

LEGAL UPDATES

A REVIEW OF THE ARTICLE "THE PRELIMINARY INQUIRY IN ETHIOPIA AND ITS ADVERSE IMPACT ON THE RIGHTS OF THE ACCUSED", ANALYZING THE IMPLICATIONS OF PRELIMINARY INQUIRY ON FAIR TRIAL RIGHTS.



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Introduction

The article "The Preliminary Inquiry in Ethiopia and Its Adverse Impact on the Rights of the Accused," delves into the contentious issue of preliminary inquiries (PI) and their implications for the rights of the accused. It sheds light on the misalignment between Ethiopian legal practices and international standards of fair trial rights, as enshrined in legal instruments such as the International Covenant on Civil and Political Rights (ICCPR). The author credits the examples of opposition party leaders who were subjected to PI after Hachalu Hundessa's 2020 killing and other cases similar to it as inspiration for writing the article.

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The Analysis of the Article

The article's analysis is structured around two main arguments: the departure from the principle of equality of arms and the compromise of the right to confrontation. It meticulously dissects Ethiopia's PI process, illustrating how it predominantly serves the interests of the prosecution, thereby disadvantageous to the accused. It points to the primary purpose of PI in other jurisdictions as a screening mechanism to protect the accused by assessing whether there is sufficient evidence to warrant proceeding to trial, thereby protecting the accused from unfounded prosecution. The article underscores the fundamental flaw in Ethiopia's approach, which prioritizes evidence preservation for the prosecution.



The article mentions the imbalance of power between the prosecution and the accused in initiating and conducting PI pointing out the lack of discretion for the accused to waive the procedure. This imbalance, coupled with the absence of genuine screening functions in Ethiopia's PI, exacerbates the procedural inequality faced by the accused, violating their right to a fair trial. The article critiques the application of Article 144 of the Criminal Procedure Code, which allows the introduction of depositions from PI as evidence in trial, even when the witness is unavailable for cross-examination. It argues that this practice undermines the right to confrontation, as guaranteed by both the Ethiopian Constitution and international treaties.

As a concluding remark, The author calls for urgent reforms to align Ethiopia's legal framework with international standards of fair trial rights. suggests the revisiting of the draft Criminal Procedure and Evidence Code to incorporate genuine screening functions within the PI process, thereby mitigating the adverse impact on the rights of the accused. Additionally, proposes practical measures for the OAG to exercise discretion in ordering PI, particularly in cases where its necessity is questionable.



Final thought of the article review is that the article critically analyzes the implications of Ethiopia's PI process and it serves as a thought-provoking contribution to legal scholarship. It not only identifies systemic flaws within the Ethiopian legal system but also advocates for meaningful reforms to uphold the principles of justice and fairness for all parties involved.



Reference

- Kassa W.D, 'The preliminary inquiry in Ethiopia and its adverse impact on the rights of the accused' (2020) 14 Mizan Law Review 150