

Human Rights Focused Regional Police Reform Guidance in Ethiopia

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Abstract

In Ethiopia, all regions have established military police, commonly named as Special Police Forces, in addition to civil police force and their service is encircled by human rights concerns. The purpose of this study was to investigate police reform measures and principles on the basis of FDRE Constitution that address human rights concerns of the regional police institutions in Ethiopia. The study employed qualitative approach, in particular the doctrinal legal research method. First, the study found that the operation of Regional Special Police Forces has human rights paradoxes. Second, the study has revealed the relevance of introducing human rights-based police reform and its principles viz-a-viz democratic policing, rule of law policing, community-inclusive policing, and impartial policing; since the reform approach and the principles have due recognition under FDRE Constitution. The study has recommended the following. First, the government should take legislative and policy reform measure on the regional Special Forces. Second, the police reform should be guided by the human rights approach and principled on democratic policing, rule of law policing, community-inclusive policing, and impartial policing. Finally, both Federal and Regional Governments legislative and executive organs should take coordinated reform action on the regional police institutions, as they are under obligation to ensure the observance of the principles of FDRE Constitution up on policing service in Ethiopia.

Keywords: Human Rights, Ethiopia, Regional Special Police, Police Reform, FDRE Constitution

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1. Introduction

Protecting human rights is an obligation of a state under international law. The international laws on the human rights demand ensuring third parties do not negatively interfere with the human rights standards and protect the weakest from the strongest in the horizontal relationship of citizens.¹ In this regard, police institutions are important safety valve for ensuring the protection of human rights,² and for the maintenance of public order and the rule of law.³ Since the police are one of the important state organs entrusted with the protection of the state and its citizens,⁴ protection of human rights suffers due to lack of effective performance in the police forces.⁵

The constitutional duties of government in protecting lives and property and maintaining peace and order are also practicable via the institution of the police.⁶ Similarly, the police are one of the institutions of government that constitutionally empowered to perform the task of securing lives and property in a defined geographical environment.⁷ Thus, the human rights protection obligation of state under international and national law demands the establishment and operation of effective police institutions.⁸

¹ Office of the United Nations High Commissioner for Human Rights, Civil and Political Rights: The Human Rights Committee, (2005) Fact Sheet No. 15 (Rev.1)

² Erica Chenoweth et al. *Struggles from Below: Literature Review on Human Rights Struggles by Domestic Actors*, USAID Research and Innovation Grants Working Papers Series, University of Denver, (2017) 16.

³ Anneke Osse, *Understanding Policing, A resource for human rights activists*, Amnesty International, Netherlands, Amsterdam, (2012).

⁴ Ebo, A, *Security Sector Reform as an Instrument of Sub-Regional Transformation in West Africa, Reform, and Reconciliation of the Security Sector*, Bryden, A &Haggi H (eds), (2004).

⁵Gary Haugen and Victor Boutro, *And Justice for All: Enforcing Human Rights for the World's Poor*, Council on Foreign Relations, (2010) 89(3), 51-62

⁶ Nnamdi Akan, *Police in Human Rights protection*, *African Journal of International and Comparative Law*, (2019) 3 (3): 189-206

⁷Ola Abegunde, *Need for Security Sector Reform: Nigerian Perspective*; *International Journal of Humanities and Social Science* (2013), 3 (9)

⁸Gary Haugen and Victor Boutro, *And Justice for All* (no 5)

In Ethiopia, the human rights protection role and limitations of the police has been a core agendum of politicians, researchers and human rights institutions, particularly in connection with the prevalence of instabilities and ethnic conflicts since 2018.⁹ Accordingly, United Nations Office for the Coordination of Humanitarian Affairs (OCHA) has reported that the security situation in Ethiopia is deteriorating.¹⁰ The Ethiopian Human Rights Commission (EHRC) noted that the exploding conflicts throughout the country involve serious human rights' abuses and reported this as a failure of the government to protect citizens from ethnic violence.¹¹

Specifically, the cause of such instabilities and ethnic conflicts and the resulted human rights' violation in Ethiopia is associated with regional police institutions.¹² At regional level, all regions have the so-called Special Police Forces.¹³ The very nature of special police forces has been encircled with doubts including their military nature constitutional mandate, role, and accountability system.¹⁴ The regional Special Police Forces have been blamed for exacerbating Ethiopia's recent bumps and instigating ethnic conflict and human rights abuses.¹⁵

⁹ Human Rights Watch, Ethiopia: Abiy's First Year as Prime Minister, Review of Conflict and Internally Displaced Persons, (2019), <https://www.hrw.org/news/2019/04/09/ethiopia>

¹⁰ OCHA, Access Snapshot - East and West Wellega (Oromia), Kamashi (Benishangul Gumuz) As of 28 February 2020, (2020)

¹¹ Ethiopia Government Failing to Protect People from Ethnic Violence: Rights Commission, REUTERS (Oct. 4, 2018, 12:29 PM), <https://www.reuters.com/article/us-ethiopia-violence-rights/idUSKCN1ME2AK>.

¹² Andinet Adinew, Conditions of Human Rights in Ethiopia in the Aftermath of Political Reform, *Northwestern Journal of Human Rights*, (2021) 19 (1)

¹³ Land info, Ethiopia: The special police (Liyu Police) in the Somali Regional State, 3 JUNE 2016, <http://www.landinfo>.

¹⁴ European Institute of Peace, Special Police in Ethiopia, (2021) <https://www.eip.org/publication/the-special-police-in-ethiopia/>

¹⁵ Bereket Tsegay, Regional Special Forces Pose Threat to Peace and Security in Ethiopia; The International Peace Institute, New York and Manama, February 22, 2021

The Special Police have also been blamed for their direct involvement in human right violation and abusing activities in different parts of the country.¹⁶

Thus, in order to improve and enhance human rights' protection role of the regional police institutions, government should take reform measures. In this connection, although, Ethiopia has been undertaken reforms since 2018 that involve comprehensive revisions of laws and restructuring of legal institutions,¹⁷ the police reform activities and programs are not well-articulated and designed in line with protecting the human rights.¹⁸ There is also a human rights centered police reform call in Ethiopia that is principled on rule of law, democratic and impartial policing.¹⁹ Besides, police reform is suggested in states, which experience conflict and instability situations.²⁰ The police institutions should be created or adapted so as to meet changing security needs as well as the expectations of the communities they serve.²¹

Consequently, the human rights concerns as to the Regional Special police trigger urgent human rights-oriented reform. This assertion is in line with well-established legal principles that all laws should be interpreted and implemented in a way that is in strict accordance with human rights norms.²² Foremost, due to the presence of

¹⁶ Amnesty International, Ethiopia: "Beyond Law Enforcement" Human Rights Violations by Ethiopian Security Forces in Amhara and Oromia, (2020) May 29, Index Number: AFR 25/2358/2020; also see Relief Ethiopia, conflict displacement situation report April 2018 available at <https://reliefweb.int/report/ethiopia/>

¹⁷ David Kaye, Special Rapporteur on the Promotion and Protection of the Right to Freedom of Expression, U.N. Doc. A/HRC/44/49/Add.1 (Apr. 29, 2020)

¹⁸ Walleign Zelalem, Security Sector Reform in Ethiopia: A Study On Amhara National Regional State Police Force, *International Journal of Humanities, Art and Social Studies (IJHAS)*, (2018) 3 (4).

¹⁹ Semir Yusuf, Drivers of ethnic conflict in contemporary Ethiopia, The Institute for Security Studies monograph (2019) 202

²⁰ United Nations Institute for Training and Research, Introduction to Security Sector Reform, (2014) <https://www.unitar.org/.../introduction-security-sector-reformptp2014>

²¹ Geneva Centre for Security Sector Governance, Police Reform: SSR Backgrounder Series (2019) Geneva, www.dcaf.ch

²² United Nation Department of Public Information, Serve and protect to build peace and security, 2016

strong nexus between police and human rights, there is a suggestion that police reform should be comprehensively tied with human rights' norms and objectives.²³

Besides, the aims and goals of regional police reform should be formulated in compatible with the Federal Democratic Republic of Ethiopia Constitution (the FDRE Constitution herein after).²⁴ Because, police institutions are required to continuously examine their practices and to make sure they “advance the broad constitutional goal of human rights protection.²⁵ The Constitution is both the basic legal framework within which police institutions operate. ²⁶ Besides, the Constitution is an overarching legal framework that plays important role in forging common identity and creating institutions;²⁷ and effective law enforcement agencies follow policing methodologies in accordance with the parameters set by the Constitution.²⁸

The purpose of this study was to identify constitutional guidance to introduce human rights-oriented police reform on regional police structures in Ethiopia. Since the need of police reform should be justified on the basis of strong theoretical and practical grounds,²⁹ the study also put justification on the introduction of regional police reform. Besides, the study shows the compatibility of human rights-

²³ Ibid

²⁴ The Constitution of the Federal Democratic Republic of Ethiopia, Proclamation No.1/1995, Negarit Gazeta, 1st year, No.1, 21st August, 1995

²⁵ Elaine Bonner, Local Policing Data and Best Practices -Tompkins Natalia Carrizosa Office of Legislative Oversight, Report Number 2020-9 July 21, 2020,.Montgomery, Maryland.

²⁶ Ibid

²⁷ Martin van Vliet, Winluck Wahiu, Augustine Magolowondo, Constitutional Reform Processes and Political Parties: Principles for Practice, The International Institute for Democracy and Electoral Assistance (NIMD), The Netherlands, The Hague, (2012)

²⁸U.S. Department of Justice: Constitutional Policing as a Cornerstone of Community Policing: A Report by the Police Executive Research Forum, April 2015: <https://cops.usdoj.gov>

²⁹ David H. Bayley Democratizing the Police Abroad: What to Do and How to Do It. Issues in International Crime; National Institute of Justice, U.S. Department of Justice (2001)

oriented police reform aim and principle on the basis of constitutional and theoretical grounds; since the practice demands setting the general aim and goal of the reform.³⁰

To achieve the purpose, the study has employed a qualitative approach. A doctrinal legal research method is employed in order to analyze a legal doctrine, rule, principle or concept and to identify and suggest correct propositions, statements or principles with rationale and reasons.³¹ Secondary data were collected from official documents and reports of governmental and non-governmental organizations; from the FDRE constitution, and from review of seminal literature. Finally, these data were analyzed on the basis of logic and reasoning.

The article is organized in six sections. Section one and two, respectively introduces the notion of human rights focused police reform approach and the guiding principles of the approach. It also provides justification for the need for reforming the regional police in Ethiopia. Section three looks into the extent of recognition to human rights focused police reform approach and principles under the FDRE Constitution. Section four provides justification on the relevance of the principle and approach to regional police institutions of Ethiopia. Section five summarizes the previous sections and shows the applicability of the reform approach on the regional police. Finally, the sixth section provides conclusion and recommendations.

2. Human Rights' Focused Police Reform Approach

The human-rights perspective of police reform is concerned with the protection of internationally recognized human rights.³² On the other hand, the law-enforcement perspective emphasizes a need to strengthen capabilities in order to immediately

³⁰ Ola Abegunde, Need for Security Sector Reform: Nigerian Perspective (n 7)

³¹ George D Braden, Legal Research: A Variation on an Old Lament, *Journal of the Indian Law Institute*, (1982) 23 (2/3).

³²International Peace Academy, Challenges in Police Reform: Promoting Effectiveness and Accountability, Report, 2003.

control local crime, and the democratization perspective that emphasizes the rule of law and long-term justice and security.³³ Peacekeeping/military perspective is relevant in post-conflict settings and immediately following the termination of war; and its main concern is to ensure order and prevent a reversion to conflict. The economic-development perspective reflects interest in enhancing the environment for economic development, removing impediments to foreign investment, and reducing the costs of crime and violence.³⁴

The human rights perspective of police reform embraces an overarching aim that would bring the goal of securing human rights to the forefront of the reform agenda and suffuse Human rights principles in the police reform model.³⁵ The human rights-oriented police reform approach is also important, as a well-established constitutional principle in public affairs.³⁶ The human right principle is considered the important guiding principle to police forces and agents than for other civil servants, by bearing in mind the fact that police powers and police actions are by definition limitative of liberties.³⁷

Human rights-based approach involves policing obligations beyond the tripartite obligation (obligation to respect, protect and fulfil). That includes police service principled on participation, accountability, non-discrimination and attention to vulnerability, and it is linked with human rights standards, access to public officials

³³Ibid

³⁴ Id

³⁵Nicholas Galletti et. al, *Securing Human Rights: Shifting The Security Sector Reform Paradigm: The Future Of Security Sector Reform* Mark Sedra, Ed. The Centre for International Governance Innovation, Ontario Canada (2010)

³⁶ United Nations Department of Public Information (n 22)

³⁷ Ibid

and equality.³⁸The human rights centered police reform requires works that are contextualized within democracy, human rights, good governance accountability transparency and local ownership.³⁹

Besides, the human rights police reform encompasses a reform effort to revamp police doctrines and establish internal and external mechanisms for accountability.⁴⁰ Moreover, human rights police reform needs works that bring a significant impact on public trust and confidence in the police, and increase the public's willingness to cooperate with the police.⁴¹Further, the human rights approach demands tackling poor policing functions characterized by weak organizational structure, poor accountability, impartiality, low professionalism, and low exposure and commitment to human rights.⁴²

Furthermore, the overall aims of police reform are to transform the values, culture, policies and practices of police organizations so that police can perform their duties with respect to democratic values, human rights and the rule of law.⁴³ Finally, the human rights reform approach, among other things demands reform efforts enabling to purge human-rights violators from police ranks and provide training that emphasizes human-rights standards.⁴⁴

3. The Guiding Principles of Human Rights Focused Police Reform

From the previous section, it can be inferred that the human rights focused police reform encompasses reform efforts principled on the democratic policing, the rule

³⁸ United Nations Office on Drugs and Crime (UNODC) and the Office of the United Nations High Commissioner for Human Rights (OHCHR), HR/PUB/17/6 (OHCHR), (2017) 24

³⁹ Williams R, Africa and the Challenges of Security-sector Reform, in “Building Stability in Africa: Challenges for the New Millennium”, ISS Monograph Series, No 46, Pretoria, (2000)

⁴⁰ International Peace Academy “Challenges in Police Reform” (n 32)

⁴¹ Ronald Weitzer, Steven A. Tuch, Race and Perceptions of Police Misconduct, *Social Problems*, (2004), 51 (3) 305–325. ISSN: 0037-7791; online ISSN: 1533-8533

⁴² Geneva Centre for Security Sector Governance (2019). *Police Reform: SSR Backgrounder Series*. Geneva, retrieved from www.dcaf.ch, accessed on May 18, 2020

⁴³ Ibid

⁴⁴ International Peace Academy “Challenges in Police Reform” (n 32)

of law, practices of community-inclusive policing, and impartial policing exercises. The following sub-section is devoted to discuss further each of the principles of human rights focused reform.

3.1. Democratic Policing

Democratic policing is a participatory delivery of police service and it involves the primary role of police in democratic societies is protecting the fundamental rights of citizens.⁴⁵ Democratic policing embed crime prevention and community safety approach in day to day policing activity,⁴⁶ and requires the police to perform the most obvious, immediate and intrusive tasks to ensure the well-being of individuals and communities alike.⁴⁷ Democratic policing is the use of police authority in the people's interest to provide responsive police service in line with public needs and expectations.⁴⁸

Further, democratic policing is principled on the idea that the power of police is derived from the people; and propagate police institutions openness to the public and the police forces and service are not insular, self-contained, or cut off from the communities.⁴⁹ Consequently, democratic policing demands the police authorities to develop effective police service plan and execution in line with the needs of the people and not only focus on those of the government.⁵⁰ It also demands an astute

⁴⁵ Trevor Jone, Tin Newburn and David Smith, *Democracy and policing*, policy studies Institute (1994) 208

⁴⁶ Geneva Centre for the Democratic Control of Armed Forces, *Federalism and Police Systems* 2011 (23).

⁴⁷ David H. Bayley "Democratizing the Police Abroad" (n 29)

⁴⁸ The Organization for Security and Co-operation in Europe (OSCE), *Guidebook on Democratic Policing*, 2nd Edition, Vienna, 2008.

⁴⁹ Jerome H. Skolnick, *Ideas in American Policing* (August 1999)2

⁵⁰ Nnamdi Akan, *Police in Human Rights protection* (n 6)

leadership that strives to build legitimacy and trust,⁵¹ and constant work to ensure that the public encourages police work.⁵²

3.2. Rule of Law

Rule of law is defined as a system in which all authority and power of police is exercised in accordance with public laws.⁵³ Rule of law requires the police operation and commitment in accordance with the domestic law and the international law enforcement standards and practice.⁵⁴ The principle provides that the police must obey the ordinary law of the land and should, like anybody else be punished for any misuse of powers, or for any act done in excess of his authority while regulation⁵⁵

Rule of law is policing service principled on accountability and transparency.⁵⁶ Accountability is system of ensuring that police carry out their duties properly and are held responsible if they fail to do so.⁵⁷ This can be done via mechanisms like internal accountability; accountability to the state; accountability to the public; and independent external oversight.⁵⁸ Transparency is also key, and in order to enhance public support and understanding on policing, it is essential to establish mechanisms that support public crime reporting about police operations, the public to access to the police service, the creation of open-ended forums for discussion and the introduction of community-based policing.⁵⁹

⁵¹ Ibid

⁵² Bayley D. and Shearing, *The future of police*. *Law and Society Review*, (1996) 56

⁵³ Geneva Center for the Democratic Control of Armed Forces, *International Police Standards Guidebook*, 2009 20

⁵⁴ The Organization for Security and Co-operation in Europe (OSCE), *Guidebook on Democratic Policing* (n 48)

⁵⁵ Nnamdi Akan, *Police in Human Rights protection* (n 6)

⁵⁶ Sumit Bisarya and Sujit Choudhry, *Security Sector Reform in Constitutional Transitions: International IDEA Policy Paper*, (2020) No. 23, DOI: <<https://doi.org/10.31752/idea.2020.53>>

⁵⁷ United Nations Office On Drugs and Crime, *Criminal Justice Handbook Series* (no 38)

⁵⁸ *Democratic Policing Series, Police Accountability: A Comprehensive Framework* (2017) 9

⁵⁹ Jerome H. Skolnick, *Ideas in American Policing* (August 1999)2

Article 1 of UN Law Enforcement officials code of conduct provides that law enforcement officials shall at all times fulfill the duty imposed upon them by law, by serving the community and protecting all persons against illegal acts, consistent with the high degree of responsibility that required by their profession.⁶⁰ The legislation and policies govern the work and conduct of the police, in particular those define the role of the police, the values, goals, priorities and the ethics that they abide by, should also be clear, precise and accessible to the public.⁶¹

Consequently, rule of law demands legislative works to ensure that the police are accountable to laws that are publicly promulgated, equally enforced and independently adjudicated and which are consistent with international human rights norms and standards.⁶² It also demands police legislation and the policies should appear in a clear precise manner and should be accessible to the public.⁶³ Police organization must provide for a clear chain of command and allotment of competencies within the police.⁶⁴

3.3. Impartial Policing

Impartial policing is unbiased or fair policing that treats citizen's equally regardless of race, ethnicity, gender identity, age, religion, sexual orientation, or other qualifiers.⁶⁵ This requires making the police immune from political and other extra

⁶⁰ UN General Assembly resolution 34/169 of 17 December 1979, Code of Conduct for Law Enforcement Officials, available at <http://bit.ly/2jd2vfP>

⁶¹ Geneva Center for the Democratic Control of Armed Forces, International Police Standards Guidebook, (n 53)

⁶² United Nations "Serve and protect to build peace and security" (n 28)

⁶³ The Organization for Security and Co-operation in Europe (OSCE), Guidebook on Democratic Policing (n 48)

⁶⁴ Geneva Centre for the Democratic Control of Armed Forces "Federalism and Police Systems" (n 46)

⁶⁵ Elaine Bonner "Local Policing Data and Best Practices" (n 25)

influences and acts in consonance with the law of the land and the Constitution.⁶⁶ The political interference on police institution is considered as undesirable and major factor negatively affecting police institutions activities and programs.⁶⁷ The police services must be loyal to the constitution and its institutions and be under civilian control. At the same time, it should be protected from partisan abuse by civilian authorities.⁶⁸ The civilian governments should have ‘authority over decisions concerning the missions, organization, and employment’ of a state’s security apparatus.⁶⁹

3.4. Community Policing

The modernization of the police mission, the adoption of approaches directed towards partnership and problem resolution and effective modes of operation which respect human rights and favor positive interactions between police forces and the public.⁷⁰ The UN Code of Conduct, which states: “Every law enforcement agency should be representative of, and responsive and accountable to, the community as a whole.”⁷¹ This implies that police ought to engage with those they are supposed to serve – members of the public – so as to establish their objectives in a joint process together with those in whose interests they are to act. This is the only way to prevent police from becoming technocratic maintainers of public order, or worse.

The participation of people in public decision making is associated with principle of decentralization, which is transferring decision-making governance to the people

⁶⁶Committee on Reforms of Criminal Justice System, Government of India, Ministry of Home Affairs Dr. Justice V.S. Malimath INDIA March 2003.

⁶⁷ Wallelign Zelalem “Security Sector Reform in Ethiopia” (n 18)

⁶⁸Sumit Bisarya Security Sector Reform in Constitutional Transitions (n 56)

⁶⁹Trinkunas, H. A., *Crafting Civilian Control of the Military in Venezuela: A Comparative Perspective*, University of North Carolina, (2005) P 5

⁷⁰ Maurice Chalom et. al, *Urban Safety and Good Governance: The role of the police* International Centre for the Prevention of Crime. International Centre For The Prevention Of Crime (ICPC), (2001) Montreal (Quebec), Canada.

⁷¹ General Assembly Resolution 34/169 adopting the UN Code of Conduct, 17 Dec. 1979.

and citizen.⁷² Decentralization provides institutional mechanisms for extending the participation to democracy.⁷³ In particular, human rights protection roles of the police in society are indispensable, noble and deserving of the support of all the community.⁷⁴ In diverse communities with unique safety and security challenges demands responsive police service on the consent, cooperation and support of the people being policed and communities.⁷⁵

Hence, local community inclusive policing is important to access adequate and timely information to reassure and allay community fears and concerns. In support of community-based policing there are also similar police doctrines. For example, many governments (central or local) have decided to implement community oriented policing doctrines (CoP) or proximity policing (PP), the former being mostly found in the United States and the United Kingdom but also in Latin American, the latter in continental Europe.⁷⁶

4. Relevance of the Reform Approach on Regional Police Institutions

In Ethiopia, the cause of human rights violation problem, in post-reform periods-since 2017, is associated with the weak performance of regional police institutions.⁷⁷ The regional Special Police Forces have been blamed for

⁷²Hans F.W. Duboisab and Giovanni Fattore, “Definitions and Typologies in Public Administration Research: The Case of Decentralization,” *International Journal of Public Administration* 32:8 (2009): 704–27.

⁷³ Seymour Martin Lipset, “The Indispensability of Political Parties,” *Journal of Democracy* 11:1 (January 2000): 48–55.

⁷⁴ Nnamdi Akan, *Police in Human Rights protection* (n 6)

⁷⁵ Civilian Secretariat for Police Service: *White Paper on policing*, Government Gazette, Republic of South Africa, 1 September 2017 No. 41082

⁷⁶ Geneva Centre for the Democratic Control of Armed Forces “Federalism and Police Systems” (n 46)

⁷⁷ Andinet Adinew, *Conditions of Human Rights in Ethiopia* (n 12)

exacerbating Ethiopia's recent bumps and human rights abuses.⁷⁸ The Special police have also been blamed for their direct involvement in human right violation and abuse activities in different parts of the country.⁷⁹ The regional Special Forces have been involved in major conflicts in Ethiopia, and engaged in a pattern of instigating ethnic conflict and human rights.⁸⁰

In particular, Ethiopia's National Disaster Risk Management Commission and the UN Office for the Coordination of Humanitarian Affairs have reported that the incursions of Somalia Regional Special police into Oromiya Regional State in 2017 that resulted in the deaths of hundreds of people and the displacement of more than 1 million people.⁸¹ The 2018 Human Rights practices report of United States Department of State explained that police officer's impunity and limited exposure to human rights as a problem.⁸² Ethiopian Human Rights Commission has reported that "in some cases, the regional security officials deliberately avoided stepping in" and further, "there is also a lack of accountability" for the deliberate involvements.⁸³

Besides, Amnesty International's report reveals that Regional security forces committed horrendous human rights violations including burning homes to the ground, extrajudicial executions, rape, arbitrary arrests and detentions in Amhara and Oromia.⁸⁴ Somali and Oromia Region's Special police has been committing serious human rights violations like executions, rape and forced displacement.⁸⁵ Somali Special police, on 23 and 24 may 2018, attacked four

⁷⁸ Bereket Tsegay, Regional Special Forces Pose Threat to Peace and Security in Ethiopia (n 15)

⁷⁹ Amnesty International, Ethiopia: "Beyond Law Enforcement", (n 16)

⁸⁰ Bereket Tsegay, Regional Special Forces Pose Threat to Peace and Security in Ethiopia (n 15)

⁸¹ Relief Ethiopia, conflict displacement situation report April 2018 available at <https://reliefweb.int/report/ethiopia/>

⁸² United States Department of State Bureau of Democracy, Report (2018), available at <https://www.state.gov/reports/2018-country-reports-on-human-rights-practices/ethiopia/>

⁸³ Reuters Report on Ethiopian Violence (n 11)

⁸⁴ Amnesty International, Ethiopia: "Beyond Law Enforcement", (n 16)

⁸⁵ <https://www.africanews.com/2018/06/01/amnesty-asks-ethiopia-to-disband-controversial-liyu-police-unit/>

localities in Chinaksen District of East Oromiya Zone, killing five farmers and burning down about 50 homes.⁸⁶ Further, it is reported that the late President of Amhara regional state, Dr. Ambachew Mekonnen and other two senior regional state officials were killed on June 22, 2019 while in a meeting in his own office in Bahir Dar, by members of the regional Liyu police.⁸⁷

Consequently, the human rights concerns as to the Regional Special police triggers urgent human rights-oriented reform. In support of this, Action against Hunger has underlined the importance of addressing contributory factors for human rights violation in Ethiopia including lack of law enforcement, and poor integration and coordination in police institutions management.⁸⁸ The 2018 Human Rights practices report of United States Department of State also underlined the need of addressing police officers' impunity and limited exposure to human rights.⁸⁹

Finally, the human rights-oriented police reform is in line with the well-established legal principle that all laws should be interpreted and implemented in a way that is in strict accordance with human rights norms.⁹⁰ Foremost, due to the presence of strong nexus between police and human rights, there is a suggestion that police reform should be comprehensively tied with human rights norms and objectives.⁹¹

5. Constitutional Relevance of Human Rights Focused Reform Approach

The human rights focused police reform approach has due recognition under FDRE Constitution. Accordingly, first, the entrenchment of the approach can be

⁸⁶ Amnesty International, Ethiopia: "Beyond Law Enforcement", (n 16)

⁸⁷ Borkena Ethiopian News, 2019/06/23, available at <https://borkena.com>, accessed on Nov 9, 2019

⁸⁸ Action against Hunger (2019) Benishangul Gumuz Region (Kemashi Zone) Multi-sectoral Rapid Assessment Report on Returnees/IDPs MAY 2019

⁸⁹ United States Department of State Bureau of Democracy (n 82)

⁹⁰ United Nations Department of Public Information (n 22)

⁹¹ Ibid

understood from the presence of a strong linkage between human rights and the grand constitutional aim provided under the preamble of FDRE Constitution, which put the aim of building one political economy in Ethiopia and its achievement is made conditional on the prevalence of rule of law and respect and protection of human rights.

Besides, the principle of human rights under Article 10 of the FDRE constitution amplifies the importance of human rights for all public services- including police institutions. Article 13(1) of the Constitution also imposes an obligation on all state organs to protect, respect and enforce human rights. Article 13 (2) of the FDRE Constitution provides that all laws should be interpreted and implemented in a way that is in strict accordance with human rights norms. These provisions clearly recognize the human rights to be the guiding principle for all public services including the police.

Thus, the amplification of human rights under the preamble of the constitution cumulative reading of Article 52 (2(g) of the constitution with Article 9(1), 10, and 13(1) confirms that human rights to be the very purpose of the regional police institutions. In other words, the aim of all regional police institutions reform should be human rights focused.

On the other hand, the FDRE Constitution has human rights focused police reform principles like democratic policing, rule of law, community-inclusive policing, and impartial policing. These are discussed in the following paragraphs.

First, FDRE constitution has supportive framework for the formulation and implementation of polices enabling to introduce democratic policing service in Ethiopia. The principle has adequate recognition under FDRE Constitution; as it is primarily inferred from the value of democratic order stated under the preamble of the Constitution. The same can be inferred from the Nomenclature of the State

under Article 1 of the constitution, which formally name Ethiopia as the Federal Democratic Republic of Ethiopia.

Foremost, the principle of democracy under Article 10 of the FDRE Constitution and the principle of popular sovereignty under Article 8 of the same magnify the role of the public in the affairs of government institutions, including the police. The need of enhancing the role of the people in police service can be inferred from the political objective of Article 88 of FDRE Constitution and amplification of public participation under Article 89 of the same. Finally, the duty of government to devolve power to local people under Article 50(4) also supports the need of government commitment to enhance participation of the people in the affair of police service. Thus, upholding democratic policing principle is important constitutional obligation on the part of the regional states.

Second, FDRE constitution has also supportive framework to introduce the rule of law policing in Ethiopia. The principle is recognized under preamble of the FDRE Constitution; which assert it has aimed at building a political community founded on rule of law. Article 12 of the constitution provides a supportive framework of the rule of law by introducing principle of transparency and accountability. Thus, principle of rule of law has adequate recognition under the constitution. And upholding this principle is an important constitutional obligation on the part of the regional states in the process of formulating the regional police reform policies.

Third, FDRE constitution has supportive framework for the formulation and implementation of polices principled on impartial policing. Unlike the police, Article 87 of the Constitution provides that the armed forces of Ethiopia should be free of any partisanship to political parties or organizations. This principle can be

extended to the police, as police institutions have similar function on maintaining public law and order.⁹² Hence, even if principle of impartiality of police is not explicit, the establishment and operation of police institution that is partial from any political (party), ethnic and religious influence is far from the spirit of human rights and other principle of the FDRE constitution. Thus, principle of impartiality is an important constitutional reform concern relevant with reference to the regional police institutional reform.

Finally, the principle of community policing is recognized under Article 50(4) of FDRE Constitution. The federal constitution stipulates that “State (i.e., sub-regional) government shall be established at State and other administrative levels that they (i.e., the regions) find necessary.” This is important constitutional limitation on the power of the regional state on determination of their police/security forces. This refers to the mandate that described “Adequate power shall be granted to the lowest units of government to enable the people to participate directly in the administration of such units.” This constitutional prohibits regional states to organize and operate police forces by excluding the people found at local government structure. Thus, upholding community policing principle is important obligation on regional police reform.

6. Summation

Though there is a reform in Ethiopia since 2018, the police reform activities and programs are not well-articulated and designed in line with protecting the human rights.⁹³ In order to fill the police reform gap in Ethiopia, there is a human right centered police reform call that is principled on rule of law, democratic and impartial policing.⁹⁴

⁹² Geneva Centre for the Democratic Control of Armed Forces “Federalism and Police Systems” (n 46)

⁹³ Walleign Zelalem “Security Sector Reform in Ethiopia” (n 18)

⁹⁴ Semir Yusuf, Drivers of ethnic conflict in contemporary Ethiopia (n 19)

Most importantly, human right centered police reform is relevant to regional police institutions of Ethiopia. This has many reasons. There are a number of reports that confirm the presence of human rights challenges associated with regional special police including their role and contribution for ethnic conflict instigation and human rights abuse.⁹⁵ Regional police is complained of deliberate avoidance to step-in in order to prevent, overcome and control conflicts, and this has negative human rights implication, and lack of accountability for the deliberate involvements,⁹⁶ as well as impunity and limited exposure to human rights⁹⁷

Thus, it is essential to introduce reform aimed and directed at rectifying regional Special Forces poor policing functions like poor accountability, partiality, low professionalism, and low commitment to human rights. As provided under section one, this reform is typically human rights focused, which demands police reform works principled on democratic policing, rule of law, community-inclusive policing, and impartial policing.

As provided under section four above, FDRE Constitution accords due recognition for human rights focused police reform approach as well as its guiding principles. The principle of supremacy of constitution under Article 9 of FDRE Constitution underlines that the constitutional norms are the source and method of public activities and actions, including police reform. Besides, Article 51(1) and Article 52(2)(a) of the same, respectively underlined that protecting and defending the Constitution to be the top most powers and function of Federal Government and Regional States.

⁹⁵ Bereket Tsegay, Regional Special Forces Pose Threat to Peace and Security in Ethiopia (n 15)

⁹⁶ Reuters Report on Ethiopian Violence, (n 11)

⁹⁷ United States Department of State Bureau of Democracy (n 82)

Thus, in line with their duty under FDRE Constitution, all regional states of Ethiopia are under obligation to undertake human rights focused regional police reform. Particularly, the regional police should introduce democratic policing principle. This principle demands the regional police authorities to develop effective police service plan and execution in line with the needs of the people and not only focus on those of the government.⁹⁸ Besides, the regional police should strive to build popular legitimacy and trust,⁹⁹ and constant work to ensure that the public encourages police work.¹⁰⁰ Hence, one of the principles of the regional police reform should be opening their doors for the public upon the formation police service planning and its execution.

Second, the regional police should introduce rule of law policing principle. This principle demands the regional governments to take legislative measure that ensure the police officers are accountable to laws, which is equally enforced and independently adjudicated.¹⁰¹ This demands the regional states to enact police legislation and policies in clear precise manner and that is accessible to the public.¹⁰² Besides, Police organization must provide for a clear chain of command and allotment of competencies within the police.¹⁰³

Third, the regional police should introduce impartial policing principle. This principle demands the regional governments to take legislative measure enabling to provide unbiased or fair policing that treats citizen's equally regardless of race, ethnicity, religion, or other qualifiers.¹⁰⁴ This in turn requires enactment of clear

⁹⁸ Nnamdi Akan, Police in Human Rights protection (n 6)

⁹⁹ Ibid

¹⁰⁰ Bayley D. and Shearing, The future of police (no 52)

¹⁰¹ United Nations "Serve and protect to build peace and security" (n 28)

¹⁰² The Organization for Security and Co-operation in Europe (OSCE), Guidebook on Democratic Policing (n 48)

¹⁰³ Geneva Centre for the Democratic Control of Armed Forces "Federalism and Police Systems" (n 46)

¹⁰⁴ Elaine Bonner "Local Policing Data and Best Practices" (n 25)

legislation that make the police immune from political and other extra influences and acts in consonance with the law of the land and the Constitution.¹⁰⁵

Forth, the regional police should involve community policing principle. This principle demands the regional governments to take legislative measures that enhance and secure adequate information and cooperation from the local community in order to provide responsive regional police service. Particularly, unique safety and security challenges in diverse communities demands responsive police service on the consent, cooperation and support of the people being policed and communities.¹⁰⁶ The local community inclusive policing is important to access adequate and timely information to reassure and allay community fears and concerns. Hence, in areas where there is a diverse community, the core policy concern should be accommodating such diversity on the basis of community policing principle.

Conclusion

The purpose of this study was to identify human rights-oriented police reform approaches under the FDRE Constitution. To achieve the objectives, the study has employed a qualitative approach, the doctrinal legal research method in particular. The main findings of the study are following. The study has revealed that the human rights focused police reform approach is the most dominant and comprehensive police reform approach that encompasses reform components (efforts) principled on democratic policing, rule of law, community-inclusive policing, and impartial policing. Second, the study has revealed the relevance of human rights-based police reform approach in order to tackle ineffective regional

¹⁰⁵Committee on Reforms of Criminal Justice System, Government of India, Ministry of Home Affairs Dr. Justice V.S. Malimath INDIA March 2003.

¹⁰⁶ Civilian Secretariat for Police Service (n 75)

policing functions characterized by poor accountability, partiality, low professionalism, and low commitment to human rights.

Third, the FDRE Constitution has encompassed important provisions that support human rights-based police service and reform. The Constitution has also incorporated supportive principles enabling for the introduction of human rights focused police reform like principle of democratic policing, rule of law, community-inclusive policing, and impartial policing. Thus, the government is under obligation to reform the regional police institution that aimed at human rights approach and principled on democratic policing, rule of law, community-inclusive policing, and impartial policing.

The study suggests the following, in order to improve human rights protection role of regional police in Ethiopia. Primarily, in line with their constitutional obligation, regional states formulate human rights centered regional police reform policy and legislative measures that alter regional police organizational structures. Importantly, the regional states should formulate policies and legislations, which gear their respective police institutions to undertake and run human rights focused police service principled on democratic, rule of law, community-inclusive, and impartial policing.

Besides, to improve the human rights protection role of the police, it is not enough to simply legislate and alter structures or framework on which they run, it is also necessary to transform police officers' attitude and commitment on human rights concepts, norms, values, attitudes, practices and skills via trainings and other intervention. On implementation of the reform, both federal and regional governments should work together, as both are under obligation to ensure the observance of the FDRE constitution principles under Article 9, 51, and 52 of the FDRE Constitution. Finally, Non-Governmental Organizations and research institutions should support the formulation of the regional reform process.