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The process of democratization and the roles of the Civil Society in
Ethiopia: **A COMPARATIVE STUDY**

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Introduction

1. Background

The word democracy came from Greek. Its meaning “the rule of people”¹ has been the source of debate for centuries. The Greek philosophers such as Aristotle, Plato and Thucydides have regarded it as the government of the poor or the government of the ignorant.² Tocqueville, Richard Arnesson and David Held have contributed their share to the debate on democracy. Differently from its etymological meaning, scholars have generally forwarded two opposite definitions of democracy; the broad and the narrow definitions of democracy. In recent years, the latter has been serving as a measurement of democratization on earth.

Almost in all of the continents of this world, democracy has been preached for long years. Yet, now it has been a hot global issue. Consequently, countries are democratizing their systems. In this democratization process they have also utilized various mechanisms among which is the civil society.

This civil society which has these days been a key in the democratization process is defined in various ways. To take a single definition, it is broadly defined in literatures as the “private sphere of material, cultural and political activities resisting the incursion of the state”³. It is meant to represent a counter- weigh to state power and can thus serve as critical agent of democratization. Civil society is, therefore, a constant thorn in monopolizing political claims of the state.

In fact, there is a dialectical interaction between state and civil society. A myriad of literatures reveals that the state is transformed by a changing civil society; civil society is transformed by a changing state.⁴ This relationship is magnified in literatures in so many ways such as multiple

economic interaction and erection of protective trenches against coercive abuse, material extraction and political compliance by the civil society.⁵

Literatures affirm that massive social contradictions have unexpected political outcomes, they may lead to limited processes of liberalization, or they may trigger a great transformation of kind in which dictatorships are not merely modified but thoroughly swept away.⁶

Writers contend that current processes of democratization are due largely to civil society's debordment of the state, i.e., the capacity of civil society to defy and ultimately overwhelm the predatory state and its project discipline through illegal mass political defiance and protest.⁷ Civil society is, thus, a "potentially liberating factor in any political calculus".⁸

When we come to the African context, the individual actor within civil society is seen, however, as firmly embedded within communal, mostly primordial attributes that the individual in his or her opposition to the state does it. Intellectuals describe that "civil society in Africa is conflict – ridden and prone to Hobbesian war of all against all."⁹ The recent African history witnesses that the unmitigated brutality of the Liberian civil war in the post Doe era, the collapse of Somalia into the violence of clan "war-lordism", the Togolese "redictatorialization" under Eyadema, the persisting obscenity of Mobutism in Zaire and the killing fields of Rwanda and Angola are all very incomplete reminders of the potential revenge of an exploding and uncontrollable civil society.¹⁰

Regarding the roles of civil society in the democratization process in Ethiopia, civil society's development in the country is a recent phenomenon. Nonetheless, it needs a quite deeper search in identifying the historical and current facts. The Imperial regime, the Dergue regime and the current ruling government have mostly contributed to the

evolution of civil society. But historical and present situations denote that the 1973-74 and the 1984-85 famine has considerably contributed for the booming of the civil society with a view to alleviate the existing situation.¹¹ Besides, the 1990s democratic process in the country has also been one of the avenues for the increased number and role of civil society in Ethiopia.¹²

2. Objectives of the study

The thesis has the general objective of contributing to the body of knowledge regarding democracy, democratization and the roles of civil society in general and in Ethiopia in particular. Besides, it is targeted at recommending legal solutions to social problems in the area and at contributing to the development of law.

As far as the specific objectives of the thesis are concerned, the following questions are addressed:

- What is democracy? What is the nexus between civil society and democratization? What are the major roles of civil society? What are the demarcating lines between the roles of civil society and the ruling class? What historical facts are exhibited in Ethiopia with a view to utilizing civil society as tools of democratization? What are the current trends with respect to the roles of the civil society and their effort of democratization? Is there a law or a proposed draft law? Is there any lacuna or restriction hindering the civil society from actively engaging in the Ethiopian democratization process? If so, what would the solution be? These and other basic points are discussed in detail.

In Ethiopia, democratic process and the development of the civil society seem short-lived. Owing to their recent development in the country, some pragmatic problems have been taking a considerable

place in the Ethiopian experience. Consequently, the above questions and the inevitable future coming issues have almost got relevant answers.

3. Statement of the problem

Democratic process in its modern form is a recent phenomenon in the history of the country. Not only this, the establishment of civil society organizations is again short-lived. Given such clear facts, the lines between state and civil society to play key roles in democratizing the country are not almost well demarcated. Furthermore, the general public remains in doubt inasmuch as it is not sure that whether the state and the civil society are expected allies or enemies depending on various circumstances. In other words, it is mostly appropriate to deduce that the general public does not have unambiguous knowledge with regard to the roles of the state and civil society. In addition to these, the inadequacy of law governing the civil society in the country has also its own impact in anticipating and achieving the expected result in the democratization endeavor. Consequently, it seems imperative to lightly inquest the Ethiopian democratization process and the roles of the civil society at large.

4. Scope and limitation of the study

The scope of the study is particularly confined to the democratization process and the roles of the civil society in Ethiopia. The limitations during the research were lack of resources, skilled typists and editors, and Braille materials. The great dependence on other persons for reading, writing, editing, and material collection in libraries were great obstacles as assistants have a role in delaying the research. Most importantly, the reading rooms provided were by far less convenient for a visually impaired person like this researcher. Finally, the researcher has been feeling insecure due to the inconvenience of the environment

during trips to interview and collect data and literatures. Such limitations have exerted greater impact on the researcher.

5. Significance of the study

The study is significant in that primarily it contributes to the body of knowledge. In addition to this, it adds some input to the development of the law. Not only these, it helps in drawing lines between democracy, democratization and the roles of civil society and the state. It also seeks a legal solution to some social and political problems in connection with democratization. It assists in pinpointing exact roles of civil society in the process substantiating with considerable number of cases in comparison with practices in abroad.

6. Methodology:

This writer opted to use the doctrinal and empirical methods of research. Document review such as: related laws, reports, books, magazines, journals, have been used in doing the research. Besides, quantitative and qualitative methods of approaching the study are also some major tools of doing the research. Interview and personal observation are also the other methods with which this writer attempted to do the study.

CHAPTER ONE

DEMOCRACY AND DEMOCRATIZATION

1. THE CONCEPT OF DEMOCRACY

1.1. The conceptual basis of Democracy

In this section, I would attempt to show the definitions and the conceptual basis of democracy and democratization. I try to give responses to the questions "how is the Tocquevillinan conception of democracy? What is the etymological definition of democracy? What is democracy in the conception of Abraham Lincoln? What other contemporary definitions have been contributed? What are the basic debates on democracy? What are the attempts to measure democracy? How is democratization treated? And finally what does the relationship between public services and democracy look like?"

Democracy may be a word familiar to most, but it is a concept still misunderstood and misused in a time when totalitarian regimes and military dictatorships alike have attempted to claim popular support by pinning democratic labels upon themselves. Yet the power of the democratic idea has also evoked some of history's most profound and moving expressions of human will and intellect: from Pericles in ancient Athens to Vaclav Havel in the modern Czech Republic, from Thomas Jefferson's Declaration of Independence in 1776 to Andrei Sakharov's last speeches in 1989.¹

In the dictionary definition, democracy "is government by the people in which the supreme power is vested in the people and exercised directly by them or by their elected agents under a free electoral system;" In the

phrase of Abraham Lincoln, democracy is a government "of the people, by the people, and for the people."²

The word democracy comes from two Greek words *demo* (rule) and *kratos* (people) and literally means "rule by the people."³ It is sometimes said that democratic government originated in the city States of ancient Greece that democratic ideals have been handed down to us from that time. In truth, however, this is an unhelpful assertion. The Greeks gave us the word, but did not provide us with a model. The Greeks had little or no idea of the rights of the individual, an idea that is tied up with the modern concept of democracy. Greek practice granted the right of political participation to only a small minority of the adult inhabitants of the city. When those granted this right were able to take political decisions, they did so by a direct vote on issues, which is very different from the system of representative government that has developed in the west in the past two centuries. ⁴

Henceforth, it is almost possible to conclude that Greek democracy was poorly regarded by all the Greek philosophers and historians whose writings have survived, including Plato, Aristotle, and Thucydides. They depicted it as government by the ignorant or government by the poor. It was subsequently held in general disrepute for over two thousand years. Plato's critique of democracy in Athens was set against what he saw as the decline of the city, its defeat in the war with Sparta and the decay of morality and leadership. In Athens, democracy meant the rule by the poor majority. People could do pretty much as they liked; there was no respect for authority in the family, in schools, or elsewhere. Eventually, Plato reasoned, "laws would not be respected but would be seen as attacks on the freedom of the people. This situation would lead to anarchy (absence of political authority) and chaos, paving the way for tyranny (rule by a single dictator)". ⁵

With the decline of Athens, the debate about democracy was put on hold for a very long time. In the feudal system of the middle ages, power was not vested in elected bodies; it was based on rank that could be attained only through inheritance or by force.⁶

A new body of thought on democracy, based on modern society, did not emerge until the 19th century, although its beginnings can be traced to the renaissance and Niccolo Machiavelli (1469-1527). During this span of time from the renaissance to the 19th century, ideas about democracy took shape in the context of development of modern, industrial-capitalist society. A large number of highly diverse contributions to the debate about democracy were made during this period.⁷

The term democracy, in its modern sense, came into use during the course of the 19th century to describe the system of representative government in which the representatives are chosen by free competitive elections and most male citizens are entitled to vote.⁸ In the United States these state of affairs was reached in the 1820s and 1830s, as the franchise was extended state by state. In France, there was a sudden leap to adult male suffrage in 1848, but parliamentary government was not established securely until 1871. In Britain, parliamentary government was secure from 1688 onwards, but the franchise was not extended to the majority of male citizens until 1867.⁹ Democracy is therefore a fairly new phenomenon in world history, although it is spreading and seems likely to spread further.

1.2. The debates on the meaning of democracy

It is my contention that in order to understand democracy and its present position in the world, one must have an awareness of the most important debates about the meaning of democracy; a notion of the core features of democracy relevant for today's world and an understanding of

how economic, social, and cultural conditions affect the quality of democracy.

The definition of the term Democracy “rule by the people” immediately raises a number of complex issues. The following are some of the most important ones which are aptly summarized:

- Who are to be considered the people?
- What conditions are assumed to be conducive to participation? Can the disincentives and incentives, or cost and benefits, of the participation be equal?
- How broadly or narrowly is the scope of rule to be construed? Or, what is the appropriate field of democratic activity?
- Must the rule of the people be obeyed? What is the place of obligations and dissent?
- What mechanisms are created for those who are avowedly and actively non-participants?¹⁰

On condition that we attempt to take the meaning of democracy as “the rule of the people”, we immediately run into the problem of how, in practical terms, to define the “people” and how to define the meaning of “rule”. The South-Africa regime, for example, has long rested on what are normally described as democratic institutions for its white citizens, but not for the majority of its people, who are black or colored. Would the answer to this question be different if the great majority of South-African citizens were white? In practice, the answer that people give to these questions depends on their political values. So, it is impossible to formulate a value-free definition of ‘the people’.¹¹

The difficulty is also clear with regard to the question of what is meant by “rule”. If ruling is taken to mean the activity of reaching authoritative decisions that result in laws and regulations binding upon society, then, it

is obvious that (apart from occasional referendums) only a small minority or individuals can be rulers in modern, populous societies. It is essential to a democracy that governmental decisions, though only made by a small minority of politicians should nevertheless reflect or embody the popular will? If so, how can "the popular" will be defined and how can it be identified in practice? The answers that people give to these and various similar questions clearly depend on their values and ideals.¹² Consequently, it readily appears that the discussion of democracy must involve not only the theory about possible ways of organizing rule by the people but also the philosophy about "what ought to be" (that is, the best way of constructing government and an understanding of practical experiences with the ways in which government has been organized in different societies at different times.¹³

Many scholars have eyeballed democracy and so many definitions and explanations have been grounds for many of the contemporary definitions and explanations. It would be relevant to cascade the views of few scholars at least to disclose few of the definitions and explanations in order to view the debates on democracy from various angles and for better understanding of the subject matter. . In doing so, it seems unfair to forget the contribution of Tocqueville for most of the contemporary conclusions as far as democracy is concerned.

Tocqueville distinguished between democracy in the sense of a democratic political system, or a set of institutions through which rulers are held responsible to electoral majorities, and democracy in the sense of a social system in which there is an absence "of legally maintained classes hierarchies."¹⁴ His thesis is that political democracy can defuse some of the social conflict that might otherwise result from the emergence of a democratic social system.

Tocqueville underscores the difference between these two species of democracy by insisting as follows: for him, "democracy in a social sense is inevitable, an inescapable feature of the modern world, while democracy in a political sense is a product of human freedom, a matter of prudence of choice. According to him, the two forms of democracy are casually related, it turns out. In a society, where class differences are legally enforced, the lower orders glimpse their superior only from a courteous distance. This lack of contact and opportunity for observation (outside the shuttered sphere of the household) gives rise, in rigidly stratified societies, to poetic illusions. Legal inferiors imagine that their unapproachable legal superiors also excel them morally, intellectually, and humanly. This misconception, fostered and perpetuated by ignorance, encourages them to bend their knees, heteronomously, to authority from above. As legal classes are abolished, however, an opportunity for revealing glances into the lives of the preeminent increase. When one individual eyeballs another, even a wealth one, up close, delusions about intrinsic superiority vanish. After legal stratification is abolished, as a consequence, ordinary citizens lose their immemorial readiness to do whatever would be masters describe. In this way social leveling naturally produces a predilection for democratic self-rule.¹⁵

David Coop expounds this viewing of Tocqueville. He elaborates that the casual relations between his two forms of democracy (to tame democracy by more democracy) is intelligible only if we keep the double meaning of democracy in mind. He moreover reveals that interpreted in this light, his seemingly paradoxical thesis means simply that democratic *lois politiques* man forestalls the most distasteful consequences of a democratic *etat social*.¹⁶

Whereas, Richard Arneson offers a consequentialist view in favor of democracy. He claims In particular that rights of democratic participation

have the function of protecting more fundamental rights, such as right to privacy, freedom of expression, economic equality, and the like. He restricts attention, then, to the consequence of political systems for the protection of fundamental rights, and he views political rights as merely instrumental to protecting these rights. In his view, there is no fundamental right to participate in democratic institution, and democracy is not itself a requirement of fairness, even though it might affect the fairness of society in other respects.¹⁷

Other contemporary definitions have also been forwarded in the effort to find a comprehensive meaning to democracy. Henceforth, democracy is also defined as "a set of institutional procedures to guarantee basic civil and political rights and allow political competition between political forces, usually organized through parties".¹⁸

It is clear from this brief overview of important debates concerning democracy that the questions asked at the beginning about the meaning of rule by the people involve so many complex elements that they are far from being easily answered. Indeed, a full answer to the question of what democracy means today requires a theory of contemporary society supported by substantial normative considerations about the type of people's rule that is desirable, which cannot be perused here. Instead, I will illustrate the scope of this debate by outlining two conceptions of democracy with contemporary relevance: one rather narrows the other very comprehensive. From each side, they help delimit the territory within which the debate about democracy has taken place.

The narrow concept of democracy was formulated by Joseph Schumpeter. For him, "democracy was simply a political method, a mechanism for choosing political leadership. The citizens are given a choice among rival political leaders who compete for their votes. Between elections, citizens can replace their elected officials. This ability to choose

between leaders at election time is democracy'. In Schumpeter's words, 'the democratic method is that institutional arrangement for arriving at political decisions in which individuals acquire the power to decide by means of a competitive struggle for the people's vote.'" ¹⁹

At the opposite end of the spectrum we have the very comprehensive notion of democracy suggested by David Held. Held combined insights of the liberal and the Marxist traditions in order to arrive at the meaning of democracy. For him, "*Individuals should be free and equal in the determination of the conditions of their own lives; i.e., they should enjoy equal rights and accordingly equal obligations in the specification of the framework which generates and limits the opportunities available to them, so long as they do not deploy this framework to negate the rights of others*".

²⁰He strongly elaborates that "Without tough social and economic rights, rights with respect to the State could not be fully enjoyed; and without State rights new forms of inequality of power, wealth and status could systematically disrupt the implementation of social and economic liberties."²⁰

It would be appropriate to pinpoint few of the main important principles in the broad definition of Held. His definition incorporates that:

- A. Individuals should be *free* in the determination of the conditions of their own lives.
- B. Individuals should be *equal* in the determination of the conditions of their own lives. i.e., they should enjoy equal rights and equal obligations.
- C. Individuals should *specify* a framework which generates and limits the opportunities available to them enjoying equal rights and accordingly equal obligations.

- D. *They should not* deploy the framework to negate the rights of others.
- E. *Rights* with respect to the *State could not be fully enjoyed* without tough social and economic rights.
- F. *Without State rights*, new forms of inequality of power, wealth and status could systematically disrupt the implementation of social and economic liberties.

It seems pretty clear from the aforementioned enactment of the principle, which Held called **democratic autonomy**, that it requires both a high degree of accountability of the State and a democratic reordering of civil society. It foresees substantial direct participation in local community institution as well as self-management of cooperatively owned enterprises. It calls for a bill of rights that goes beyond the right to cast a vote to include equal opportunity for participation and for discovering individual's preferences as well as citizen's final control of political agenda. Also included are social and economic rights to ensure adequate resources for democratic autonomy.²¹

However, this view of the meaning of democracy, i.e., the broad one, is less helpful. It does not give us much guidance in determining whether specific countries are democratic or not. For that purpose we need a precise concept that provides a clear identification of what democracy essentially is. It is necessary, in other words, to cut through the debates in order to find a tool with which we can identify democracy by its fore features, as a form of government in which the people rule. In this regard, most helpful would be a narrow concept that focuses on democracy as a specific type of political system. In the broad concept, democracy is not only a political but also a specific social and economic system. In other words, if we were to use the broad concept we would be able to find very few, if indeed any, empirical cases of democracy. Furthermore, when

democracy is seen in a narrow sense as a political system it is easier to ask questions about the relationship between this political system, on the other hand, and the economic and social dimensions, in the other.

In dealing with the narrow definition, the contribution by Robert A. Dahl is helpful in defining democracy as a political system. Dahl emphasized the responsiveness of the government to the preferences of its citizens, considered as political equals, as a key characteristic of democracy and, according to him, such responsiveness requires that citizens must have opportunities to:

- A.** formulate their preferences
- B.** signify their preferences to their fellow citizens and the government by individual and collective action, and
- C.** Have their preferences weighed equally in the conduct of the government.²²

These three opportunities, in turn, are dependent on the following institutional guarantees:

- 1.** Freedom to form and join organizations
- 2.** Freedom of expression
- 3.** Right to vote
- 4.** Eligibility for public offices
- 5.** Right of political leaders to compete for support and votes
- 6.** Alternative source of information
- 7.** Free and fair election

8. Institutions for making government policies depend on votes and other expression of Preferences.²³

Yet for practical purposes it will be helpful to come up with an even more condensed definition that summarizes these eight basic elements of political democracy into three main dimensions. Against this background,

political democracy can be viewed as a system of government that meets the following conditions:

- Meaningful and extensive competition among individuals and organized groups (especially political parties) for all effective positions of government power, at regular intervals and excluding the use of force.
- A highly inclusive level of political participation in the selection of leaders and policies, at least through regular and fair elections, such that no major (adult) social group is excluded.
- A level of civil and political liberties –freedom of expression, freedom of press, freedom to form and join organizations sufficient to ensure the integrity of political competition and participation. This is the definition of political democracy that is to be employed in the present volume.²⁴

When democracy is defined in terms of competition, participation, and liberties, it is clear that the process of democratization, the change of political system from non-democratic towards more democratic, can take place in different ways. Dahl again identified and reduced the aforementioned parameters into two principal routes toward democracy: one with a focus on competition, the other with focus on participation.²⁵

Competition (or **liberalization**) concerns “the extent to which rights and liberties are available to at least some member of the political system; increasing liberalization means increasing the possibility for political opposition and competition for government power”.²⁶

To exemplify, in the former USSR, elections were regularly held and all adults had the right to vote, but opposition to the ruling communist party was not possible. In other words, there was a high degree of participation but there was no political competition and there were no real

liberties, such as freedom of expression, the right to form organizations and access to alternative sources of information. Therefore, the USSR was not a democracy; rather, the present process of democratization in the former USSR is first and foremost a process of liberalization, of increased political competition backed by real rights and liberties.²⁷

Increased participation (or **inclusiveness**) means that “the proportion of citizens who enjoy political rights and liberties increased”.²⁸ Non-democratic regimes may exclude a large majority of the population from participation, whereas in democratic regimes the entire adult population enjoys the full range of rights and liberties.²⁹

In South Africa, for instance, the situation is different. For many years, a white minority has enjoyed the political rights and liberties necessary for political competition, whereas the black majority has been excluded from participation. In this case, the process of democratization is primarily one of increasing participation through the inclusion of the black population.³⁰

How does the comprehensive notion of democracy outlined by Held fit to this picture? Held's concept of democracy can be seen as an expansion of political democracy in two respects: further liberalization and more participation. In other words, having reached political democracy, further democratization is still possible according to the broad concept of democracy set forth by Held. On one dimension, this means “...additional liberalization: formal political rights and liberties may be worth little if citizens are not secured equal rights in more substantial manner. For example, without a welfare State that prevents extreme material poverty deep socio-economic inequalities, it is not possible for the poor sections of the population to fully enjoy their political rights. Only with poverty eradicated can formally equal rights be translated into substantially equal

rights”,³¹ despite the fact that there are various scholars going against this view of Held.

This writer has been relatively interested in cutting through the debate in this way as mentioned previously. Because, it would be appropriate to go through democracy and democratization in the Ethiopian context. In underscoring the democratization process in the country, it would mostly be relevant to measure according to a certain criteria. Otherwise, the research is likely to be wider than is intended. Not only that, the argument on democracy becomes also infinite, at least, for the purpose of this thesis, and its lack of focuses remains glaring.

1.3. Attempts to Measure Democracy

The most recent attempt to measure the degree of democracy in a large number of countries using Dahl’s concept of democracy as a starting point was undertaken by Tatu Vanhanen.³² The other recent attempt was also made by the freedom house index. The index employs one dimension for competition and participation (called political right) and one dimension for civil liberties. For each dimension a seven point scale is used, so that the highest ranking countries (i.e., those with the highest degree of democracy) are one-ones and the lowest are seven-sevens. In other words, the index attempts to reflect the space of semi-democracy or semi-authoritarianism between outright authoritarian and fully democratic regimes. Countries with an average rating between 1 and 2.5 are considered free; those with average between 3 and 5.5 are partly free; and those with rating from 5.5-7 are considered not free. ³³ Although the freedom house distinction between rights and liberties differs from the breakdown components in the definition of democracy we are employing, both basically cover the same dimensions. Therefore, the freedom house

index can function as an approximate measurement of political democracy as defined in this thesis.

In line with this, the 1990-1991 freedom house survey of independent countries, bringing the total number of states in the world to 165, classified sixty-five countries as free, fifty as partly free, and other fifty as not free.³⁴

Leaving the authoritarian States aside, this index has further categorized countries into four categories namely: established democracies, new democracies (fledgling democracies), countries exhibiting features of democracy and States hoped to be democratic by the turn of the century. According to the index, The established democracies are: In Europe: Finland, Sweden, Norway, Denmark, Iceland, the United Kingdom, Ireland, Germany, Holland, Luxemburg, Belgium, France, Austria, Switzerland, Italy, Greece, Spain, and Portugal. In America: Canada, the U.S.A., Costa Rica, Trinidad and Tobago, and Jamaica. In Asia, the examples are Turkey, Israel, India, Sri Lanka, and Japan; In Australia there are Australia and New Zealand. Whereas, the fledgling democracies are Poland, Hungary, and the two halves of Czechoslovakia, and the Philippines. The States that exhibit some but not all of the features of democracy include Malaysia, Zimbabwe, Nicaragua and Cyprus. The last category of States that may become democratic by the turn of the century if all goes well include the Baltic republics, Russia, Ukraine, and some of the other former Soviet republics, Slovenia, and possibly South-Africa.³⁵

Two caveats are worse stressing in relation to the freedom house survey and other indexes. First, they provide only rough approximation of the possible presence and status of democracy in a country. They are incapable of revealing many of the features of political systems. For example, the feature that made Chalmers Johnson characterize Japan as

soft authoritarian do not come clearly forward in any of these indexes. He strongly argues that *although Japan seems superficially parliamentary democracy and despite its adoption of a formally democratic constitution and the subsequent development of a genuinely open political culture Since 1947, it seems to have many "soft authoritarian" features in its governmental institutions: an extremely strong and comparatively unsupervised State administration, single party rule for more than three decades, and a set of economic priorities that seems unattainable under true political pluralism during such a long period.*³⁶

But the political rights and political liberties dimensions employed by the freedom house do not reveal such problems. Therefore, detailed analysis of specific cases is necessary in order to ascertain the democratic qualities of countries in a more profound manner. It is only at the level of individual case that one can study the interplay between formal freedoms, political process, and the larger context of socio-economic and other conditions that affect the quality of democracy.³⁷ Furthermore, if we agree with Held that democracy is made much more difficult by extreme material poverty, then it also becomes relevant to look at socio-economic conditions as co determinants of the quality of democracy, even if these conditions are not included in the definitions of democracy as a political system.

The second caveat that should be stressed with regard to the indexes is that estimate degree of democracy concerns the "new" democracies. These democracies are in the early stages of what might be a long process of transition from authoritarian toward democratic rule. In other words, the ratings these new democracies receive in the indexes are really only snapshots of regimes that are "on the move" i.e., in the process of transition from one form of regime toward another.³⁸

Our first task in attempting to determine whether a specific country is a democracy or not is to look for the presence of competition, participation, and liberties in that country, not just on the formal level but in real practice. But there are many examples of political leaders who pay lip service to democratic ideals without meeting them in practice.³⁹ This complicates the situation. Thus, it is necessary to decide on some minimum value that should be met with regard to each dimension for a country to qualify as democratic.

2. THE COMMON TYPES OF DEMOCRACY

2.1. Parliamentary Democracy

In discussing European ideas about democracy it is appropriate to begin with French ideas, because the French have influenced more countries that have remained democratic than the British have done. The French have influenced the growth of democratic institutions and practices throughout most of continental Europe.⁴⁰

A discussion of French democratic ideas has to also begin with the theories of Jean-Jacques Rousseau. I would like briefly touch upon his philosophic approach in the following way: "Rousseau did not believe in representative government, because he did not think that men's wills could be represented by others. His ideal revolved around direct self-government in small communities, and even there he did not apparently think it important that all adults or even a majority of adults should be entitled to participate in political decisions. Rousseau considered that in an ideal polity individual should put their personal interests on the one side when they participated in politics, and commit themselves instead to the promotion of the communal welfare. He postulated the possibility that

citizens could have two levels of consciousness, leading to two types of political will. According to him:

1. They would be conscious of their own individual or group interests, leading to a set of particular wills' to promote measures favorable to those interests.

2. They could, in the right conditions, be lead to think in terms of the interests of the community as a whole, leading to a real will to promote measures that would protect these shared interests. According to Rousseau, the particular wills of citizens would be diverse and to some extent mutually incompatible; their real wills, on the other hand would merge into a consensus that Rousseau called "the general will". It followed that if the laws of the State were based on the general will, they would not restrict the liberty (properly defined) of citizens, who would be forced to obey only laws that they had prescribed for themselves. It was in this way; Rousseau declared that man could resolve the most fundamental problem of politics that of how to achieve freedom while being bound by the law of the community.⁴¹

What French attitudes to democracy have in common with Rousseau's ideas is the assumption that democracy to be advocated in collective terms rather than in the individualistic terms. Although French revolutionaries talked of the rights of man, they did not share the American belief in popular sovereignty. The doctrine of the revolutionaries was not that the French people were sovereign and that their views were represented in the national assembly. The doctrine that the French nation was sovereign and the national assembly embodied the will of the nation. According to the new theory promulgated by French revolutionaries, political representation were no longer to be thought of intermediaries of this kind but were to contrive , in their collective capacity, to act as the voice of the nation. It views the elected representatives as an independent maker of national laws and policies, not as an agent for constituents or for

sectional interests.⁴² This doctrine marked a turning point in continental European ideas about political representation. The present system of government in France is a hybrid system, not only in the sense that it combines some of the features of normal parliamentary democracy with a strong executive presidency that is not answerable to parliament, but also in the sense that it has broken with the traditional republican doctrine that the national assembly (and only the national assembly) embodies the will of the nation.⁴³

This French view has been generally accepted in Europe. The French constitutional provisions that prohibited mandates and instructions were subsequently copied or followed in the constitutions of most of the countries of western Europe, including those of Belgium, in 1831, Italy in 1848, Prussia in 1850, Sweden in 1866, Austria in 1867, German in 1871, Switzerland in 1874, the Netherlands in 1948 constitution of Italy and the 1949 basic law of the German federal republic. In Britain which has no written constitution, the same attitude is embodied in the constitutional doctrine that sovereignty belongs to parliament, there being no mention of the people, and also in the contraventions that protect the privilege of members of parliament.⁴⁴

The history of the development of democratic government in Britain differs from the French case in three significant ways:

- A. Britain had a liberal culture and a constitution based on the doctrine of parliamentary sovereignty for nearly two centuries before the system became democratic.
- B. British politicians and theorists engaged in a debate over the extent of the franchise for the greater part of the 19th century.
- C. British liberal theories were more individualistic in their assumptions than French theorists.⁴⁴

Generally speaking, other than those unique features mentioned previously, the position of ministers in a parliamentary system is very different from that of U.S. Congressmen and Senators, who do not have executive responsibilities, and this is one of the reasons for the differences between European and American democratic theories. Europeans are rarely populist, in the American sense, and while in the 19th century this was partly because Europeans were more skeptical about the political wisdom of the people, in the late 20th century. It is namely because of the constitutional differences between a parliamentary system and one based on the separation of powers. These trans-Atlantic differences are so great that any attempt to generalize about democracy which ignores them must inevitably be inadequate.⁴⁵

2.2. Representative Democracy (American Democracy)

To have a better understanding of the parliamentary democracy, it seems important to ingurgitate the American democracy scrutinizing its unique features. Simplifying somewhat, it can be said that Americans have defined their democracy in three different ways:

1. A populist way, in terms of the rule of the people;
2. A populist in terms of competition between sections and pressure groups; and
3. An institutional way, in terms of a set of institutions and processes. ⁴⁶

All of these three versions had their origins in the thought and writings of the founding fathers of the American republic. The belief in the principle of popular sovereignty was common to all founding fathers, whether they were relatively conservative or relatively radical. To mention some ideas of the founding fathers: James Wilson of Pennsylvania declared that *in their governments the supreme, absolute, and*

uncontrollable power remains in the people; As their constitutions are superior to their legislatures, so the people are superior to their constitutions..., in the Jeffersonian sense, political participation is both a process (political activity to elect and influence public officials) and a result (government policy that reflects the popular will), Whereas Hamilton said "it was essential that representatives should have an immediate dependence on and an intimate sympathy with, the people. Jefferson was of the same opinion declaring that legislators should have to submit themselves "to approbation or rejection at short intervals" and saying that the executive (by which he meant the State governor or the president) must be "chosen in the same way ... by through whose agent he is to be." The president, be it noted, was regarded by Jefferson as an agent of the people; a view that has never been taken of a prime minister in a parliamentary system of democracy.⁴⁷

In the federal republic of the United States ... the society itself will be broken into so many parts, interests and classes of citizens that the rights of individuals or of the majority will be in little danger from interested combination of the majority. In the federalist no.10, Madison argued that the size and diversity of the proposed federation would safeguard the right of minorities by making it difficult for any coherent majority to be formed. Extend the sphere and you take in the greater variety of parties and interests; you make it less likely that a majority the whole will have the common motive to invade the rights of other citizens; or if such a motive exists, it will be more difficult for all who feel it to discover their own strength, and to act in unison with each other.⁴⁸

This suspicion of majority rule runs through a great deal of political debate in America. It goes along with the attachment to the separation of powers between the legislature and the executive that operates at both federal and State levels of government. Thus, in the post war period the

theories about sectional pluralism were given anew emphasis by writers who argued that disciplined national parties were undesirable and probably impossible to achieve in a society as large and heterogeneous as America. And, following that, writers like Earl Latham and David Truman developed a new form of pluralism which hinged on the activity of organized interest groups rather than on pressures from geographical sections.⁴⁹ The pluralist theory holds that political power is fragmented among various competing groups, such as veterans', farmers', labor, businesses, and professional organizations. According to the theory, people in a democracy may not only parties in politics directly but may also do so through their membership in groups. Pluralists say that government does not result from imposed "public" decisions but from compromises worked out by the competing groups in a kind of bargaining process.⁵⁰

To sum up, this rich literature on American democracy in a paragraph is almost impossible, but it is perhaps fair to suggest that a central characteristic of America's democracy, then, is political participation; i.e., citizens should be able to take part in political decision-making. A summation might be based on the following propositions:

1. The institutional or procedural approach to the definition of democracy is empirically helpful, but is open to the criticism that it ignores the idealistic vision that constitutes the spirit of American democracy.
2. The populist approach does justice to the vision but not easily be translated into criteria for assessing the actual practice of government.
3. The pluralist approach is empirically quite (though not entirely) realistic and embodies a normative commitment, but critics doubt whether this commitment adequately reflects the democratic ideal.⁵¹

3. PROCESS OF DEMOCRATIZATION

3.1. Democratization defined

According to Harold Hongju Democratization is the process of inclusion where by out groups gradually become in groups, dealing them into the constitutional bargain, extracting concessions (rights) in exchange for their useful cooperation. He clarifies this definition that certain members of the inner circle try to enhance the relative bargaining position by using the democratic formula of elections. To gain votes, in turn, they grant concessions not just to powerful lobbies, but to broad swaths of the electorate. In this way the citizenry at large gains not a fair share but at least a small share of the public resources extracted from them by the State.⁵²

In Michael Bratton's glance democratization involves the construction of participatory and competitive political institutions. The process of democratization begins with political challenges to authoritarian regimes, advances through the political struggle over liberalization, and requires the installation of a freely elected government. It concludes only when democratic rules become firmly institutionalized as well as valued by political actors at large. Democratization is thus a protracted process which, if it obtains at all, unfolds over several generations.⁵³

Robert Dahl seems to suggest incorporating what are, more or less, defined and elaborated by the scholars. For him, it is convenient to think of democratization as consisting of several broad historical transformations. He strongly argues and categorizes them into three. In his view, democratization is:

1. The transformation of hegemonies and competitive oligarchies into near polyarchies.
2. The transformation of near polyarchies into full polyarchies; and

3. The further democratization of full polyarchies. According to Dahl polyarchy means “regimes that have been substantially popularized and liberalized, i.e., highly inclusive and extensively open to public contention.”⁵⁴

Dahl concludes that “the development of a political system that allows for opposition, rivalry, or competition between a government and its opponents is an important aspect of democratization”.⁵⁵

According to these definitions, a transition to democracy can be said to have occurred only when a regime has been installed on the basis of a competitive election, freely and fairly conducted within a matrix of civil liberties, with results accepted by all participants. The acceptance of the validity of founding elections by losing parties is crucial because it marks the first tentative consensus on democratic rules. In principle, the alteration of top leaders is not a necessary condition for democratic transition. Conceivably, an existing ruler could be returned to office in a fair election and could opt thereafter to govern under new rules for enhanced participation and competition. In practice, however, neopatrimonial traditions of personalized rule in Africa make it difficult to separate the outcome of elections for the fate of the ruler. For opponents of the old regime, the ultimate symbol of political change is the downfall of the dictator.⁵⁶

3.2. Preconditions in Democratization

Many scholars have attempted to put forward their best ideas with respect to what pattern of economic, social, cultural, and other conditions is most favorable to the rise of democracy. It would be appropriate to shortly show the pictures of some ideas of few writers suggested as preconditions to democratization. The following basic arguments are some

of known contributions of the scholars such as Seymour M. Lipset, Robert Dahl, Guillermo O'Donnell, Barington and Goran:

A. Economic implications (modernization and wealth): economic implications are said to be preconditions for democratization: Seymour M. Lipset argues that "the implications seems to be that it takes the conditions brought about by modern, industrial society to produce democracy. The more well-to-do a nation, the greater chance that it will sustain democracy". ⁵⁷Robert Dahl also considered it pretty much beyond dispute that the higher the socio-economic level of a country, the more likely that it would be a democracy. ⁵⁸

But Guillermo O'Donnell opposes this view suggesting that authoritarianism, not democracy, seemed to him to be the more likely concomitant of the highest level of modernization. O'Donnell's reasoning went as follows: "the process of industrial modernization that was taking place in several Latin American countries in the 1960s and early 1970s had very little to offer the large majority of the populations. He, for instance, argues that countries such as Argentina, Taiwan and Korea are authoritarian despite their high per capita income. ⁵⁹

B. Political culture: few intellectuals consider that the factors that favor democracy concerns political culture- i.e., the system of values and beliefs that defines the context and meaning of political action. If political culture is tied in with the larger system of culture in a society, it is possible to identify cultural values and beliefs that are especially conducive to democracy; some cultures emphasize hierarchy, authority, and intolerance more than others. It seems reasonable to expect that they are less conducive to democracy. Islam and Confucianism and Catholicism are against democracy and whereas Protestantism supports it. Yet it is difficult to demonstrate a systematic relationship between specific cultural patterns and the prevalence of democracy. More over, cultural systems are

subject to dynamic change. It may be that Catholicism did, at one point in history, work against democracy in Latin America, but the Catholic Church also played an active role in the opposition towards authoritarian rule in the 1980s.⁶⁰

C. The social structure of society: A third set of preconditions favoring democracy is associated with the social structure of society, i.e., the specific classes and the groups making up the society. It is possible to identify certain groups and classes that consistently favor democracy (for example, the middle classes, industrial bourgeoisie, workers) and other that consistently work against it (for example, traditional land owners). Barington argues "no bourgeoisie, no democracy". But paradoxically according to Goran Thereon, democracy has "always and everywhere" been brought about in a popular struggle against the leading sections of the bourgeoisie.⁶¹

D. the external factors: The final set of possible preconditions to be mentioned here is made up of external factors, the economic, political, and ideological and other elements that constitute the international context for the process that take place in single countries. The developing countries of the third world are those most susceptible to external influence, especially by the leading western countries. It is customary among modernization theorists to consider this influence beneficial for the promotion of democracy. However, Dependency theorists have drawn the possible conclusion that the inequalities and distortion of the economies and societies of the third world, brought about by their dependent positioning the world economic system, make democracy very difficult.⁶²

Various approaches are suggested by different scholars in underscoring and expounding about democratization. Besides, numerous writers have contributed to the process of democratization basing their arguments on preconditions of process of democratization. A number of

them have drawn a conclusion on their own that modernization and wealth, political culture, the social structure of society and external factors from the global context are vital preconditions to the process of democratization. Nonetheless, none of them are separately a guarantee or absolutely independent preconditions. It is very difficult to formulate a fixed model or law for democracy. But this is not to say that such preconditions mentioned earlier are useless. It would rather be relevant to look the interplay between economic, social, cultural, and other preconditions created in earlier periods (history) of the country and the decisions taken by current political actors. This is because the preconditions set the stage and form the scene on which the actors play; otherwise, the preconditions cannot foretell whether the actors will produce democracy or not, but they can provide some information about what kind of outcome we can expect from the players".⁶³ So long as Ethiopia is not alien to the existing global progress in democracy. It seems proper to fairly and thoroughly examine the approach to democracy and democratization according to the parameters outlined in this chapter.

3.3. Approaches to Democratization.

3.3.1. Structural versus political approaches

To begin with, it seems proper to look into the contingent model of change, before swiftly escaping to the structuralist view, which assumes that one agent's initiative prompts another actor's response and that political events cascade iteratively from one to another. It is where political outcomes emanate from interaction and bargaining. Here, the key to democratic transition is the ability of participants to arrive at arbitrated agreement that grant everyone at least part of what each wants.⁶⁴

The structural annalists consider that the prospects of political change are embodied in the architecture of social systems. From this perspective, democracy is the political expression of the social order of modern industrial society. The process of democratization is *the analogue*

in the realm of political authority of the break-down of feudal systems of economic production and aristocratic social status, representing a general trend toward the inclusion of previously excluded groups in large scale institutions. Writers in both the liberal and materialist intellectual traditions have traced the sources of democracy to structural changes arising during Western Europe's transformation from an agrarian to industrial society.⁶⁵

However, Huntington, neo-Marxists and other writers argue that the proposition that middle classes foster democratic political reform has gained less wholehearted acceptance.⁶⁶ Guillermo O'Donnell and Philip Schmitter echo these sentiments stating that regime transitions are shaped by the willful strategic choice of principal political agents. Take for instance, Spain's unexpectedly successful passage from military dictatorship to parliamentary democracy, which featured influential interventions by the constitutional monarch and reformers from within the Franco regime. The implication is that democracy may operate with success even in countries and regimes whose predicament would not otherwise be favorable.⁶⁷ In favor of this contention the African regime transitions are closely viewed. Efforts to understand regime transitions in Africa have raised the analytic profile of what Goran Hyden has called "the actor dimension". Hyden draws attention to "the creative potential of politics", especially "the ability of leaders to rise above the ordinary, 'change the rule of the game', and to inspire others to partake in efforts to move society forward in new and productive directions."⁶⁸

3.3.2. Political approach to democracy

By political, we have in mind approaches that place analytical primacy on the institutions that allocate power. The following three nested levels of institutions are identified in analyzing this approach:

1. Political traditions: we define political tradition as long standing cultural legacies that over time common to suffuse political institutions and societal attitudes and thus achieve an autonomous capacity to influence political outcomes. Robert Putnam argues that community associations and institutions with roots stretching back hundreds of years can create a civic spirit that dramatically enhances the efficacy of modern democratic government. The message is that the daily practice of organizations builds the lack of democratic political experience and the weakness of “linkage mechanisms between State and society” have “an important bearing on the meaning and influence of democratic norms”.⁶⁹

2. Political regimes: these regimes are “the set of procedures that determine the distribution of power”. At any moment regimes represent the concrete embodiment of authority traditions and over time help to create or reinforce those traditions. Juan Linz distinguishes different types of authoritarian regimes, based on their degree of inclusiveness, the degree of popular mobilization, and the political values they express. He also suggests that regimes have a lasting impact on politics that extends beyond their own life, and that their characteristics predispose them to evolve in distinctive ways. On the other hand, Collier and Widner have made differences between the practices of the different European occupants a key variable in explanation of the evolution of African political regimes after independence and their ability to democratize after 1989.⁷⁰

3 Political institutions: an influential definition sees institutions as “sets of constraints on behavior in the form of rules and regulations; and finally, a set of moral, ethical, behavioral norms which define the contours that constrain the way in which the rules and regulations are specified and enforcement carried out.” As such, political institution can be highly

abstract notions, such as constitutional principles, or they can be expressed concretely in actual organizations, such as trade unions, political parties, or the military. They include key aspects of formal politics, like the judiciary, but also informal customs such as patronage, clientelism, seniority principles, or lobbying. Political institutions both express the values and power configuration of regimes and traditions and help to reproduce them over time. It is now widely recognized that specific institutions condition politics through their powerful impact on the incentives faced by individuals.⁷¹

Political institutions should have a powerful impact on political transitions. Many observers have noted that democratization in Africa is problematic because of the absence, witness, or politicization of key institutions, which are a legacy of past practices. To discern the contemporary impact of formal institutions we need to probe the following sorts of questions for each African country: how professional and neutral is the army? How plural is the party system and how well organized are its components parties? How dense and autonomous are voluntary associations within civil society? It makes sense to believe that these institutions cannot recover easily from past repression and that in the mean time their absence or disability marks politics on the continent. On the other hand, the informal institutions that result from and simultaneously sustain Bayart's politics of the belly must surely condition individual incentives and shape political outcomes in Africa.⁷²

David Held shortly elaborates that in the context of globalization; democracy requires a rethinking of both the nature and scope of the modern Nations States and the form and structure of the central forces and agencies of international civil society.⁵⁴ The two distinct issues arise: First, recasting the territorial boundaries of system of accountability so that those issues which escape the control of a nation State-aspects of

monetary management, environmental questions, elements of health, new forms of communications-can be brought under better control. Second, it is necessary to articulate political institutions with the key agencies, associations and organizations of international civil society so that the later can become part of a democratic process-adopting, within their very modern *modus operandi*, a structure of rules and principles compatible with those of democracy. Such developments might take years, if not decades to become entrenched. But, David Held continues believing in the success, 1989 showed that political changes can take place at an extraordinary speed.⁷³

3.4 DEMOCRACY AND THE PUBLIC SERVICES

According to Sen. (1999), and also as reaffirmed by UNDP (2002), democratic participation is not only a “primary end” but also “a principal means” for development. They have particularly ascertained, political freedoms and civil rights are “part and parcel of enriching the process of development”.⁷⁴ These aspects contribute to the development process as they enable citizens to engage in “open discussion”, “debate”, “criticism”, and “dissent”, which are crucial to reach to “informed and reflected choices”.⁷⁵ For example, open discussion on fertility issues emanated from the democratic atmosphere in India, and have enabled them to reduce fertility rates.⁷⁶

Although democracy is adopted as a human right (UNDP: 2002), and also is a political direction many countries are heading towards, its evolution and effective implementation is determined by the fulfillment of other socio – economic conditions. Aspects such as access to land and health services are automatic to serve the immediate improvement of people’s lives and the well being of any society. Social opportunities such as education have also crucial importance to enable citizens to better understand and effectively participate in political as well as economic activities.⁷⁷ As Davies puts it, issues like “low literacy rates and

educational enrolment levels; limited access to formal source of information; physical distance from decision-makers and political parties; and lack of time due to exigencies of their livelihoods” restrict the participation of the poor in political matters.⁷⁸

Among some of the social aspects of development, there is a strong correlation between democracy and public services like education.⁷⁹ Education enables citizens to grow capable and raise interest to have active role in politics.⁸⁰ This leads to the emergence as well as sustainability of democracy.⁸¹ Lack of education on the other hand is a barrier for political participation.⁸² For example, “political participation may be hindered by the inability to read newspapers or to communicate in writing with others involved in political activities”.⁸³ For the case of Ethiopia, even after rapid increase in primary education coverage in the last 5 years, 20.2% of the overall population does not yet have access to primary education⁸⁴ and participation in higher education remains only 1.5%.⁸⁵ This implies, poor governments do not provide good public services like education,⁸⁶ and democracies can hardly be successful without such services in poor countries like Ethiopia. Singapore’s experiences on the other hand shows its citizens started to develop democratic outlook and start to question their rights after the expansion of the public sector like education. As Khng puts it, the number of young voters has increased in the years 1984 and 1988 because “these were votes that grew up in the 1970s when Singapore’s economy started to take off, and were better educated than their parents as well as used to a higher standard of living”.⁸⁷ Consequently, democracy and public services have direct and indirect relationship. From these researched evidences we infer that Ethiopia should also make efforts in order to improve the current conditions of public services insofar as their value to democratic order is of paramount importance.

CHAPTER TWO

The Democratization process in Ethiopia

2.1. Historical overview

Transition to democracy is only very rarely based on the complete defeat of the elites who stood behind the previous authoritarian rule. In the vast majority of cases the transition to democracy is based on “negotiations” with the forces backing the authoritarian regime.¹ For this there can be several reasons.

Democratic openings are often preceded by a split in a coalition of forces behind authoritarian rule, a split between hard-liners and soft-liners. The later may seek more democratic forms of rule-perhaps in order to get the upper hand in a conflict with hard-liners-in the face of internal and external pressures and perhaps also due to normative commitments to democracy.²

Ethiopia is not actually alien to autocratic rules as already perused in this chapter in relation to many other countries. It has a long history of feudal monarchy. Theoretically, it has always been a centralized unitary State. In reality it has been a centralized only under strong emperors.³ Regional feudal lords had all conspired to perpetuate a backward and inefficient governmental system. At one point during the period known as the “era of princess”, Ethiopia reached the comico-tragic climax of six emperors all claiming simultaneously to be supreme rulers of the same country.⁴ With the emergence of strong emperors from the middle of the 19th century onwards, centralization was given full reign at the expense of the many ethnic groups, large and small, around the country, who craved some autonomy. Centralization was carried a step further with the

overthrow of the monarchy and the emergence of the Dreg. The regional autonomy of certain regions that was later proclaimed was never really put into practice.⁵

The coming to power of the Derg brought about profound social change within Ethiopian society. The abolishment of the monarchy and the introduction of socialism as the guiding ideology of the military regime as well as its international alignment with communism meant facing the totally new direction.⁶ Finally, the heavy reliance on force as a means of solving political problems and the disenfranchisement of the population with the regime and its political and socio-economic policies resulted in a protracted civil war that finally brought down the regime.⁷

In May 1991, the Ethiopian peoples' revolutionary democratic front (EPRDF), a coalition of various groups headed by the Tigray people's liberation front (TPLF), emerged victorious. The EPRDF has managed to reach the current position after 16 long years of armed struggle with Derg (the former autocratic military rule).⁸ Consequently, it is almost possible to conclude that the Ethiopian democracy didn't come into the scene through the discussions made between the authoritarian rule (Derg) and the forces demanding democracy. It is rather better to deduce that democratic process was started after the downfall of the authoritarian rule against the wishes of the then existing supporters of the autocratic rulers as envisaged previously.

Soon after control of political power, through the peace and democracy conference of July 1991, the transitional government was established on the basis of the transitional charter. Then, referendum was organized in Eritrea as a result of which Eritrea became an independent State.⁹ The charter was discussed and approved according to its preamble

by “peace loving and democratic forces present in the Ethiopian society and having varied views”. At the time in point, the transitional government of Ethiopia exercised the legal and political responsibilities for the government of Ethiopia until it handed over to the government properly elected on the basis of the new constitution.¹⁰

2.2. The Democratization process in Ethiopia

2.2.1. The theoretical ground

To begin with, we may boldly discuss about democratization process since its recent appearance in Ethiopia in its modern form. Furthermore, this writer would like acquaint with his new approach of measuring democratic statehood utilizing Robert Dahl’s yardsticks in their condensed form. These parameters of measuring democracy (increased competition among political parties, increased participation of the people and the level of civil and political liberties guaranteed) are used to measure the practical implementation of democracy in Dahl’s and others’ writings.¹¹ However, this writer believes that existing laws should primarily be permeable through which democratic principles can be able to pass. Consequently, are the existing laws of the country permissive of increased competition in theory as a starting point? Are such laws also conveniently cemented in such a way that they allow increased participation? Do the laws guarantee civil and political liberties paving the way to exercise such rights in a democratic manner? At least these basic questions should be answered before escaping to the practical implementation of democratic principles. I insist that no-one may be able to pass in situations where there is no path. That is why I preferred to start with the theoretical part although coming up with quantifiable result may be difficult.

One scholar witness that since EPRDF took power in 1991; Ethiopia has reformed its political system as “democratic”.¹² It is also defined that a multi party democratic system has been put in place and this is evidenced by the new Ethiopian constitution which incorporates the generally accepted norms and principles of democracy and human rights.¹³

In this section, it would be relevant to scrutinize some of the relevant progresses towards democratization through legislations. i.e., few of the underpinning legal grounds and the bed-rocks of democracy are here entertained considering from the Ethiopian context.

2.2.1.1. Democratization and the transitional period charter

It is pretty clear that it was only after years of destabilization and destruction due to war, drought, famine, and mass migration that a new effort was made to build up a democratic system. A month after the overthrow of Derg, the transitional period charter of Ethiopia was proclaimed by the peace and democracy conference convened on July 1-5/1991 and had operated From July 22/1991-August 21/1995). It is a historical fact that in 1991 the transitional Charter was adopted to serve as an interim constitution.¹⁴ Following that, the existing transitional Ethiopian government issued Proclamation Seven which established 14 regions based on ethnicity (largely divide by language) and one urban center that were too diverse to be divided And devolution of power was also made to the ethnic based local governments.¹⁵ Despite the fact that it is nowhere mentioned in the charter, this charter had provided for the country a kind of federal and regional levels of government as we realize from slight reading of the text. It had laid the foundation for the national or regional self-government set up. The federal quality is more exhibited in the proclamation no. 7/1991.¹⁶

Albeit its clear ascertainment in the charter itself that its main purpose is to lay down the rules governing the transitional government and to set down the principles for the transitional period, it had also paved some directions regarding democratic characters for the country. The charter in its preamble having declared "the starting of a new chapter in Ethiopian history in which freedom, equal rights, and self-determination of all the principles shall be the governing principles of political, economic and social life," continued in article 2, to affirm the right of nations, nationalities and peoples to self-determination. To this effect, article 2 (B) guaranteed "each nations, nationalities and peoples have the right to administer their own affairs within their own defined territory and effectively participate in the central government on the basis of freedom, and fair and proper representation." As far as the central government is concerned, the charter having stated that the transitional government shall exercise all legal and political responsibilities for the governance of Ethiopia proceeded to establish the council of representatives, which exercised legislative functions and oversaw the work of the council of ministers.¹⁷

What makes the charter unique is its source. This makes it essentially different from constitution. A constitution is "an enactment which directly comes from the people and a statute is a legislation which emanates from the peoples representatives".¹⁸ The question which immediately comes to mind is that "is the charter a legislation which directly originated from the people or a legislation which emanates from the peoples' representatives?" are the said democratic forces who met in the conference convened from July 2-5 in Addis Ababa to discuss and approve the charter really peoples' representatives?" neither, at any rate, the charter is a legislation which directly emanated from the people nor the forces can be considered peoples representatives in the strictest sense

of the word. Because a charter comprises an agreement between parties to that charter. In our specific case, these parties may be said the “peace-loving and democratic forces present in the Ethiopian society.”¹⁹ However, as reiterated earlier, the transitional charter is not actually an instrument which emanated from the people. Not only this again, the forces who had entered into the negotiation were also not representatives of the people. No-one had elected them. Consequently, the wishes on the charter and structure of the country which is softly denoted is not the wish of the people in as much as the forces were not the representatives of the people. In other words, there were not democratically elected and represented to do so. It is also possible to conclude that there was no election held. It was simply a period of transition to democratic election after few years as we understand from the charter. Henceforth, it would be almost impossible to deduce that there was democracy at the time of the transition seeing that the elements of democracy were not met at the time of control of power by the transitional government.

It is clear that we have adopted the narrower definition of democracy for the purpose of this thesis in the previous chapter. In line with such definition, democracy is “simply a political method, a mechanism for choosing political leadership in which the citizens are given a choice among rival political leaders who compete for their votes and, between elections, by which the citizens can replace their elected officials.”²⁰ In Schumpeter’s words, “the democratic method is that institutional arrangement for arriving at political decisions in which individuals acquire the power to decide by means of a competitive struggle for the people’s vote”.²¹

Nevertheless though the basic elements of the definition of democracy are not met at the time of control of political power in 1991, it would be improper to argue that there was no start up of process of

democratization at all after control of power, at least theoretically on paper. The charter had actually attempted to address some democratic rights as a starting point forty days after the downfall of the dictatorial military regime.

The charter provides for:

- A.** The freedom of conscience, expression, association and peaceable assembly;
- B.** The right to engage in unrestricted political activity and to organize political parties provided the exercise of such rights does not infringe upon the rights of others.²²

When we evaluate these guaranteed rights in the charter in accordance with degree of competition, degree of participation and the level of civil and political rights protected, primarily, the charter has stipulated that competition (organization of opposition parties) is guaranteed. Secondly, it has also allowed and mentioned some of the civil and political rights when it provides for freedom of conscience, expression, association and assembly. Nonetheless, it has failed to provide for the basic political right of participation (choosing leaders). It might be argued that it failed to state it for the reason that the people are yet going to participate after the adoption of the constitution. But this may not make sense. Because, had the charter thought of the future constitution, it wouldn't have also state about competition and civil and political rights which will again be treated in the coming constitution. Therefore, it seems negligently that the right of the people to choose its political leadership among the rival political leaders is hurled.

Nonetheless, it often haunts us that we should pay attention to historical facts and current happenings in attempting to measure conditions of democracy and democratization processes. According to some writers, at times of transition from autocratic rule to democratic one, "it would be relevant to look at the interplay between economic, social, cultural, and other preconditions created in earlier periods (history) of the

country and the decisions taken by current political actors so long as the preconditions set the stage and form the scene on which the actors play and can provide some information about what kind of outcome we can expect from the players".²³ Therefore, taking into account the long years monarchical and autocratic rule, the attempts by the then existing political actors to incorporate some basic principles of democracy seem to some extent acceptable. We would not go astray discussing about why the actor's decision is not completely sound and according to the accurate principles of democracy as they are said democratic forces since our main purpose here is to go through the process of democratization at the time in point.

This writer believes that It is pretty much beyond dispute that the transitional government of Ethiopia had got its place less comfortable when we look into the previous historical facts in that almost a significant portion of the country was shattered economically, politically and socially. Besides, previously, the rules were either monarchical or autocratic or both or somewhat unique to modern democratic system. Following that it would be acceptable to conclude that there were no favorable conditions for democracy as the preconditions witness. In spite of such reality, a considerable portion of democratic principles were enshrined in the transitional charter. It is therefore fair to argue that the charter was, more or less, comfortable to leap to democratic system. The level of civil and political rights enshrined were almost satisfactory and what is more there were better legal grounds so as to enable the people participate in the democratization process save for the slight skip on the principles enabling increased participation. Consequently, it seems possible to come up with a conclusion that the players (the existing forces) have started better theoretical play on a floor which was cracked.

2.2.1.2. Democratization and the FDRE constitution

The most important thing to note about the Ethiopian constitution of 1995 is that it is clearly a departure from all previous Ethiopian constitutions. The State it envisages and the government it establishes are different both in form and content. Unlike the monarchical constitution and the military regime constitutions, this constitution provides for a republic, a federal multi-party system, save for the military government which had a republic State. One feature of great import throughout the constitution and one that places this constitution on a pedestal of its own, more or less, is the utmost significance given to ethno-linguistic components of the society. This can be inferred from the constitution which says "we, the nations, nationalities and peoples of Ethiopia" as a result of which it draws Ethiopia as "a nation of nations".²⁴

The FDRE constitution has its own salient features, as mentioned previously, such as ethnic federalism, republicanism, democratic statehood, multi-party system, self-determination including secession, compared with the past constitutional experience.²⁵ it accepts democratic system publicly from its inception in the preamble of the constitution. It declares that its authors and beneficiaries (the nations, nationalities and peoples of Ethiopia) are strongly committed to guarantee "democratic order".²⁶

This writer requires meeting its target of looking into the attempts to democratize the country in accordance with the parameters used previously to wisely handle the subject matter of the thesis. To quench my thirst in searching for the basic requirements of democratization, I would rather focus on our measurements of competition among rivalries, participation in the election of leadership and the civil and political liberties guaranteed in the constitution to ensure the integrity of competition and participation.

As far as “competition” is concerned article 8 of the FDRE constitution lays the foundation stating that one of the mechanisms of the expression of the sovereignty of the people is “through the representatives of the nations, nationalities and peoples of Ethiopia elected in accordance with the constitution”. Using this principle as a base, the constitution expressly provides that “every Ethiopian national, without any discrimination based on color, race, nation, nationality, sex, language, religion, political or other opinion or other status, has:

- I. the right to take part in the conduct of public affairs, directly and through freely chosen representatives;
- II. the right to vote and to be elected at periodic elections to any office at any level of government;
- III. the right to be a member of his own will in a political organization, provided he or she meets the special and general requirements stipulated by such organizations; and
- IV. The right of conducting the election to position of responsibility within any of the organization in a free and democratic manner.²⁷

In addition to these, the FDRE constitution unequivocally stipulates that the State shall have a parliamentary form of government and that members of the house of peoples’ representatives are able to be elected directly by the people for the term of five years on the basis of universal suffrage by direct, free and fair elections which shall be held by secret ballot from candidates in each electoral district by a plurality of the votes cast. It is, moreover, publicly stated that elections shall be held by universal and equal suffrage and shall be held by secret ballot to guarantee the free expression of the will of the electors.²⁸ Following the free and fair competition, the constitution concludes it providing for a political party or a coalition of political parties that has the greatest number of seats in the house of peoples’ representatives shall form the executive and is empowered to lead the government.²⁹

As we may perfectly realize from the very clear purpose of the constitution in relation to democratic order, and as we also appreciate the provisions following the preamble, it is not almost to go aloof on condition that we conclude that the constitution is permissive of free and fair competition. However, one may question regarding the possibility of limiting the number of parties to a certain number, example only two. This is because, the constitution is silent about the freedom of forming parties in the country even if it is clear that multi-party system is accepted by the constitution as we are able to infer from article 56 of the constitution which states that “a party or a coalition of parties”. We may therefore suggest that there is a possibility of at least limiting the number of parties to a certain number. What makes a State democratic is the fact that it's free halls to entertain opposition parties in the sphere of competition. In this regard, the constitution is silent. This may not; however, a conclusion that the country may not allow the free competition of opposition parties following the democratic track.

Concerning participation, the constitution plainly puts that “all sovereign power resides in the nations, nationalities and peoples of the country”. It, then, states that this sovereign power shall be expressed through their representatives elected in accordance with the constitution and through their direct democratic participation.³⁰ It is also well expressed and provided that every Ethiopian national, without any discrimination based on color, race, nation, nationality, sex, language, religion, political or other opinion or other status, has:

- A. The right to take part in the conduct of public affairs directly
- B. The right to vote in accordance with law on the attainment of 18 years of age
- C. The right to be guaranteed for the free expression of the will of the electors thereby holding elections by secret ballot

- D. The right to freely and democratically conduct elections by universal and equal suffrage
- E. The right to be a member of his own will in a political organization, if he or she meets the special and general requirements stipulated by such organization.³¹

These rights are, helpful to conduct and to increase the participation of the people in free and fair election. Besides, this writer is of the view that such principles are able to suffice on the morrow of the dictatorial military regime. Nonetheless, these rights of the people are respected in relation to the elections which may be held to freely and fairly choose its representatives of the House of Representatives. These same rights may or may not make sense in electing the representatives in the house of federation. Because with respect to the house of federation, in principle, the members of the federation may be elected by the state council. It is if and only if it is the will of the state council that the people are able to directly elect its representatives in the house.³² As one can observe from the powers granted to it, the house of federation seems a kind of second chamber of parliament. Consequently, denial of participation to elect such having the powers to interpret the constitution, to decide on issues relating to the rights of nations, nationalities and peoples to self-determination including secession, to find solutions to disputes or misunderstandings between States, to determine the division of revenues derived from joint federal and State tax sources, to determine the division of subsidies that the federal government provide to the States, to determine on civil matters requiring the enactment of laws, etc.³³ is likely to give the nature of participation somewhat incomplete. Participation may have almost full picture in case States councils volunteers the election of the representatives of the house of federation directly by the people.

The other provision of the constitution which seems seeking a rope with which to tie seems the provision provided for the independent body, (the national election board). It vividly stipulated that the establishment of

an institution named the national election board is mandatory in order to conduct free and fair election in Federal and State constituencies in an impartial manner. Nonetheless, a paradoxical statement is also put which requires the appointment of the board members by the house of peoples' representatives upon the recommendation of the Prime Minister. Not only these, it is also clearly indicated that the Board is independent of any influence.

From the point of this and other expressions of election, the terms "independent of any influence", "conducting election in an impartial manner", and "free and fair election" are very crucial elements in every election. These same expressions are beautifully provided for in the FDRE constitution. However, the fact that the recommendation of the prime minister is sought is somewhat puzzling when it is seen in the eye-glass of impartiality and independence of the election Board and free and fair election. Despite the fact that the existing government might not be partial in recommendation and in spite of the real fact that the house of representatives may have the chance to check the neutrality of the Board members, it seems an inevitable truth that this condition gives a room for doubt of the election board. On condition that the Board of election is expected to be partial, free and fair election may be at stake. Henceforth, it seems vital to seek another solution regarding the recommendation of the members of the Board of election. As a salubrious solution, either the speaker of the House of Representatives or the administrative or legal committee or another committee established by the House of Representatives for the purpose of recommending appointees for the Board of election would recommend the would-be members of the Board of election. I treated this situation for the reason that it has to do with participation in free and fair election as long as it is chaired by the national Board of election.

The third parameter which is used to measure here is the level of civil and political rights guaranteed. In this regard, the FDRE constitution

devotes almost one-third of its space to civil and political rights. The constitution classifies rights into human and democratic rights. The chapter begins with the scope of application and interpretation of such rights. Article 13 of the constitution puts a duty or responsibility on all Federal and State legislative, executive and judicial organs at all levels to respect and enforce the chapter dealing with human and democratic rights. It further obliges that the fundamental rights and freedoms in the chapter should be interpreted in a manner conforming to the principles of the universal declaration of human rights, international covenants on human rights and international instruments adopted by Ethiopia. The constitution is not confined only to the scope of application and interpretation of the international instruments but also makes international agreements ratified by the country integral parts of the law of the land in article 9 (4). These are clear indications that the constitution is, at least theoretically, serious on human and democratic rights.

The FDRE constitution unambiguously guarantees rights to life, security of person, liberty, privacy, and other significant rights of human beings. It also expressly and specifically grants assurance to freedom of expression, freedom of speech, freedom of assembly, demonstration and petition, freedom of association, freedom of movement, right to vote, and freedom of information. The level of civil and political liberties –freedom of expression, freedom of press, freedom to form and join organizations seem sufficient to ensure the integrity of the political competition and participation provided that they are implemented in practice.

2.2.1.3. Democratization and the electoral law

In the effort to measure the available space for democratization in Ethiopia, it also seems more important to roughly inquire the national electoral law. Because, it is the law which is proclaimed following the principles of the constitution providing for the details of its mother law. Moreover, we may have a full picture of the nature of competition and

participation when we are able to visit the details of such democratic rights. As a third reason, it also becomes helpful to go through such law to simply take a lesson if it gives lesser rights than the supreme law of the land granted undermining the degree of competition and participation in general.

The electoral law generally provides for the basic principles at election times. It is put in its vivid form that “any election (in the country) shall be conducted on the basis of ‘universal suffrage’ and ‘by direct and secret ballot’ through which the electors express their consent ‘freely’ ‘without discrimination’ ‘with equal participation’ and ‘each vote carrying equal weight’”. As we apprehend this general principle, it is in direct conformity with the constitutional principles regarding election. The basic principles of election are also more or less incorporated.³⁴ Besides, it is stipulated that:

- I. Any Ethiopian whose electoral rights are not legally restricted shall be eligible to elect or to be elected;
- II. No Ethiopian shall be compelled to elect or be elected.
- III. Any person (a physical person or political organization) shall be eligible for candidature where he:
 - A. Is an Ethiopian;
 - B. Is versed in the working language of the regional State or the area of his intended candidature;
 - C. Is 21 years old or above on the date of the registration;
 - D. Has been regularly residing in the constituency of his intended candidature for two years immediately proceeding the date of the election or his birth place is within the constituency of his intended candidature or where the city or wereda has more than one constituencies or he has been regularly working in the city or wereda for two years, in the wereda or city he chooses unless and otherwise the person has been outside of the constituency because of a duty or

study leave or having been previously elected in the constituency.

- E. Is not deprived of his right to vote and to be elected;
- F. Has accepted and signed the election code of conduct to be issued by the board in accordance with article 105 of the proclamation, if it is a political organization or private candidate;
- G. Produces endorsement signatures of not more than 1000 from among people who are certified by the local administration to be residents of the constituency of his candidature who are 18 years old or above and not barred by law from voting in case of a private candidate.³⁵

In our attempt to evaluate the electoral law in the parameters of degree of competition, it seems proper to briefly appreciate those rights which are fairly permitted for a competitor. This law grants a right to compete for vote and political support both privately (individually) and organizationally for political organizations as we can understand from the above. It is moreover as good as a clear law which specifically provides the necessary requirements. What then comes to mind is the question that “does this law undermine those rights of political competition granted by the constitution. In other words, does it give lesser or more rights than respected in the supreme law of the land?”. In this regard it would be appropriate to roughly see the eligibility criteria provided hereinabove. The mother of this law obviously states under article 38 that particulars shall be determined by such law. Hence, the enactment of this electoral law is purely initiated by the constitution itself. However, it is mandatory that the law which will be enacted on the basis of the basic law would not be in congruence with that law from which it is derived. When we focus on the eligibility criteria, we may simply single out that at least the age limit to engage into the political competition is more or less at variance with the constitution. Seeing that the constitution grants for everyone the right to

be elected in as much his age is eighteen years, the fact that the electoral law has adjusted it to be twenty-one years is somewhat clear sign that it has undermined such right to a certain degree. Of course, it may be a wise decision to readjust provisions of this kind in such a way that it is better for the better leadership role and others. However, this would not be in the way which contravenes the constitution so long as the constitution is clear with respect to this right.

On the other hand, the general principles which are highly concerned with the election code of conduct are relevant and helpful so as to promote the constitutional rights into a better applicability. Its emphasis that "any political organization or private candidate is obliged to publicly explain about the rights of every citizen" seems good. In addition to this, it seems to seek to create harmony between political parties by regulating certain aspects in the competition platform.

Despite the fact that it is difficult to go through the election code of conduct due to time and space constraint, the generally stated election code of conduct in the electoral law is also itself challenging in few matters. For instance, the requirements that "any political party or candidate is mandatorily expected to establish good relations with the Board and other organizations running for election, the imposition on the parties or private candidate to protect the security of Board members, employees and electoral officers from insult, threat, intimidation or danger by their members or supporters, the expectation to protect journalists from attack, intimidation, danger, pressure or assault and the specific terms that "no political organization or candidate should not cause or instigate violence" are in most cases vague. They may be subject to many ways of interpretation unless otherwise they are elaborated in the conduct which the Board issues. Their challenge becomes more difficult for private candidates owing to their less capacity to protect others from danger, assault, insult and other conditions. Identifying supporters is again a great challenge for political and private candidates at time of commission of

such prohibited acts. Moreover, at the time when a party or a candidate is running for election, may it be so easy to identify that it or he or she is the cause of or the instigator of that violence unless it is possible to see the direct involvement of candidates?! Provided that these and other ambiguous provisions get better solution-giving details, the electoral law seems sufficiently provided to enable a better competition among private candidates and opposition parties.

As far as the provisions of the electoral law in relation to the principles regarding participation of the people is concerned, it is explicitly asserted that “any election (in the country) shall be conducted on the basis of ‘universal suffrage’ and ‘by direct and secret ballot’ through which the electors express their consent ‘freely’ ‘without discrimination’ ‘with equal participation’ and ‘each vote carrying equal weight’”; and it is also sufficiently provided that the electors are eligible to elect if:

- A. he is an Ethiopian;
- B. his electoral rights are not legally restricted;
- C. where he appears to cast vote in person;
- D. casts his vote at a polling station where he has been registered and where:
 - a. he carries his electors card
 - b. his name is listed in the electoral roll
 - c. it has been ascertained that he has not voted yet
- E. Casts his vote in a similar time frame unless the board determines otherwise.

No-one is eligible to elect unless and otherwise he or she fulfills the criteria provided for in the electoral law. Among these relevant mechanisms of implementing the right to vote, the statement which is concerned with “casting vote with in the similar time frame” is likely to give a meaning that the Board may determine otherwise in case an elector couldn’t cast vote within that similar time frame. Here the question that “may the Board determine otherwise in cases where a single individual

couldn't cast vote within that similar timeframe or is it for a considerable number of people that it allows otherwise?", the conditions are not indicated here unless otherwise it may be incorporated in the regulation. This writer gave it attention for fear that such permissions might compromise "fairness" unless there is put a clear cut provision.

The voting process stipulated under articles 65-71 and the provisions regarding observers as indicated under articles 78-82 are mostly capable of enabling free and fair election. The voting process is attended by observers and also the final act of the elector a "the casting vote" affair is paid attention by the observers. What then concludes the process of election is "the vote counting". Vote counting for any election shall be carried out at the polling station where the voting took place unless the polling station electoral officer requests to the constituency due to compelling circumstances and accepted and decided the vote counting to be carried out at the constituency election office. The vote counting shall be carried out in the presence of representatives of candidates of the polling station and public observers.³⁶

Generally speaking, the provisions stated in relation to the rights of the people so as to conduct democratic election, the voting process, the conditions paved for observers and representatives of candidates or political organizations, the vote-casting and The vote counting processes and mechanisms seem as objective as, perhaps, any opposition party or candidate requires. At least, it is almost possible to conclude that the paper IS relatively permissible of conducting more or less free and fair democratic election.

As regards the post election situations in parliament, a regulation to govern the conditions in the houses is issued. The regulation seems to ensure the democratic order in the country pragmatically. Its salient features more or less incorporate significant democratic principles and it is a regulation whereby differences of opinion are tolerated, majority voice

respected, minority voice heard, democratic tradition advanced and which is in conformity with the laws of the Country's principles, practices and traditions in theory.³⁷ To mention few of the indicative provisions, any member is entitled to initiate an agenda,³⁸ the allotment of time of participation is divided in such a way it gives chance for minorities and private parliamentarians,³⁹ the opposition day which is provided for oppositions parties and parliamentarians to debate at least once within a month, though not allotted sufficient time, ⁴⁰ the express permission of the regulation for any parliamentarian to speak with a language he or she wants,⁴¹ the clarity of the regulation on dressing of even culturally,⁴² seem all in line with democratic principles of tolerance, equal participation and others in one way or the other. What is more, the regulation is also clear that decisions should be conducted by majority vote in accordance with article 59 (1) of the federal constitution. It is again a better regulation in relation to its provision of specific strategies as to how ideas for a decision are going to be obtained. This not to prove that the practice is accurately in accord with such principles.

To sum up, we can speak that there is also a better legal ground to decide national and other related matters in parliament following the democratic track provided that such principles are strictly followed in practice.

2.3. THE PRACTICAL GROUND OF THE DEMOCRATIZATION PROCESS

A number of literatures have visited the Ethiopian democracy and the current efforts to democratize the country. Of paramount importance is to entertain the views of Paul Henze who has said much on the

democratizing endeavor in Ethiopia. The following is statements are the views of him in the post 2005 Ethiopian election:

In his words, "Ethiopia has experienced renewed economic development, received generous international assistance, and regained international respect as a bastion of security lodged between a war torn Sudan and a Somalia in fragments. Henze underscores that post Mengistu Ethiopia is currently in a better situation and can be seen as a "sterling builder of democracy, berating its opponents and critics at every turn for being misguided, misinformed, and malicious. He, in explicit terms, assures that the post military regime government of Ethiopia has fostered an "open political and press debate" and has sought to establish 'more open, tolerant, humane, and prosperous society'. In addition to these, Henze suggests that the existing government was 'idealistic' and 'well intentioned' about democratization; if anything, it could be criticized for being 'naïve in expecting that critics would know how to be responsible'. Opposition politicians, he says, however, have displayed "pervasive rejectionism" and perused actions designed to precipitate 'punitive actions by the authorities'. He is also of the view that they have boycotted elections mainly 'to avoid exposing their lack of support among the electorate".⁴³

In addition to these, the facts about the Ethiopian recent parliamentary elections denote that the first democratic election took place in 1995 and the second in 2000. The third and the most competitive multi-party election took place on 15th May 2005, both for the Federal Parliament as well as for the nine state councils.⁴⁴ It is clearly stated that "most importantly during the May 2005 election, The Government and the ruling party had created a conducive atmosphere for all political parties (which are more than thirty) to participate. Election laws were revised and a code of conduct for ruling party members issued. International and local election observers were invited. Opposition parties were able to campaign freely throughout the country. The public media was made available and

the oppositions were allotted 56% of the air-time allocated for campaigning.”⁴⁵

Sources from the Ethiopian parliament indicate that Ethiopia conducted the most free and fair elections in its entire history on 15th May 2005 which was monitored by more than twelve international monitors such as African Union, Carter centre, European Union, U.S Department of States and about 150,000 local civic and religious election monitors.⁴⁶

Writers have been concluding that, these days, virtually any set of authoritarian practices in Africa is being justified as democracy building and then used, according to Souley, to protect and pry financial assistance from donor countries and institutions. She states that All contemporary African regimes now claim either to be democratic, or in transition to democracy, just as 20 years ago they all claimed to perusing “development,” “nation building,” and “political integration”; Democracy, however, rests on open delegation and the free exchange of ideas. ⁴⁷

In favor of this perspective, The Nigerian scholar Adigun Agbaje has also emphasized the increasing trend of autocrats appropriating the language and symbols of democracy to frustrate democratization and deepen authoritarian rule”.

The following writers seem to favour such above facts in Ethiopia too. In the opposite direction of the views forwarded in favor of the existing Ethiopian government, Marina Ottawa states the following: she writes that “the TPLF, in Ethiopia, reminded this problem of Africans by forming new ethnically based parties in the regions and by transforming Ethiopia into a federation of ethnic States. All the regions are governed by ‘EPRDF’ affiliates, and the much trumpeted policy of decentralization ‘has not been accompanied by an increase in political participation’. The regime, she tells us, has connected ‘three supposedly multi-party elections’ in which ‘political participation has narrowed rather than widened’. Finally, she puts that the centre piece of EPRDF governance, ‘the transformation of

Ethiopia into a federation of ethnic States... was never open to discussion.”⁴⁸

Besides, numerous reports by independent organizations, as well as the U.S department of States annual human rights reports, are all written in old speak. In a 1998 review, human rights watch summarized the essentials of EPRDF rule as follows: “by sponsoring 16 parties, each based on the dominant ethnic groups in the various regions, the regime ensured a quasi-monopoly of power by the EPRDF and its allied or satellite parties. The elections have been boycotted by major opposition groups “changing with validity that the vote was not fair.” The government “routinely cracks down on dissenting journalists” while it “detains thousands of suspected militants of separate groups... without charge and subjects many to ill-treatment and torture.”⁴⁸

Some scholars claim that In Ethiopia, even though regular elections are taking place, they are not fully free and fair.⁴⁹ The capacity of the judiciary to manage complicated issues under federal system is also doubtful.⁵⁰ in addition to these, the state has sole control over radio as well as television channels and opposition newspapers are banned.⁵¹

Still others bitterly write that the existence or strength of the required “social basis” for democracy in Ethiopia is ambiguous.⁵² Some Authors, like Schmidt (2005) have categorized Ethiopia as an Authoritarian state. Abbink also writes that the May 2005 Ethiopian parliamentary election, although controversial and flawed, showed significant gains for the opposition but led to a crisis of the entire democratization process and ... the political system has stagnated and slid back into authoritarianism.⁵³ Most analyses of post- 1991 Ethiopian politics discuss, On the other hand, that the government since it took over power has considered itself as a democratic and claimed that further

achievements which contribute to the democratization process have been made.⁵⁴

Taking such above writings and the theoretical ground into account, the democratic process in Ethiopia seems very similar to what is expressed in the previous chapter as *fledgling Democracy*. These democracies are “in the early stages of what might be a long process of transition from authoritarian toward democratic rule. In other words, these new democracies are really only snapshots of regimes that are “on the move” i.e., In the process of transition from one form of regime toward another”.⁵⁵

When we go through the legal documents providing for democratic order, considerable number of democratic principles is enshrined in the constitution and in the other national legislations. What is more, the constitution expressly accepts international human right instruments and even gives them the status of integral parts of the law of the land provided they are ratified by Ethiopia. These instruments are also instruments which, have more or less, incorporated democratic principles. Thus, the theoretical legal ground is almost rooted relatively well.

Although some sources denote that there is positive legal track to run the democratization process, many of the writers have also concluded the opposite. The recent May 2005 election is also positively admired by many writers and observers. The relatively comfortable legal grounds which guaranteed a considerable civil and political rights paving for increased competition among political parties and candidates, and increased participation of the people, and the recent may 2005 national election are all signals of rays of democracy.

In the other way, the practical application of the cemented laws and other pragmatic processes in the country are said to be contradictory to democratic ideals. Despite the fact that some of the basic principles of democracy are enshrined in the national legislations and even if the May

2005 national election is appreciated by many observers and participants, the actions, mostly, taken in the post election period were not compatible with democratic principles enshrined in the Ethiopian constitution, national electoral law, and other ratified instruments incorporating Human and Democratic rights. Considerable of scholars such as Smith, Abbink and others have considered the present Ethiopia as authoritarian State. Some others, as it is mentioned earlier, have stated that democratic openings in Ethiopia have been narrowed than widened. From all of these and other situations, this writer is able to deduce that the process of democratization is at fledgling stage.

CHAPTER THREE

THE ROLES OF CIVIL SOCIETY IN THE DEMOCRATIZATION PROCESS IN ETHIOPIA

3.1. The idea of civil society in general

It is impossible to have a conversation about politics or public policy these days without someone mentioning the magic words *civil society*, so one might think that people are clear what they mean when they use this term and why it is so important. Unfortunately, clarity and rigor are conspicuous by their absence in the civil society debate, a lack of precision that threatens to submerge this concept completely under a rising tide of criticism and confusion.¹

Civil society as historical phenomena first began to take shape in late medieval early modern Europe.² It refers to social group who were emancipated from restrictions placed upon them by feudal and absolute systems. Historically, the elements developed in emerging commercial towns and cities. Certain urban elements, notably, forerunners of the bourgeoisie such as merchants and guildsmen were granted representation as an estate, privileges of local rule, and economic autonomy within the feudal system.³ By the late eighteenth century, certain political forces within civil society became strong enough to successfully challenge the power of monarchies.⁴

The contemporary notion of civil society is a relatively recent development. Up to the end of the eighteenth century, the term civil society was synonymous with the State or political society.⁵ Civil society' was a more or less direct translation of Cicero's *societus civil* and

Aristotle's *koinōia politikē*.⁶ Locke could speak of civil government along with and as an alternative term for, civil or political society. Kant sees *bürgerliche gesellschaft* as constitutional State towards which political evolution tends. For Rousseau the *état civil* is the State.⁷ whereas, pelczynski says: "civil society ... is an arena in which modern man legitimately gratifies his self interest and develops his individuality, but also learns the value of group action, social solidarity and the dependence of his welfare on others, which educate him for citizenship and prepare him for participation on the political arena of the State."⁸

Contemporary writers, on the other hand, have been contributing various definitions for the term civil society. The concept of civil society is proffered as a piece of 'lost treasure' which will bring a much needed lustre to contemporary political thinking. Anderson suggests that "civil society is the arena of non-State institutions and practices which enjoy a high degree of autonomy".⁹ Other intellectuals do also define that "civil society" means "fundamentally reducing the role of politics in society by expanding free markets and individual liberty" (Cato), or it means the opposite - "the single most viable alternative to the authoritarian state and the tyrannical market" (WSF), or for those more comfortable in the middle ground of politics, it constitutes the missing link in the success of social democracy (central to Third Way thinking and supposedly-compassionate conservatism), the "chicken soup of the social sciences" – you know those books that provide much-needed comfort without that much substance, so if you can't explain something, put it down to civil society! Adam Seligman, tongue firmly in cheek, calls civil society the "new analytic key that will unlock the mysteries of the social order", Jeremy Rifkin calls it "our last, best hope", the UN and the World Bank see it as the key to 'good governance' and poverty-reducing growth, and even the real reason for war

against Iraq – to kick-start civil society in the Middle East.¹⁰ Some claim that civil society is a specific product of the nation state and capitalism; others see it as a universal expression of the collective life of individuals, at work in all countries and stages of development but expressed in different ways according to history and context.¹¹

Civil society is again defined as “a variety of autonomous, voluntary institutions which provide services to individuals and articulate public interests. They are meant to occupy the space intermediary between the state on the one hand and the lowest unit of social life, the family, on the other”.¹²

Broadly defined civil society is “the private sphere of material, cultural and political activities resisting the incursion of the state.”¹³ It is thus a constant thorn in the monopolizing political claim of the state.¹⁴

This writer and so many other writers would roughly agree that When an idea can mean so many things it probably means nothing, so I think it deems necessary to arrive at a certain conclusion either in order to get rid of the term completely or to revitalize it to acquire a life of its own, to at least be clearer with each other about the different interpretations in play. Consensus is impossible given the range of views on offer, but clarity is not, and greater clarity can be the springboard for a better conversation about the promise and potential of civil society as a basis of hope and action for the future, and about the pitfalls of using this term as a political slogan or a shelter for dogma and ideology.

By way of summary, I would like to combine few of the definitions in order to, at least, come up with a new definition so as more or less to satisfy for the purpose of this thesis. consequently, among the wide range of definitions, I preferred to adopt my own working definition and I suggest a definition defining civil society as *the private sphere of material, cultural*

and political activities of voluntary autonomous institutions that are intermediaries between the State and subaltern classes resisting the incursion of the State by fundamentally reducing the role of politics in society in expanding free markets and individual liberty and/ or group right.

While such the broad definition might seem incomplete and indeed simplistic. However, it will acquire more specificity as the analysis proceeds in such a way that it will suffice for our immediate purpose. In this general and provisional configuration, civil society represents a counterweight to state power and can thus serve as a critical agent of democratization. It is committed that A Myriad of literatures reveals that “the state is transformed by a changing civil society and civil society is transformed by a changing state”.¹⁵ This relationship is magnified in literatures in so many ways. My combined definition will mirror the basic incursion spheres briefly and generally. What do State and civil society penetrate one another? And what do State and civil society aspire? These and other basic questions will surely get answers in this chapter’s next sections. Despite the fact that the definition of civil society gets full answer from its roles in democratization, it may be fair on condition that one expects that the brief dichotomy about the intrusion of the State and the civil society and the aspirations they do have are mostly likely to avouch the broader definition adopted in this thesis. My definition is more related to their roles. In the definition the terms “a private sphere of cultural, material and political sphere”, voluntary autonomous institutions”, “intermediaries between the State and subaltern classes”, “resisting the incursion of the State”, and “expanding by promoting free market and individual liberty and group right” are more or less likely to roughly exhibit few of the behavior of the civil society. These qualities of the civil society will also be clearer as we go into the details of their roles than the clarity it has now.

3.2. The basic roles of the civil society in the democratization process

A brief sketch of the roles of the civil society is here to explain away other doubts about it. In this regard, much is said about civil society. But it would be relevant to mention some of the fundamental assertive words and writings of few scholars. Writers from U.S put forward that "One could not trust the state to keep its hands off anything. The state must be made to curb itself. They could accomplish this only by bringing society itself in to the state. Diverse elements in society must be properly seated in the state, that is, they must properly institutionalize those necessary factions".¹⁶ This is also further strengthened by Madison. He puts a great message stating that: "*Justice is the end of government. It is the end of civil society. It ever has been and ever will be pursued until it is obtained, or until liberty be lost in the pursuit. In a society under the form of which the stronger faction can readily unite and oppress the weaker, anarchy may as truly be said to reign as in the state of nature, where the weaker individuals are prompted, by the uncertainty of their condition, to submit to a government which may protect the weak as well as themselves; so, in the former state, will the more powerful faction or parties be gradually induced, by a like motive, to wish for government which will protect all parties, the weaker as well as the more powerful.*"¹⁷ Madison's plea is a warning: it is a claim for higher principle- the quest for justice; it is a declaration that protecting the weak, that apparently altruistic actions, can also be self protecting; and it is a testament that where the weak are not made secure in a rightful pursuit, the strong will not be secure either, and all will not be secure either, and all will be threatened by the specter of a Hobbesian state of nature.¹⁸ This is also a take away message that State and civil society have almost similar objective which is "justice".

Madison does not stop on this statement. He again advises that: it is of great importance in a republic not only to guard the society against the oppression of its rulers, but to guard one part of the society against the injustice of the other part. Society is a complex entity made up of many conflicting interests: "different interests necessarily exist in different classes of citizens. Again, the biggest problem is the majority: if the majority be united by a common interest, the rights of the minority will be insecure." Madison then expands upon remedy. there are but two methods of providing against this evil: the one by creating a will in the community independent of the majority that is, of the society itself: The other by comprehending in the society so many separate descriptions of citizens as will render an unjust combination of a majority of the whole very improbable, if not impracticable."¹⁹

These assertions are accurately leading to a conclusion that the role of the civil society between the State and the subaltern classes is quite indispensable. The question that haunts to mind should not therefore be *is civil society necessary?*. It would rather be *is the civil society actually implementing its roles and running for its end which is justice?*. Here, it is also vital to briefly and roughly visit some of the basic roles of the civil society in general so that it will also be a good benchmark to measure the practical movements in Ethiopia.

To begin with, Civil society can not be conceptualized outside of the frame work of formal organization; this means that it includes the organization of the poor and the dispossessed just as much as those of the middle classes and the professionals.²⁰ It includes Religious groups, labor and professional associations, human right groups, and the media which play intermediary role between state and citizen. In other words, NGOs, advocacy organizations, professional associations, cooperatives, trade

unions, religious organizations, and the independent press are encompassed by the civil society.²¹

Having this in mind, according to the working definition adopted in this thesis and contextual explanation of other various literatures, civil society is viewed as *the private sphere of material, cultural and political activities of voluntary autonomous institutions that are intermediaries between the State and subaltern classes resisting the incursion of the State by fundamentally reducing the role of politics in society in expanding free markets and individual liberty and/ or group right. Their intervention extends to the spheres of culture, material and political aspects. Its aim is fundamentally reducing the role of politics. The task of reducing roles of politics could also be executed utilizing various mechanisms of promoting free market and individual liberty and-or group right in line with existing circumstances.*

Civil society institutions occupy the space intermediary between the state on the one hand and the lowest unit of social life, the family, on the other. Such institutions place demands on the state for goods and services, promote the broad interest of their constituencies, and help to extend the social space between the state and the individual.²² A robust civil society protects the individual from the overwhelming power of the state. The foundation for democratic and accountable governance lies so much in popular, mass-based civic movements.²³

When we ethiopianize the case, presently, civil society institutions in Ethiopia can play an important role in promoting public awareness, but this is a much more limited role than securing democracy which is what donor agencies and others expect civil society to accomplish.²⁴ Desalegn Rahmeto emphasizes, in this respect, that Under present circumstances, civil society institutions can do no more than promoting public awareness and stimulate public discussion about democratic rights and responsible

governance. To expect them to achieve more than this is to misjudge their capacity, and to place on them unwarranted hopes and exaggerated expectations. Discrete civic organizations, however potent they may be, do not on their own bring about policy reforms; rather it is civic movements that have the potential to achieve such results. To be able to have a meaningful impact on the democratization process, or to promote good governance, Ethiopian civic organization would have to transform themselves in to civic movements. The term "civic movement" may sound inelegant but it refers to the active engagement of the broad public, including the laboring classes, in support of popular causes.²⁵ The narrow boundaries of individual organizations will have to be transcended so that instead of, for example, a human right organization, a women lawyers' association, a cooperative, etc., we can begin to talk about a human rights, women's or cooperative movement. Such movements can only be built on widespread public awareness, and active popular involvement. This does not mean individual organization will have to disappear, rather it means that each one of them will have to function as part of a broader social initiative for a wider set of public benefits. A civic movement may be likened to the coming together of many streams to form a mighty river.²⁶

In underscoring the roles of the civil society, it would be imperative to scrutinize the simple instances in which the civil society and the State see each other while discharging obligations to implement their own respective targets. The questions which were raised in the definitional part may perhaps get possible answers here. When we attempt to outshine few of the aspiration and incursion scenario:

- A. The state penetrates civil society through its multiple economic interaction

- B. civil society in turn, penetrates the States through the erection of protective trenches against coercive abuse, material extraction and political compliance;
- C. State aspires to become totalitarian because ruling classes are predators based on maximizing their supremacy; they seek therefore a complete appropriation of civil society;
- D. Civil society aspires to negate the State, and subaltern classes, who are the State's principal victims, are determined to minimize their losses by abolishing it.²⁷ However, this is not to mean that these are the only areas of incursion and aspirations that State and civil society are expected to have. There may be ample instances which may be worth mentioning. But this writer thinks that this would suffice for the purpose of this thesis in view of time and space constraint.

Propelling ahead to the other roles of the civil society, it is a vivid fact that International law recognizes only States as actors.²⁸ This limits the roles of civil society to influencing outcomes through governments. There is an ambivalent relationship between government and civil society, as they may be both adversaries and allies. In today's modern states, civil society and government are like two sides of a coin, separate yet inseparable. Civil society creates the values and normative framework for governance and the State provides the structure of governance.²⁹ Civil society regard itself as supreme and see its primary function as responding to the need of the civil society and organizing people for reaching their common objectives. They strive for greater empowerment of local communities in decentralized structures of governance. They would likely agree with the Indian scholar Tandon that the greatest threat to democratic functioning has been the dominance of the State over the institutions of civil society. Tremendous proliferation of NGOs can be

viewed as failure on the part of governments to meet the need of their citizens leading to an inherent conflict between governments and NGOs.³⁰

The relationship between civil society and governments is not only a negative one. Awareness among governments that they need NGOs support is increasing; treaties and conventions must be implemented by the signatories and governments need a constituency to support ratification and implementation.³¹

The influence of civil society at a national level in proportion to its ability in mobilizing public opinion is also a significant role. , that is, voters. They may launch demonstrations and public awareness campaigns to build a constituency for an issue and use the media to further their cause. The civil society may initiate consumer boycotts, popular initiatives, referenda and petitions. Politicians need to be elected and re-elected keeping them sensitive to the concerns of their constituencies, and civil societies may publicize the voting records of legislators on issues of concern to them. An NGO movement that can muster enough votes to swing elections becomes a powerful political force.³² For instance, in Australia, the labour party's 1987 electoral victory was attributed to the votes generated by the environmental movement. Australia's subsequent rejection of the antarctic minerals treaty and leadership against dumping nuclear waste in the pacific can in part be attributed to the electoral influence of the environmental movement. In its efforts to derail the Antarctic mineral treaty, Australia also enlisted the aid of NGO works to lobby on behalf of its position in other countries.³³

Within legislative bodies, civil society may feed interventions, postulates or motions through legislators sympathetic to their cause. They may try to block or pass appropriations to inter-governmental organizations or ratifications of international agreements. They may also

testify during hearings or before commissions, and they may bring lawsuits against the government.³⁴

As the above indicates, civil society uses all the avenues open to citizens in representative democracies to influence their governments and hold them accountable. In addition, they strive to broaden existing avenues and open new ones. Resolutions passed in the UN or in other international forums provide a basis for NGOs (the civil society) to press their governments for access to information, consultation, and participation in decision making at the national level.³⁵

The roles of the civil society are not only these. Religious groups, labor and professional associations, human right groups, and the media play intermediary role between state and citizen, provide public arenas for political participation, and promote the accountability of political class. Parties are likely to dominate political life during electoral periods, and civic associations to take a back seat. But between elections particularly in countries with weak parties, these organizations can influence national politics and condition the qualities of public life, each in its own ways.³⁶ Professional groups and unions defend the interests of segments of the population rather than general principles of national governance. They may well be less involved in national politics after the transition, or they may militate only on behalf of their members. At the same time, labor unions in particular have greater mobilization capacity than other groups do and are more likely to be feared by the government, given their ability to orchestrate disruption.³⁷

By contrast, churches and human rights organizations are more likely to defend the democratic order per se and serve as the conscience of the nation. But these organizations typically possess less mobilizational capacity and find it harder to take political positions because their

legitimacy is derived from a reputation for non partisanship.³⁸ Besides, the independent media are composed of for-profit businesses. They worry at least as much about protecting the constitution. What the media lack is capacity to mobilize constituencies, however, they make up in their ability to form public opinion.³⁹

Few of the other roles of the civil society are:

Monitoring role: By participating in different forums the civil society especially NGOs monitor their government's positions for coherence across the board and hold them accountable. By working with the media, NGOs also see to it that more than just the official line becomes public.⁴⁰

The role of bringing innovative solutions to agenda: The civil society also has an important function in bringing new issues on to the agenda and providing additional data or suggesting innovative solutions. They are not fettered by institutional constraints such as compartmentalization of government's bureaucracies or diplomatic protocol. While NGOs may have a vested interest in official funding, they do not have a stake in power politics and profit making. These factors allow them to address issues more historically and innovatively than governments and commercial actors.⁴¹

The role of drafting texts for approval by a plenary: Much of the work during intergovernmental negotiations involves drafting text for approval by a plenary. A tactic often employed by NGO is drafting of alternative texts proposing alternatives is more constructive and fruitful than criticism alone. In some cases, NGOs have written draft conventions, even in advance of the negotiations, which were then adopted. Example, both the convention concerning the protection the world cultural and natural

heritage and the convention on international trade in endangered species came out of IUCN initiatives.⁴²

The watch-dog role: NGOs play an important watch-dog role by monitoring their country's or an intergovernmental agency's performance and publicizing lack of ratification or accomplishment.⁴³

Finally, it seems imperative to generalize with the suggestion of David Held and John Keane. Held directly and indirectly clarifies the roles and the importance of the civil society emphasizing that democracy requires a rethinking of both the nature and scope of the modern Nations States and the form and structure of the central forces and agencies of international civil society in the context of globalization.⁴⁴ The two distinct issues arises: First, recasting the territorial boundaries of system of accountability so that those issues which escape the control of a nation State-aspects of monetary management, environmental questions, elements of health, new forms of communications-can be brought under better control; Second, it is necessary to articulate political institutions with the key agencies, associations and organizations of international civil society so that the later can become part of a democratic process-adopting, within their very modern *modus operandi*, a structure of rules and principles compatible with those of democracy.⁴⁵

Whereas John Keane unequivocally affirms that civil society and the State must become the condition of each other's democratization. He adds that civil society must be boosted, certainly; this is the most urgent requirement today. And it must become a permanent thorn in the side of political power. But in its turn it requires the constant surveillance of the State, if it is not to degenerate into self-paralyzing conflict and anarchy.⁴⁶

Generally speaking, civil society has been a key in every democratic State. They are the agents of democratization. It has already been reiterated in this section that they are one of the vital assisting agents in almost every areas of democratizing efforts. Robert Dahl's measurements of democratic Statehood, i.e., competition, participation and the level of civil and political rights, which are discussed in the first chapter of this thesis, could mostly be executed not only by the State's willfulness but also by the pressures that the civil society imposes upon the State. Consequently, from the above explanations and roles of the civil society, it possible to deduce that civil society is a necessary instrument of democratization provided that the institutions are really civil and committed to their visions. Given its indispensability to democratization, the growth and existence of vibrant civil society in Ethiopia is also undoubtedly crucial as the country is not an island in this regard.

3.3. Civil society and the Democratization Endeavour in Africa

Among the forces that dislodged entrenched authoritarianism in Africa and brought about the beginnings of formal democracy in the early 1990s, the continent's nascent civil societies were in the forefront. Although external influences such as the fall of communism and pressure from foreign donors were important, it was often the resourcefulness, dedication, and tenacity of domestic civil society that initiated and sustained the process of transition.⁴⁷ The opening of once- forbidden debate on new political directions; the decriminalization of dissent and the acceptance (however grudging) of pluralist politics; the convening of sovereign national conferences and constitute assemblies; preparations for competitive elections; and, in significant number of cases, the eventual installation of elected governments- for all these things, civil societies can take a large share of credit.⁴⁸

Huntington has named late 1989 as "the third wave" hit Africa, when civil servants, teachers, and traders in the small French-speaking republic of Benin demonstrated to demand an end to autocracy and economic mismanagement. As similar phenomena become commonplace in other parts of Africa in the early 1990s, similar domestic forces were found leading them. In Zambia, the congress of trade unions and its chair man, Frederick Chiluba, successfully challenged the three decade incumbency of President Kenneth Kaunda and his united Independence Party; union activism was also pivotal in Mali and Niger. In Ghana, Kenya, and Togo, middle class associations of lawyers, college professors, and students were highly active in the service of democratization. Student protests against economic mismanagement and the accompanying economic crises in Benin, Mali, and elsewhere were important in setting the stage for prodemocracy activism in those countries.⁴⁹

The movement was multi-dimensional, Significant contributions to democratization have also come from Christian churches of Kenya has been in the forefront of opposition to the authoritarianism of President Daniel Araf Moi and his Kenya African National Union. Anglican bishops Manasas Kuria, Alexander Muge, and Henry Okullu earned a reputation as advocate of political change when they disagreed publicly with the conclusions of a government investigation into the causes of July 1990 riots in Nairobi and urged the release of two opposition politicians who had been detained for their alleged involvement in them.⁵⁰ A 1992 pastoral letter from Malawi's Catholic bishops, openly criticizing both political repression and the government's mismanagement of the economy, was a seminal event in a country that had a long been a bastion of autocratic rule.⁵¹ Christian groups and Episcopal conferences in Ghana, Nigeria, and Zambia have also actively fought authoritarianism and supported democratization in their respective countries.⁵²

As far as the civil society's movement in South-Africa is concerned, during the interregnum between the end of apartheid and the first free national and local elections, independent civil society organizations provided a political home and outlet for, amongst others, ANC sympathetic grassroots activists outside of the movement leadership. Independent platforms in civil society were especially valued by activists who feared that national level negotiations, and any political arrangement emerging from them, would be elitist or ideologically compromised.⁵³

The debate about civil society in the South-African anti-apartheid camp has been carried out in two principal arenas: one is the labour movement. Here the transitional constitutional phase that began in 1990 stimulated an extended exchange about the possibility a democratic and socially transformative version of corporatism in the 'new South-Africa'. The second arena is the civic movement in the township. During the early 1990s, newly resurgent civics began to articulate the demand for a vigorous and autonomous civil society in which civic associations could play a prominent role.⁵⁴

The vibrancy of the civil society in Nigeria seems again significant. Civil society organizations have mounted a constant and vibrant campaign to oust the authoritarian Sani Abacha dominated military regime in Nigeria. Nine broad types of organizations led the struggle: professional association, workers' association, youth associations, ethnic and regional associations, religious associations, women's rights NGOs, the press, university academic associations, and the human rights and civil liberties NGOs.⁵⁵ During the Abacha years, professional associations previously concerned with issues of professional standards, code of conduct, and internal regulation of their practice challenged the State over issues regarding its authoritarian style of governance and its attempts to encroach further into the public space. Religious associations also became

political in the recent past as they mentioned the progress the transition program, issuing statements when derailment and self-succession became clear. To varying degrees, workers' associations took an overtly political position by calling for the Abacha regime to step down and installation of Chief Moshood Abiola as head of state. Similar to workers' unions, the university academics through the Academic Staff union of Universities (ASUU) spoke out against military rule and called for the restoration of democracy.⁵⁶

Civil society remains to be democracy's mainstay, not only in Nigeria and Zaire (where transitions have become stalemated), and in Burkina Faso, Cameroon, Ghana, Kenya, and Togo (where transitions outcomes are still ambiguous), but also in Benin, Malawi, South Africa, and Zambia (where outcomes have been more clearly successful).⁵⁷

However, Civil society's weakness as a force for democratic consolidation is most glaring in the crucial area of ensuring public accountability, transcending ethno-regional, religious, and other cleavages, bringing about economic renewal.⁵⁸ Michael Bratton deeply substantiates these facts supporting them in various African cases. For example, in relation to the media role, a survey of the print press in Benin noted that the cost of a news paper is roughly equivalent to that of a good meal and so is accessible only to a relatively small proportion of the urban population. In the countryside, poor education and communication ensures an exceedingly small readership: a survey of the cocoa belt of Cameroon in 1994 revealed that only 0.2 percent of house hold read newspapers on a regular basis, compared to 44 percent that listened to the radio and 5 percent that watched television. The latter two remain under government monopoly in the overwhelming majority of countries. Once the excitement of the transition wears off, few newspapers can claim sales of

above 10,000 per issue. Many of the publications that popped up in the "political enthusiasm" of 1990 have since disappeared, and the surviving handful maintains a precarious existence.⁵⁹

In Ghana, official corruption and incompetence should have taken a heavy blow from the resumed publication of reports by government auditors and other public-accounting agencies. Yet malfeasance remains rampant. Legislative-oversight committees and public prosecutors are still too vulnerable to political inferences, and pressure from civil society has seldom been strong to bring wrongdoers to book.⁶⁰

Regarding the failure of the civil society in transcending ethno religious, religious and other cleavages, in any lasting way. One African country after another has seen its own particular movement for democracy fracture along ethno-regional and sectarian lines either during or just after the transition from authoritarianism.⁶¹ In Kenya, President Moi remained in control as the forum for the restoration of Democracy splintered in to three factions based on the Lou, northern kikuyu, and southern kikuyu groups. In Malawi, pro-democracy politics aimed at ousting dictator Hastings Kamusz Banda took on an ethno- regional cast as the southern part of the country became the base of Bakili Muluzi's United democratic front, the north become the base of Chakufwa Chihana's alliance for democracy, and the Malawi Congress party dominated the central province.⁶²

The contribution of civil society to democratic consolidation is even more disappointing in the key areas of economic renewal which accompany political liberalization has failed to materialize. The new and free political climate has severely limited the ability of fledgling democratic governments to pursue meaningful economic reforms. ⁶³

On the whole, E Gyimah-Boadi has given lavished attention to the conclusion on which this writer is almost in full compliance that civil society is too weak to redress state society relations in favor of the latter. Despite the return to formal democracy and the promulgation of constitutions with all the usual check and balances, officials retain enormous power; In all but a handful of Africa's new democracies, the threat of an "executive coup" is ever present; Vague and illiberal laws, enacted by colonial or authoritarian regimes in the name of "public order" or "national security", have been used to suppress free decision and activism.⁶⁴ As an instance, in Zimbabwe, senior staffs of the financial gazette found themselves detained and charged under a pre-independence "criminal defamation" statute because they reported on the personal life of President Robert Mugabe.⁶⁵ Despite the fact that there are few clear instances where the civil society has been found stronger in some years and in some parts of Africa, we could not be able to boldly speak of its considerable impacts on democratization processes sustainability when we attempt to outline in African standard. As we realize from this section, the basic measurements of democratic statehood are achievable if and only if all of the political society and the civil society have discharged their obligations increasing the degree of competition, participation and the level of civil and political rights guaranteed as it is previously perused in chapter one and two of this thesis. In this chapter it is vehemently stressed that "State is transformed by a changing civil society and civil society is transformed by a changing State". Consequently, the civil society is expected to undergo certain transformations primarily on its part in order to exert pressure against non-democratic measures of the States of their respective countries of Africa.

3.4. The Roles of the Civil Society in the Democratization Process in Ethiopia

As far as the civil society in Ethiopia is concerned, there is no clear evidence envisaging the establishment of formal civil society organizations in the country prior to the imperial regime. If we consider the tediousness of the search for legal evidence showing the establishment of a single civil society organization before imperial times, it is almost possible and is sound to conclude that there was no formal one which was established fulfilling the basic requirements of existing laws.

However, during the monarchical regime the 1955 revised constitution had expressly guaranteed the right to establish associations in accordance with the existing laws.⁶⁶ Following the adoption of the revised constitution, the civil law, which has been still applicable, was enacted in 1960. This law has devoted its considerable portion to civil society organizations dealing with it under articles 404-549 in detail. The civil law defines the term “association”, charities and foreign civil organizations in its articles 404, 483 and 545 respectively. In line with the constitution and the civil law few civil society organizations were established pinpointing the pragmatic implementation of the guaranteed rights. As an instance we can mention the Ethiopian national association for the blind which is established in 1960.⁶⁷ Soon after six years from the enactment of the civil law a regulation on the establishment of civil society organizations was also issued in 1966 being regulation no. 321/66. These laws regulated not only their times but also almost all of these days’ issued legal certificates of each civil society which refers to the law of the 1960 and the regulatory law of the 1967.⁶⁸

The historical order demands to again briefly inquest the governing laws of the days of the military regime. The PDRE constitution reveals that “the right of all Ethiopians ... to be organized in associations” is guaranteed. Furthermore, the constitution seems to give it serious attention as it clearly declares that the then existing government is

expected to support the establishment of associations morally and materially with a view to making the law practicable.⁶⁹ Among those civil society organizations established during the military era it is possible to mention Christian relief development association (CRDA) which is established in 1975.⁷⁰ The booming of the civil society is motley related to the 1973-74 and 1983-84 famine at the time of the Imperial regime and Derg respectively⁷¹.

What then comes into picture is the transitional government period. In this period the transitional charter which had served as a constitution for almost four years entertains the right to association in its first article.⁷² Following this charter the Federal democratic republic of Ethiopia was adopted on December 8/1994. This constitution is well known in its devotion to rights leaving almost one-third of its space to rights. The constitution unequivocally and in clear terms provides that "every person has the right to freedom of association for any cause or purpose". What makes this constitution unique is its permissiveness of organizing any association "for any cause or for any purpose". From this statement we may be able to infer that the constitution allows the establishment of civil society and political society. This is because the cause and purpose of establishment may be either be for civil or political purpose and for various causes or reasons. The constitution then also fairly ties this permissive statement stipulating that organizations formed, in violation of appropriate laws, or to illegally subvert the constitutional order, or which promote such activities are prohibited).⁷³

When we revisit the basic laws of Ethiopia and when we put a mirror to observe them each, all of them have a common character in permitting establishment of associations more specifically the establishment of the civil society as this is the case at hand in study. The 1955 constitution is a good constitution as a starting point in constitutional history of the country to put such phrases about establishment of associations formally. The PDRE constitution also seems better than the revised constitution of

the Imperial regime and the current Federal Democratic Constitution in providing for better opportunities for the civil society theoretically. Because, this constitution permits not only establishment of civil society organizations but also specifically puts that the then existing government should accompany it with moral and material support. The FDRE constitution is also quite significant constitution in dealing with the civil society so long as it unambiguously puts an article for this purpose without mixing it with other rights in the same ways that the revised constitution and the PDRE constitution did.

Coming back to the basic roles of the established civil society organizations in the current democratization endeavor in Ethiopia, it seems essential to primarily roughly classify the existing civil society organizations according to their nature of intervention or roles. The South African 1990s civil society debate puts that the civil society serves as:

- 1) autonomous “watchdogs” acting on behave of particular constituencies, typically the working class or poor
- 2) advocacy groups championing particularly local government or some form of socialism;
- 3) people-centered development organizations, and either themselves becoming project-implementing non-governmental organizations (NGOS) or initiating and monitoring NGOs and projects;
- 4) Local assemblies or bringing together diverse township interests and acting either in some kind of institutionalized partnership with local government or requiring to be consulted by it prior to implementation of policies or programs.⁷⁴ The current 2008 evidences witness that there are about 4677(four thousand six hundred seventy seven) civil society associations or organizations in Ethiopia.⁷⁵

For the purpose of this paper, we may find it formidable to divide these civil society institutions in Ethiopia in to other four broad categories than taking the south-African categorization fully to make it better fitting the roles of the Ethiopian civil society. These are:

- a. Non-governmental organization (NGOs):- these consist of local or international organizations engaged in relief, development, or both. NGOs provide services, channel funds, carrying out development projects, and frequently engaged in advocacy work.
- b. Advocacy organizations: - these consist of rights-based institutions and institutions committed to the protection of the environment, wildlife etc.
- c. Interest group institutions: - under this category we find professional societies, trade unions, cooperatives, chamber of commerce, employers associations, and cultural societies.

D. Community organizations: - these consist of neighborhood groups, and citizens' and youth organizations.⁷⁶

Prior to 1991, it may be somewhat simple to guess that the civil society had exerted no greater influence for the occurrence of democratic order due to the repressive nature of the existing atmosphere. It is a undeniable that even if civil society has flourished long years ago as we have earlier seen, the mushrooming of civil society organizations happened mostly since 1990s.⁷⁷ More over, we cannot talk about the roles of the civil society in the democratization process inasmuch as there was no started democratization process during, at least, the past two regimes. Therefore, our discussion on the roles of the civil society will be confined more to the recent phenomena than the previous.

Among the civil society organizations classified hereinbefore, I have preferred to touch upon the roles of those civil society organizations which are called the non-governmental organizations NGOs interest group institutions and advocacy organizations. Despite the fact that the yardsticks of democratization which are used in this thesis (namely: increased competition, increased participation and the levels of civil and political rights guaranteed) are very difficult to determine the influence of

voluntary organizations on public policy and the democratic process, We can make broad conclusions so long as distributing questionnaire for organizations in thousands is worrisome, time taking, and given the unevenly distributed nature of the organizations in almost all regional States.

As it is largely discussed in the previous sections on the generally visible roles of the civil society, the Ethiopian civil society can't also be strangely at variance with the other countries' civil society organizations in their roles and influences in many respects. The questions: "how is the role of NGOs operating in Ethiopia in sensitizing local people and beneficiaries to their legal and legitimate democratic rights?", "what measures have been taken and which approaches have been employed to assist people to realize their rights?" and "what roles have the civil society played in Ethiopia to induce the authorities to acknowledge the legitimacy of peoples' needs and demands and what have they done to enhance official accountability and transparency?" are quite decisive in our attempt to see few of the roles of the civil society in Ethiopia.

As we can observe the Ethiopian situation, at one level, we see little evidence that in Ethiopia decision-makers as a body are willing to listen to the voluntary sector or are ready to recognize that it has legitimate claims. Indeed, among some government circles, civic institutions are still considered as part of the political opposition and regarded with hostility. At another level, it is evident that some of the advocacy groups have aroused public interest and are attracting public support, though by "public" we are referring to the public mainly the Addis Ababa public.⁷⁸ A survey conducted in 1994 indicated that 72 per cent of all NGOs operating in Ethiopia were engaged in welfare programs in the form of service delivery on a subsidized basis. Nevertheless few NGOs and advocacy organizations have done a considerable intervention given their limited resources. For instance, the Ethiopian Human rights council (ERCHO) and

Ethiopian women lawyers' association (EWLA) have played an important role during the transitional period in the 1990s. ERCHO has a declared objective of monitoring the situation of human rights in the country. True to its stated principles, it "systematically and at greatest risks to its officers, managed to monitor and report on human rights violations by the government". Since its founding, ERCHO has compiled several hundred pages of regular, special, and urgent reports on violations.⁷⁹ Here it would also be appropriate to mention Ethiopian women lawyers' association' (EWLA's) and PACT-Ethiopia's role. As noted earlier, for instance, EWLAs legal aid service is actively sought by a good number of women who feel they have no other recourse for redress of grievances.⁸⁰ It is also quite necessary to quote PACT-Ethiopia an international organization which envisions "an empowered society in which social, political and economic rights are ensured". This organization has been widely implementing its noble missions of: creating access to quality education, empowering women by identifying and applying interventions that have the greatest impact on improving the status of women, such as increasing income and control of resources, widening access to service, and enhancing participation in political, economic and social spheres, working on health and HIV-AIDS issues, democracy, governance and peace building and livelihood. To take a single case from the practical experience of PACT-Ethiopia, the organization had organized an advocacy workshop on the draft "freedom of information" in Ethiopia in 2008 that this writer had participated in the workshop. With a view to achieving good results from the advocacy work, the organization had contacted the South-Africa scholars to share the South-African experience for Ethiopia.⁸¹ The existence and the role of such civil society organizations as PACT-Ethiopia is of paramount importance for national transformation in that freedom of information has severe impact on the role of the people to participate in all matters accordingly. Besides, the empowerment the civil society creates enables individuals and groups to make their own decisions about their

own future. This has also to do with increasing the democratic participation of the people.

The figure cited by CRDA shows that the development projects undertaken by NGOs in the 1990s is estimated to have cost 2.5 billion birr and has benefited 26 million people, both rural and urban and created 14,000 employment opportunities on its part.⁸² researchers indicate that the bulk of NGO resources have gone into human development (health, education, child welfare) and agriculture and food security to those same priority areas emphasized by the government's poverty reduction program as set out in PASDEP.⁸³ In the Agriculture and rural development, NGO/CSOs have invested about 3.8 billion Birr between 2004 - 2008, and this amount is 1.6 billion Birr more than the aggregate amount (2.2 billion) assumed to be generated from the private sector, and communities for implementing the agricultural and rural development components the PASDEP (2005 - 2009/10).⁸⁴ Whereas, the National Bank of Ethiopia's compilation also reveals that the transfer of Non-Governmental organizations' contribution between 2004 and first half of 2008 was 1.78 billion U.S Dollar and the mid-2008 (which is more than the annual earning of coffee export) and European Commission's study divulges that their contribution between 2004 and 2007 reaches 10 billion Ethiopian birr..⁸⁵ This shows that the civil society in Ethiopia has been contributing much to the economic welfare of the society.

The Ethiopian Civil Society has also engaged in human rights, democracy and good governance issues, either as core areas of intervention or as part of 'development' activities, typically undertaking awareness raising initiatives to inform the public and bring concerns of their 'targets' to public discussion forums.⁸⁶ The thematic areas on which the Civil society/NGOs public awareness raising work cover a range of

issues including child rights, women's rights, the rights of persons with HIV-AIDS, rights of persons with disability, democracy, corruption, voter education, pastoralist issues, access to justice, etc; and they have been using various strategies including the following: Publication and dissemination of information through information, education and communication materials (posters, leaflets, brochures, etc,). dissemination of legal and other documents; eg. the Federal Democratic Republic of Ethiopia Constitution; translation of international human rights instruments into local languages and distributing among the public, Conducting voter education to sensitize and mobilize the public to participate in elections, organizing debate forums among contending parties to ensure access to information to the public on the programs and plans of action of different publication of articles on different governance and rights issues on print media, organizing training workshops on various issues of human rights and democracy to different sections of the society, Running radio programs to raise awareness and sensitize the public on various governance and human rights issues, E. g. national radio broadcasts on gender based violence and women's rights aired by Panos Ethiopia and EWLA; radio program on child rights, women's rights and gender, HIV/ AIDS and Civic Education aired by EHRCEPA every two weeks via the regional radio stations of the Amhara Mass Media Agency since August 2004, Action Aid Ethiopia assisting a project aimed at building legal literacy of the people in Tigray by broadcasting a weekly radio program in Tigrigna language on legal (e. g. the Constitution, the revised Penal Code, Family Law, etc.) and rights issues which was implemented in collaboration with Demtsi Weyane Tigary and Mekelle University Law Faculty providing about 2.5 million people with information and forum for discussion on various legal and human rights issues in Tigray region and the country, with particular emphasis on the

rights of vulnerable social groups (women, children, people with disability, persons with HIV-AIDS).⁸⁷

Very significant is again to mention the role of Ethiopian Women Lawyers' Association's (EWLA's) huge contribution in giving legal aid to a significant portion of the society. Between 1996 and end of 2007, about 70,000 (seventy thousand) clients have accessed the legal aid service of EWLA.⁸⁸ It is yet crucial to show the number of clients who accessed the legal aid service of Action Professionals Association for the People (APAP) between 2000 and 2007 which reaches to 29951 (twenty nine thousand nine hundred fifty one).⁸⁹ The joint contributions of only these associations in alleviating the legal aid problems of disadvantaged and poor section of the people reaches more than 99,000.

The other vital role of the civil society is the courage and movement exhibited in the May 2005 election. The Ethiopian National Election Board had issued a directive which bars those few of the civil society from monitoring and observing the election unless and otherwise they have incorporated in their memorandum of association to do so on April 4/2005. Fifteen members of the civil society in Ethiopia joined hands and brought suit against the Board in the Federal High Court. Then, the Court to which the suit was instituted decided in favour of the fourteen members of the civil society stating that the members of the civil society are able to monitor or observe the May 2005 national election as the directive (decision) of the National Election Board is against the electoral Law Proclamation No. 438/2004.⁹⁰ This is the other good achievement of the movement of the civil society to discharge its role of taking the back seat at times of elections.

These are not the only instances of intervening civil society institutions in the democratizing effort through their meaningful implementation on economy, civil and political participation in multidimensional spheres. But in general, it would be proper to conclude that despite their limited experience, civil society institutions have made a modest impact on public attitudes. This writer agrees with other few writers that under present circumstances, civil society institutions can do no more than promoting public awareness and stimulating public discussion about democratic rights and responsible governance. To expect them to achieve more than this is to misjudge their capacity, and to place on them unwarranted hopes and exaggerated expectations. This is not however to judge that the Ethiopian civil society would be encouraged to shy away from its expected roles using pretexts. I recommend that each and every civil society organization would come to a certain circle and should create a “mighty river” which sweeps away unwanted undemocratic practices. Furthermore, the civil society would struggle for the practical implementation of human and democratic rights and would also not hurl down good external democratic experiences. In other words, the civil society would come together to positively coerce the State so as to ratify or reject an international instrument in case it is found relevant to the public in the democratization endeavor.

3.5. THE 2008 DRAFT NGO LEGISLATION AND ITS IMPACT ON THE ROLES OF THE CIVIL SOCIETY IN THE DEMOCRATIZATION PROCESS

In our attempt to see the current draft charities and societies legislation, it would be essential to begin with its purpose. The preamble of the draft proclamation asserts that proclaiming such legislation is essential for the following reasons:

- A. to enact a law in order to ensure the realization of citizen’s rights to association enshrined in the FDRE constitution; and

B. To promulgate a law to aid and facilitate the role of charities and societies in the overall development of Ethiopian peoples.

These purposes are good insofar as they are meant to serve the civil society, the State and the general public in general. However, they seem far away from vividly showing the contribution of the civil society to the democratization process in the country. Furthermore, they did not fully envisage the noble objectives of the draft legislation which are provided under article 5 of the draft. This is because the preamble in most cases is expected to be related to its objectives. Henceforth, the preamble should also incorporate few of its purposes pinpointed under article 5 such as maintenance of public trust in charities and societies, promoting the effective use of resources of charities and societies and enhancing accountability of charities and societies.

It would be vital to incorporate a phrase which states that the draft law is also enacted so as to foster the active engagement of the civil society in the democratization process. Even if the word “to ensure the realization of citizen’s rights to association enshrined in the constitution of Federal Democratic Republic of Ethiopia “ might seem to denote democratic order as the existing order is democratic, it would be put clearly and unambiguously. This may be interpreted indirectly and not directly. Furthermore, the law would recognize the importance of the civil society for maintenance of peace, development and democracy in many respects albeit its opposite may also be true.

Similarly with the 1960 civil code of Ethiopia, the draft charities and societies legislation categorizes the civil society into charities and societies and again classifies charities into four types. These types of charities in the draft legislation are charitable endowment, charitable institution, charitable trust and charitable society.⁹¹ The existence of a guiding law

concerned with the civil society is quite a significant matter. This may be either because it is helpful in demarcating the roles of the State and the civil society in public. More over, it is also very crucial in enabling the general public to appreciate such roles as a result of which it may be able to judiciously give its own judgments in any dispute between the State and the civil society. It is again unwise to leave a lacuna in the conditions where both have been doing and planning to do much for the democratization of the same country. Thus, there must exist a binding law which fits the existing democratic process of the country.

Despite the fact that the 2008 charities and societies draft proclamation has better categorization and provisions which are helpful in bringing the civil society in to a same floor of democratizing Ethiopia, it has also some difficult principles which might hamper the civil society primarily from its establishment easily. Before running to conclude faster, it would be advisable to show few of the challenging provisions of the draft. For instance:

- Ethiopian charities and societies would be composed of only Ethiopian members and should be funded by Ethiopians as well and only would use not more than ten per cent of their total asset from foreign sources;⁹²
- Those charities and societies which take part in activities of the advancement of human and democratic rights, the promotion of equality of nations, nationalities and peoples and that of gender and religion, the promotion of the rights of the disabled and children's rights, the promotion of conflict resolution or reconciliation, the promotion of the efficiency of the justice and law enforcement services, and any other purposes as may be prescribed by directives of the Agency shall be Ethiopian charities or societies;⁹³

- Foreign charities shall not take part in activities of the advancement of human and democratic rights, the promotion of equality of nations, nationalities and peoples and that of gender and religion, the promotion of the rights of the disabled and children's rights, the promotion of conflict resolution or reconciliation, the promotion of the efficiency of the justice and law enforcement services, and any other purposes as may be prescribed by directives of the Agency;⁹⁴
- Any society shall be managed by persons elected through the full participation of all members;⁹⁵
- Where the society has a federal character and nomenclature, its work place and composition of the members shall show the representation of at least five regional States;⁹⁶
- Any founder of society charities and societies soliciting money and property exceeding 50,000 birr before its registration shall be liable to administrative measures to be imposed by the charities and societies agency;⁹⁷
- The agency shall refuse to register a charity or society where the proposed charity or society is likely to be used for unlawful purposes or for purposes prejudicial to public peace, welfare or good order in Ethiopia;⁹⁸
- No charity or society may establish a branch without the prior approval of the agency; ⁹⁹
- Any society shall notify the agency in writing of the time and place of any meeting of general assembly of the society not later than seven working days prior to such meeting. ¹⁰⁰

- Ethiopian mass-based organizations may actively participate in the process of strengthening democratization and election, particularly in the process of conducting educational seminars on current affairs, understanding the platforms of candidates, observing the electoral process and cooperating with electoral organs;¹⁰¹

First and for most, the article demanding Ethiopian donors as a criterion to establish or discharge current national obligation is quite respected idea. The discouragement of using funds exceeding ten per cent of the assets of a certain charity or society which is received from foreign sources is a golden provision as well. Because, it encourages Ethiopians to have the habit of funding such civil society organizations. Besides, it has the impact of decreasing dependency syndrome on foreign aid. Nevertheless, may it be timely and fair to presently expect Ethiopian donors for Ethiopian civil society in the situation where the country is in a deep-rooted impoverishment? Though there may be Ethiopian donors, may they be economically able to foreword their part for even existing 3468 civil society organizations leaving those which will be established yet aside? Can the general public assist the civil society which is assisting him by expecting from foreign sources? Do we have the habit to be a member of a certain charity or society and to pay membership fees? The answers of these questions seem to be negative. If this is the case, it will be difficult not only creating the chance of establishing new charity and society but also the existing relatively vibrant ones may even be closed. It seems by and large advisable to apprehend that, society is dynamic and so are laws dynamic accordingly. This provision is better applicable in a country whose economic status is better than Ethiopia. Therefore, it would rather be relevant at those future times of Ethiopia when its renaissance may be glorious.

It seems to solve such problems and to create a bridge taking the civil society to the status of Ethiopian charity or society that the draft proclamation gave birth to anew type of charity or society perhaps, which is new, in the history of the country in relation to charities or societies. It has provided for Ethiopian resident charities or societies that shall be formed under the laws of Ethiopia and which consist of members who all dwell in Ethiopia and who receive more than 10% of their funds from foreign country sources. Even if it is unclear from the draft proclamation about the legal meaning of "residence", it would be fair to conclude that it would be seen in light of the civil law of the country. This giant bridge may be able to save several civil society organizations, which do not fulfill the requirements of Ethiopian charities or societies, from being close. More hopefully, many of the charities and societies may be registered as an Ethiopian resident charity or society given their lesser capacity to generate and use ninety percent local resources for charitable purposes.

Yet this new form of association is not without restriction in connection with intervening in certain activities for charitable purposes. This is because article 14 (5) of the draft proclamation expressly provides that "Those charities and societies which take part in activities of the advancement of human and democratic rights, the promotion of equality of nations, nationalities and peoples and that of gender and religion, the promotion of the rights of the disabled and children's rights, the promotion of conflict resolution or reconciliation, the promotion of the efficiency of the justice and law enforcement services, and any other purposes as may be prescribed by directives of the Agency shall be Ethiopian charities or societies. This situation may exclude considerable number of civil societies from taking part in such crucial activities and coerces them to swim only in the half portion of the pool. At this time when the contemporary world has made its approach of development right-based, it would be very disadvantageous to the country to generally prohibit the incursion of considerable number of the civil society into such

activities. It is my opinion that it is almost impossible to talk about any developmental movement without mentioning the concept “right”. Besides, it seems mostly imperative to give human face for works whose purposes are charitable to make the people move forward for one and same objective creating a “mighty river”. Consequently, forbidding charities and societies from taking part, at least, in the advancement of human and democratic rights and the rights of the disabled and children seems difficult so long as it hampers not only the rights of the civil society to be formed for any cause or purpose as ensured under article 31 of the constitution, but also it fundamentally affects the rights of Ethiopians to participate in national development, which are enshrined under article 43 (2) of the constitution.

The other provisions which are concerned with the criteria of not soliciting more than fifty thousand Ethiopian birr are almost vague. This is somewhat puzzling for the reason that founders may have their own positive vision to establish and engage into civic activities such provisions on soliciting money may be hindrances to the Ethiopian diaspora and Ethiopian visionaries residing in the country insofar as they may exert negative influence on their interest of establishing charities or societies soliciting money for a certain advantageous target. Furthermore, “full participation of members in electing the managing person of a charity or society” and meeting the requirement of fulfilling composition of at least five regional States’ individuals having similar visions of establishing a charity or society seems also a complex requirement. The agency’s powers to refuse registration predicting that a certain charity or society is likely to be used for unlawful purposes, scrutinizing the consanguine and affinal relationship of founders, the none-fulfillment of ten visionaries to engage in the realm of civil society, are all subjective matters giving more discretion to the agency. This may cripple freedom of association which is guaranteed in the Ethiopian generous constitution owing to its complexity to exercise practically. In addition to these, requiring permission from the

agency to establish a new branch is yet another great obstacle which considerably limits the movement of the civil society anywhere in the country to quench their thirst of serving the public. This would have been incorporated in the annual report rather than taking time in requesting the right which is granted by the constitution in applying for approval from the agency twice or more after establishment.

In spite of the draft charities' and societies' proclamation, incorporation of certain roles of the civil society, It puts that "Ethiopian mass-based organizations may actively participate in the process of strengthening democratization and election, particularly in the process of conducting educational seminars on current affairs, understanding the platforms of candidates, observing the electoral process and cooperating with electoral organs" in its article 58 (7). Is this law specifically permitting such roles only to "mass-based associations", which are meant to include professional associations, women and youth associations and other similar Ethiopian societies per article 2 (5) of the draft law? Or is the word "actively participate" an indication that the other charities and societies may passively participate? If passively, how could passive participation be explained in practice? Even if passive participation is allowed for the others, what is the basis of discrimination? Can we conclude that those even mass-based associations are permitted conditionally as long as the word "may" denotes application of the right upon permission? The draft proclamation has given a deaf ear to all of these and other similar questions.

Very strange is yet the criteria that any charity and society is expected to notify to the agency when they have general assembly meetings before seven working days. And yet it is violative of autonomy of civil society organizations when the agency is informed and left free to take part in any meetings of charities and societies. This has mostly to do with freedom of expression and privacy guaranteed in the Ethiopian constitution.

Controlled meetings and supervised speech are highly dangerous in eroding autonomy and freedom of speech. Hence, it seems difficult to juxtapose supervision and freedom of expression this way. The supervision of the State would be at a courteous distance. Therefore

To sum up, a final question expecting answers is: is the 2008 draft charities and societies proclamation a good instrument in attracting the Ethiopian civil society to the right track of its participation in the country's democratization process? The FDRE constitution article 31 specifically declares that freedom of association is guaranteed. Giving it attention again, it provides that participation of labour unions, trade organizations, employer and professional associations and civic organizations shall be free and accessible to those who meet the general and special requirements of the organization. And it adds that elections to positions of responsibility within the organizations shall be conducted in accordance with free and democratic procedures.¹⁰² Therefore, the draft proclamation would be in congruence with these principles of the constitution in providing for the election of the managing officer of charities and societies. More over, the provisions of the constitution dealing with privacy (article 26) and freedom of expression (article 29) would also be consulted before adoption. Finally, it is fair to suggest that the societal dynamism should be taken into account to make the law practicable. The supervision the State does and the movement the civil society exhibits would also be balanced.

Provided such and other matters are taken into consideration, it may be a better guiding law *mutatis mutandis*. We may then be able to observe when the civil society mobilizes the public towards a certain common objective of democratizing the country. The civil society may also be able to feed its seeds by making the people aware of its democratic rights in all spheres. At the other angle the incursion of the State into the civil society through supervision at courteous distance also enables to protect what are feared, in the draft legislation, to happen.

I vehemently suggest that the draft legislation would more or less satisfy the working definition adopted in this thesis which reads that: *the civil society is a private sphere of material, cultural and political activities of voluntary autonomous institutions that are intermediaries between the State and subaltern classes resisting the incursion of the State by fundamentally reducing the role of politics in society in expanding free markets and individual liberty and/ or group right. Unless otherwise the charities and societies proclamation is promulgated in consistent with the constitution without tightening supervision and avoiding the barriers mentioned before, democratization is almost difficult without the participation of the civil society as it is perused in this chapter previous sections.*

CHAPTER FOUR

4. CONCLUSION AND RECOMMENDATIONS

4.1 CONCLUSION

To conclude this thesis, the power of the democratic idea has evoked some of history's most profound and moving expressions of human will and intellect: as mentioned in chapter one, from Pedicles in ancient Athens to Vaclav Havel in the modern Czech Republic, from Thomas Jefferson's Declaration of Independence in 1776 to Andrei Sakharov's last speeches in 1989. In the dictionary definition, democracy is "government by the people in which the supreme power is vested in the people and exercised directly by them or by their elected agents under a free electoral system." In the phrase of Abraham Lincoln, democracy is a government "of the people, by the people, and for the people."

Despite the fact that many philosophers and writers have speculated much on it, the word "democracy" originally came from the Greek. In its etymological meaning democracy is to mean "rule by the people". The Greeks gave us the word but they did not provide us with the model. Almost all of the ancient Greek philosophers such as Aristotle, Plato and Thucydides have depicted democracy as the government of the ignorant or government of the poor. Henceforth, democracy was poorly regarded during the ancient Greek.

With the decline of Athens, the debate about democracy was put on hold for a very long time. In the feudal system of the middle ages, power was not vested in elected bodies; it was based on rank that could be attained only through inheritance or by force. Any body of thought on democracy, based on modern society, did not emerge until the 19th century, although its beginnings can be traced to the renaissance and Niccolo Machiavelli (1469-1527). During this span of time from the

renaissance to the 19th century, ideas about democracy took shape in the context of development of modern, industrial-capitalist society.

The term democracy, in its modern sense, came into use during the course of the 19th century to describe the system of representative government in which the representatives are chosen by free competitive elections and most male citizens are entitled to vote. In the United States these state of affairs were reached in the 1820s and 1830s, as the franchise was extended state by state. In France, there was a sudden leap to adult male suffrage in 1848, but parliamentary government was not established securely until 1871. In Britain, parliamentary government was secured from 1688 onwards, but the franchise was not extended to the majority of male citizens until 1867. Democracy is ,therefore, a fairly new phenomenon in world history and, although it is spreading and seems likely to spread further, it is firmly established in only about 30 of more than 180 States that now exist.

Following the global spread of democracy; many scholars eyeballed democracy and attempted to give it their own meaning in different contexts. The Greek meaning of “rule of the people” opened a heated debate among scholars in connection with the definition of the” people” and the meaning of the “rule”.

To briefly mention some of the debates on the meaning of democracy: Tocqueville distinguished democracy in the sense of a democratic political system, or a set of institutions through which rulers are held responsible to electoral majorities, and democracy in the sense of a social system in which there is an absence of “legally maintained classes hierarchies.” Whereas White views democracy as “a set of institutional procedures to guarantee basic civil and political rights and allow political competition between political forces, usually organized through parties”.

In addition to these, broad and narrow definitions of democracy have also been forwarded by David Held and Schumpeter respectively. For David Held, democracy is a system where “Individuals should be free and

equal in the determination of the conditions of their own lives; i.e., they should enjoy equal rights and accordingly equal obligations in the specification of the framework which generates and limits the opportunities available to them, so long as they do not deploy this framework to negate the rights of others". He calls it "democratic autonomy". Joseph Schumpeter, on the other hand, formulates the narrow definition of democracy defining it simply as "a political method, a mechanism for choosing political leadership. For him the citizens are given a choice among rival political leaders who compete for their votes and that between elections, citizens can replace their elected officials; this ability to choose between leaders at election time is democracy".

Consistently with the narrow definition, the contribution by Robert A. Dahl is again helpful in defining democracy as a political system. Dahl emphasized the responsiveness of the government to the preferences of its citizens, considered as political equals, as a key characteristic of democracy. Such responsiveness requires that citizens must have opportunities to: formulate their preferences, signify their preferences to their fellow citizens and the government by individual and collective action, and have their preferences weighed equally in the conduct of the government.

These three opportunities, in turn, are, according to Dahl, dependent on the following institutional guarantees: freedom to form and join organizations, freedom of expression, right to vote, eligibility for public offices, right of political leaders to compete for support, right of political leaders to compete for votes, alternative source of information, free and fair election, institutions for making government policies depend on votes and other expressions of preferences.

To come up with a certain deduction, the broad meaning of democracy seems less helpful. It does not give us much guidance in determining whether specific countries are democratic or not. For that

purpose we need a precise concept that provides a clear identification of what democracy essentially is. It is necessary, in other words, to cut through the debates in order to find a tool with which we can identify democracy by its fore features, as a form of government in which the people rule. In this regard, most helpful would be the narrow concept that focuses on democracy as a specific type of political system. In the broad concept, democracy is not only a political but also a specific social and economic system. In other words, if we were to use the broad concept we would be able to find very few, if indeed any, empirical cases of democracy. But when democracy is seen in the narrow sense as a political system it is easier to ask questions about the relationship between this political system, on the one hand, and the economic and social dimensions, on the other. Consequently, it may be appropriate to view democracy in the mirror of the narrow definition.

As it is reiterated previously, democracy is a political method or a political instrument with which the people choose political leadership. The institutional guarantees enumerated earlier could be condensed and viewed into the following three basic measurements:

- Where there is meaningful and extensive competition among individuals and organized groups (especially political parties) for all effective positions of government power, at regular intervals and excluding the use of force.
- When we pragmatically realize that there is a highly inclusive level of political participation in the selection of leaders and policies, at least through regular and fair elections, such that no major (adult) social group is excluded.
- When a level of civil and political liberties –freedom of expression, freedom of press, freedom to form and join organizations sufficient to ensure the integrity of political competition and participation are in existence.

In short provided these three broad yardsticks (of increased competition, increased participation and a level of civil and political liberties sufficient to ensure the integrity of competition and participation) are satisfied, it is then the time to believe that there exists democracy.

The most recent attempt to measure the degree of democracy in a large number of countries using the narrow concept of democracy as a starting point was undertaken by Tatu Vanhanen. However, the well known attempt to measure democracy in this way was employed by the freedom house index (FHI). The index employs one dimension for competition and participation (called political right) and one dimension for civil liberties. For each dimension a seven point scale is used, so that the highest and the lowest ranking countries are identified accordingly. In other words, the index attempts to reflect the space of semi-democracy or semi-authoritarianism between outright authoritarian and fully democratic regimes.

The common types of democracy that the freedom house index or others mostly assign a certain country are either parliamentary democracy or a representative one. When we speculate about parliamentary democracy, the French have influenced the growth of democratic institutions and practices throughout most of continental Europe. What French attitudes to democracy have in common with Rousseau's ideas is the assumption that democracy to be advocated in collective terms rather than in the individualistic terms common to America and Britain. Although French revolutionaries talked of the rights of man, they did not share the American belief in popular sovereignty. The doctrine of the revolutionaries was not that the French people were sovereign and that their views were represented in the national assembly. The doctrine that the French nation was sovereign and the national assembly embodied the will of the nation. The 1789 Declaration of the Rights of Man and of the Citizen stated that members of the assembly should not be bound by the

instructions of their constituents', while the 1791 constitution clearly states that "the representatives elected in the departments will not be representatives of a particular department but of the whole nation, and they may not be given any mandate". This doctrine marked a turning point in continental European ideas about political representation. According to the new theory promulgated by French revolutionaries, political representation were no longer to be thought of intermediaries of this kind but were to contrive ; in their collective capacity, to act as the voice of the nation. This theory clearly differs from both the populist and the pluralist view of democracy; it is a European but not an American theory. It views the elected representatives as an independent maker of national laws and policies, not as an agent for constituents or for sectional interests.

To differentiate parliamentary democracy, it seems important to ingurgitate the American democracy scrutinizing its unique features. Simplifying somewhat, it can be said that Americans have defined their democracy in three different ways:

- I. A populist way, in terms of the rule of the people;
- II. A populist in terms of competition between sections and pressure groups; and
- III. An institutional way, in terms of a set of institutions and processes.

Whether a State wishes to follow a parliamentary or a representative or any other form of democracy, it seems proper to ask as to what the process of democratization looks like before attaining the status of a semi democratic or full democratic statehood. To look at the situation of democratization process, we would primarily apprehend what democratization is to mean. Democratization involves the construction of participatory and competitive political institutions. The process of democratization begins with political challenges to authoritarian regimes, advances through the political struggle over liberalization, and requires the installation of a freely elected government. It concludes only when

democratic rules become firmly institutionalized as well as valued by political actors at large. Democratization is thus a protracted process which, if it obtains at all, unfolds over several generations. It is characterized by the development of a political system allowing opposition, competition or rivalry between a government and its opponents.

Various approaches are suggested by different scholars in underscoring and expounding about democratization. Besides, numerous writers have also contributed to the process of democratization basing their arguments on preconditions of process of democratization. A number of them have drawn a conclusion on their own that modernization and wealth, political culture, the social structure of society and external factors from the global context are vital preconditions to the process of democratization. Nonetheless, none of them are separately a guarantee or absolutely independent preconditions. It is very difficult to formulate a fixed model or law for democracy. But this is not to say that such preconditions mentioned earlier are useless. It would rather be relevant to look the interplay between economic, social, cultural, and other preconditions created in earlier periods (history) of the country and the decisions taken by current political actors. This is because the preconditions set the stage and form the scene on which the actors play. Otherwise, the preconditions cannot foretell whether the actors will produce democracy or not, but they can provide some information about what kind of outcome we can expect from the players.

With respect to the approaches to democracy, many scholars suggest various dimensions: some of them propose that the contingent approach for which the key to democratic transition is the ability of participants to arrive at arbitrated agreement that grant everyone at least part of what each wants. On the other hand, structural annalists consider that "the prospects of political change are embodied in the architecture of social systems", and yet others underscore the relevance of political approach having in mind approaches that place analytical primacy on the

institutions that allocate power identifying three nested levels of institutional analysis in the literature that analyze political traditions, political regimes and political institutions.

Though such suggestions may have relevance in approaching democratization, one can't easily adopt a certain approach in his own will. The historical factors, customs, structures and the like have their own magic power to determine the approach. The scene on which the political actors play may not be the result of approaching democracy only through a certain path. All of the approaches may contribute their part. Thus, it is preferred to approach democratization according to the country's context.

Generally speaking, democracy is a vital instrument of development. The social services such as health, education, etc. have to do with democracy. Its importance to peaceful coexistence is also a key factor that one could appreciate it from practical applications in this globe. On condition that its necessity is not again ambivalent, a country would democratize itself. A country would allow its citizens to say what they wanted to say; to decide what they wanted to decide and to have the opportunities of competing for effective positions of governmental power.

Coming back to the Ethiopian context, the basic questions which demand response are: what does the democratization process look like? Are the existing laws permissive of the practical application of democratization? What are the roles of the civil society in the democratization endeavor? Is the 2008 draft charities and societies legislation helpful in encouraging the civil society to discharge its task of democratizing the country?

These and other instrumental questions call for the investigation of each relevant law in connection with democracy and democratization. In this regard, it is pretty much beyond dispute that the Dergue regime was far from being democratic since almost a significant portion of the country was shattered economically, politically and socially. Following the coming

in to power of the EPRDF , the Transitional Charter of Ethiopia of 1991 was more generous enough to specifically entertain principles of democracy than the preceding laws of the country.

When we come to the Constitution of the Federal Democratic Republic of Ethiopia of 1994, as we may perfectly realize from the very clear purpose of the constitution in relation to democratic order, and as we also appreciate the provisions following the Preamble, it is not almost to go aloof on condition that we conclude that the constitution is permissive of free and fair competition for power. What makes a State democratic is the fact that it is free halls to entertain opposition parties in the sphere of competition. As article 56 of the constitution allows multi party democracy, we can infer at least theoretically that political parties can be formed and play their own role in the democratization process.

As far as the provisions regarding democratic participation is concerned, the rights of the people are respected in relation to the elections which may be held to freely and fairly choose its representatives of the House of Peoples' Representatives. These same rights may or may not make sense in electing the representatives in the House of Federation. Because With respect to the House of Federation, in principle, the members of Federation may be elected by the state council. It is if and only if it is the will of the state council that the people are able to directly elect its representatives in the House. denial of participation to elect such House having the powers to interpret the constitution, to decide on issues relating to the rights of nations, nationalities and peoples to self-determination including secession, to find solutions to disputes or misunderstandings between States, to determine the division of revenues derived from joint Federal and State tax sources, to determine the division of subsidies that the Federal government provide to the States, to determine on civil matters requiring the enactment of laws, etc., is likely to give the nature of participation somewhat incomplete. Participation may

have almost full picture in case States councils volunteers the election of the representatives of the House of Federation directly by the people.

The FDRE constitution also puts that the appointment of the Electoral Board is made by the House of Federation upon the nomination of the Prime Minister. Even if it is explicitly stated that the Board would be free of any influence and partisanship, it may allow a room of doubt and may damage the practicability of free and fair election.

The FDRE constitution is splendid in putting rights of participation in detail and concretely. It is permissive of conducting free and fair election democratically.

It is also possible to argue that the electoral law that the constitution itself initiated is again mostly good in many respects. This law grants a right to compete for vote and political support both privately (individually) and as a party or political organization. Moreover it seems as good as a clear law in specifically providing the necessary requirements for political competition for power. However, when we focus on the eligibility criteria, we may simply single out that at least the age limit to engage into the political competition is more or less at variance with the constitution. Seeing that the constitution grants for everyone the right to be elected in as much his age is eighteen years, the fact that the electoral law has adjusted it to be twenty one years is somewhat clear sign that it has undermined such right to a certain degree. Of course, it may be a wise decision to readjust provisions of this kind in such a way that it is better for the better leadership role and others. However, this would not be in the way which contravenes the constitution so long as the constitution is clear with respect to this right.

In relation to enabling increased competition between opposition parties and individuals, the generally stated election code of conduct in the electoral law is also itself challenging in few matters. For instance, the requirements that “any political party or candidate is mandatorily expected

to establish good relations with the Board and other organizations running for election, the imposition on the parties or private candidate to protect the security of Board members, employees and electoral officers from insult, threat, intimidation or danger by their members or supporters, the expectation to protect journalists from attack, intimidation, danger, pressure or assault and the specific terms that “no political organization or candidate should cause or instigate violence” are in most cases vague. They may be subject to many ways of interpretation unless otherwise they are elaborated in the code of conducting which the Board issues. Their challenge becomes more difficult for private candidates owing to their less capacity to protect others from danger, assault, insult and other threats. Identifying supporters is again a great challenge for political and private candidates at time of commission of such prohibited acts. Moreover, at the time when a party or a candidate is running for election, may it be so easy to identify that it or he or she is the cause of or the instigator of that violence unless it is possible to see the direct involvement of candidates? It doesn't seem.

In responding to the question as to whether the electoral law provides a better path to conduct democratic elections, generally speaking, it is explicitly asserted that “any election (in the country) shall be conducted on the basis of ‘universal suffrage’ and ‘by direct and secret ballot’ through which the electors express their consent ‘freely’ ‘without discrimination’ ‘with equal participation’ and ‘each vote carrying equal weight’”. It is also sufficiently provided that the electors are eligible to elect if they are able to fulfill the criteria enumerated. The provisions stated in relation to the rights of the people so as to conduct democratic election, the voting process, the conditions paved for observers and representatives of candidates or political organizations, the vote-casting and the vote counting processes and mechanisms seem as objective as, perhaps, any opposition party or candidate requires. At least, it is almost possible to

conclude that the paper is relatively permissible of conducting more or less free and fair democratic election.

When we go through the legal documents providing for democratic order, considerable number of democratic principles is enshrined in the constitution and in the other national legislations. What is more, the constitution expressly accepts international human right instruments and even gives them the status of integral parts of the law of the land provided they are ratified by Ethiopia. These instruments are also instruments which, have more or less, incorporated democratic principles. Thus, the theoretical legal ground is almost rooted relatively well.

Although some sources denote that there is positive legal track to run the democratization process, many of the writers have also concluded the opposite. The recent May 2005 election is positively admired by many writers and observers. The relatively comfortable legal grounds which guaranteed a considerable civil and political rights paving for increased competition among political parties and candidates, and increased participation of the people, and the recent may 2005 national election are also all taken as signals of rays of democracy.

However, in the other way, the practical application of the cemented laws and other pragmatic processes in the country are said to be contradictory to democratic ideals. Despite the fact that some of the basic principles of democracy are enshrined in the national legislations and even if the May 2005 national election is appreciated by many observers and participants, the actions, mostly, taken in the post election period were not compatible with democratic principles enshrined in the Ethiopian constitution, national electoral law, and other ratified instruments incorporating Human and Democratic rights. Considerable of scholars such as Smith, Abbink and others have considered the present Ethiopia as authoritarian State. Some others, as it is mentioned earlier, have stated that democratic openings in Ethiopia have been narrowed than widened.

From all of these and other situations, this writer is able to deduce that the process of democratization is at fledgling stage.

Finally, with regard to the roles of the civil society in the democratization process and the impact of the 2008 Charities and Society's Proclamation on democratization, the contemporary notion of civil society is a relatively recent development. Before the eighteenth century the term roughly corresponded to that of State. Civil society defined in contrast to the State appears in political philosophy in the late eighteenth and early nineteenth century. The concept of civil society juxtaposed to the State figures prominently both in Hegel's philosophy of right and in Marx critique of Hegel and the Hegelian's particularly on the Jews question. In short, until the 18th century civil society was synonymous with the political society or the State. Many definitions have made the clear identity of civil society puzzling. To mention few of the definitions about civil society, it is defined as: "a variety of autonomous, voluntary institutions which provide services to individuals and articulate public interests. It is also defined as "civil society" means "fundamentally reducing the role of politics in society by expanding free markets and individual liberty" or it means the opposite - "the single most viable alternative to the authoritarian state and the tyrannical market".

There are so many other definitions suggested to define civil society. In order to have a better picture about the civil society, this writer has his own definitions combining various other definitions. This broad definition which adopted in this thesis is that "civil society as the private sphere of material, cultural and political activities of autonomous institutions that are intermediaries between the State and subaltern classes resisting the incursion of the State by fundamentally reducing the role of politics in society in expanding free markets and individual liberty and/ or group right.

It seems better to relate the definition of the civil society with the roles in order to simply guess what the civil society is expected to perform. It has many roles among which: influencing at national level in proportion to its ability in mobilizing public opinion, within legislative bodies, civil society may feed interventions, postulates or motions through legislators sympathetic to their cause. They may try to block or pass appropriations to inter-governmental organizations or ratifications of international agreements. They may also testify during hearings or before commissions, and they may bring lawsuits against the government.

The roles of the civil society are not only these. Religious groups, labor and professional associations, human right groups, and the media play intermediary role between state and citizens, provide public arenas for political participation, and promote the accountability of political class.

In Africa, the civil society has performed much especially during 1989 which has been called the third wave. Nevertheless, no matter how they were vibrant they couldn't transcend ethno-religious and religious and other cleavages. Besides, they couldn't bring considerable economic renewal. On the whole, E. Gyimah-Boadi has given lavished attention to the conclusion on which this writer is almost in full compliance that civil society is too weak to redress state -society relations in favor of the latter. Despite the return to formal democracy and the promulgation of constitutions with all the usual checks and balances, officials retain enormous power. In all but a handful of Africa's new democracies, the threat of an "executive coup" is ever present. Vague and illiberal laws, enacted by colonial or authoritarian regimes in the name of "public order" or "national security", have been used to suppress free decision and activism. Despite the fact that there are few clear instances where the civil society has been found stronger in some years and in some parts of Africa, we could not be able to boldly speak of its considerable impacts on democratization processes sustainability when we attempt to outline in African standard. As we realize from this section, the basic measurements

of democratic statehood are achievable if and only if all of the political society and the civil society have discharged their obligations increasing the degree of competition, participation and the level of civil and political rights guaranteed as it is previously perused in chapter one and two of this thesis. In the previous chapters it is vehemently stressed that "State is transformed by a changing civil society and civil society is transformed by a changing State". Consequently, the civil society is expected to undergo certain transformations primarily on its part in order to exert pressure against non-democratic measures of the States of their respective countries of Africa.

In Ethiopia, clear evidences are available on the establishment of the civil society since the enactment of the Civil Code. The civil society showed booming more importantly during the 1973-74 and 1984-85 famine. The civil society has done in some respects a considerable work. In this regard mentioning the diligence of Ethiopian Human Rights Commission, Ethiopian Women Lawyers' Association (EWLA), Action Professionals' Association for the People (APAP), PACT-Ethiopia, Action aid Ethiopia, and others seem legitimate and appropriate. However, one could not boldly speak of the vibrancy of the Ethiopian civil society in general.

EWLA has given legal aid service for more than 70,000 disadvantaged and poor sections of the society between the years 1996 and end of 2007, while Action Professionals Association for the People has also addressed about 29951 clients in legal aid service other than those training and other services they render in their centers. Economic wise, the civil society has transferred to the country 1.78 billion U.S Dollar between 2004 and first half of 2008 according to the evidences of the National Bank of Ethiopia. Where the map of European Commission shows that the civil society has transferred 10 billion birr between 2004 and 2007. These are more than the annual earning of export of coffee. It is undeniable that these resources have benefited the country in strengthening its national democratization and development. These efforts

of the civil society have to do with strengthening democratization process in one way or the other.

Not only these, the civil society has attempted to discharge its roles using various strategies and mechanisms. For instances, dissemination of legal and other documents; (e.g. the FDRE Constitution; translation of international human rights instruments into local languages) and distributing among the public, conducting voter education to sensitize and mobilize the public to participate in elections, organizing debate forums among contending parties to ensure access to information to the public on the programs and plans of action of different parties, publicizing articles on different governance and rights issues on print media, organizing training workshops on various issues of human rights and democracy to different sections of the society, running radio programs to raise awareness and sensitize the public on various governance and human rights issues, (E.g. national radio broadcasts on gender-based violence and women's rights aired by Panos Ethiopia and EWLA); radio program on child rights, women's rights and gender, HIV/AIDS and Civic Education aired by EHRCEPA every two weeks via the regional radio stations of the Amhara Mass Media Agency since August 2004, etc..

Quite indispensable is again to mention the movement of few of the members of the civil society such as, EWLA, APAP, Action aid Ethiopia, CRDA, Organization for social Justice Ethiopia (OSJE), when the Ethiopian National Election Board had, on the 4th of April 2004, barred some members of the civil society from monitoring or observing the May 2005 national election unless and otherwise they have incorporated this objective in their memorandum of association at times of registration. Their movement of suing the Board had been successful as the Court had decided in their favor by deciding that the civil society is able to monitor or observe since the decision of the election Board is against the national electoral law.

In the effort of pulling most of the civil society to a certain direction where it may play its own role in the Ethiopian democratization process, a governing law which is cited as the Charities and Societies Proclamation is drafted. This law has classified few of the civil society into Ethiopian charities and societies, Ethiopian resident charities and societies, foreign charities and societies and mass-based associations excluding religious associations, edir and ekub and other similar associations. The main purpose of this thesis is to see this law in accordance with its role in attracting the civil society to the national task of strengthening democratization in Ethiopia.

In this regard, the draft law has few relevant provisions provided for this effect such as the objectives of ensuring the realization of citizens' right to association enshrined in the Constitution of the Federal Democratic Republic of Ethiopia, as mentioned in its preamble, aiding and facilitating the role of Charities and Societies in the overall development of Ethiopian people, accepting their roles in the democratization process, allowing the civil society to engage in income generation activity (though not somewhat satisfactory), showing the nature of the associations in case someone wants to establish, etc.

Nonetheless, there are also some provisions which are not timely. For instance, the requirement of ninety percent use of resource from local resources to take part in all charitable activities, the prohibition of those charities and societies using more than ten percent foreign funds from taking part in the activities of human and democratic rights, equality, conflict resolution, rights of the disabled and children, law enforcement and others. Besides, it looks permissive of engaging into active participation of strengthening democratization and election only to mass-based associations such as professional associations, women's and youth associations, the subjective nature of many of the criteria of registration, the severe criminal punishment provided, the stipulation of seventy

percent of the total assets of the civil society to program cost and the unclear and subjective interpretation of administrative and programmatic expenses, etc., are all difficult and not only may limit the right of association in the constitution but also may lead to closing significant number of members of the civil society.

However, Provided this draft law comes up with some adjustments on the autonomy and the guarantee on the right of the charities and societies to intrude into the task of reducing the role of politics by clearly permitting them to preach about rights and freedoms on top of doing away with some other barriers such as resource restrictions, it may have relevance in calling them to be agents of democratization in the country.

4.2 RECOMMENDATIONS

This writer recommends that the electoral law of Ethiopia should be amended in such a way that it closely fits the constitution in relation to the electoral codes which expect parties and individuals to take some measures during election as few of them may be too subjective and beyond their capacity. Besides, it seems necessary to amend either the constitution or the electoral law in connection with the age criteria to be elected. Moreover, the nomination of the Board members of the electoral office would rather be changed and nominated by a certain committee in the House of Peoples' Representatives.

Besides, the Charities and Societies draft Proclamation would be seen thoroughly in line with the constitution's article 31 and 38 with regard to establishment of associations and their guaranteed rights due to the fact that the draft law requires the ten percent resource use from local sources to work in basic areas of interventions (such as human and democratic rights, conflict resolution, etc), the unclear division of the total assets of the civil society into 70 per cent programme and 30 per cent administration cost, the severe punishment on individuals if criminal act is committed, the requirement of ten members to establish a society, limit freedom of association enshrined in the constitution. What is more, State supervision should be somewhat looser and at fair distance.

In addition to this, it seems by and large advisable to apprehend that laws are sought to be dynamic as society becomes dynamic accordingly. The provision compelling charities and societies to use ninety percent fund from local sources seems somewhat unrealistic since its application would be sound in a country whose economic status is better than Ethiopia. Henceforth, as an alternative solution, I personally suggest that the use of ten percent of fund from Ethiopian sources is sufficient given the habit of the public to pay membership fee, the current economic status of the country, the sudden nature of the law on such matter, and others.

Furthermore, all Charities and societies would be entitled to work on the advancement of those interventions mentioned under article 14 of the Draft Charities and Societies Proclamation to go in line with the chapter dealing with human and democratic rights in the Constitution of the Federal Democratic Republic of Ethiopia. This is because article 94 (1) (b) and (2) (c) of the draft law stipulate that any Charity or Society may be suspended in case it violates the provisions of the proclamation and may even be suspended if it fails to rectify the causes for suspension within the time limit set by the Agency. Any charity or society contravenes the draft Proclamation if it does not use 90 percent local resource and works on human and democratic rights so that its intervention to execute human and democratic rights guaranteed in the constitution becomes criminal. Henceforth, the provision would be amended as talking about human and democratic rights would not be criminalized.

As there is no any ground put on the draft Proclamation of 2008 to discriminate some portions of the civil society from the other, I also recommend that the right granted to mass-based associations under article 58 (7) of the draft law would be permitted to all charities and societies to actively participate in the process of strengthening democratization and election, particularly understanding the platforms of candidates, observing the electoral process and cooperating with electoral organs.

I also propose that the draft law should as well not provide that only the mass-based associations are entitled to strengthen democratization and election particularly in the process of conducting educational seminars on current affairs. This is everyone's affair in the country. Consequently, there should exist a general statement inviting all of the civil society into certain common national vision of strengthening the process of democratization. If so, the civil society may serve more as an agent of democratization than else.

Civil society organizations should be networked and form a huge river helpful to assist democratization in the country. i.e., they would be transformed into a level of a vibrant institution to discharge their obligation of democratization at large.

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አዋጅ ቁጥር ____/፪፻፹
የባንዎ አድራጎች ድርጅቶችና ማሕበራትን
ለመመዝገብና ለማስተዳደር የወጣ አዋጅ

Proclamation No. ____/2008
Proclamation for the Registration and
Regulation of Charities and Societies



አዋጅ ቁጥር _____/፪፻፱

የቦጎ አድራጎች ድርጅቶችና ማህበራትን
ለመመዝገብና ለማስተዳደር የወጣ አዋጅ

በኢትዮጵያ ፌዴራላዊ ዲሞክራሲያዊ ሪፑብሊክ ሕገመንግሥት የተረጋገጠውን የዜጎች የመደራጀት መብት ተግባራዊ ለማድረግ የሚያስችል ሕግ ማውጣት አስፈላጊ ሆኖ በመገኘቱ፤

የቦጎ አድራጎች ድርጅቶችና ማህበራት በኢትዮጵያ ሕዝቦች ሁለንተናዊ ዕድገት ውስጥ ያላቸውን ሚና ለመደገፍና ለማሳለጥ የተሟላ የሕግ ማዕቀፍ ማውጣት አስፈላጊ ሆኖ በመገኘቱ፤

በኢትዮጵያ ፌዴራላዊ ዲሞክራሲያዊ ሪፐብሊክ ሕገመንግሥት አንቀጽ ፶፭(፩) መሠረት የሚከተለው ታውጧል፡፡

ክፍል አንድ
ጠቅላላ

፩. አጭር ርዕስ

ይህ አዋጅ "የቦጎ አድራጎች ድርጅቶችና ማህበራት አዋጅ ቁጥር _____/2001" ተብሎ ሊጠቀስ ይችላል፡፡

፪. ትርጓሜ

በዚህ አዋጅ ውስጥ የቃሉ አገባብ ሌላ ትርጉም የሚያሰጥ ካልሆነ በስተቀር፤

፩. "የበጀት ዓመት" ማለት በኢትዮጵያ አቆጣጠር ከሐምሌ ፩ እስከ ሰኔ ፴ ወይም በግሪጎሪያን አቆጣጠር ከጀንዋሪ 1 እስከ ዲሴምበር 31 ያለው ጊዜ ነው፤

፪. "የኢትዮጵያ የቦጎ አድራጎች ድርጅት" ወይም "የኢትዮጵያ ማህበር" ማለት በኢትዮጵያ ሕግ መሰረት የተመሰረተ፣ ሁሉም አባላቱ ኢትዮጵያውያን የሆኑ፣ የገቢ ምንጩ ከኢትዮጵያ የሆነና ኢትዮጵያውያን መሰሉ በመሰሉ የሚቆጣጠሩት ነው፡፡ ነገር ግን የገቢያቸውን ከ10 በመቶ የማይበልጥ ከውጭ ምንጭ የሚገኝ ገቢ የማይጠቀሙ ከሆነ የኢትዮጵያ ቦጎ አድራጎች ድርጅት ወይም ማህበር ሆነው ሊቆጠሩ ይችላሉ፡፡

Proclamation No. _____/2008

Proclamation for the Registration and
Regulation of Charities and Societies

WHEREAS, it is found necessary to enact a law in order to ensure the realization of citizens' right to association enshrined in the Constitution of the Federal Democratic Republic of Ethiopia;

WHEREAS, it is found essential to promulgate a law to aid and facilitate the role of Charities and Societies in the overall development of Ethiopian peoples;

NOW, THEREFORE, in accordance with Article 55(1) of the Constitution of the Federal Democratic Republic of Ethiopia, it is hereby proclaimed as follows:

SECTION ONE
GENERAL

1. Short Title

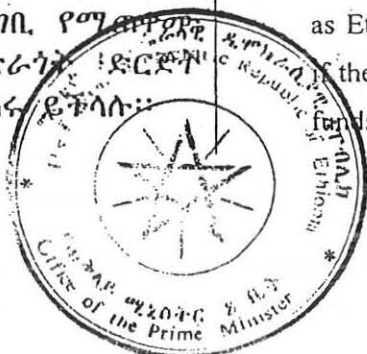
This Proclamation may be cited as the "Charities and Societies Proclamation No. _____/2008."

2. Definition

In this Proclamation, unless the context requires otherwise:

1. "Budget Year" shall mean the period from Hamle 1 to Sene 30 (E.C) or from 1st January to 31st of December (G.C);

2. "Ethiopian Charities" or "Ethiopian Societies" shall mean those Charities or Societies that are formed under the laws of Ethiopia, all of whose members are Ethiopians, generate income from Ethiopia and wholly controlled by Ethiopians. However, they may be deemed as Ethiopian Charities or Ethiopian Societies if they use not more than ten percent of their funds which is received from foreign sources;



፫. "የኢትዮጵያ ነዋሪዎች የበጎ አድራጎት ድርጅት" ወይም "የኢትዮጵያ ነዋሪዎች ማህበር" ማለት ሁሉም አባላቱ በኢትዮጵያ ነዋሪ የሆኑ፤ ከ 10 በመቶ በላይ ከውጭ ምንጭ የሚገኝ ገቢ የሚጠቀም እና በኢትዮጵያ ሕግ መሰረት የተቋቋመ የበጎ አድራጎት ድርጅት ወይም ማህበር ነው፤

፬. "የውጭ የበጎ አድራጎት ድርጅት" ማለት በውጭ ሕግ መሰረት የተቋቋመ ወይም የውጭ ዜጎች በአባልነት ያሉበት ወይም ከውጭ ምንጭ የሚገኝ ገቢ የሚጠቀም ወይም የውጭ ዜጎች የሚቆጣጠሩት የበጎ አድራጎት ድርጅት ነው፤

፭. "ብዙሃን ማህበራት" ማለት የሙያ ማህበራትን፣ የሴቶች ማህበራትን፣ የወጣት ማህበራትንና ሌሎች ተመሳሳይ የኢትዮጵያ ማህበራትን ያካትታል፡፡

፮. "ሚኒስቴር" እና "ሚኒስትር" ማለት እንደ ቅደምተከተላቸው የኢትዮጵያ ፌዴራላዊ ዲሞክራሲያዊ ሪፐብሊክ የፍትሕ ሚኒስቴር እና ሚኒስትር ነው፤

፯. "የሥራ መሪ" ማለት የበጎ አድራጎት ድርጅቱን ወይም የማሕበሩን የእለት ተእለት አስተዳደር በአጠቃላይ የሚቆጣጠር እና የሚመራ ሰው ነው፤

፰. "ሰው" ማለት ማናቸውም የተፈጥሮ ሰው ወይም ሕጋዊ ሰውነት ያለው አካል ነው፤

፱. "የሥራ ቦታ" ማለት የአንድ ሰው ሠነዶችና የሂሳብ መዝገብ የሚቀመጡበት ወይም አንድ ሰው ሥራውን የሚያካሂድበት ቦታ ነው፤

፲. "ሕዝባዊ መዋጮ" ማለት በሕዝባዊ ወይም በሥራ ወይም በመኖሪያ ቦታዎች በመሄድ የሚገኘውን ገቢ ለበጎ አድራጎት ተግባሮች እንዲያውሰው ገልጾ ገንዘብ ወይም ሌላ ንብረት በዋጋ ወይም በነጻ ለማሰባሰብ የሚደረግ ጥሪ ማለት ሲሆን በሀይማኖት ወይም ለቀብር አገልግሎት በዋለ መሬት ወይም ሕንፃ ወይም አጠገባቸው ባለ መሬት ላይ የሚደረግ ጥሪን አያጠቃልልም፤

3. "Ethiopian Residents Charities" or "Ethiopian Residents Societies" shall mean those Charities or Societies that are formed under the laws of Ethiopia and which consist of members whom all dwell in Ethiopia and who receive more than 10% of their funds from foreign country sources;

4. "Foreign Charities" shall mean those Charities that are formed under the laws of foreign countries or which consist of members who are foreign nationals or are controlled by foreign nationals or receive funds from foreign country sources;

5. "Mass-Based Societies" shall include professional associations, women's associations, youth associations and other similar Ethiopian societies.

6. "Ministry" and "Minister" shall respectively mean the Ministry and Minister of Justice of the Federal Democratic Republic of Ethiopia;

7. "Officer" shall mean a person having the general control and management of the day to day administration of a Charity or Society;

8. "Person" shall mean any physical or juridical person;

9. "Place of Work" shall mean the place where a person's records and books of account are kept or the place where a person conducts work;

10. "Public Collection" shall mean an appeal in any public place or by means of visits to places of work or residence; for money or other property whether for consideration or otherwise and which is made in association with a representation that the whole or any part of its proceeds is to be applied for charitable purposes and shall not include appeal made on a land or building used for the purposes of worship or burial or any land adjacent to it;

፲፩. "መተዳደሪያ ደንብ" ማለት የበጎ አድራጎት ድርጅቱ ወይም ማሕበሩ የተቋቋመባቸውን ወይም ሊያራምዳቸው የሚችሉ ዓላማዎች ወይም ሀብቱን በሥራ ላይ የሚያውልባቸው መንገዶች፣ የአባልነት እና የአመራር ቦታዎችን ለማግኘት የሚያበቁ መመዘኛዎችን፣ የአመራር ቦታ በሹመት ወይም በምርጫ የሚሰጥበት መንገድ፣ የበጎ አድራጎት ድርጅቱ ወይም ማሕበሩ የሚተዳደርበት እንዲሁም ከላይ የተዘረዘሩት ጉዳዮች የሚሻሻሉበት መንገድና ሁኔታን ያጠቃልላል፤

፲፪. "የዘርፍ አስተዳዳሪ" ማለት በዚህ አዋጅ አንቀጽ ፳፯ የተሰየመ የፌዴራል አስፈጻሚ መሥሪያ ቤት ነው፤

፲፫. "ክልል" ማለት በኢትዮጵያ ፌዴራላዊ ዲሞክራሲያዊ ሪፐብሊክ ሕገመንግስት አንቀጽ ፵፯ የተመለከተው የኢትዮጵያ ፌዴራላዊ ሪፐብሊክ አባል የሆነ ክልል ነው፡፡

፲፬. "አስተዳደራዊ ወጪ" ማለት ለደመወዝ፣ ለአበል፣ ለጥቅማ ጥቅም፣ ለዕቃዎችና ለአገልግሎቶች ግዥ፣ ለጉዞ እና ለመስተንግዶ የሚወጡ ለበጎ አድራጎት ድርጅቱ ወይም ለማህበሩ አስተዳደራዊ ሥራዎች አስፈላጊ የሆነ ወጪ ነው፡፡

፲፭. "ከውጭ ምንጭ የሚገኝ ገቢ" ማለት ከውጭ አገር የሚደረግ የማንኛውም ዕቃ ወይም ገንዘብ ወይም ዋስትና ስጦታ፣ ክፍያ ወይም ማስተላለፍ ነው፡፡ የውጭ ምንጭ ማንኛውንም የውጭ አገር መንግሥት፣ ኤጀንሲ ወይም ካምፓኒ፣ ዓለም አቀፍ ኤጀንሲ ወይም ማንኛውም በውጭ አገር ያለ ሰው ያካትታል፡፡

11. "Rules" shall include the objects for which a Charity or Society is formed, or which it may pursue, or for which its funds may be applied; the qualifications for membership and for the holding of any office; the method of appointment or election to any office; the rules by which the Charity or Society is to be governed; and the method and manner by and in which any of the above matters may be amended;

12. "Sector Administrator" shall mean a Federal Executive Office designated as such in accordance with Article 67 of this Proclamation;

13. "State" shall mean a State specified under Article 47 of the Constitution of the Federal Democratic Republic of Ethiopia as a member state of the Federal Democratic Republic of Ethiopia.

14. Administrative costs shall mean those costs incurred for emoluments, allowances, benefits, purchasing goods and services, travelling and entertainments necessary for the administrative activities of a Charity or society.

15. "Income from Foreign source" means a donation or delivery or transfer made from foreign source of any article, currency or security. Foreign sources include the government, agency or company of any foreign country; international agency or any person in a foreign country.

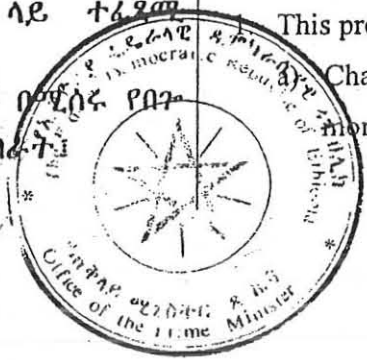
፫ የተፈጻሚነት ወሰን

፩. ይህ አዋጅ በሚከተሉት ላይ ተፈጻሚ ይሆናል፤

ሀ. ከአንድ በላይ በሆኑ ክልሎች በሚሰሩ የበጎ አድራጎት ድርጅቶችና ማሕበራት፤

3. Scope of Application

This proclamation shall be applicable to; Charities or Societies that operate in more than one regional state;



ለ. በአንድ ክልል ብቻ የሚሠሩ ቢሆንም በውጭ አገር በጎ አድራጎት ድርጅቶች እና በኢትዮጵያ ነዋሪዎች የበጎ አድራጎት ድርጅቶችና ማሕበራት፤

ሐ. በአዲስ አበባ ወይም በድሬዳዋ ከተማ አስተዳደር በሚሰሩ የበጎ አድራጎት ድርጅቶችና ማሕበራት፡፡

፪. ይህ አዋጅ በሚከተሉት ላይ ተፈጻሚ አይሆንም፤

ሀ. በሃይማኖት ድርጅቶች፤

ለ. ከኢትዮጵያ ፌዴራላዊ ዲሞክራሲያዊ ሪፐብሊክ መንግስት ጋር በሚደረግ ስምምነት መሰረት በኢትዮጵያ ውስጥ በሚንቀሳቀሱ ዓለም አቀፍና የውጭ የበጎ አድራጎት ድርጅቶችና ማሕበራት፤

ሐ. በዕድር፣ በዕቁብ እና ተመሳሳይ ባህላዊ ወይም ሃይማኖታዊ ይዘት ባላቸው ማሕበራት፤

መ. በሌላ ሕግ በሚሸፈኑ ማህበራት፡፡

ክፍል ሁለት

የበጎ አድራጎት ድርጅቶችና ማሕበራት ኤጀንሲ

፩. መቋቋም

፩. የበጎ አድራጎት ድርጅቶችና ማሕበራት ኤጀንሲ (ከዚህ በኋላ "ኤጀንሲ" እየተባለ የሚጠራ) የሕግ ሰውነት ያለው የፌዴራል መንግሥት መሥሪያ ቤት ሆኖ በዚህ አዋጅ ተቋቁሟል፡፡

፪. ኤጀንሲው ተጠሪነቱ ለሚኒስቴሩ ይሆናል፡፡

፮. የኤጀንሲው አላማዎች

ኤጀንሲው የሚከተሉት አላማዎች ይኖሩታል፤

፩. የበጎ አድራጎት ድርጅቶችና ማህበራት እንዲሰፋፉና ተልዕኮዋቸውን በሕግ መሠረት እንዲወጡ ማስቻልና ማበረታታት፤

፪. የበጎ አድራጎት ድርጅቶችና ማህበራት አሠራር ግልጽነትና ተጠያቂነት የሰፈነበት ሊሆን የሚችልበትን ሁኔታ መፍጠር፤

፫. የበጎ አድራጎት ድርጅቶችና ማህበራት በሕግ መሠረት መሰራታቸውን ማረጋገጥ፡፡

b) Foreign Charities and Ethiopian Resident Charities and Societies even if they operate only in one regional state;

c) Charities or Societies operating in the City Administration of Addis Ababa or Dire-Dawa.

2. This proclamation shall not be applicable to;

a) religious organizations;

b) International or foreign organizations operating in Ethiopia by virtue of an agreement with the Government of The Federal Democratic Republic of Ethiopia.

c) "Edir", "Ekub" and other similar cultural or religious associations.

d) Societies governed by other laws.

SECTION TWO

CHARITIES AND SOCIETIES AGENCY

4. Establishment

1. The Charities and Societies Agency (hereinafter referred to as the "Agency") is hereby established by this Proclamation with its own legal personality and as an institution of the Federal Government.

2. The Agency shall be accountable to the Ministry.

5. Objectives of the Agency

The Agency shall have the following objectives:

1. to enable and encourage Charities and Societies to develop and achieve their purposes in accordance with the law;

2. to create a situation in which the operation of Charities and Societies is transparent and accountable;

3. to ensure that Charities and Societies operate legally.

፮. የኤጀንሲው ሥልጣንና ተግባራት

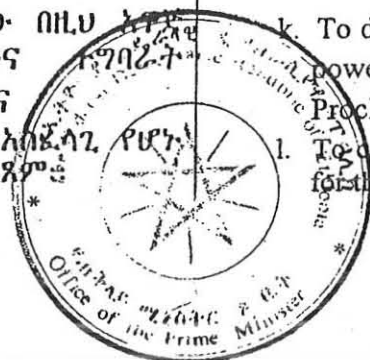
፩. ኤጀንሲው የሚከተሉት ሥልጣንና ተግባራት ይኖሩታል፤

- ሀ. በዚህ አዋጅ መሠረት ለበጎ አድራጎች ድርጅቶችና ማህበራት ፈቃድ መስጠት፤ መመዝገብና መቆጣጠር፤
- ለ. የበጎ አድራጎች ድርጅቶችና ማህበራት የተሻለ አሠራር እንዲኖራቸው ማረጋገጥ፤
- ሐ. ከሥልጣንና ተግባሩ ጋር ግንኙነት ያላቸውን መረጃዎች ማሰባሰብ፤ መተንተን፤ ማሰራጨት፤
- መ. የበጎ አድራጎች ድርጅቶችና ማህበራትን ምዝገባ በሚመለከት መረጃ በጋዜጣ ማሳተምና ማሰራጨት፤
- ሠ. የመንግሥት አካላት እና የበጎ አድራጎች ድርጅቶችና ማህበራት የሚሳተፉባቸውን የምክክር መድረኮች ማዘጋጀት፤
- ረ. ዓላማውን ለማሳካት የሚያስችል የውሳኔ ሀሳብ ለሚኒስቴሩ ማቅረብ፤
- ሰ. ለምዝገባና ፈቃድ ጥያቄ የሚያቀርቡ የበጎ አድራጎች ድርጅቶች ወይም ማህበራት ጉዳይ ከሚመለከተው ዘርፍ አስተዳዳሪ ጋር በመመካከር መርምሮ መወሰን፤
- ሸ. በአዋጅ ቁጥር 334/1995 (እንደተሻሻለ) ስለሰነዶች ማረጋገጥና ምዝገባ የተደነገገው ቢኖርም የዘለቂታ በጎ አድራጎች እና የአደራ በጎ አድራጎች ድርጅት ሰነዶችን ማረጋገጥና መመዝገብ፤
- ቀ. ለሚሰጣቸው አገልግሎቶች በመንግሥት በሚጸድቀው ተመን መሠረት የአገልግሎት ክፍያዎችን መሰብሰብ፤
- በ. የንብረት ባለቤት መሆን፤ ውል መዋዋል፤ በራሱ ስም መክሰስና መክሰስ፤
- ተ. አስፈላጊ ሆኖ ሲያገኘው በዚህ አዋጅ የተሰጡትን ሥልጣንና ተግባራት በውክልና መስጠት፤ እና
- ቸ. ዓላማዎቹን ለማሳካት አስፈላጊ የሆኑ ሌሎች ተግባሮችን መፈጸም፤

6. Powers and Functions of the Agency

1. The Agency shall have the following powers and functions:

- a. To license, register, and supervise Charities and Societies in accordance with this proclamation;
- b. To encourage Charities and Societies to have better administration;
- c. Collect, analyze and disseminate information that has connection with its powers and functions;
- d. Publish and distribute information about the registration of Charities and Societies in the Gazette;
- e. Organize consultative fora for governmental organs and Charities and Societies;
- f. To make proposals to the Ministry on matters relating to meeting its objectives;
- g. Take decisions, in cooperation with the concerned Sector Administrator, on the application of Charities and Societies for registration and license;
- h. Without prejudice to the provisions of Proclamation No. 334/2005 (as amended), to exercise the powers of registration and authentication of documents with regard to Charitable Endowments and Charitable Trusts;
- i. To collect fees for the services it renders in accordance with the rate to be approved by the Government;
- j. To own property, enter into contract, sue and be sued in its own name;
- k. To delegate, when it deems necessary, the powers and functions given to it by this Proclamation; and
- l. To carry out such other activities necessary for the attainment of its objectives.



፪. በዚህ አንቀጽ ንዑስ አንቀጽ ፩(ሸ) የተመለከተው ቢኖርም ሚኒስትሩ የሰነዶች ማረጋገጫና ምዝገባ ጽህፈት ቤት በኤጀንሲው ቅጥር ግቢ ቅርንጫፍ እንዲከፍት ወይም ሠራተኞቹን እንዲመድብ ሊያዝ ይችላል።

፮. የኤጀንሲው አቋም

ኤጀንሲው፣

፩. የበጎ አድራጎት ድርጅቶችና ማህበራት ቦርድ (ከዚህ በኋላ "ቦርድ" እየተባለ የሚጠራ)፣

፪. በመንግሥት የሚሾም ዋና ዳይሬክተር፣ እና

፫. አስፈላጊ ሠራተኞች፣

ይኖሩታል።

፯. የቦርዱ አባላት

፩. ቦርዱ ሰብሳቢውን ጨምሮ በመንግሥት የሚሰየሙ ሰባት አባላት ይኖሩታል።

፪. በዚህ አንቀጽ ንዑስ አንቀጽ (፩) መሰረት ከሚሰየሙ የቦርድ አባላት መካከል ሁለቱ ከበጎ አድራጎት ድርጅቶችና ከማህበራት የተውጣጡ ይሆናሉ።

፬. የቦርዱ ሥልጣንና ተግባር

ቦርዱ የሚከተሉት ሥልጣንና ተግባራት ይኖሩታል፤

፩. ከዚህ አዋጅ አፈጻጸም ጋር ተያይዞ የሚነሱ የፖሊሲ ጉዳዮችን መርምሮ የውሳኔ ሃሳብ ለሚኒስቴሩ ያቀርባል፤

፪. የበጎ አድራጎት ድርጅቶች እና ማህበራት አስተዳደርን በተመለከተ ለሚያጋጥሙ ችግሮች መፍትሔ ይሰጣል፤

፫. የኤጀንሲው ዋና ዳይሬክተር በሚሰጠው ውሳኔ ላይ በዚህ አዋጅ መሠረት የሚቀርቡ ይግባኞችን መርምሮ ይወስናል፤

፬. በዚህ አዋጅ መሠረት በኤጀንሲው የሚወጡ መመሪያዎችን መርምሮ ያጸድቃል፤

፭. በዋና ዳይሬክተሩ የሚቀርቡለትን የበጎ አድራጎት ድርጅቶችና ማህበራትን የሚመለከቱ ሌሎች ጉዳዮች መርምሮ ይወስናል።

2. Notwithstanding Sub-article 1(h) of this Article, the Minister may order the Office of Documents Authentication and Registration to open a branch office in the premises of the Agency or assign its employees.

7. Organization of the Agency

The Agency shall have:

1. A Charities and Societies Board (hereinafter referred to as the "Board");

2. A Chief Director to be appointed by the Government; and

3. The necessary staff;

8. Members of the Board

1. The Board shall have seven members, including its Chairperson, to be nominated by the government.

2. Among the board members who are appointed in accordance with Sub-article (1) of this Article, two of them shall be nominated from the Charities and Societies.

9. Powers and Functions of the Board

The Board shall have the following powers and functions:

1. deliberates on and makes recommendations to the Minister on policy matters concerning the implementation of this Proclamation;

2. gives solutions to problems that arise in connection with the administration of Charities and Societies;

3. hears appeals from decisions of the Director General in accordance with this Proclamation;

4. approves directives to be issued by the Agency;

5. Decides on other matters concerning Charities and Societies submitted to it by the Chief Director.

I. የቦርዱ ስብሰባ

- ፩. ቦርዱ በወር አንድ ጊዜ ይሰበሰባል፤ ሆኖም እንደአስፈላጊነቱ በማናቸውም ጊዜ አስቸኳይ ስብሰባ ሊያደርግ ይችላል።
- ፪. በቦርዱ ስብሰባ ከግማሽ በላይ የሚሆኑት አባላት ከተገኙ ምልዐተ ጉባኤ ይኖራል።
- ፫. የቦርዱ ውሳኔዎች በድምጽ ብልጫ ያልፋሉ፤ ሆኖም ድምጽ እኩል በእኩል ከተከፈለ ሰብሳቢው ወሳኝ ድምጽ ይኖረዋል።
- ፬. የዚህ አንቀጽ ድንጋጌዎች እንደተጠበቀ ሆነው ቦርዱ የራሱን የስብሰባ ሥነ-ሥርዓት ደንብ ሊያወጣ ይችላል።

II. የዋና ዳይሬክተሩ ሥልጣንና ተግባር

- ፩. ዋና ዳይሬክተሩ የኤጀንሲው ዋና ሥራ አስፈጻሚ ሆኖ ከሚኒስቴሩ በሚሰጠው አጠቃላይ መመሪያ የኤጀንሲውን ሥራዎች ይመራል፤ ያስተዳድራል።
- ፪. የዚህ አንቀጽ ንዑስ አንቀጽ (፩) አጠቃላይ አነጋገር እንደተጠበቀ ሆኖ ዋና ዳይሬክተሩ፡
 - ሀ. በዚህ አዋጅ አንቀጽ ፮ ለኤጀንሲው የተሰጡትን ሥልጣንና ተግባራት በሥራ ላይ ያውላል፤
 - ለ. የኤጀንሲውን ሠራተኞች የፌዴራል ሲቪል ሰርቪስ ሕጎችን መሰረታዊ ዓላማዎች ተከትሎ በመንግሥት በሚጸድቅ ደንብ መሠረት ይቀጥራል፤ ያስተዳድራል፤
 - ሐ. የኤጀንሲውን የሥራ መርሐ ግብርና በጀት ያዘጋጃል፤ በሚኒስቴሩ ሲጸድቅም ሥራ ላይ ያውላል፤
 - መ. ለኤጀንሲው በተፈቀደው በጀትና የሥራ መርሐ ግብር መሠረት ገንዘብ ወጪ ያደርጋል፤
 - ሠ. ከሦስተኛ ወገኖች ጋር የሚደረጉ ማናቸውንም ግንኙነቶች በተመለከተ ኤጀንሲውን ይወካል፤
 - ረ. የኤጀንሲውን የሥራ አፈጻጸም የሂሳብ ሪፖርት አዘጋጅቶ ለሚኒስቴሩ ያቀርባል።

10. Meetings of the Board

- 1. The Board shall meet once every month. It may, however, conduct emergency sessions as may be deemed necessary;
- 2. There shall be a quorum where more than half of its members are present.
- 3. Decisions of the Board shall be made by a majority vote; in case of a tie, however, the Chairperson shall have a casting vote.
- 4. Without prejudice to the provisions of this Article, the Board may prescribe its own rules of procedure.

11. Powers and Functions of the Director General

- 1. The Director General shall be the chief executive of the Agency and shall, according to the general directions given to him by the ministry, direct and administer the activities of the Agency.
- 2. Without prejudice to the generalities of Sub-Article (1) of this Article, the Director General shall:
 - a. exercise the powers and functions of the Agency specified under Article 6 of this proclamation;
 - b. employ and administer the employees of the Agency in accordance with regulations issued by the Government following basic principles of Federal Civil Service Laws ;
 - c. prepare the work programme and budget of the Agency; and implement same upon approval by the Ministry;
 - d. effect expenditure in accordance with the budget and work programme approved for the Agency.
- 3. The Director General shall represent the Agency in all its dealings with third parties.
- 4. The Director General shall prepare and submit to the Ministry the activity and financial reports of the Agency;



፫. ዳይሬክተሩ ለኤጀንሲው የሥራ ቅልጥፍና በሚያስፈልገው መጠን ሥልጣንና ተግባርን በከፊል ለኤጀንሲው የሥራ ሃላፊዎችና ሠራተኞች በውክልና ሊያስተላልፍ ይችላል።

፲፪. በጀት

የኤጀንሲው በጀት በመንግሥት ይመደባል።

፲፫. የሂሳብ መዛግብት

፩. ኤጀንሲው የተሟሉና ትክክለኛ የሆኑ የሂሳብ መዛግብት ይይዛል።

፪. የኤጀንሲው የሂሳብ መዛግብትና ሌሎች ገንዘብ ነክ ሰነዶች በዋናው አዲተር ወይም በዋናው አዲተር በሚሰየም አዲተር በየመቱ ይመረመራሉ።

ክፍል ሦስት
የቦን አድራጊነት ድርጅቶች
ንዑስ ክፍል አንድ
ጠቅላላ

፲፬. ትርጓሜ

፩. "የቦን አድራጊነት ድርጅት" ማለት ለቦን አድራጊነት ዓላማ ብቻ የተመሠረተና ለህዝብ ጥቅም የሚሰጥ ተቋም ነው።

፪. "የቦን አድራጊነት ዓላማ" የሚከተሉትን ያካትታል፤

ሀ. ድህነትን ወይም አደጋን መከላከል፤ መቀነስ ወይም ማስወገድ፤

ለ. የኢኮኖሚና ማህበራዊ ዕድገት እና የአካባቢ ጥበቃን ወይም ማሻሻልን ማፋጠን፤

ሐ. የእንስሳት ደህንነትን ማስፋፋት፤

መ. ትምህርትን ማስፋፋት፤

ሠ. ጤንነትን ወይም ሕይወት ማዳንን ማራመድ፤

ረ. ጥበብን፣ ባሕልን፣ ቅርስን ወይም ሃይማኖትን ማዳበር፤

ሰ. አማተር ስፖርትንና የወጣቶችን ደህንነት ማስፋፋት፤

ሸ. በዕድሜ፣ በአካል እና በአዕምሮ ጉዳት፣ በገንዘብ ወይም በሌሎች ምክንያቶች የተቸገሩትን መታደግ፤

3. The Chief Director may delegate part of the directorial powers and functions to officials and employees of the Agency to the extent necessary for the efficient performance of the activities of the Agency.

12. Budget

The budget of the Agency shall be allocated by the Government.

13. Books of Account

1. The Agency shall keep complete and accurate books of account;

2. The Agency's books of account and any other financial documents shall, every year, be inspected by the General Auditor or by the Auditor who is assigned by the General Auditor.

SECTION THREE
CHARITIES
Sub-Section One
General

14. Definition

1. "A Charity" means an institution, which is established exclusively for charitable purposes and gives benefit to the public.

2. "Charitable Purposes" shall include:

a. the prevention or alleviation or relief of poverty or disaster;

b. the advancement of the economy and social development and environmental protection or improvement;

c. the advancement of animal welfare;

d. the advancement of education;

e. the advancement of health or the saving of lives;

f. the advancement of the arts, culture, heritage or science;

g. the advancement of amateur sport and the welfare of the youth;

h. the relief of those in need by reason of age, disability, financial hardship or other disadvantage;

i. the advancement of capacity building on the basis of the country's long term development directions;

- ቀ. የአገሪቱን የረጅም ጊዜ የልማት አቅጣጫ መሰረት በማድረግ የአቅም ግንባታ ሥራዎችን ማበረታታት፤
- በ. የሰብአዊና ዲሞክራሲያዊ መብቶች ተግባራዊነትን ማበረታታት፤
- ተ. የብሔሮች፣ ብሔረሰቦችና ሕዝቦች፣ የጾታ እና የሃይማኖት እኩልነት መረጋገጥን ማበረታታት፤
- ቸ. የሕጻናትና የአካል ጉዳተኞች መብቶች መከበርን ማበረታታት፤
- ገ. የግጭት አፈታትን ወይም ዕርቅን ማስፋፋት፤
- ነ. የፍትህና የህግ ማስፈጸም አገልግሎቶችን ቀልጣፋነት ማጠናከር፤
- ኘ. ሌሎች ኤጀንሲው በሚያወጣው መመሪያ የሚደነገጉ ዓላማዎች፤
- ፫. ሕዝባዊ ጥቅም ይኖራል ተብሎ የሚቆጠረው፤
- ሀ. የበጎ አድራጊነት ድርጅት ዓላማዎች አንድ ተለይቶ የሚታወቅ ጥቅም ለሕዝቡ የሚያስገኝ ሲሆን፤
- ለ. የበጎ አድራጊነት ድርጅት ዓላማዎች ሊጠቀሙ የሚገባቸውን ሰዎች የማያገሉ ሲሆን፤ እና
- ሐ. ለግለሰቦች ወይም ለድርጅቶች የሚያስገኘው የግል ጥቅም የድርጅቱ ዋና የሥራ ዓላማ በመሆኑ ሳይሆን በአጋጣሚና ድርጅቱ ዓላማውን በሚያሳካበት ጊዜ በተቀፅላነት የተገኘ ሲሆን፤
- ብቻ ነው።
- ፬. ኤጀንሲው የበጎ አድራጊነት ዓላማዎችና የህዝብ ጥቅምን በተመለከተ ዝርዝር መመሪያ ሊያወጣ ይችላል።
- ፭. በዚህ አንቀጽ ንዑስ አንቀጽ ፪ (በ)፣ (ተ)፣ (ቸ)፣ (ኘ) እና (ነ) በተመለከቱት የበጎ አድራጊነት ዓላማዎች ላይ መስማራት የኢትዮጵያ የበጎ አድራጊነት ድርጅቶች ይሆናሉ።
- ፲፭. የበጎ አድራጊነት ድርጅት ዓይነቶች
- ፩. የበጎ አድራጊነት ድርጅት፤

- j. the advancement of human and democratic rights;
- k. the promotion of equality of nations, nationalities and peoples and that of gender and religion;
- l. the promotion of the rights of the disabled and children's rights;
- m. the promotion of conflict resolution or reconciliation;
- n. the promotion of the efficiency of the justice and law enforcement services; and
- o. any other purposes as may be prescribed by directives of the Agency.
3. A public benefit shall be deemed to exist where:
- a. the purposes of the Charity can generate an identifiable benefit to the public;
- b. the purposes of the Charity do not create a situation wherein its benefits exclude those in need; and
- c. any private benefit of individuals and organizations could be acquired only incidentally and as a secondary consequence of the organization's activities.
4. The Agency may determine the details of charitable purposes and the public benefit by directives.
5. Those who can take part in activities that fall under Sub-article 2 (j), (k), (l), (m) and (n) of this Article shall be Ethiopian Charities.

Types of Charities

1. A Charity may be formed as:

- ሀ. የዘላቂታ በገ አድራጎች ድርጅት፤
 - ለ. የበጎ አድራጎች ተቋም፤
 - ሐ. የአደራ በጎ አድራጎች ድርጅት፤ ወይም
 - መ. የበጎ አድራጎች ማህበር፤
- ሆኖ ሊመሰረት ይችላል።

፪. በዚህ ክፍል ንዑስ ክፍል አምስት ስለበሰ አድራጎች ኮሚቴዎች የተደነገገው እንደተጠበቀ ሆኖ በበሰ አድራጎች ሥራ ለመመላለሱ በዚህ አንቀጽ ንዑስ አንቀጽ (1) ከተመለከቱት የበሰ አድራጎች ድርጅቶች አንዱን መመሥረትና በቅድሚያ የፈቃድና የምዝገባ የምስክር ወረቀት ማግኘት ያስፈልጋል።

፫. የበሰ አድራጎች ድርጅቶች ሥራቸውን የሚያስተባብር የበሰ አድራጎች ድርጅቶች ሕብረት ማቋቋም ይችላሉ። ዝርዝሩ ኤጀንሲው በሚያወጣው ዝርዝር መሰረት ይወሰናል።

ንዑስ ክፍል ሁለት የዘላቂታ በሰ አድራጎች ድርጅቶች

16. ትርጓሜ

"የዘላቂታ በሰ አድራጎች ድርጅት" ማለት አንድ የተለየ ንብረት በስጦታ ወይም በኑዛዜ ወይም በኤጀንሲው ትዕዛዝ በዘላቂነትና በማይመለስ ሁኔታ ለበጎ አድራጎች ዓላማ ብቻ የሚውልበት ነው።

17. ለምዝገባ ስለማመልከት

፩. መሥራቹ በሕይወት ያለ ከሆነ የዘላቂታ በሰ አድራጎች ድርጅት ምዝገባ የሚጠየቀው በመሥራቹ በራሱ ወይም ለዚህ ጉዳይ በወከለው ሰው ብቻ ነው።

፪. መሥራቹ ከሞተ በኋላ ጥያቄው የሚቀርበው መሥራቹ አደራ በሰጠውና ይህን በተቀበለው ሰው ወይም የመሥራቹን ኑዛዜ በሚያስፈጽመው ሰዎች ነው።

፫. በዚህ አንቀጽ ንዑስ አንቀጽ (፩) እና (፪) የተጠቀሱት ሰዎች በማይኖሩበት ጊዜ

- a. a Charitable Endowment;
- b. a Charitable Institution;
- c. a Charitable Trust; or
- d. a Charitable Society.

2. Without prejudice to the provisions of Sub-section five of this Section concerning Charitable Committees it shall be necessary to form and acquire a Registration and License Certificate in order to carry out charitable acts.
3. Charities may form a consortium Charity to co-ordinate their activities. Particulars shall be determined by the directives of the Agency.

Sub-Section Two Charitable Endowments

16. Definition

A "Charitable Endowment" is an organization by which a certain property is perpetually and irrevocably destined by donation or will or the order of the Agency for a purpose that is solely charitable.

17. Application for Registration

1. The registration of a Charitable Endowment may not be sought during the lifetime of the founder, except by the founder herself/himself or a person designated for that purpose;
2. After the death of the founder, it shall be sought by the person to whom the founder has entrusted such task and who has accepted it or the executors of the founder's will;
3. In default of the persons in Sub-article (1) and (2), it shall be sought by those persons

ለዘለቁታ ንብረትን ለበጎ አድራጎት ዓላማ የመስጠት ውል ያዘጋጁ፤ ምስክር የሆኑ ወይም ውሉን በአደራ ያስቀመጡ ሰዎች የምዝገባ ጥያቄ ያቀርባሉ፡፡

፩. በዚህ አንቀጽ መሠረት ምዝገባ የመጠየቅ ግዴታ የተጣለባቸው ሰዎች ምዝገባውን ሳይጠይቁ የቀሩ እንደሆነ መሥራቹ ከሞተ ከሦስት ወር በኋላ የዘለቁታ በጎ አድራጎት ድርጅቱ በማንኛውም ይመለከተኛል በሚል ሰው አመልካችነት ወይም በኤጀንሲው አነሳሽነት ሊመዘገብ ይችላል፡፡

፪. ኤጀንሲው የዘለቁታ በጎ አድራጎት ድርጅቶች ከፈለጉ ሊጠቀሙባቸው የሚችሉትን ሞዴል መተዳደርያ ደንቦችን ያዘጋጃል፡፡

፲፭. ንብረትን ለዘለቁታ በጎ አድራጎት ዓላማ የመስጠት ተግባርን መሻር

፩. ንብረትን ለዘለቁታ በጎ አድራጎት ዓላማ የመስጠት ተግባር በኤጀንሲው ከመመዝገቡ በፊት መሥራቹ ሊሽረው ይችላል፡፡

፪. የመሥራቹ ወራሾች የመሻር መብታቸውን ሊጠቀሙ የሚችሉት የዘለቁታ በጎ አድራጎት ድርጅቱ እንዲመዘገብ ለኤጀንሲው ጥያቄ በቀረበ በ6 ወራት ጊዜ ውስጥ ሳይመዘገብ ከቀረ ነው፡፡

፲፮. የዘለቁታ በጎ አድራጎት ድርጅቶች አደራጃጀት

ማናቸውም የዘለቁታ በጎ አድራጎት ድርጅት የሥራ አመራር ቦርድ፣ ሥራ አስኪያጅ፣ አዲተርና ሌሎች አስፈላጊ የሥራ ክፍሎች ይኖረዋል፡፡

፳. የሥራ አመራር ቦርድ ጥንቅር

፩. የሥራ አመራር ቦርድ አባላት በመሥራቹ ወይም እርሱ በወከለው ሰው ካልተሾሙ ኤጀንሲው የሚሾሙበትን ያመቻቻል፡፡

፪. የቦርዱ አባል በማንኛውም ምክንያት ኃላፊነቱን መወጣት ካልቻለ በዘለቁታ በጎ

who have drawn up the act of Endowment or who have been witnesses to it or who hold that act in deposit;

4. Where the persons who are bound to seek the registration of the Charitable Endowment fail to do so, the registration of the Charitable Endowment may be sought, three months after the death of its author, by any interested party or by the Agency ;

5. The Agency shall draw up model rules for Charitable Endowments that may be of aid to those wishing to use such model.

18. Revocation of an Act of Charitable Endowment

1. The founder of an endowment may revoke it so long as the Charitable Endowment has not been registered by the Agency;

2. The heirs of the founder may only exercise such right of revocation where the Charitable Endowment has not been registered by the Agency within 6 months from an application having been made to Agency with a view to obtaining its registration.

19. Structure of Charitable Endowments

Any Charitable Endowment shall be organized with the structure of Board of Management, Manager, Auditor and other departments as may be necessary.

20. Composition of the Board of Management

1. Where the members of the Board of Management are not appointed by the founder or by a person designated by the founder the Agency shall facilitate the appointment of such members.

Where a member of the Board is, for any reason, unable to perform his/her duties, a



አድራጊት ድርጅቱ መተዳደሪያ ደንብ መሰረት አዲስ የቦርድ አባል ይሾማል።

፫. የሥራ አመራር ቦርድ አባላት ቁጥር በምንም ዓይነት ቢሆን ከሦስት በታች ሊሆን አይችልም።

፳፩. የሥራ አመራር ቦርዱ ስልጣንና ተግባራት

የሥራ አመራር ቦርዱ የሚከተሉት ስልጣንና ተግባራት ይኖሩታል፤

፩. የዘለቂታ በጎ አድራጊት ድርጅቱ የበላይ አካል ይሆናል።

፪. የዘለቂታ የበጎ አድራጊት ድርጅቱን የሚመራ ሥራ አስኪያጅ ይሾማል፤ ያስናብታል።

፫. የዘለቂታ የበጎ አድራጊት ድርጅቱን በመተዳደሪያ ደንቡ መሰረት ያስተዳድራል።

፳፪. የሥራ አመራር ቦርዱ ስብሰባዎች

፩. የሥራ አመራር ቦርዱ በዘለቂታ በጎ አድራጊት ድርጅቱ መተዳደሪያ ደንብ በተመለከተው መሠረት ይሰበሰባል።

፪. የዘለቂታ በጎ አድራጊት ድርጅቱ የሥራ አመራር ቦርድ ውሳኔዎችን የሚያሳልፈው በድምጽ ብልጫ ይሆናል።

፳፫. ለቦርዱ አባላት የሚፈፀሙ ክፍያዎች

፩. በዘለቂታ በጎ አድራጊት ድርጅቱ መተዳደሪያ ደንብ ወይም በማናቸውም ሕግ ካልተወሰነ በስተቀር አንድ የቦርድ አባል ምንም ክፍያ አያገኝም።

፪. በቦርድ ስብሰባ ላይ ለመገኘት አንድ አባል ያወጣውን ወጪ ለመሸፈን የሚደረግ የወጪ ማካካሻ እንደ ክፍያ አይቆጠርም።

፳፬. የሥራ አስኪያጁ ሥልጣንና ተግባራት

የዘለቂታ በጎ አድራጊት ድርጅት ሥራ አስኪያጅ፤

፩. የዘለቂታ በጎ አድራጊት ድርጅቱን ሥራ ይመራል፤ ድርጅቱን በመተዳደሪያ ደንቡ መሠረት ያስተዳድራል፤

፪. ከሦስተኛ ወገኖች ጋር በሚደረጉ ግንኙነቶች ድርጅቱን ይወክላል፤

new member shall be appointed according to the rules of the Endowment;

3. The number of members of the Board shall in no case be less than three.

21. Powers and Functions of the Board of Management

The Board of Management shall have the following powers and functions:

1. it shall be the supreme organ of the Charitable Endowment;

2. appoint a Manager who shall be responsible to manage the Endowment or dismiss the same;

3. administer the Endowment as per its rules.

22. Meetings of the Board of Management

1. The Board of Management shall meet as prescribed by the rules of the Charitable Endowment.

2. The decisions of the Board of Management shall be taken by majority.

23. Remuneration of Board Members

1. A Member of the Board shall not be entitled to remuneration unless a provision about his/her entitlement to remuneration has been made, by the Charitable Endowment's rules or by any law;

2. Payments made in connection with covering costs incurred by Board Members for the purpose of attending Board meeting shall not be considered as remuneration.

24. Powers and Functions of the Manager

The manager of the Endowment shall;

1. direct the work of the Charitable Endowment and administer the Endowment pursuant to its rules;

2. represent the Endowment in all its dealings with the third parties;

3. follow up and supervise the

፫. የሥራ አመራር ቦርዱ ውሳኔዎች ሥራ ላይ መዋላቸውን ይከታተላል፤ ይቆጣጠራል፤

፬. የሥራ ዕቅድና በጀት እንዲሁም የሥራና የሂሳብ ሪፖርቶችን ለሥራ አመራር ቦርዱ ያቀርባል፤

፭. የድርጅቱን ገቢ የሚያሳድጉ ሁኔታዎችን ያጠናል፤ በሥራ አመራር ቦርዱ ሲጸድቁ ተግባራዊ ያደርጋል፤

፮. በመተዳደሪያ ደንቡ መሰረት በድርጅቱ ስም በተከፈቱ የባንክ ሂሳቦች ላይ ይፈርማል፤

፯. ሌሎች በስራ አመራር ቦርዱ የሚሰጡትን ተያያዥ ተግባራት ያከናውናል።

፳፭. የአዲተር ሥልጣንና ተግባራት

አዲተሩ፤

፩. የዘለቂታ በጎ አድራጎት ድርጅቱን የገንዘብና የንብረት አስተዳደር ይቆጣጠራል፤

፪. የድርጅቱን የውስጥ አዲት ሪፖርት በኢትዮጵያ ተቀባይነትን ባገኘ መመዘኛ መሠረት አዘጋጅቶ ለቦርዱ ያቀርባል።

፫. በዚህ አዋጅ የውጭ አዲተርን በተመለከተ የተደነገገው ቢኖርም የዘለቂታ በጎ አድራጎት ድርጅቱ በማናቸውም ጊዜ የውጭ አዲተር ሊጠቀም ይችላል።

፳፮. ተጠቃሚዎችን ስለመወሰን

መሥራቹ የዘለቂታ በጎ አድራጎት ድርጅቱ ተጠቃሚዎችን በበቂ ሁኔታ ካልወሰነ ቦርዱ ከመሥራቹ ሃሳብ ጋር ይስማማል ብሎ በሚገምተው መልኩ ተጠቃሚዎችን ሊወስን ይችላል።

implementation of the decisions of the Board of Management;

4. submit work plan and budget as well as reports on the activities and finance of the Endowment to the Board of Management;

5. study conditions that will promote income generating activities of the Endowment and implement such where approved by the Board;

6. Sign on the bank account opened in the name of the Endowment in accordance with its rules;

7. discharge other related tasks which may be given to him/her by the Board of Management.

25. Powers and Functions of the Auditor

The Auditor shall:

1. monitor the financial and proprietary administration of the Charitable Endowment;

2. prepare the internal audit report of the organization in accordance with standards acceptable in Ethiopia;

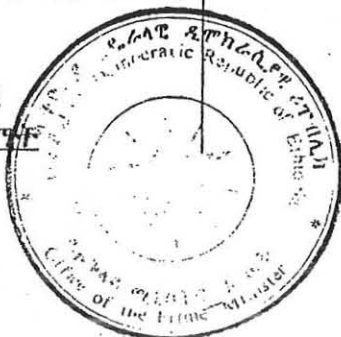
3. Notwithstanding the provisions of this Proclamation regarding external audits the Charitable Endowment may at any time use an external auditor.

26. Determining the Beneficiaries

Where the beneficiaries is not sufficiently determined by the founder, the Board may determine such beneficiaries as it deems consistent with the intention of the founder;

፺፬-ሰ ክፍል ሦስት

የበጎ አድራጎት ተቋማት



Sub-Section Three
Charitable Institutions

፳፮. የበጎ አድራጎች ተቋም

፩. የበጎ አድራጎች ተቋም ቁጥራቸው ቢያንስ ሶስት በሚደርሱ ሰዎች ለበጎ አድራጎች ተግባራት ብቻ የሚቋቋም የበጎ አድራጎች ድርጅት ነው።

፪. የዘለቂታ በጎ አድራጎች ድርጅትን አደረጃጀት የሚመለከቱ የዚህ አዋጅ ድንጋጌዎች ከአስፈላጊ ማስተካከያ ጋር ለበጎ አድራጎች ተቋም አደረጃጀትም ተፈጻሚ ይሆናሉ።

፫. በዚህ አንቀጽ ንዑስ አንቀጽ (፪) የተደነገገው ቢኖርም የተቋሙ መተዳደሪያ ደንብ የበጎ አድራጎች ተቋሙ አደረጃጀት በዚህ አዋጅ ክፍል አራት ስለማህበር አደረጃጀት በተመለከቱት ድንጋጌዎች መሠረት እንዲመራ ሊደነግግ ይችላል።

፳፯. የአባላት ሃላፊነቶች እና ግዴታዎች

፩. እያንዳንዱ የበጎ አድራጎች ተቋም አባል ወይም አዲስ አባል ድርጅቱ እርሱ አባል በነበረበት ጊዜ ወይም አባልነቱ ካበቃ በኋላ በአንድ ዓመት ጊዜ ውስጥ ሲፈርስ አባልነቱ ከማብቃቱ በፊት ለነበሩት የድርጅቱ ዕዳዎች እና ሃላፊነቶች እንዲሁም ድርጅቱን ለማፍረስ የሚያስፈልጉ የአገልግሎት ዋጋዎችንና ወጭዎችን ለመሸፈን ከተወሰነ ጣሪያ በላይ ያልሆነ ገንዘብ ማዋጣት ይኖርበታል።

፪. ኢጀንሲው የበጎ አድራጎች ተቋማት ለምዝገባ በሚቀርቡበት ወቅት ዋስትና ሊሰጡ የሚገባቸውን አነስተኛ የገንዘብ መጠን በመመሪያ መወሰን ይችላል።

፳፱. ለምዝገባ ስለማመልከት

የበጎ አድራጎች ተቋም የማቋቋም ዓላማ

27. Charitable Institution

1. A Charitable Institution is a Charity formed by at least three persons exclusively for charitable purposes;
2. The Provisions of this Proclamation relating to the structure of Charitable Endowment shall apply, with the necessary adjustments, to Charitable Institutions;
3. Notwithstanding Sub-article (2) of this Article, the rules of the Institution may, however, provide that the Charitable Institution be structured in the form of a Society as provided for in section four of this proclamation.

28. Duties and Responsibilities of Members

1. Each member of a Charitable Institution and any new member shall undertake to contribute to the assets of the Institution, in the event of its being dissolved while he/she is a member or within one year after he/she ceases to be a member, for payment of the debts and liabilities of the Institution contracted before he/she ceases to be a member and of the charges and expenses of winding up such amount as may be required, not exceeding a specified amount.
2. The Agency may by directives determine the minimum amount of guarantee required for the registration of Charitable Institutions.

29. Application for Registration

Persons with the intention of forming a

ያላቸው ሰዎች በዚህ አዋጅ አንቀጽ ፳፱ በተደነገገው መሠረት ለመመዝገብ ለኤጀንሲው ማመልከት አለባቸው፡፡

ንዑስ ክፍል አራት

የአደራ በጉ አድራጎች ድርጅቶች

፴. ትርጓሜ

"የአደራ በጉ አድራጎች ድርጅት" ማለት የአደራ በጉ አድራጎች ድርጅቱን በሚያቋቁመው ሠነድ መሠረት አንድ የተለየ ንብረት ለበጉ አድራጎች ዓላማ ብቻ እንዲውል በአደራ ጠባቂዎች የሚተዳደር ድርጅት ነው፡፡

፴፩. አመሰራረት

፩. የአደራ በጉ አድራጎች ድርጅት በስጦታ ወይም በኑዛዜ ወይም በኤጀንሲው ትዕዛዝ ሊቋቋም ይችላል፡፡

፪. በዚህ አንቀጽ ንዑስ አንቀጽ (፩) የተጠቀሰው ስጦታ ወይም ኑዛዜ አግባብ ባላቸው የፍትሐብሔር ሕግ ድንጋጌዎች መሠረት ይመራል፡፡

፫. በስጦታ ወይም ኑዛዜ ውስጥ የሚገኙ በተዘዋዋሪ አመልካች አንቀጾች የአደራ በጉ አድራጎች ድርጅት ለማቋቋም በቂ ይሆናሉ፡፡

፴፪. የአደራ በጉ አድራጎች ድርጅት ቀጣይነት

፩. የአደራ በጉ አድራጎች ድርጅት ለተወሰነ ጊዜ ሊቋቋም ይችላል፡፡ ሆኖም የአደራ በጉ አድራጎች ድርጅቱ ገቢ ከሚያስገኙ ሥራዎች፣ ከሕዝባዊ መዋጮ ወይም ከማናቸውም ምንጭ ያገኛቸው ሃብት ድርጅቱ ከተቋቋመበት ዓላማ አይወጣም፡፡

፪. ላልተወሰነ ጊዜ የተቋቋመ የአደራ በጉ አድራጎች ድርጅት ዘላቂና የማይሻር ይሆናል፡፡

፫. የአደራ የበጎ አድራጎች ድርጅቱ ገቢ ከሚያስገኙ ሥራዎች፣ ከሕዝባዊ መዋጮ ወይም ከማናቸውም ምንጭ ያገኛቸው ሃብት በተለየ የሂሳብ መዝገብ መዘጋጀት አለበት፡፡

፴፫. በአደራ ጠባቂዎች የሚቀርብ የምዝገባ ማመልከት

፩. የአደራ በጉ አድራጎች ድርጅት

Charitable Institution shall apply to the Agency in accordance with Article 69 of this Proclamation.

**Sub-Section Four
Charitable Trusts**

30. Definition

A "Charitable Trust" is an organization by virtue of which specific property is constituted solely for a charitable purpose to be administered by persons, the trustees, in accordance with the instructions given by the instrument constituting the charitable trust.

31. Formation

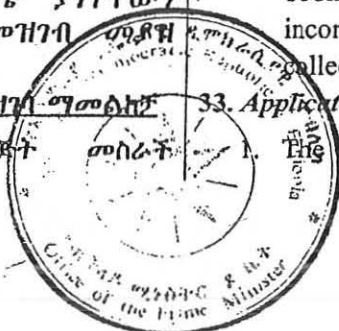
1. A Charitable Trust may be constituted by a donation or by a will or by order of the Agency;
2. A donation or will under Sub-article (1) of this Article shall be subject to civil law provisions.
3. An implied provision in the donation or will shall suffice for the constitution of the Charitable Trust.

32. Perpetuity of a Charitable Trust

1. A Charitable Trust may be constituted for a definite period. However, those assets obtained from income generating activities, public collections or any other sources shall not be used for purposes other than those for which the trust is instituted.
2. Where a Charitable Trust is constituted for an indefinite period, it shall be perpetual and irrevocable.
3. The charitable trust shall keep separate books of account for assets obtained from income generating activities, public collections or any other sources.

33. Application for Registration by Trustees

1. The person constituting the Charitable



የሆነው ሰው አደራ ጠባቂዎችን መሾም አለበት። እነዚህ አደራ ጠባቂዎች በዚህ አዋጅ አንቀጽ ፳፱ በተደነገገው መሠረት የፈቃድና ምዝገባ የምስክር ወረቀት ለማግኘት ለኤጀንሲው የምዝገባ ጥያቄ ማቅረብ ይኖርባቸዋል።

፪. አደራ ጠባቂዎች የአደራ በጎ አድራጎት ድርጅት በተቋቋመ በሰብተ ወር ጊዜ ውስጥ የምዝገባ ጥያቄ ማቅረብ ይኖርባቸዋል።

፫. አደራ ጠባቂዎች የምዝገባ የምስክር ወረቀት ከማግኘታቸው በፊት በስጦታው ወይም ኑዛዜው ላይ የተመለከተውን ሀብት ባለይዞታነት ወይም ባለቤትነት ወደ አደራ በጎ አድራጎት ድርጅቱ ለማስተላለፍ ከሚያስፈልጉ ድርጊቶች በስተቀር ሦስተኛ ወገኖችን የሚያካትት ማናቸውንም ድርጊት መፈፀም አይችሉም።

፴፬. የአደራ ጠባቂዎች ብዛት

፩. የአደራ ጠባቂዎች ብዛት በማናቸውም ምክንያት ከ፪ ያነሰ እና ከ፭ የበለጠ ሊሆን አይችልም። ከ፫ ያነሱ ሰዎች ተጠቅሰው ከሆነ ይህን መመዘኛ ለማሟላት ኤጀንሲው ቀሪዎቹ የሚሾሙበትን መንገድ ያመቻቻል።

፪. ከ፭ በላይ አደራ ጠባቂዎች ተጠቅሰው ከሆነ መሥራት የሚችሉና ፈቃደኝነት ያላቸው በቅድሚያ የተጠቀሱት ፭ ሰዎች ብቻ አደራ ጠባቂ ይሆናሉ። ቀሪዎቹ ሰዎች ከፍት ቦታዎች ተፈጥረው ካልተሾሙ በስተቀር አደራ ጠባቂ ሊሆኑ አይችሉም።

፫. በዚህ አንቀጽ ንዑስ አንቀጽ (፩) የተደነገገው ቢኖርም እንደ ወይም ከዚያ በላይ የሆኑት አደራ ጠባቂዎች የበጎ አድራጉት ድርጅቶች ከሆኑ የአደራ ጠባቂዎች ብዛት ከሦስት በታች እንዲሆን ኤጀንሲው ሊፈቅድ ይችላል።

፬. በዚህ አንቀጽ መሠረት ከሚሾሙት አደራ ጠባቂዎች ቢያንስ አንዱ መደበኛ ቦታው

Trust shall appoint the trustees and such trustees shall apply, in the manner provided in Article 69, to the Agency for a certificate of license and registration.

2. The trustees shall apply for the registration of the Charitable Trust within 3 months of constitution of the Charitable Trust.

3. The trustees may not perform any acts involving third parties before acquiring a certificate of registration except those acts necessary for transferring the funds mentioned in the donation or will to the possession or ownership of the Charitable Trust.

34. Number of Trustees

1. The number of trustees shall not in any case be lower than 3 and more than 5. Where less than 3 persons are named, the Agency shall facilitate the appointment of the number of people required to fulfill this requirement;

2. Where more than 5 persons are named as trustees, the 5 first named and who are able and willing to act shall alone be the trustees, and the other persons named shall not be trustees unless appointed on the occurrence of a vacancy;

3. Notwithstanding sub-article (1) of this article, the Agency may allow less than 3 persons as trustees where one or more of such trustee is a Charity.

4. At least one of the trustees appointed under this Article shall be an Ethiopian

domiciliary.

35. Appointment of Trustees

1. The trustees may be appointed by the person constituting the Trust, or by the person designated by him/her. In default of such person the Agency shall facilitate the appointment of such person;

2. Where the trustee so appointed refuses his/her agency or is for any other reason unable to perform the trusteeship, a new trustee shall be appointed according the rules of the trust.

36. Appointment of a Charity as a Trustee

1. A person constituting a Charitable Trust may appoint a Charity as a trustee in which case the officers of the Charity will administer the trust;

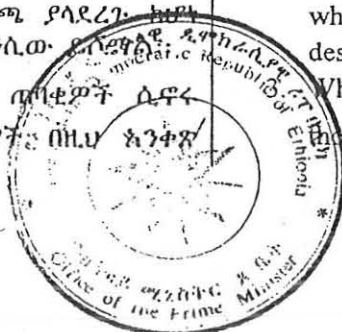
2. The Charity provided in Sub-article (1) shall administer the trust by the terms of the will, donation or order of the Agency and distinguish it from other donations or income that it utilizes to achieve its purposes.

37. Structure of a Charitable Trust

1. Where the person constituting the Charitable Trust does not designate a trustee manager, a trustee treasurer and a trustee auditor or does not appoint a person to do the same, the trustees shall among themselves make such designation;

2. The Agency shall make such designation where the trustees fail to make such designation or are unable to give decision;

Where there are more than three trustees those who have not been designated under



ንዑስ አንቀጽ (፩) ወይም (፪) መሠረት የተሾሙት አደራ ጠባቂዎች በተሾሙበት ቦታ ያሉባቸው ሃላፊነቶች ውጭ ሌሎች አደራ ጠባቂዎች ያሏቸው መብቶችና ሃላፊነቶች ይኖሯቸዋል፡፡

፩. አደራ ጠባቂዎች ስብሰባቸውን የሚመራ ሊቀመንበር ከመካከላቸው ይመርጣሉ፡፡

፴፰. የአደራ በጎ አድራጎት ድርጅት አስተዳደር

፩. የአደራ በጎ አድራጎት ድርጅት አስተዳደር በተመለከተ ከአደራ ጠባቂዎች ቢያንስ አንዱ በጽሑፍ እስካልተቃወመ ድረስ የአደራ ጠባቂ ሥራ አስኪያጁ የሌሎች አደራ ጠባቂዎች ስምምነት ሳያስፈልገው የማስተዳደር ሥራዎችን ይፈጽማል፡፡

፪. ከማስተዳደር ሥራዎች ውጭ ያሉ እና በዚህ አንቀጽ ንዑስ አንቀጽ (፩) መሠረት ተቃውሞ የቀረበባቸው ውሳኔዎች ከአደራ ጠባቂዎች ውስጥ ቢያንስ ሦስቱ በተገኙበት ስብሰባ በድምጽ ብልጫ ይወሰናሉ፡፡

፫. የተለያዩ ሃሳቦች ከአደራ ጠባቂዎች ውስጥ እኩል ድጋፍ ያላቸው ሲሆኑ የመጨረሻው ውሳኔ የስብሰባው ሊቀመንበር በሚሰጠው ድምጽ ይወሰናል፡፡

፬. በዚህ አንቀጽ ንዑስ አንቀጽ (፪) እና (፫) መሰረት በተሰጡ ውሳኔዎች የማይስማሙ አደራ ጠባቂዎች የልዩነት ሃሳባቸው በቃለ ጉባኤው ላይ እንዲመዘገብላቸው መጠየቅ ይችላሉ፡፡

፭. አደራ ጠባቂዎች በአደራ በጎ አድራጎት ድርጅቱ ስራ መሪነታቸው ለፈጸሟቸው ከሥልጣን በላይ ለሆኑ ድርጊቶች በግል ሃላፊ ናቸው፡፡

፴፱. የአደራ ጠባቂዎች ሥልጣን

፩. አደራ ጠባቂዎች በአደራ በጎ አድራጎት ድርጅቱ ላይ ያላቸው ሥልጣን የአንድ ባለንብረት ሥልጣን ነው፡፡

፪. የአደራ በጎ አድራጎት ድርጅቱ በተቋቋመበት ሠነድ ተቃራኒ ድንጋጌ ከሌለ በቀር አደራ ጠባቂዎች አስቀድመው

Sub-article (1) or (2) shall have all the rights and obligations of the other trustees except those rights and obligations inhering in the designated responsibilities;

4. The trustees shall among themselves choose the person who shall serve as the chairperson in the meetings of the trustees.

38. Administration of a Charitable Trust

1. The trustee manager shall perform all acts of management without the approval of the other trustees except where atleast one of the trustees submits a written protest concerning any administrative act;

2. Decisions beyond acts of management and those decisions protested to under Sub-article (1) shall be taken by majority where at least three of the trustees are present.

3. Where opposing notions are supported by an equal number of trustees, the final determination shall lie with the chairperson of the meeting.

4. Those who are against a decision taken under Sub-article (2) and (3) may require that their dissenting opinion be recorded in the minutes.

5. The trustees shall be individually liable for the *ultra vires* acts they take as officers of the trust.

39. Powers of Trustees

1. The powers of the trustees on the Charitable Trust are those of an owner.

2. Without prejudice to any provision to the

ለኢጅንሲው ሳያስታወቁ የማይንቀሳቀስ ንብረት ባለቤትነት ለሌላ ሰው ሊያስተላለፉ አይችሉም፡፡

፫. አነስተኛ የበጎ አድራጎት ድርጅቶችን የሚመለከቱ ድንጋጌዎች እንደተጠበቁ ሆነው አደራ ጠባቂዎች የአደራ በጎ አድራጎት ድርጅቱን ንብረት ያለ ዋጋ ለሌላ ሊያስተላለፉ አይችሉም፡፡

፬. የአደራ በጎ አድራጎት ድርጅትን ስለመወከል

፩. አደራ ጠባቂ ሥራ አስኪያጁ የአደራ በጎ አድራጎት ድርጅቱን ይወክላል፡፡ አደራ ጠባቂ ሥራ አስኪያጁ በአርሱ ምትክ ድርጅቱን የሚወክለውን አደራ ጠባቂ ይመርጣል፤ እንዲሁም ማናቸውም የአደራ በጎ አድራጎት ድርጅቱን ጉዳዮች የሚከታተል ጠበቃ መወከል ይችላል፡፡

፪. አደራ ጠባቂዎች ከሥልጣን ወሰናቸው ሣያልፉ ለፈጸሟቸው ሕጋዊ ድርጊቶች ተጠያቂ የሚሆነው የአደራ በጎ አድራጎት ድርጅቱ ነው፡፡

፭. የማቋቋሚያ ሰነዱ ትዕዛዞች

፩. የአደራ ጠባቂው የአደራ በጎ አድራጎት ድርጅቱን ካቋቋመው ሰነድ የተቀበላቸውን ግልጽ የሆኑ ትዕዛዞችን መከተል አለበት፤

፪. በዚህ አንቀጽ ንዑስ አንቀጽ (፩) የተደነገገው ቢኖርም በአደራ በጎ አድራጎት ድርጅቱ ተጠቃሚ ለሆነው ሰው ጥቅም የሚያስፈልግ ሆኖ የታየ እንደሆነ ከተባሉት ትዕዛዞች ውጭ ለመስራት አደራ ጠባቂው ከኢጅንሲው ፈቃድ መጠየቅ ይችላል፡፡

፮. ለአደራ ጠባቂዎች የሚፈፀም ክፍያ

፩. የአደራ በጎ አድራጎት ድርጅቱ በተቋቋመበት ሠነድ ወይም በማናቸውም ሌላ ሕግ ክፍያን የተመለከቱ ድንጋጌዎች ከሌለ በቀር አደራ ጠባቂ ክፍያ የማይከፍ መሆኑን ያሳያል፡፡

፪. የዚህ አንቀጽ ንዑስ አንቀጽ (፩) በኖርም ሁሉም አደራ ጠባቂዎች ክፍያ ሊፈጸም እንደሚገባ በጽሁፍ ሊሰማመን

contrary in the act of constitution of the Charitable Trust, the trustees may not alienate immovable property without prior notification to the Agency.

3. Subject to the provisions on small charities the trustees may not alienate the property of a Charitable Trust by a gratuitous title.

40. Representation of a Charitable Trust

1. The trustee manager shall represent the Charitable Trust. The trustee manager shall nominate the trustee who shall act in his/her stead and may also appoint an advocate to represent the Charitable Trust in any proceedings.

2. The Charitable Trust shall be liable for juridical acts done by the trustees within their powers.

41. Directions of the Constitutive Instrument

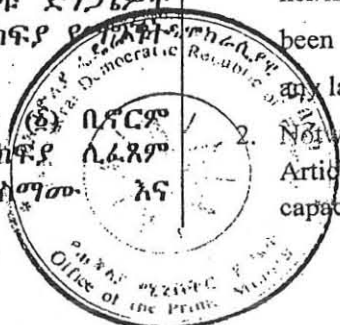
1. The trustee shall conform to the express instructions which he/she has received from the instrument constituting the charitable Trust;

2. Irrespective of the provision of Sub-article (1) of this article where the interest of the beneficiary of the Charitable Trust so requires, the trustee may obtain an authorization from the Agency to depart from such instructions.

42. Remuneration of Trustees

1. A trustee shall not be entitled to remuneration unless a provision about her/his entitlement to remuneration has been made, by the trust instrument or by any law;

2. Notwithstanding Sub-article (1) of this Article, a trustee who acts in a professional capacity shall be entitled to receive



ኤጀንሲው ሲያፀድቅ በባለሙያነት የሠራ አንድ አደራ ጠባቂ ለአደራ በግምት አድራጎች ድርጅቱ ለሰጠው ወይም የአደራ በግምት አድራጎች ድርጅቱን በመወከል ለፈጸማቸው ድርጊቶች ከበጎ አድራጎች ድርጅቱ ሀብት ተመጣጣኝ ክፍያ ያገኛል፤

፫. የዚህ አንቀጽ ንዑስ አንቀጽ (፩) ቢኖርም አንድ አደራ ጠባቂ የአደራ በግምት አድራጎች ድርጅቱን ከማስተዳደር ጋር በተያያዘ በግሉ ያወጣቸው ወጭ እና ሃላፊነቶች እንዲተኩሉት የመጠየቅ መብት አለው፡፡

፵፫. የአደራ ጠባቂዎች ሃላፊነት

አደራ ጠባቂዎች በውክልና ድንጋጌዎች መሠረት ለአደራ በግምት አድራጎች ድርጅቱ ተጠቃሚዎችና እንደ ነገሩ ሁኔታ የአደራ በግምት አድራጎች ድርጅቱ ሲቀር ንብረቱን መቀበል ለሚገባቸው ሰዎች የአደራ በግምት አድራጎች ድርጅቱን መልካም አስተዳደር በሚመለከት ሃላፊ ይሆናሉ፡፡

፵፬. የአደራ ጠባቂው ሥራ መልቀቅ

፩. የአደራ ጠባቂው ሥራ የመልቀቅ ሃሳብ ካለው ስራውን ከመልቀቁ ከሁለት ወር በፊት ለሌሎች አደራ ጠባቂዎች እና ለኤጀንሲው ሳያስታውቅ ቢቀር ከዚህ የተነሣ በአደራ የበጎ አድራጎች ድርጅቱ ላይ ለሚደርሰው ኪሣራ ሃላፊ ይሆናል፤

፪. የአደራ ጠባቂው ሥልጣኑን ለሌላ አደራ ጠባቂ እስከሚያስተላልፍ ድረስ የአደራ በግምት አድራጎች ድርጅቱን የማስተዳደር ሃላፊነት አለበት፤

፫. አንድ አደራ ጠባቂ የሥራ መልቀቂያ ጥያቄ ያቀረበ እንደሆነ በዚህ አንቀጽ ንዑስ አንቀጽ (፩) የተደነገገው የማስጠንቀቂያ ጊዜ ከማለፉ ፩ ወር አስቀድሞ የአደራ በግምት አድራጎች ድርጅቱን ባቋቋመው ሰው ወይም ይህን ለመፈጸም ሥልጣን በተሰጠው ሰው፤ እነዚህ ባይኖሩ በኤጀንሲው አዲስ አደራ ጠባቂ ይሾማል፡፡

፵፭. የአደራ በጎ አድራጎች ድርጅቱን ማስያዝ

፩. የተጠቃሚዎች አበዳሪ የሆኑ ሰዎች የአደራ በግምት አድራጎች ድርጅቱን ወይም

reasonable remuneration out of the trust funds for any services that he/she provides to or on behalf of the trust if all the trustees have agreed in writing and approved by the Agency that he/she may be remunerated for the services;

3. Notwithstanding subarticle (1) of this article a trustee is entitled to indemnity for all personal expenses and obligations arising out of the administration of the Charitable Trust.

43. Liability of Trustees

The trustees shall be liable for the good management of the Charitable Trust, in accordance with the provisions relating to agency, to the beneficiaries of the Charitable Trust and where applicable to the persons who are to receive the property at the termination of the Charitable Trust.

44. Resignation of a Trustee

1. A trustee shall be liable for any consequent loss to the Charitable Trust where he/she does not notify the other trustees and the Agency of his/her intention to resign two months prior to his/her resignation;

2. A trustee shall remain liable for the administration of the charitable trust until he/she hands over the trusteeship;

3. Where a trustee applies for resignation, a new trustee shall be appointed by the person constituting the trust, by the person on whom such power has been conferred, or in default of any such person, by the Agency 1 month prior to the expiry of the notice prescribed in Sub-article (1).

45. Attaching Charitable Trusts

1. The creditors of beneficiaries may in no

ማናቸውንም ተጠቃሚው ሊያገኝ የሚገባውን አበል በማናቸውም ሁኔታ ማስያዝ አይችልም፡፡

፪. ለተወሰነ ጊዜ የተቋቋመ የአደራ በግ አድራጎች ድርጅት ሲፈርስ ንብረቱን ለመውሰድ መብት ያላቸው ሰዎች አበዳሪዎች የአደራ በግ አድራጎች ድርጅቱን ማስያዝ ወይም የአደራ በግ አድራጎች ድርጅቱ በሚቀርበት ጊዜ ባለዕዳውን መተካት ይችላሉ፡፡

፫. የዚህ አንቀጽ ንዑስ አንቀጽ (2) ቢኖርም በዚህ አዋጅ አንቀጽ 32 ንዑስ አንቀጽ (1) መሰረት ከገቢ ማስገኛ ሥራዎች፣ ከሕዝባዊ መዋጮ ወይም ከማናቸውም ምንጭ በተገኙ ንብረቶች ላይ አበዳሪዎች መብት አይኖራቸውም፡፡

፵፮. የተጠቃሚዎች መብቶች

፩. ተጠቃሚዎች በአደራ በግ አድራጎች ድርጅቱ ማቋቋሚያ ሠነድ መሠረት የሚገባቸው ጥቅም እንዲሰጣቸው የአደራ በግ አድራጎች ድርጅቱን ሊጠይቁ ይችላሉ፡፡

፪. ተጠቃሚዎቹ መብቶቻቸውን የሚጎዳ ሁኔታ ሲፈጠር አደራ ጠባቂው እንዲሻር ወይም ተገቢ የሆነ ዋስትና እንዲሰጥ ኤጀንሲውን መጠየቅ ይችላሉ፡፡

፫. ተጠቃሚዎቹ የአደራ በግ አድራጎች ድርጅቱ አካል በሆኑ ንብረቶች ላይ የማዘዝ ወይም የማስተዳደር አንዳች መብት የላቸውም፡፡

፬. በዚህ አንቀጽ ንዑስ አንቀጽ (፫) የተደነገገው ቢኖርም እነዚህን ንብረቶች በሚመለከት የይርጋ ዘመን እንዲቋረጥ ማድረግን በመሳሰለው ሥራ መብቶቻቸውን የመጠበቅ ሥራዎችን ብቻ መፈጸም ይችላሉ፡፡

፭. ተጠቃሚዎች ሦስተኛ ወገኖች እንዲያውቁት አንድን የሆነ ንብረት የአደራ በግ አድራጎች ድርጅቱ ንብረት አካል መሆናቸውን በማስታወቂያ ይችላሉ፡፡

ንዑስ ክፍል አምስት

የበጎ አድራጎች ማህበራት እና የበጎ አድራጎች ኮሚቴዎች

case attach a Charitable Trust or any allowance to which a beneficiary is entitled.

2. The creditors of persons who are to receive the property forming the object of the Charitable Trust constituted for a definite period may at the dissolution of the Charitable Trust attach such property, or may replace the debtor at the time of termination.

3. Notwithstanding sub article (2) of this Article, the creditors shall not have rights on those assets obtained from income generetaing activities, public collections or any other sources under subarticle (1) of Article 32(1) of this proclamation.

46. Rights of Beneficiaries

1. The beneficiaries may claim from the Charitable Trust the making over of the interest, which, according to the act of constitution of the Charitable Trust, is to accrue in their favor;

2. Where their rights are jeopardized, they may apply to the Agency to dismiss the trustee or to compel him/her to give appropriate guarantees;

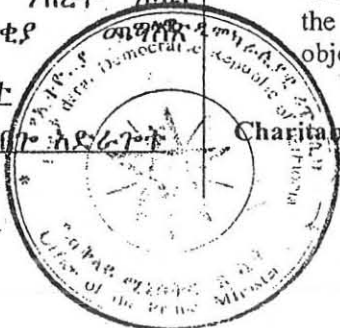
3. The beneficiaries of the Charitable Trust have no right to dispose of or to administer the property forming the object of the Charitable Trust;

4. Notwithstanding the provision of Sub-article (3), they may only do those acts which preserve their rights, such as the interruption of a prescription in relation to such property;

5. The beneficiaries may make publications with a view to informing third parties of the fact that certain properties form the object of the Charitable Trust.

Sub-Section Five

Charitable Societies and Charity Committees



፵፯. ትርጓሜ

፩. "የበጎ አድራጊነት ማህበር" ማለት ለበጎ አድራጊነት ዓላማ የተቋቋመ ማህበር ነው።

፪. "የበጎ አድራጊነት ኮሚቴ" ማለት ቁጥራቸው ፭ ወይም ከዚያ በላይ የሆኑ ከሕዝብ ገንዘብ ወይም ሌላ ንብረት ለበጎ አድራጊነት ዓላማ ለመስጠት ሃሳብ ያላቸው የተፈጥሮ ሰዎች ስብስብ ነው።

፵፱. የበጎ አድራጊነት ማህበር

፩. አግባብነት ያላቸው የማህበር አደረጃጀትና አሰራር የሚመለከቱ የዚህ አዋጅ ድንጋጌዎች ለበጎ አድራጊነት ማህበራት ተፈጻሚነት ይኖራቸዋል።

፪. የዚህ አንቀጽ ንዑስ አንቀጽ (፩) እንደተጠበቀ ሆኖ በዚህ አዋጅ ስለ በጎ አድራጊነት ድርጅቶች የተቀመጡት አግባብነት ያላቸው ድንጋጌዎች ለበጎ አድራጊነት ማህበራት ተፈጻሚ ይሆናሉ።

፶ፀ. የበጎ አድራጊነት ኮሚቴዎችን ስለ ማጽደቅ

፩. የበጎ አድራጊነት ኮሚቴዎች በኤጀንሲው ላይወድቁ ገንዘብ ወይም ንብረት ማሰባሰብ ወይም ማናቸውንም ድርጊት መፈጸም አይችሉም።

፪. የዚህ አንቀጽ ንዑስ አንቀጽ (፩) ኮሚቴውን ለማቋቋም በሚደረጉ አስፈላጊ እንቅስቃሴዎች ላይ ተፈጻሚ አይሆንም።

፫. ኤጀንሲው የበጎ አድራጊነት ኮሚቴዎችን ሲያጸድቅ የዚህን አዋጅ አንቀጽ ፳፱ እና ፸ ድንጋጌዎች በማገናዘብ መወሰን አለበት።

ሃ. የሂሳብ መግለጫ

፩. የበጎ አድራጊነት ኮሚቴው ዓመታዊ የሂሳብ መግለጫውን ለኤጀንሲው ማቅረብ አለበት።

፪. የበጎ አድራጊነት ኮሚቴው የተቋቋመው ከአንድ ዓመት ላነሰ ጊዜ ከሆነ ይህ ጊዜ እንዳለቀ የሂሳብ መግለጫ ማቅረብ አለበት።

ሃ፩. የበጎ አድራጊነት ኮሚቴ አደረጃጀት

፩. የበጎ አድራጊነት ኮሚቴን የማፅደቅ ውሳኔ

47. Definition

1. A "Charitable Society" shall mean a Society which is formed for charitable purposes;
2. A "Charity Committee" is a collection of 5 or more natural persons who have come together with the intent of soliciting money or other property from the public for purposes that are charitable.

48. Charitable Society

1. All appropriate Provisions of this Proclamation concerning the structure and working of Societies shall apply to Charitable Societies.
2. Without prejudice to the provisions of Sub-article (1) of this article all appropriate provisions of this proclamation concerning Charities shall apply to Charitable Societies.

49. Approval of Charity Committees

1. Charities Committees may not collect funds or perform any other activities without acquiring an approval from the Agency;
2. Sub-article (1) of this Article shall not apply to activities necessary for the formation of a Charity Committee;
3. The Agency shall consider Articles 69 and 70 of this proclamation when approving a Charity Committee;

50. Statement of Accounts

1. A Charity Committee shall submit its annual statement of accounts to the Agency;
2. A Charity Committee should submit its statement of accounts at its dissolution where the length of time for which the Charity Committee is formed is not longer than 1 year.

51. Structure of a Charity Committee

1. The decision granting the approval of the Charity Committee shall specify the

መስራች አባላት እና የበጎ አድራጊነት ኮሚቴውን ፕሬዚዳንት፣ ገንዘብ ያዥና አዲተር ዝርዝር ሁኔታ ማሳየት ይኖርበታል።

፪. ውሳኔው የበጎ አድራጊነት ኮሚቴውን ዓላማዎች እና ዓላማዎቹን የሚያሳካበትን ጊዜ መግለጽ ይኖርበታል።

፫. አስፈላጊ ሆኖ ሲገኝ ውሳኔው የበጎ አድራጊነት ኮሚቴው ሥራዎች እንዴት መከናወን እንዳለባቸው መወሰን እና በኮሚቴው የሚሰበሰበውን ገንዘብ እና ንብረት መጠንና አጠቃቀሙን ለመቆጣጠር አስፈላጊ የሆኑ እርምጃዎችን ማስቀመጥ ይኖርበታል። ዝርዝሩ በመመሪያ ይወሰናል።

፶፪. የአባላት ሃላፊነት

፩. ከበጎ አድራጊነት ኮሚቴው አንቅስቃሴ ለሚመነጩ ግዴታዎችና ዕዳዎች አባላት ወይም የሥራ መሪዎች በአንድነትና በነጠላ ሃላፊ ይሆናሉ።

፪. በዚህ አንቀጽ ንዑስ አንቀጽ (፩) የተደነገገውን በተመለከተ ማናቸውም ለጋሽ፣ አባል፣ ተጠቃሚ፣ ኤጀንሲው ወይም የዘርፍ አስተዳዳሪ ክስ የማቅረብ መብት አላቸው።

፶፫. በቂ ያልሆነ ገንዘብና ንብረት

፩. በበጎ አድራጊነት ኮሚቴው የተሰበሰበው ገንዘብና ንብረት በኮሚቴው የተሰበሰበውን ዓላማ ለማሳካት በቂ ካልሆነ ወይም ዓላማውን ማሳካት የማይቻል ከሆነ ይህ ገንዘብ ወይም ንብረት የኮሚቴው መቋቋም በፀደቀበት ውሳኔ መሠረት በሥራ ላይ ይውላል።

፪. በውሳኔው ውስጥ ይህን በሚመለከት የተገለፀ ነገር የሌለ እንደሆነ ገንዘቡ ወይም ንብረቱ በኤጀንሲው ቁጥጥር ሥር ሆኖ በዚህ አዋጅ ድንጋጌዎች መሠረት ለተመሳሳይ የበጎ አድራጊነት ዓላማ ይውላል።

፫. ለበጎ አድራጊነት ኮሚቴው ገንዘብና ንብረትን የሰጡ ሰዎች መልሰው ሊወስዱት አይችሉም።

particulars of persons who constitute the Charity Committee and those who shall act as president, treasurer and auditor of the Charity Committee;

2. The decision shall specify the purposes of the Charity Committee and the time within which it has to achieve them;

3. The decision shall determine, where appropriate, the manner in which the activities of the Charity Committee may be carried out and prescribe such measures as are necessary to control the amount and the use of the funds collected by the Charity Committee. Particulars shall be determined by directives.

52. Liability of Members

1. The members or officers of a Charity Committee shall be jointly and severally liable for obligations and debts arising out of its activities;

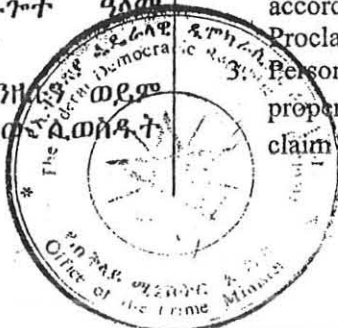
2. Any donor, member, beneficiary, the Agency or the Sector Administrator shall have standing for the purpose of Sub-article (1).

53. Insufficient Fund and Property

1. Where the money or property collected by the Charity Committee is insufficient to attain the object which the Charity Committee proposed to achieve, or where achievement of its purpose becomes impossible, such money or property shall have the destination prescribed by the decision which has approved the Charity Committee;

2. In default of Provision to that effect the money or property shall be placed at the disposal of the Agency and shall be destined for a similar charitable purpose in accordance with the Provisions of this Proclamation.

Persons who have donated money or property to the Charity Committee may not claim it back.



፶፬. ቀሪ ገንዘብና ንብረት

- ፩. በበጎ አድራጎት ኮሚቴው የተሰበሰበው ገንዘብ ወይም ንብረት ዓላማውን ለማሳካት አስፈላጊ ከሆነው በላይ ከሆነ ቀሪው ገንዘብ ወይም ንብረት ኮሚቴውን ባፀደቀው ውሳኔ መሠረት ሥራ ላይ ይውላል።
- ፪. በውሳኔው ውስጥ ይህን በሚመለከት የተገለፀ ነገር የሌለ እንደሆነ ገንዘቡ ወይም ንብረቱ ኤጀንሲው የሚያዝበት ሆኖ በዚህ አዋጅ ድንጋጌዎች መሠረት ለተመሳሳይ የበጎ አድራጎት ዓላማ ይውላል።
- ፫. ለበጎ አድራጎት ኮሚቴው ገንዘቡን ወይም ንብረቱን የሰጡ ሰዎች መልሰው ሊወስዱት አይችሉም።

፶፭. ወደ ዘላቂ በጉ አድራጎት ድርጅትነት ከሰመለወጥ

- ፩. የበጎ አድራጎት ኮሚቴው በፀደቀበት ውሳኔ ላይ በተመለከተው መሠረት በኮሚቴው የተሰበሰበው ገንዘብ ወይም ንብረት ለአንድ ለተወሰነ ዘላቂ ዓላማ የሚውል ከሆነ ይህንኑ ዓላማ ለማሳካት ዘላቂ የበጎ አድራጎት ድርጅት ይቋቋማል።
- ፪. በበጎ አድራጎት ኮሚቴው የተሰበሰበው ገንዘብ ወይም ንብረት የታወቀውን ዓላማ ለማሳካት አስፈላጊ ከሆነው እጅግ የበዛ ከሆነ የኮሚቴው አባላት በዘላቂ የበጎ አድራጎት ድርጅትነት ለመመዝገብ ፈቃድ እንዲሰጣቸው ለኤጀንሲው ሊያመለክቱና ከተፈቀደላቸው ለምዝገባ ሊያመልክቱ ይችላሉ።

**ከፍል አራት
ማህበራት**

፶፮. ትርጓሜ

- ፩. "ማህበር" ማለት ዓላማው ትርፍ ለማግኘት ያልሆነ የአባላቱን መብትና ጥቅም ለማስጠበቅ እና ተመሳሳይ ሕጋዊ ዓላማዎችን ለማከናወን እንዲሁም ተመሳሳይ ዓላማ ካላቸው ተቋማት ጋር ለመተባበር በአባላቱ ስምምነት የተመሠረተ የሰዎች ስብስብ ነው።
- ፪. ማህበራት ሥራዎቻቸውን የሚያስተባብር የማህበራት ሕብረት ማቋቋም ይችላሉ። ዝርዝሩ ኤጀንሲው በሚያወጣው መሠረት ይወሰናል።

54. Balance

1. Where the money or property collected by the Charity Committee amounts to more than what is necessary for the attainment of the proposed purpose, the balance shall have the destination prescribed by the decision approving the Charity Committee;
2. In the absence of any Provision to that effect, it shall be placed at the disposal of the Agency and shall be destined for a similar charitable purpose in accordance with the Provisions of this Proclamation;
3. Persons who have given money or property to the Charity Committee may not take it back.

55. Change into a Charitable Endowment

1. Where under the decision approving the Charity Committee the money or property collected by the Charity Committee is to be destined to a specific lasting object, a Charitable Endowment shall be constituted for the attainment of such object;
2. Where the money or property collected by the Charity Committee is significantly larger than what is necessary for the attainment of the proposed purpose, the members of a Charity Committee may seek permission and apply to the Agency for registration as a Charitable Endowment.

**SECTION FOUR
SOCIETIES**

56. Definition

1. "Society" means an association of persons organized on non-profit making and voluntary basis for the promotion of the rights and interests of its members and to undertake other similar lawful purposes as well as to coordinate with institutions of similar objectives.
2. Societies may form a consortium Society to coordinate their activities. Particulars shall be determined by the directives of the

፶፭. የማህበራት ሕጋዊ ሰውነት

- ፩. ማህበራት በኢጅንሊው እንደተመዘገቡ ሕጋዊ ሰውነት ያገኛሉ።
- ፪. የማህበር አባልነት ለሰብተኛ ወገኖች ተላልፎ አይሰጥም ወይም አይተላለፍም።

፶፮. የማህበራት መብቶችና ግዴታዎች

- ፩. ማንኛውም ማህበር የማህበሩን መስፈርት ለሚያሟላ አዲስ አባል ክፍት መሆን አለበት።
- ፪. ማንኛውም ማህበር የሚመራው በአባላት መሰረተኛነት በተመረጡ ሰዎች ነው።
- ፫. ማንኛውም የማህበር አባል አንድና እኩል ድምጽ አለው።
- ፬. ማንኛውም ማህበር በመተዳደሪያ ደንቡ መሰረት ካልሆነ በቀር አባላትን ሊቀበልና ሊያሰናብት አይችልም።
- ፭. አባልነቱ እንዲቋረጥ የሚደረግ ማንኛውም የማህበር አባል የመጨረሻ ውሳኔ ከመሰጠቱ በፊት በሥራ አስፈጻሚው የመሰማት መብት አለው።
- ፮. ማህበሩ የፌዴራል ባህሪ እና ስያሜ ያለው ከሆነ የሥራው ቦታ ወይም የአባላት ጥንቅር ቢያንስ የአምስት ክልሎች ውክልና ያለው መሆን አለበት።
- ፯. ኢትዮጵያውያን ብዙሃን ማህበራት በዴሞክራሲያዊ ሥርዓት ግንባታና በምርጫ ሂደት በተለይም ትምህርታዊ ሴሚናሮችን በወቅታዊ ጉዳዮች ላይ በማዘጋጀት፣ የተወዳዳሪዎችን ፕሮግራም በመረዳት፣ የምርጫ ሂደቶችን በመታዘብና ከምርጫ አስፈጻሚ አካላት ጋር በመተባበር ረገድ በንቃት መሳተፍ ይችላሉ።
- ፰. የማንኛውም ማህበር መተዳደሪያ ደንብ በአባላቱ አብላጫ ድምጽ የሚሻሻል አለበት።

፶፱. የማህበራት አደረጃጀት

- ፩. የማንኛውም ማህበር አደረጃጀት በማህበሩ

Agency.

57. Legal Personality of Societies

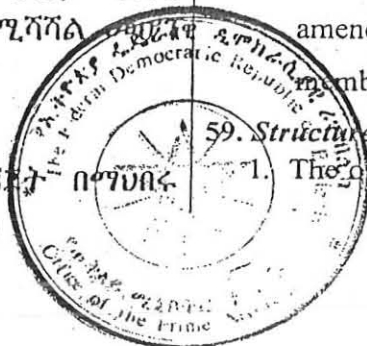
- 1. Societies shall acquire legal personality upon registration by the Agency;
- 2. Membership in a Society shall not be transferred or passed to third parties.

58. Rights and Obligations of Societies

- 1. Any Society shall be open to a new member that fulfills the requirements of the Society;
- 2. Any Society shall be managed by persons elected through the full participation of members;
- 3. Every member of any Society shall have equal and one vote;
- 4. No Society may admit or dismiss members except as provided by its rules;
- 5. The member of any Society whose membership is terminated shall have the right to be heard by the executive organ before a final decision is made;
- 6. Where the Society has Federal character and nomenclature, its work place and composition of the members shall show the representation of at least five Regional States;
- 7. Ethiopian mass-based organizations may actively participate in the process of strengthening democratization and election, particularly in the process of conducting educational seminars on current affairs, understanding the platforms of candidates, observing the electoral process and cooperating with electoral organs;
- 8. The rules of any Society shall be subject to amendment by the vote of a majority members.

59. Structure of Societies

- 1. The organizational structure of any Society



መተዳደሪያ ደንብ ይወሰናል።

፩. የዚህ አንቀጽ ንዑስ አንቀጽ (፩) ቢኖርም ማንኛውም ማህበር ጠቅላላ ጉባኤ፣ የሥራ አስፈጻሚ ኮሚቴ እና የውስጥ አዲተር የያዘ መሆን አለበት።

፪. የውስጥ አዲተር በማህበሩ የስራ መሪነት ቦታ ሊይዝ አይችልም።

፫. የጠቅላላ ጉባኤ ሥልጣንና ተግባራት

ጠቅላላ ጉባኤው የማህበሩ የበላይና የመጨረሻ ውሳኔ ሰጪ ሆኖ፣

፩. የማህበሩን መተዳደሪያ ደንብ ያወጣል፣ ያሻሽላል፤

፪. የማህበሩን የስራ አስፈጻሚ ኮሚቴ አባላት ይመርጣል፣ ያግዳል፣ ያሰናብታል፤

፫. በመተዳደሪያ ደንቡ መሰረት የማሕበሩን አዲተር ይመርጣል፣ ያግዳል፣ ያሰናብታል፣ ክፍያውን ይወስናል፤

፬. በማህበሩ የፖሊሲና ስትራቴጂ ጉዳዮች ላይ ይወስናል፤

፭. በማህበሩ ሌሎች አካላት ሥልጣንና ተግባራት ስር በማይወድቁ ማህበሩን በሚመለከቱ ጉዳዮች ላይ ይወስናል።

፮. የማሕበሩን መፍረስ ይወስናል፤

፯. በማህበሩ መተዳደሪያ ደንብ የተሰጡትን ሌሎች ሥራዎች ያከናውናል።

፬. ከጠቅላላ ጉባኤው ውሳኔዎች መለየት

፩. የተለየ ሃሳብ ያለው የማህበር አባል የልዩነት ሃሳቡን በቃሉ-ጉባኤው ላይ ለይቶ ማስፈር ይችላል።

፪. ማንኛውም የማህበር አባል በጠቅላላ ጉባኤው የተላለፈው ውሳኔ የአገሪቱን ሕግ፣ የማህበሩን መተዳደሪያ ደንብ እና ሌሎች አግባብነት ያላቸውን ሕጎች ይጥላል ብሎ ሲያምን ለኤጀንሲው ሊያመለክት ይችላል።

፭. የጠቅላላ ጉባኤው ስብሰባዎች

shall be determined by its rules;

2. Notwithstanding Sub-article (1) of this Article, no Society shall be organized without having a General Assembly, Executive Committee and an Internal Auditor;

3. An Internal Auditor shall not assume the position of an Officer.

60. Powers and Functions of the General Assembly

The General Assembly of the Society being the supreme and final decision making organ shall:

1. enact and amend the rules of the Society;
2. appoint, suspend or dismiss the executive committee of the Society;
3. appoint, suspend or dismiss the Auditor of the Society and decide on his/her remuneration based on its rules;
4. decide on policy and strategy matters of the Society;
5. decide on all matters concerning the society which do not fall within the powers and functions of other organs of the society;
6. decide on dissolution of the Society;
7. perform other functions entrusted to it by the rules of the Society.

61. Dissents from the Resolutions of the General Assembly

1. Any member of the Society who has dissenting opinion may record his/her opinion separately in the minutes;
2. Any member of the Society may apply to the Agency where he/she believes that the decisions rendered by the General Assembly contravene the law of the Land, the rules of the Society or other relevant laws.

62. Meetings of the General Assembly

1. The meetings of the General Assembly

፩. የማህበሩ ጠቅላላ ጉባኤ ስብሰባዎች በማሕበሩ መተዳደሪያ ደንብ በተደነገገው መሠረት ይካሄዳሉ፤

፪. በዚህ አንቀጽ ንዑስ አንቀጽ (፩) መሠረት በጠቅላላ ጉባኤው ስብሰባ መደበኛ ስብሰባ በ፱ ቀናት ውስጥ ያልተጠራ ከሆነ ኤጀንሲው በአንድ ወይም ከዚያ በላይ በሆኑ አባላት ጠያቂነት በሰብሳቢው አማካይነት ወይም በራሱ የጠቅላላ ጉባኤውን ስብሰባ ሊጠራ ይችላል፤

፫. የጠቅላላ ጉባኤው ስብሰባ የተጠራው በዚህ አንቀጽ ንዑስ አንቀጽ (፪) መሠረት ከሆነ ኤጀንሲው አስፈላጊ ሆኖ ሲገኝ የጠቅላላ ጉባኤው ስብሰባ የሚሆን ሰው ለምርጫ ሊያቀርብ ይችላል፤

፬. የማህበሩ ምልዐተ ጉባኤ በመተዳደሪያ ደንቡ በተወሰነው መሠረት ይሆናል። ይህን የሚመለከት ድንጋጌ በሌለበት ሁኔታ የስብሰባው አብዛኛው አባላት ከተገኙ ምልዐተ ጉባኤ ይኖራል። ለሁለት ተከታታይ ስብሰባዎች ምልዐተ-ጉባኤ ካልተሟላ በሚቆጥለው ሦስተኛ ስብሰባ ከአባላቱ 50% ባይገኙም በኤጀንሲው ውሳኔ ምልዐተ ጉባኤ አንደተሟላ ይቆጠራል።

፭. የጠቅላላ ጉባኤው ውሳኔዎች በድምጽ ብልጫ ያልፋሉ። ድምጽ እኩል ሲሆን ስብሰባው ውሳኔ ድምጽ ይኖረዋል። የማሕበሩ የስብሰባ ሥነ-ሥርዓት በማናቸውም ጊዜ ቢሆን የዲሞክራሲ መርሆችን የተመረከዘ መሆን አለበት።

፮. በጠቅላላ ጉባኤው አጀንዳ ላይ ያልሰፈሩ ጉዳዮችን በተመለከተ የተሰጡ ውሳኔዎች ተፈፃሚነት አይኖራቸውም።

፳፫. የአዲተር ሥልጣንና ተግባራት
አዲተሩ የሚከተሉት ሥልጣንና ተግባራት



shall be held as is provided for in the rules of the Society;

2. Where the Chairperson of the Assembly fails to convene the regular meeting of the General Assembly within 30 days in accordance with Sub-article (1) of this Article, the Agency may, upon request of one or more members or officers of the Society convene the meeting of the General Assembly through the Chairperson or by its own;

3. Where the meeting of the General Assembly was convened in accordance with sub-article (2) of this Article, the Agency may, where appropriate, nominate a Chairperson of the General Assembly;

4. A quorum of the Society shall be as is provided for in its rules. Failing such provision, a simple majority of the Assembly shall constitute a quorum. Where the quorum is not fulfilled for two consecutive meetings, the quorum shall be deemed to have been fulfilled on the third, such meeting despite there not being a 50% presence upon the decision of the Agency;

5. Decisions of the General Assembly shall be taken by the majority. In case of a tie, the Chairperson shall have a casting vote. The meetings procedures of the Society shall at all times conform to democratic principles;

6. A decision not relating to the items on the agenda of the General Assembly shall be of no effect.

63. Powers and Functions of the Auditor

The Auditor shall have the following powers and functions:

አለው፤

፩. የማህበሩን ንግድ ያስተዳደር ይቆጣጠራል፤

፪. በኢትዮጵያ ተቀባይነት ባገኙ መመዘኛዎች መሠረት የማህበሩን የውስጥ አዲት ሪፖርት አዘጋጅቶ ለጠቅላላ ጉባኤ ያቀርባል፡፡

፫. በዚህ አዋጅ ስለ ውጭ አዲት የተደነገጉት ቢኖሩም ማሕበሩ በማንኛውም ጊዜ በውጪ አዲተር ሊጠቀም ይችላል፡፡

፬. አባላትን የሚመለከቱ መረጃዎች

፩. የማሕበሩ የሥራ መሪዎች የአባላቱን ዝርዝር ጉዳዮች ይመዘግባሉ፤ ይጠብቃሉ፤ ሲጠየቁ ለኤጀንሲው ያቀርባሉ፡፡

፪. ከማሕበራት የሚፈለጉ መረጃዎች ዝርዝር ኤጀንሲው በሚያወጣው መመሪያ ይወሰናል፡፡

ክፍል አምስት

የቦጉ አድራጊነት ድርጅቶችና ማሕበራት አመሰራረት፤ ፈቃድ አሰጣጥና ምዝገባ

ንዑስ ክፍል አንድ

የቦጉ አድራጊነት ድርጅቶችና ማሕበራት አመሰራረት

፩. አመሰራረት

፩. የቦጉ አድራጊነት ድርጅቶች ወይም ማህበራት በዚህ አዋጅ የተቀመጡ መስፈርቶችን አሟልተው ሲገኙ እንደተመሰረቱ ይቆጠራል፡፡

፪. ማንኛውም የቦጉ አድራጊነት ድርጅት ወይም ማህበር በተመሠረተ በሶስት ወር ጊዜ ውስጥ ለምዝገባ ማመልከት አለበት፡፡

፫. በዚህ አንቀጽ ንዑስ አንቀጽ (፪) የተደነገገው ቢኖርም የቦጉ አድራጊነት ድርጅቱ ወይም ማህበሩ በቂ ምክንያት መኖሩን ካሳየ የጊዜ ገደብ

1. monitor the financial and property administration of the Society;
2. prepare the internal audit report of the Society in accordance with standards acceptable in Ethiopia and submit to the General Assembly;
3. Notwithstanding the Provisions of this Proclamation regarding external audits the Society may at any time use an external auditor.

64. Information about Members

1. The Officers of the Society shall record and keep the particulars of its members and furnish the same to the Agency upon request;
2. The Agency shall by directives determine the particular information required from societies.

SECTION FIVE

FORMATION, LICENSING AND REGISTRATION OF CHARITIES AND SOCIETIES

Sub-Section One

Formation Of Charities And Societies

65. Formation

1. Charities and Societies shall be deemed to be formed when they fulfill the minimum requirements set forth in this proclamation;
2. Any Charity or Society shall apply for registration within three month of its formation;
3. Irrespective of the provision of Sub-article (2) of this Article, the Agency may allow a Charity or Society to apply for registration notwithstanding that the time limit has

ቢያልፍም ለምዝገባ እንዲያመለክት ኤጀንሲው ሊፈቅድ ይችላል።

፳፮. የመመስረት ውጤት

- ፩. የበጎ አድራጎት ድርጅቶች እና ማህበራት በመመስረታቸው ብቻ ሕጋዊ ሰውነት አይኖራቸውም።
- ፪. የተመሰረተው የበጎ አድራጎት ድርጅት ወይም ማህበር ሲመዘገብና ሕጋዊ ሰውነት ሲያገኝ መብቶችና ግዴታዎች ወደ ተመዘገበው የበጎ አድራጎት ድርጅት ወይም ማህበር ይተላለፋሉ።
- ፫. የበጎ አድራጎት ድርጅቱ ወይም ማህበሩ ከመመዝገቡ በፊት የሚያሰባስበው ገንዘብ ወይም ንብረት ከብር ሃምሳ ሺህ በላይ ሊሆን አይችልም።
- ፬. በሕግ በተወሰነው የጊዜ ገደብ ያልተመዘገበ የተመሠረተ የበጎ አድራጎት ድርጅት ወይም ማህበር እንዲቋረጥ ምክንያት ይሆናል።

፳፯. የዘርፍ አስተዳዳሪዎች

- ፩. አግባብነት ያላቸው የፌዴራል አስፈጻሚ መሥሪያ ቤቶች የበጎ አድራጎት ድርጅቶችና ማህበራት የዘርፍ አስተዳዳሪ ሆነው በሚኒስትሩ ይሰየማሉ።
- ፪. ለዚህ አዋጅ አፈጻጸም የበጎ አድራጎት ድርጅቱ ወይም ማህበሩ በአንድ የተወሰነ የዘርፍ አስተዳዳሪ የማይሸፈን ወይም ከአንድ በላይ የዘርፍ አስተዳዳሪን የሚመለከት ከሆነ ኤጀንሲው የዘርፍ አስተዳዳሪ ይሆናል።
- ፫. ማናቸውም የዘርፍ አስተዳዳሪ በዚህ አዋጅ የተሰጡትን ሥልጣንና ተግባር ለእርሱ ተጠሪ ለሆኑ የፌዴራል መንግስት አካላት በውክልና ሊሰጥ ይችላል።

passed where good cause has been shown.

66. Effects of Formation

1. Merely formed Charities and Societies shall have no legal personality;
2. Upon registering and thus acquiring legal personality, the rights and duties of the Charity or Society formed shall accrue to the registered Charity or Society;
3. Charities and Societies may not solicit money and property exceeding fifty thousand birr before its registration;
4. Failure to register within the prescribed period shall be a ground for cessation of the formed Charity or Society.

67. Sector Administrators

1. Relevant Federal Executive Organs shall be assigned by the minister as Charities and Societies Sector Administrators.
2. For the purposes of this proclamation the Agency shall be a sector administrator for charities or societies that do not fall under any sector administrator or fall under more than one sector administrator.
3. Any sector administrator may delegate powers and functions given to it under this proclamation to the relevant organs of federal government accountable to it.



፳፰. የዘርፍ አስተዳዳሪዎች ሥልጣንና ተግባር

የዘርፍ አስተዳዳሪዎች የሚከተሉት ሥልጣንና ተግባር ይኖራቸዋል፤

- ፩. በበጎ አድራጎት ድርጅቶችና ማህበራት ፈቃድና ምዝገባ ሂደት ለኤጀንሲው አስፈላጊውን ድጋፍ ይሰጣል፤
- ፪. የበጎ አድራጎት ድርጅቶችና ማህበራትን ፕሮግራሞችና ፕሮጀክቶች የሚገመግሙና አስተያየት የሚሰጡ ባለሙያዎችን ይመድባል፤
- ፫. በማቋቋሚያ ሕጉ በተሰጠው ሥልጣንና ተግባር መሰረት የበጎ አድራጎት ድርጅቶችና ማህበራትን የሥራ እንቅስቃሴ ይከታተላል፤ ይቆጣጠራል፤ አስፈላጊውን እርምጃ ይወስዳል፤
- ፬. የዘርፍ አስተዳዳሪው በዚህ አንቀጽ ንዑስ አንቀጽ (፫) መሰረት የወሰደውን እርምጃ በሰባት የሥራ ቀናት ውስጥ ለኤጀንሲው ያሳውቃል፤
- ፭. ከበጎ አድራጎት ድርጅቶች እና ማህበራት ሥራዎች ሀብረተሰቡ የላቀ ተጠቃሚ መሆኑን ለማረጋገጥ ኤጀንሲው ሊከተላቸው የሚገቡ መስፈርቶችን ያወጣል፡፡

ንዑስ ክፍል ሁለት

የበጎ አድራጎት ድርጅቶችና ማህበራት ምዝገባ

፳፱. ምዝገባ

- ፩. በዚህ አዋጅ አንቀጽ ፸ የተደነገገው እንደተጠበቀ ሆኖ ኤጀንሲው ማመልከቻ ሲቀርብለት በ፴ ቀናት ውስጥ በዚህ አዋጅ የተደነገጉት አስፈላጊ ሁኔታዎች መሟላታቸውን ካረጋገጠ በኋላ አመልካቾቹን በበጎ አድራጎት ድርጅትነት ወይም በማሕበርነት በመመዝገብ የሕጋዊ ሰውነት ማረጋገጫ ምስክር ወረቀት ይሰጣል፡፡
- ፪. በዚህ አንቀጽ ንዑስ አንቀጽ (1) ኤጀንሲው የሕጋዊ ሰውነት ማረጋገጫ የምስክር ወረቀት ካልሰጠ ወይም የማይሰጥ መሆኑን ካሳሳወቀ አመልካቹ በንዑስ አንቀጽ ከተቀመጠው የመጨረሻ ቀን በ15 ቀናት ውስጥ ለቦርዱ ይግባኝ ማቅረብ ይችላል፡፡

68. Powers and Functions of Sector Administrators

Sector Administrators shall have the following powers and functions:

1. provides necessary support to the Agency in the process of license and registration of Charities and Societies;
2. assign professionals who evaluate and recommend on the Charities' and Societies' programs and projects;
3. supervise and control operational activities of Charities and Societies and take necessary measures according to laws establishing it;
4. A Sector Administrator taking measure by virtue of this Article shall notify the Agency of such measures within seven working days;
5. Develop criteria that have to be followed by the Agency which shall assure the maximum benefits of the public from the activities of Charities and Societies.

Sub-Section Two

Registration of Charities and Societies

69. Registration

1. Subject to article 70, the Agency shall, upon application and after ensuring the fulfillment of the requirements stipulated under this Proclamation, register the applicants as a Charity or a Society and issue a certificate of legal personality within 30 days from the date of application;
2. Where the Agency does not issue a certificate of legal personality or does not make known that it will not do the same the applicant may apply to the Board not later than 15 days from the last date of the time limit prescribed in the Sub-article.

፫. በዚህ አንቀጽ መሠረት የሚቀርብ የምዝገባ ማመልከቻ ኤጀንሲው በሚያዘጋጀው ፎርም መሰረት የበጎ አድራጎት ድርጅቱን ወይም የማሕበሩን ግብ፣ አላማና ሥራ የሚመለከቱ መግለጫዎችን የያዘ ሆኖ ከሚከተሉት ጋር ተያይዞ መቅረብ ይኖርበታል፤

ሀ. የበጎ አድራጎት ድርጅቱ ወይም የማሕበሩ መተዳደሪያ ደንብ እና እንደአስፈላጊነቱ የዘለቁታ በጎ አድራጎት ድርጅቱን ወይም የአደራ በጎ አድራጎት ድርጅቱን ያቋቋመው ሠነድ ቅጂ፤

ለ. እንዳስፈላጊነቱ ኤጀንሲው የሚጠይቃቸው ሌሎች ሠነዶች፡፡

፬. በዚህ አንቀጽ ንዑስ አንቀጽ (፪) ከተደነገጉት አስፈላጊ ሁኔታዎች በተጨማሪ ውጪ አገር የተመሰረተ የበጎ አድራጎት ድርጅት የሚከተሉትን ማቅረብ ይኖርበታል፤

ሀ. የበጎ አድራጎት ድርጅቱ መቋቋሙን የሚያሳይ ከተቋቋመበት አገር የተሰጠውን የተረጋገጠ ሰነድ፤

ለ. ሥልጣን ያለው የድርጅቱ አካል ድርጅቱ በኢትዮጵያ ውስጥ እንዲሠራ ያሳለፈው የተረጋገጠ ውሳኔ፤

ሐ. ኢትዮጵያ ከሚገኝ የበጎ አድራጎት ድርጅቱ ከተቋቋመበት አገር ኤምባሲ ወይም ኤምባሲ ከሌለ ከተቋቋመበት አገር ስልጣን ባለው አካል የተሰጠ የድጋፍ ደብዳቤ፤

መ. ከኢትዮጵያ ፌዴራላዊ ዲሞክራሲያዊ ሪፐብሊክ የውጭ ጉዳይ ሚኒስቴር የተሰጠ የድጋፍ ደብዳቤ፤

ሠ. የአገር ውስጥ ተወካዩ የተሰጠው የተረጋገጠ የውክልና ሥልጣን፡፡

፭. በዚህ አንቀጽ መሠረት የምዝገባ ማመልከቻ ሲቀርብ ተገቢው የምዝገባ ክፍያ መፈጸም አለበት፡፡

3. An application for registration under this Article shall include particulars concerning its goals, objectives and activities as per the form prepared by the Agency accompanied by:

a. a copy of the rules of the Charity or the Society and where applicable a document showing the act of constituting of a Charitable Trust or a Charitable Endowment;

b. such similar documents and duly completed forms as the Agency may require.

4. In addition to the requirements set forth under Sub-article (2), Charities that are established abroad shall present:

a. duly authenticated certificate of registration showing its establishment from its country of origin;

b. proof of the decision of its competent organ to operate in Ethiopia;

c. a letter of recommendation by the Embassy in which the Charity is incorporated or in the absence of such by a competent Government Organ in that country;

d. a letter of recommendation from the Ministry of Foreign Affairs of the Federal Democratic Republic of Ethiopia;

e. power of attorney of the country representative.

5. The necessary registration fee shall be paid where an application for registration under this article is made;



፩፪. የበጎ አድራጊነት ድርጅቶችና ማህበራት መዝገብ

- ፩. ኤጀንሲው ማንኛውንም የበጎ አድራጊነት ድርጅት ወይም ማህበርን በሚመለከት በየጊዜው የሚወሰናቸው ዝርዝሮች የሚመዘገቡበት የበጎ አድራጊነት ድርጅቶችና ማህበራት መዝገብ ይይዛል፤
- ፪. የኢንዱሪ ዓይነት ሠነድ ሙሉ ወይም ከፊል ግልባጭ በኤጀንሲው ዳይሬክተር ትክክለኛ ቅጂ ለመሆኑ የተመሠከረ ከሆነና የኤጀንሲው ማህተም ከተደረገበት በማናቸውም የክርክር ሂደቶች በማስረጃነት ተቀባይነት ይኖረዋል፤
- ፫. የበጎ አድራጊነት ድርጅቶችና ማህበራት መዝገብ በኤሌክትሮኒክ መልክ ጨምሮ ኤጀንሲው አግባብ ነው ብሎ በሚገምተው መንገድ ተዘጋጅቶ ይቀመጣል፡፡
- ፬. ኤጀንሲው በዚህ አዋጅ መሠረት የተመዘገቡትን፣ የታገዱትንና ከመዝገብ የተሠረዙትን የበጎ አድራጊነት ድርጅቶችና ማህበራት ዝርዝር በጋዜጣ ያወጣል፡፡

፩፫. የበጎ አድራጊነት ድርጅት ወይም ማህበር ቅርንጫፍ

- ፩. ማንኛውም የበጎ አድራጊነት ድርጅት ወይም ማህበር አስቀድሞ ኤጀንሲውን በማሳወቅ በመተዳደሪያ ደንቡ መሠረት ቅርንጫፍ ሊከፍት ይችላል፡፡
- ፪. በዚህ አንቀጽ ንዑስ አንቀጽ (፩) መሠረት ለሚከፈሉት ቅርንጫፍ የሚሰጠው ሥልጣን ራሱን የቻለ የበጎ አድራጊነት ድርጅት ወይም ማህበር የሚያደርገው ወይም የበጎ አድራጊነት ድርጅቱ ወይም ማህበሩ በቂ ቁጥጥር እንዳያደርግ የሚያደርገው ሊሆን አይችልም፡፡

፩፬. ስያሜ፣ የሥራ ቦታ ወይም መተዳደሪያ ደንብ ስለመለወጥ

- ፩. ማንኛውም የበጎ አድራጊነት ድርጅት ወይም ማህበር ስያሜውን ወይም የሥራ ቦታውን ከለወጠ ወይም መተዳደሪያ ደንቡን ካሻገረ ለውጡን ወይም ማሻሻያውን ለኤጀንሲው አቅርቦ በዚህ አዋጅ አንቀጽ ፩፪ መሠረት ማስመዝገብ አለበት፡፡

72. Register of Charities and Societies

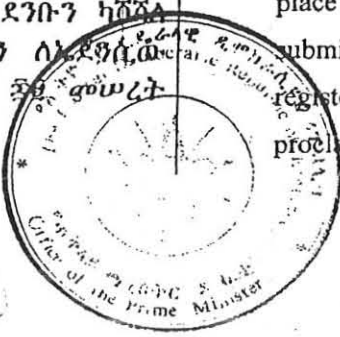
1. The Agency shall keep a register of Charities and Societies in which shall be entered such particulars as it may from time to time determine of any Charities and Societies registered therein;
2. A copy of or extract from any such document certified to be a true copy or extract under the signature of the Director of the Agency and seal of the Agency shall be admissible in evidence in any proceedings;
3. The register of Charities and Societies may be prepared and kept in such manner as the Agency may think fit, including in electronic form.
4. The Agency shall, by notification in the Gazette, publish the list of Charities and Societies registered, suspended or cancelled under this proclamation.

73. Branch of a Charity or a Society

1. Any Charity or Society may establish a branch based on its rules by giving prior notice to the Agency;
2. The powers of the branch of the charity or society established under Sub-article (1) of this Article shall not make it an independent Charity or Society or not adequately under the control of the charity or society.

74. Change of Name, Place of Work or Rules

1. If a Charity or Society Changes its name, place of work or amends its rules, it shall submit the change or amendment and get it registered under article 69 of this proclamation



፪. የበጎ አድራጎት ድርጅት ወይም ማሕበር ከተመዘገበ በኋላ በዚህ አዋጅ አንቀጽ ፪ ንዑስ አንቀጽ (፩)፣ (፫)፣ (፬) ወይም (፭) የተደነገገው በማናቸውም ምክንያት ሳይከበር መታለፉ ከተረጋገጠ ኤጀንሲው በተወሰነ የጊዜ ገደብ ውስጥ መተዳደሪያ ደንቡ እንዲሻሻል ወይም ጉድለቱ እንዲታረም ሊያዝ ይችላል።

፫. በዚህ አንቀጽ መሠረት የተፈጸመ የስም ለውጥ የበጎ አድራጎት ድርጅቱን ወይም ማሕበሩን ማናቸውንም መብቶች ወይም ግዴታዎች አይነካም። በቀድሞ ስሙ በእርሱ ወይም በራሱ ላይ ቀጥለው ወይም ተጀምረው የነበሩ ክርክሮች በአዲሱ ስም ይቀጥላሉ ወይም ይጀመራሉ።

፪፭. በምልክቶች ስለመጠቀም

፩. ማንኛውም የበጎ አድራጎት ድርጅት ወይም ማሕበር በኤጀንሲው ሳያስመዘግብ ማናቸውንም ምልክት መጠቀም አይችልም።

፪. ኤጀንሲው በዚህ አንቀጽ ንዑስ አንቀጽ (1) መሠረት የቀረበለትን ዓርማ ለመመዝገብ በዚህ አዋጅ አንቀጽ ፪ የተደነገጉትን የምዝገባ መመዘኛዎችን ግምት ውስጥ ያስገባል።

፪፮. የምስክር ወረቀትን በይፋ ስለ ማሣየትና ስለ ማስታወቂያ ስሌዳ

፩. ማንኛውም የበጎ አድራጎት ድርጅት ወይም ማሕበር የምዝገባ የምስክር ወረቀቱን በዋናው መሥሪያ ቤትና ግልባጩን በየቅርንጫፎቹ ለማናቸውም ጉብኚ ሊታይ በሚችል ቦታ ማስቀመጥ ይኖርበታል።

፪. አንድ የበጎ አድራጎት ድርጅት ወይም ማሕበር የማስታወቂያ ሠሌዳ የሚጠቀም ከሆነ ኤጀንሲው በመመሪያ የሚወስናቸውን ዝርዝሮች በሰሌዳው ላይ መለጠፍ ይኖርበታል።

፪፯. ፈቃድ ስለማሳደስ

፩. የበጎ አድራጎት ድርጅቶች በዚህ አዋጅ አንቀጽ ፪፱ እና ፹፩ መሠረት አመታዊ የሥራ ክንውን ሪፖርትና የሂሳብ መግለጫዎችን ለኤጀንሲው የማቅረብ ግዴታቸው እንደተጠበቀ ሆኖ ፈቃዳቸውን በየሦስት ዓመቱ ማሳደስ አለባቸው።

2. The Agency may, after setting a reasonable time limit, order the amendment of the rule or correction of a fault where it is found that the provisions of Sub-articles (1), (3), (4) and (5) of Article 70 are not complied with.

3. A change of name by a Charity or Society under this article shall not affect any rights or obligations of the Charity or Society; and any legal proceeding that might have been commenced by or against it in the former name may continue in its new name.

75. Use of Symbols

1. No Charity or Society shall use any symbol without having registered such symbol by the Agency.

2. The Agency shall consider the the requirements of registration under Article 70 while registering a symbol under Sub-article (1) of this article.

76. Display of Certificate and Use of Advertisement Boards

1. Every Charity or Society shall keep its certificate of registration in its Head Office and a copy thereof in its branches in a place that is visible to any visitor;

2. Where a Charity or Society uses an advertisement board, it shall affix on such board those particulars as are determined by the directives of the Agency;

77. Renewal of License

1. Whithout prejudice to the obligation of Charities to submit statements of accounts and annual reports as stipulated under Article 79 and 81 of this proclamation, the license of Charities and Societies shall be renewed every three years.

፪. ፈቃድ የሚታደሰው በፈቃድና ምዝገባ ሰርተፊኬቱ ላይ የተገለፀው ጊዜ የሚያገለግልበት የመጨረሻ ቀን ካለፈ በኋላ ባለት ሁለት ወራት ውስጥ ነው።

፫. ኤጀንሲው፡

ሀ. የበጎ አድራጎት ድርጅቱ የሥራ አፈጻጸምና የአዲት ሪፖርቶች የተሟሉና ትክክለኛ መሆናቸውን፤ እና

ለ. የበጎ አድራጎት ድርጅቱ ወይም ማህበሩ የዚህን አዋጅ ድንጋጌዎች ወይም በዚህ አዋጅ መሠረት የወጡ ደንቦችንና መመሪያዎችን ወይም በኤጀንሲው የተሰጡ ትዕዛዞችን ወይም የራሱን መተዳደሪያ ደንብ ያልጣለ መሆኑን፤

ሲያረጋግጥና አስፈላጊው የማሳደሻ ክፍያ ከተፈጸመ በኋላ ፈቃዱን ያድሳል።

ክፍል ስድስት

ስለ የበጎ አድራጎት ድርጅቶችና ማህበራት ሂሳብ እና ሪፖርቶች

፩. የሂሳብ መዝገብ የመያዝ ግዴታ

፩. የበጎ አድራጎት ድርጅት ወይም ማህበር የሥራ መሪዎች የበጎ አድራጎት ድርጅቱን ወይም ማህበሩን የገንዘብ እንቅስቃሴዎች የሚያብራራ እና በማናቸውም ጊዜ ሊያሳይ የሚችል የሂሳብ መዝገብ የመያዝ ግዴታ አለባቸው፤

፪. የበጎ አድራጎት ድርጅቱ ወይም ማህበሩ የሂሳብ ሰነዶች የበጎ አድራጎት ድርጅቱ ወይም ማህበሩ የተቀበለውን ጠቅላላ ገንዘብና ያወጣውን ወጪ፤ የወጪውን ምክንያት፤ ሀብትና ዕዳ ያካተቱ መሆን አለባቸው፤

፫. የበጎ አድራጎት ድርጅቶችና ማህበራት ስሙ ካልተገለፀ ሰው ልገላ መቀበል አይችሉም። በማናቸውም ጊዜ የሰጧቸውን ማንነት በግልጽ የሚያመለክቱ መዝገቦችን መያዝ አለባቸው።

፬. የበጎ አድራጎት ድርጅቱ ወይም ማህበሩ የሥራ መሪዎች በዚህ አንቀጽ መሠረት የተዘጋጁ የሂሳብ ሰነዶችን የተዘጋጁበት የበጎ አድራጎት ድርጅቱ ወይም ማህበሩ የሂሳብ ዓመት ካልፈለገ በኋላ ቢያንስ ለ፭ ዓመታት ጠብቀው አለባቸው።

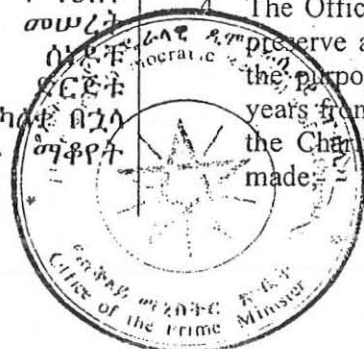
2. The license shall be renewed not later than two months after the expiry date mentioned on the license and registration certificate.
3. The Agency shall renew the license of Charities upon payment of renewal fees and when it ensures that;
 - a. the performance and audit reports are complete and accurate;
 - b. the Charity or Society has not violated the provisions of this Proclamation or Regulations or directives issued thereunder.

SECTION SIX

CHARITY AND SOCIETY ACCOUNTS AND REPORTS

78. *Duty to Keep Accounting Records*

1. The Officers of a Charity or Society shall ensure that accounting records are kept in respect of the Charity or Society which are sufficient to show and explain all the transactions and disclose at any time;
2. The accounting records shall, in particular, contain entries showing from day to day all sums of money received and expended by the Charity or Society, and the matters in respect of which the receipt and expenditure takes place; and record of the assets and liabilities of the Charity or Society;
3. Charities and Societies may not receive anonymous donations and shall at all times keep records that clearly indicate the identity of donors;
4. The Officers of a Charity or Society shall preserve any accounting records made for the purposes of this Article for at least 5 years from the end of the financial year of the Charity or Society in which they are made;



፭. ኤጀንሲው ሰነዶች እንዲወድሙ ወይም በሌላ መንገድ እንዲወገዱ በጽሁፍ ካልፈቀደ በስተቀር ከሂሳብ ሰነድ ጋር በተያያዘ በንዑስ አንቀጽ (፬) የተገለጸው አምስት ዓመት ከማለቁ በፊት የበጎ አድራጎት ድርጅቱ ወይም ማህበሩ ሕልውና ካከተመ የሂሳብ ሰነዶችን ጠብቆ የማቆየት ግዴታ በበጎ አድራጎት ድርጅቱ ወይም በማህበሩ ቀሪ የሰራ መሪዎች ተፈጻሚ መሆኑ ይቀጥላል።

፪. ዓመታዊ የሂሳብ መግለጫ

፩. ማንኛውም የበጎ አድራጎት ድርጅት ወይም ማህበር ተቀባይነት ባላቸው መመዘኛዎች መሰረት የተዘጋጀ ዓመታዊ የሂሳብ መግለጫ ለኤጀንሲው በአድራሻ መላክ አለበት።

፪. የዚህ አንቀጽ ንዑስ አንቀጽ (፩) ቢኖርም የሚያንቀሳቅሱት ገንዘብ ከብር ፶፱ የሚበልጥ የበጎ አድራጎት ድርጅቶችና ማህበራት ገቢን፣ ወጪን፣ ሃብትንና ዕዳን የሚያመለክት መግለጫ ብቻ ማቅረብ ይችላሉ።

፫. የበጎ አድራጎት ድርጅት ወይም ማህበር የሥራ መሪዎች በዚህ አንቀጽ ንዑስ አንቀጽ (፩) እና (፪) መሠረት የተዘጋጀ የሂሳብ መግለጫና ተያያዥ ሰነድ የበጀት ዓመቱ ካበቃበት ቀን ጀምሮ ቢያንስ ለአምስት ዓመታት ጠብቀው ያቆያሉ።

፬. ዓመታዊ የሂሳብ ምርመራ ስለማድረግ

፩. የማንኛውም የበጎ አድራጎት ድርጅት ወይም ማህበር ሂሳብ በየዓመቱ በተመለከለበት አዲተር ወይም የውስጥ አዲተር ወይም ኤጀንሲው በሚሾመው አዲተር መመርመር አለበት።

፪. ማንኛውም የበጎ አድራጎት ድርጅት ወይም ማህበር በውጭ አዲተር የመመርመር ግዴታ የሚኖርበት አግባብነት ባለው የበጀት ዓመት ቀድሞ ያለው የበጀት ዓመት ሂሳብ ከብር ፶፱ የሚበልጥ ሊሆን ነው።

5. Unless the Agency consents in writing to the records being destroyed or otherwise disposed of, where a Charity or Society ceases to exist within the period of 5 years mentioned in Sub-article (4) as it applies to any accounting records, the obligation to preserve those records in accordance with that Sub-article shall continue to be discharged by the last officers of the Charity or Society.

79. Annual Statements of Accounts

1. Any Charity or Society shall submit to the Agency an annual statement of accounts prepared in accordance with acceptable standards;

2. Notwithstanding Sub-article (1) of this Article, Charities and Societies whose annual flow of funds does not exceed Birr 50,000.00, the statement of accounts may choose to prepare a receipts and payments account and a statement of assets and liabilities;

3. The Officers of a Charity or Society shall preserve any statement of accounts and related documents prepared under Sub-article (1) and (2) of this Article for at least 5 years from the end of the financial year.

80. Annual Examination of Accounts

1. Any Charity's or Society's account shall be examined annually by a Certified Auditor or internal auditor or an auditor designated by the Agency;

2. Any Charity or Society shall be audited by an External Auditor where its annual gross income immediately preceding the specified budget year is more than Birr 100,000.00;

፫. የዚህ አንቀጽ ንዑስ አንቀጽ (፪) ቢኖርም ሚኒስትሩ በሚያወጣው መመሪያ መሰረት ማንኛውም ዓይነት የሂሳብ ምርመራ በማንኛውም ጊዜ በውጭ ወይም በውስጥ ኤጀንሲው በሚሾመው አዲተር ሊመረመር ይችላል።

፬. የበጎ አድራጎት ድርጅቱ ወይም የማሕበሩ ሂሳብ ዓመቱ ባለቀ አምስት ወራት ውስጥ ካልተመረመረ ወይም በውጭ አዲተር ማስመርመር የተሻለ ሆኖ ሲገኝ ኤጀንሲው አዲተር ሾሞ ማስመርመር ይችላል።

፭. በዚህ አንቀጽ ንዑስ አንቀጽ (፬) መሠረት በኤጀንሲው በተሾመው አዲተር ለተከናወኑ ማናቸውም የአዲት ሥራዎች ወጭ የሚከፍለው የሚመለከተው የበጎ አድራጎት ድርጅት ወይም ማህበር ወይም ጥፋተኛ ሆነው ሲገኙ የሥራ መሪዎቹ ይሆናሉ።

፹፩. ዓመታዊ የሥራ ክንውን ሪፖርት

፩. የሥራ መሪዎች የበጎ አድራጎት ድርጅቱን ወይም የኢትዮጵያ ነዋሪዎች ማህበርን የእያንዳንዱን የበጀት ዓመት ዋና ዋና ክንዎች ሪፖርትና አስፈላጊ መረጃ በማዘጋጀት ለኤጀንሲው ማቅረብ አለባቸው።

፪. በዚህ አንቀጽ ንዑስ አንቀጽ (፩) የተመለከተው ሪፖርት የሂሳብ ዓመቱ ባለቀ በሦስት ወር ጊዜ ውስጥ እንዲሁም ኤጀንሲው በማናቸውም ልዩ ምክንያት በሚጠይቀው ጊዜ ውስጥ የሥራ መሪዎቹ ለኤጀንሲው ማቅረብ አለባቸው።

፫. ማንኛውም የሥራ ክንውን ሪፖርት ለኤጀንሲው ሲደረግ የሂሳብ መግለጫ አብሮ መያያዝ አለበት።

፹፪. ዓመታዊ ሪፖርት ለሕዝብ ክፍት ስለማድረግ

በኤጀንሲው ዘንድ የሚገኝ ማናቸውም የበጎ አድራጎት ድርጅቶች ወይም ማህበራት የዓመት ሪፖርት ወይም ሌላ ሠነድ ጉዳዩ በሚመለከተው አካል ወይም በኤጀንሲው ወይም በሚመለከተው የዘርፍ አስተዳዳሪ ወይም በበጎ አድራጎት ድርጅቱ እና ማህበሩ ውሳኔ በማናቸውም ለሕዝብ ክፍት ሊደረግ ይችላል።

3. Notwithstanding Sub-article (2) of this Article, examination of account may be conducted by an external or internal auditor or an auditor designated by the Agency any time according to the directives issued by the minister;

4. Where it appears to the Agency that the account of a Charity or Society is not audited within five months from the end of that year or to be audited by a certified external auditor, the Agency may appoint an Auditor;

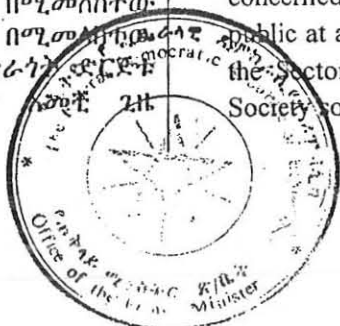
5. In accordance with Sub-article (4) of this Article, the expenses of any audit carried out by an Auditor appointed by the Agency shall be paid by the Charity or Society concerned, or where at faults the Officers of the Charity or Society.

81. Annual Activity Report

1. The Officers of a Charity or Ethiopian residents societies shall prepare and transmit to the Agency an annual activity report on the major activities and relevant information regarding the Charity.
2. The annual activity report required under Sub-article (1) of this Article shall be transmitted to the Agency within three months from the end of that financial year or within such period as the Agency may for any special reason require.
3. Every such annual activity report shall have attached to it the annual statement of accounts.

82. Disclosure of Annual Activity Report

Any annual activity report or other document kept by the Agency, when requested by a concerned body, may be made open to the public at any reasonable time if the Agency or the Sector Administrator or the Charity and Society so decide.



፹፫. ለሌሎች ሰዎች ሪፖርት ስለማድረግ

የዚህ ክፍል ድንጋጌዎች የማህበሩ ወይም የበጎ አድራጊነት ድርጅቱ የመተዳደሪያ ደንብ በዚህ ክፍል ከተጠቀሱት አካላት በተጨማሪ ለሌሎች ሰዎች ወይም ድርጅቶች የሂሳብ መዛግብት፣ የኦዲት ሪፖርቶች እና ዓመታዊ ሪፖርት ማቅረብን አይከለክልም፡፡

፹፬. የባንክ ሂሳብ ስለማስታወቅ

የበጎ አድራጊነት ድርጅት ወይም የማህበር መሪዎች የበጎ አድራጊነት ድርጅቱን ወይም የማህበሩን የባንክ ሂሳብ ከሚፈለገው ዝርዝር ጋር ለኤጀንሲው በየአመቱና በተጠየቁ ጊዜ ማሳወቅ አለባቸው፡፡

ክፍል ሰባት

የበጎ አድራጊነት ድርጅቶችና ማህበራትን ስለመቆጣጠር

፹፭. ምርመራ የማድረግ ሥልጣን

- ፩. ኤጀንሲው በየጊዜው ለአጠቃላይ ወይም ለአንድ የተወሰነ ጉዳይ የበጎ አድራጊነት ድርጅቶችን ወይም ማህበራትን ወይም የተወሰኑ ወይም አንድ ዘርፍ የሆኑ የበጎ አድራጊነት ድርጅቶችን ወይም ማህበራትን የተመለከተ ምርመራ ሊያካሂድ ይችላል፡፡
- ፪. ለአንዲህ ዓይነት ምርመራ ጉዳይ ኤጀንሲው ማናቸውንም የበጎ አድራጊነት ድርጅት ወይም ማህበር ወይም የሥራ መሪ ወይም ሠራተኛ፤
- ሀ. የሚያውቀውን ወይም መረጃ ሊያገኝ የሚያስችለው ምክንያታዊ ግምት ኖሮ ምርመራው የሚካሄድበትን ጉዳይ በተመለከተ ሂሳብና መግለጫ በጽሁፍ እንዲሰጥ፣ ጉዳዩን በተመለከተ ለቀረበለት ጥያቄ ወይም ምርመራ በጽሁፍ መልስ እንዲሰጥ፤

83. Reporting to other Persons

Nothing in this part shall prohibit the rules of a Charity or Society from requiring that books of account, audit reports and annual reports be submitted to persons or organizations in addition to which reports are made under this part.

84. Notification of Bank Accounts

The officers of a Charity or Society shall report to the Agency annually and upon request about all the bank accounts of the Charity or Society with necessary particulars.

SECTION SEVEN

SUPERVISION OF CHARITIES AND SOCIETIES

85. Power to Institute Inquiries

1. The Agency may from time to time institute inquiries with regard to Charities or Societies or a particular Charity or Society or class of charities or societies, either generally or for particular purposes.
2. For the purposes of any such inquiry, the Agency may by order require any Charity or Society or an officer or employee thereof:
 - a. to furnish accounts and statements in writing with respect to any matter in question at the inquiry, being a matter on which that person has or can reasonably obtain information, or to return answers in writing to any questions or inquiries addressed to him/her on any such matter;

ለ. በምርመራው ሂደት መመርመር ያለበትን ማናቸውንም ጉዳይ በተመለከተ በእጁ ወይም በቁጥጥሩ ሥር ያሉትን ሠነዶች ቅጂ እንዲሰጥ፤

ሐ. በተወሰነ ጊዜና ቦታ በመገኘት ማስረጃ ወይም ሠነዶችን እንዲያቀርብ፤

ሊያዝ ይችላል፡፡

4. ኤጀንሲው ምርመራ በሚያካሂድበት ወቅት ከሕዝብ የሚቀርቡ ጥቆማዎችን፣ ከመንግሥት አካላት የሚቀርቡ ሪፖርቶችን እና ከባለው አድራጊነት ድርጅቶችና ከማሕበራት ከራሳቸው የሚቀርቡ ሪፖርቶችን ጨምሮ ማናቸውንም የመረጃ ምንጭ ሊጠቀም ይችላል፡፡

፹፮. ሠነዶች እንዲያቀርቡ የማዘዝና ሪከርዶች እንዲመረመሩ የማድረግ ሥልጣን

፩. ኤጀንሲው በዚህ አዋጅ የተሰጠውን ሥልጣን በሥራ ላይ ለማዋል ከአንድ የባለ-አድራጊነት ድርጅት ወይም ማሕበር ወይም የሥራ መሪ ወይም ሠራተኛ፤

ሀ. አንድን የባለ-አድራጊነት ድርጅት ወይም ማሕበር የሚመለከት በይዞታው ሥር ያለ ማንኛውንም መረጃ በጽሁፍ ወይም በቃል ለኤጀንሲው እንዲሰጥ፤ ወይም

ለ. የሠነዱን መላ ወይም ክፍል ግልባጭ ለኤጀንሲው እንዲሰጥ፤ ወይም

ሐ. ሠነዱ የአንድ ፍርድ ቤት ወይም የመንግሥት መሥሪያ ቤት ሪከርድ ወይም ሠነዶች አካል ካልሆነ በስተቀር ሠነዱን ራሱን ለምርመራ ለኤጀንሲው እንዲሰጥ፤

በትዕዛዝ ሊጠይቅ ይችላል፡፡

፪. ኤጀንሲው በዚህ አንቀጽ ንዑስ አንቀጽ (፩) መሠረት ማናቸውንም ግልባጭ ወይም የሠነድ ክፍል ያለ ክፍያ የማግኘት ሥልጣን አለው፡፡

፹፯. ስብሰባዎችን ስለማስታወቅ

ማንኛውም ማሕበር የማሕበሩ ጠቅላላ ጉዞ ከመካሄዱ ከሰዓት የሥራ ቀናት አስኋታ የስብሰባውን ጊዜና ቦታ ለኤጀንሲው በጽሁፍ ማሳወቅ አለበት፡፡

b. to furnish copies of documents in his/her custody or under his/her control which relate to any matter in question at the inquiry;

c. to attend at a specified time and place and give evidence or produce documents,

3. The Agency may use, for the purpose of the inquiry, any source of information including reports from the public, reports from government agencies including the reports of Charities and Societies.

86. Power to Cause the Production of Documents and Search Records

1. The Agency may, for the purpose of discharging its functions under this Proclamation, by order, require any Charity or Society or an officer or employee thereof:

a. to furnish orally or in writing the Agency with any information in her/his possession which relates to any Charity or Society; or

b. to furnish the Agency with a copy of or extract from the document ; or

c. to transmit the document itself to the Agency for its inspection unless the document forms part of the records or other documents of a court or public authority.

2. The Agency shall be entitled without payment to keep any copy or extract furnished to it under Sub-article (1) of this Article.

87. Notification of Meetings

Any Society shall notify the Agency in writing of the time and place of any meeting of the General Assembly of the Society not later than seven working days prior to such meeting.



፹፮. የበጎ አድራጎች ሥራዎችን ስለማስተባበር

የዘርፍ አስተዳደሪ የበጎ አድራጎች ድርጅቶችንና የዘርፍ አስተዳደሪውን የጋራ ግቦች ለማሳካት የበጎ አድራጎች ድርጅቶች ተቀናጅተው የሚሰሩበትን ሁኔታ ሊያመቻች ይችላል።

፹፱. መረጃ ስለመግለጽ

በሌሎች ሕጎች በግልጽ የተደነገጉት ክልከላዎች እንደተጠበቁ ሆነው ኤጀንሲው ወይም የዘርፍ አስተዳደሪው ሥራዎችን በሚገባ እንዲከናወን ለማስቻል ወይም ለመርዳት ማንኛውም ሰው ያገኛቸውን ማንኛውንም መረጃ ለኤጀንሲው ወይም ለዘርፍ አስተዳደሪው መግለጽ ይችላል።

፺. የአስተዳደራዊና የዓላማ ማስፈጸሚያ ወጪዎች

፩. ማንኛውም የበጎ አድራጎች ድርጅት ወይም ማህበር በየበጀት ዓመቱ ከሚያወጣው ወጪ ከ70 በመቶ የማያንሰውን ዓላማውን ለማስፈጸም እና ከ30 በመቶ የማይበልጠውን ለአስተዳደራዊ ሥራ ማዋል አለበት።

፪. በዚህ አንቀጽ ንዑስ አንቀጽ (1) የተጠቀሰው ቢኖርም ከጠቅላላ ገቢው ከ80 በመቶ በላይ ለዓላማው ማስፈጸሚያ ለሚያውል ወይም የላቀ የሥራ አፈጻጸም ላላ የበጎ አድራጎች ድርጅት ወይም ማህበር መንግሥት የተለያዩ ማበረታቻዎችን ሊያደርግ ይችላል።

፺፩. የውጭ ዜጎችን ስለ መቅጠር

፩. ማንኛውም የበጎ አድራጎች ድርጅት ወይም ማህበር አግባብ ባለው ሕግ መሠረት የሥራ ፈቃድ ያልተሰጠውን የውጪ ዜጋ መቅጠር አይችልም።

፪. የዚህ አንቀጽ ንዑስ አንቀጽ (፩) ድንጋጌ ቢኖርም የውጭ የበጎ አድራጎች ድርጅት የውጭ ዜጋን የሀገር ውስጥ ተወካይ አድርጎ ለመመደብ ገደብ አይኖርበትም።

88. Coordination of Charitable Activities

A sector administrator may make arrangements with charities for coordinated efforts towards the achievement of the common goals of the charities and the said sector administrator.

89. Disclosure of Information

Subject to any express restriction imposed under any other law any person may disclose to the Agency or to any sector administrator any information received by him/her for the purpose of enabling or assisting the Agency or the sector administrator to discharge its functions.

90. Administrative and operational Costs

1. Any charity or society shall allocate not less than 70 percent of the expenses in the budget year for the implementation of its purposes and an amount not exceeding 30 percent for its administrative activities.

2. Notwithstanding subarticle (1) of this article, the government may confer various incentives to a charities or society that allocacte more than 80% of its total income for its operational purposes or demonstrates outstanding performance.

91. Employment of Expatriates

1. No Charity or Society shall employ expatriates unless a work permit is granted in accordance with the relevant law.

2. Notwithstanding the provision of Sub-article (1) of this Article there shall be no restriction on the entitlement of Foreign Charities to designate country representatives.

፱. የንብረት ጥበቃ

፩. ኤጀንሲው ማንኛውንም የበጎ አድራጊነት ድርጅት ወይም ማህበር በተመለከተ በሚያደርገው ክትትል ወይም ምርመራ ተገቢ ያልሆነ የሥራ አመራር ወይም ድርጊት መፈጸሙን ሲያረጋግጥና የበጎ አድራጊነት ድርጅቱን ወይም ማህበሩን ንብረት ለመጠበቅ አስፈላጊ ሆኖ ሲያገኝው የሚከተሉትን እርምጃዎች መውሰድ ይችላል፤

ሀ. ተገቢ ላልሆነው የሥራ አመራር ወይም ድርጊት ሃላፊ የሆነውን የሥራ መሪ ማገድና ሥልጣን ያለው የበጎ አድራጊነት ድርጅት ወይም ማህበር ተተኪ እንዲመድብ ያዛል፤

ለ. የበጎ አድራጊነት ድርጅቱ ወይም ማህበሩ የአሠራር ሥርዓቱን እንዲያሻሽል ያዛል፤

፪. የበጎ አድራጊነት ድርጅቱ ወይም ማህበሩ በዚህ አንቀጽ ንዑስ አንቀጽ (፩)(ሀ) ወይም (ለ) መሠረት የተሰጠውን ትዕዛዝ ተግባራዊ እስከሚያደርግ ድረስ፤

ሀ. ያለ ኤጀንሲው ፈቃድ የበጎ አድራጊነት ድርጅቱን ወይም ማህበሩን የተወሰኑ ግዴታዎች ውስጥ የሚያስገቡ ውሎች እንዳይደረጉ ወይም የተወሰኑ ዓይነት ከፍተኛ እንዳይፈጸሙ ያግዳል፤

ለ. የበጎ አድራጊነት ድርጅቱ ወይም የማህበሩ ንብረት በይዞታው ስር ያለን ሰው ወይም ባለዕዳን ያለ ኤጀንሲው ፈቃድ ንብረቱን እንዳይመለስ ወይም ዕዳውን እንዳይከፍል ያግዳል፡፡

፺. የስራ መሪዎችን በሰ ማንሳትና መተካት

፩. ማንኛውም የበጎ አድራጊነት ድርጅት ወይም የማህበር መሪ በዚህ አዋጅ አንቀጽ ፩፩ ከተመለከቱት መመዘኛዎች አንዱን ያገደለ እንደሆነ ሥልጣን ባለው የበጎ አድራጊነት ድርጅቱ ወይም ማህበሩ አካል እንዲነሳና በሌላ እንዲተካ እንዲደረግ ኤጀንሲው ያዛል፡፡

፪. በዚህ አንቀጽ ንዑስ አንቀጽ (፩) የተጠቀሰው የሥራ መሪ በሌላ እስኪተካ ድረስ ከሃላፊነት እንዲታገድ ኤጀንሲው ይችላል፡፡

92. Protection of Property

1. Where, at any time the Agency has upon an inquiry or investigation with respect to any Charity or Society and is satisfied that there is or has been any misconduct or mismanagement in the administration of the Charity or Society and where it is necessary to act for the purpose of protecting the property of the Charity or Society the Agency may take the following measures:

- suspend the officer responsible for the misconduct or mismanagement and order the appropriate organ of the Charity or Society to assign another person;
- order the Charity or Society to improve its system of operation;

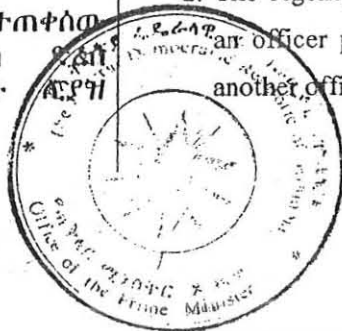
2. Until the Charity or Society acts upon the Agency's orders given pursuant to Sub-articles (1) (a) and (b) of this Article, the Agency may:

- prevent the Charity or Society from entering into certain obligations or making certain types of payments;
- order any person who holds any property on behalf of the Charity or Society or any debtor, not to part with the property or not to pay his/her debt without the approval of the Agency.

93. Removal and Replacement of Officers

1. The Agency may order the appropriate organ of the Charity or Society to remove an officer who falls short of any of the requirements set forth under article 71 and to assign another person as an officer.

2. The Agency may order the suspension of an officer pending his/her replacement by another officer.



፳፬. ፈቃድ ስለማገድና ስለመሰረዝ

፩. ማናቸውም የበጎ አድራጎት ድርጅት ወይም ማህበር፤

ሀ. በዚህ አዋጅ አንቀጽ ፸፬(፪) መሠረት የተላለፈውን የኤጀንሲውን ትዕዛዝ በተወሰነው የጊዜ ገደብ ውስጥ ሳይፈጽም ከቀረ፤

ለ. ያቀረበው ሪፖርት ሀሰተኛ ከሆነ፤

ሐ. የዚህ አንቀጽ ንዑስ አንቀጽ ፪(ሐ) እንደተጠበቀ ሆኖ የዚህን አዋጅ ድንጋጌዎች ወይም በዚህ አዋጅ መሠረት የወጡ ደንቦችንና መመሪያዎችን ወይም በኤጀንሲው የተሰጡ ትዕዛዞችን ወይም የራሱን መተዳደሪያ ደንብ የጣሰ እንደሆነ፤

መ. በዚህ አዋጅ መሠረት ለኤጀንሲው ማቅረብ የሚገባቸውን መረጃዎች በወቅቱ ያላቀረበ እንደሆነ፤

ጉድለቶቹን እስከሚያስተካክል ድረስ ፈቃዱ በኤጀንሲው ሊታገድ ይችላል፡፡

፪. ማናቸውም የበጎ አድራጎት ድርጅት ወይም ማህበር፤

ሀ. የተመዘገበው በማታሰል ወይም በማጭበርበር ከሆነ፤ ወይም

ለ. ሕገወጥ ለሆነ ዓላማ፤ ወይም የሕዝብን ሰላምና የአገርን ደህንነት ለሚጎዱ ዓላማዎች ውሎ ከሆነ፤

ሐ. በዚህ አንቀጽ ንዑስ አንቀጽ (፩) መሠረት ለዕግድ ምክንያት የሆኑትን ጉድለቶች ኤጀንሲው በሚወስነው የጊዜ ገደብ ውስጥ ካላስተካከለ፤ ወይም

መ. በዚህ አዋጅ አንቀጽ ፸፯ መሠረት ፈቃዱን ካላሳደሰ፤

ሠ. የወንጀል ሕጉን ወይም የዚህን አዋጅ ድንጋጌዎች በመጣስ የወንጀል ድርጊት ከፈጸመ፤

ፈቃዱ ይሰረዛል፡፡

94. Suspension and Cancellation of License

፩* Any Charity or Society:

a. that fails to comply with the Agency's orders under article 74(2) of this proclamation within the time limit set by the Agency;

b. that has submitted falsified accounts and reports to the Agency;

c. without prejudice to Sub-article 2(c) of this Article that contravenes the provisions of this Proclamation or Regulations and Directives issued thereunder or orders of the Agency or its own rules;

d. that fails, within the appropriate time, to provide the Agency with information required by this Proclamation;

may be suspended by the agency until it comes into compliance.

፪* The license of any Charity or Society shall be canceled where:

a. its registration has been procured by fraud or misrepresentation;

b. it has been used for unlawful purposes or for purposes prejudicial to public peace, welfare or security;

c. it fails to rectify the causes for suspension within the time limit set by the Agency in accordance with Sub-article (1) of this proclamation; or

d. it fails to renew its license in accordance with article 77 of this proclamation.

e. It commits a crime by violating the provisions of the criminal code or that of this proclamation.

፲፭. የበጎ አድራጊነት ድርጅቶችና ማህበራት መፍረስ

፩. የበጎ አድራጊነት ድርጅት ወይም ማህበር በሚከተሉት ምክንያቶች በኤጀንሲው ሊፈርስ ይችላል፤

ሀ. የበጎ አድራጊነት ድርጅቱ ወይም ማህበሩ ሥልጣን ያለው አካል በመተዳደሪያ ደንቡ መሠረት እንዲፈርስ ሲወስን፤

ለ. የበጎ አድራጊነት ድርጅቱ ወይም ማህበሩ ፈቃድ በዚህ አዋጅ አንቀጽ ፲፬ መሠረት በኤጀንሲው ሲሠረዝ፤ ወይም

ሐ. የበጎ አድራጊነት ድርጅቱ ወይም ማህበሩ ዕዳውን የመክፈል ችሎታ የሌለው ሲሆን፡፡

፪. በዚህ አንቀጽ ንዑስ አንቀጽ (1) መሰረት የኢትዮጵያ የበጎ አድራጊነት ድርጅቶች እና ማህበራት የሚፈርሱት በፌዴራል ከፍተኛው ፍርድ ቤት ውሳኔ ነው፡፡

፲፮. የመፍረስ ውጤት

፩. የበጎ አድራጊነት ድርጅት ወይም ማህበር እንዲፈርስ ትዕዛዝ ወይም ውሳኔ ሲሰጥ፤

ሀ. ንብረቱ ወዲያውኑ የማፍረሱ ውሳኔ በተሰጠበት ትዕዛዝ ወይም ውሳኔ የማፍረስ ሂደቱን እንዲያከናውን በተሾመው ሂሳብ አጣሪ ኃላፊነት ስር ይሆናል፤

ለ. ሂሳብ አጣሪው የበጎ አድራጊነት ድርጅቱን ወይም ማህበሩን እዳዎችና ኃላፊነቶች እንዲሁም የማፍረስ ሂደቱን ለማከናወን የሚያስፈልጉ ወጪዎች ተጠናቀው ከተከፈሉ በኋላ የበጎ አድራጊነት ድርጅቱ ወይም ማህበሩ ቀሪ ንገዘብ ወይም ንብረት ካለ ተመሳሳይ ዓላማ ላለው የበጎ አድራጊነት ድርጅት ወይም ለማንኛውም የበጎ አድራጊነት ድርጅት ወይም ማህበር እንዲተላለፍ ኤጀንሲው ትዕዛዝ ይሰጣል፤

፪. የፈረሰ የበጎ አድራጊነት ድርጅትን ወይም ማህበርን የሂሳብ አጣሪ መሾም በተመለከተ ኤጀንሲው ወይም ፍርድ ቤት የበጎ አድራጊነት ድርጅቱ ወይም ማህበሩ የሥራ ደረጃዎችን ወይም ማኛውንም ሰው ሊሾም ይችላል፡፡

95. Dissolution of Charities and Societies

1. A Charity or Society may be dissolved by the Agency where:

a. the appropriate organ of the Charity or Society decides to dissolve it in accordance with its rules;

b. the Agency cancels the license of the Charity or Society in accordance with Article 94 of this proclamation; or

c. the Charity or Society has become insolvent.

2. The dissolution of Ethiopian Charities and Societies in accordance with subarticle (1) of this article shall be effected by the decision of the Federal High Court.

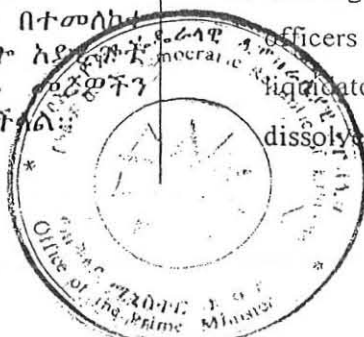
96. Effects of Dissolution

1. Where an order or decision of dissolution against any Charity or Society is given:

a. the property of Charity or Society shall forthwith vest in the liquidator appointed for the purpose of winding up in the dissolution order or decision;

b. the liquidator or that other officer shall proceed to wind up the affairs of the Charity or Society and, after satisfying and providing for all debts and liabilities of the Charity or Society and the costs of winding up, shall transfer the surplus assets, if any, of the Charity or Society to a Charity or Society with a similar purpose or to any Charity or Society by the order of the Agency.

2. The Agency or the court may appoint the officers of a Charity or Society as liquidators for the Charity or Society dissolved.



፫. ሂሳቡ በመጣራት ላይ ያለ የበጎ አድራጎት ድርጅት ወይም ማህበር ከዓላማው ጋር የተያያዘና ሲቋረጡ የማይችሉ ሥራዎችን ኤጀንሲውን በማስፈቀድ ለማጠናቀቅ ካልሆነ በስተቀር ከሂሳብ ማጣራቱ ውጭ ሌላ ተግባር ማከናወን አይችልም፡፡

፬. የበጎ አድራጎት ድርጅቱ ወይም የማህበሩ የሂሳብ ማጣራት ሥራዎች ተጠናቀው ምዝገባው እስከሚሰረዝ ድረስ ሕጋዊ ሰውነቱን እንዲያዝ ይቆያል፡፡

ክፍል ስምንት

ንብረትን ለተቀራራቢ ዓላማ ማዋል

፲፯. ንብረትን ለተቀራራቢ ዓላማ ማዋል ስለሚፈጸምባቸው ሁኔታዎች

፩. የበጎ አድራጎት ስጦታ የመጀመሪያ ዓላማ ሊለወጥ የሚችልባቸውና የተሰጠው ሙሉ ንብረት ወይም ከፊሉ ለሌላ ተቀራራቢ ዓላማ እንዲውል በሚከተሉት ሁኔታዎች ይፈጸማል፤

ሀ. የመጀመሪያው ዓላማ ሙሉ በሙሉ ወይም በከፊል ሲሳካ ወይም የማይሳካ ወይም ሲሳካ የማይችል ሲሆን፤

ለ. ስጦታው ለመጀመሪያው ዓላማ ካለው ንብረት ከፊሉ ብቻ በጥቅም ላይ እንዲውል የሚያመለክት ሲሆን፤

ሐ. የስጦታው መንፈስ ሳይነካ በስጦታው መሠረት ያለው ንብረት እና ለተመሳሳይ ዓላማ የሚውል ሌላ ንብረት እና ቢቀናጁ አመቺ በሆነ ሁኔታ የበለጠ ውጤታማ በሆነ መንገድ ለጋራ ዓላማዎች ጥቅም ላይ ሊውሉ የሚችሉ ሲሆን፡፡

፪. የዘለቄታ በጎ አድራጎት ወይም የአደራ በጎ አድራጎት ድርጅት ማቋቋሚያ ጉዳዩ በሚመለከታቸው የሥራ መሪዎች ላይ ሁኔታው በሚያስገድድበት ጊዜ ንብረቱ ወይም ከፊሉ ለተቀራራቢ ዓላማ ማዋል እንዲፈጸምበት ተገቢ እርምጃዎችን መውሰድ አለባቸው፡፡

፫. ጉዳዩ የሚመለከታቸው የበጎ አድራጎት ድርጅቱ የሥራ መሪዎች በዚህ አንቀጽ ንዑስ አንቀጽ (፩) ስር የተጠቀሱትን ተግባራት ሲፈፅሙ የሚችሉት በሁለት ሦስተኛ ድምፅ ውሳኔ ሲያስተላልፉ ብቻ ነው፡፡

3. A Charity or Society that is being dissolved shall not perform activities other than those necessary for its liquidation unless the Agency authorizes it to undertake activities that are related to its objectives and cannot be discontinued.

4. The Charity or Society shall retain its legal personality until its liquidation is complete and its registration is cancelled.

SECTION EIGHT

APPLICATION OF PROPERTY Cy-près

97. *Conditions for Applying Property Cy-près*

1. The circumstances in which the original purposes of a charitable gift can be altered to allow the property given or part of it to be applied cy-près shall be as follows:

a. where the original purposes in whole or in part have been fulfilled or cannot be fulfilled or impossible to fulfill;

b. where the original purposes provide a use for part only of the property available by virtue of the gift;

c. where the property available by virtue of the gift and other property applicable for similar purposes can be more effectively used in conjunction and to that end can suitably, regard being had to the spirit of the gift, be made applicable to common purposes;

2. An act of endowment or trust for charitable purposes places the concerned officers under a duty, where the circumstances require the property or some part of it to be applied cy-près, to secure its effective use for Charity by taking steps to enable it to be so applied.

3. The competent officers of a Charity may take the actions provided for in Sub-article (1) of this Article only by a two thirds majority decision.

፬. ንብረቱ የተሰጠው ይህ አዋጅ ተፈጻሚ ከመሆኑ በፊት ቢሆንም ይህ አንቀጽ ለበጎ አድራጎች ዓላማዎች በተሰጠ ንብረት ላይ ተፈጻሚ ይሆናል።

፭. በዚህ አንቀጽ መሰረት የሚከናወኑ ተግባራት ተፈጻሚነት የሚኖራቸው በኤጀንሲው ሲጸድቅ ብቻ ነው።

፺፰. የአነስተኛ በጎ አድራጎች ድርጅቶችና ማህበራት ልዩ ድንጋጌዎች

፩. የበጎ አድራጎች ድርጅቱ በመጨረሻው የሒሳብ ዓመቱ ጠቅላላ ገቢው ከ50,000.00 ብር በላይ ካልሆነና የማይንቀሳቀስ ንብረት ባለቤት ካልሆነ በስተቀር የበጎ አድራጎች ድርጅቱ የበላይ አካል የሚከተሉትን ሊፈጽም ይችላል፤

ሀ. የበጎ አድራጎች ድርጅቱ ሁሉም ንብረቶች ለሌላ የበጎ አድራጎች ድርጅት እንዲተላለፍ ወይም እንዲከፋፈል፤

ለ. የመተዳደሪያ ደንቡ ሁሉንም የበጎ አድራጎች ድርጅቱ ዓላማዎች በጎ አድራጎች ወደሆኑ ሌሎች አላማዎች በመለወጥ እንዲሻሻል ማድረግ፤

ሐ. የስራ መሪዎች የበጎ አድራጎች ድርጅቱን በማስተዳደር ረገድ ሊከተሏቸው የሚገቡ ስነሥርዓቶችን በተመለከተ የበጎ አድራጎች ድርጅቱን መተዳደሪያ ደንብ እንዲሻሻል ማድረግ፤

፪. በዚህ አንቀጽ ንዑስ አንቀጽ (፩) መሠረት ማንኛውም ውሳኔ የሚተላለፈው በአደራ ጠባቂዎች ወይም በቦርዱ አባላት ሁለት ሦስተኛ ድምጽ ብቻ ነው፤

፫. በዚህ አንቀጽ መሰረት የሚከናወኑ ተግባራት ተፈጻሚነት የሚኖራቸው በኤጀንሲው ሲጸድቅ ብቻ ነው፤

፬. የዚህ አንቀጽ ንዑስ አንቀጽ (፩) ቢኖርም ኤጀንሲው የበጎ አድራጎች ድርጅቶች በንዑስ አንቀጽ (፩) (ሀ)-(ሐ) የተመለከቱትን ድንጋጌዎች እንዲፈጽሙ ውሳኔ ማድረግ ይችላል።

4. This Article shall apply to property given for charitable purposes, notwithstanding that it was so given before the effective date of this Proclamation.

5. The provisions of this Article shall apply only upon the prior approval of the Agency.

98. Special Provisions to Small Charities and Societies

1. Where the gross income of a Charity in its last financial year does not exceed Birr 50,000.00 and it does not own any immovable property, the competent organs of the Charity may decide that:

a. all the property of the Charity should be transferred or divided to such other charities;

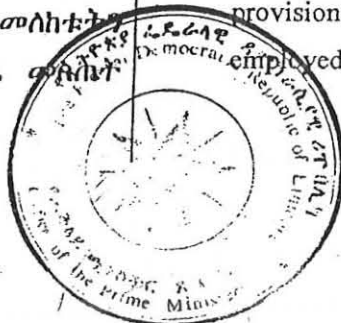
b. the rules of Charity should be modified by replacing all or any of the purposes of Charity with such other purposes, being in law charitable;

c. to amend the rules of charity regarding the procedures that has to be followed by officers to administer the charity.

2. Any action taken under sub-article (1) of this Article must be passed by two-thirds of its trustees or board members.

3. The provisions of this Article shall apply only upon the prior approval of the Agency.

4. Notwithstanding Sub-article 1 of this Article the Agency may determine that the provisions of Sub-article 1 (a)-(c) be employed.



ከፍል ዘመን
ሕዝባዊ መዋጮ

፲፱. ለሕዝባዊ መዋጮ ስለማመልከት

- ፩. ማንኛውም የበጎ አድራጎት ድርጅት ወይም ማሕበር ሕዝባዊ መዋጮ ማካሄድ የሚችለው በኤጀንሲው ሲፈቀድለት ብቻ ነው።
- ፪. በዚህ አንቀጽ ንዑስ አንቀጽ (1) መሰረት የሚሰጥ ፈቃድ የሕዝባዊ መዋጮውን ዓላማ፣ የሚቆይበትን ጊዜ፣ ቦታውንና ሌሎች በኤጀንሲው የሚወሰኑትን መመዘኛዎች መያዝ አለበት።
- ፫. ማንኛውም የበጎ አድራጎት ድርጅት ወይም ማሕበር በዚህ አንቀጽ ንዑስ አንቀጽ (፩) የተደነገገውን ተላልፎ የተሰበሰበው ማንኛውም ገንዘብ ወይም ንብረት በኤጀንሲው ተወርሶ ለተመሳሳይ በጎ አድራጎት ወይም ማህበር ዓላማ እንዲውል ይደረጋል።

፫. በማመልከቻ ላይ መወሰን

- ፩. ሕዝባዊ መዋጮ ለመሰብሰብ ማመልከቻ ሲቀርብ ኤጀንሲው አስፈላጊውን ማጣራት በማድረግ ፈቃዱን በገደብ ወይም ያለገደብ መስጠት ወይም ውድቅ ማድረግ ይችላል፤
- ፪. ኤጀንሲው ማመልከቻውን ውድቅ ካደረገ ወይም በፈቃዱ ላይ ማናቸውንም ገደብ ሲያደርግ ለማመልከቻ አቅራቢው ውሳኔውን ከነምክንያቱ በጽሁፍ መስጠት አለበት።

፫፩. የሕዝባዊ መዋጮ ፈቃድ የሚያስከለክሉ ምክንያቶች

- ኤጀንሲው በሚከተሉት ምክንያቶች የሕዝባዊ መዋጮ ፈቃድ ሊከለክል ይችላል፤
- ፩. ሕዝባዊ መዋጮው ለበጎ አድራጎት ድርጅቱ ወይም ለማህበሩ ዓላማ የሚውል ካልሆነ፤
- ፪. በአመልካቹ የቀረበው መረጃ ሐሰተኛ ወይም አሳሳች ከሆነ፤
- ፫. ሕዝባዊ መዋጮውን የሚያከናውኑት ሰዎች በዚህ አዋጅ አንቀጽ ፸፩ የተደነገጉትን መመዘኛዎች የማያሟሉ ከሆኑ።

SECTION NINE

PUBLIC COLLECTIONS

99. Application for Public Collection

1. No Charity or Society may conduct any public collection unless permit is granted by the Agency.
2. The permit given under this Article shall specify the public collection purpose, duration, place and any other criteria set forth by the Agency.
3. Any money or property collected in contravention of Sub-article (1) of this Article shall be confiscated by the Agency and applied to the purpose of a similar Charity or Society.

100. Decision on Application

1. On receiving an application for public collections permit the Agency may make such inquiries as it deems fit and determine whether to issue or refuse a permit with or without conditions.
2. Where the Agency refuses to issue a permit or attaches any condition to the permit, it must serve on the applicant written notice of its decision and the reasons for its decision.

101. Grounds for Refusal of a Public Collections Permit

The Agency may refuse to permit a public collection on the following grounds:

1. where the public collection is not going to be utilized for the purposes of the Charity or Society
2. any information provided by the applicant is false or misleading.
3. where that any of the persons who are to conduct the public collection do not fulfill the requirements set forth in article 71.

የ፪. ሕዝባዊ መዋጮ የመስብሰብ ፈቃድን ስለመሰረዝ

- ፩. ኤጀንሲው በሚከተሉት ምክንያቶች ሕዝባዊ መዋጮ የመስብሰብ ፈቃድን ሊሰርዝ ይችላል፤
 - ሀ. ፈቃዱ ከተሰጠ በኋላ የዚህ አዋጅ አንቀጽ 99 ድንጋጌዎች እንዳልተሟሉ ሲረጋገጥ፤
 - ለ. ሕዝባዊ መዋጮው ትክክለኛ ባልሆነ መንገድ እንዲተዳደር የተደረገ ሲሆን፤
 - ሐ. ፈቃዱ ሲሰጥ በኤጀንሲው የተጣለው ገደብ የተጣሰ ሲሆን፡፡
- ፪. በዚህ አንቀጽ ንዑስ አንቀጽ (፩) መሠረት ሕዝባዊ መዋጮ የመስብሰብ ፈቃድ ሲሰረዝ የተሰበሰበው ገንዘብ ወይም ንብረት በኤጀንሲው ተወስዶ ለበጎ አድራጉት አላማ ሊሰጥ ይችላል፡፡

**ክፍል አሥር
ልዩ ልዩ ድንጋጌዎች**

የ፫. ቅጣት

- ፩. ማንኛውም የዚህን አዋጅ ድንጋጌዎች የጣሰ የበጎ አድራጎት ድርጅት ወይም ማህበር ወይም ማንኛውም ሰው በወንጀል ሕግ ድንጋጌዎች መሰረት ይቀጣል፡፡
- ፪. የዚህ አንቀጽ ንዑስ አንቀጽ (፩) ቢኖርም፤
 - ሀ. የዚህን አዋጅ አንቀጽ ፩፰ በመጣስ የሂሳብ መዝገብ ያልያዘ፤ የተቀበለውን ገንዘብ፤ የገንዘቡን ምንጭና ወጭ ያልመዘገበ፤ የሂሳብ ሰነዶችን የበጀት ዓመቱ ካበቃበት ቀን ጀምሮ ለአምስት ዓመታት ጠብቆ ያላቆየ የበጎ አድራጎት ድርጅት ወይም ማህበር ከብር ፳፱ (ሃያ ሺ ብር) በማያንስና ከብር ፶፱ (ሃምሳ ሺ ብር) በማይበልጥ መቀጮ ይቀጣል፡፡
 - ለ. የዚህን አዋጅ አንቀጽ ፩፱ በመጣስ ተቀባይነት ባላቸው ደረጃዎች መሰረት የተዘጋጀ ዓመታዊ የሂሳብ መግለጫ ለኤጀንሲው ያልላከ ወይም ገቢው ከብር ፶፱ (ሃምሳ ሺ ብር) በታች ሆኖ ገቢን፤ ወጪንና ሃብትን ዝርዝር ለኤጀንሲው ያላቀረበ ወይም የሂሳብ መግለጫውንና ተያያዥ ሰነድ ለአምስት

102. Grounds for Revocation of a Public Collections Permit

- 1. Agency may revoke a public collection permit where:
 - a. after a permission is granted, it is shown that the requirements under article 99 have not been fulfilled;
 - b. the public collection has been improperly administered;
 - c. the conditions set by the Agency for granting the permit have not been complied with.
- 2. Where the Agency revoke a license under Sub-article (1) of this Article any money or property collected may be taken by the Agency and given to charitable purposes.

**SECTION TEN
MISCELLANEOUS PROVISIONS**

103. Penalty

- 1. Any person who violates the provisions of this proclamation shall be punishable in accordance with the provisions of the criminal code.
- 2. Notwithstanding subarticle (1) of this article;
 - a. any Charity or Society who in violation of article 78 fails to keep its books of accounts, to record money received, its source and the amount expended, to preserve any accounting records for atleast five years from the end of its financial year shall be punishable with fine not less than birr 20,000.00 (Twenty thousand birr) and not exceeding Birr 50,000.00 (Fifty thousand Birr).
 - b. any Charity or Society who in violation of article 79 fails to submit to the Agency an annual statements of account prepared in accordance with acceptable standards; to prepare the statements of receipts, payments and assests and send the same to the agency; to preserve any statements of accounts and related documents for atleast



ዓመት ጠብቆ ያላቆየ የበጎ አድራጎት ድርጅት ወይም ማህበር ከብር (አስር ሺ ብር) በማያንስና ከብር ጽዕ (ሃያ ሺ ብር) በማይበልጥ መቀጮ ይቀጣል።

ሐ. የዚህን አዋጅ አንቀጽ ፹፬ በመጣስ የበጎ አድራጎት ድርጅት ወይም ማህበሩን የባንክ ሂሳብ ከሚፈለገው ዝርዝር ጋር በየዓመቱ እና በተጠየቀ ጊዜ ለኢጀንሲው ያላቀረበ የበጎ አድራጎት ድርጅት ወይም ማህበር ከብር ፶፱ (ሃምሳ ሺ ብር) በማያንስና ከብር ፻፱ (መቶ ሺ ብር) በማይበልጥ መቀጮ ይቀጣል።

መ. የዚህን አዋጅ አንቀጽ ፯ በመጣስ የየበጀት ዓመት አስተዳደራዊ ወጪውን ከበጀቱ ፴ በመቶ በላይ ያወጣ ወይም የዓላማ ማስፈጸሚያ ወጪውን ከ፪ በመቶ በታች ያደረገ የበጎ አድራጎት ድርጅት ወይም ማህበር ከብር ፶፱ (አምስት ሺ ብር) በማያንስና ከብር ፲፱ (አስር ሺ ብር) በማይበልጥ መቀጮ ይቀጣል።

፫. በዚህ አንቀጽ ንዑስ አንቀጽ (2) በተመለከተው ወንጀል ተሳታፊ የሆነ ማንኛውም የበጎ አድራጎት ድርጅት ወይም ማህበር የሥራ ጋላፊ ወይም ሠራተኛ አግባብ ባለው የወንጀል ሕግ ድንጋጌ የተመለከተው የእስራት ቅጣት ተፈጻሚነት እንደተጠበቀ ሆኖ ከብር 10,000 (አሥር ሺህ ብር) በማያንስና ከብር 20,000 (ሃያ ሺህ ብር) በማይበልጥ መቀጮ ይቀጣል።

፪፬. የገቢ ማስገኛ ስራዎች

፩. የበጎ አድራጎት ድርጅት ወይም ማህበር ከኢጀንሲው በጽሁፍ በሚሰጠው ፈቃድ መሠረት ለበጎ አድራጎት ድርጅቱ ወይም ማህበሩ አባላት ወይም ተጠቃሚዎች ሊከፋፈል የማይችል እና ገቢው ለዓላማው ማስፈጸሚያ የሚውል ከአላማው ጋር ተያያዥነት ያላቸውን ገቢ የማመንጨት ሥራዎች ሊያከናውን ይችላል።

five years from the end of its financial year shall be punishable with fine not less than Birr 10,000.00 (Ten thousand birr) and not exceeding birr 20,000.00 (Twenty thousand Birr).

c. any Charity or Society who in violation of article 84 fails to report annually or upon request about all its bank accounts with the necessary particulars shall be punishable with fine not less than birr 50,000.00 (Fifty thousand birr) and not exceeding Birr 100,000.00 (hundred thousand Birr).

d. any Charity or Society who in violation of article 90 fails to allocate not less than 70 percent of its expences in the budget year for the implementation of its purposes and not exceeding 30 percent for its administrative activites shall be punishable with fine not less than Birr 5,000.00 (Five thousand Birr) and not exceeding birr 10,000.00 (Ten thousand Birr).

3. Any officer, or employee of a Charity or Society who participates in the criminal acts stated under sub-article (2) of this Article shall, without prejudice to the applicability of the relevant provisions of the Criminal Code prescribing a penalty of imprisonment, be punishable with fine not less than Birr 10,000 (Ten Thousand Birr) and not exceeding Birr 20,000 (Twenty Thousand Birr).

104. Income Generating Activities

1. Charities or Societies may, upon a written approval of the Agency, engage in income generating activities that are incidental to the achievement of their purposes and the proceeds of which shall not be distributed among the members or beneficiaries of the Charity or Society and are used to further the purposes for which the Charity or Society was established.

፪. ገቢ የሚያስገኙ ስራዎችን የሚሰራ የበጎ አድራጎት ድርጅት ወይም ማህበር ገቢ የሚያስገኙ ሥራዎችን በተመለከተ የተለየ የሂሳብ መዛግብት መያዝ አለበት፡፡

፫. የበጎ አድራጎት ድርጅት ወይም ማህበር ትርፉን ለአባላቱ አከፋፍሎ ወይም የተለየ የሂሳብ መዛግብት ሳይይዝ ቢገኝ ኤጀንሲው በዚህ አዋጅ አንቀጽ ፺፬ መሰረት አግባብነት ያለውን እርምጃ ይወስዳል፡፡

፬. በዚህ አዋጅ የተመለከቱት ድንጋጌዎች በሌሎች ሕጎች ንግድ፣ ኢንቨስትመንትን እና ሌሎች ትርፍ ለማግኘት የሚሰሩ ሥራዎችን ምዝገባና ፈቃድ በሚመለከት የተደነገጉትን መስፈርቶች እና ሥነሥርዓቶች አያስቀሩም፡፡

፫. አቤቱታ እና ይግባኝ

፩. ኤጀንሲው ማንኛውንም በአሰራሩ ላይ የሚቀርብለትን አቤቱታ ተቀብሎ በ ፲፭ ቀን ውስጥ መወሰን አለበት፤

፪. በማንኛውም ኤጀንሲው በሰጠው ውሳኔ ላይ ቅሬታ ያለው ሰው ውሳኔው በተሰጠ በ15 ቀን ውስጥ ለቦርዱ ይግባኝ ማቅረብ ይችላል፡፡ ቦርዱ የሚሰጠው ውሳኔ የመጨረሻ ይሆናል፡፡

፫. የዚህ አንቀጽ ንዑስ አንቀጽ (፪) ቢኖርም የኢትዮጵያ የበጎ አድራጎት ድርጅት ወይም ማህበር በቦርዱ ውሳኔ ላይ ቅሬታ ካለው ቦርዱ ውሳኔ በሰጠ 15 ቀን ውስጥ ለፌዴራል ከፍተኛ ፍርድ ቤት ይግባኝ ማቅረብ ይችላል፡፡

፬. በዚህ አንቀጽ መሰረት በይግባኝ ሂደት ላይ የሚገኝ የምዝገባ ወይም የስረዛ ጉዳይ ከሆነ የሚመለከተው አካል የመጨረሻ ውሳኔ እስኪሰጥ እንዳልተመዘገበ ወይም እንዳልተሰረዘ ይቆጠራል፡፡

2. A Charity or a Society that undertakes income generating activities shall keep separate books of account with respect to such activities.

3. Where a Charity or Society is found to have distributed its profits or should it fail to keep separate books of account, the Agency shall take appropriate measures in accordance with Article 94 of this Proclamation.

4. Nothing in this Proclamation shall affect the requirements and procedures laid down in any other laws concerning the registration and licensing requirements for activities related to trade, investment or any profit making activities.

105. Claims and Appeals

1. The Agency shall decide over the claims made to it in relation to its activities within 15 days.

2. A Charity or Society or any person aggrieved by any decision of the Agency may appeal to the Board within fifteen days from the date of decision. The decision of the Board shall be final.

3. Notwithstanding Sub-article (2) of this Article, Ethiopian Charity or Society aggrieved by the decision of the Board may appeal to the Federal High Court on questions of law within 15 days from the date of his/her decision.

4. Any Charity or Society in the process appeal, where it is in relation to registration or cancellation shall be deemed not registered or cancelled until final decision is rendered by the concerned authority.



፳፯. ወንጀልን ስለመመርመርና ክስ ስለማቅረብ

- ፩. በዚህ አዋጅ ወይም በዚህ አዋጅ መሠረት በወጡ ደንቦች የተደነገገውን ማናቸውንም ወንጀል በተመለከተ የሚካሄድ የምርመራ ወይም የክስ ማቅረብ ሂደት በወንጀል ሥነ ሥርዓት ሕግ ይመራል።
- ፪. የዚህ አንቀጽ ንዑስ አንቀጽ (፩) ቢኖርም ኤጀንሲው ለወንጀል ክስ የሚረዱ ማናቸውንም ማስረጃ በማደራጀት ክስ የመመስረት ሥልጣን ላለው አካል የማቅረብ ግዴታ አለበት።

፳፱. መዋሐድ

- ፩. ሁለት ወይም ከዚያ በላይ የሆኑ የበጎ አድራጎች ድርጅቶች ወይም ማህበራት አግባብነት ባላቸው ሕጎችና በመተዳደሪያ ደንባቸው መሠረት በአዲስ ስም ወይም ከሚዋሃዱት በአንዱ የበጎ አድራጎች ድርጅት ወይም ማህበር ስም ሊዋሐዱ ይችላሉ። ውህደቱ ሲፈጸም የቀድሞ የበጎ አድራጎች ድርጅቶች ወይም ማህበራት መብትና ግዴታ ወደ ተዋሃደው ድርጅት ይተላለፋል።
- ፪. የተዋሃደው አዲስ የበጎ አድራጎች ድርጅት ወይም ማህበር በዚህ አዋጅ መሠረት መመዝገብ አለበት።

፳፻. መከፋፈል

- ፩. የበጎ አድራጎች ድርጅት ወይም ማህበር መተዳደሪያ ደንቡ የሚፈቅድ ከሆነ እና አግባብነት ያለው አካል ከፈቀደ በሕግ መሰረት ሊከፋፈል ይችላል።
- ፪. የተከፋፈለው የበጎ አድራጎች ድርጅት ወይም ማህበር ስልጣን ያለው አካል ተቃራኒ ውሳኔ እስካልሰጠ ድረስ የተከፈለው የበጎ አድራጎች ድርጅት ወይም ማህበር የቀድሞ የበጎ አድራጎች ድርጅት ወይም ማህበር ላለበት ግዴታና መብት እኩል ተካፋይ ነው።

106. Investigation and Prosecution of Offences

- 1. Investigations and prosecution in respect of any offence under this Proclamation or any regulations made hereunder shall be conducted by organs authorized in accordance with the Criminal Procedure Code.
- 2. Notwithstanding Sub-article (1) of this Article, the Agency shall collect and organize any evidence necessary for criminal prosecution and submit the same to the appropriate authority.

107. Merger

- 1. Two or more Charities or Societies may merge into one under a new name or under the name of one of the former Charity or Society in accordance with relevant laws and in accordance with their rules. The rights and obligations of the former Charities or Societies shall be transferred to the newly formed organization.
- 2. The newly established Charity or Society shall be registered anew in accordance with this proclamation.

108. Division

- 1. A Charity or Society may be divided into two or more organizations where its rules allow and its competent organ so determines.
- 2. Unless determined otherwise by the competent organ of the original Charity or Society the Charities or Societies that result from the division shall bear the obligations and utilize the rights jointly.

፫. የቀድሞው የበጎ አድራጎት ድርጅት ወይም ማሕበር ሕልውና የሚያበቃው ለአዲሶቹ የበጎ አድራጎት ድርጅቶች ወይም ማሕበራት የምዝገባና ፈቃድ የምስክር ወረቀት ሲሰጥና የንብረት ክፍፍል ሲደረግ ነው።

፬. በሁሉም አዲሶቹ የበጎ አድራጎት ድርጅቶች ወይም ማሕበራት ስምምነት ከነሱ አንዱ የቀድሞውን የበጎ አድራጎት ድርጅት ወይም ማሕበር ስም ይዞ እንዲቆይ ኤጀንሲው ሊፈቅድ ይችላል።

፲፱. ስለ መቀየር/መለወጥ

፩. ማንኛውም የበጎ አድራጎት ድርጅት በመተዳደሪያ ደንቡ መሰረት በድርጅቱ የበላይ አካል ውሳኔ በዚህ አዋጅ አንቀጽ 2 ንዑስ አንቀጽ (2)፣ (3) ወይም (4) ከተጠቀሱት የበጎ አድራጎት ድርጅቶች ወደ አንዱ ሊቀየርና በኤጀንሲው ሊመዘገብ ይችላል።

፪. ማንኛውም የበጎ አድራጎት ድርጅት በዚህ አዋጅ እና በመተዳደሪያ ደንቡ መሰረት በዚህ አዋጅ ከተጠቀሱት የበጎ አድራጎት ድርጅቶች ዓይነት ወደ አንዱ ሊቀየርና በኤጀንሲው ሊመዘገብ ይችላል።

፲፲ ደንብ የማውጣት ሥልጣን

የሚኒስትሮች ምክር ቤት ይህን አዋጅ ለማስፈጸም የሚያስፈልጉ ደንቦችን ሊያወጣ ይችላል።

፲፲፩. ተፈጻሚነት ስለማይኖራቸው ሕጎች

ይህን አዋጅ የሚቃረን ማንኛውም ሕግ፣ ደንብ፣ መመሪያ ወይም ልምድ ተፈጻሚነት አይኖረውም።

፲፲፪. የመሸጋገሪያ ድንጋጌዎች

፩. ይህ አዋጅ ከመውጣቱ በፊት ቀደም በገበሬው ሕግ የተገኘ መብትና ግዴታ ይህን አዋጅ እስካልተቃረነ ድረስ ይቀጥላል።

3. The existence of the former Charity or Society shall cease at the time when the certificates of license and registration are issued to the new Charities or Societies and division of property is completed.

4. The Agency may allow one of the new Charities or Societies to retain the name of the previous Charity or Society where the retention of such name is agreed upon by all the new Charities or Societies.

109. Conversion

1. Any Charity may be converted into any of the types of charities listed under sub articles (2), (3) and (4) of article 2 of this proclamation and be registered with the Agency where its competent organ so decides in accordance with its rules.

2. Any Charity may be converted into one of the forms of charities under this proclamation and be registered with the Agency where its competent organ so decides in accordance with its rules.

110. Power to Enact Regulations

The Council of Ministers may enact regulations necessary to give effect to this Proclamation.

111. Inapplicable Laws

Any law, regulation, directive and practice contrary to this Proclamation shall have no effect.

112. Transitional Provisions

1. Any right or duty arising under any provision of the repealed laws shall continue unless it contravenes this Proclamation.



፪. ቀደም ሲል የተመዘገቡ ማንኛውም የበጎ አድራጎት ድርጅቶች እና ማህበራት ይህ አዋጅ ከጸናበት ቀን ጀምሮ በአንድ ዓመት ጊዜ ውስጥ እንደገና መመዝገብ አለባቸው፡፡

፻፲፫. አዋጁ የሚጸናበት ጊዜ

ይህ አዋጅ በፌዴራል ነጋሪት ጋዜጣ ከታተመበት ቀን ጀምሮ የጸና ይሆናል፡፡

አዲስ አበባ _____ ወር፤ _____ ቀን 2001 ዓ.ም

ግርማ ወ/ጊዮርጊስ
የኢትዮጵያ ፌዴራላዊ ዴሞክራሲያዊ
ሪፑብሊክ ፕሬዝዳንት

2. All Charities and Societies previously registered shall re-register within one year of the coming into effect of this Proclamation.

113. Effective Date

This Proclamation shall enter into force on the date of its publication in the Federal Negarit Gazzeta.

Done at Addis Ababa, this ____th day of __, 2008.

Girma W/giorgis
President of the federal Democratic
Republic of Ethiopia



የኮ/ቁጥር 38472

ሚያዝያ 25 ቀን 1997 ዓ.ም

የኢትዮጵያ

የፌዴራል ስራና ፍርድ ቤት

ዳኛ:-

ብርሃነ ታዬ

- ከላሽ-----
1. አርጋናይዜሽን ፎር ሶሻል ጀስቲስ ኢን ኢትዮጵያ
 2. አክሽን የባለሙያ ማኅበር ለህዝብ
 3. ራስ አገዝ የሴቶች ማኅበር
 4. ኢኒቪየቲቭ አፍሪካ
 5. የኢትዮጵያ መገናኛ ብዙሃን ባለሙያ ሴቶች ማኅበር
 6. ዜጋ ለዕድገት
 7. ሁንዴ
 8. የአዲስ አበባ ዩኒቨርሲቲ የተማሪዎች ህብረት
 9. የክርስቲያን በጎ አድራጎትና ልማት ድርጅት
 10. የኢትዮጵያ መምህራን ማህበር
 11. ቪክን ፎርጀስቲስ ኢን ኢትዮጵያ
 12. ዩዝ ኔትዎርክ ፎር ሴስቴይናብል ዲቭሎፕመንት
 13. የኢትዮጵያ ሴቶች ማህበራት ቅንጅት
 14. የሥራ አመራር ችሎታ ማሳደሪያ መድረክ
 15. የኢትዮጵያ የህግ ባለሙያዎች ማህበር

ጠበቃ ጌታቸው
አስፋ ቀረቡ

ተከሣሽ----- የኢትዮጵያ ምርጫ ቦርድ ወኪል መኮንን ወንድሙ ቀርበዋል::

መዝገቡ ተመርምሮ የሚከተለውን ፍርድ ተሰጠ::

ፍ ር ድ

ከላሾች በ14/08/97 ዓ.ም በተፃፈ አቤቱታቸው ተከላሽ መጋቢት 27 ቀን 1997 ዓ.ም ስለሃገር ውስጥ ተዛቢዎች የዕውቅና ፈቃድ አሰጣጥ ባወጣው መመሪያ አንድ አገር በቃል ድርጅት የምርጫውን ሂደት ለመታዘብ የሚችለው ለህጋዊ ሰወነት ሲመዘገብ ምርጫ መታዘብን አንዱ አላማው አድርጎ ያካተተ መሆኑን የሚገልፅ ከመንግሥት የተሰጠ ፈቃድ ሲያቀርብ ነው የሚል ድንጋጌ አካቷል ይህ መመሪያ አለማቀፍ ህጎችን ፣ የተሻሻለውን የምርጫ አዋጅ አንቀፅ 23 እና ህገመንግሥቱን ይፃረራል ምርጫ ቦርዱን መመሪያውን



እንዲያሻሽል በተደጋጋሚ ብናመለከትም ፈቃደኛ ባለመሆኑ መመሪያው ተነስቶልን ምርጫ እንታዘብ በማለት ጠይቀዋል።

ተከላሽ ሚያዝያ 19 ቀን 1997 ዓ.ም በፅሁፍ ባቀረበው መልስ ከሳሾች ህጋዊ ሰውነት የላቸውም፣ ፍ/ቤቱ ጉዳዩን ለማየት ሥልጣን የለውም የሚል ይዘት ያላቸው የመጀመሪያ ደረጃ መቃወሚያዎችን አቅርቧል።

ተከላሽ ለፍሬ ጉዳይ በሰጠው መልስ በአዋጅ ቁጥር 111/87 አንቀፅ 5/1/ለ/ሥር በተሰጠው መመሪያ የማውጣት ሥልጣን መሠረት የወጣ መመሪያ በመሆኑ ሊነቀፍ አይችልም መመሪያው ዋጋ ሊያጣ የሚችለው ለታዛቢነት መሟላት ያለባቸውን መመሪያዎች /መመዘኛዎች/ በማውጣቱ ሳይሆን አንድ ሰው በምርጫ ታዛቢነት ሊሠማራ የማይችልበትን ሁኔታ የሚደነግግ ሆኖ ከተገኘ ብቻ ነው።

ማንኛውም ማህበር /association/ በፍትሕ ሚ/ር ሲመዘገብ መተዳደሪያ ደንብ ያቀርባል። ይህም የማህበራን ዓላማና ተግባር የሚያሳይ ነው። ምርጫ መታዘብን በዓላማነት አካተው ፈቃድ የወሰዱ ማህበራት በርካታ ናቸው። ሌሎችም ስለምርጫ ትምህርት መስጠትን በመተዳደሪያ ደንቦቻቸው አካተዋል። ስለዚህ ከዚህ ውጭ፣ ከዓላማና ተግባራቸው ውጭ በምርጫ ታዛቢነት ሲሰማራ ብሎ ክስ ማቅረብ ተገቢ አይደለም።ይህም ከሌሎች መመዘኛ ከገለልተኝነት ጋር አብሮ መታየት ያለበት ጉዳይ ነው።ክስ ውድቅ ሆኖ ውጭና ኪሣራ ይከፈላል በማለት ተከራክሯል።

የፅሁፍ ክርክሩ ካበቃ በኋላ ፍ/ቤቱ በ24/8/97 ዓ.ም ግራ ቀኙን በቃል አከራክሯል። ተከላሾች በዚህ ክርክር ወቅት የምርጫ ታዛቢነት ፈቃድ ለሃይማኖት ተቋማት ተሰጥቶ ለኛ መከልከሉ አድልዎ ነው ሲሉ፣ ተከላሽ ግን ሃሰት ነው ገና ፈቃድ አልተሰጠም ብሏል።

ከሞላ ጉደል ክርክሩ ከላይ የተመለከተው ሲሆን ፍ/ቤቱ ሊመለሱ ይገባል ሲል የያዛቸው ጭብጦች።

- 1ኛ/ ከሳሾች ህጋዊ ሰውነት አላቸው ወይ?
 - 2ኛ/ ፍ/ቤቱ ሥልጣን አለው ወይ?
 - 3ኛ/ ምርጫ እንዲታዘበ ሕግ የሚፈልቀደው ለነማን ነው?
 - 4ኛ/ አዋጁና መመሪያው ይጣጣማሉ ወይስ ይጣላሉ?
- የሚሉትን ነው።

ወደ መጀመሪያው ነጥብ ስንመጣ ከላይ በተራ ቁጥር 8 ሥሙ ከተጠቀሰው የአዲስ አበባ ዩኒቨርሲቲ የተማሪዎች ህብረት በቀር ሌሎች የሕጋዊ ሰውነት ማረጋገጫ ሰርተፊኬት ከፍትሕ ሚ/ር የተሰጣቸውን ስላቀረቡ ለሕጋዊ ሰውነታቸው በቂ ማረጋገጫ ነው። 8ኛ ከሳሽ ከነ ማስረጃ ባለማቅረቡ በፍ/ብ/ሥ/ሥ/ቁ/199/1/ መሠረት ፍ/ቤቱ ከክስ

፲፱፻፶፯ ዓ.ም. ሰኔ ፳፻፱ ቀን በዓለም አቀፍ የፍትሕ ተቃውሞ ምክር ቤት ስብሰባ ላይ በሚከተለው ዓላማ ስር ስብሰባ ተካሂዷል፡-

ሌላው ነጥብ የሃይማኖት ተቋማት ለመታዘብ አልተፈቀደላቸውም ቢባልም በተለያዩ የፅሁፍና ኤሌክትሮኒክ ሚዲያዎች በቦርድ የተሰጡት መግለጫዎች ግን መፈቀዱን ያሳያሉ በተለይም በትናንት ምሽት የቴሌቭዢን የአማርኛ ዜና ዕውጃ ለሶስት የሃይማኖት ተቋማት የመታዘብ ፈቃድ መስጠቱ ተገልጿል። ይህ የሚያሳየው ህዝባዊ አድረጃጀት ሲባል የግል ምርጫ የመታዘብ ዓላማ መኖርን ሳይሆን የህዝቡ ማህበራት መሆናቸው ብቻ በቂ መሆኑን ነው። ስለዚህ ምርጫ ለመታዘብ በምርጫ ሕጉ ማሻሻያ አዋጅ አንቀጽ 12 መሠረት በመተዳደሪያ ደንቡ ውስጥ ማካታት አስፈላጊ ሆኖ ፍ/ቤቱ አላገኘውም።

በመሆኑም የኢ/ፌ/ድ/ሪ/ የምርጫ ቦርድ መጋቢት 27 ቀን 1997 የወጣው መመሪያ የምርጫ ህግ ማሻሻያ አዋጅ ቁጥር 438/97 አንቀጽ 12 የጣሰ ነው።

ው ሣ ኔ

የምርጫ ቦርድ መጋቢት 27/97 ዓ.ም ያወጣው መመሪያ ከአዋጅ ጋር የሚጋጭ በመሆኑ ከአዲስ አበባ ዩኒቨርስቲ የተማሪዎች ህብረት በስተቀር የሌሎች 14 ከሳሾች በህግ የተሰጠ መብት የሚነካ በመሆኑ ተፈጻሚ ሊሆነባቸው አይገባም። የግንቦት 7 ቀን 1997 ዓ.ም የምርጫ ሂደትን እንዲታዘቡ ፍ/ቤቱ ወስኗል።



የዳኛ ፊርማ:-

ብርሃኑ ታዬ

