

Corruption in Ethiopia: A Merely Technical Problem or a Major Constitutional Crisis?

Zemelak Ayitenew Ayele*

1. Introduction

In 2001, a political division arose within the Tigray People Liberation Front (TPLF)¹, arguably the core the Ethiopian Peoples' Revolutionary Democratic Front (EPRDF), the ruling party and a coalition of four ethnic-based regional parties.² There was a disagreement between the late Prime Minister Meles Zenawi (also the former Chair of both EPRDF and TPLF) and some of the top brass of TPLF. The true cause of the dispute still remains unclear.³ It is clear though that Meles faced strong opposition from some of the most senior party members, including Gebru Asrat (the former president of Tigray, one of Ethiopia's nine states), and Siye Abraha (the then Minister of Defense). Some of the leaders of the other three constituent units of EPRDF also sided with the dissenters as the division spread to these parties.⁴ This led Meles to undertake an extensive political 'purge' within the TPLF and the other EPRDF member parties. 'Dissenters' were expelled from TPLF and, therefore, EPRDF. Those among the dissenters who had been elected to national and regional representative councils representing the party were informed that they had been 'recalled by their constituencies' and were dismissed from those councils.

In addition, some of the dissenters, including Siye Abraha, were charged with corruption and jailed.⁵ When Siye was first brought to court on charge of corruption, the sitting judge released him on bail. He was however rearrested at the gate of the court. The judge who released him on bail was swiftly removed from the criminal bench of the Federal First Instance Court. Furthermore, shortly after Siye was rearrested, a bill was tabled in Parliament which sought to prevent courts from releasing on bail anyone who was accused of corruption. Parliament enacted this, constitutionally suspect,⁶ bill the same day as a proclamation.⁷ This proclamation was *retroactively* applied to keep in prison Siye and Meles's other political opponents.⁸

Fast forward to 2015, the federal Policy Study and Research Centre (PSRC), in collaboration with the Ministry of Public Civil Service and Human Resource Development, conducted a study on the level of good governance in the country. The result of the study was presented to the Council of Ministers, in the presence of the Prime Minister.⁹ The report depicted a gloomy picture of the situation relating to governance in the country. Soon after this report was made public, protests began in Oromia, the largest and the most populous region of the country. The protests were allegedly triggered by the Addis Ababa Master Plan which sought to create an infrastructural link between Addis Ababa and the nearby towns of Oromia. The protests rapidly spread to the other regions, in particular the Amhara region, the second largest and populous region in the country. The immediate cause of the protests in this region was linked to the dispute on whether Wolqait, a district in Tigray bordering the Amhara region, should be re-demarcated within the territorial jurisdiction of the latter. The public protests, especially those in Oromia, went on for over 10

* LL.B (Addis Ababa University), LL.M and LL.D (University of the Western Cape (UWC)); Assistant Professor at the Centre for Federal Studies, Addis Ababa University; Previously a National Research Foundation (NRF), Post-doctoral fellow of the at the Multi-Level Government Initiative (MLGI), Dullah Omar Institute (DOI), UWC, South Africa.

¹ The dispute allegedly began back in 1998 while Ethiopia was still at war with Eritrea over a border dispute.

² The other three members of EPRDF are Amhara National Democratic Movement (ANDM, the Oromo People Democratic Organisation (OPDO), and the Southern Ethiopian Peoples' Democratic Movement (SEPDM).

³ Those who stood opposing Meles Zenawi allege that the disagreement related to on how the Ethio-Eritrean war was supposed to be conducted and what its outcome should be. Members of the dissenting groups claim that they were in favour of a forceful regime change in Asmara which Meles, half Eritrean, allegedly rejected. Meles and his supporters, on the other hand, maintain that the dispute related to corruption and lack of discipline that prevailed within the ruling party. For more on the division in TPLF see Medhane Tadesse and John Young, 'TPLF: Reform or Decline' (2003) 30 *Review of African Political Economy* 389.

⁴ *ibid.*

⁵ Awol Allo and Beza Tesfaye, 'Spectacles of Illegality: Mapping Ethiopia's Show Trials' (2015) 13 *African Identities* 279, 288.

⁶ Some argue that this proclamation was unconstitutional. The argument in this regard is that an arrested person has a constitutional right to be released on bail (Federal Democratic Republic Constitution (1995) (Constitution), art 19(6)). Indeed, judges may deny one's plea to be released on bail by taking into consideration the specific circumstances of every case. The legislature cannot however tie the judges' hands by passing a 'blanket law'. *ibid.*

⁷ Anti - Corruption Special Procedure and Rules of Evidences Proclamation 239/2001, art 51(2).

⁸ Awol and Beza (n 5).

⁹ The abridged version of the study is published in Amharic as: የኢ.ፌ.ዴ.ሪ የፖሊሲ ጥናትና ምርምር ማዕከል እና የኢ.ፌ.ዴ.ሪ የፕብሊክ ስርዓትና የሰው ሀብት ልማት ሚኒስቴር መልካም አስተዳደር ከማሰራጫ አካላት አመራሩ ያሉበት ማኔጅመንት፣ መንገዶች እና የመፍትሄ ሃሳቦች (አዲስ አበባ, 2009) (FDRE Policy Study and Research Centre & FDRE Ministry of Public Civil Service and Human Resource Development, Challenges the Leadership is Facing in terms of Ensuring Good Governance and Suggested Solutions (Addis Ababa , 2017).

months and turned violent culminating in the death of, as admitted by the government, over 50 people at the Irreca festival of the Oromo community, in September, 2016.¹⁰ This was followed by a week-long looting and torching of factories and other installations in different cities of Oromia. A few weeks after the Irreca incident, the federal government imposed a state of emergency throughout the country. Some areas in the Amhara and Oromia regions were designated ‘red zones’. The military was deployed in these areas and, with other security apparatuses, authorised to take all measures necessary to arrest the protests.

Prime Minister Haile-Mariam insisted that the Addis Ababa master plan and the Wolkait issues were not the real causes of the public protests. The protests, according to the Prime Minister, were an expression of the public’s deep frustration stemming from the lack of good governance and, in particular, the ever-worsening corruption.¹¹ He further alleged that behind the public protests were those federal and regional officials who, having been involved in corruption, sought to evade accountability by stirring protests and mobilising the public along ethnic lines. Yet, the Prime Minister (EPRDF) views the problem as administrative or technical in nature as opposed to a constitutional or political one. He thus seeks to deal with it at ‘technical level’, through ‘ጥልቅ ተሃድሶ’ (*tilq tehadiso*) ‘deep reform’ that involves public self-evaluation and peer-evaluation of everyone in the public sector, beginning from the ministers down to cleaners and guards.¹²

It is clear from the above that corruption poses two major and interconnected problems. On one hand allegations of corruption are used and abused to silence, and when necessary to jail, those having dissenting views. On the other hand, corruption, along with ethnic politics, poses a grave danger to the peace, even worse to the very existence, of the country. This begs the question: Is corruption a constitutional crisis or, as the Prime Minister suggested, a technical problem that requires a technical solution? What institutional mechanisms does the 1995 Ethiopian Constitution provide to deal with the double-sided quandary that corruption poses? Are the relevant constitutional principles given effect? What are the practical challenges in so doing? The contribution seeks to investigate these issues.

This paper argues that corruption in Ethiopia is not a merely administrative problem but a major constitutional crisis. The prevalence of corruption in the country is, at least in part, a result of the ineffectiveness of institutions with a direct and indirect mandate of preventing, investigating and/or prosecuting corruption. This is in turn because the anti-corruption institutions lack constitutional protection and, therefore, institutional independence that their mandates require. Moreover, the absence of a competitive multiparty democracy in the country has given the ruling party an unimpeded control on all state institutions and affairs, thereby, creating a conducive environment for corruption. Furthermore, various restrictive pieces of legislation have rendered the media and civil society organisations inept in terms of playing a meaningful role in anti-corruption efforts. All these together have led to an unprecedented prevalence of corruption in the country. Therefore, a reform that does not address these issues and seeks to deal with corruption merely at technical level is not likely to be successful in term of resolving the problem.

The paper begins by describing the state of corruption in the country with a view to showing how serious a national predicament it has become. This will be followed by a discussion on constitutional principles and constitutionally and legislatively established institutions that have the mandate to fight corruption. Policy reforms and legislative measures which were introduced with similar objectives will then be discussed. Finally, the paper attempts to explain why these anticorruption efforts were less than effective.

2. The state of corruption in Ethiopia

Bribery was seen as normal in the Ethiopian societal culture. This can be seen in some of the popular sayings, the most common Amharic saying in this respect being ሲሸም ያለበላ ሲሻር ይቆጩዋል (*sishom yalbela sishar yikochewal*) the literal translation of which is one who does not eat while

¹⁰ British Broadcasting Corporation (BBC) News ‘Oromia: Stampede at Ethiopia Protest Leaves 52 Dead’ (BBC, 3 October 2016) < <http://www.bbc.com/news/world-africa-37534387>> accessed on 24 May 2017.

¹¹ ‘Good Governance Deficits: Facts Behind the Protest in Some Parts of Oromia’ (The Ethiopian Herald: 29 December 2015) < <http://www.ethpress.gov.et/herald/index.php/editorial-view-point/item/3250-good-governance-deficits-facts-behind-the-protest-in-some-parts-of-oromia>> accessed on 24 May 2017.

¹² Ethiopian News Agency, ‘EPRDF Council Decides to Consolidate Reform to Curtail Abuse of Office’ (ENA, 29 August 2016) <http://www.ena.gov.et/en/index.php/politics/item/1873-eprdf-council-decides-to-consolidate-reform-to-curtail-abuse-of-office> accessed on 26 May 2017.

appointed would stand to regret when dismissed. This is to mean that one is likely to regret when out of office if he/she has not used his official position for gaining as much personal advantage as he/she could. The common type of corruption in the country was what is often referred to as petty corruption, such as giving presents, in the form of cattle or some other agricultural produce, to a judge by one who is involved in a litigation to ensure that the judge decides in his/her favour. Bribing local administrators in a similar fashion was also common. Grand corruption, 'in the form of embezzlement of public funds, misuse of power and failure of duty for personal gain', began to creep in during reign of the Haile-Selassie and worsened during the Derg's regime.¹³ However, it was not as prevalent as it is now in the country. A disturbing trend of pervasiveness of corruption is seen in the past two decades.

The past consecutive reports of Transparency International (TI) puts Ethiopia among the highly corrupt countries in the world despite the improvements of its ranks in the TI's reports from one year to the next. Ethiopia was ranked 116, 120, 113, 111, and 110 out of 176 countries in the TI's 2010, 2011, 2012, 2013 and 2014 reports, respectively.¹⁴ The TI's 2016 report ranks Ethiopia 108 out of 176 countries. In this report, the country scored 34 out of 100 which puts it in the category of highly corrupt countries.¹⁵

A multisector study on corruption in Ethiopia that World Bank commissioned also shows a growing trend of corruption even though, according to the report, Ethiopia is not yet among the worst corrupt countries in Africa or elsewhere.¹⁶ The report divides the sectors into three categories: basic services (public health, education, rural water and justice), old sectors (construction and land mining) and new sectors (telecommunication pharmaceutical).¹⁷ It shows that the basic service sector is least impacted on by corruption save for some instances of mismanagement and petty corruption at service delivery level. However, the construction sector, in the category of old sectors, faces immense risk of corruption. The risk of corruption in this sector is not simply limited at procurement and construction level, but also extends to regulatory and policy making level. 'Licensing and market entry' in this sector are determined based on favouritism and ethnic affiliation. The problem is compounded by the fact that the government, as will be discussed below, is both a regulator and the primary client in this sector.¹⁸

The other sector from among the old sectors with high risk of corruption is the land administration sector, especially the urban land administration. Under the 1995 Constitution, private land ownership is not allowed.¹⁹ One can thus become only a possessor of a plot of land that he/she takes on lease. The land allocation sector is however considered to be the second most corrupt sector, next to custom service, in the country. The corruption in the land administration sector, a sector which was in any case never corruption-free, is worsened by the poor legal framework of land administration that relies 'on unpublished, easily changed directives' and the absence of 'a real system to record rights and restrictions'.²⁰ As a result, 'land is allocated and expropriated based on political and other considerations'.²¹ Moreover, information about land lease and other related matters are 'closely held and not transparent'. Hence, only those with the right connection succeed in leasing lands.²²

The most serious corruption related problem, which is comparable with the worst cases in African and elsewhere, according to report, is detected in the new sectors which are apparently 'set on a

¹³ Shimelis Ayallew, *Corruption and Anticorruption in Ethiopia: A Case Study of the Ethiopian Customs Authority* (Unpublished MA Thesis, Addis Ababa University, 2005) 63-74.

¹⁴ Transparency International <www.transparency.org>> accessed on 15 May 2017

¹⁵ Transparency International 'Ethiopia: Corruption Perception Index' <<https://www.transparency.org/country/ETH>> accessed on 15 May 2017.

¹⁶ Janelle Plummer, 'Overview' in Janelle Plummer (ed.), *Diagnosing Corruption in Ethiopia Perceptions, Realities, and the Way Forward for Key Sectors* (World Bank, 2012) 1, 12-15.

¹⁷ *ibid.*

¹⁸ *ibid.*

¹⁹ Land has been a political issue in the country for centuries and at the centre of the popular movement of the 1970s. Hence the 1975 Revolution saw the nationalisation of rural and urban land in the country. Article 40(3) of the Constitution provides that '[t]he right to ownership of rural and urban land, as well as of all natural resources, is exclusively vested in the State and in the peoples of Ethiopia. Land is a common property of the Nations, Nationalities and Peoples of Ethiopia and shall not be subject to sale or to other means of exchange'.

²⁰ Plummer (n 16).

²¹ *ibid.*

²² *ibid.*

trajectory similar to highly corrupt countries'.²³ These include telecommunication, pharmaceutical and the like.²⁴

It is also reported that there is a widespread corruption within the defence and security establishments. Massive corruption and mismanagement of funds are reported to have taken place in the the Metal and Engineering Corporation (METEC), a large conglomerate which forms a part of the defense industry complex. METEC is involved in mega infrastructure project taking place in the country. It was contracted to build several sugar factories and subcontracted to work on electro-mechanical part of the Grand Ethiopian Renaissance Dam (GERD). However, according to the TI report, 'METEC's financial and budgetary links with the military are [not] clear, and there is no evidence that annual reports have ever been made available to the public'.²⁵ It is also reported that the energy sector in particular the various mega hydropower projects are affected by corruption.²⁶ The country is making massive investment in the hydropower sector. The GERD on its own is estimated to cost about \$ 5 billion. The size and the complexity of such projects and the mammoth amount of money that they involve have created a 'heightened risk of corruption' which takes the form of bribery and overcharging for goods and services.²⁷ Even worse, this sector involves 'a risk of policy capture, whereby vested interests influence decision making in the project's lifecycle to benefit themselves to the detriment of other stakeholders'.²⁸

Illicit Financial Flow (IFF) is the other major corruption related problem in the country which is severely hurting the country's economy. A report by African Union's High Level Panel on Illicit Financial Flows from Africa put Ethiopia among the top ten African countries, ninth to be precise, that lose revenue through IFF. This reports shows that Ethiopia has lost about \$16 billion in the past four decades.²⁹ A recent report of the Global Financial Integrity depicts a much gloomier picture regarding IFF than the above report. The report claims that, between 2004 and 2013, Ethiopia lost over \$ 26 billion with annual average loss of \$2.3 billion.³⁰ The report also shows that just in 2010, the country lost \$5.6 billion which exceeds the \$ 4 billion official development assistance that the country received in the same year.³¹ The money so stolen 'was about 11 times the total the amount of emergency aid being sought from donors in the current year to buy cereals from abroad and feed the drought victims'.³²

3.The FDRE Constitution on corruption

The Constitution does not specifically address the issue of corruption. Terms such as corruption, bribes, misuse of powers and funds are not even mentioned in the Constitution. It nevertheless contains certain principles that can be considered as 'anti-corruption'. Chapter 2 of the Constitution contains a list of 'fundamental principles of the Constitution'.³³ One of the five principles in this chapter requires transparency and accountability in the 'conduct of affairs of government'.³⁴ It also provides that 'public official or an elected representative is accountable for any failure in official duties'.³⁵ It goes without saying that transparency and accountability are antitheses of corruption since the latter thrives when government operates in a manner lacking transparency and without accountability.

²³ *ibid*, 13.

²⁴ *ibid*.

²⁵ Tehmina Abbas, Eva Anderson, Katherine Dixon, Hilary Hurd, and Gavin Raymond, *Regional Results: Africa Government Defense Anticorruption Index* (Transparency International Defense and Security, 2015) 13 <<http://www.corruptionwatch.org.za/wp-content/uploads/2016/01/GI-Africa-results-web.pdf>> accessed on 16 May 2017.

²⁶ Ben Wheatland, *Corruption and Anti-corruption in Ethiopia's Energy Sector* (Transparency International, 2015)

²⁷ *ibid*.

²⁸ *ibid*.

²⁹ *Illicit Financial Flow: Report of the High-Level Panel on Illicit Financial Flows from Africa* (Commissioned by the AU/ECA Conference of Ministers of Finance, Planning and Economic Development, 2015), 93. See also Maira Martini, *Transparency International Fighting Illicit Financial Flows from Ethiopia* (Transparency International, 2015).

³⁰ Dev Kar and Joseph Spanjers, *Illicit Financial Flows from Developing Countries: 2004-2013* (Global Financial Integrity, 2015) <http://www.gfintegrity.org/wp-content/uploads/2015/12/IFF-Update_2015-Final-1.pdf> accessed on 17 May 2017.

³¹ *ibid*. See also J Bansa, 'Rush for the exits: Why is Ethiopia's Capital Flight Accelerating?' (Addis Standard,) <<http://addisstandard.com/rush-for-the-exits-why-is-ethiopias-capital-flight-accelerating/>> accessed on 18 May 2017.

³² *ibid*.

³³ Constitution, Chapter 2.

³⁴ art 12(1).

³⁵ art 12(2).

The Constitution further establishes (or requires the establishment of) three institutions with direct and indirect mandates of combating corruption. One of such institutions is the Federal Auditor General which is established with the mandate to ‘audit and inspect the accounts of ministries and other agencies of the federal government’ with a view to ensuring ‘expenditures are properly made ... and in accordance with the approved allocations’.³⁶ The Auditor General, in addition to its regulatory responsibilities, has the power to audit ‘the accounts of the federal government offices and organisations’.³⁷ It can audit the regions regarding their use of subsidies and any special grants extended to them by the federal government.³⁸ It can also audit the accounts of private contractors who are awarded by the federal government a contractual work in the amount exceeding a million Birr.³⁹ The Auditor General has the power to conduct ‘performance audit’ regarding the legality and efficiency of federal government offices and public enterprises that are owned by the federal government.⁴⁰

In addition, the Constitution requires the establishment of ‘institution of the Ombudsman’ and a Human Rights Commission, even though without defining their mandates.⁴¹ The mandates of these institutions, as per the establishing proclamations, though not specifically anti-corruption, are indeed relevant for the anti-corruption efforts. The Ombudsman, for instance, has the responsibility to ‘rectify or prevent unjust decisions and orders of executive organs and officials’ and to ensure that citizens who ‘suffered from maladministration, are not left without, redress’.⁴² Decisions that are underpinned by corruption are by definition unjust. Corruption is also an aspect of maladministration and, hence, within the purview of the Ombudsman. The HRC is also authorised ‘to receive and investigate all complaints on human rights violations made against any person’.⁴³ Corruption is ‘not a victimless crime’ and there is a clear link between corruption and human rights violations.⁴⁴ As the former UN chief, Ban Ki-moon, said, ‘[c]orruption undermines democracy and the rule of law [and] leads to violations of human rights.’⁴⁵ National HRCs are also viewed central in the fight against corruption.⁴⁶ Therefore, the Ethiopian HRC can be considered as an anticorruption institution considering its mandates to investigate all complaints of human rights violations.

4. Policy reforms having anti-corruption objectives

Since EPRDF assumed power in 1991, public sector reforms have been introduced in three phases.⁴⁷ Fighting corruption in the civil service was among the official motives of these reforms.⁴⁸ The first phase of the reform was implemented from 1991 to 1996. The major aim of this phase of the reform was implementing structural adjustment programmes (SAP) which focused on ‘economic liberalisation and structural reforms in the public sector’.⁴⁹ The latter involved transforming the country’s governance system from a centralised one party system- which was entangled with corruption - to a federalised and multiparty system. This phase of the reform, as far as the public sector was concerned, included decentralisation, which culminated in the establishment of a federal system, ‘manpower rationalisation’, and salary increments to civil servants.⁵⁰

The second phase of the public-sector reform was launched in 1996 after a study commissioned by the Prime Minister office identified serious corruption related problems. The study revealed

³⁶ art 101.

³⁷ Office of the Federal Auditor General Establishment Proclamation 669 /2010 (Auditor General Proclamation).

³⁸ art 5(2).

³⁹ art 5(3).

⁴⁰ art 5(4).

⁴¹ arts 55 (14) and (15).

⁴² Institution of the Ombudsman Establishment Proclamation 211/2000 (Ombudsman Proclamation), preamble.

⁴³ Ethiopian Human Rights Commission Establishment Proclamation 210/2000, art 6.

⁴⁴ Among fundamental rights that are prone to violation due to corruption are the right to equality and not to be discriminated against, the right to political participation, the right to fair trial, economic, social and cultural rights including the right to food, water, shelter and the like. International Council on Human Rights Policy, *Corruption and Human Rights: Making the Connection* (ICHRP, 2009).

⁴⁵ United Nations Human Rights Office of the High Commissioner, *The Human Rights Case Against Corruption*, 3.

⁴⁶ *ibid.*, 5.

⁴⁷ Gebre Miruts and Melesse Asfaw, ‘The Implementation of Civil Service Reforms in Ethiopia: The Promise for Civil Service De-Politicization of Tigray National Regional State’ (2014) 4 *Developing Country Studies* 91, 93-94; Solomon Markos, ‘Civil Service Reform in Ethiopia: Issues, Lessons, and Future Directions’ 36(2013) *International Journal of Public Administration* 235, 239.

⁴⁸ The reforms had other political motivations. These are discussed under section 6.2.

⁴⁹ Solomon (n 47), 239.

⁵⁰ *ibid.*

that there was a lack of recognition from members of the civil service that they had a duty to serve citizens and that citizens were entitled to the services of the former. Members of the civil service thus sought rewards for discharging their responsibilities. There was also a lack of accountability for inadequate services. Moreover, the civil service lacked merit system and suffered from inadequate civil service wages. The second phase reform therefore aimed at building ‘a civil service capable of promoting democracy, federalism, and good governance’.⁵¹ The Civils Service Reform had five sub-programmes of which one was ‘the civil service ethics reform’.⁵² This sub-programme intended to:

‘improve awareness of civil servants that government activities should be free of fraud, embezzlement, corruption, and unwanted mal-practices; develop a feeling of commitment among the civil service employees to use government resources in an appropriate manner; develop necessary arrangements to have ethical practices in federal institutions and regional governments; improve the capacity of the police, courts, and attorneys to investigate and pronounce on unethical practices; improve the capability of the media to adequately search, investigate, and publicize unethical practices of government bodies; develop a code of conduct and educate the society about the need for and importance of ethical practices; and create institutions that will follow up and control unethical practices’.⁵³

Such an importance was attached to the programme that it was directly run by the office of the Prime Minister.⁵⁴

The third phase of the civil service reform was launched two years after a Corruption Survey that the federal government commissioned revealed ‘generalized dissatisfaction with the public sector’.⁵⁵ The study also exposed ‘institutionalised corrupt practices’ in some sectors, principally in the custom, land, and housing sectors.⁵⁶ The third phase of the civil service reform primarily aimed at ‘enhancing transparency and accountability of the Civil Service [and] building a civil service that is ethical and free of corruption’.⁵⁷

5. Legislative measures against corruption

The federal government has adopted several proclamations with a view to tackling the challenges of corruption. The proclamations define and criminalise acts that constitute corruption and provided special and stricter procedures for their investigation and prosecution. They have also established institutions that have corruption prevention, investigation, and prosecution mandates.

5.1. Criminalising acts constituting corruption

The federal government has enacted a proclamation that specifically criminalises acts constituting corruption.⁵⁸ Indeed, the Criminal Code of 2004 already contains a long list of what it defines as ‘crimes against the public’ which are principally acts of corruption.⁵⁹ The Criminal Code replaced the Penal Code of 1957, among others, because the latter did not specifically and adequately deal with corruption.⁶⁰ The aforementioned Proclamations in turn seeks to rectify some of the shortcomings of the 2004 Criminal Code and create clarity on acts that constitute corruption. The proclamation extends the definition of corruption to those offenses that are committed within private organisations that are however established for the benefit of the public or operate using

⁵¹ *ibid*, 240

⁵² The other sub-programmes were top management system reform, human resource management reform, expenditure management and control reform, public service delivery reform. *ibid*.

⁵³ *ibid*.

⁵⁴ *ibid*.

⁵⁵ *ibid*.

⁵⁶ Tewodros Mezmur and Raymond Koen, ‘The Ethiopian Federal Ethics and Anti-Corruption Commission: A Critical Assessment’ (2011)15 *Law Democracy and Development* 1, 3.

⁵⁷ Solomon (n 47), 241

⁵⁸ Corruption Crimes Proclamation 881/2015.

⁵⁹ See Criminal Code of the Federal Democratic Republic of Ethiopia Proclamation 414 /2004, art 402-442.

⁶⁰ *Preamble*.

funds collected from the public.⁶¹ The enactment of the proclamation was also a national mechanism of implementing regional and international conventions that require criminalisation of acts of corruption such as ‘bribery, embezzlement and other similar acts committed by the private sector’.⁶²

The proclamation has a long list of what it defines are actions (inactions) having the character of corruption. These include those that are committed by both public servants and employees of public organisations against public offices and public organisations, respectively. There are 15 broadly defined offences in this category. These include abuse of power and responsibility, taking bribes or undue advantages, maladministration of public office and public organisation, unlawful disposal objects, misappropriation of goods and funds, trafficking in official powers. Also, included in this category are illegal collection of funds, unduly delaying matters, taking things of value without or with inadequate payment, improper provision or renewal of licenses, possessing unexplainable property, breach of official secrecy, suppression of official documents and the like.⁶³ Acts of corruption that are committed by non-public servants against public offices or public organisations are also included in the proclamation. Among such crimes are giving bribe or facilitating bribery, giving things to a public official or an employee of a public organisations without or with little consideration, impersonating public official and the like.⁶⁴

The above acts constitute corruption if and when committed with the intent to ‘obtain or procure undue advantage or to cause injury of another person’.⁶⁵ Under the proclamation, the state does not bear the responsibility of proving that an act constituting corruption was committed with the above intent in mind. All it needs to prove is that one has indeed committed one of the acts in the list above. Then the accused would be presumed to have committed the alleged acts with the intention to gain benefit for himself/herself or another, or simply to harm another.⁶⁶ Hence it is up to the suspect to prove that he/she did not have such intents. The proclamation also provides that legal persons, such as companies and enterprises, would be held responsible for the acts of their owners or employees and receive pecuniary penalty ranging from a minimum of ETB 20, 000 to an amount in excess of ETB 800, 000.⁶⁷

A proclamation is also adopted that provides a special, and much stricter, procedures that are specifically applicable for prosecuting those who are accused of corruption.⁶⁸ For instance, under this proclamation, one who is accused of, and arrested for, corruption may not be released on bail if the crime he is accused of is punishable with 10 or more years of imprisonment.⁶⁹ The proclamation also provides procedures for restraining or confiscating properties that have been acquired through corruption.⁷⁰

5.2. Institutions with anticorruption mandates

⁶¹ These includes companies that are established with money collected from the public including share companies, private limited companies and the like. Particular focus seems to be on those public endowments such as Endowment Fund for the Rehabilitation of Tigray (Effort) and *Tiret* which are affiliated to EPRDF, TPLF and ANDM, in particular. There is allegation there is pervasive corruption in these endowments. Religious organisations, political parties, international organisations and traditional organizations are not considered ‘public organisation’ for the purpose of the proclamation. For more on this see *ፀረ ሙስና ኮሚሽንን የሚያገዝፉት አዋጆች ቢፓርላማው ፀደቀ* (Parliament Adopts Laws Strengthening the Anticorruption Commission) <<http://www.abysinnialaw.com/legal-news/item/1375-2015-01-15-07-58-29>> accessed on 18 May 2017.

⁶² Preamble. The regional one is the the African Union Convention on Preventing and Combating Corruption which Ethiopia ‘signed on 1 June 2004 and ratified it on 18 September 2007’. The global one is the United Nations Convention against Corruption (UNCAC). The country signed this Convention ‘on 10 December 2003 and ratified it on 26 November 2007’ Mezmur and Koen (n 56) 4.

⁶³ Corruption Crimes Proclamation, art 9-24.

⁶⁴ art 26.

⁶⁵ art 3.

⁶⁶ art 3.

⁶⁷ A legal person, other than government office, pays ETB 20 000 fine in lieu of a single year imprisonment when the crime is punishable with simple imprisonment. It pays ETB 30 000 in lieu a single imprisonment when the crime is punishable with five-year imprisonment and ETB 50 000 for every year of imprisonment when the crime is punishable with 5 to 10 years’ imprisonment. For a corruption crime that is punishable by more than 10 years, a legal person pays 80 000 in lieu of each year of imprisonment. art 5.

⁶⁸ The Revised Proclamation to Provide for Special Procedure and Rules of Evidence on Anti-corruption 434/2005.

⁶⁹ art 4(1). This provision before it was amended in 2005 made no such a distinction. Under that law anyone who was charged with corruption was kept in prison until the final verdict was rendered, regardless of the severity of the corruption charges.

⁷⁰ Section 3 & 4.

The federal government has established an Ethics and Anti-Corruption Commission with a view to fighting corruption.⁷¹ The EACC is composed of a Commissioner, a deputy commissioner and relevant staff.⁷² The Commissioner is appointed by the HoPR upon the recommendation of the Prime Minister.⁷³ The deputy commissioner is appointed by the Prime Minister and Parliament's approval is not required for this appointment.⁷⁴ The commissioners are appointed for a six-year term, with possible reappointment for an additional term.⁷⁵ As per the Proclamation, they cannot be dismissed before the end of their term except on account of health, incompetence and violation of 'the provisions of the relevant code of conduct'.⁷⁶

The EACC was initially established to deal with 'serious corruption offences' which are crimes 'involving huge amount of money committed in highly strategic public offices, public enterprises, and public organisations', those involving a public official or those that cause or are capable of causing a grave danger to the national sovereignty, economy, security or social life'.⁷⁷ The Commission had investigative and prosecutorial mandates in relation to these crimes. These powers have now been transferred to the Attorney General. The EACC is therefore left only with its corruption prevention mandates.⁷⁸

The corruption prevention mandates of the Commission include preparing and ensuring the enforcement of codes of ethics in public offices and enterprises.⁷⁹ It is also authorised to study and identify methods and procedures of decision making in public offices with a view to assisting the latter to introduce corruption-proof working methods. Moreover, it is responsible for creating awareness about corruption and its adverse consequences on the country's economic development. It has the authority to register assets and financial interests of public officials who are legally required to have their assets and interests registered by the Commission.⁸⁰ The Commission is accountable to the Prime Minister⁸¹ and its budget is determined by the council of ministers.⁸²

The Federal Attorney General is a newly established institution with the mandate, among others, to investigate and prosecute corruption.⁸³ The Attorney General is established as a ministerial office. The holder of the office is, therefore, appointed by HoPR, upon the recommendation of the Prime Minister.⁸⁴ The Prime Minister has the power to appoint a deputy Attorney General without the approval of the HoPR.⁸⁵ The Prime Minister also retains an exclusive power to dismiss both the Attorney General and his/her deputy.⁸⁶

The establishing proclamation of the Office of the Attorney General brings under the competence of the latter all crime investigations and prosecutions which were previously exercised by specialised agencies, such as, the EACC and the Ethiopia Revenue and Custom Authority (ERCA). This was done with the declared purpose of establishing a single strong law enforcement and prosecution institution that can deliver 'effective, uniform and efficient' services.⁸⁷ The Attorney General is, hence, empowered to investigate and prosecute 'alleged or suspected corruption offences [that are] committed by public officials or public employees or other persons in public offices or public enterprises, or in the regional offices relating to subsidies granted by the federal

⁷¹ Federal Ethics and Anti-Corruption Commission Establishment Proclamation 433/2005 as amended by Revised Federal Ethics and Anti-Corruption Commission Establishment (Amendment) Proclamation 883(2015). (Anti-Corruption Commission Proclamation)

⁷² art 10.

⁷³ art 10(1).

⁷⁴ art 10(2).

⁷⁵ art 14(1).

⁷⁶ art 14(2).

⁷⁷ art 2(9).

⁷⁸ art 8(2).

⁷⁹ art 7(10).

⁸⁰ Disclosure and Registration of Assets Proclamation 668 /2010 requires all appointees, elected officials, and public servants to disclose to the Commission their sources of their income, assets and the income and assets of their family members and close relatives. The law provides that information regarding the income and asset of appointees, elected officials and civil servants would be accessible for the public.

⁸¹ Anti-Corruption Commission Proclamation, art 3.

⁸² art 21(1).

⁸³ A Proclamation to Provide for the Establishment of the Attorney General of the Federal Democratic Republic of Ethiopia 943/2016 (Attorney General Proclamation).

⁸⁴ art 7(1).

⁸⁵ *ibid.*

⁸⁶ art 10.

⁸⁷ preamble.

government to the regions'.⁸⁸ It is also authorised to settle corruption cases through a process that does not necessarily involve prosecution. To this effect, it can withdraw 'corruption investigation and charges as well as corruption cases pending in the court of law'. It can also 'terminate corruption investigation or corruption charges by ensuring the forfeiture of the advantages obtained from the crime'.⁸⁹

6. Why is corruption out of control in Ethiopia?

The forgoing discussion reveals that there are several institutions with anticorruption mandates including the Ombudsman, the HRC, the Auditor General, the Attorney General and the EACC. Moreover, these institutions, with the exception of the Attorney General which was only recently established, had existed for over a decade. Yet these institutions have not been successful in terms of containing the spread of corruption since corruption has worsened in the country over the years. As was mentioned in the introduction, corruption has become a threat to the peace and stability of the country. This begs the question: why is corruption becoming out of control in Ethiopia? Why are the institutions with anticorruption mandates unsuccessful in combating corruption in the country?

6.1. Weak anticorruption institutions

One possible explanation for the ever-worsening corruption in the country is that the institutions that are supposed to act as anticorruption watchdog lack strong constitutional protection and, therefore, institutional independence that they need in order to effectively discharge their mandates. From among the institutions that have direct and indirect anticorruption mandates, only the Auditor General is constitutionally established. Indeed, the Constitution requires the establishment of HRC and the Ombudsman and, therefore, the existence of these institutions is constitutionally guaranteed. The Constitution however leaves matters relating to how the holders of these offices are appointed and dismissed, the mandates of the institutions, and how they are financed to be defined in ordinary legislation. These two institutions are therefore essentially creatures of ordinary legislation. In any case, the HRC and the Ombudsman involve in anticorruption efforts only incidentally since those are not their core functions.

The EACC and the Attorney General are also established through ordinary legislation and they have no constitutional protection. The proclamations establishing these institutions allow the involvement of the executive branch of the federal government in the appointment and dismissal of the heads of the institutions, in how they are financed, and in other related matters. For instance, only the Director General of the Ombudsman is appointed without the Prime Minister's decisive involvement.⁹⁰ The Auditor General, the director of the EACC, and the Attorney General are handpicked by the PM and confirmed by Parliament. Parliament, which is completely controlled by a party, of which the PM is the chairman, is not expected to second guess the Prime Minister's nominees. Moreover, the deputy director of EACC and the deputy Attorney General are selected and appointed by the Prime Minister. The Prime Minister does not even need to seek the confirmation of Parliament for these appointments. Furthermore, as was mentioned above, the director and the deputy director of the EACC and the Attorney General are accountable to the Prime Minister as opposed to the HoPR. These institutions are also dependent on the executive for their finances.⁹¹

The government could, therefore, create, abolish, empower and disempower these institutions at will. For instance, the EACC was supposed to be the principal anti-corruption institution. Now it is stripped of all its investigative and prosecutorial authorities and those are given to the Attorney General. It is indeed too early to pass a judgment on the effectiveness of the Attorney General in

⁸⁸ As part of the exercise of its investigative powers, the Attorney General can 'obtain information about any bank account of suspected persons' without the need to secure a court order. It can also ensure the money in the bank account of a suspected person is attached after having secured a court order to this effect. Moreover, with a court order, it can freeze the assets of any person under investigation for corruption. It can even forfeit any assets and wealth once it is proved that the asset was obtained through corrupt activities. The Attorney General can also forfeit the asset of a person who is convicted of corruption that is equivalent to what has been proved to have been obtained through corruption. Anti-Corruption Commission Proclamation, art 7(4) read with the the Attorney General Proclamation, art 8(2)(b).

⁸⁹ Anti-Corruption Commission Proclamation, art 9(15).

⁹⁰ A committee made up the speakers of HoPR and HoF, five members of the HoPR, two members of the HoPR from opposition parties, and the president of the federal Supreme Court nominates individuals it deems are appropriate for the position present the list of the nominees to the HoPRs. The nominees are appointed if two-third of members of the HoPR support their appointment. The Ombudsman Proclamation, art 10 & 11.

⁹¹ Anti-Corruption Commission Proclamation, art 21(1).

terms of combatting corruption since it was established a few months ago. However, there are structural flaws that are likely to undermine its role as anticorruption watchdog. First, it is neither designed nor intended to be an independent institution. The Office of the Attorney General is a mere ministerial office the holder of which is solely accountable to the PM. Second, the Attorney General is responsible for prosecuting all sorts crimes ranging from pickpocketing to crimes against humanity. It would, therefore, lack the necessary focus and attention that the investigation and prosecution of corruption demands. Moreover, it is likely that the General Attorney would lack the specialisation that the EACC is supposed to have in terms of investigating and prosecuting corruption.

Political interferences are, it is maintained, the other cause for the ineffectiveness of the aforementioned anticorruption institutions. As was mentioned above, the EACC, has been the principal anticorruption watchdog for over a decade. The Commission had some success stories in terms of investigating and prosecuting corruption. Mezmur and Koen write:

‘In one 2006 case, twelve senior officials of the Development Bank of Ethiopia were prosecuted for corruption in respect of bank policy and overseas transfers. In 2007, the Commission prosecuted 49 land corruption cases which resulted in “the confiscation of over 575 000 square metres of land at an estimated value of almost USD 120 million”. From 2008 the Commission led the investigation and prosecution of executives of the Ethiopian Telecommunications Corporation (ETC) for corruption involving the tendering process for the provision of a mobile telephone network. Tesfaye Birru, the former CEO of the ETC, allegedly approved the contract being awarded illegally to Ericsson of Sweden, resulting in a loss of \$126 million to the corporation. Birru and 16 of his fellow executives were convicted of corruption in January 2011.’⁹²

However, as mentioned at the beginning in relation to the Seye Abraha’s case, the EACC was far from independent. It was under the influence of those in high positions and was used to target for investigation and persecution those officials who fell from grace in the ruling party.⁹³ EACC is not the only institution in the justice sector that suffers from political interference. The PSRC study on good governance clearly states that politicians in high positions interfere in the institutions in the justice sector, including the EACC.⁹⁴ Reports show that the police, prosecutors and judges all fall under political control. For instance, the World Bank report on corruption in Ethiopia states that politicians determine whether or not an alleged crime, acts of corruption included, should be investigated or prosecuted depending on the political implications of each case.⁹⁵ They also give instructions regarding whether the police should arrest one who is suspected of a crime, release him/her on bail or otherwise. They do so by simply making a call.⁹⁶ The politicians even determine, on the basis of political consideration, the length of time that a court should take to decide on a specific case.⁹⁷ Hence, those in high positions decide whether a court should decide a case swiftly or drag it for multiple years. They even pick a judge/judges who could preside over some politically sensitive cases.⁹⁸

The Auditor General appears to have greater institutional independence compared to the EACC and the Attorney General, among other things, because it is constitutionally established. Indeed, under the Constitution, the Prime Minister is authorised to nominate the person he deems fit for the office. However, Parliament has the final say on the appointment the Auditor General.⁹⁹ Unlike in case of the EACC and the Attorney General, the Prime Minister does not even have the authority to appoint deputy Auditor Generals on his/her own. He/she needs the approval the HoPR.¹⁰⁰ More importantly, the Prime Minister plays no role in the Auditor General’s and the deputy auditor generals’ dismissal.¹⁰¹ Moreover, the Auditor General is exclusively accountable to the HoPR as

⁹² Mezmur and Koen (n 56).

⁹³ *ibid.*, 22.

⁹⁴ የኢ.ፌ.ዴ. ሪፖርት ላይ ጥናትና ምርምር ማዕከል (n 9) 95.

⁹⁵ Linn A. Hammergren ‘Justice Sector Corruption in Ethiopia’ in Jannele Plummer (ed.), *Diagnosing Corruption in Ethiopia Perceptions, Realities, and the Way Forward for Key Sectors* (World Bank, 2012) 181, 195.

⁹⁶ የኢ.ፌ.ዴ. ሪፖርት ላይ ጥናትና ምርምር ማዕከል (n 9), 95.

⁹⁷ *ibid.*

⁹⁸ *ibid.*

⁹⁹ Under the establishing proclamation, the Auditor General could be dismissed only when unable to perform his/her duty due to health-related problems, incompetence, being involved in corruption or ‘committing unlawful acts’. A committee formed by the HoPR is formed to investigate if any of the grounds for the AG’s dismissal is alleged. The HoPRs could then dismiss the AG if the committee recommends his dismissal. Auditor General Proclamation, art 6.

¹⁰⁰ art 7.

¹⁰¹ art 10.

opposed to the Prime Minister.¹⁰² When Parliament is on recess, the Auditor General reports to the FDRE President who is, at least in principle, the head of state without executive power or affiliation to any political party; seemingly a deliberate legislative design that seeks to shield the Auditor General from the executive.¹⁰³ Furthermore, it has budgetary autonomy since it is authorised to draw up its own budget and directly submit to the HoPR for approval, presumably to safeguard its independence.¹⁰⁴

Practice also shows that the Auditor General on the whole acts as an independent institution. Its annual reports often expose massive financial mismanagements at federal and state level. For instance, the AG's 2014/15 report shows that over ETB 1 billion remained uncollected by the Ethiopian Revenues and Customs Authority, ETB 368 million was spent without the proper documentation, and ETB 957.5 million was spent for purchasing good services in a manner that violates the relevant purchase laws.¹⁰⁵ Previous reports of the Auditor General have also exposed similar mismanagement of funds and inadequate performances.

However not even the Auditor General is completely immune from political interferences. There seems to be a limit to the amount of negative reports of this institution that the government could stomach. The executive is takes a decisive measure even against the Auditor General when the latter crosses certain redlines. For instance, in July 2006, Lemma Argaw, the then Auditor General, reported to HoPRs that some of the regional states failed to account for ETB 7.2 billion which was transferred to them by the federal government as conditional and unconditional grants. He also added that some of the federal executive offices spent more money than allowed in the budget. The report angered the then PM Meles Zenawi and he swiftly and *illegally* dismissed Lemma.¹⁰⁶ This shows that a constitutional protection on its own does not completely shield anticorruption institutions from political interferences. It also requires a commitment from the politicians to respect the independence of such institutions. However, constitutional protection is likely to minimise political interferences in such institutions.

6.2. Muzzled media and strangulated civil society organisations

It is generally recognised that free media and CSOs have a central and indispensable role to play in anticorruption efforts. An independent press is believed to play a critical role of uncovering corruption by government officials and business organisations. It is even assumed that countries with free press are likely to have less corruption.¹⁰⁷ CSOs also play an important role in anticorruption efforts by condemning corruption, creating political will for anticorruption efforts, insisting on transparency and ensuring the implementation of antibribery rules.¹⁰⁸

The FDRE Constitution provides the necessary principles for the establishment of free media and CSOs. It recognises freedom of expression, the right to 'receive and impart information and ideas of all kinds', and freedom of the press, including 'prohibition of censorship and the right to access information of public interest'.¹⁰⁹ It also recognises freedom of association 'for any cause or purpose' so long as the cause or purpose does not involve a crime or subverting the constitutional order.¹¹⁰

The Ethiopian media enjoyed a relative freedom in the early 1990s and early 2000s. As a result, newspapers and magazines mushroomed in the first ten or so years after EPRDF assumed power. This freedom was however slowly eroded in the successive years. The 2005 elections changed

¹⁰² art 6(1).

¹⁰³ art 6(2).

¹⁰⁴ art 13(5).

¹⁰⁵ Brook Abdu 'Billions Improperly Accounted for in Auditor General's Report' (Addis Fortune, 8 June 2015) <https://addisfortune.net/articles/billions-improperly-accounted-for-in-auditor-generals-report/> accessed on 14 May 2017.

¹⁰⁶ Keffyalew Gebremedhin, 'Transforming Ethiopia Calls for Commitment to Laws, Regulations and Procedures' (The Ethiopian Observatory, 20 April 2011) <<https://ethiopiaobservatory.com/2011/08/02/it-is-one-thing-to-transition-to-complex-program-budgeting-system-another-to-govern-by-principles-of-transparency-accountability-2/>> accessed on 17 May 2017.

¹⁰⁷ Aymo Brunetta and Beatrice Wederb, 'A Free Press is Bad News for Corruption' (2003) 87 *Journal of Public Economics* 1801–1824.

¹⁰⁸ Organisation for Economic Co-operation and Development (OECD), *Fighting Corruption: What Role for Civil Society? The Experience of the OECD* (2015) <<https://www.oecd.org/daf/anti-bribery/anti-briberyconvention/19567549.pdf>> accessed on 19 May 2017.

¹⁰⁹ art 29.

¹¹⁰ art 31.

everything in this regard. The private media allegedly reported favorably about opposition parties before and after the elections while it did the opposite with respect to EPRDF. This did not settle well with the ruling party and, therefore, it began taking various measures to restrict free press.

‘The post-election media restrictions commenced in June 2005, when the Ministry of Information revoked the accreditation of five Ethiopian journalists working for foreign media, accusing them of unbalanced election reporting. Four editors of private newspapers were arrested after reporting a story ‘embarrassing’ the government, and the editor of Satanaw newspaper was sentenced to one month in prison for articles covering the courts’ handling of the election results. ... On the 2 November 2005, the Ministry of Information issued a statement accusing the private media of being mouthpieces of the opposition in protesting the election results and threatened them with arrest. The foreign media was also accused of acting in the same manner and many journalists left the country in fear of attacks. During the first two weeks of November several journalists and two editors were arrested. The majority of the private newspapers that were published in Addis Ababa before the 2005 elections were still suspended in December 2008, although some of them have been published under new names.’¹¹¹

The EPRDF led government passed several legislations that have the impact of, if not intended to, restricting the media, the most important ones being Freedom of the Mass Media and Access to Information Proclamation 590/2008 and Anti-Terrorism Proclamation 652/2009. The first one regulates the media. This proclamation indeed reaffirms the constitutional principles on free media and, as rule, recognises freedom of the press.¹¹² However, it contains several restrictions that eat into the freedom of the press. The first restriction is what is called ‘the defamation clause’. Article 43(7) of the proclamation imposes criminal liability for ‘accusations and defamation against the constitutionally established legislative, executive or judicial authorities’. One’s criminal liability in this respect does not depend on whether or not an individual member of these institutions has sustained material or psychological damage as a result of a certain media report. This means ‘journalists and other members of the media can be criminally prosecuted, fined, or jailed for defamation when there is no victim’.¹¹³ This provision appears to ‘retrogressive and draconian’ when seen ‘in light of the global attitude surrounding laws of criminal defamation, especially for violations against governments’.¹¹⁴ The second restriction relates to the registration regime. The proclamation provides a wide discretion to the Ministry of Information (MoI) in relation to licensing and registration. The MoI could ‘shut down, question, or even prosecute’ any media whose media products it deems criminal. This makes the existence of free media dependent on the ‘whims’ of the government. The proclamation imposes excessive fines for defamation and the like. A media may be fined up to ETB 1 million Birr. What is absurd about this is that other more serious offenses, such as rape, bring much less fines.¹¹⁵ The defamation clause, the registration regime and the excessive fines take away from the media the freedom ‘to question the government’s actions or statements’.¹¹⁶

The Anti-terrorism proclamation renders a crime publishing or causing the publication of ‘a statement that is likely to be understood by some or all of the members of the public to whom it is published as a direct or indirect encouragement or other inducement to them to the commission or preparation or instigation of an act of terrorism’.¹¹⁷ The crime is punishable with 10 to 20 years of imprisonment.¹¹⁸ This provision is said to have a chilling effect on the media. Indeed, even before the adoption of this law the political environment was never ideal for free press. Journalists from private media were often excluded from press briefings and government officials seldom responded to their queries. Only state owned media had unrestricted access to public officials.¹¹⁹ Moreover, tens of journalist were accused of ‘parody, dissemination of false information and the violation of press law’.¹²⁰ However, they were rarely denied bail and the sentences were fairly short. The passing of this law has however grave impact on the media. For instance, tens of

¹¹¹ Lovise Aalen and Kjetil Tronvoll, ‘The End of Democracy? Curtailing Political and Civil Rights in Ethiopia’ (2009) 36 *Review of African Political Economy* 193, 200.

¹¹² Freedom of the Mass Media and Access to Information Proclamation, preamble.

¹¹³ Tracy J. Ross, ‘A Test of Democracy: Ethiopia’s Mass Media and Freedom of Information Proclamation’ (2010) 114 *Penn State Law Review* 1047, 1060.

¹¹⁴ *ibid.*

¹¹⁵ *ibid.*

¹¹⁶ *ibid.*

¹¹⁷ Anti-Terrorism Proclamation 652/2009, art 6.

¹¹⁸ *ibid.*

¹¹⁹ Peter Sekyere and Bossman Asare, ‘An Examination of Ethiopia’s Anti -Terrorism Proclamation on Fundamental Human Rights’ (2016) 12 *European Scientific Journal January* 351, 359.

¹²⁰ *ibid.*

journalists have been found guilty of ‘conspiracy to commit terrorist acts, participation in a terrorist organization and treason’.¹²¹ Others have left the country, allegedly, for fear of prosecution based on the aforementioned proclamation.

The above two proclamations have had restrictive impacts on the free media. This, in turn, has severely limited the media’s capacity to play a meaningful role in anti-corruption efforts.

The other target of the post-2005 elections legislative reforms are CSOs. The federal government passed a law that sought to regulate the activities of CSOs.¹²² It allegedly decided to pass this legislation because some CSOs showed an interest to act as independent observers in the 2005 election and they dared to take the matter to court when the National Electoral Board of Ethiopia initially tried to curtail their involvement in this regard.¹²³

The proclamation contains several provisions that aim to restrict the operations of CSOs including strict registration and licensing requirements and intrusive government inspection regime.¹²⁴ Moreover, the proclamation categorises CSOs into Ethiopian, Ethiopian residents, and foreign CSOs depending on their membership and origin of funds.¹²⁵ It further provides that only Ethiopian CSOs could raise political issues, engage in advocacy of human rights (including promotion of gender equality, children rights, rights of people with disability), democratic participation, and promotion of efficiency in justice administration and law enforcement and the like.¹²⁶ Other CSOs, as per this law, are restricted to providing relief in case of emergency, undertaking charity works, or engaging in activities that are less politically sensitive, such as, sport, culture and the like.¹²⁷ So only Ethiopian CSOs can engage in anticorruption efforts since these are an aspect of promoting democracy, efficiency in public administration, and law enforcement.

This has two inter-related problems. First, most of the Ethiopian CSOs, including youth associations, women associations, teachers’ associations and the like, are affiliated to the ruling party.¹²⁸ Others are ‘monopolised by a single-issue opposition bent on replacing the current government’.¹²⁹ Those few CSOs that are indeed independent operate under the fear of being accused of having affiliation with opposition parties and losing their licenses. Even worse some of the leaders of such CSOs are criminally charged and sent to jail.¹³⁰ The existing Ethiopian CSOs therefore lack the necessary independence or are too intimidated to effectively lobby for, or ensure the enforcement of, anticorruption rules. Second, the 10-percent upper limit on the fund they could receive from foreign sources mean that the Ethiopian CSO, which are unaffiliated to the party, remain in a perpetual state of financial ‘depression’. Any role that the CSOs could have played in anticorruption efforts is thus severely weakened.

6.3. *De facto* one party system, politicised civil service and developmental state paradigm

As per the 1995 Constitution, Ethiopia is a multiparty democracy.¹³¹ And since 1995, five national, regional and local have been held in the country. Opposition parties had some, indeed growing,

¹²¹ *ibid.*

¹²² Charities and Societies Proclamation 621/2009 (Societies proclamation).

¹²³ Aalen and Tronvoll (n 111).

¹²⁴ The Proclamation creates a government agency called ‘Charities and Societies Agency’ which under the proclamation has the power to or not give licence to a CSO and a wide supervisory power over CSOs which allow it to interfere in the internal affairs CSOs. *ibid.*

¹²⁵ A CSO is deemed Ethiopian if it is established by Ethiopia’s, under Ethiopian law. A CSO that raises over 90 percent of its funds from within the country is also considered as Ethiopian CSO. A CSO formed by residents of Ethiopia and that receives over 10 percent of its revenue from foreign sources are considered ‘Ethiopian residents’ CSO. A foreign CSO is one established by foreigners, under a foreign law. Societies proclamation, art 2(2-4).

¹²⁶ art 14(5).

¹²⁷ *ibid.*

¹²⁸ In another work this author argues that EPRDF’s yearning to restrict the existence of independent CSOs emanates from its ‘revolutionary democracy’ ideology and its self-perception as a vanguard party of the country. As a vanguard party, EPRDF seeks to retain an exclusive control over the country’s political, economic and social movements. Under EPRDF’s rule, therefore, institutions such as the electoral board, courts, the police, and civil society organisations, which are ordinarily expected to be independent, are neither intended to be independent nor are they neutral in practice. On the contrary they form part of EPRDF’s network. See Zemelak Ayitenew Ayele, *A blend of semi-consociationalism and vanguardism: Explaining the results of the 2015 regional elections of Ethiopia* (Unpublished, 2017).

¹²⁹ Strategic Thinking on East Africa ‘The Role of Civil Society in Ethiopia’s Current Crisis: Who will make the first move?’ < <http://www.strathink.net/ethiopia/the-role-of-civil-society-in-ethiopia-current-crisis-who-will-make-the-first-move/> > accessed on 26 May 2017.

¹³⁰ Awol and Beza (n 5), 290.

¹³¹ art 56.

representation in Parliament and regional councils in the elections held in the first fifteen years after the establishment of the federation. In particular, in the 2005 elections, two opposition political parties, the Coalition for Unity and Democracy (CUD), a coalition of four national opposition parties, and the United Ethiopian Democratic Forces (UEDF), a collation of several ethnic-based parties, between themselves secured over 174 parliamentary seats in the highly contested 2005 general elections. The representation of opposition parties, which rose to over 30 percent in the 2005 election, sharply dropped to a single seat in the 2010 election and became zero in the 2015 general elections. The last election resulted in EPRDF's complete dominance of all representative councils at all levels of government resulting in a *de facto* one party system.

Leaving aside the causes that led to this situation,¹³² the lack of competitiveness in the country's elections and the exclusion of opposition parties from all political institutions is likely to have contributed to the rise of corruption in the country. There are strong empirical evidences that link competitive democracy with a reduced incidence of corruption.¹³³ For instance, Boehm, using data obtained from World Bank and Freedom House, maintains that 'the twenty least corrupt countries' in the world have a functioning competitive democracy while the most of 'high corrupt countries' lack competitive democracy. This is simply because politicians who tolerate or are involved in corruption 'would not survive in a political contest for votes'.¹³⁴

As mentioned above, competitive elections are absent in Ethiopia since the results of the elections that are held every five year are a foregone conclusion. Thus a *de facto* one party system has emerged in which EPRDF has no one to check or question its decisions or hold it accountable. The institutions that are supposed to play an oversight role over the executive lack a modicum of independence and are often used for political purposes. Internally, EPRDF, its constituent units and affiliates operate based on the principle of 'democratic centralism' which means those in the party's central structure are beyond the control the ordinary members of the party. The leadership style in EPRDF is elitist and secretive in which 'a select few top leaders without the participation of the wider membership make key decisions' that impact the political and economic life of the country; a complete reverse of the kind transparency that the Constitution requires.¹³⁵ Moreover, in practice, there is hardly any distinction between the party and the state and often state structures are employed to serve the interest of the party.¹³⁶ The combination of all these creates a fertile ground for corruption.

Besides, following the 2005 elections, EPRDF undertook a massive recruitment of members and the membership of the party, which was 760, 000 in 2005, swelled to 4 million just after three years. The party used what Aalen and Tronvoll call 'stick and carrot strategy' to enhance its membership. The 'carrot' in this context, among other things, was a promise of employment in the federal and regional civil services and state owned enterprises.¹³⁷ It became an unwritten rule that one has to be a member of the party to find employment in the federal and state government. Being a member of, and loyal to, the party therefore was the principal criteria to find a job in the country's civil service. University students began lining up at the party's branch offices, a year or two before graduation, to be registered as party members. The civil service reform, in particular the capacity building programmes, which were implemented with assistance of international donors and in the name of fighting corruption, were also used to ensure that the entire civil service was controlled

¹³² Some argue the dominance of EPRDF is a result the electoral system that supposedly disfavours opposition parties and the absence of independent election commission. Others point to the numerous pieces of legislation that the EPRDF dominated parliament passed with the intent to stifling free press and suppressing civil society organisation. Yet others allege that the political environment in the country has become hostile to opposition parties (especially after the 2005 elections) while others blame opposition parties themselves for the situation pointing to the latter's organisational weaknesses. See Leonardo R. Arriola and Terrence Lyons, 'Ethiopia: The 100% election' (2016) 27 *Journal of Democracy* 76; Wondwosen Teshome, 'Political finance in Africa: Ethiopia as a case study' (2009) 3 *International Journal of Social, Behavioral, Educational, Economic, Business and Industrial Engineering* 1639; Kjetil Tronvoll, 'Briefing: The Ethiopian 2010 federal and regional elections: re-establishing the one-party state' (2011) 110 *African Affairs* 121.

¹³³ Frédéric Boehm, 'Democracy and corruption' (2015) 13 *Dimensión Empresarial* 75, 77. Also see Ivar Kolstad and Arne Wiig *Does Democracy Reduce Corruption?* (Chr. Michelsen Institute working paper 4, 2011).

¹³⁴ *ibid.*

¹³⁵ Asnake Kefale, *Federalism and ethnic conflict in Ethiopia: A comparative regional study* (Routledge, 2013) 75.

¹³⁶ There is an office in charge of public mobilization and ideological works at local, regional and federal levels. The holder of such an office is a member of a local, regional or federal cabinet, as the case may be, and his salary is paid from the government's budget. The office is however principally, if not exclusively, engaged in recruiting members to the party, disseminating the party programme and undertaking other party related activities.

¹³⁷ Lovise Aalen and Kjetil Tronvoll, 'Briefing: The 2008 Ethiopian Local Elections: The Return of Electoral Authoritarianism' (2008) 108 *African Affairs* 111.

by members of the EPRDF.¹³⁸ Those having dissenting views in the civil service were expelled in a process of ‘*tehadiso*’ (renewal) ‘*gimgema*’ (criticism or self-criticism). Members of the civil service whose loyalty to the party was not in question were left undisturbed regardless of their involvement in corruption. An official or a public servant who is accused of corruption is simply transferred from one office to another, often through promotion, so long as his/her loyalty to the party was not in question.¹³⁹

In addition, the EPRDF-led government declared that it would follow the ‘developmental state paradigm’ which, in a nutshell, entails the active involvement of the state in the economic sector.¹⁴⁰ The government is hence involved in multibillion dollar investments, particularly in the energy sector. The hydropower projects, including the GERD, are exclusively state run projects. The government is also involved in metallurgical industry through the METEC. Moreover, EPRDF and its constituent units are directly involved in the economy through so called public endowments such as Endowment Fund for the Rehabilitation of Tigray (Effort) and *Tiret*, Tumsa Endowment Foundation for Oromia Development, which are owned by TPLF, ANDM, and OPDO, respectively. Each of these endowments own a number of companies. The ‘endowment-owned companies and regional development associations’ are run by ‘party leaders’.¹⁴¹ The active involvement of the government in the country’s economy has without a doubt contributed to the remarkable economic growth the country registered in the past 15 years. However, it cannot be gainsaid that the massive amount of fund that the establishment and running of state enterprises and the mega projects involve has created a significant opportunity for corruption. Moreover, the laws and regulations that are applicable to other businesses, including the tax codes, seldom apply to the endowment companies that are owned by the constituent units of the EPRDF.

To recap what has been stated above, there is an excessive concentration of political and administrative power and enormous economic interest within the ruling party and the party’s leadership. This has instituted what is often referred as a ‘neo-patrimonial rule’. The massive corruption and mismanagement of funds can hence be linked to the *de facto* one party system and the centralised decision making structure and operation of the party which is in control of the political and administrative institutions and the economy of the country.

7. Conclusion

As was briefly mentioned in the introduction Prime Minister Haile Mariam has initiated a process of ‘deep reform’ after having arrested the public protests by imposing a state of emergency throughout the country, which was extended for another six months. As part of the deep reform, the Prime Minister dismissed over ten ministers and replaced them with new ones. Hundreds of regional officials were also dismissed and replaced in the same fashion. The Prime Minister averred that the new ministers were selected for ‘competence and commitment rather than “party loyalty”.’¹⁴² The new appointees, who took over important portfolios such as ‘trade, health, water and electricity, farming and the environment’, are said to be technocrats specialising in these areas.¹⁴³ The party has also begun negotiations with opposition parties operating from within the country on how to enhance multiparty democracy in the country. Having blamed the plurality electoral system for the complete exclusion of all opposition parties from all representative

¹³⁸ Sarah Vaughan, ‘Revolutionary Democratic State-building: Party, State and People in the EPRDF’s Ethiopia’ (2011) 5 *Journal of Eastern African Studies* 619, 628.

¹³⁹ የኢ.ፌ.ዴ.ዲ. ሪፖርት. ጥናትና ምርምር ማዕከል (n 9) 96-97.

¹⁴⁰ The central thesis of the developmental paradigm is that ‘the neo-liberal paradigm is a dead end, is incapable of bringing about the African renaissance, and that a fundamental shift in paradigm is required to bring about the African renaissance. The government in Ethiopia has an approach that aims to achieve transformation, equity, and fairness. It has a deep concern to fight corruption and rent-seeking behaviour that may follow from their policy of protected, market-led economic growth. Thus, the state has an important role in the developmental process. In contrast to what was termed the neo-liberal preference for a noninterventionist state, Ethiopia’s political leaders argued the case for the state to actively lead the development process.’ World Bank *Federal Democratic Republic of Ethiopia: Ethiopia Public Sector Reform Approach: Building the Developmental State – A Review and Assessment of the Ethiopian Approach to Public Sector Reform* (Washington: World Bank, 2013) 2.

¹⁴¹ Sarah Vaughan ‘Revolutionary Democratic State-building: Party, State and People in the EPRDF’s Ethiopia’ (2011) 5(4) *Journal of Eastern African Studies* 619, 626.

¹⁴² Selam Solomon, ‘Ethiopia Appoints 21 New Ministers Amid State of Emergency’ <<http://www.voanews.com/a/ethiopia-cabinet-reshuffle-state-of-emergency/3574532.html>> accessed on 19 May 2017.

¹⁴³ Aaron Maasho, ‘Ethiopia Names Technocrats, New Ministers in Reform Government’ Reuters <http://www.reuters.com/article/us-ethiopia-protests-idUSKBN12W4AA> accessed on 19 May 2017.

councils, the ruling party has pledged to replace the current electoral system with a mixture of plurality system and proportional representation.¹⁴⁴

The 'deep reform' is received with a mixed-feeling among the populace. Some, especially those who are close to the ruling party, view the reform as a correct response to the crisis with which the country was faced. Others are however afraid that the reform was a mere technical response to deep constitutional and democratic crises which is not likely to decisively resolve the problem of corruption. There are also those who view with suspicion the commitment of the EPRDF for a genuine political reform. They claim the party is using these reforms and negotiations to allay the public anger.

The discussion in the preceding sections of this paper clearly show that the cancer of corruption, which is ever growing and invading all of the country's political, judicial and administrative organs, is not likely to be cured unless the Constitution is implemented to the letter in terms of bringing about multiparty democracy, protecting freedom of the press and CSOs. A reform is also needed that seeks protect the independence of those institutions, such as the Attorney General, EACC, and the Auditor General, which are at the forefront of combating corruption. These institutions should be constitutionally entrenched and the role of the executive in the appointment and dismissal of the holders of these offices be restricted. A reform that does not address these issues and seeks to deal with corruption merely at technical level is not likely to resolve the problem. Nor is it likely to contain the public anger for much longer.

Bibliography

Aalen L and Tronvoll K, 'The End of Democracy? Curtailing Political and Civil Rights in Ethiopia' (2009) 36 *Review of African Political Economy*, 193

Aalen L and Tronvoll K, 'Briefing: The 2008 Ethiopian Local Elections: The Return of Electoral Authoritarianism' (2008) 108 *African Affairs*, 111

Abbas T, Anderson E, Dixon K, Hurd H, and Raymond G, *Regional Results: Africa Government Defense Anticorruption Index* (Transparency International Defense and Security, 2015) 13 <<http://www.corruptionwatch.org.za/wp-content/uploads/2016/01/GI-Africa-results-web.pdf>> accessed on 16 May 2017

Arriola RL and Lyons T, 'Ethiopia: The 100% election' (2016)27 *Journal of Democracy*, 76

Asnake K, *Federalism and ethnic conflict in Ethiopia: A comparative regional study* (London: Routledge, 2013)

Awol A and Beza T, 'Spectacles of illegality: Mapping Ethiopia's Show Trials' (2015)13 *African Identities*, 279

Boehm F, 'Democracy and Corruption' (2015)13 *Dimensión Empresarial* , 75

Bonsa J, 'Rush for the Exits: Why is Ethiopia's Capital Flight Accelerating?' (Addis Standard,) <<http://addisstandard.com/rush-for-the-exits-why-is-ethiopias-capital-flight-accelerating/>> accessed on 18 May 2017

British Broadcasting Corporation (BBC) News 'Oromia: Stampede at Ethiopia Protest Leaves 52 Dead' (BBC, 3 October 2016) <<http://www.bbc.com/news/world-africa-37534387>> accessed on 24 May 2017

Brook A, 'Billions Improperly Accounted for in Auditor General's Report' (Addis Fortune) <https://addisfortune.net/articles/billions-improperly-accounted-for-in-auditor-generals-report/> accessed on 14 May 2017

Brunettia A and Wederb B, 'A Free Press is Bad News for Corruption' 87(2003) *Journal of Public Economics*, 1801

Gebre M and Melesse A, 'The Implementation of Civil Service Reforms in Ethiopia: The Promise for Civil Service De-Politicization of Tigray National Regional State' 4 (2014) *Developing Country Studies*, 91

Hammergren L, 'Justice Sector Corruption in Ethiopia' in Jannele Plummer (ed.) *Diagnosing Corruption in Ethiopia Perceptions, Realities, and the Way Forward for Key Sectors* (World Bank 2012) 181

Illicit Financial Flow: Report of the High-Level Panel on Illicit Financial Flows from Africa (Commissioned by the AU/ECA Conference of Ministers of Finance, Planning and Economic Development, 2015)

¹⁴⁴ Mulatu Teshome, the FDRE President, in his annual state of the nation address stated: 'In the last two elections, the ruling party, and its allies, won 99.9% and 100% of the seats in the House of Peoples' Representatives. Although, all those seats were won through free and fair, periodic elections, the result left the substantial number of votes given to opposition parties unrepresented in the House of Peoples' Representatives. The electoral system in effect left out demands that might have been represented by parties other than the ruling party.' Quoted in Solomon Goshu, 'Electoral Reform on Horizon' *The Reporter*, (Addis Ababa, 22 October 2016).

International Council on Human Rights Policy, *Corruption and Human Rights: Making the Connection* (Versoix: ICHRP 2009)

Kar D and Spanjers J, *Illicit Financial Flows from Developing Countries: 2004-2013* (Global Financial Integrity, 2015) < http://www.gfintegrity.org/wp-content/uploads/2015/12/IFF-Update_2015-Final-1.pdf> accessed on 17 May 2017

Keffyalew G, 'Transforming Ethiopia calls for commitment to laws, regulations and procedures' (The Ethiopian Observatory, 20 April 2011) <<https://ethiopiaobservatory.com/2011/08/02/it-is-one-thing-to-transition-to-complex-program-budgeting-system-another-to-govern-by-principles-of-transparency-accountability-2/>> accessed on 17 May 2017

Kolstad I and Wiig A, *Does Democracy Reduce Corruption?* (Chr. Michelsen Institute Working Paper 4, 2011)

Maasho A, 'Ethiopia Names Technocrats, New Ministers in Reform Government' Reuters <http://www.reuters.com/article/us-ethiopia-protests-idUSKBN12W4AA> accessed on 19 May 2017.

Martini M, *Transparency International Fighting Illicit Financial Flows from Ethiopia* (Transparency International, 2015)

Medhane T and Young J, 'TPLF: Reform or Decline' 30 (2003) *Review of African Political Economy*, 389

Organisation for Economic Co-operation and Development (OECD) (2003) *Fighting Corruption: What Role for Civil Society? The Experience of the OECD* <<https://www.oecd.org/daf/anti-bribery/anti-briberyconvention/19567549.pdf>> accessed on 19 May 2017

Plummer J, 'Overview' in Jannele Plummer (ed.) *Diagnosing Corruption in Ethiopia Perceptions, Realities, and the Way Forward for Key Sectors* (World Bank 2012) 1

Ross TJ, 'A Test of Democracy: Ethiopia's Mass Media and Freedom of Information Proclamation' 114(2010) *Penn State Law Review*, 1047

Sekyere P and Asare B, 'An Examination of Ethiopia's Anti -Terrorism Proclamation on Fundamental Human Rights' 12 (2016) *European Scientific Journal January*, 351

Selam S, 'Ethiopia Appoints 21 New Ministers Amid State of Emergency' < <http://www.voanews.com/a/ethiopia-cabinet-reshuffle-state-of-emergency/3574532.html>> accessed on 19 May 2017

Shimelis A *Corruption and Anticorruption in Ethiopia: A Case Study of the Ethiopian Customs Authority* (Unpublished MA Thesis, Addis Ababa University, Addis Ababa, 2005)

Solomon G, 'Electoral Reform on Horizon' *The Reporter*, (Addis Ababa, 22 October 2016)

Solomon M, 'Civil Service Reform in Ethiopia: Issues, Lessons, and Future Directions' (2013) 36 *International Journal of Public Administration*, 235

Strategic Thinking on East Africa 'The Role of Civil Society in Ethiopia's Current Crisis: Who will Make the First Move?' < <http://www.strathink.net/ethiopia/the-role-of-civil-society-in-ethiopias-current-crisis-who-will-make-the-first-move/>> accessed on 26 May 2017

Tewodros M and Koen R, 'The Ethiopian Federal Ethics and Anti-Corruption Commission: A Critical Assessment' 15(2011) *Law Democracy and Development*, 1

The Ethiopian Herald 'Good Governance Deficits: Facts Behind the Protest in Some Parts of Oromia' (The Ethiopian Herald, 29 December 2015) < <http://www.ethpress.gov.et/herald/index.php/editorial-view-point/item/3250-good-governance-deficits-facts-behind-the-protest-in-some-parts-of-oromia>> accessed on 24 May 2017

Transparency International 'Ethiopia: Corruption Perception Index' <<https://www.transparency.org/country/ETH>> accessed on 15 May 2017

Tronvoll K, 'Briefing: The Ethiopian 2010 Federal and Regional Elections: Re-establishing the One-Party State' (2011)110 *African Affairs*, 121

United Nations Human Rights Office of the High Commissioner *The Human Rights Case Against Corruption*

Vaughan S, 'Revolutionary Democratic State-building: Party, State and People in the EPRDF's Ethiopia' (2011) 5 *Journal of Eastern African Studies*, 619

Vaughan S, 'Revolutionary Democratic State-Building: Party, State and People in the EPRDF's Ethiopia' (2011) 5(4) *Journal of Eastern African Studies*, 619

Wheatland B, *Corruption and Anti-corruption in Ethiopia's Energy Sector* (Transparency International, 2015)

Wondwosen T, 'Political Finance in Africa: Ethiopia as a Case Study' (2009) 3 *International Journal of Social, Behavioral, Educational, Economic, Business and Industrial Engineering*, 1639

World Bank, *Federal Democratic Republic of Ethiopia: Ethiopia Public Sector Reform Approach: Building the Developmental State – A Review and Assessment of the Ethiopian Approach to Public Sector Reform* (Washington: World Bank, 2013)

Zemelak A, *A Blend of Semi-Consociationalism and Vanguardism: Explaining the Results of the 2015 Regional Elections of Ethiopia* (Unpublished, 2017)

የኢ.ፌ.ዴ.ሪ የፖሊሲ ጥናትና ምርምር ማዕከል እና የኢ.ፌ.ዴ.ሪ የፕብሊክ ስርገብና የሰው ሀብት ልማት ሚኒስቴር መልካም አስተዳደር ኮሚሽን አካያይ አመራሩ ያሉበት ማኅበራዊ ምክንያቶች እና የመፍትሄ ሃሳቦች (ኦገስት 2009) (FDRE Policy Study and Research Centre and FDRE Ministry of Public Civil Service and Human Resource Development, Challenges the leadership is facing in terms of ensuring good governance and suggested solutions (Addis Ababa , 2017)

ፀረ ሙስና ኮሚሽንን የሚያገዝፉት አዋጆች ቢፓርላማው ፀደቀ (Parliament adopts laws strengthening the Anticorruption Commission) <<http://www.abysinialaw.com/legal-news/item/1375-2015-01-15-07-58-29>> accessed on 18 May 2017.

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Ethiopian Human Rights Commission Establishment Proclamation No. 210/2000

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Abstract

Currently, there is an unprecedented incidence of corruption in Ethiopia which poses two, interconnected, problems. Allegations of corruption are used and abused by those in power to silence those having dissenting views. Corruption also poses a grave danger to the peace and stability of the country. As admitted by Prime Minister Haile Mariam Desalegn the ever-worsening corruption was the root cause of the public protests that went on for several months in 2015 and 2016, in different parts of the country. He however views corruption as an administrative problem as opposed to a serious constitutional problem. He thus seeks to deal with it at 'technical level', through so called 'deep reform' that involved public self-evaluation and peer-evaluation of everyone in the public sector. This paper argues that corruption in Ethiopia is not a merely administrative problem. It is rather a major constitutional crisis. The prevalence of corruption in the country is, at least in part, a result of the ineffectiveness of institutions with a direct and indirect mandate of preventing, investigating and/or prosecuting corruption. This is in turn because the anti-corruption institutions lack constitutional protection and, therefore, institutional independence that their mandates require. Moreover, the absence of competitive multiparty democracy in the country has given the ruling party an unimpeded control on all state institutions and affairs. Furthermore, various restrictive pieces of legislation have rendered the media and civil society organisations inept in terms of playing a meaningful role in anti-corruption efforts. All these together have led to an unprecedented incidence of corruption in the country. Therefore, a reform that does not address these issues and seeks to deal with corruption merely at technical level is not likely to be successful in term of resolving the problem. Nor is it likely to contain the public anger for much longer.