

Core Points on the State of Emergency

Description

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Introduction

The government of Ethiopia has issued a State of Emergency Proclamation no 5/2021, effective as of November 2nd 2021 to last for six month. The scope of application is the whole country. The main purpose of the State of Emergency(SoE) is to avert the imminent threats against the existence of the nation which cannot be averted by regular law enforcement mechanisms posed by TPLF and its affiliates and outside forces. The HoPR on May 6,2021 has categorized TPLF and Oromo Liberation Army(OLA)-Shene as terrorist organizations. This brief article will cover core contents of the SoE Proclamation.

The Establishment of Command Post

The SoE has established a command post with a duty to execute the SoE Proclamation. The Command Post shall be spearheaded by the FDRE Head of the Defence Force and report to the Prime Minister. The Command Post shall have the power to issue directives to implement the SoE. Accordingly, till this date two directives were issued. The first directive Directive No 1/2021 is on the organizational structure of the Command Post. The second directive is Directive No 2/2021 is on the procedure of issuance and acquisition of temporary id cards.

Prohibited Acts

It is prohibited to disseminate information that empowers the terrorist groups, encourages the activities of the terrorist group or terrorizes civilian population. It is prohibited to render monetary, information, material or moral support, directly or indirectly to terrorist groups. Public gathering and demonstration without the permission of the Command Post or any other delegated authority is prohibited. It is prohibited to carry and move around firearms without permission. Residents are prohibited from moving around without carrying identity cards, passports or any other similar identity card. It is prohibited to disrupt the activities of any essential service or production sector or carry out acts of economic sabotage. Finally one of the prohibitions is against abuse of power. It is prohibited to engage in abuse of power with the intent to gain an illicit benefit under the pretext of enforcing the SoE Proclamation or detaining deliberately without reasonable suspension.

Non Derogable Rights and Use of Proportional Force

The Command post shall respect non-derogable rights listed under Article 93(4) of the FDRE Constitution during the enforcement of the SoE. Among the non-derogable rights the first one is Article 1 of the Constitution which embodies the nomenclature of the state i.e. The Federal Democratic Republic of Ethiopia. The second human right provision that is non-derogable right is prohibition against Inhuman Treatment indicated under Article 18 of the Constitution. Accordingly, everyone has the right to protection against cruel, inhuman or degrading treatment or punishment. No one shall be held in slavery or servitude. Trafficking in human beings for whatever purpose is prohibited. No one

shall be required to perform forced or compulsory labour. The right to equality is the other non-derogable right. Article 25 of the Constitution declares that all persons are equal before the law and are entitled without any discrimination to the equal protection of the law. In this respect, the law shall guarantee to all persons equal and effective protection without discrimination on grounds of race, nation, nationality, or other social origin, colour, sex, language, religion, political or other opinion, property, birth or other status. Finally Article 39 of the Constitution i.e the Rights of Nations, Nationalities, and Peoples unconditional right to self determination, including the right to secession and the right to speak, to write and to develop its own language; to express, to develop and to promote its culture; and to preserve its history are non-derogable rights during the enforcement of the SoE.

The security forces can be ordered by the Command Post to use proportional force for the execution of the SoE measures provided in the Proclamation.

State of Emergency Measures

The State of Emergency measures include ordering the deployment of armed forces in any part of the country to maintain peace and security. The Command Post can order citizens whose age are fit for military service and who are in possession of firearms to take military training and take orders for military missions. In case those with firearms are unable to be deployed, they will be required to hand over their firearms. It can order curfew, closure of public transportation or any means of transportation. It can arrest without a court warrant upon reasonable suspicion and also search any person's house, premise and vehicle upon reasonable suspicion that he/she cooperates with terrorist groups. It can order the closure of a given street or service giving institution for a certain period of time. It can give an order for persons to remain in a certain place or prohibit them from entering or evacuating from a given place for a certain period of time. It can partially or fully suspend local administrative structure and replace administrations with civilian or military administrations in parts of the country where there are serious security threats. The Command Post can order the regulatory authority to suspend or permanently cancel licences of civil society organizations, mass media or journalists which have been suspected of providing direct or indirect, moral or material support to terrorist organizations.

Suspended Laws

Without prejudice to diplomatic immunities enshrined under the Vienna Convention on Diplomatic Relations, substantive and procedural laws inconsistent with the SoE Proclamation remain suspended during the implementation of the Proclamation. In addition to that any judicial organ shall have no authority till the expiry of the enforcement of the SoE Proclamation.

Criminal Liability

Whoever violates the provisions of the SoE Proclamation or directives issued in accordance with the Proclamation shall be punished with simple imprisonment of upto 3 years or depending on the gravity of the offence rigorous imprisonment of up to ten years or if the violations entails grave punishment in other laws, such punishment shall apply. Even after the expiry of the SoE, violations of the SoE Proclamation and directives committed during the course of the SoE will cause criminal liability in accordance with ordinary criminal procedure rules.

Conclusion

The State of Emergency Proclamation has been issued to protect the sovereignty and territorial integrity of the country and its people. The severity of the threat is imminent and the government has to protect the well being of its people. Using the regular law enforcement mechanism will not avert the

imminent threat posed against the existence of the nation. Given the gravity of the situation, every person needs to know and abide by each and every provision of the State of Emergency Proclamation and directives issued in accordance with the SoE Proclamation.

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