

Ethiopia's Anti-Terrorism Proclamation and the right to freedom of expression

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On Wednesday 17 July 2013, members of the European Parliament's Sub-committee on Human Rights [visited](#) Ethiopia and urged the government to release journalists and opposition activists imprisoned under the country's [Anti-Terrorism Proclamation No. 652/2009](#) (Anti-Terror Proclamation). The visit is an important reminder that despite widely hailed progress on poverty reduction, the Ethiopian government continues to punish free expression in violation of international law.

Eskinder Nega, an outspoken journalist and blogger who was sentenced to 18 years imprisonment in July 2012, is amongst those arbitrarily detained under the Anti-Terror Proclamation. In early 2011, Nega began writing and speaking publicly about the protest movements then sweeping north Africa. Although initially hesitant to draw direct parallels with Ethiopia, he was clearly supportive of the protesters abroad and critical of his government at home. He also consistently emphasised the importance of non-violence. But despite the clear protection of peaceful free expression under Article 19 of the International Covenant on Civil and Political Rights, to which Ethiopia is a party, the government reacted by prosecuting Nega as a traitor and terrorist.

The government's imprisonment of Nega and his colleagues – such as fellow journalist Reeyot Alemu and oppositionist Andualem Araige – has drawn widespread criticism from the international community. The [African Commission on Human and Peoples' Rights](#) expressed grave concern about the imprisonment of Ethiopian journalists and activists “for exercising their peaceful and legitimate right to freedom of expression and association”. [Five United Nations \(UN\) special procedure mandate holders](#) issued a joint statement noting their “dismay at the continuing abuse of anti-terrorism legislation to curb freedom of expression in Ethiopia”, and the [UN High Commissioner for Human Rights](#) voiced alarm over the climate of intimidation created by the targeting of journalists on “overly broad” anti-terrorism charges.

In a detailed opinion, the [UN Working Group on Arbitrary Detention](#), a diverse panel of five independent experts, specifically found Nega's continued detention a violation of international law. In calling for his immediate release, the UN Working Group held that “the application of the

overly broad offenses” against Nega as a consequence of his free expression rendered the detention arbitrary under international human rights standards.

When confronted about the scope and application of the Anti-Terror Proclamation, Ethiopian officials often claim that the offending language was simply pulled from the existing laws of countries like the [United Kingdom](#) (UK). However, a close examination reveals that while Ethiopia’s Anti-Terror Proclamation borrows some key phrases, it is significantly more expansive – and vague – than the statutes it purports to mirror.

The provision on “encouraging terrorism” is a glaring example. Article 6 of the Anti-Terror Proclamation provides that:

“[w]hosoever publishes or causes 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 [is subject to between 10 and 20 years in prison].”

Compared with UK’s equivalent piece of legislation, the Ethiopian Anti-Terror Proclamation simply lifts an introductory paragraph while omitting the following seven sections that define and limit the law’s scope. Putting aside the question of whether British law even complies with international human rights standards, the omission of essential limiting provisions on intent, interpretation, and defences under the Anti-Terror Proclamation leaves the remaining language hollow and without any meaningful application.

When “encouragement of terrorism” is combined with the definition of “terrorist acts” under the Anti-Terror Proclamation, the potential for abuse becomes apparent. Tracking language found in the Organisation for African Unity’s [Convention on the Prevention and Combating of Terrorism](#) (Convention), Article 3 of the Anti-Terror Proclamation defines terrorism to include “caus[ing] serious interference or disruption of any public service”. Importantly, the Convention defines the intent to disrupt public services—along with intending to influence the government—as part of the *mens rea* (mental intent requirement). By contrast, Ethiopia’s Anti-Terror Proclamation retains the *mens rea* of intending to coerce the government, but treats disrupting social services as a component of the *actus reus* (physical act requirement). By treating the disruption of public services in this way, the Anti-Terror Proclamation significantly expands upon the Convention’s *actus reus*, which requires that a “terrorist act” physically threaten the safety of people or property. Even assuming, *arguendo*, that the intent requirement for “terrorist acts” implicitly applies to encouragement also, advocating for peaceful protests—which may be intended to influence policy but that in no way actually endangers people or property—may constitute “encouraging terrorism” under Ethiopian law.

This discussion of the Anti-Terrorism Proclamation may seem semantic, but the result is painfully real for the journalists and activists who face imprisonment for exercising basic rights. It's time to release them and amend the law.

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