



Special Investigative Techniques For Human Trafficking Investigation In Ethiopia

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Article History:

Received: 21-12-2019

Accepted: 09-02-2020

Publication: 23-03-2020

Cite this article as:

Ayalew, N. (2020). Special Investigative Techniques For Human Trafficking Investigation In Ethiopia. *International Journal of Social Sciences and Economic Review*, 2(1), 14–23.
<https://doi.org/10.36923/ijsser.v2i1.50>

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Abstract: The purpose of this study is to evaluate the role of special crime investigation techniques for drug trafficking in Ethiopia. Given the complex nature of drug trafficking and the significant impact it has on society, it is crucial to understand the effectiveness and limitations of current investigation methods. This study employs a qualitative research approach, utilizing document reviews and interviews with crime investigators who have direct experience in the field. These investigators were selected purposively to provide in-depth insights into the practices and challenges of special investigation techniques. The findings reveal that while there are some provisions for special investigation techniques in the FDRE criminal justice policy, as well as in the anti-human trafficking and smuggling of migrant proclamations, these legal frameworks are not comprehensive. Key aspects such as the types of special investigation techniques, the authorities responsible for conducting them, the duration for which they can be applied, and the specific requirements for their use are not adequately addressed. The study concludes that there is a pressing need for the House of People's Representatives to enact an all-inclusive law that clearly defines the special investigation techniques for human trafficking and drug trafficking in Ethiopia. Additionally, it recommends that the general attorney should undertake efforts to raise public awareness about these techniques to ensure transparency and public trust. This research highlights the challenges of human trafficking investigations in Ethiopia and serves as valuable reference material for students, policymakers, and lawmakers.

Keywords: Human Trafficking, Surveillance, Undercover Investigation, Intelligence

1. Introduction

The police shall have the objective to maintain and ensure peace and security for the public and the state by respecting and ensuring the observance of the Constitution, the constitutional order, and other laws of the country by preventing and investigating crime through the participation of the public (Mohammed, 2009). The criminal justice system is expected to strike a balance between protecting people against criminal harm and ensuring suspects or accused individuals are not unfairly treated. However, achieving absolute balance is unthinkable and depends on the state's approach towards the due process model, the crime control model, or a mixed model. The due process model emphasizes avoiding convicting the innocent and tolerates the escape of criminals to not harm innocents. It justifies the means, and the fruit of a poisoned tree is poisoned, so it should be excluded.

On the contrary, the crime control model operates on the principle that the ends justify the means, protecting the public at any human rights cost. It gives lesser emphasis to the protection of the rights of suspects or accused individuals, and there is a possibility of convicting innocent persons since the primary target is repressing crime. This is why most states adopt a mixed approach based on the nature of the crime and the criminal (Mohammed, 2009).

Generally, if the police acquire information through accusation, complaint, or personal perception about the commission of a crime, they shall start investigations to identify the truth. This includes summoning and interviewing witnesses, summoning or arresting suspects for interrogation, searching persons and premises, and conducting crime scene investigations to send evidence to forensic science. The criminal investigation process is litigation between unequal parties: poor and layman suspects versus rich and professional law enforcers. That is why the Federal Democratic Republic of Ethiopia (FDRE) constitution and criminal procedure laws impose duties on the investigator and rights for the suspect for fairness, an effort to reduce this unbridgeable gap of power and resources between the two parties and level the ground somewhat. For instance, it sets standards for summoning and arresting suspects, the duty to inform them of their right to remain silent, bringing them before a court within 48 hours, due process of law, the right to pre-trial access to evidence, open court trial, and presumption of innocence. It also imposes certain burdens and obligations on the public prosecutor, such as the constitutional obligation to respect and uphold the rights and privileges of the accused, the requirement to prove the charge beyond a reasonable doubt, and prohibiting third-degree methods (Assefa, 2012).

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However, organized crime, unlike ordinary crime, has a more complex organizational structure, and transnational modus operandi, is committed by rich and professional persons, and has a more destructive impact. No universal definition exists for "organized crime" due to disagreement on whether "organized" refers to the offenders or the crime. An organized criminal group refers to a structured group of three or more persons, existing for a while and acting in concert to commit one or more serious crimes or offences to obtain, directly or indirectly, financial or other material benefits, such as the Italian Mafia, the Chinese Triads, the Colombian drug cartels, the Japan Yakuza, and the Nigerian Criminal Groups (Selam, 2019).

Most countries' laws allow the use of special investigation and prosecution techniques, which may violate the right to privacy, as the rights of suspects are often violated, not as an exception but frequently (Selam, 2019). Therefore, organized criminals may have equal bargaining power with law enforcement, which is why the police are authorized to use special investigation techniques. Ethiopia also lacks a comprehensive law on organized crime. However, different proclamations define it as a structured group of two or more persons, existing for a period and acting in concert to commit one or more serious offences, to obtain directly or indirectly financial or other material benefits pursuant to the prevention and suppression of money laundering and financing of terrorism proclamation no. 780/2013 art 2(17) and the prevention and suppression of trafficking in persons and smuggling of migrants proclamation no. 909/2015, article 2. It is grounds for penalty aggravation, and the FDRE criminal code articles 32-40 deal with the degree of participation in the commission of the crime as principal and secondary (Assefa, 2012).

The police may use ordinary and extraordinary investigation techniques based on the nature of the crime and the criminal. There is no single universal definition and type of special investigation. The Council of Europe Recommendation (2005) 10 Chapter I states that special investigative techniques are applied in the study of severe crimes, including financial and cybercrime and suspects, designed to collect intelligence without alarming the persons concerned (Council of Europe, 2005). It means that it applies only to serious crimes and suspects. What is a severe crime? Who is a serious suspect?

2. Methodology

This study employs a desktop research approach and a descriptive research design. In exploring and describing laws, institutional frameworks, and practices in Ethiopia, it follows a qualitative phenomenological approach. This research approach helps to discover and define the lived experiences of human beings within a particular context and a specific time (Creswell, Hanson, Clark Plano, & Morales, 2007). As far as the writer's knowledge, no one has conducted a study regarding special investigation techniques for human trafficking investigation in Ethiopia. The target populations are police, victims, and human traffickers in Ethiopia.

Tools for data collection included document reviews and key informant interviews. Sources of data were primary and secondary. The scope of this study is the practice of human trafficking investigation in Ethiopia. The collected data were analyzed thematically, ensuring proper citation, respect for consent, and maintaining the identity of informants for ethical consideration.

Based on the author's observation, some elements of special investigation techniques are found in the FDRE criminal justice system and anti-human trafficking proclamations. However, there is no certainty about the types of special investigative techniques, their limitations, principles, and procedures for conducting them, or the admissibility of intelligence reports. This uncertainty motivated the writer to conduct this study.

The study is organized into three parts. The first part deals with human trafficking investigation. The second part addresses the types of special investigation techniques. The third part discusses the principles of special investigation techniques in Ethiopia. Finally, the conclusion and suggestions are provided for the concerned bodies to fill the gaps.

3. The Concept Of Human Trafficking

Irregular migration refers to the movement of people from one place to another within a country or from one country to another for various reasons, without necessarily following or respecting immigration laws and fulfilling the requirements of the transit and destination countries (Ekmekci, 2017). Therefore, it is considered a crime committed by the migrant against the law of the transit and destination countries.

Human trafficking is defined in international law in the United Nations Protocol to Prevent, Suppress, and Punish Trafficking in Persons, especially Women and Children (the Trafficking Protocol). Ethiopia acceded to the Protocol in 2012. This Protocol supplements the United Nations Convention against Transnational Organized Crime (TOC) 2000. Article 3 of the Protocol defines trafficking as:

"Trafficking in persons shall mean recruitment, transportation, transfer, harboring or receipt of persons, by means of threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of abuse of power or a position of vulnerability or the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labor or services, slavery or practices similar to slavery, servitude or the removal of organs."

Trafficking in persons involves the organized action of recruiting, harboring, and transporting individuals for exploitative purposes. There are individuals or groups involved in organizing and facilitating this process, called brokers or traffickers, who force, abuse, or deceive individuals into joining the process. Migrants who are smuggled are considered criminals under the law of the transit and destination countries, while trafficked persons are not criminals but victims of the brokers' tricks. Smuggling refers to the procurement of illegal entry of a person into a state party of which the person is not a national or a permanent resident, for financial or other material benefits (Ekmekci, 2017).

Human trafficking has three stages (elements) (Mazur & Lulic, 2007). The first element is the act of trafficking, which refers to the measures employed by traffickers to introduce a victim into the trafficking scenario. These acts become illegal when coupled with the indication that the act was committed without the consent or through the vitiated consent of the victim and evidence that the intent of the conduct was exploitation. The second element is the means used to traffic a person, which can include fraud, deception, and the abuse of power or a position of vulnerability. These means can occur with or without the use of overt (physical) force. The third element is the exploitation of a victim, which commonly includes prostitution of others, sexual exploitation, forced labor, slavery or similar practices, servitude, and removal of organs.

Moreover, the presence of the victim's consent at one stage of the process cannot be taken as consent at all stages of the process. If there has not been consent at every stage, the case is one of trafficking. In the case of children, consent is irrelevant because a child cannot voluntarily or willingly enter into an arrangement that results in trafficking, even if the child's parents were to give their consent (Mazur & Lulic, 2007).

Ethiopia is a source, transit, and, to a lesser extent, destination country for irregular migration and migrant smuggling within Africa, as well as to the Middle East and Europe (Regional Mixed Migration Secretariat, 2017). In transit, migrants find themselves vulnerable to being kidnapped for ransom, extortion, debt bondage, sex trafficking, and forced labor. Ethiopian girls are exploited in domestic servitude and, to some extent, commercial sex in neighboring African countries, particularly Djibouti and Sudan. Ethiopian boys are subjected to forced labor in Djibouti as shop assistants, domestic workers, and street beggars, in addition to forced criminality. Further, Ethiopian migrants, who have sought the services of recruitment agencies for labor migration to the Middle East, have also become victims of human trafficking at their destination. Ethiopian men and boys also migrate to other African nations, where some are subjected to forced labor (Regional Mixed Migration Secretariat, 2017).

The international community has been working on human trafficking control since the parties' conference of 1895 and the adoption of an international agreement for the suppression of the white slave trade in 1904. The United Nations also approved a convention in 1949 for the suppression of traffic in persons and the exploitation of the prostitution of others. The UN protocol to prevent, suppress, and punish trafficking in persons, especially women and children, known as the Palermo Protocol, was adopted in 2000, along with the convention against transnational organized crime. Ethiopia has ratified most of the general UN conventions and several ILO conventions dealing with employment and labour issues, such as the ILO Private Employment Agencies Convention (No. 181, 1997); the ILO Discrimination (Employment and Occupation) Convention (No. 111, 1958); and the ILO Convention No. 182 on the Worst Forms of Child Labor (Kassahun, 2015).

The Federal Democratic Republic of Ethiopia (FDRE) constitution articles 18, 35, and 36, which is the fundamental law of the country, has incorporated pertinent provisions on trafficking. Moreover, Proclamation Number 104/1989, dealing with the establishment and operation of private employment agencies, contains provisions of a criminal nature relevant to the issue of smuggling of moment children. The anti-human trafficking proclamation also states that trafficking in persons refers to any person for the purpose of exploitation, under the pretext of domestic or overseas employment, or sending abroad for work or apprenticeship, by concluding an adoption agreement or under the pretext of adoption or for any other purpose; using threat or force or other means of coercion, abduction, fraud, deception, promise, abuse of power or using the vulnerability of a person or recruits, transports, transfers, harbours or receives any person by giving or receiving payments or benefits to achieve the consent of a person having control over another person. The punishment is imprisonment of 15-25 years and a fine of 150,000-300,000 birr. Moreover, accomplices, those who fail to report, and accessories after the fact are punishable (Kassahun, 2015).

In August 2015, Ethiopia promulgated Proclamation No. 909/2015 to "Provide for the Prevention and Suppression of Trafficking in Persons and Smuggling of Migrants," which grants victims of trafficking and returnees protection schemes and exclusive rights. A rights-based response means victims and others are much more likely to come forward to report traffickers, provide valuable information on the traffickers, and act as effective witnesses. Trafficking victims are often forced to commit crimes, such as being forced into prostitution or petty theft. The non-punishment principle states that trafficked persons should not be detained, charged, or prosecuted for the illegality of their entry into or residence in countries of transit and destination, or for their involvement in unlawful activities to the extent that such involvement is a direct consequence of their situation as trafficked persons. Such unlawful activities may include petty theft or drug dealing, as well as, in jurisdictions where these are criminalized, prostitution or begging. It grants victims of trafficking immunity from prosecution in relation to illegal acts committed as a consequence of being a victim of human trafficking. Ethiopia has established a specialized investigation and prosecution unit for trafficking in persons and human smuggling at the Federal Police Commission and the Attorney General's office.

4. The Concept Of Special Investigative Techniques

Every natural person has human rights by nature. Therefore, the government has the duty to protect, respect, and fulfill human rights, such as the right to privacy. One feature of human rights is that they are not absolute, meaning they may be limited by specific laws due to the rights of others and derogated in cases of a state of emergency (Bantekas & Oette, 2013). The International Covenant on Civil and Political Rights (hereinafter referred to as ICCPR) Article 17 and the Federal Democratic Republic of Ethiopia Constitution (hereinafter referred to as FDRE) Article 26, entitled "Right to Privacy," also state:

Everyone has the right to privacy, including the right not to be subjected to searches of his home, person, or property, or the seizure of any property under his personal possession, the inviolability of his notes and correspondence, including postal letters, and communications made by means of telephone, telecommunications, and electronic devices. The government shall respect and protect these rights. No restrictions may be placed on the enjoyment of such rights except in compelling circumstances and in accordance with specific laws whose purposes shall be the safeguarding of national security or public peace, the prevention of crimes, or the protection of health, public morality, or the rights and freedoms of others" (Bantekas & Oette, 2013).

This provision states that the right to privacy can be limited if the cumulative requirements of legality, necessity, and proportionality are met. Therefore, special investigation techniques must balance the competing interests of ensuring public safety with the right to privacy, which is the basis of the right to freedom of expression and association.

4.1. Principles Of Special Investigation Techniques

The principles SIT discussed as follows:

4.1.1. Principle of Legality

For effective implementation of these investigations, states must have a comprehensive legal framework and institutional structures with effective control mechanisms. This includes specifying the circumstances and the time in which they can be used, their action limits, and authorization (Bruce & Schleifer, 2008). ICCPR Article 17 states that a person is protected from unlawful interference with their privacy, meaning that one's privacy can be limited when the parliament enacts specific laws to enforce the covenant. Therefore, the special investigation must be consistent with international human rights obligations and must be conducted on the basis of a legal framework, which must be publicly accessible, clear, precise, comprehensive, and non-discriminatory, ensuring that any interference with the right to privacy is neither arbitrary nor unlawful, and bears in mind what is reasonable in the pursuit of legitimate aims.

This law must be enacted by parliament and published to be accessible to everyone. This implies a piece of legislation that is published and written in a precise manner detailing the exact circumstances in which any such interference may be permitted, the procedures for authorization, the categories of persons who may be placed under surveillance, the limits on the duration of surveillance, and procedures for the use and storage of the data collected, along with procedural safeguards against undue interference with one's privacy (Human Rights Committee, 2015).

4.1.2. Principle of Necessity

The state must demonstrate, in a specific and individualized fashion, the precise nature of the threat that it seeks to address and a direct and immediate connection between the expression and the threat, which is proportionate to the interest to be protected (John, 2016). If there is an immediate and serious threat to national security, such as a terrorist act, the law enforcement organ may conduct surveillance. However, continuous, real-time interception and collection of suspects' communications and activities for almost five months by police is neither necessary nor proportionate.

4.1.3. Principle of Proportionality

Surveillance for national security is often viewed as a legitimate reason but also should be proportional. The proportionality of limitation means there must be a legitimate aim to be pursued by limiting the right, a rational connection between the measure limiting the right and the aim, minimal impairment of the right to privacy, and a fair balance between the aim and the right. States are required under international law to provide evidence to justify the interference with the right to privacy (Special Rapporteur, 2014). Therefore, there must be a rational connection between the means employed and the aim sought to be achieved, and it should be the last resort, judged based on the particular circumstances of the individual case.

4.1.4. Principle of Adequate Safeguards

Limitation of the right to privacy conducted based on specific law, for a legitimate purpose, and proportionate, requires procedural safeguards such as the need for court authorization to avoid arbitrariness, executive, and government oversight. Effective measures must be taken by states to ensure that information concerning a person's private life does not reach unauthorized persons, and is never used for purposes incompatible with the right to privacy (Weissbrodt, 1987).

4.1.5. Principle of Access to Remedy

If there is a violation of the right to privacy by law enforcement, there must be a remedy. These remedies must be known and accessible to anyone with an arguable claim that their rights have been violated. Moreover, it involves prompt, thorough, and impartial investigation of alleged violations by those who have the authority to end ongoing violations. Where human rights violations rise to the level of gross violations by a law enforcer, there is civil, criminal, and administrative liability of the right violator, and the exclusion of illegally acquired evidence (Fengler, Eberwein, Mazzoleni, Porlezza, & Russ Mohl, 2014).

4.2. Forms of Special Investigation Techniques

Special investigation techniques are numerous, varied, and constantly evolving. Their common characteristics are their covert nature, such as controlled delivery, surveillance, undercover investigations, intelligence, and witness protection. Their application can interfere with fundamental rights and freedoms, except for peremptory norms of international law and international humanitarian law (Philip and others, 2010). These techniques are means of information collection, where yesterday's information becomes today's intelligence, which becomes tomorrow's evidence to prove the fact in issue.

4.2.1. Controlled Delivery

It is the technique of allowing illicit or suspect consignments of narcotic drugs, psychotropic substances, or substances substituted for them, to pass out of, through, or into the territory of one or more countries, with the knowledge and under the supervision of their competent authorities, to uncover drug trafficking networks, from the grower, manufacturer, and distributor to buyers and consumers pursuant to the Convention on Illicit Traffic in Narcotic Drugs and Psychotropic Substances, signed at Vienna on 20 December 1988, article 1. This technique is used to trace the flow of illicit goods such as drugs, wildlife specimens, counterfeit products, or falsified medical products, to determine their true sources, transit routes, and destinations. It also enables the mapping of complete criminal schemes and structures of organized criminal groups for investigation and prosecution. Therefore, for illicit products, trafficking is identified or intercepted at the source or transit and then delivered under surveillance to identify the intended recipients and subsequent distribution within an organized criminal group or illegal supply chain. However, this is not advisable for trafficking in persons because the police prioritize the protection of the victim over surveillance of the suspect (Castellanos-Gomez et al., 2013).

4.2.2. Surveillances

The word "surveillance" is derived from the French word "surveiller," which means to systematically and discreetly watch over to develop information regarding a suspicious person's activities. Surveillance, or spying, is a criminal act for a private person. Still, for the government, it is a lawful act to obtain information for a search warrant, locate a subject, contraband, or the site of illegal activities, to obtain intelligence about a subject, criminal group, or location, prevent a crime from occurring through covert or overt surveillance, to gather intelligence for a raid, and to provide protection for informants, undercover individuals, or others (Tam et al., 2005). For instance, in Ethiopia, the national security and intelligence services, the federal police, the nine regional police, two city administration commissions, the customs and revenue authority, and the minister of defenses, etc., have their intelligence and surveillance departments.

There are two forms of surveillance, physical or electronic, based on the tools of surveillance (Tam et al., 2005). Physical surveillance refers to the human act of secretly and continuously or periodically watching and recording (photo, video, sketch, and note-taking) of suspected persons, vehicles, places, and objects to obtain information concerning the identities and activities of individuals. This must go undetected by the target, and surveillance is usually abandoned or changed if the target detects it. Surveillance must blend in with the environment.² If the target uses foot transportation, the inspection is conducted on foot; if the target uses any means of transport (vehicle, airplane, helicopter, etc.), the surveillance person also uses the same means of transportation. Moreover, if the target has a fixed workplace like an office or shop, the surveillance person should have a similar workplace.

Electronic surveillance refers to real-time surveillance, recording, listening, acquisition, viewing, controlling, or any other similar act of data processing service or computer data by using a computer (Coates et al., 2015). All phone calls and broadband Internet traffic such as emails, web traffic, instant messaging, and social network sites such as Facebook, Telegram, and Twitter are under the support and control of law enforcement. They run a pinwale database to store and index large numbers of emails of everybody and also possess Stingray tracker technology to activate the microphones in cell phones remotely by accessing phone diagnostic or maintenance features to listen to conversations that take place near the person who holds the phone. Not all countries allow electronic surveillance due to disagreements on where it is permitted, for which crime, its requirements, and the intrusive nature of electronic spying. It needs strict judicial control, and legal safeguards, and should only be used for severe crimes. It performs a similar function to undercover operations but allows for the collection of a broader range of evidence,

² Ibid

and physical infiltration or surveillance would represent an unacceptable risk to the investigation.³ It includes interception of phone communication, recovery of incoming and outgoing calls, and position location.

Electronic surveillance has the following four forms based on their technology. Firstly, audio surveillance is used to gather intercepted and recorded audio using phone tapping, voice-over-Internet protocol, and listening devices. Secondly, visual surveillance uses hidden video devices, in-car video systems, body-worn video devices, thermal images, and CCTV. Thirdly, tracking surveillance is used to identify the location of the target through global positioning system transponders, mobile phones, radio identification devices, and biometric info technology. Lastly, data surveillance involves gathering data from a computer through a computer, mobile phone, and keystroke monitoring (Mazur & Lulic, 2007).

To use both physical and electronic surveillance forms, the state shall have a law that answers the following questions (Coates et al., 2015): Who is authorized for surveillance operations? What are the preconditions for conducting surveillance operations? Is authorization from a judicial or other independent source required? What are the limits and conditions for surveillance orders and standard operating procedures? However, the broad surveillance powers of law enforcement articulated in different country laws often lack legal safeguards that limit the nature, scope, and duration of surveillance measures, and grounds for judicial approval. This raises concerns that these powers are not adequately regulated to prevent arbitrary, unlawful, or disproportionate interference with the right to privacy. For instance, a court warrant is required to conduct surveillance on targets, but there is no opportunity to challenge the admissibility of surveillance since the means and source of it are not disclosed.

4.2.2. Undercover Investigation

It is the third means of a special investigation technique in which the agent acts under a different identity than their real one, constructing a scenario to gain the trust of a person to establish an offence or gather information related to crime and interaction to discover evidence leading to involvement in establishing the facts investigated. There are three forms:

- Infiltration of specially authorized law enforcement officials undercover, such as being appointed as a secretariat, driver, or record officer within an organization, then recording each activity of the target and reporting to the authorized person.
- Pseudo or test purchases or services of illegal goods, such as the police acting as drug and firearms buyers.
- Befriending a specific suspect or participating in controlled delivery (Kruisbergen, de Jong, & Kleemans, 2011).

It occurs when investigators, using different identities, infiltrate criminal networks or pose as offenders to uncover organized crime activity. The law of the country should address the following questions: in what kinds of cases and in which format are these allowed? Are there limits on its type? What are the preconditions for conducting it? Is authorization from a judicial or other independent source required? Are there guidelines for the appropriate use of undercover officers?

The first organized informal undercover program, called Security Brigade, was first employed in France in 1811, later converted to a security police unit under the Prefecture of Police. In 1829, Sir Robert Peel established the modern police of England, including plainclothes undercover detectives. Their role was counterterrorism, combating foreign subversion, and infiltrating organized crime. The United States of America also established the Federal Bureau of Investigation, including undercover investigators, in 1908. Their role is to be part of an existing criminal enterprise, but most countries prohibit undercover agents from providing opportunities to commit a crime, instigating, and committing crimes themselves. The US regulates it through case laws; it applies to any crime, and the agent is allowed to instigate. In contrast, the Netherlands, Belgium, Germany, and England have formal acts, that apply only to serious misconduct, and criminalize it only if there is absolute seriousness (proportionality) and as a last resort (Davis & Bennett, 1984).

4.2.3. Criminal Intelligence

Intelligence is a systematic approach to converting information into intelligence and making that intelligence available to decision-makers. Intelligence is now starting to develop holistic assessments of law enforcement's strategic operating environment that, in turn, can be used to support executive strategic decision-making (IACP, 2002). Criminal intelligence, depending on circumstances, may be housed in information, either in police units, customs, prisons, or even in military organizations. Given the transnationalization of organized crime, internal security has traditionally gone to the Police Forces, and the Armed Forces have been responsible for external security. The holistic nature of criminal intelligence is characterized by approaching the analysis and interpretation of an issue or a situation from a multidisciplinary perspective and integrating information from all types of sources. It aims to collect, analyze, and disseminate information that assists policymakers, law enforcement, and other public entities in taking measures to protect national security and human rights (Davis & Bennett, 1984).

³ Brian D. Baker and Whitney, supra note 15

4.2.4. Witness Protection And Immunity

The FDRE Protection of Witnesses and Whistleblowers of Criminal Offenses, Proclamation No. 699/2010, states that a whistleblower or witness is a person who has given or agrees to give information or has acted or agrees to act as a witness in the investigation or trial of an offence. These people need different protection through whistleblower protection laws against retaliation from organized criminals, and immunity from criminal charges depending on the value of the suspect's evidence provided, and its actual impact. Law enforcement organs have a duty to maintain the confidentiality of the identity of whistleblowers and witnesses. If a boss retaliates against a whistleblower, the burden of proof is on the accused boss. It shall be applicable concerning testimony or information given, or investigation undertaken on a suspect punishable with rigorous imprisonment for ten or more years or with death, regardless of the minimum period of rigorous imprisonment. Where the offence may not be revealed or established by another means other than by the testimony of the witness or the information of the whistleblower, and where it is believed that a threat of serious danger exists to the life, physical security, freedom, or property of the witness, the whistleblower or a family member of the witness or the whistleblower. Similarly, the Ethiopian draft criminal procedure code article 139 also states that when the undercover investigator has committed the crime in the conditions of last resort, necessity, and proportionality, they are immune from prosecution.

5. Special Investigation Techniques For Human Trafficker In Ethiopia

Investigation techniques vary depending on whether a particular jurisdiction is a place or country of origin, transit, or destination (Mazur & Lulic, 2007). In countries of origin, the investigation is likely to focus on the recruitment aspect of the crime, such as methods of coercion or deception. In contrast, places of transit are in a more suitable position to gather intelligence on modes of transport, routes used by traffickers, safe houses en route to the destination, and crimes related to the use of travel documentation. Places of destination focus on the exploitation aspect of the crime. Ethiopia has established a specialized investigation, prosecution, and trial unit for trafficking in persons and human smuggling at the Federal Police Commission.

The FDRE Criminal Justice Policy, enacted by the council of ministers in 2011 under section 3.17, states that special investigative techniques are necessary to prevent and investigate organized crime, complex economic crimes, and corruption crimes. According to this policy, the common forms of special investigative techniques are electronic and physical surveillance, infiltration into organized crime, and the creation of a simulated legal relationship. The standard for conducting these is the existence of “reasonable suspicion” for the commission of a serious and medium crime with a court warrant. However, if there is “sufficient suspicion” for the commission of an imminent, serious crime and evidence cannot be obtained through conventional investigation tactics, the police may intercept the communication of the suspect without a court warrant, but it needs federal high court president approval as soon as possible.

5.1. Surveillance And Undercover Investigation

The police should collect information through surveillance and undercover officers and then change this information into intelligence and evidence. For instance, undercover officers can best gather information through test purchases. It involves deploying one or more officers to purchase the services of trafficked persons (Radulescu and Holmes, 2003). Normally, currency notes whose numbers are carefully registered beforehand will be used for payment and later used as evidence. The infiltrator can enter the premises where exploitation is taking place and secretly record, then report the number of victims, the layout of the premises, exit and entry points, hidden compartments, and busiest hours of business. The police change this information into intelligence and then conduct raid operations to arrest traffickers.

The FDRE Criminal Justice Policy is a government directive enforced by specific laws such as the Prevention and Suppression of Trafficking in Persons and Smuggling of Migrants Proclamation No. 909/2015. Articles 3, 18(2), 19, and 26-30 state that where there are reasonable suspicions to believe that human trafficking and smuggling of migrants has been, is being, or is likely to be committed, the police with a court warrant:

- May conduct undercover investigations, such as infiltrating suspected criminal groups and creating a simulated legal relationship like a marriage or business relationship. Moreover, the undercover investigator is immune from prosecution even if he/she committed a crime during the operation unless he/she causes death to the victim or commits rape; the suspect who provides substantial evidence to the investigator is immune from prosecution.
- Conduct physical surveillance, such as fixed or movable surveillance against suspects, and also may conduct electronic surveillance, including intercepting private communications of the suspects to know call history, location, and to collect evidence to prove the crime. However, the police may conduct intercepting communication of the suspects urgently by order of the general attorney only, which needs the approval of the federal high court president within 72 hours.
- The use of exclusive privileges and the period of limitation is also prohibited.

From these articles, we understand that, unlike ordinary crime investigations based on the criminal procedure code of Ethiopia, this proclamation authorizes the police to use special investigation techniques. However, the use of undercover investigations, such as infiltration into human traffickers up to creating a legal relationship and

committing crimes except for homicide and rape, raises questions. What if the infiltrator initiates a trafficker to commit a crime and commits torture? There is no certainty on what the types of special investigative techniques are, their limitations, principles, and procedures for conducting them, or the admissibility of intelligence reports.

5.2. Immunity Of Witness And Victim

This means victims and others are much more likely to come forward to report traffickers (provide valuable information on the traffickers and act as effective witnesses). Police training should acknowledge the practical value of providing incentives for trafficked persons and others to come forward to report traffickers (Guideline 5.2).

Many victims of trafficking do not cooperate with the police due to low awareness, fear of retaliation for exposing their trafficker, fear of prosecution for entering the country illegally, working illegally, or engaging in activities that are criminalized in the country, such as prostitution, soliciting, or begging. Moreover, the lack of basic needs provision during the prosecution period, which may take years, is a deterrent. Ethiopia, in cooperation with the International Organization for Migration, has established Migrant Response Centers at three high-volume transit areas located on the Northern, Eastern, and Southern migration routes. These are at Metema (via Sudan and Libya to Europe), Afar (via Galafi and Djibouti to Yemen), Somali (via Togo-wuchale, Somaliland, Bosasso and Yemen to Saudi Arabia), and Moyale (via Kenya to South Africa) areas, respectively (IOM, 2019). These centres register all received persons and provide them with immediate assistance such as water, food, medical treatment, temporary shelter, service referrals, and protection under guarded premises, as well as longer-term support rehabilitation services, such as trauma counselling. This includes screening to determine whether the individual is a victim of trafficking or migrant abuse and a needs assessment to determine the specific assistance and protection required by the individual. The investigator also has the duty to identify the victim and provide legal, health, and social services like shelter outside the police station and psychological services, and also immunity from prosecution even if they committed other related crimes like smuggling and using illegal documents.

Moreover, victims and witnesses are entitled to the protections stipulated under the Witness and Whistleblowers Protection Proclamation no. 699/2010, which includes the investigator's duty to conduct a risk assessment with the safety of victims and their families before, during, and after the criminal justice process and provide protection for them. Family and community members of human trafficking victims are relevant evidence to prove the case. Therefore, the police must provide effective protection for witnesses from potential retaliation or intimidation in criminal investigations. Moreover, it needs to assess the needs of witnesses and inform them that they are not liable for other crimes committed by them. Practically, the federal police commission pays a daily allowance for the victim and conducts real-time dispatches (RTD), and preliminary inquiries to register evidence. Moreover, community policing officers create awareness among the public about the impact of human trafficking and participate in the integration of victims with the community.

5.3. Parallel Money Launder Investigations

Human trafficking is a predicate offence to generate profit, and traffickers launder this profit, following the principle of "follow the money, and you will find the trafficker." The purpose of the trafficker is money generation, then conducting money laundering (Mazur & Lulic, 2007).

The Ethiopian Criminal Code Art 684 and Anti-Money Laundering Proclamation No. 657/2009, amended by Proclamation No. 780/2013, criminalize money laundering and establish a Financial Intelligence Centre (FIC). This proclamation does not define money laundering but explains the requirements for an offence to be considered a money laundering offence. Art 29 of this proclamation defines it as:

Any person who knows or should have known that a property is the proceeds of a crime and who converts and transfers the property for the purpose of concealing or disguising the illicit origin of the property or of assisting any person involved in the commission of a predicate offence to evade the legal consequences of their actions; conceals or disguises the true nature, source, location, disposition, movement, or ownership of or rights with respect to the property; acquires, possesses, or uses the property, or participates in the commission, conspires to commit, attempts to commit, or aids, abets, facilitates, or counsels the commission of any of the elements of the offences mentioned in paragraphs 'a' to 'c' of this article.

This means the process of placement, layering, and integration of illegitimate wealth with legitimate wealth. It also states that all cash deposits and withdrawals exceeding 200,000 birrs in local currency and 10,000 dollars or equivalent in other currencies are required to be reported to the Financial Intelligence Centre (FIC). This proclamation, Articles 25-26, allows the use of special investigation techniques such as surveillance, undercover investigation, and controlled delivery.

6. Concussion

Crime investigation is the process of collecting evidence to prove the fact of in issue based on the law of the country. Usually, these laws recognize some rights of the suspect and impose a duty to respect human rights on the investigator to level the playing field. However, for serious crimes and criminals, the police are authorized to use specialized special investigation techniques, which are covert means of collecting information from the suspect when the principles of legality, necessity, proportionality, and adequate safeguards are met.

There are some provisions of special investigation techniques in the FDRE criminal justice policy, anti-human trafficking, and smuggling of migrant proclamations. However, this legal basis is not enough. The types of special investigation techniques, who conducts them, how long they are conducted, for which crimes and criminals, and the requirements to conduct these are not adequately addressed. Therefore, the House of People's Representatives should enact a law on special investigation techniques for drug trafficking in Ethiopia.

Acknowledgement Statement: The authors would like to thank all participants and the reviewers for providing comments in helping this manuscript to completion.

Conflicts of interest: The authors declare that they have no known competing financial interests or personal relationships that could have appeared to influence the work reported in this paper.

Funding statements: This research has not received any funding.

Data availability statement: Data is available at request. Please contact the corresponding author for any additional information on data access or usage.

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