanity and which can affect peace and security of the international community. The acts are already in national jurisprudence; what turns them to international is there outcome to the world community. We all know the incidents that borne out criminalizing those acts internationally.⁵⁹

The issue of crimes against humanity arises from an attack against civilians unlike War crimes. “Crime against humanity is widespread or systematic attack targeted against any civilian population”. Those requirements are what make up crime against humanity: ‘widespread or systematic and attack’. The requirement of widespread or systematic is disjunctive. The prosecutor needs to satisfy only one. First, when we say *widespread*, it means large scale nature of the attack; number of victims. No limit of number as a standard but must be inferred from the facts. Second, *systematic* element is to mean high degree of organization. *Attack* is the third

⁵⁹ Its notion was propounded for the first time in 1915 during the occasion of mass killings of Armenians in the Ottoman Empire. On 28 May 1915, French, British, and Russian governments decided to react strongly. They therefore issued a declaration; the Nuremberg charter was a good instance of this.

mandatory element.⁶⁰ It encompasses mistreatment of the civilian population. It refers to the broader course of conduct involving prohibited acts of which the acts of the accused form part.

In general, crime against humanity means any of the following acts, when committed in a systematic manner or on a large scale and instigated or directed by a Government or by any organization or group: (a) Murder; (b) Extermination; (c) Torture; (d) Enslavement; (e) Persecution on political, racial, religious or ethnic grounds; (f) Institutionalized discrimination on racial, ethnic or religious grounds involving the violation of fundamental human rights and freedoms and resulting in seriously disadvantaging a part of the population; (g) Arbitrary deportation or forcible transfer of population; (h) Arbitrary imprisonment; (i) Forced disappearance of persons; (j) Rape, enforced prostitution and other forms of sexual abuse; (k) Other in humane acts which severely damage physical or mental integrity, health or human dignity, such as mutilation and severe bodily harm.

In addition, crimes against humanity may occur even in the absence of armed conflict. But crimes against humanity can be committed in protests, terrorism and even in peace. The laws of crimes against humanity are also to criminalize acts committed against civilians on every instance.

According to the Rome Statute, Art.7 removes any connection between CAH and armed conflict (like ICTR art.3). The *attack is systematic* if it is based on **a policy or a plan** that provides guidance to the individual perpetrators with regard to the attack. On the other hand, crimes committed on a *widespread scale* must be linked to some form or another of state or organized authority: they must at least **be tolerated** by such authority. Art.7(2) of the Rome statute use the phrase “state or organizational policy” to refer to any state segment took part in committing CAH, such as the military, intelligence service, the police or other unit of state organization.

So CAH is a criminal act targeted against humanity. It is an attack directed against civilians systematically or in widespread scale within a policy or plan of state intimidated directly or indirectly. But terrorism is a criminal act intentionally committed to create fear or terror among the large audience to compel the government.

⁶⁰UN General Assembly, Rome Statute of the International Criminal Court (last amended 2010) [here in after ICC statute], 17 July 1998, ISBN No. 92-9227-227-6, (art.7 (2)(a) available at<<http://www.refworld.org/docid/3ae6b3a84.htm>> [accessed 30 September 2022]

Both crimes don't have a globally accepted common definition and a separate regime of law, but CAH have a well-defined elements as well as developing jurisprudence. Both crimes are inflicted against civilians, but the victimization is different. CAH is on discriminatory bases to attack the victims themselves; while terrorism victims are the means or appeared on the wrong place at the wrong time. Both are intentional acts, but the intention of terrorism is to create fear. Both crimes have political element but the former is achieved with the government help in one way or another; while the end goal of terrorism is politics always.

Generally, terrorism has not yet acquired globally accepted definition; rather the term has become the most important political term with full of confusion. Trials to enact convention failed several times and states are being involved in counter-terrorism laws. The concept of terrorism is not new. Acts of terror existed long before man's history began to be written down. The political violence acts written on history at points witnessed terrorism. But terrorism is not mere political violence or political matter. It have political element at each point of its dimension. However that does not mean terrorism is purely a political weapon. Politics is the goal of terrorism but the acts of terrorism are crime. The cause of terrorism can be many, its goal is politics and its means is crime.

In its nature terrorism is composed of evil acts claimed crime in the criminal law. Crimes making up terrorism are independently crimes –'wrongs from their very nature.' Terrorist acts are acts targeted against civilian to address the government by terrorizing its citizen. The means of terrorism is what makes it crime. Even if the cause is justifiable and the reasons that brought the terrorists might be accepted, the way they deliver their thoughts is what we call terrorism crime.

2.3. Conclusion

Violence is inevitable where democracy and good governance is rarely developed. Some Political violence comprehends to the laws and principles; adhere to minimum standards of human right and humanitarian laws if any. However, terrorists compel the government in unacceptable ways. The means of violence in terrorism is creating fear; sending their message through terror. A terrorist kills civilians located in a certain Kebele to get the attention of the regional and/or federal governments. The victims of terrorism crimes are not targets but mere

methods of the end goals. Civilians in the specific location are simply unlucky persons who appeared on the wrong place at the wrong time.

Intentionally terrorists think on acts that can create fear or terror in the society to address the government. For different factors religion, politics or any other, terrorists could be involved in violent acts such as murder, destruction of property, hostage taking, plane hijacking and the like. In its designation terrorist only identifies the place or specific types of people who daily appears in such place; the people are those who have no link to the government. Indiscriminately attacking the civilian object and civilians is the intentional act that differs terrorist from other criminals such as murder. By indiscriminately attacking, terrorist get attention from both citizens and the government itself.

Generally, acts condemned as terrorism are crimes independently; purpose of the conduct is what makes terrorism. The intention, target and result of their act are what define terrorism. As political violence terrorism is linked to government. What differs terrorism from other forms of violence is its regular means which is crime/evil. That is what puts terrorism as crime is a desired effect; indirect targeting, rationality of act and commission of acts publicly.

Finally, the elements of terrorism are one is intentional act committed rationally for political (government system) goal. Second is it is violence committed to express violence and not for individual purposes. The acts are for target audience not for the victims.

CHAPTER-THREE

3. Terrorism As Defined By Law

3.1. Introduction

In the foregoing chapter the history, nature, elements and definition of terrorism have been explained. History entails that the acts of terror existed long before the written history of man existed for limited causes. Particularly, as man continued to exist with various developments terrorism continued to be committed for diverse causes in many form and state involvement began to show, in the Middle Ages.

But the different version of terrorism did not appear until the late 1990s. Terrorism began to attract the global agenda; committed in many ways and reasons. Hence the cause cannot justify the criminal act; the author ignored the causes and referred to the nature and definition of terrorism therein. In the second chapter the first research question has been addressed. In this chapter the researcher will try to answer the second thesis question- “Does the terrorist act defined under art.3 of the Ethiopian suppression and prevention of terrorism crime proclamation differentiates terrorism from other political violence?” to do so the author will first deal other definitions used in different legal jurisdictions. Also some terrorist organizations will be selected to elaborate the elements used to declare other groups as terrorists.

If we have identified some elements that may characterize terrorism we can tell the doer. On the findings of chapter two terrorism is a whole some of evil acts. It is an act committed with intention of creating fear or terror. Terrorism is a violent criminal act committed against civilians to address the government through large society. It is directed on civilians and civilian objects. The acts are not the end by themselves; but a means to an end. Victims of terrorism are not the targets. They neither have anything to do with their interest nor are they identified due to their relationship with the terrorist.

On this chapter, the writer will try to identify what is a terrorist act according to existing definitions. To do so, first the international and regional instruments on terrorism will be referred. The elements used to define terrorism will be highlighted. Furthermore, different groups declared terrorist globally will be shown as and examples. In general, this chapter the different definitions are analyzed to draw the whole some of terrorism in law.

3.2. Definition Of Terrorism Within International and Regional Laws

3.2.1. International documents

UN General Assembly

“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 are in any circumstance unjustifiable, whatever the considerations of a political, philosophical, ideological, racial, ethnic, religious or any other nature that may be invoked to justify them.”⁶¹

In this definition terrorism is explained as a criminal act committed with the intention of causing state of terror for political purposes. According to the general assembly any acts calculated to provoke state of terror in the general public or group of persons as well as particular persons are in anyway unjustifiable. In this definition one can select out the following elements-

- Criminal nature of the act
- Intentional act
- Calculated to cause state of terror
- For political purpose.

There can be no defence provided for terrorism according to the general assembly’s definition. The definition includes every acts of terror committed. It indicates there is no defence accepted for such criminal acts committed with the intention of creating terror. It implies that the reason of committing the act could be just. Even if the cause is just the means cannot be justified. This type of crime and criminal is not same with the ordinary one showing the severity of the crime. It has not clearly defined the components of the crime, the degree of the terror. As per the definition any crime calculated to provoke terror is terrorism. The intended terror should be for political purposes. If the act is crime intended to cause fear for political goals, which is terrorism. The general assembly has failed to elaborate the act briefly. The definition is a broad some whole composed of all acts claimed criminal committed on the calculation to result in terror.

UN Security Council Resolution 1566 (2004)

⁶¹ Union Nations: General Assembly of the united nations , Measures to eliminate international terrorism (Agenda item 107) sixth committee (Legal); Resolution 68/119, Committee established by GA Resolution 51/210 of December 1996 .

*'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'.*⁶²

The *first* element included in this definition is criminal act; which includes commission against civilians. It means the criminal act might or might not be committed on civilians. That is the target can be against anyone including civilian. *Secondly*, it is intentional criminal act, to bring about a result of specific causes (death, bodily injury, taking of hostages). Third, the purpose is to create fear or terror. This definition is too short and not precise to explain terrorism. The acts are not illustrated to be well understood under terrorism and the element of politics is completely erased. But the victimization is well dealt in the resolution.

UN Panel⁶³

Described terrorism as

Any act "intended to cause death or serious bodily harm to civilians or non-combatants with the purpose of intimidating a population or compelling a government or an international organization to do or abstain from doing any act."

According to this definition, terrorism is an intended act, because death or serious body harm to civilians or non-combatants for the purpose of intimidation or compelling..... Still this definition lacks the acts that can be committed against civilians and civilian objects are not included. It only deals about human life. Moreover the intention of their act is not briefly defined.

3.2.2. US Organizations Definitions

United States of America is on the front line among countries combating terrorism in the world. Also America is one of the states who suffered repeatedly from terrorist attacks. America has always been in the eyes of different terrorist groups who are never born in her land. This country is also blamed widely for becoming a cause to many well-known terrorist groups existed in the

⁶² United Nation Security Council (UNSC), Threats on international peace and security caused by terrorist acts, (October 28, 2009), Resolution 1566

⁶³ United Nation, The report of the secretary general entitled in larger freedom on March 17, 2005,

world. There are also evidences that show America is among the countries marked for state terrorism. In the global counter-terrorism war America is active partner as an initiation. Terrorism has become the fear of the country among any other. The incident of September 9, 2011 put the stepping stone in America's history of counter terrorism initiation and active participation for the war on terror. Due to this the author took definitions used in American organizations in the international documents section. America's thought on terrorism has dominated many of the counter-terror laws existed in the globe.

The Federal Criminal Code title 18 of the United States defines terrorism and lists the crimes associated with terrorism. In Section 2331 of Chapter 113(B), defines terrorism as:

“...activities that involves violent... or life-threatening acts... that are a violation of the criminal laws of the United States or of any State and... appear to be intended

to intimidate or coerce a civilian population;

to influence the policy of a government by intimidation or coercion; or

to affect the conduct of a government by mass destruction, assassination, or kidnapping; and...

occur primarily within the territorial jurisdiction of the United States...”

US Patriot Act of 2001:

“Terrorist activities include threatening, conspiring or attempting to hijack airplanes, boats, buses or other vehicles. Threatening, conspiring or attempting to commit acts of violence on any "protected" persons, such as government officials • any crime committed with "the use of any weapon or dangerous device," when the intent of the crime is determined to be the endangerment of public safety or substantial property damage rather than for "mere personal monetary gain.”

FBI definition of terrorism

‘...the unlawful use of force or violence against persons or property to intimidate or coerce a Government, the civilian population, or any segment thereof, in furtherance of political or social objectives.’

U.S. Army Manual definition

Terrorism is the "calculated use of unlawful violence or threat of unlawful violence to inculcate fear. It is intended to coerce or intimidate governments or societies ... [to attain] political, religious, or ideological goals." U.S. Army Field Manual No. FM 3-0, Chapter 9, 37 (14 June 2001).

Department of Defense Dictionary of Military Terms defines terrorism

The calculated use of unlawful violence or threat of unlawful violence to inculcate fear; intended to coerce or to intimidate governments or societies in the pursuit of goals that are generally political, religious, or ideological.

In US terrorism is understood as a violent criminal act. The most important element the definitions in US have is “Unlawful violence”. Terrorism is an unlawful violence committed to gain political goal.

3.2.3. Regional instruments

European Union definition

The European Union defines terrorism for legal/official purposes provides that *terrorist offences are certain criminal offences set out in a list comprised largely of serious offences against persons and property which: given their nature or context, may seriously damage a country or an international organization where committed with the aim of: seriously intimidating a population; or unduly compelling a Government or international organization to perform or abstain from performing any act; or seriously destabilizing or destroying the fundamental political, constitutional, economic or social structures of a country or an international organization.*⁶⁴

This definition seem exhaustive than any above definitions we have been referring. It is defined in a way it can give clear distinctions with other similar criminal conducts and other acts of political violence. The definition first defines the offence of terrorism in a way we can identify

⁶⁴ European Union: Council of the European Union *Council Framework Decision 2002/475 on Combating Terrorism* (13 June 2002) 2002/475/JHA, Article 1. Available at < <https://www.refworld.org/docid/3f5342994.html> > [accessed 18 December 2022]

terrorist. A criminal act committed by a terrorist have three different measurements to identify from other offenders. The first is the act could be against person or property comprised of largely of serious offences. The definition avoids listing down the criminal acts that may be committed by terrorist. It prefers on defining the nature and the context of the act than using exhaustive lists. Secondly, the definition holds that such acts are committed with the aim of intimidating the population or to compel the government (whether national or international) to do or abstain from doing.

The serious criminal offence committed by a terrorist will have the intention to intimidate the population or the government. Seriousness of the conduct results from the aim of the act. The root cause to intimidate the population or to compel the government. Thirdly, not only the act should have to be serious but it also has to cause serious damage to the country or international community. This is referred within the outcomes of the act; if it can seriously destroy or at least destabilize constitutional, political, economy and social structure of national or international government it is terrorism.

The Arab league

“Any act or threat of violence, whatever its motives or purposes, that occurs in the advancement of an individual or collective criminal agenda and seeking to sow panic among people, causing fear by harming them, or placing their lives, liberty or security in danger, or seeking to cause damage to the environment or to public or private installations or property or to occupying or seizing them, or seeking to jeopardize national resources.”

The definition includes the following elements:-

- Threat of violence
- Intended to cause panic among the people
- With the motive of causing fear
- By harming them or their objects.

Simply, according to the Arab league terrorism is a violence intended to cause panic to create fear by harming the people or their objects.

OAU convention on the prevention and combating terrorism

The OAU convention on the prevention and combating of terrorism on its art.1 (3) defines terrorism as follows:

‘Terrorist act means:-

(a) any act which is a violation of the criminal laws of a state party and which may endanger the life, physical integrity or freedom of, or cause serious injury or death to, any person, any number or group of person or causes or may cause damage to public or private property, natural resources, environmental or cultural heritage and is calculated or intended to:

(i) intimidate, put in fear, force, coerce or induce any government, body, institution, the general public or segment thereof, to do or abstain from doing any act according to certain principles; or

(ii) disrupt any public service, the delivery of any essential service to the public or to create a public emergency; or

(iii) Create general insurrection in a state.

(b) any promotion, sponsoring, contribution to, command, aid, incitement, encouragement, attempt, threat, conspiracy, organizing, or procurement of any person, with the intent to commit any act referred to in paragraph (a) (i) to (iii).’⁶⁵

This is the most bulky, vague definition we had among other. In one way it neither briefly defines terrorism for it’s not intention nor it lists down specific acts that could be considered as terrorist act. More over the aim of the definition seems to punish other political violence than terrorism. Lastly, the provision uses general terms that are open-ended; complex and easy for misuse. AU has not adopted a convention as such but just has a working plan on terrorism. As the war on terror is invading the globe the Union cannot be out of it. It has defined frameworks to deal with the issues of terrorism even if the Union has not yet adopted another convention or

⁶⁵ OAU Convention on the Prevention and Combating of Terrorism (adopted on 1 July 1999, entered into force 6 December 2002) 2219 UNTS 179 (hereafter ‘OAU Convention’)

amend the former. The union in 2001, at Dakar enacted a protocol named ***Dakar declaration against terrorism.***

To explore more let's see different groups named terrorist in the globe; especially groups declared terrorist by US.

3.3. Terrorist Groups

ALQAEDA

*"Officially Al-Qaeda is known as Qaeday al-jihad literally meaning 'base of jihad'; a multinational militant Sunni Islamic extremist network composed of salafist. It was founded by Osama Bin Laden in the late 1980s; its members are mostly Arabs but also include other people."*⁶⁶ The history of Al-Qaeda tells that it was born during the *Afghan war*, the war between Afghanistan Muslims and Soviet Union. After the Soviet Union withdrew from Afghanistan in 1989, the group dispersed but continued to oppose corrupt Islamic regions and presence of foreign countries in Islamic land (especially America).⁶⁷

The group was based in Sudan in early 1990s and reestablished its head quarter in Afghanistan. Its founder was Osama bin laden, a deadly man who was a mastermind of numerous attacks against the United States and other western countries. At around the end of 1996, after his expulsion from Sudan he declared a holy war on US, by accusing it for looting natural resources of the Muslim world, occupying the Arabian Peninsula, including the holy sites of Islam. His apparent goal was to draw the United States into large-scale war in the Muslim world order and establish a single Islamic state.

The attacks directed by the group are the following:-

- ❖ The suicide bombing of the US warship Cole in the Yemeni port of Aden in 2000 killed 17 sailors and around 38 wounded.
- ❖ The September 11, 2001, attacks on the world trade center in New York City and the pentagon near Washington, D.C.

⁶⁶ Wikipedia, *Definition of Al-Qaeda*, available at < <http://en.m.wikipedia.org/wiki/Al-Qaeda>,> (accessed on Nov.1,2022)

⁶⁷ ibid

- ❖ The 1998 simultaneous attacks of American embassy in Nairobi Kenya, Dar es Salaam Tanzania which caused altogether the death 224 people.
- ❖ Al-Qaeda is also a reason to the formations of many other terrorist groups and sponsorship of terrorist acts.

HIZBOLLAH⁶⁸:-

This group was formed in 1982 following Israeli's invasion of Lebanon. Hizballah means 'party of God' is the very most effective terrorist organization. It was formed to attack Israel with the aid of Iranian government in Lebanon. They consider themselves as the Lebanese defenders. Hezbollah participated in the Lebanese Government since 1992. Before and after that they had been involved in many terrorist attacks in and outside Lebanon:

- The suicide truck bombings of the US embassy in Beirut in April 1983,
- The US marine barracks in Beirut in October 1983 and US embassy annex in Beirut in September 1984;
- Hijacking of TWA 847 in 1985 and the Khobar towers attack in Saudi Arabia.
- Car bombing which killed Rafiq al-hariri, the former Lebanese prime minister on February, 2005;
- The killing of five Israeli tourists in July 2012 in Burgas, Bulgaria, on bus bombing;
- The group was also supporting different militant groups in Middle East and Bashar Alas ad's regime in Syria.

BOKOHARAM⁶⁹

Boko Haram (as well known in Nigeria and media), means 'western education is forbidden'. It is Nigerian based group formed to overthrow the existing Nigerian government and replace it with a government based on Islamic law. It was formed in the late 1990s. The July 2009 firing with Nigerian government caused it lots of death including the capture of their leader, Muhammad

⁶⁸ The following are taken from Office of the director of US national intelligence office < <https://WWW.dni.gov/groups/hizballah.html> > (accessed on Nov.10, 2022)

⁶⁹ These content is derived from:- <https://WWW.dni.gov/groups/hizballah.html>, accessed on Nov.10, 2022; also Nigerian Islamic group, on <https://www.britannica.com/topic/Bokoharam>, accessed on Nov 10, 2022.

Yusuf and his father in law Baba Fugu Mohammed who handed over himself to the police. The police extra judicially killed all of them in public. In the next year of the extra-judicial killing the group publicly claimed to attack the Nigerian government, US and westerns with the solidarity of Al-Qaeda. Attacks conducted by book haram:-

- In 2010, on Christmas Eve the group attacked two Christian churches in Maiduguri and Christian neighborhoods in Jos, plateau (caused death of 30 civilians).
- On 26 August 2011, vehicle bomb attacks in UN headquarter in Abuja, killed 23 people and caused 80 wounded.
- Daily attacks since then against Christians, churches, the media, schools and politicians; kidnapping of 276 school girls in Borno state, Nigeria in April 2014 could be good instance. In the Northeastern Nigeria only it is alleged to be 1400 schools that are attacked by the group since 2010.⁷⁰
- In February 2014, attacked a college in Yobe state causing death of 50 male students and destroyed the college.
- Simultaneous suicide bombings in N'Djamena, Chad in June 2015.
- The group in 2015 acquired the name ISIL- West African province.

Islamic State in Iraq and Syria (ISIS)

“Promotes violence and bloodshed to establish and maintain qur’anic hegemony through a very strict adherence to the Qur’an and Shari’a law.... ISIS has declared jihad against all infidels. That includes westerners, Christians and Jews. But it also includes any other “Muslims” who do not pledge allegiance to Abu Bakr al-Baghdadi as the new caliph, such as Hamas.....ISIS represents a brand of Islam that knows no boundaries to its violence. It continues to attract members in various countries around the globe who go to the Middle East to train and then return to their respective countries to attack their own communities. The lack of moral

⁷⁰Voice of America, ‘Mother of Boko Haram Leader Speaks for First Time’, documentary film released on the official YouTube channel Available at <<https://youtu.be/72O678K8DP0>> (accessed on Nov.11 2022) .

equivalence between a group driven by an ideology worshipping death and a world valuing human life is always going to be a challenge ”⁷¹

ISIS is the most violent terrorist organization ever appeared in the globe; the means of their violence is full of brutality. The following are examples of their acts:-

- The killing of hundreds of Yazidis (a religious minority in Iraq) in August 2014, sold their women and forced religious conversions;
- Beheading of US journalists in August and June 2014 respectively and released video on YouTube.
- In February 2015 beheaded 21 Egyptian Christians in on a beach in Libya and released video
- The same month burned Jordanian military pilot within a cage in live video.
- The killing of 130 civilians in Paris by bombers and attackers in Nov.2015;
- In December 2016, couples firing killed 14 people in California
- Also this group was involved in destroying many historical places, churches, mosques and the like.
- Museums, monuments, libraries and temples are also destroyed
- Schools, restaurants, nightclubs and any other civilian objects are never recognized or identified in attack.
- Even Muslims were victims; including mosques were destroyed by the group.
- They are also involved in looting, kidnapping ransoms, taxation, extortions, stolen artifacts, donations....

ALSHABAB

Al-shabab carried out massive attacks in Somalia and surrounding countries including Ethiopia; the group is an active participant of the ongoing civil war in Somalia. Their ideology is among fundamentalist, jihadist Muslim armed group. The term Al-shabab means the youth, which was

⁷¹ Chosen People Ministries, ‘*A Brief History of ISIS*’, available at <<https://www.chosenpeople.com/ministry-news-brief-history-isis/>> (accessed on 11 Nov 2022)

formed in the early 2000s as self-proclaimed branch of Al-Qaida. Al-shabab as terrorist group emerged as strong group for it is made up of both Islamist thoughts and Somalia Nationalism.⁷²

Attacks targeted by Al-shabab:-

- 2022 car bombings in Mogadishu, Somalia, resulting in 120 civilians death
- 2019 truck bombing in Mogadishu Somalia caused the death of 82 individuals
- 2019 hotel siege in Nairobi Kenya resulted in the death of 14 innocents

3.4. Common elements used to consider a criminal act as terrorism

After taking a look at different working conventions and famous groups blamed as terrorists globally, in this topic we will identify the common elements used directly and indirectly in each laws as well as the applied elements in the groups blamed for terrorism internationally. The above laws we have been through used two ways of defining terrorism. One is the brief explanations used to clearly define terrorism and the second one is the exhaustive lists of crimes used on defining terrorism. For example, UN documents preferred to list acts to be considered as terrorism; it better defines acts of terror than mere terrorism. The definitions categorize terrorism as criminal acts intended to cause terrorism. Though it tries to prescribe the elements but it failed to clearly draw terrorism. But it stresses that terrorism is unforgivable act. OAU also follow this way of defining terrorism; the list acts are well illustrated than the term itself.

The other way of defining terrorism is briefly discussing the concept. Some definitions such as the EU, Arab league and US definitions focused on identifying the elements that may be used to categorize terrorism. It mainly focuses on giving a distinctive element that may help to differentiate terrorism from other crimes. In such a way the definitions are rarely abused. One cannot face challenge to determine terrorist from other criminals. Especially, US being on the front line in the fight against terrorism and also victim of foreign terrorist attacks repeatedly defined terrorism in many ways. But in all most all of the definitions there have been rare gaps on dealing about the concept. In addition EU definition is one of the exhaustive definitions that may help understand the concept and apply it by drawing who really is a terrorist among criminals.

⁷² Stig Jarle Hansen, acclaimed Al-shabab in Somalia, published by Hurst (2016)

In one way or other the definition we have been going through identified the following elements.

- **Intentional Criminal act:** - terrorism is a criminal act; that is convincible. Some of the laws do not consider terrorism as violence. In arguably by default there is a consensus that terrorism is crime. The violence nature of terrorism is not accepted in all definitions; but it is hidden under this element. The act of terrorism is always committed deliberately; it is intended act not committed negligently. The intention can be religious, political or ideological.
- **Causes damage to life or property:** - even if the acts are listed down differently one can conclude that terrorism is criminal act intimidated against life or property. Victims are civilians and civilian objects.
- **Creating terror among the general public:** - the criminal act committed intentionally while causing damage to civilians and civilian property should have to create fear or terror and panic to the audience.

To prove those statements we can review the acts committed by organizations or groups alleged terrorists globally. We can take the instance of Hezbollah and Boko Haram. The reason those groups were formed at their inceptions are justifiable in one way or the other. Both were violence's borne out to fight what they believe for. Hezbollah was the result of Lebanon's civil war, while Boko Haram was formed for religious beliefs. Both planned to end up in politics. But they used different forms of violence.

Especially Boko Haram after the founder's death was involved in many terrorist acts intentionally committed to create fear and terror to unrest a society they live in and compel the government. The intentional criminal act or unlawful violence is committed against people and their properties. The goal of such violence is to gain political purposes. The political goal is achieved through a means of attacking the people who have no interest in the politics. Boko Haram is to prohibit western education in its territory; rather than using the legitimate method to convince the community or the respective authority with its own ideology, it kills, kidnap students from schools, colleges or universities and destroy the institutions. In that way the public will fear and abstain from sending its children to school; while this compels the government to

close schools and suspend classes unwillingly leading it to policy change. The same holds true for Al-Qaeda who declared holy war on US and attacked American embassy in East Africa.

Terrorists do not forward their message directly to the respective party they alleged violence on. As we have been discussing before even the reason that brings about their inception may not be unreasonable; it may have justifiable causes. Justifiable cause and rational act is what may characterize terrorism. I.e. what brings a said criminal act under terrorism is the means of the act. That is why we cannot avoid the element of violence from its definition; as it is a sign of violence. The means of the violence is crime; the crime is intentional causing serious damage to life and property to result in fear and terror within the large society. The fear which compels the party targeted to change its policy, law or any request of the terrorizing group.

3.5. Conclusion

Obviously, politics and terrorism cannot be purely separated but the law should be clear enough to declare groups as terrorists or to impose individual criminal liability. Terrorism is issue of criminal law and it should have to be designed by principles of criminal law to avoid creating confusion with other forms of violence and violate human rights.

First it is not merely political weapon but a criminal act, committed intentionally to create fear/panic/ terror. The terror will result in loss of life or destruction of property (civilians and civilian objects). Such loss and destruction is expected to compel the government (national/regional or international). Civilians and civilian objects are always the bridge in terrorism. But they are nothing than becoming means for the intended goal; rather terrorism in law should be understood as:-

- Unlawful violence (as prescribed by US laws),
- A violent criminal act or
- A whole sum of evil acts.

Laws should focus on defining what makes terrorism crime to avoid the confusion in the legal system. We cannot criminalize the intention illustrated under the laws unless the acts prove it. So determining the elements of listed acts is necessary. Otherwise there will be no room for criminal nature of terrorism.

Therefore terrorism can only be well defined in criminal law. That is terrorism is an intentional act intended to create fear/terror/panic among the general public to communicate the government. Thus, the act is intentional, the target is government and the means is causing loss of life or property.

CHAPTER FOUR

4. An Overview of Ethiopian Terrorism Proclamations

4.1. Introduction

Ethiopia in its history had two terrorism laws in different government regimes.⁷³ During the first enactment of the ATP Ethiopia was not under serious threats of terrorism. The government banned different groups including Al-Shabab as terrorist.⁷⁴ Scholars criticized the proclamation for many reason as we will see in the coming topics. Furthermore the proclamation was not even effective in prosecuting terrorists; rather it was a free size law used to address all political violence.⁷⁵ Scholars criticized the government for using the gaps of terrorism definition to legalize its criminal conducts against whoever is against it; including CSO members and workers.⁷⁶ Fundamental human rights were restricted without restriction with that law.⁷⁷

After the EPRDF government fall, during the transition (the coming of prosperity party), the parliament come up with a new law. As one of the requests was the ATP, the new prime minister promised to amend the law. Because the prime minister beyond all his efforts was being criticized for not revising that proclamation. *‘Prime Minister Abiy Ahmed, this year's Nobel Peace Prize laureate, has received accolades for political reforms including lifting bans on political parties, but the original anti-terrorism law passed in 2009 has remained in use.’*⁷⁸ Following this in 2019 the parliament enacted a new version of law which had rare difference with the first.

In this chapter the author goes through both proclamations roughly. The first topic will cover the former proclamation while the second topic deals the detail of the new proclamation. Finally findings will be highlighted.

⁷³ Proclamation No.652/2009 and proclamation No.1176/2020, the latter is the amended law of the former. The first proclamation brought much chaos in the country. Due to this during the transition the parliament voted for the amendment of the proclamation.

⁷⁴ Among the groups banned during the regime were Ginbot-7, OLF, are among the organizations that received pardon from the transformed government and allowed to take part in the country's political affairs

⁷⁵ Zelalem Kibret, note 13

⁷⁶ Tewodros workineh, note 26 ; Haru H. Korosso, note 27

⁷⁷ Gebeyehu, H. Abebe, note 12; ‘Peter sekyere and Bossman Asare, note 12

⁷⁸ News by Agence France-Presse, ‘Ethiopia Adopts New Version of Much-Criticized Terrorism Law’ (January 03, 2020) available at <[Ethiopia Adopts New Version of Much-Criticized Terrorism Law \(voanews.com\)](https://www.voanews.com/news/Ethiopia-Adopts-New-Version-of-Much-Criticized-Terrorism-Law-2020-01-03)> (accessed on November 20 2022)

4.2. The Former Proclamation of Ethiopian Anti-Terrorism Law (Proc. No.659/2010)

4.2.1. Definition of terrorism

“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;

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 ...”

4.2.2. Nature and elements of terrorism

This definition focused on the acts rather than the elements that make up the whole sum of the term terrorism. It does not include elements commonly used in defining terrorism. It describes terrorism as an act of advancing one’s own opinion whether political, religious or ideological through coercion or intimidation of government and society; destabilizing or destroying the fundamentals of politics, economic, social or constitutional. The definition does not include the goal and purposes of the act why it is intimidated. The definition does not separate terrorism from other forms of political violence. There is no sufficient ground that the above listed acts are considered terrorism while they are independently crimes.

Furthermore the definition focused on listing down acts that are said to be terrorism as per the provision. Surprisingly all the acts are criminal acts condemned under the criminal code.⁷⁹ The sentence does not include the elements I have been dealing in the above chapter and foregoing topics. Even the intention to terrorize is not included in the definition; not even the term is named. The definition tries to totally criminalize the term itself. This is, the proclamation is trying to condemn the ideology itself, not the acts (means). Because, the statement declares any religious, political, etc cause to coerce the government or public (half of the public) and commit the listed criminal acts. That means it includes ‘*any act of violence*’. The law merged all political violence resulted in causing the criminal acts listed down by exhaustive list under the provision. But violence is inevitable in countries like Ethiopia. So having such a vague definition was what brought the regime of Wayane to end. Thousands were thrown to jail, hundreds and thousands has been denied of their liberty, and lots of innocent people were killed extra-judicially.⁸⁰ The proclamation is the father of many untold stories of the broken victims.

4.2.3. Gaps of the proclamation

Under this proclamation a person can be a terrorist individually. Can an individual person compel a government or the public by the listed acts alone? Because the statement starts with “whosoever...” if anyone commits the listed acts for untold reason the governments may be tell as terrorism according to the provision. Actually, the definition resembles OAU convention; a convention that consider terrorism as a criminal act causing general insurrection.⁸¹ What is general insurrection in a state? If general insurrection is resulted then we are not claiming terrorism. Because there has been locked doors taking to the political field and the criminal act is paving the way to the field.⁸²

Intention of advancing political, ideological or religious cause by coercing the government or public or destroying the constitutional or destabilizing the political order and etc... one cannot find any element of terrorism but understands the intention of the government. That is all political violence and any act of violence is terrorism. More over any act intimidated against the

⁷⁹ The Federal Democratic Republic of Ethiopia Criminal Code, Proclamation No.414/2004 (become effective in 9th May, 2005)

⁸⁰ Reports of different CSO's including amnesty international, human rights watch and etc at different times then

⁸¹ See supra note 65, art 1(3)(a)(iii).

⁸² See chapter two section

government is terrorism. As many authors⁸³ criticized the proclamation for it contradicts international human right principles or fundamental rights guaranteed even by the FDRE constitution. The proclamation is intended to outlaw many dominant political organizations in the country and restricted the political field for citizens. There is no clear element that can be taken from the definition to categorize the criminal acts list down in the provision. The statement is vague giving power to the government to even criminalize the thought of a person. The proclamation failed to identify a terrorist from other criminals. Better to say the proclamation is terror by itself causing fear as to what is crime and what is not.

Many political parties were declared terrorist groups by the proclamation. Journalists, activists, political party leaders, students, officials whoever was not in compliance with the government was accused with the terms of the proclamation. Even establishing the allegation was challenging due to the unclear definition indicated within the proclamation. An issue of evidence and proof was causing confusions in the justice machinery. The law was well used as free size to condemn all political violence. Any sign, act, speech, thought, of opposing the government what is so called the constitutional order was punishable upon this proclamation. The government legalized its illegal acts through the anti-terrorism proclamation. Indeed the proclamation was an act of terror by itself.

4.3. The working Ethiopian counter-terrorism law (proclamation no.1176/2020)

4.3.1. The Provision

‘Whosoever, with the intention of advancing political, religious or ideological causes for terrorizing, or spreading fear among the public or section of the public or coercing or compelling the Government, Foreign Government or International Organization:

- a) Causes serious bodily injury to person;*
- b) Endangers the life of a person;*
- c) Commits hostage taking or kidnapping;*
- d) Causes damage to property, natural resource or environment; or*

⁸³ As we have seen in chapter one, see the literature part.

e) Seriously obstructs public or social service; is punishable with rigorous imprisonment from ten years to eighteen years.

Where the action taken to achieve the causes mentioned in Sub-article (1) of this Article is causing death of person or causing serious damage to historical or cultural heritages or infrastructure or property or natural resource environment the punishment shall be rigorous imprisonment from Fifteen years to life or death.'

4.3.2. Elements of Terrorism

The proclamation came up with the term “**terrorizing or causing fear**” unlike the former. Intention of advancing religious, political or ideological causes for terrorizing or creating fear in

- the general public or
- section of the public or
- Coercing or compelling the government, foreign government or international government, commits the acts listed down under art.3 (1) from a-e.

This proclamation excluded “...or destabilizing or destroying the fundamental political, constitutional or, economic or social institutions of the country” and the rest is copy of the former proclamations text.

The terrorist act committed in anyway must be to create fear or terrorize or coerce or compel the public, section of the public, the government or international government. Even if the proclamation added the element of terrorizing or creating fear, still it is optional. Terrorizing or creating fear is not included as a means, method of compelling the government or any other reason. It is used as an end goal of terrorist acts. When the intentional act is committed against the person’s life or health or property or hostage taking is committed and resulted in terrorizing the public, it is terrorism. That means the proclamation still has not yet defined terrorism in a way it can be differentiated from other crimes. Terrorist is not driven by personal desires or ambitions. Assume that Abebe killed his wife by cutting her into pieces, is he a terrorist or is he going to be prosecuted with the provisions of the new law? The act may cause fear within the society; for terrorism the result of the fear is what matters. The means should have to create fear while that fear has to compel or coerce the government.

The reason of terrorism can be justifiable. As we have been discussing, the causes of terrorism, especially world's known terrorist groups, their reason of establishments is not illegal. They may have good cause to advance the political, religious or ideological causes. The cause is not what blames terrorism but the means is what condemned terrorist acts. The way terrorists send their message to the target audience is what makes it unlawful. By nature terrorist acts are unlawful acts covered by federal criminal codes. There must be a sufficient reason to lift a certain act from the criminal code to this proclamation. Still the proclamation failed to show the means that illegalized terrorism. Terrorizing or creating state of fear in terrorism is not an option; it is the main or only road that takes criminal acts to terrorism.

Terrorism achieves the goal through fear or terror. To coerce or compel the government is their end goal. The government in any way is the target of terrorists; what brings terrorism into existence is the act of the government. There will be something the terrorist wants from the government. Terrorizing the public is to coerce the government. For instance, to force the government (may be national or local government) change its policy. The core of terrorism is the government. The terror or creating state of fear is to address the government. Even if victims are members of the public, the target of the audience is the government.

Furthermore Terrorism is the means of violence or a way of expressed violence. The purpose of the conduct is what brings a certain crime to be categorized as terrorist act. That purpose is violence that might be caused due to religion or political or may be ideological and any other. Any criminal act should be intimidated against the government to show non-consensus. Two things to refer to this time; first is violence is inevitable where the political field is narrow. Second violence in terrorism uses unlawful means to achieve its purposes. The purpose of terrorism is causing terror; its means is crime or violence to end up in compelling the government.

In defining terrorism it should be noted that civilians or individuals are not the targets. Victims are civilians or their objects but they are not the target; because individuals are targeted indiscriminately and indirectly: *people killed in September 9/2011 in America or in the bombing of bus in Israel or at work in the world trade center; are not targeted specifically and the people killed are of no specific interest to the terrorist.* They just appeared on the wrong place at the wrong time; however this does not mean terrorist acts are not rational.

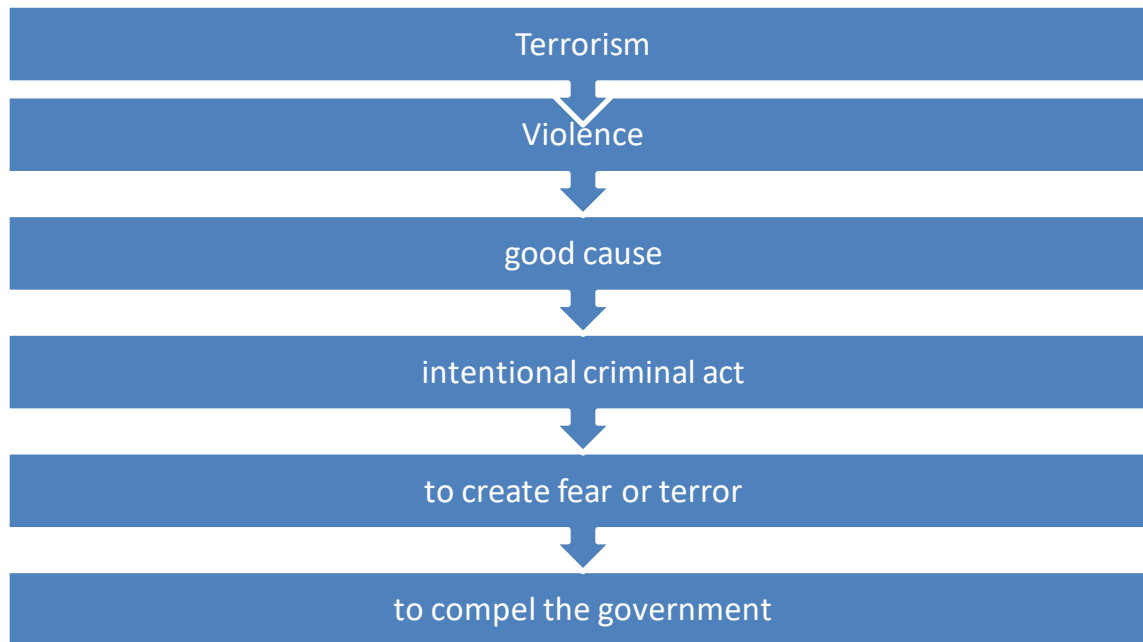
The acts are rational; well planned and identified purposefully to gain the presumed result. The place and the victims are selected to achieve their intended goal; that goal is attracting the public to address the government. To do so terrorist acts are committed public; that is terrorist act cannot take place in secret. They do not take care to commit their evil acts; even when they are not suspected they come to the front to tell that they are the one who committed it. If not committed publicly terror and fear cannot be created. Targets are chosen if they have **symbolic or economic** value; or targets that have **public value** (buses or restaurants, etc) to get the society's attention and cause government to change policies. **Terrorists never deny their acts.**

So the proclamation has not yet fulfilled this gap. It is something that is intimidated against the government to express violence in evil acts, so that they can create fear and state of terror to compel the government. This leads to the point that terrorism can never be committed negligently. Causing death or destruction of property alone does not establish terrorism. Unconsciously individual person can commit an act that may cause fear and terror within the society. Assume in an armed conflict unwillingly thousand civilians lost their lives in collateral damage. Or further assume that in violence where a conflict took place between the government and opposing group different loss and damage to person and property occurs.

If that is not intended to advance a political or ideological or religious causes resulting in terror merely cannot establish terrorism. What differentiates terrorism from mere act of terror, as we have been discussing in chapter two, intention of the act is the major one. An act of terror can be committed without calculating to create state of fear or to compel the government. It might be an indispensable action taken to choose between two evils. If any act committed produces state of fear or terror we cannot easily say it is terrorism. Terrorism is something that covers the act of terror and committed strategically to gain the political desire. Each and every segment of the acts to be committed by terrorism will be designed carefully. Not even the steps are taken negligently. Think of how the world trade was burnt down. The doers have been involved in the action to be committed early before it was to happen.

This is because terrorism has a kind of military behaviour. The doers of the act are well trained and carefully involved in the dramas they take place in. It sometime resembles a well studied, directed and written movie (film). They commit an act that is saved in a person's mind as a picture; picture of the evil act that makes the society to have doubt in state or government

protection. With due care the doers choose who and where even when and how to commit the said criminal acts intentionally. There is no omission in terrorism; it is always intentional commission of crime. The intention should be to create fear and terror to achieve the goal. When terrorism is turned in to pieces



4.3.3. Nature of terrorism

Ethiopian terrorism suppression and prevention proclamation tells that terrorism is:-

- “...*intention of advancing political, religious or ideological causes...*” The proclamation criminalizes the intention but terrorist act is the means by which it is intimidated... Because terrorism cannot be mere ideology. The thoughts or philosophy behind terrorism might or might not be good cause. Whatever the cause can be terrorism is the means chosen to advance that thinking. If not for the evil acts they choose to commit in expressing the violence, it would not be terrorism. The cause most of the time had been good. Examples can be the terrorist groups we have been discussing in chapter three. One good example can be Hezbollah of Lebanon. However, this does not mean justness of the cause of terrorist act does not assert legality of the act. We have to view terrorism from the desired effect. The law should not consider the cause of the act to determine its

legality. So that, the means is what we take in to consideration to determine legality. As such the grave crimes and violations committed by terrorists will be assessed.

- The terrorism proclamation defines terrorist act to suppress and prevent terrorism. Terrorist acts defined under art.3 lists down criminal acts which independently exist. However, terrorism is not a single act but a whole some of evil acts. Most acts perpetrated by terrorists are considered illegal, even if it may not be crime in the eyes of both international law and national laws. Crime in the international community is ‘*mala per se*’ (wrong or evil in itself). This has been desirable, for terrorism constitutes gross violation of globally accepted rules. The acts in the list are bad by their very nature, independent of the political system of a particular state. What brings it to the level of terrorism is the ‘***purpose of the conduct***’; according to the proclamation the purpose is of two. It is either to intimidate the large population or section of the population; to compel or to coerce the government or international organization to do or abstain from something. But the purpose of terrorism is not to compel or coerce the government. The purpose is to create fear and terror. That purpose of terrorism is purpose meant to serve the goal. Then how can it be expressed in the provision? The provision couldn’t provide that committing a criminal act is for the purpose of creating fear or terror; that fear or terror in the general public or section of the public is to address the government.
- Terrorist is not driven by personal desire. A person may commit crime purposefully to satisfy one’s own plan. But that cannot happen in terrorism. The acts have the message that government is against my religion or it could even be to compel the government to change some its policies or decisions also, to change behaviour in that audience or society. That means art.3 of the proclamation cannot independently exist from art.19 of the same proclamation. Terrorist acts are as listed down and discussed in the first provision while art.19 of the proclamation deals about terrorist organizations. The former one is to determine the individual criminal liability while the latter is to impose criminal liability on the organization. So art.3 in one way is definition while on the other hand it is a reference (infer) to art.19 of the proclamation.
- On the basis of this proclamation the Ethiopian parliament denounced two groups as terrorists. The first one is the former government who enacted ATP itself: the TPLF. Secondly, OLA-Oromo liberation Army of which other wing OLF- Oromo liberation army is

a political party registered on the Ethiopian election board list. Both organizations were alleged terrorists by the government. We haven't seen both groups accepting any of the allegations brought against them by the government. Rather they allege the government for on the same way and for same acts. As an author it has really been hard to discuss the detail the groups in absence of independent investigation on the acts government alleged against them. By their nature terrorist groups never deny their act as the act is always rational, intentional act. If they deny they are not intending to create fear or terror among the section or general public. It even means they are not intending to coerce the government through evil. Prosperity government in the late 2022 had peace talks with TPLF to end the Tigray war beside all the allegations came up with praetorian peace agreement. Such talks has also been extended to OLA but failed unlike the former. In 2023 the federal government delisted TPLF from terrorist groups and the then leaders of the group became head of the interim government of the region.

4.4. Conclusion

To generalize, the Ethiopian terrorism crime prevention and suppression proclamation still came up with unclear and vague terms. First and foremost, the proclamation merely tried to indicate the name of terrorism without defining it. Secondly, terrorist acts are defined vaguely on art.3. Thirdly, the proclamation still defined terrorist act as 'mala prohibita' (wrong because it is prohibited by statute), 'while the acts are mala per se' (wrong or evil in itself). Terrorism is a wholesome of evil acts prohibited by the law. The proclamation couldn't clearly show the specific element that differs from other criminals. Elements such as violence or at least an element that shows the acts are committed to address the government not the victims has not been mentioned. It does not draw the line between other political, religious or ideological violence's from terrorism. Even more the proclamation indicates whether personal desire can brought about terrorism. It fails to consider terrorizing or creating fear in the general or section of the public is not taken as a means or a purpose to compel the government. Rather the proclamation makes both optional. A criminal act is committed and it is intended to compel/coerce the government or to create fear/terror.... *It is terrorist act.*

According to the writer the proclamation did not come up with a sufficient cause to entertain terrorism in a separate law, unless it is to be used as a free size to address political violence in the state.

CHAPTER FIVE

5. Conclusion and Recommendations

5.1. Conclusion

Due to lack of agreed definition the counter-terrorism laws has also become life threatening. It serves as a weapon for governments or states to disobey their duty attached to human right. The world agreed on the counter-terrorism laws and measures but couldn't come up with a comprehensive definition of terrorism.

In one way the criminal nature of terrorism overlaps with some crimes such as crimes against humanity; on the other hand the political nature of terrorism is confused with many forms political violence. Based on this the writer came up with three research questions:-

- What makes terrorism different from other forms of political violence to be governed under a separate law regime?
- Does the terrorist act defined under art.3 of the Ethiopian suppression and prevention of terrorism crime proclamation differentiates terrorism from different political violence?
- Do the Ethiopian suppression and prevention of terrorism crime solved the definitional gap created by the former proclamation?

Findings of the thesis show that Political violence is caused relating to the government system. It is composed of different actions inflicted towards physical, psychological or/and symbolic damage caused to individual and/ or property to influence the large audience for affecting or resisting social, political, cultural or economical change. It could be demonstrated through many actions such as: “attacks on property, bodily assaults, the planting of explosive devices, shooting attacks, kidnappings, hostage taking and the seizure of aircraft or ships, high profile assassinations, public self-immolation, etc” political violence ranges from police control of street protest to state-approved torture, to mass killings by militaries; it constitutes less organized forms of struggle such as riots, street demonstrations, and also well-organized violence's such as non-state armed groups and terrorists.

What shapes the violence is the relational dynamics not only the collective effort or behavior. The violence could be interactions between oppositions and state; such as policing which may extend the level of the violence. If justice is not served; if government fails to set good governance; if institutions do not serve fairly, violence is inevitable.

Acts of violence are immeasurable. Acts do not always result in the desired effect. It may cause less effect or high level of destruction. Terrorism could be part of political violence; but not all political violence is terrorism. The act of terror may exist in many forms of political violence but terrorism always exists with acts of terror. Act of terror is component all forms of violence.

The history of terrorism tells that in the antiquities there was no concept of terrorism and its name; but acts of terror existed based on religious grounds. In the middle ages, terrorism was coined and began to be justified on the grounds of people's will and necessity to even involve the state. The then groups were characterized with selective or individual terrorism mostly with political causes. Lately after World War I selective terrorism began to lapse and indiscriminate attacks characterized Terrorism to attract global attention. Hence the modern terrorism is more of caused by politics; Propaganda by deeds is on which the victimization in the recent terrorism coined.

Terrorism should have to be viewed from the desired effect. Terrorist is not driven by personal desires or ambitions. Regardless of the reasons for the use of terror, it is a method of changing behavior through the use of force and intimidation. The reasons behind terrorist acts are politics; the law does not consider the cause of the act to determine its legality. Criminal law only refers about the act and its prohibition. Let's say for example, one takes the life of a person for good cause (may be religious purpose) which might be justifiable in many other ways. Whatever the cause could be it is murder (homicide) in the eyes of criminal law.

Terrorism crime is the act of indiscriminate attack, rational act and public act. Individuals are targeted without discrimination on the link they have to their interest; terrorists attack A to terrorize the community A lives in. through that terror they send their message to the government either it be international or national. The acts of indiscriminate attack are committed rationally with care. Indiscriminate rational acts are committed publicly before witness eyes. This implies

that terrorism is an intentional criminal act committed to advance violence caused by politics by targeting the government.

If terrorism is a crime it resembles crimes against humanity. In its nature terrorism is composed of evil acts claimed crime in the criminal law. Crimes making up terrorism are independently crimes –‘wrongs from their very nature.’ Terrorist acts are acts targeted against civilian to address the government by terrorizing its citizen. The means of terrorism is what makes it crime. Even if the cause is justifiable and the philosophy of the terrorists could be accepted, the way they deliver their thoughts is what we call terrorism crime.

The regimes of laws are characterized in two ways; on one side they prefer to mere define and prohibit terrorist acts by listing down.

Anyway based on the laws and the trend terrorism is:-

- A criminal/violence act
- Creating terror among the general public
- Intentional act
- Cause damage to life and property
- To compel or coerce the government.

So terrorism is violence committed with intentional criminal act that brings about loss of life or damage of property to create state of fear or panic to compel the government.

Ethiopian ATP was the most criticized law which enabled the enactment of the second proclamation proc.No.1176/12-Ethiopian suppression and prevention of terrorism proclamation still missed elements that may serve cut terrorism from other forms of political violence while defining terrorist act. Three questions have been answered by the author as follows:

- What makes terrorism different from other forms of political violence to be governed under a separate law regime has not been expressly described by the proclamation. This is due to the political chaos and criticisms against the government. Violence is not yet absent from the country because of the political environment.

- Terrorist acts defined under art.3 of the Ethiopian suppression and prevention of terrorism crime proclamation are crimes addressed by the criminal law; the proclamation came up with a vague terms.
- Ethiopian suppression and prevention of terrorism crime has not come up with better definition.

5.2. Recommendations

As discussed herein above and for the forgoing reasons the writer recommended the following recommendations to solve the problem. These are:-

- ☞ While defining, Terrorism should have to be viewed from the desired effect; so that Terrorist should not be mistaken with any criminal who commits crime that may result in unintended terror;
- ☞ Since terrorism act requires precautionary measures, the Ethiopian terrorism proclamation should be used with due care to avoid its negative effects on fundamental human rights of individuals by practitioners.

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