

Protection of Civil Rights in a Federal State of Ethiopia during the State of Emergency Declared due to COVID-19

Estifanos Balew Liyew^{1*} and Seifu Moges²

Abstract

The study assesses the enforcement and protection of civil rights in the enforcement process of the state of emergency law enacted to counter and control the spread of COVID-19 in the Afar Region, Ethiopia. To investigate the problem, the research employs a qualitative approach with a non-probability sampling techniques. In addition to the primary data collected through fielded interview and focus group discussion, secondary data was collected from journal articles, books, proclamations, human rights instruments, and reports. The findings of this research revealed that in the state of emergency declared to control the COVID-19 outbreak, civil rights infringement was observed due to lack of awareness, negligence, and resistance to observing the state of emergency law on the part of the people and due to systemic pitfalls, shortage of skilled manpower and commitment by the law enforcement agencies in their attempt to implement the state of emergency law.

Keywords: Afar region, Civil rights, COVID 19, Ethiopia, State of emergency

*Corresponding author E-mail: estifanosbalew@gmail.com

¹Lecturer of Human Rights, Samara University, Samara, Ethiopia

²Lecturer of Political Science and International Studies, Bahir Dar University, Bahir Dar, Ethiopia

1. Introduction

The international community is currently facing a global pandemic called COVID-19, which is an abbreviation for coronavirus disease discovered on December 12, 2019. COVID-19 is a contagious disease that emerged for the first time in Wuhan City, Hubei Province, China, in the last month of 2019. It was named by the World Health Organization (WHO) on February 11, 2020, as COVID-19, which is a Severe Acute Respiratory Syndrome Corona Virus 2 (SARS-CoV-2) that is posing a global health crisis (Onyema, et al., 2020). The coronavirus outbreak remains one of the worst global epidemics characterized by symptoms like sore throat, runny nose, constant coughing/sneezing, breathing difficulty and fatigue. Research shows that older people and those with medical problems like cardiovascular diseases, diabetes, chronic respiratory diseases, and cancer are more likely to develop serious illnesses from coronavirus (Malik & Rodriguez-Morales, 2020).

Although the virus was first discovered in China, it has spread within few months across the world, and the World Health Organization (WHO) has declared the virus as a global pandemic and “global health emergency” on February 11, 2020 since it has spread across the world (WTO, 2020). Nowadays, the virus exists almost in all countries (Jernigan, 2020). About after one month and a half the pandemic was confirmed in Ethiopia. On March 13, 2020, the Federal Ministry of Health confirmed the first COVID-19 case in Addis Ababa, Ethiopia, and the victim was a 48-year old Japanese man reported to have traveled from Japan to Burkina Faso and then arrived in Ethiopia.

The rapid spread of the virus forced states to declare a state of emergency to counter the expansion of the virus. Consequently, Ethiopia has declared a state of emergency to tackle the swift expansion of the virus. However, the state of emergency law enforcement should be enacted concomitant with the protection of basic rights and freedoms of citizens. There shall be proportionality of the measures of the state of emergency in relation to the problem that happened or will happen. Therefore, this research assessed the status of civil rights protections in the enforcement process of the state of emergency law enacted to counter and control the spread of COVID 19 in the Afar National Regional State.

1.1. The Impact Corona Virus Disease (COVID-19)

COVID-19 has become a severe pandemic and posed many serious problems at national, regional, and global levels. Since the virus has been spreading at an alarming rate in the world, it has exerted unexpected and uncontrollable impacts on the health, economic, social, and political lives of people in the world. People in the world are dying due to this virus. The pandemic hits the global economy – it affects free economic activities, social interactions of the community and changes people’s ways of life – individuals faced difficulties to have free interactions; it causes a significant impact on countries’ political systems – various countries have postponed their elections at various levels – national and regional; it has affected the legal and justice system – courts faced challenges to conducting their formal activities.

The pandemic is exerting a severe impact on the world economy. Some key sectors of the economy are already experiencing a slowdown as a result of the pandemic. Tourism, air transport, and the oil sector are visibly impacted (AU, 2020). In addition to the aforementioned impacts of COVID-19, “the potential economic impact of COVID-19 is observed in all sectors, the severe consequence is already observed in some sectors such as tourism, aviation, oil and gas, and consumer products. The effect of COVID-19 on small businesses and informal sectors is severe” (Weldesilassie & Woldehanna, 2020). Moreover, even if the short-term economic impacts are already tangible, recent evidence shows that the COVID-19 crisis is leaving a severe economic impact in the long term. For instance, in countries within the European Union, COVID-19 caused a sectorial and regional demand shock, hitting mostly tourism, air transport, hospitality, and entertainment. In the USA, the unemployment number reached more than six million within one week in March 2020. It also caused a decline in the global demand for oil, which is estimated to surpass the loss of nearly one million barrels per day (Ibid). Employees, both in the formal and informal sectors, are threatened by loss of their jobs in the continent if the situation continues. The destruction of value chains, the lockdown of the population, the closing of restaurants, bars, retailers and the informal commerce have led to a disruption in many informal activities (AU, 2020).

Countries in sub-Saharan Africa (SSA), including Ethiopia, are unlikely to escape the direct and indirect effects of the pandemic and the global crisis associated with it. Since the first COVID-19 case was confirmed, in less than a month, by 10 May 2020, Ethiopia had 135 confirmed cases

and had conducted 18,754 lab tests representing around 0.019% of the total population. The situation was substantially complicated and worsened by the large numbers of Ethiopians returning from Djibouti, Kenya and Sudan, often crossing the border on foot, making it difficult to monitor, track and assist anyone with an infection. To this condition must be added the high number of returnees from Saudi Arabia and the United Arab Emirates. The rapid spread of the virus forced the Ethiopian government to take swift counter measures via a state of emergency. To avert the imminent danger of the virus the state of emergency was taken as a last resort.

To conclude, as far as the impact of COVID-19 is concerned, it has a devastating negative impact in each country on all sectors as well as on the lives of each individual of every nation of the globe including Ethiopia and the Afar region in particular.

1.2. States Measure to Combat COVID-19

COVID-19 is a global problem that requires more action, coordination, and global cooperation to successfully contain the outbreak and to deal with its aftermath. To halt the expansion of the virus, WHO provides a strict guideline that helps to contain COVID-19. The guideline advises people to use or have improved individual habits such as personal hygiene, including constant washing of hands with alcohol-based sanitizers, good respiratory attitude (close coughing and sneezing), and other personal protection practices like wearing of face mask, social distancing, avoiding touching of the face, and reducing contacts with people through self-isolation at home or avoiding nonessential travels or gatherings (Onyema, et al., 2020).

In containing or suppressing the virus, states have taken various health measures including clinical/pharmaceutical and/or public health measures. Some of the major non-pharmaceutical interventions that countries are using to reduce COVID-19 mortality and healthcare demand are case isolation at home, voluntary home quarantine, social distancing, closure of schools and universities and working at home. Various measures have been taken by countries to implement public health measures including social distancing. After the novel coronavirus has become an outbreak and was estimated to have high public health impact in the country, the Ethiopian government introduced stay-home measures which were fully enforced with legal penalties. Likewise, various measures were taken by the government of Ethiopia to contain the spread of the virus through social distancing and quarantining. However, there has been high non-compliance among the public particularly in practicing the social distancing measure.

1.3. COVID-19 induced State of Emergency in Ethiopia

International human rights documents affirm that when there are circumstances that threaten the welfare of the public - like the threat to national security, public health or natural disaster – the state may declare a state of emergency to secure its citizen welfare (ICCPR, Article 4(1) & ACHPR, article 27(2)). The Federal Constitution of Ethiopia gives power to the Council of Ministers (CoM) to declare a state of emergency for six months, renewable for successive four months depending on conditions, when there is an external invasion, breakdown of the law, a natural disaster, and an outbreak of epidemic which endangers public welfare and that cannot be controlled by the regular law enforcement agencies and personnel (FDRE Constitution, 1995, article 93(1) (a)).

By considering article 93(1) (a) of the Constitution, the Council of Ministers of Ethiopia declared state of emergency on April 8, 2020. The basis to declare the state of emergency was the outbreak of the COVID-19 epidemic in the country since March 13, 2020. The purpose of the state of emergency was to secure public welfare and counter the COVID-19 epidemic. The detailed motive of the state of emergency declared in Ethiopia by Proclamation No. 3/2020 was clearly described in the preamble of the proclamation. The reason mentioned in the proclamation was that it was “difficult to control the pandemic by the regular law enforcement process: COVID-19 is an epidemic raging rampantly in the world and bringing severe harm and cannot be countered and controlled by the regular law enforcement process of the state.” Moreover, the proclamation states, “recognizing of the rapid global spread and the substantial adverse impact of the COVID-19 pandemic and the impossibility of curtailing its spread through the normal system of government, state of emergency becomes vital” (Proclamation No. 3/2020, preamble, paragraph one). The proclamation describes that the pandemic cannot be controlled and countered by the regular law enforcement process and what happening in the world substantiates this fact.

The necessity of taking swift and harmonized measures: State of emergency is vital to handle in structured and organized manners measures taken to counter and minimize the spread of the pandemic. According to the proclamation, the state of emergency was necessary “since this pandemic is having a considerable negative impact in our country, to enable the expedient and coordinated implementation of measures necessary to minimize and counter the spread of the

pandemic” (Proclamation No. 3/2020, preamble, paragraph two). Coordinated implementation of measures to counter the negative impact of the pandemic is the other justification for the proclamation of the state of emergency.

Taking countermeasures to mitigate damages: According to the proclamation taking measures was a must to reduce and counter the humanitarian, social, economic, and political impact of the epidemic rage. The proclamation states that “since it has become necessary to take various measures to counter and mitigate the humanitarian, social, economic and political damage being caused by the pandemic, the state of emergency is declared” (Proclamation No. 3/2020, preamble, paragraph three). Taking countermeasures to mitigate damages is one of the main reasons for the pronouncement of a state of emergency.

To Create public awareness regarding precautionary measures based on enabling legal framework: Having enabling conditions for public awareness about COVID-19 and strengthening precautionary measures by creating a legal framework is the other just cause for the declaration of the state of emergency. The proclamation pronounces this justification as “to create public awareness about COVID-19 and strengthen precautionary measures by putting in place an enabling legal framework” (Proclamation No. 3/2020, preamble, paragraph four). In short, safeguarding public welfare is the objective of the state of emergency.

1.4. Human Rights and their Restrictions

Human rights are those entitlements that are inherent to human beings. The idea of human rights acknowledges that every single human being is entitled to enjoy his or her human rights without distinction as to race, color, sex, language, religion, political or other opinions, national or social origin, property, birth, or another status, because human beings are born equal in dignity and rights (UDHR, 1948, article 2). Human rights are legally guaranteed by human rights law, protecting individuals and groups against actions that interfere with fundamental freedoms and human dignity (OHCHR, 1999). In the same way, the FDRE Constitution clearly stipulates that human rights are inviolable and inalienable of all human individuals by their humanity alone and shall be respected (FDRE constitution, 1995, article 10).

International human rights instruments contain several types of restrictions on the scope of the rights protected. This restriction can be a limitation - a restriction of rights at any times or derogation - restriction of rights in an emergency situation.

Human rights conventions and other instruments contain restrictions clauses because it is accepted that only a few rights and freedoms are absolute. However, such restrictions must be used only to establish the proper limits of the protected right and not as an excuse for undermining the right itself or destroying it altogether. The purpose of discussing limitations/derogation of human rights under this study is to clarify the facts that human rights are subjected to limitation and it is integral to human rights instruments. However, there must be a proportionate relationship between the restriction of the right and the reason for the restriction by law, even in times of emergency.

1.4.1. Limitation of Human Rights

Most human rights are not absolute. They have limitations. These limitations are two types. First, the limitation is the formulation of a right itself. All human beings are right holders. While individuals exercise their rights, they shall respect other's rights. Second, human rights can be limited as a punishment as prescribed by the law. Hence, restrictions of human rights in the form of limitations can be as a duty to respect other's rights and as a punishment prescribed by the law for crimes. Such kinds of restrictions of human rights are referred to as limitations of human rights.

Various international human rights instruments contain provisions allowing restrictions on human rights. ICCPR under Article 5 stipulates, "nothing in the present Convention may be interpreted as implying for any state, group or person any right to engage in any activity or to perform any act aimed at the destruction of any of the rights and freedoms recognized herein or at their limitation to a greater extent than is provided for in the present Covenant" (ICCPR, article 5). The idea of Article 5 of ICCPR is prohibiting the abuse of an international human rights instrument to destroy and abuse another's right. It puts a restriction on the individual, group, and states in the implementation process of rights. The essence of the article is that at any time, parties have to respect human rights principles while exercising their rights.

ICESCR has a separate clause, Article 4, on the restriction of human rights which can be regarded as a general restriction clause.

The states parties to the present Covenant recognize that, in the enjoyment of those rights provided by the state in conformity with the present Covenant, the state may subject such rights only to such limitations as are determined by law only in so far as this may be compatible with the nature of these rights (emphasis added) and solely for the purpose of promoting general welfare in a democratic society (ICESCR, article 4).

One can understand two restrictions of human rights as a limitation from the above article. First, individuals can exercise their rights as far as they do not threaten other individuals' rights. The margin to exercise their right is the non-violation of other right holders. Second, individuals have a duty not to violate legal principles. If they fail to respect prescribed, ordered, and prohibited principles, a penalty will follow as a punishment to correct criminality behavior and reverse the original position- law obedience citizen.

The African Charter on Human and Peoples' Rights has also described limitations human rights under article 27(2). "The rights and freedoms of each individual shall be exercised with due regard to the rights of others, collective security, morality, and common interest" (ACHPR, article 27(2)). The charter imposes limitations on individual rights in the form of a duty to respect other individuals' rights and morality.

The FDRE Constitution also has limitations clause on individual rights. For instance, Article 15 says that "every person has the right to life. No person may be deprived of his life except as a punishment for a serious criminal offence determined by law" (FDRE Constitution, 1995, article 15), and article 17 of the constitution states, "no one shall be deprived of his or her liberty except on such grounds and in accordance with such procedure as are established by law" (FDRE Constitution, 1995, article 17).

1.4.2. Derogation of Human Rights

Derogation refers to the act of limiting or suspending enunciated rights and guarantees on a temporary basis by a state from rights considered basic entitlements of human beings in an exceptional situation that threatens public welfare (ICCPR, article 4).

Human rights instruments allow states to take measures derogating temporarily from some of their obligations. Derogating measures must be exceptional and temporary. There are derogation

clauses under article 4 of ICCPR, article 4 of IESCR, article 27(2) of ACHR and Article 93 of the FDRE constitution.

The rationale for derogation provisions is to strike a balance between the sovereign right of a government to maintain peace and order during public emergencies, and the protection of the rights of the individual from abuse by the state. Thus, the state is allowed to suspend the exercise of some rights when necessary to deal with an emergency situation provided it complies with safeguards against any abuse of these derogation provisions. When derogation measures are allowed, such derogations have to meet several criteria. Hence, there must be a war or general state of emergency threatening the life of the nation (necessity); the state of emergency must be officially proclaimed (declaration); measures may not go beyond the extent strictly required by the situation (proportional); measures may not be inconsistent with other obligations under international law (observance of duties); and measures may not be discriminatory solely on grounds of race, color, sex, language, religion or social origin (nondiscriminatory).

An act of derogation is always effectuated under the supervision of an international institution concerned about the measures of derogation, and this institution has the right to examine whether the measures taken are strictly required by the exigencies of the situation. The state shall formally notify the UN Secretary-General of their intent to derogate. Though derogations or suspensions of rights are permissible under article 4 of the ICCPR when there is a public emergency that threatens the life of the nation, there are certain ICCPR provisions that states can never derogate from called non-derogable rights. These are the right to life (article 6); the prohibition of torture or cruel, inhumane or degrading treatment (article 7); the prohibition of slavery, the slave trade and servitude (article 8); the right to not be imprisoned merely on the grounds of inability to fulfill a contractual obligation (article 11); the right to not be found guilty of a criminal offense that did not constitute a criminal offense when it was committed (article 15); the right to recognition as a person before the law (article 16); and, the right to freedom of thought, conscience, and religion (article 18). The FDRE Constitution under Article 93 describes non-derogable rights (FDRE Constitution, 1995, article 93). These are, the Federal Character of the state (article 1); the prohibition against torture (article 18); the right to equality before the law (article 25); and the right to self-determination, including secession (article 39 (1&2)). However,

there are rights such as the right to life that are derogable under the FDRE Constitution though they are non-derogable in ICCPR.

Non-derogable rights are those rights that shall be respected without any form of reduction even in a state of emergency. However, other rights may have their own limitations which results from either a state of emergency or inherent behavior of rights. Individuals entertain their freedom as far as they respect other's individuals' rights. Hence, non-derogable rights shall not be violated in case of state of emergency though other rights can be limited in case of state of emergency in addition to limitations inherent to them. But, the limitation shall be proportional.

1.5. Principles Respected in the Enforcement Process of Derogation

Although human rights instruments permit the restriction of rights, the derogation of rights is only allowed under specific situations of emergency that threaten the life of the nation. Such specific limitation clauses that threaten the life of the nation in a democratic society include public order, public health, public morals, national security, public safety, and the rights and freedoms of others. Some safeguards must be put in place including the respect of some fundamental rights that cannot be suspended under any circumstances called non derogable rights. Measures derogating of rights must be of an exceptional and temporary nature. Two preconditions must be fulfilled to suspend derogable rights. These are existence of public welfare threat and declaration of emergency (ICCPR General Comment 29, paragraph two). Suspending of legally established rights in various human rights instruments established requirements on states to respect and observe. These include:

Necessity: The restriction must be necessary for the protection of public welfare on the permissible grounds, which include public health, and must respond to a pressing social need, stated in the ICCPR (ICCPR, article 4).

Proportional: The emergency measure shall be proportionate to the emergency situation that threatens public welfare.

Nondiscrimination: Emergency declarations should not be used as a basis to target particular individuals or groups, including minorities. Measures taken must not involve prohibited discrimination on any grounds such as race, color, sex, sexual orientation and gender

identity, disability, language, religion, political or other opinion, national or social origin, property, birth or other status (ICCPR General Comment 29, paragraph seven).

Temporary: Measures of derogation from the rights must be of an exceptional and temporary nature (ICCPR General Comment 29, paragraph two).

Limited in scope: Measures of derogation from rights must be limited in geographical coverage (ICCPR General Comment 29, paragraph four).

List derogated rights: Suspended rights must be clearly described and the state shall protect rights from arbitrary violation (ICCPR General Comment 29, paragraph four).

Observe non-derogable rights: Some rights, such as the right to equality, the prohibition from torture and the principle of legality in criminal law cannot be derogated during states of emergency and continue to apply in all situations. Ordinary courts should maintain their jurisdiction to adjudicate complaints for violations of non-derogable rights (ICCPR General Comment 29, paragraph seven).

2. Description of the Study Area

The Afar National Regional State is located in the northeast of the country and constitutes five zones. The region has 32 rural districts and two city administrations. The region has an area of 270,000 km² with daily temperatures often exceeding 40 Celsius. Afar is an arid region where 1.72 million people, mostly pastoralists, reside in very remote areas. The region is among those regions potentially vulnerable to the COVID-19 epidemic since it borders Djibouti where the epidemic is spreading alarmingly. Because of the vulnerability of the region, strong enforcement of the state of emergency law is vital to counter and control the raging of the epidemic. The vulnerability of these zones to the epidemic, because of the proximity of the region to Djibouti and its population density are the main reasons to confine the study to this area. Data is collected from forty informants and thirteen key informants sampled from Asayita, Logia, and Semera from Zone One, Abala from Zone Two, and Awash town from Zone Three.

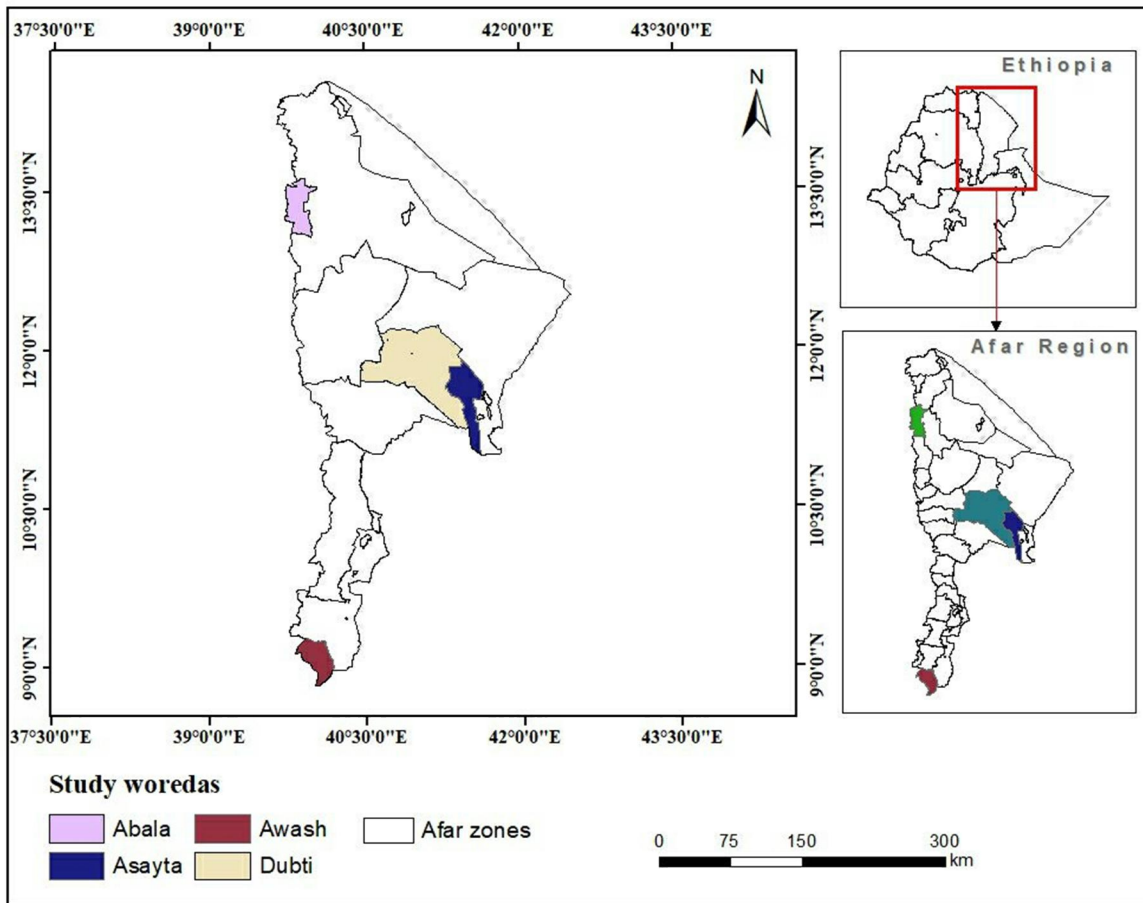


Figure 1: Map of the study area (2021)

3. Methodology

3.1. Research Design

The study applies qualitative research methodology. Qualitative research methodology has a comparative advantage to explore how people experience problem at a specified time and place. It provides information about the “human” side of an issue – that is, the often contradictory behaviors, beliefs, opinions, emotions, and relationships of individuals (Kielmann et al., 2012). Hence, the study has employed the qualitative research methodology to explore and extract facts on the ground about human rights protection during the enforcement of a state of emergency by collecting primary data from the lived experiences of citizens in the study area, namely the Afar region, Ethiopia.

3.2. Research Methods

The study used purposive sampling to collect data from informants. Purposive sampling is used to select qualified informants by the discretionary power of the researcher whom he or she considers an appropriate source of data for an issue (Etikan et al., 2016). Consequently, the study applies purposive sampling to select informants that have information about the principle and the enforcement process of the state of emergency law. The study collects data from primary sources through an interview with informants, i.e. key informant interview with members of the state of emergency enforcement task force and focus group discussion with informants from various sections of the society, and secondary sources from books like human rights documents and international human rights laws. The study used an interpretative research approach to analyze the collected raw data in light of human rights standards. In doing so, all sorts of ethical considerations were checked and the necessary Covid-19 protocols were maintained in contacting respondents.

4. Results and Discussion

4.1. Citizen Awareness of State of Emergency Law

The state of emergency proclamation declares that “public communication professionals and media outlets must ensure that the information, analysis, or program they provide to the public relating to COVID-19 shall be without exaggeration, appropriate and not prone to cause panic and terror among the public” (Regulation No. 466/2020, article 4(10)). Because of this, media are trying to disseminate information regarding the epidemic and its prevention mechanisms, though the information being disseminated may not be accessible to the rural community. This research found that the community has a divergent understanding about the pandemic which is challenging for the enforcement of the state of emergency law. There are informed, uninformed, oblivious, negligent, and resistant individuals about the state of emergency laws.

Informed Individuals: Knowledge of the principles of the state of emergency law like wearing a face mask was limited to some sections of the society. This mainly included office workers that represented a very limited percentage of the community. “Only a few bureau workers wear a face mask, keep their physical distance on their transport service, and have access to information regarding COVID-19. There are many people that are not respecting the principle of the state of

emergency law” (Key informant 1, June 8, 2020). The existence of very few individuals wearing face masks and keeping their social distance implies the availability of a limited number of individuals observing the state of emergency law.

Uninformed individuals: Though there are people having information about the occurrence of the epidemic, still there are individuals who have no information about the epidemic prevention mechanisms. “It is common to find individuals that have not information regarding prevention mechanisms of the epidemic and other principles of the state of emergency laws” (Key informant 3, June 7, 2020). The research revealed the existence of individuals who were uninformed regarding the precautions listed in the state of emergency law when they went outside their homes.

Individuals oblivious to danger: Some individuals have adequate information regarding the epidemic prevention mechanisms and other principles of the state of emergency law, but forget to observe them in their day to day activities. “When individuals come to our institution they forget to wash their hands, but they immediately do it when we remind them” (Key informant 13, June 19, 2020). Though individuals had information regarding precautions to be taken to prevent the disease in particular and the state of emergency law in general, they failed to observe principles seriously.

Negligent individuals: Some individuals had information about the epidemic but were reluctant to observe and respect the laws. “Some individuals are careless when we tell them to take precautions” (Key informant 9, June 19, 2020). Although individuals, mostly educated people, had information about the epidemic, they did not comply with the state of emergency principles – they were reluctant.

Resistant individuals: Some individuals had information but tried to deny the fact on the ground. They gave different justification for not accepting the outbreak of the epidemic and believed that the solution was only praying if it was really true that the virus existed. They said, “We are believers of the Almighty, and he does not forget us. Our faith liberates us from this epidemic” (Key informant 12, June 19, 2020). Individuals searched for pretexts to cover themselves against their failure of adhering to the principles of the state of emergency and even denied the existence of the epidemic. Hence, they were resistant to observing the principles.

4.2. Citizens Obedience to State of Emergency Law

The Council of Ministers of Ethiopia has passed a law called Regulation No. 466/2020 enacted to counter and control the spread of COVID-19 and its impact as basic principles to be attained. Those principles have the aim of enforcing COVID-19 countering and controlling measures - quarantine, washing hands, avoiding handshakes, wearing a face mask, and social distancing. Citizens' obedience to a state of emergency law can be inferred from their loyalty to COVID-19 countering and controlling mechanisms. However, citizens' commitment to observe the principles of the state of emergency was very limited. Among others, the following are very illustrative.

Unwillingness to be quarantined: Quarantining individuals in isolated areas until proved negative through laboratory tests is one principle of the state of emergency which is vital to control the spread of the pandemic. The regulation states, "Everyone suspected of being COVID-19 positive and all international passengers shall be quarantined at a place designated for this purpose by the government and tested" (Regulation No. 466/2020, article 4(1)). However, some individuals are resistant to being quarantined in the specified place. As result, individuals enter the region from neighboring states without passing quarantine formalities.

Less commitment for hand washing: The regulation necessitates any federal or regional public and private organization providing at least water and soap for washing hands at their gates for employees and customers in addition to accessing information regarding COVID-19 by using various mediums of instructions to their employees and customers (Regulation No. 466/2020, article 4(11)). However, customers are reluctant to observe this principle and wash their hands before getting service. "Some customers are not willful to wash their hands before entering our institution. They resist as if they do it for us. There is water and soap at the gate, but they ignore and try to enter the institution" (Key informant 4, June 7, 2020). Although there were soap and water for everyone to use, still there were individuals that did not give attention to it. The failure of some individuals to wash their hands makes the law observing effort less effective.

Failure to avoid handshake: Although handshaking is prohibited (Regulation No. 466/2020, article 3(3)), individuals are not complying with this principle. It is common to see individuals shaking hands for greeting though one of the major means of transmission of the epidemic is physical contact. "I think the society is not giving concern for the epidemic and preventive

measures. We told our customers to avoid physical contact, but they are not willful to comply with it, even they shake hands” (Key informant 8, June 5, 2020). The continual handshake, as usual, is one indicator of citizen nonconformity with the state of emergency law principles.

Failure to wear a face mask: Regulation No. 466/2020 has endorsed a principle that says individuals shall put a cover on their nose and mouse while getting public service (Regulation No. 466/2020, article 4(6)). Moreover, the Office of the Attorney General declared an obligatory rule applicable to every individual to wear a face mask at every place when they go outside their homes (General Attorney Rule, Adopted May 27, 2020). However, all individuals were not still wearing face mas to prevent the expansion of the epidemic. “We enforce our customers to wear a face mask, however, they fail to do that and forward defensive mechanisms like belief in the supernatural power are enough to prevent the epidemic” (Key informant 10, June 6, 2020). The research revealed that almost all people did not use a face mask when they moved to public places. This implies citizens’ insubordination and defiance for the obligatory principles of wearing nose and face masks.

Failure to keep social distance: Individuals shall keep their social distance while getting service at public places (Regulation No. 466/2020, article 3(24)). However, in meeting this principle a departure from normal days was not observed. People moved together without avoiding physical distance in their movement in public places exposing themselves to the epidemic. “When customers come to the institution to gain service, we inform them to wait for their turn for service by keeping their physical distance. However, they are reluctant to comply with the principle and sometimes nag us as if they did it for us” (Key informant 11, June 5, 2020).

4.3. Law Enforcing Body’s Compliance with State of Emergency Principles

The security forces have to ensure the implementation of the principles of the state of emergency law. In this regard, security forces were in charge to follow up the attainment of the state of emergency regulation principle. Especially, during the first couple of weeks after the state of emergency was declared, the security forces had employed tight inspections and were committed to the realization of the state of emergency law principles, but these endeavors had failed to continue in the following weeks. Although citizens’ less collaboration and limited skilled manpower to enforce a state of emergency laws are among the reasons that challenge the effectiveness of the law enforcing body in the enforcement process of the state of emergency

law, the following problems were observed regarding the security forces' compliance with the state of emergency law principles.

Use of non-proportional force: The restriction must be proportionate to the interest at stake, i.e. it must be appropriate to achieve its protective function, and it must be the least intrusive option among those that might achieve the desired result (OHCHR, 2020). Although the state of emergency measures may not go beyond the extent strictly required by the situation, use of force without good cause was observed.

On the first week of April 2020, I was at a bank and there was a queue of customers. Meanwhile, security forces arrived and began to beat up for not keeping our physical distance without giving any technical advice. We would have corrected the mistake by a simple comment if they did so, but they did not. The place was not enough to make enough space between people in the line (Informant 10, June 6, 2020).

In fact the objective of the state of emergency law was to protect public welfare by limiting citizens' freedom. However, measures taken to enforce the state of emergency law should be proportionate to the nonobservance committed by citizens. However, excessive use of force was observed and it was against the very intent of the state of emergency law.

Nonobservance of duties imposed by state of emergency law: The security forces had to enforce the state of emergency law because the government has the duty to protect individual rights. In this regard, the security forces are expected to follow up citizens' observance of a state of emergency law. However, the government shall not violate others' rights while discharging its duty to protect citizens' rights. Nevertheless, the inspection of the security forces whether citizens were observing the state of emergency law or not was not as the law expected – there was a lack of strong commitment to implement the state of emergency law. “The government passed obligatory law concerning wearing a face mask, but the security forces intervention to enforce this law is very low” (Informant 5, June 5, 2020). Lack of manpower is also the other challenge to enforce the law everywhere in the region (Ibid). Since the state of emergency law was adopted for public welfare, the security forces shall act accordingly and their measures shall coincide with other obligations under international law.

4.4.Civil Rights Protection in the Enforcement Process of the State of Emergency in the Afar Region

A state of emergency is a situation accompanied by government action in an extraordinary situation - a national crisis - that often results in broad human rights restrictions to avert the situation – to resolve the crisis (Grossman, 1986). Particularly with regard to human rights, such exceptional situations force governments to take measures concomitant to the due protection of every individual's human rights. The existence of an exceptional situation leads to derogation. Derogation happens in an emergency which is the state of exception contrary to limitation which is based on the idea that most human rights are not absolute but rather reflect a balance between individual and community interests. Derogation of human rights applies in times of emergency to restore normalcy in which the full range of human rights can be respected. However, there are rights that are outside of the ambit of derogation – non-derogable rights like prohibition against inhuman treatments (FDRE constitution, 1995, article 18), and the right to honor and reputation (FDRE constitution, 1995, article 24).

4.4.1. Protection of Non-derogable Rights

Prohibition against inhumane treatments: Everyone has the right to protection against cruel, inhuman or degrading treatment (FDRE constitution, 1995, article 18(1)). An individual shall be treated humanely at every time and everywhere. This study revealed that there were many instances of inhumane treatments; for instance, one of the respondents eloquently said,

Individuals which were suspected of having COVID-19 were dumped into a quarantine without further medical check-up and were subjected to spend days with real victims of the pandemic; therefore, they were exposed to the disease, which was very inhumane to expose someone to the virus. In addition most quarantine centers were unclean and hot (often more than 40 degrees Celsius) making victims to suffer a lot due to the way they were quarantined (Informant 16, June 8, 2020).

Another respondent revealed that there was lack of access to toiletries in the quarantine rooms, possibly exacerbating the problem. This is problematic especially for females (Informant 15, June 8, 2020). The absence of toiletries make the life of quarantined individuals difficult. The absence of such protection constitutes degrading treatment and should be corrected.

The right to honor and reputation: According to the FDRE Constitution, “Everyone has the right to respect for his human dignity, reputation, and honor” (FDRE constitution, 1995, article 24(1)). However, the fact in the quarantine centers was not as the law expected and reiterated. For instance, one respondent stated that,

We were not allowed to have our own food from home which is prepared with care, we all ate food provided by the quarantine center, it was carelessly prepared, not just to resist and recover from our illness we received the food, but even we failed to fully take the food given due to ill preparation and degrading provision, that itself could lead to another illness deterring us from quick recovery” (Informant 13, June 8, 2020).

Another respondent also repeats the same thing in different words, “We were given food with a thin plastic bag. Stewards put the food which was in a thin plastic bag on a table and then we took from it. The treatment did not give us comfort and we left the food uneaten and hence, we were unable to recover timely and effectively from the disease we were suffering from” (Informant 13, June 8, 2020). Since the right to honor and reputation is non-derogable right, a reduction from it constitutes a violation of human rights.

Citizens who were not infected with the virus complained about the way they were treated by security forces:

On the other day, the security forces came to us when I was with one of my friends at cafe; one of the members of the security forces touched my shoulder with his truncheon and began to threaten us verbally. Meanwhile, I panicked and asked why he did that, and his response was that we failed to keep our physical distance though the reality was not as he said and to make matters worse he himself was exposing me by touching without care (Informant 7, June 7, 2020).

The research revealed that there is an infringement of individuals’ non-derogable rights here and there in the region which hindered the genuine realization of the principle of the state of emergency law. Although the aim of the state of emergency was for the public interest, actions taken to control the crisis should not interfere with non-derogable rights of citizens.

4.4.2. Protection of Derogable Rights

The right to life: Everyone has the right to life (UDHR, 1948, article 3). The FDRE Constitution under Article 15 declares, “Every person has the right to life” (FDRE constitution, 1995, article 15). Individuals are holders of the right to life that is granted naturally. “No person may be deprived of his life except as a punishment for a serious criminal offense determined by law” (Ibid). According to the FDRE Constitution, the only limitation for the right to life entitlement is lawful punishment which is decided by law though the international community has decided to abolish the death penalty as a punishment measure. Second optional protocol to ICCPR under article 1(2) says that “each State Party shall take all necessary measures to abolish the death penalty within its jurisdiction” (ICCPR optional protocol II, article 1(2)). However, Ethiopia has not ratified this protocol, and a death penalty is a limitation for the right to life yet. States have a duty not only to respect the right to life but also to protect it from any threat - potential or imminent – committed by actors – individuals, non-governmental organizations or states. Among the principles of the state of emergency law of Ethiopia – Regulation No. 466/2020 – there is a principle which says, “Everyone suspected of being COVID-19 positive and all international passengers shall be quarantined at a place designated for this purpose by the government and tested” (Regulation No. 466/2020, article 4(1)). The aim of this proclamation and this article specifically is to protect the general public through swift and organized countering and controlling measures. Likewise, the welfare of quarantined individuals shall be protected. However, the treatment of quarantined citizens exposed them to a threat. “In the quarantined center, there is no strict protection of individuals from possible and imminent health threats. Individuals contacted each other physically when they accessed their meal, and they lived together in the center though they had their own rooms. Such negligence will expose individuals for the virus which results in life threats” (Informant 13, June 8, 2020). The state of the emergency was declared since COVID-19 is a threat to the life of individuals and has an adverse impact on public health (Proclamation 3/2020, paragraph one). Although the state of emergency law aimed to save the lives of individuals, the action taken to implement the state of emergency law exposed citizens to health threats because COVID -19 is a threat to life. Unless there is strict implementation of the state of emergency law in the quarantined centers individual rights to life is endangered.

The right to security: Everyone has the right to security (UDHR, 1948, article 3). The FDRE Constitution under Article 15 proclaims that “everyone has the right to protection against bodily harm” (FDRE constitution, 1995, article 16). Inflicting injury on the individuals’ body is a violation of human rights. However, the research revealed that there were acts of harm on individuals who were quarantined. “There were incidents of bodily harm. I remember when one warden beating a quarantined individual for asking the security forces to assist him to get physicians for treatment” (Informant 14, June 8, 2020). Such incidents occurring in the quarantine center forced citizens to conceive quarantine centers as hell and retreats to go to centers when they are suspected of having COVID-19 which has a backwash effect for the expansion of the epidemic. Hence, such kinds of human rights violations should be eradicated not only because it is a human rights violation but also good treatment at the quarantine center has a positive contribution to countering COVID-19 and enables individuals to have a positive attitude towards the quarantine center.

The right to privacy: “No one shall be subjected to arbitrary interference with his privacy, family, home etc” (UDHR, 1948, article 12). Likewise, the FDRE Constitution entitled everyone with the right to privacy which includes the right not to be subjected to searches of his home, person, or property, or the seizure of any property under his possession (FDRE constitution, 1995, article 26(1)). However, this can be possible through lawful procedure according to the Ethiopian criminal procedure Article 32 which says “no premises may be searched unless the police officer or member of the police has a search warrant. However, it can be possible where the police found the criminal in the case of flagrant delicto or the crime committed is punishable with more than three years imprisonment, are concealed or lodged in any place and he has good grounds for believing that because of the delay in obtaining a search warrant such articles are likely to be removed” (Criminal Procedure code, article 32(2)), though this is suspended by the emergency law regulation (Regulation No. 466/2020, article 6(1)). The scope of the state of emergency law shall be specific (General Comment 29, Paragraph 4). The aim of clear delimitation of the scope of a state of emergency is to avoid unnecessary infringements of human rights. In this regard, the scope of the Ethiopian state of emergency law is clearly defined in geography and time coverage (Proclamation 3/2020, Article 3, 4 & 8) The enforcement of the state of emergency law shall be based on specified scope. However, incidents were observed in the enforcement process of the state of emergency law, which opened room for the violation of rights to privacy. “Security forces are working to enforce the state of emergency law and to

counter and control the COVID-19 epidemic and every individual shall collaborate with them to eradicate the epidemic. However, security forces encroach on individuals' home and privacy without good reason" (Informant 36, June 16, 2020). Although searching the home of an individual is possible, it constitutes a violation of the right to privacy of individuals if it is conducted without reasonable cause.

5. Conclusion

COVID-19 is a dangerous epidemic exerting miserable political, economic, social, and human crises in the world and will continue in this way unless citizens properly apply medical personnel's precautionary advice or vaccination and curative medicines are invented. Federal states were forcing people to take precautionary measures to control the spread of the epidemic via different tools one of which was declaring a state of emergency. In this regard, Ethiopia declared a state of emergency law on April 8, 2020, to protect public health from the imminent crisis resulting from the COVID-19 epidemic. The Council of Ministers provided detailed prohibitive and obligatory principles that should be observed by citizens in regulation No. 466/2020 to counter and mitigate the humanitarian, social, economic, and political damage that could be caused by the pandemic.

However, observance of those prohibitive and obligatory principles mentioned in articles 3 and 4 of the Regulation is far from what is expected in reality. Lack of proper awareness, lack of proper concern, high negligence, and denying the fact have been major factors on the public side for ineffective implementation of the state of emergency law. Lack of continuous follow-up by law enforcing agencies has also contributed for the ineffective implementation of the state of emergency law.

Infringements of human rights, derogable and non-derogable, are visible. However, the increasing infringement of human rights has to be eradicated to realize the objectives of the emergency law. Though the government is working to protect public welfare, the treatment of quarantined individuals should be improved because the mistreatment in a manner eroding the dignity of quarantined individuals like feeding quarantined individuals by using simple plastic bag as a plate is against the right to honor and reputation which constitutes human rights violation. The existence of such kinds of treatment makes individuals develop detestation against

quarantine which makes ineffective the effort of countering the epidemic. Non-proportional measures taken by law enforcement agencies violate citizens' rights like their privacy and liberty. Security forces sometimes take measures which are non-proportional against citizens who do not observe the state of emergency law.

Reference

- African Union. (2020). Impact of the Coronavirus Disease 2019 (COVID-19) on the African Economy. Addis Ababa, Ethiopia.
- African Union, *Protocol to the African Charter on Human and People's Rights on the Rights of Women in Africa*, 11 July 2003, available at: <https://www.refworld.org/docid/3f4b139d4.html> [accessed 29 November 2019]
- Constitution of the Federal Democratic Republic of Ethiopia*, 21 August 1995, available at: <https://www.refworld.org/docid/3ae6b5a84.html> [accessed 2 December 2019]
- Ethiopian Council of Ministries, Regulation No. 466/2020.
- Ethiopian Criminal Procedure Code, Proclamation 1961.
- Ethiopian General Attorney Rule adopted May 27, 2020.
- Ethiopian House of People's Representatives Proclamation 3/2020: A State of Emergency Proclamation Enacted to Counter and Control the Spread of COVID-19 and Mitigate Its Impact.
- Etikan, I., Abubakar, S., Musa, R. & Alkassim, S. (2016). Comparison of Convenience Sampling and Purposive Sampling. *American Journal of Theoretical and Applied Statistics*, 5(1), 1-4. DOI: 10.11648/j.ajtas.20160501.11.
- Grossman, C. (1986). A Framework for the Examination of States of Emergency under the American Convention on Human Rights, 1 AM. U. J. INT'L L. & POL'Y 35, 36.
- International Covenant on Civil and Political Rights opened for signature Dec. 19, 1966, 999 U.N.T.S. 171 (entered into force Mar. 23, 1976).
- ICCPR General Comment No. 29: Article 4: Derogations during a State of Emergency: Adopted at the Seventy-second Session of the Human Rights Committee, on 31 August 2000.
- International Covenant on Economic, Social, and Cultural Rights, opened for signature Dec. 19, 1966, 993 U.N.T.S. 3 (entered into force Jan. 3, 1976).
- Jernigan, D. B. (2020). Update: Public Health Response to the Coronavirus Disease 2019 Outbreak — United States. *Morbidity and Mortality Weekly Report*.

- Kielmann, K., Cataldo, F. & Seeley, J. (2012). Introduction to Qualitative Research Methodology: A Training Manual, produced with the support of the Department for International Development (DfID), UK, under the Evidence for Action Research Programme Consortium on HIV Treatment and Care (2006-2011). This manual is also available on the net at: <http://www.dfid.gov.uk/R4D/Output/188391/Default.aspx>.
- Malik, Y. S. & Rodriguez-Morales, A.J. (2020). Coronavirus Disease 2019 (COVID-19). Available in Preprints (www.preprints.org).
- OHCHR. (1999). A Basic Handbook for UN Staff issued by the Office of the High Commissioner for Human Rights (OHCHR) and the United Nations Staff College Project.
- OHCHR. (2020). Human Rights COVID 19 Response, Human Rights at the Heart of Response Topics in Focus Emergency Measures and COVID-19.
- Onyema, E. M., & et al. (2020). Impact of Coronavirus Pandemic on Education. *Education and Practice*, 11(3), 108-121.
- Optional Protocol to the International Covenant on Civil and Political Rights, 16 December 1966, A/RES/2200, available at: <https://www.refworld.org/docid/3b00f47924.html> [accessed 29 August 2021].
- Organization of African Unity (OAU), African Charter on Human and Peoples' Rights ("Banjul Charter"), 27 June 1981, CAB/LEG/67/3 rev. 5, 21 I.L.M. 58 (1982), available at: <https://www.refworld.org/docid/3ae6b3630.html> [accessed 29 November 2019].
- UN General Assembly. "Universal Declaration of Human Rights." United Nations, 217(III) A, 1948, Paris, available at: <http://www.un.org/en/universal-declaration-human-rights/html> [Accessed 28 February 2018].
- Weldesilassie, A.B. & Woldehanna, T. (2020). The Economic Implications of COVID - 19 in Ethiopia and Policy Measures. Policy Studies Institute (PSI). Addis Ababa, Ethiopia, 1-26.
- WTO. (2020). World health organization, situation report-1, 21 January, 2020.