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**ADDIS ABABA UNIVERSITY**

**COLLEGE OF LAW AND GOVERNANCE STUDIES**

**SCHOOL OF LAW**

**THE IMPLICATION OF THE ORGANIZATIONS OF CIVIL SOCIETIES  
PROCLAMATION No. 1113/2019 ON THE PROMOTION AND PROTECTION  
OF HUMAN RIGHTS IN ETHIOPIA**

**BY: TISO GOBANA DUBE**

**CANDIDATE ID NO.: GSR/5173/11**

**ADDIS ABABA UNIVERSITY, ETHIOPIA**

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BY: TISO GOBANA DUBE

A RESEARCH PAPER SUBMITTED FOR THE PARTIAL FULFILLMENT OF  
THE REQUIREMENTS OF MASTERS OF LAWS DEGREE IN  
INTERNATIONAL HUMAN RIGHTS LAW.

ADVISOR: MIZANIE ABATE (PhD, Associate Professor)

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## **List of Abbreviations**

ACHPR	African Charter on Human and Peoples' Rights
ACRWC	African Charter on the Rights and Welfare of Child
ACHPR	African Commission on Human and Peoples' Rights
Art.	Article
CRC	Convention on the Rights of Child
CSO	Civil Society Organization
CSOs	Civil Society Organizations
CSOA	Civil Society Organizations Agency
CARE	Child and Adolescent Resources and Education
CSSDCA	Conference on Security, Stability, Stability and Cooperation in Africa
FDRE	Federal Democratic Republic of Ethiopia
ICCPR	International Covenant on Civil and Political Rights
ICESCR	International Covenant on Economic, Social and Cultural Rights
EPRDF	Ethiopian People's Revolutionary Democratic Front
ECOSOC	Economic and Social Council
ESCR	Economic Social and Cultural Rights
FDRE	Federal Democratic Republic of Ethiopia
HPR	House of Peoples Representative
ILO	International labour Organization

MoJ	Ministry of Justice
NEPAD	New Partnership for Africa's Development
NGOs	Non-Governmental Organizations
No.	Number
OAU	Organization of African Union
OSCE	Council of Europe and the Organization for Security and Co-operation in Europe
Para.	Paragraph
P.	Page
UDHR	Universal Declaration of Human Rights
UN	United Nations
UK	United Kingdom
US	United State
VAT	Value Added Tax
Vol.	Volume

## **Declaration**

I hereby declare that the study on “The Implication of the Organizations of Civil Societies Proclamation No. 1113/2019 on the Promotion and Protection of Human Rights in Ethiopi”” is my own work and the sources used are duly cited and acknowledged.

# Approval Sheet

## Candidate

Name \_\_\_\_\_

Signature \_\_\_\_\_

Date \_\_\_\_\_

## Principal supervisor

Name \_\_\_\_\_

Signature \_\_\_\_\_

Date \_\_\_\_\_

## Approved by board of examiners

### Examiner 1

Name \_\_\_\_\_

Signature \_\_\_\_\_

Date \_\_\_\_\_

### Examiner 2

Name \_\_\_\_\_

Signature \_\_\_\_\_

Date \_\_\_\_\_

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## **Abstract**

*Recently Ethiopia adopted Civil Society Organizations Proclamation to give effect to the freedom of association enshrined under FDRE constitution as well as international human rights instruments ratified by Ethiopia, to create an enabling environment essential to enhance the role of Civil Society Organizations in the development and democratization of the country and nurture the culture of philanthropy and voluntarism in the society.*

*The role Civil Society Organizations socio-economic and cultural as well as in political transformation and democratization in a given country is very important. This need effective regulatory framework, pro-CSOs and enabling legal regime.*

*The purpose of this study is to assess the improvement, challenges and the prospect as well as the implication of the Civil Society Organizations Proclamation No. 1113/2019 on the promotion and protection of human rights.*

*Key words: Human Rights, Civil Society Organizations, Civil Society Organizations Law, Proclamation No. 1113/2019, the implication, protection and promotion of human rights.*

# CHAPTER ONE

## INTRODUCTION

### 1.1. Background of the study

#### **“Mankind cannot survive but in groups” (Adam Ferguson)**

There is no universal definition for the term civil society organizations (hereinafter CSOs), As a result, different definitions are given to them depending on the result to be achieved.<sup>1</sup>

The attempt to define the civil society organizations for the first time was made in Nepal and it define Civil Society Organization as peoples’ formal, not for profit, autonomous, democratic, non-religious (secular but spiritual), non-political, right based, open charitable, meets to unmeet organization for social welfare and development in between state and market.<sup>2</sup> Civil societies are non-profit organizations created for philanthropic purposes and to render services to their members or third parties.<sup>3</sup>

World Bank defined, the term “civil society refers to the wide array of non-governmental and not-for-profit organizations that have a presence in public life, expressing the interests and values of their members or others, based on ethical, cultural, political, scientific, religious or philanthropic considerations-including but not limited to community groups, non-governmental organizations (NGOs), labour unions, indigenous groups, charitable organizations, faith-based organizations, professional associations, and foundations.”<sup>4</sup>

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<sup>1</sup> Tsehai Wada; The Regulatory Framework for Civil Society Organizations in Ethiopia, Civil Society at the Cross Roads: challenges and prospects in Ethiopia, Forum for Social Studies, 2008, available on <https://addisababa.academia.edu/TsehaiWada> access on 24 August 2019 p. 1.

<sup>2</sup> Bharat Prasad Badal (PhD Fellow at TU), Historical Development of Civil Societies p.8.

<sup>3</sup> Henok Abebe, Defeating the Defenders Defeating the Defenders: Foreign Fund Restriction Under Charities And Societies Proclamation, p.3.

<sup>4</sup> The World Bank Defining civil society, (August, 2010), GCSE Learning for Life and Work, available on <http://go.worldbank.org/4CE7W046K0> accessed on September 07/2019 at 11:55.

Tsehai Wada on his article titled as “The Regulatory Framework for Civil Society Organizations in Ethiopia, Civil Society at the Cross Roads: challenges and prospects in Ethiopia” define CSOs as charitable foundations, civic associations, non-governmental organizations, volunteer groups, trade unions, professional organizations, and social movements – everything from medical charities, sports clubs, and environmental groups to women’s and human rights groups – that make up the “third sector” of modern life, separate from the government and the market place.

Other scholar by the name, Dr. Sisay Alemahu Yeshanew defines CSOs as represent a broad spectrum of organizations that cover the space between the household and the state. They include charity and advocacy organizations, cultural and religious societies, informal community groups, youth and women organizations, trade unions, business and professional associations, and the media.<sup>5</sup> They are the third sector of modern life, separate from the government and the market place,<sup>6</sup> having independent existence both institutional and financially to engage in lawful activities to serve humanity or its members.

Tessema Mebratu Beyene on his article titled as “laws governing Civil Society Organizations and their impacts on the democratization of a country: Ethiopia in case” defines CSOs as “the associations of people lawfully organized, as independent, voluntary and non-profit distribution entities are often formed to pursue various legitimate socio-economic and political purposes.”<sup>7</sup> Micheal Bratton, on his article titled as “Civil Society and Political Consolidation in Africa”

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<sup>5</sup> Sisay Alemahu Yeshanew: CSO Law in Ethiopia: Considering its Constraints and Consequences, Journal of Civil Society Vol. 8, No. 4, 369–384, December 2012, p. 2.

<sup>6</sup> Supra note 1.

<sup>7</sup> Tessema Mebratu Beyene, Laws Governing Civil Society Organizations And Their Impacts On The Democratization Of A Country: Ethiopia In Case; Thesis submitted in accordance with the requirements of the University of Liverpool for the degree of Doctor in Philosophy; (November 2015) p. 1, as cited on Lester Salamon and Helmut Anhieir, ‘Measuring the non-profit sector Cross-nationally: a comparative method’ (1994) *Voluntas* 4(4) 538.

Tessema vividly defines CSOs as lawfully constituted, independent, voluntary and not-for-profit organizations which are formed outside of the family, the state and the market.

define CSOs as an arena outside of the family, the state, and the market where people associate to advance their common interests.<sup>8</sup>

Currently working Ethiopia CSOs Proclamation No.1113/2019 defines Organizations of civil societies as *a non-governmental, non-partisan, not for profit entity established at least by two or more persons on voluntary basis and registered to carry out any lawful purpose, and includes Non-governmental organizations, professional activities, mass based societies and consortiums.*<sup>9</sup>

The elements of the definition provided by Proclamation No. 113/2019 are:

It is an association of persons, the organizations should not be a government entities (non-governmental organizations) meaning that it should not established and operated by state and state entities and use no states or central government fund to operate or function (financial independence), non-partisan meaning that the organization should be free from any political motives and interests, established and operate not to fetch profit (non-profit) – the purpose of the establishment is not to gain profit and the nature of the organization should be organization formed voluntarily out of will the member or founder of two or more physical or legal persons (no maximum limit on the number of members as it allowed to invite or accept any persons interested to join the club accepting its objective thereby enabling the organizations to collect and mobilize more resources to advance their objectives), registered before the concerned state authority (currently before Civil Societies Organizations Agency)<sup>10</sup> fulfilling necessary administrative formality and documents *to carry out any lawful purpose.*

Putting otherwise civil society organizations are an entities established by two or more legal or/and natural persons to carry out any lawful, legitimate, moral and socially as well as culturally

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<sup>8</sup> Micheal Bratton, 'Civil Society and Political Consolidation in Africa' (1994) IDR Reports 11 (6) 4-5 in John Keane (edn) *Civil Society and the State: New European Perspectives* (Verso1988); Jean Cohen and Andrew Arato, *Civil Society and Political Theory* (MIT Press 1994); Ernest Gellner, *Conditions of Liberty: Civil Society and its Rivals* (Allen Lane 1994); James Schmidt, 'Civility, enlightenment, and society: conceptual confusions and kantian remedies' ( 1998) *American Political Science Review* 92 ( 2) 423; Helmut Anheier, *Civil Society: Measurement, Evaluation , Policy* (Earth scan 2004) 22, as cited on note 9.

<sup>9</sup> Article 2(1) of Organizations of Civil Societies Proclamation No. 1113/2019, adopted on 12<sup>th</sup> Day of March 2019.

<sup>10</sup> Id. Article 2 (10).

acceptable activities to benefit its members, third parties or public at large which are by its nature non-governmental, non-partisan and not for profit organizations, voluntarily established and registered before Agency for Civil Societies Organizations. Element of volition or free will (voluntarism) is important in this regard either to establish or join membership because, as revealed on the preamble of the proclamation the purpose of the legislation is to nurture the culture of philanthropy and voluntarism in the society which should be conceived and given a birth by free will of the founder (s) or member(s).

The history of CSOs is traced back to voyage road of ancient mythology, philosophy and different modes and stages of human civilization as civil society organizations are the association of people for the betterment of humanity, directly related with development.<sup>11</sup> With the exception of certain not for profit organization like International Red Cross Organization, the social philanthropic works formally originated only after the formation of the league of nations and, International labor organization (ILO).<sup>12</sup>

The second half the 20th century witnessed a proliferation of CSOs in the global South. The increase in the number CSOs has been explained in terms of humanitarian crises, a perceived turbulence in world politics, the volatility of culturally plural societies, the acceleration of globalization and the failure of states to provide for their citizens and govern with legitimacy,<sup>13</sup> it have been engaged in humanitarian assistance, service delivery, development projects, human rights and policy advocacy and environmental protection and have been playing the role of the ‘the third sector’ in society, alongside government and business.<sup>14</sup>

From a historical point of view, CSOs including International Organizations first began to emerge in Ethiopia in the 1960s with the enactment of the law governing civil society

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<sup>11</sup> Supra note 2, p. 1.

<sup>12</sup> Id. P. 6.

<sup>13</sup> Yntiso Gebre; Reality Checks: The state of civil society organizations in Ethiopia, African Sociological Review Volume 202 (2016) p. 1.

<sup>14</sup> Ibid.

associations (1960 civil code of Ethiopia) during the imperial regime.<sup>15</sup> A part from the traditional associations, such as Iqubs, Idirs, etc., all other associations are of recent origin.<sup>16</sup> Moreover, the CSOs during the Derg regime have also increased in number owing to the catastrophic famine crises of the 1984-1985.<sup>17</sup>

The EPRDF<sup>18</sup> government sees the establishment of CSOs both an economic and political question. The current constitution of Ethiopia provides a freedom of establishment of association and the government has introduced a Charities and Societies Proclamation No.621/2009 on January 6, 2009.<sup>19</sup> But the proclamation was believed to be a disabling, excessively and extremely restrictive legislation though its preamble promised that it aimed at enable and encourage CSOs.

The Ethiopian Charities and Societies Proclamation of 2009 were believed to have entailed organizational, operational, and regulatory limitations against CSOs work in the country. It has especially affected CSOs that work on human rights and governance and those which advocate for rights-based developments.<sup>20</sup>

As part of the current ongoing national legal, political and economic reform, the Ethiopia government adopted new proclamation; namely, the Organizations of Civil Societies Proclamation No. 1113/2019, which repealed and replaced proclamation No. 621/2009.

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<sup>15</sup> Abiy Chelkeba, Impact Assessment of the Charities and Societies Law on the Growth and Programs of Non-Governmental Organizations (A Survey Study of Addis Ababa City Administration, Addis Ababa, Ethiopia): A Thesis submitted in Partial Fulfillment for the Requirements of the Degree of Master of Laws (LL.M) to the Department of Law, School of Law, Addis Ababa University p. 2. The World Bank Defining civil society, (August, 2010), GCSE Learning for Life and Work, available on <http://go.worldbank.org/4CE7W046K0> accessed on September 07/2019 at 11:55.

<sup>16</sup> Supra note, 1 p.1.

<sup>17</sup> Supra note, 15 p. 2.

<sup>18</sup> Ethiopian Peoples' Revolutionary Front which has been being responsible to govern the country since the downfall of the Dergue Regime.

<sup>19</sup> Supra note 7 p. 2.

<sup>20</sup> Supra note 5 p. 2.

It is this new legislation which will be the focus of this study in particular assessing implications that the legislation may have on the promotion and protection of human rights in the country.

## **1.2 Statement of the problem**

It is undeniably true that CSOs play pivotal roles in improving and transforming the socio-political and economic life of society, “through securing livelihood and providing services, creating social capital”<sup>21</sup> and many more.

The fact that those CSOs need to be properly regulated and provided with a tenable and adequate legal regime to ensure transparency and accountability within the organizations is an apparent and self-evident fact. To this effect, Ethiopia, in different times and, under different regimes adopted laws regulating activities of CSOs in the country, from 1960’s civil code of empire regime to currently working proclamation No. 1113/2019.

Ensuring accountability and transparency within the civil society organizations can be done in two ways: - firstly through providing internal self-monitoring mechanism or through external monitory mechanism by state authority like Civil Societies Organizations Agency (CSOA).

The law which was adopted by the Ethiopia government in 2009 was believed to be disabling, restrictive, intrusive and discriminatory by its categorizations of CSOs as-Ethiopians, Resident and Foreign, sources of funds and its allocation area of engagement and other grounds.

A number of scholars and institutions wrote numerous literatures on this legislation magnifying its disabling, restrictive, draconian nature and unconstitutionality features.

As far as new Ethiopia CSOs law is concerned, there is no full fledged and comprehensive study on the topic- assessing and evaluating the implications of the legislation on the protection and

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<sup>21</sup> Supra note 5 p. 3.

Besides social norms and set of value regulating traditional CSOs namely; Idir, Iqub and debbo which are informal, the formal regulatory framework governing CSOs in Ethiopia are; Civil code of 1960, disaster prevention and preparedness regulation adopted by the then government to curb and/or minimize the devastating famine and drought, proclamation No. 621/2009 and currently working proclamation No. 1113/2019 and regulation No. 168/2009 and directive issued by CSA, so long as it may not contravene with the provision of the new proclamation.

promotion of human rights in the country. Thus, researcher believes that there is visible knowledge lacuna, and motivated to assess and analysis the implications that the proclamation could have on the promotion and protection of human rights in one hand and its possible challenges and prospects.

### **1.3 Research Objectives**

The research has two types of objectives: - the general and specific objectives.

#### **1.3.1 General Objective**

In general manner, the paper will analysis implications of the new Ethiopia Organizations of Civil Societies proclamation No. 1113/2019 on the protection and promotion of human rights in the country.

#### **1.3.2 Specific Objectives**

1. To assess, the improvements in the Ethiopia new CSO laws regarding strengthening CSOs in the protection and promotion of human rights;
2. To assess the compliance or otherwise of the Ethiopia new CSO laws to African Commission on Human and Peoples' Rights (ACHPR), Guidelines on Freedom of Association and Assembly in Africa and Federal Democratic Republic of Ethiopia constitution.
3. To scrutinize the challenges and prospects of the new CSOs law in promoting and protecting of human rights.

### **1.4 Research questions**

The study is aimed to answer the following basic questions:

- i. What are the implications of the new Ethiopia Organizations of Civil Societies Proclamation No. 1113/2019 on the protection and promotion of human rights?
- ii. What are the improvements, the challenges and prospects of the new Ethiopia CSOs law in promoting and protecting of human rights?

- iii. Is the new Ethiopia Organizations of Civil Societies Proclamation No. 1113/2019 normatively consonant with national-FDRE constitution, regional instrument-the African Commission on Human and Peoples' Rights Guidelines on Freedom of Association and Assembly in Africa standards?

### **1.5 Research Hypothesis**

The researcher has formulated the following hypotheses that have been analytically tested. First, the researcher hypothesizes that current proclamation is inline with National, Regional and international legal instruments regulating CSOs. Second, the researcher also hypothesizes that the new CSOs Proclamation No. 1113/2019 would have positive implication on promorion and protection of human rights in Ethiopia. Third, the researcher hypothesizes that the new proclamation is better advanced and improved compare to its predecessor Proclamation No. 621/2009 in particular with regard to promotion and protection of human rights in the country.

### **1.6 Significance of the study**

The study besides depicting the improvements and implications of new CSOs law on the promotion and protection of Human Rights, the challenges and prospects of the legislation; it will serve as input to different sectors inter alia, to Civil Societies Organizations, Civil Societies Organizations Agency, Ministry of Justice and other concerned authorities in one hand and in other hand the study is important for further study to be conducted in the area.

### **1.7 Scope of the study**

The scope of this study will be limited to the critical analysis of normative aspect of the legislation and its implications on the promotion and protection of human rights, the improvements and challenges and prospects of the new CSOs law in promoting and protecting of human rights.

The pragmatic aspects of the proclamation and issue relating to old proclamation will be out of the scope of this study though the researcher may sometimes refer to the old legislation either to give the study a genuine and strong historical and legal roots as well as to comparative analysis.

Simply put, practical aspects-implementation or non-implementation of the Ethiopia new CSO laws is out of the scope of this study and the study will be confined to theoretical assessment and analysis of Proclamation No. 1113/2019 and its implications on the promotion and protection of human rights.

### **1.8 Research methodology**

The study is purely doctrinal research which emphasis on the analyzing legal concepts, theories and principles on the new Ethiopia CSOs law and its implications on the protection and promotion of human rights.

As this study is purely doctrinal legal research- research into laws and legal principles the most appropriate method of research for such type of research is analysis of legal instruments, concepts and principles.

### **1.9 Sources of data**

In this study, the researcher will utilize the combination of both primary and secondary data collection. Primary data collection includes; proclamation(s), regulation, Federal Democratic Republic of Ethiopia constitution and African Commission on Human and Peoples' Rights Guidelines on Freedom of Association and Assembly in Africa.

The researcher will refer to secondary data which includes; journal articles, books, thesis paper, reports and Google on internet.

### **1.10 Limitation of the study**

Besides time and financial limitations tentatively researcher expects the following as a limitation to this study:

1. As the study is purely doctrinal legal research which emphasis on analyzing the legal concepts, provisions and principles rather than looking at practicality of the laws and principles on the ground/reality, the study other than making policy insights and recommendation to those organs mentioned under the significance of the study may not produce immediate result say in the form of amending or revising a given provision or sub-provisions of the legislation.

2. As this is completely a library research where most of the literature assess or googled from the internet unavailability of internet access-connection would be another limitation.

### **1.11 Methods of data analysis**

The collected data will be analyzed by the help of qualitative analyze through analytical argument by comparing the new legislation with its predecessor- proclamation No. 621/2009, the national constitution and regional normative standards.

### **1.12 Literature Review**

**“If I have seen further, it is by standing on the shoulders of the giants” (Sir Isaac Newton)**

Civil societies do promote the democratization of a nations from an authoritarian political system to semi-democracy or from semi-democracy to a full-fledged democracy.,<sup>22</sup> They also have an important role in the democratization of country through the delegitimization of an authoritarian government; education and empowerment of the citizenry; interest representation and articulation, watchdog services such as human rights monitoring, corruption control, and budget auditing; conflict mitigation, resolution and management; and poverty reduction programs.<sup>23</sup> Accordingly, enhance the protection and promotion of human rights in a country.

Ensuring the protection and promotion of human rights is not one sector centered tasks (states) rather it is a multifaceted and multidisciplinary activities stretched from individual-volunteer(s) to state to non-governmental organizations. The task of protection and promotion of human rights cannot be achieved single-handedly by the state,<sup>24</sup> among others; it requires the contribution of CSOs.<sup>25</sup>

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<sup>22</sup> Supra Note 7, p. Vii.

<sup>23</sup> Ibid.

<sup>24</sup> Fasil Mulatu Gessesse and Rubiyat Mohammed Seid; Revitalizing the roles of Non-governmental Human Rights Organizations in Ethiopia, EJHR Vol. II December (2014) p.75.

<sup>25</sup> Bekalu Tilahun, “Implications of the Ethiopian Charities and Societies Proclamation for the Current Operations of CSOs/NGOs”, Journal of Ethiopian Civil Society Organizations Vol. 1, No 1(2011), as cited on Note Ibid. P. 75.

Fasil Mulatu Gessesse and Rubiyat Mohammed Seid on their article titled “Revitalizing the Role of Non-Governmental Human Rights Organizations in Ethiopia” argued that *the long walk to the realization of human rights requires non-state actors (CSOs) contributions and support to the government* through promotion of the roles of CSOs to actively engage in human rights activities which may require, among others, the availability of a conducive policy, legal and administrative environment to function freely.<sup>26</sup>

Even though CSOs plays great roles in various aspects of societies life be it in economy, social, political as well as cultural, needless to mention that regulatory framework need to be in place for the effective realization of the objectives of the organization(s). The law is ostensibly a tool for enhancing the transparency and accountability of civil society organizations.<sup>27</sup>

Such framework may be helpful to regulate and/or heighten the level of transparency and accountability of CSOs,<sup>28</sup> as “it may waive democratic rules in their own operations, they may for instance offer but few opportunities for participation, practice top-down authoritarian management, mask their dealings from the outside world, misappropriate aid/budget or some representative of CSOs have sought personal enrichment.”<sup>29</sup> However, there should be a stricter rule that could practically govern the maintaining of independency and protection from undue influence by the government.<sup>30</sup>

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<sup>26</sup> Supra Note 24, p. 85.

<sup>27</sup> Analysis of Ethiopia’s Draft Civil Society Law, available on <https://www.hrw.org/news/2008/10/13/analysis-ethiopias-draft-civil-society-law> accessed on 19 September 2019 at 12:23.

<sup>28</sup> Analysis of Ethiopia’s Draft Civil Society Law, (Human Rights Watch, 13, October, 2008) available at <http://www.hrw.org/news/2008/10/13/analysis-ethiopia-s-draft-civilsociety-law-0> accessed on 12 June 2014 as cited on Note, 24 p. 70.

<sup>29</sup> Mr. Bernard Akplogan Civil Society in Africa definition and role in the process of the African Union programme – NEPAD, Pilot Project of a consultative approach by United Nations Educational, Scientific and Cultural Organization with regard to Nigeria, Ghana, Gambia and Cameroon; Published by the United Nations Educational, Scientific and Cultural Organization (UNESCO) 7, place de Fontenoy, 75352 Paris 07 SP, France, Africa Department, (2009) p. 31.

<sup>30</sup> Note 24, p. 84.

The Charities and Societies Proclamation is one of the post-2005 repressive laws that governed the establishment and operation of civil society organizations (CSOs) in Ethiopia. The Proclamation contains various provisions that made both the formation and effective working of CSOs highly difficult, if not impossible.<sup>31</sup> This clearly contravenes the human rights guarantees stipulated under the Constitution as well as the regional and international human rights frameworks the country has ratified. This has been constantly condemned by human rights groups, academics and activists over the years.<sup>32</sup>

Amnesty International articulates the following criticism with regards to Ethiopia new CSOs law;

Civil Societies Organizations Proclamation No.1113/2019 was drafted by relatively extensive consultation with academics, civil societies, activists and other stakeholders; the consultation process is already a step forward compared to the drafting process of the repealed law, which failed to adequately involve relevant stakeholders”<sup>33</sup> marks a major improvement on previous legislation and offer greater respect for fundamental human rights and freedom of association, assembly and expression.<sup>34</sup> Compared to previous law (proc. 621/2009), the draconian laws that have been used to stifle dissenting voices”<sup>35</sup> including civil societies organizations, the new Ethiopia CSOs law promised major progress by removing some restrictions on, the rights to freedom of association, assembly and expression, on individual CSO membership based on nationality and/or residence of members, funding restrictions on CSOs that promote human rights, good governance and related themes such as anti-corruption and conflict resolution, and also removes many intrusive powers of CSOs Agency that violate the privacy and independence

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<sup>31</sup> Roman GirmaTeshome, Does the revised Ethiopian civil society proclamation deliver the promise of reform? The Reporter, 16 February 2019 Available on <https://www.thereporterethiopia.com/article/does-revised-ethiopian-civil-society-proclamation-deliver-promise-reform> accessed on 19 September 2019 at 12:04.

<sup>32</sup> Ibid.

<sup>33</sup> Ibid.

<sup>34</sup> International African Censorship and freedom of expression, Ethiopia: Commentary on Ethiopia's draft CSO law Amnesty 21 December 2018, Index number: AFR 25/9622/2018 Available on <https://www.amnesty.org/en/documents/afr25/9622/2018/en/> access on 18 September 2019 at 11:35 PM.

<sup>35</sup> Note, 31.

of CSOs, guarantees the rights of CSOs including foreign CSOs to challenges the CSOs Agency decision on registration, applications including in the court of law (right to access to justice-judicial review).<sup>36</sup> Among international human rights groups, Amnesty International<sup>37</sup> and Human Rights Watch<sup>38</sup> regarded the Proclamation as repressive which clearly aims not only to undermine and frustrate the work of independent civil society organizations in Ethiopia, particularly the work of human rights defenders and CSOs.<sup>39</sup> Thus, create an enabling environment for CSOs to carry out their vital role, particularly in democratic building and promotion of human rights, by lifting the crippling rules of the previous law.<sup>40</sup>

Roman Girma Teshome on her commentary titled “Does the revised Ethiopian civil society proclamation deliver the promise of reform,”<sup>41</sup> by contrast argued that a major amendment made by the new Ethiopia CSOs law, addresses one of the highly criticized rules of the previous law, which relates to the restriction on source of funding. The previous proclamation No. 621/2009 envisages

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<sup>36</sup> Supra note, 34.

<sup>37</sup> Amnesty International, Comments on the Draft Charities and Societies Proclamation (1 October 2008), (<http://www.amnesty.org/en/library/asset/AFR25/008/2008/en/6ec4fbd7-a748-11dd-88998f759187dd0e/afr250082008en.html>) last visit on August 21, 2009 as cited on Dr. Mizanie Abate Tedesse The Implications of 2009 Ethiopian CSOs Law on the Right to Freedom of Association, Journal of Ethiopian Law, Vol.27, No.1, Fall 2015, p.2.

<sup>38</sup> Human Rights Watch, Human Rights Watch’s Analysis of Ethiopia’s Draft Civil Society Law (13 October 2008) ([http://www.reliefweb.int/rw/RWFiles2008.nsf/FilesByRWDocUnidFilename/CJAL-7N4SXA\\_full\\_report.pdf/\\$File/full\\_report.pdf](http://www.reliefweb.int/rw/RWFiles2008.nsf/FilesByRWDocUnidFilename/CJAL-7N4SXA_full_report.pdf/$File/full_report.pdf)) last visit on September 12, 2009 8 The East and Horn of Africa Human Rights Defenders Network, Regional rights network condemns charities and societies law (17 January 2009) (<http://en.ethiopianreporter.com/content/view/561/1/>) last visit on September 13, 2009. As cited on Dr. Mizanie Abate Tedesse The Implications of 2009 Ethiopian CSOs Law on the Right to Freedom of Association, Journal of Ethiopian Law, Vol.27, No.1, Fall 2015, p.2.

<sup>39</sup> Mizanie Abate Tedesse The Implications of 2009 Ethiopian CSOs Law on the Right to Freedom of Association, Journal of Ethiopian Law, Vol.27, No.1, Fall 2015, p.2.

<sup>40</sup> Supra note 31.

<sup>41</sup> Ibid.

Roman further argued, In a country where close to 80% of the population lives on less than two dollars a day and the culture of voluntarism is not deeply rooted, it is hard to imagine CSOs being able to raise 90% of what is needed for significant work on the various issues of human rights, democracy, the rule of law, and conflict resolution. Ironically, the government of the country itself derives about a quarter to one-third of its budget from foreign aid.

three types of CSOs, *i.e.* Ethiopian charities or societies, Ethiopian resident’s charities or societies and foreign charities, based on the laws they are established under and the nationality or residency of their members. This classification is not without any effect as it has a direct implication on the sources of funding and the areas the CSOs can operate in.<sup>42</sup>

Arguing against the restriction of foreign funds Sisaya Alemu on his article titled “*CSO Law in Ethiopia: Considering its Constraints and Consequences*” rightly pointed, that it is ironic to put this much burden on CSOs in a country where foreign aid constitutes around one-third of the government budget.<sup>43</sup>

The new law also abolishes the 10% rule on funding, which allows domestic organizations to freely determine where their funds come from and clearly entitles CSOs a right (CSOs shall have the right not may have) the right to solicit funding from any lawful source (from or out of the country so long as the funds are from lawful source) as clearly stipulated under article 63(1/c) of proclamation No. 1113/2019 which reads as;

“--- Any organization shall have the right to solicit, receive and utilize funds from any legal source to attain its objective ---” hence, the “new law relieved local CSOs from this unrealistic burden.”<sup>44</sup>

Roman G. Teshome argued that the new law is promising in that it amend the *restriction on areas of operation* of foreign CSOs provides that only Ethiopian Charities and Societies can operate in the areas of human rights protection, promotion of equality, conflict resolution and advancement of the efficiency of justice and law enforcement services.<sup>45</sup> The new law in a provision entitled, ‘operational freedom’, it is clearly affirmed that CSOs are at liberty to undertake any lawful activities in order to accomplish the purpose they are established for.

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<sup>42</sup> Ibid

<sup>43</sup> Sisay Alemahu Yeshanew: CSO Law in Ethiopia: Considering its Constraints and Consequences, Journal of Civil Society Vol. 8, No. 4, 369–384, December 2012, p. 373.

<sup>44</sup> Article 63(1/c) of Organizations of Civil Societies Proclamation No. 1113/2019.

<sup>45</sup> Note, 32.

Similar to domestic CSOs, foreign CSOs can also take part in any lawful activities save for one exception: the latter cannot engage in influencing decision making by lobbying political parties and engaging in voter education and election monitoring without prior approval.<sup>46</sup>

Yoseph Badwaza, argue that, the adoption of proclamation No. 1113/2019 is the first major legislative reform which demonstrates Ethiopia's growing commitment to respecting and protecting freedoms of association and assembly,<sup>47</sup> which is the central rights for CSOs to come together (formation) and pursue the purpose of their establishment.

Badwaza further argue that the implementation of this new civil society legislation should be made "in consistent with principles of freedom of association enshrined in Ethiopia's constitution and comply with international human rights standards that recognize citizens' rights to organize for any legal cause and to seek and receive support from any source, foreign or domestic,"<sup>48</sup> and organizations be allowed to solicit resources from any lawful sources and mobilize it for the attainments of its objectives.

Even if the new Proclamation has made some commendable changes, it still grapples with certain limitations that can potentially affect the effective operation of civil societies in the country.<sup>49</sup>

Proclamation made registration a mandatory requirement for establishment, to acquire legal personality and operate in the country. It requires new CSOs to register and the existing CSOs to re-register with the CSOs Agency, while the international standard and practice is, the notification of the establishment of CSOs to the concerned government would suffice.<sup>50</sup>

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<sup>46</sup> Article 62(1 & 5) of Organizations of Civil Societies Proclamation No. 1113/2019.

<sup>47</sup> Ethiopia: Civil Society Proclamation Advances Essential Freedoms available on <https://freedomhouse.org/article/Ethiopia-civil-society-proclamation-advances-essential-freedoms> (Washington February 9, 2019) accessed on 20 September 2019 at 9:37.

<sup>48</sup> Ibid.

<sup>49</sup> Supra note, 31.

<sup>50</sup> Ibid.

In effect the new law maintain an authorization regime, where a CSOs needs to register to operate, in contrast to notification process-where the legal status of a CSO is presumed upon receipt of notification by the relevant government authority.<sup>51</sup> Thus, fall short of accepted international standards on freedom of association, including the African Commission on Human and Peoples Rights (ACHPRs) Guidelines on Freedom of Association and Assembly in Africa, which state that “*registration shall be governed by a notification rather than an authorization regime, such that legal status is presumed upon receipt of notification.*”<sup>52</sup>

The other critics raised from Amnesty International is in relation to article 57 (2 - 4) of the new proclamation which deals with the time limits for registration-the cumulative registration period including the appeal process for local and Foreign CSOs is four and more than four months respectively which is create unnecessary delay, “unduly prolonged”<sup>53</sup> on the parts of CSOs. Such a prolonged registration periods infringes on the right to association, since registration is a pre-requisite for attaining juridical personality<sup>54</sup> and operate legally under Article 61 the proclamation. More enabling approach would ensure the formation of an associations starts after an application is submitted;<sup>55</sup> The ACHPR Guidelines on Freedom of Association and Assembly in Africa provide that “registration procedures shall be simple, clear, non-discriminatory and non-burdensome, without discretionary components;<sup>56</sup> and associations shall be provided with official documents confirming their submission of notification upon such submission. Should the

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<sup>51</sup> Note, 34 p.3.

<sup>52</sup> African Commission on Human and Peoples’ Rights (ACHPR), Guidelines on Freedom of Association and Assembly in Africa, 60th Ordinary Session, Niamey, Niger, 8-22 May 2017, para.13 [http://www.achpr.org/files/instruments/freedom-associationassembly/guidelines\\_on\\_freedom\\_of\\_association\\_and\\_assembly\\_in\\_africa\\_eng.pdf](http://www.achpr.org/files/instruments/freedom-associationassembly/guidelines_on_freedom_of_association_and_assembly_in_africa_eng.pdf) accessed on 30 October 2018 as cited on Note, 34, p.3.

<sup>53</sup> Supra note 34 p.5.

<sup>54</sup> Ibid.

<sup>55</sup> Ibid.

<sup>56</sup> Supra note 52, Para.13.

authorities fail to provide such documents, mailing records and copies of the notification form submitted shall suffice as evidence of submission of notification.<sup>57</sup>

Similarly, the UN Special Rapporteur on Freedom of Association and Assembly recommends that under both notification and prior authorization regimes, registration bodies must be bound to act immediately, and laws should set short time limits to respond to submissions and applications respectively.<sup>58</sup>

Maina Kiai the United Nations (UN) Special Rapporteur on the Rights to Freedom of Peaceful Assembly and of Association nicely argued by comparison as “*associations are automatically granted legal personality as soon as the authorities are notified by the founders that an organization was created. In most countries, such notification is made through a written statement containing several elements of information clearly defined in the law, but this is not a precondition for the existence of an association. It is rather a submission through which the administration records the establishment of the said association, and individuals involved in unregistered associations should be free to carry out any lawful activities in association with others, including peaceful assemblies without fear of criminal sanctions.*”<sup>59</sup>

Other critics posed with regards to new Ethiopia CSOs law is the one which based on restriction on operational freedom of the association(s) as stipulated under article 62(5) of the proclamation.

Article 62(5) of the proclamation stipulates that;

*Notwithstanding the provisions of sub-article 4 of this article, unless it permitted with any other law foreign organizations and local organizations which are established by foreign citizens which are residents of Ethiopia may not engage in lobbying political parties, engage in voters education and election observations.*

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<sup>57</sup> Ibid.

<sup>58</sup> Supra note 34, p. 5.

<sup>59</sup> United Nations (UN) Report of the Special Rapporteur on the Rights to Freedom of Peaceful Assembly and of Association, Maina Kiai, Human Rights Council Twentieth Session, A/HRC/20/27, 21 May 2012, para. 58, [https://www.ohchr.org/Documents/HRBodies/HRCouncil/RegularSession/Session20/A-HRC-20-27\\_en.pdf](https://www.ohchr.org/Documents/HRBodies/HRCouncil/RegularSession/Session20/A-HRC-20-27_en.pdf) (accessed on 30 October 2018). As cited on Note, 34 p. 3.

Advocacy and lobbying activities capture a variety of legitimate and crucial activities that foreign CSOs could conduct including trainings, researches, publications, and public discussions impacting policy choices of political parties and their members.<sup>60</sup> CSOs, irrespective of being national or foreign, should also be allowed to carry out activities aimed towards influencing political parties' positions and programmes that relate to promotion and protection of human rights in Ethiopia.

Hence, such a broad and blanket restriction on advocacy and lobbying activities can cripple the operations of foreign CSOs and potentially create room for abuse by authorities.<sup>61</sup>

International Covenant on Civil and Political Rights (ICCPR)<sup>62</sup> guarantees “Everyone (i.e. CSOs both local and foreign) shall have the right to freedom of association with others, including the right to form and join trade unions for the protection of his interests ---- no restrictions may be placed on the exercise of this right other than those which are *prescribed by law* and which are *necessary in a democratic society* in the interests of *national security or public safety, public order (ordre public), the protection of public health or morals or the protection of the rights and freedoms of others*”<sup>63</sup> which is part and parcel of the law of the land according to article 9(4) of FDRE constitution.

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<sup>60</sup> Supra note 34, p.7.

<sup>61</sup> Ibid.

<sup>62</sup> Adopted and opened for signature, ratification and accession on 19 December 1966 by General Assembly resolution 2200 A (XXI) and entered into force on 23 May 1976.

<sup>63</sup> Article 22 (2 & 3) of International Covenant on Civil and Political Rights, Adopted and opened for signature, ratification and accession on 19 December 1966 by General Assembly resolution 2200 A (XXI) and entered into force on 23 May 1976.

Amnesty International argued that “to meet the ICCPR’s requirement that a restriction be “prescribed by law,” the restriction must be firstly sufficiently precise to enable an individual to assess whether his or her conduct would be in breach of the law, and to foresee the likely consequences of any such breach. A second issue is whether the restrictions are used in pursuance of legitimate grounds and the permissible legitimate grounds are limited to the four aims listed under Article 22 (2) of ICCPR. The interpretation of these grounds cannot be expanded to embrace grounds other than those explicitly defined in Article 22(2) of the ICCPR. These limited circumstances are “to be construed strictly; only convincing and compelling reasons can justify restrictions on... freedom of association.” But legitimate government aims, in and of themselves, do not justify restrictions on freedom of association. Restrictions

The legal provisions concerning associations should be interpreted and applied in a manner consistent with the effective exercise of the right to freedom of association to ensure that the enjoyment of this right is practical and effective rather than theoretical or illusory.<sup>64</sup>

This particular provision of the proclamation (article 62(5)) is unclear in a sense that it does not display the fulfillment of definitional test provided under article 22 of ICCPR namely; *necessity of restricting rights, proportionality between limited right and objective to be achieved through restriction, legal precision, legitimacy of the restriction on national security or public safety, public order (ordre public), the protection of public health or morals or the protection of the rights and freedoms of others.*

The restriction is indicative of the remnant of the hostile attitude towards foreign CSOs<sup>65</sup> such a broad, vague and blanket ban on advocacy and lobbying activities of foreign CSOs could not be justified as being a proportional measure to protect a legitimate government aim.<sup>66</sup>

Hence, the law should be revised to grant all CSOs, including foreign CSOs, the freedom and independence to determine their own activities and to allow them to engage with a wide range of stakeholders in fulfillment of their mandates.<sup>67</sup>

The other critiques raised by Amnesty International is in relation to the investigation power of the CSOs Agency-the power to investigate, including conducting searches, if it finds “sufficient reasons”<sup>68</sup> as stated under article 77 of the proclamation which is against the right of organizations to privacy, association and assembly. The ACHPR Guidelines on Freedom of Association and

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they must also be established “necessary in a democratic society”. The “necessary” test implies that any measures must be proportionate to the legitimate aim pursued, and only imposed to the extent that is no more than necessary.

<sup>64</sup> African Charter on Human and Peoples Rights, Guidelines on Freedom of Association, Office for Democratic Institutions and Human Rights (ODIHR) Miodowa 10 00-557 Warsaw Poland [www.osce.org/odihr](http://www.osce.org/odihr) OSCE/ODIHR 2015 ISBN 978-92-9234-906 para.23.

<sup>65</sup> Supra note 34, p.7.

<sup>66</sup> Ibid.

<sup>67</sup> Id, p. 8.

<sup>68</sup> Ibid.

Assembly in Africa recommend that such oversight powers should be “carefully delimited” to avoid infringement on the right to freedom of association;<sup>69</sup> the inspections of associations by oversight bodies shall only be permitted following a judicial order in which clear legal and factual grounds justifying the need for inspection are presented.<sup>70</sup>

Thus, better enabling articulation need to be opted in “precise and on limited grounds under which the CSOs Agency can investigate CSOs and that the searches can only be conducted if ordered by a court of law and ensure the law only allows asset freezes of CSOs in limited circumstances defined by law, when absolutely necessary and if ordered by a court of law, and there should be a procedural protections allowing a CSOs to challenge the Agency’s decision to initiate investigations and the Director’s actions to freeze asset at the time it is still under consideration.<sup>71</sup>

Resources allocation-80% - 20% rules of budget allocation is any other point of criticism. “The ability to seek and use resources is crucial to the effective functioning of CSOs and to the development of civil society.<sup>72</sup> It is positive that the new law lifts restrictions on receiving foreign funding; this provision placed excessive controls on use of resources by capping administrative costs at 20% of income compared to 30% in the old CSOs proclamation.<sup>73</sup>

The rule on budget allocation is actually worsened in the new law;<sup>74</sup> the distinction between administrative and operational activities is still vague. Second, the nature of works of some CSOs might rightly necessitate the allocation of more budgets for administrative activities that

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<sup>69</sup> Supra note 52, Para.33.

<sup>70</sup> Id. Para. 21.

<sup>71</sup> Supra note 34, p. 8.

<sup>72</sup> Id, p. 10.

<sup>73</sup> Ibid.

<sup>74</sup> Supra note 31.

The previous law obliges CSOs to allocate at least 70% of their budget for operational purposes and not more than 30% for administrative matters. In the new Proclamation, this rule is even tightened requiring CSOs to utilize not more than 20% of their budget for administrative activities.

are indispensable for their operational purposes. This is particularly true for service providing or advocacy organizations.<sup>75</sup> Thus, it definitely exposes CSOs to arbitrary intrusions that are disproportionate to the legitimate aim pursued by the Agency and other government bodies.<sup>76</sup>

More importantly, restriction on expenditure appropriation limits the financial autonomy of CSOs and goes against established norms under international law,<sup>77</sup> including as reflected in the ACHPR's Guidelines on Freedom of Association and Assembly in Africa which provides that; *“the law shall clearly state that associations have the right to seek, receive and use funds freely in compliance with not-for-profit aims.”*<sup>78</sup>

Amnesty International suggests that the new law should design strategies to encourage the use of funds for beneficiaries through non-mandatory best practice standards.

Dina Townsend, Nicky Broeckhoven and Desta Gidey boldly argued that the adoption of new law was an important step because, up until now, Ethiopian law has radically constrained and frustrated the work and political spaces of CSOs and the adoption of a new CSOs law is a remarkable step<sup>79</sup> that it promise a lot for CSOs to be established and operate without not that much hurdles as before under the previous legislation.

As far as the new Ethiopia new CSO laws is concerned it is too soon to find adequate literatures on the area as the proclamation was adopted five months back on 12 of March 2019 with the exception of some report, human rights organizations joint statements, min paper and expert opinion.

Author couldn't find paper written in a current subject matter, the topic. Hence, there is a clear gap of both knowledge and literature on the topic at hand at the time when the researcher started conducting the thesis.

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<sup>75</sup> Ibid.

<sup>76</sup> Note, 34 p. 8.

<sup>77</sup> Ibid.

<sup>78</sup> Supra note 52, Para. 37.

<sup>79</sup> Dina Townsend with Nicky Broeckhoven and Desta Gidey; Ethiopia's new civil society law, p. 1.

Therefore, the researcher motivated to assess and scrutinize the implications of the Organizations of Civil Societies Proclamation No. 1113/2019 on the promotion and protection of Human Rights in Ethiopia to try his best to fill the existing knowledge gap on the area.

### **1.13 Structure of the study**

This study is organized into five chapters. The first chapter covers introductory matters and being served as a get way to the subsequent chapters. It begins with the background of the study and covers issues like statement of the problem, general and specific objectives of the study, research questions, significance of the study, scope of the study, research methodology, limitation of the study, data analysis method and literature review.

Chapter two will embark on conceptual clarification and international standards regulating civil society organizations.

Chapter three, Overview of Proclamation number 1113/2019.

Chapter four dealt with the improvements, challenges and prospects new Ethiopia CSOs law Proclamation No. 1113/2019 with regarding to the promotion and protection of human rights.

The fifth chapter finalizes the study by a way of conclusion and recommendations.

## CHAPTER TWO

### CONCEPTUAL CLARIFICATION AND INTERNATIONAL STANDARDS REGULATING CIVIL SOCIETY ORGANIZATIONS

**“Philanthropy is the finest conduct where as sinful conduct is putting people in miseries” (Garuda Puran).**

#### **2.1 Historical Perspective of CSOs**

The this paper the history of CSOs is traced back to voyage road of ancient mythology, philosophy and different modes and stages of human civilization as civil society organizations are the association of people for the betterment of humanity, directly related with development.<sup>80</sup> Civil Society roots lie in the West-Romans; the term was introduced by Cicero for the first time as “societas civilis.”<sup>81</sup> Aristotle referred it as “*koinonia politike*”<sup>82</sup> meaning “communion, association, partnership”.<sup>83</sup>

Some scholars initially perceived CSOs as a political society having distinct members with common ends or purpose well as others assimilate and associate it with states. But the contemporary understanding, the feature and nature of CSOs is non-governmental, non-partisan and independent entity both institutionally and financially from the state.

The evolutionary process of CSOs seemed to have emerged during the leading wars where as personalities like as Florence Nightingale lady with lamp became pioneer in the realm of philanthropy where she managed to generate a retinue of volunteers to serve the war victims with

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<sup>80</sup> Supra note 7 p. 1.

<sup>81</sup> Ardian Kastrati; Civil Society from Historical to Contemporary Perspectives, European Journal of Multidisciplinary Studies, January-April 2016 Vol.1 Nr. 1, p. 1.

<sup>82</sup> Ernest Barker, trans., *The Politics of Aristotle* (London: Oxford U. Press, 1958), p.1, as cited on Boris Dewiel; *A Conceptual History of Civil Society: From Greek Beginnings to the End of Marx*, p. 7.

<sup>83</sup> Henry George Liddell and Robert Scott, *A Greek-English Lexicon* (Oxford: Clarendon, 1940), s.v. “koinonia.” as cited on Boris DeWiel; A Conceptual History of Civil Society: From Greek Beginnings to the End of Marx, p. 7.

full dedication in 1855 at Crimea.<sup>84</sup> In such difficulties on war zone for voluntaries had cared victims without any fear of own life, safety, integrity, --- it was very challenging job that needs a big heart, dedication and nothing in result except self-satisfaction.<sup>85</sup>

Mythologically speaking, the historical development of CSOs are rooted back to the ages of divine or the starting periods of civilizations around 3500 before Christ era from Mesopotamia-philanthropy starts from human civilization as people live in a family or in a community as they need social security help and cooperation.<sup>86</sup> The renowned Hindu King Rantidev and famous philanthropic by the name Garuda Puran in Vedic age expressed voluntarism or being philanthropic as follows;

*“I have no desire for territory or for heaven. I have no desire even for salvation. I wish I could remove pain and distress from mankind” and “Paropakar Paramo Dharma, Papaya para Pidanam” philanthropy is the finest conduct where as sinful conduct is putting people in miseris.*<sup>87</sup>

The above sentence has the following message. according to Garuda Puran the leader (King) come to power not just to reign on power or not to acquire others territory (land) using the power he/she may have or is not for the purpose of eternal salvation, rather it is to serve humanity, to usher volunteer service to individual in needy and distress (nurturing philanthropic and boosting voluntarism as it play a pivotal roles in realizing socio-economic as well as political and development needs of the people).

Antonio Gramsci called CSOs the Hegemony of a class claiming to represent the nation, the modern version of civil society constitutes an intermediary public sphere between the state and market, where the ideals of democracy and human rights are realized.<sup>88</sup> They are organizations of

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<sup>84</sup> Supra Note 11 p. 10.

<sup>85</sup> Id, p.2.

<sup>86</sup> Id p. 3.

<sup>87</sup> Id. P.3.

<sup>88</sup> Dev Raj Dahal; Civil Society Groups in Nepal Their Roles in Conflict and Peace-building, Support for Peace and Development Initiative, UNDP Kathmandu, Nepal May 1, 2006 p. 9.

elites, educated and smart people so the other part (state authorities and agencies) would be poor illiterate and less aware class of people.<sup>89</sup>

Since the establishment of the International Red Cross in late 1850 in a response to the suffering caused by war of Italian succession the pattern has been prompting the establishment of different big civil society organizations namely, Save the Children fund UK (in 1919 after the First World War), Oxford committee for Famine Relief in 1942, US Catholic Relief services in 1943 and CARE in 1945 to respond to the Second World War.<sup>90</sup>

After the war, all these organizations have extended their activities to developing countries, especially to provide relief in conflict areas but also to conduct development projects elsewhere.<sup>91</sup>

The history of the idea of civil society shows that three central elements of the concept have emerged. First, in its modern form civil society represents the realm of public institutions that are separate from the state.<sup>92</sup> Meaning that CSOs are independent (non-governmental) of state both financially and institutionally. Accordingly, Mr. Boris argued that definition and understanding of civil society is incomplete without the understanding that it is the realm within which free people may pursue a diversity of legitimate values, ideals, and ways of life.

The second essential feature of the modern idea of civil society is its continued interdependence with the state.<sup>93</sup> Independence of CSOs from state doesn't mean that political institutions no longer have a central role in organizing and regulating the public life of citizens. Rather state and its authority can play a lot in regulating the activities of CSOs either through adoption of regulatory framework governing the organizations or institutional framework established for the implementation of CSOs laws (i.e. CSOA), and the third element is "pluralism of institutions"<sup>94</sup> within civil society, referring

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<sup>89</sup> Supra note 11 p. 6.

<sup>90</sup> Ibid.

<sup>91</sup> Ibid.

<sup>92</sup> Boris DeWiel; A Conceptual History of Civil Society: From Greek Beginnings to the End of Marx, p. 34.

<sup>93</sup> Id, p. 35.

<sup>94</sup> Ibid.

to the diversity of sectors, area of engagement/operation and purposive as well as objective of its establishment.

The speeding up of the process of globalization and the end of the East-West conflict in 1989 seem to have given momentum to the emergence of civil society in developing countries, particularly in Africa.<sup>95</sup> There are a numbers of organizations/associations that the society used to call by different terminologies which established across the sects and sections of societies in Africa (example Ikub, Idir, debo, in Ethiopia) as cultural, social and religious institutions like religious communities, charitable organizations or trade unions, self supporting or sustaining organizations. Understanding these diversities of the nature, level of operation and organization as well as structure of civil societies in Africa across the culture at local, national and regional level Mr. Bermand Akplogan described the development of CSOs as a “complex web of connections and disconnections of severances and recurrences.”<sup>96</sup>

The formal recognition of CSOs in Africa was started with the Lome agreement and the 2001 Organization of Africa Union (OAU) first civil society meeting, which proposed a framework for OAU civil society cooperation that was adopted by the OAU Council of Ministers at its 74<sup>th</sup> ordinary session, held in Lusaka, Zambia, from 5 to 8 July 2001.<sup>97</sup>

Followed by the second conference, held on 11 June 2002 in Addis Ababa, Ethiopia, consequently served as a follow-up to the resolutions of the first and adopted the main objectives, which is establishing a mechanism that would facilitate the interface process between African civil society, the African Union and exploring ways and means of effectively setting in motion civil society organizations within the framework of the initiative for a Conference on Security, Stability, Development and Cooperation in Africa (CSSDCA), together with the New Partnership for Africa’s Development (NEPAD) process and seeking the support of African, civil society for the establishment of the African Union’s new Economic and Social Council (ECOSOC).<sup>98</sup>

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<sup>95</sup> Supra note 2, p. 13.

<sup>96</sup> Supra note 29 p. 15.

<sup>97</sup> Ibid.

<sup>98</sup> Id p. 17.

Coming to Ethiopia, Ethiopia has a long tradition of informal community-based organizations like “idir” and “iqub”-self-supportive collective associations that operate at the local level to offer mutual socio-economic support to its members. Formal civil society organizations in Ethiopia is almost a recent development which was take root under the Ethiopian Empire regime from 1137-1974.<sup>99</sup> And was severely restricted under the rule of the Derg (a military junta) from 1974-91.

Modern civil society organizations were first established as faith-based organizations in the 1930s, welfare organizations like the Red Cross started to operate in Ethiopia beginning in the 1950s. As a result of the 1973-74 and 1984-1985 famines, many more non-governmental organizations (NGOs) with a focus on relief and humanitarian services emerged. It was after the downfall of the Derg regime in 1991 that NGO numbers substantially increased.<sup>100</sup> Non-profit organizations used to be governed by the Imperial Civil Code and Directive issued by the Ministry of Interior, the present day of Ministry of Justice. However, the provisions in the code and directive become obsolete due to the passage of time and can’t step together with the contemporary development of CSOs in number and activities.<sup>101</sup>

The 1991 transitional government of Ethiopia move towards building a democratic society opened more space for the engagement of CSOs in governance, social and economic sectors development, human rights, legal service and advocacy initiatives.<sup>102</sup> Current government (post deep reform-the

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<sup>99</sup> The International center for not for profit law, Civic Freedom Monitor: Ethiopia, Last updated 5 April 2019 available on <http://www.icnl.org/research/monitor/ethiopia.html>. Accessed on September 7/2019 at 10:32.

<sup>100</sup> Ibid.

<sup>101</sup> The UN Defenders Declaration defined defenders under article 1 as “anyone who, individually or in association with others, promotes and strives for the protection and realization of human rights and fundamental freedoms.” But the term is used here broadly than what is provided by the Declaration. Charities and societies (civil societies) stand to render services and to defend the interests of their members or the society at large. Therefore, for the sake of this article ‘defenders’ equated with civil societies. Declaration on the right and responsibility of individuals, Groups and Organs of society to promote and protect universally recognized Human rights and Fundamental freedoms. GA Res. 53/144 (9 December, 1998) Available at <http://www.ohchr.org/Documents/Issues/Defenders/Declaration/declaration> Accessed on September 07, 2014 at 11:03 am as cited on Henok Abebe, Defeating the Defenders: Foreign Fund Restriction under Charities and Societies Proclamation, p.1.

<sup>102</sup> Dessalegn Rahmato, Akalewold Bantirgu and Yoseph Endeshaw, CSOs/NGOs in Ethiopia, Partners in Development and Good Governance: A Report Prepared for the Ad Hoc CSO/NGO Task Force (Consortium of Christian Relief and Development Association, Addis Ababa 2008) p 79 available on <http://www.crdaethiopia.org/Documents/CSOsNGOs%20in%20Ethiopia%20%20Partners%20in%20Development.p>

reformist) has showing very ambitious plan and move towards having more effective and robust CSOs, of the indication the repeal of the previous draconic law and replacement with the new CSOs proclamation number 1113/2019.

The global and regional normative standards regulating CSOs are discussed in the section that follows.

## **2.2. The Global and Regional Human Rights Standards Regulating Civil Society Organizations**

### **2.2.1 The Global Standards**

The formation, existence and operation of civil society organizations presuppose the recognition of the right to association. This right is recognized under a number of human rights instruments. To mention some-those normative rules guarantying the right to association; Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms (UN Declaration on Human Rights Defenders),<sup>103</sup> International Bill of rights (UDHR, ICCPR and ICESCR), CRC and International Convention on the Protection of the rights of All Migrant Workers and Members of Their Family.

To begin with UN Declaration on Human Rights Defenders, the Declaration stipulated a series of principles and standards aimed at ensuring that states fully support the efforts of human rights defenders and ensure that they are free to conduct their activities for the promotion, protection and effective realization of human rights without hindrance or fear of reprisals.<sup>104</sup>

From article 5 up to article 9 the declaration provides a number of provisions aimed at protecting and promoting human rights individually or in “*association*” with other, in particular article 5 of the declaration stipulate very clearly that everyone has the rights to association --- to meet or peaceful

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[df](#) accessed on 23 September 2014 As cited on Fasil Mulatu Gessesse and Rubiyat Mohammed Seid; Revitalizing the roles of Non-governmental Human Rights Organizations in Ethiopia, EJHR Vol. II December 2014 p. 60.

<sup>103</sup> UN Declaration on Human Rights Defenders, Adopted by the General Assembly in 1998, A/RES/53/144, and 9 Dec. 1998.

<sup>104</sup> Note, 39, p. 7.

assembly or to form or join non-governmental organizations (civil society organizations) for the purpose of promoting and protecting human rights and fundamental freedom.

Full version of article 5(a) & (b) of UN Declaration on Human Rights Defenders states;

*For the purpose of promoting and protecting human rights and fundamental freedoms, “everyone” has the right, individually and “in association with others”, at the national and international levels to meet or assemble peacefully; form, join and participate in “non-governmental organizations, associations or groups.”*

Among the nine core International Human Rights instruments, the UDHR<sup>105</sup>, ICCPR<sup>106</sup>, ICECSR<sup>107</sup>, CRC,<sup>108</sup> and International Convention on the Protection of the rights of All Migrant Workers and Members of Their Family<sup>109</sup> explicitly or implicitly gave recognition to right to association (CSOs formation, establishment and operation).

Articles 20 of UDHR stipulate that “*everyone has the right to freedom of ---- association* and no one should be forced to join or expelled from the association against his/her will.” Meaning that everyone is at liberty to form association (CSOs) of whatsoever nature and purpose so long as its fulfill requirement for formation and with the lawful intent and purpose can pursue its objective of formation, the members are again at liberty to join or disjoin the association without external coercion. Sub article 2 of the same article states “No one may be compelled to belong to an

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<sup>105</sup> Universal Declaration of Human Right, adopted in December 10 1948.

<sup>106</sup> Adopted and open for signature, Ratification, and accession by General Assembly resolution 2200 A (XXI) of 16 December 1966, entered into force on 23 March 1976 in accordance with Article 49.

<sup>107</sup> Adopted and open for signature, ratification, and accession by General Assembly resolution 2200 A (XXI) of 16 December 1966, entered into force on 23 March 1976.

<sup>108</sup> Adopted and open for signature, Ratification, and accession by General Assembly resolution 44/25 of 20 November 1989, entered into force on 2 September 1990, Art.15. Ethiopia acceded to it on 21 October 1991.

<sup>109</sup> Adopted by General Assembly resolution 45/158 of 18 December 1990, enters into force on 1 July 2003.

The law which imposes restriction on the right to association should be a law enacted by pertinent law making organs of the state passing through all law making process and procedure and in compliance with international human rights standards, treaties, conventions, norms and customs.

association.” By contrario reading is to mean that, no one be forced to form or join the association and may not be expelled from the association against his/her will.

ICCPR under article 22 provide a verbal copy of UDHR with certainly specified grounds that this right may be restricted- if prescribed by law (test and objective law) and which are necessary in a democratic society in the interests of national security or public safety, public order (ordre public), the protection of public health or morals or the protection of the rights and freedoms of others.<sup>110</sup>

ICESCR under article 8(1/a) recognize that “*everyone has the right form or join association/ organization of his/her choice-liberty to form, join or leave association subject to rules of organizations for (purpose) the promotion and protection of his/her economic, social and cultural rights (ESCR). As the covenant is focused on second generation rights (economic, social and cultural rights) it framed in the form of forming trade union or joining the same out of one’s own volition without any external intrusion.*

CRC under article 15 and International Convention on the Protection of the rights of All Migrant Workers and Members of Their Family under article 26 recognized this right. The former entitle the children to have the right to association and peaceful assembly and the latter recognize the right of Migrant Workers and Members of Their Family to participate in meeting of association, joining association or trade union freely and to seek the assistance of any of such organizations.

### **2.2.2. African Human Rights standards**

African Charter on Human and People’s Rights (ACHPR)<sup>111</sup> is one of the supra national legal documents with all its uniqueness and peculiarities. The Charter under article 10 recognize the right to freedom of association as *“every individual shall have the right to free association provided that he abides by the law and that no-one may be compelled to join an association.”*<sup>112</sup> As I mentioned somewhere in this paper freedom of association is a millstone for CSOs to be formed and operate meaningfully within provided legal space and for lawful purpose. Giving recognition to freedom of

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<sup>110</sup> Article 22(2) of ICCPR.

<sup>111</sup> Adopted in June 1981 and came into force in October 1986. Ethiopia acceded to the Charter on 15 June 1998.

<sup>112</sup> Supra note 39, p.10.

association under such regional human rights instruments is of greater importance for CSOs to flourish in the continent thereby to contribute its roles in a multifaceted manner and sectors across the countries in the continent given that the legal framework regulating CSOs in a particular country is of a nature and intent of enabling to have robust CSOs both at national and regional level.

Other regional instruments recognizing the right to association is African Charter on the Rights and Welfare of the Child (ACRWC).<sup>113</sup> The Charter guarantees the right to association under article 8 which reads as; “Every child shall have the right to free association and freedom of peaceful assembly in conformity with the law”.

Availing its power of monitoring the implementation of the ACHPR, the African Commission on Human and Peoples’ Rights (hereinafter the African Commission) has passed two resolutions pertinent to the right to freedom of association<sup>114</sup>. One of these resolutions is the “Resolution on the Right to Freedom of Association.”<sup>115</sup> The second resolution is the Resolution on Protection of Human Rights Defenders in Africa<sup>116</sup> which is adopted by the African Commission in response to the persistent violations human rights violations that human rights defenders face in Africa, such as freedom of association.<sup>117</sup> Recalling that it is entrusted by the African Charter on Human and Peoples’ Rights with the mandate to promote human and peoples’ rights and ensure their protection in Africa.<sup>118</sup> again it “calls upon Member States to promote and give full effect to the UN Declaration on Human Rights Defenders, to take all necessary measures to ensure the protection of human rights defenders and to include information on measures taken to protect human rights defenders in their periodic reports<sup>119</sup> and invites its members to mainstream the issue of human

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<sup>113</sup> Adopted in July 1990 and came into force in November 1999. Ethiopia acceded to the Charter on 2 October 2002.

<sup>114</sup> Note, 39, p. 10.

<sup>115</sup> Resolution on the Right to Freedom of Association (1992), ACHPR/Res 5 (XI) 92 as cited on Note 39, p. 11.

<sup>116</sup> Resolution on Protection of Human Rights Defenders in Africa (2004), 35th Ordinary Session, Banjul, the Gambia, as cited on Note 39, p. 11.

<sup>117</sup> Id, Preamble Para. 2, as cited on Note 39, p. 11.

<sup>118</sup> Id, Preamble Para. 4.

<sup>119</sup> Ibid.

rights defenders in their activities.<sup>120</sup> In this Resolution, the African Commission urged State Parties to promote and give full effect to the UN Declaration on Human Rights Defenders<sup>121</sup> and to take all necessary measures to ensure the protection of human rights defenders.<sup>122</sup>

The African Commission on Human and Peoples' Rights, on case between "Monim Elgak, Osman Hummeida and Amir Suliman vs. Sudan,"<sup>123</sup> held that:

*The right to freedom of association is both an individual and collective right which allows individuals to join together to pursue and further collective interests in groups, such as NGOs, political parties and trade unions. This right comprises the right to form and join associations freely; any interference with this right must be prescribed by law and meet the conditions prescribed under Article 27 of the Charter, namely the protection of the rights and freedoms of others, collective security, morality and collective interests.*

In another communication, *Huri - Laws vs. Nigeria*,<sup>124</sup> the Commission stressed that *the regulation of the exercise of the right to freedom of association should be consistent with State's obligations under the African Charter on Human and Peoples' Rights*. Meaning, there should no be additional grounds and reasons to restrict the right to association and assembly other than provided under article 27 of the Charter. And state party to the Charter should issue national legislation on this particular right in consonance with Charters' provisions.

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<sup>120</sup> Ibid.

<sup>121</sup> Id, Para 4. as cited on Note 39, p. 11.

<sup>122</sup> Ibid, as cited on Note 39, p. 11.

<sup>123</sup> Communication 379/09 – Monim Elgak, Osman Hummeida and Amir Suliman (represented by FIDH and OMCT) v Sudan, parag.118.

<sup>124</sup> Communication 212/98 - Amnesty International v Zambia (1999) ACHPR, 12th Activity Report, parag. 48.

## CHAPTER THREE

### OVERVIEW OF NEW CSOs PROCLAMATION

#### 3.1 Introduction

Federal Democratic Republic of Ethiopia (the FDRE Constitution),<sup>125</sup> the mother law of the land, devotes 1/3 of its provisions (from article 14 through article 44, chapter three of the constitution, the bill of rights part of the constitution) to fundamental rights and freedom of human beings. The constitution recognizes and guarantees the right to association under article 31.

This particular provision of the constitution guarantees the right to association without any conditions and consideration of whatsoever, color, race, language, culture, ethnicity, religion or other discriminator basis, as it recognize that the right to association is *the right to everyone*. Even if FDRE constitution put the right to freedom of association under category of democratic rights, this doesn't mean that in itself this does take away its status as a human right.<sup>126</sup> This is again inconsistent with Ethiopian international human rights commitments.<sup>127</sup> All international human rights treaties including those ratified by Ethiopian including the ICCPR and the ACHPR treat the right to freedom of association as the right of both citizens and non-citizens.<sup>128</sup> Vienna Declaration and Programme of Action sealed the matter stating “*All human rights are universal, indivisible and interdependent and interrelated*. The international community must treat human rights globally in a fair and *equal manner, on the same footing, and with the same emphasis*.”<sup>129</sup>

Article 31 of the constitution states; *every person has the right to freedom of association for any cause or purpose*. The phrase *every person* signifies that everyone either “physical or legal person

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<sup>125</sup> Proclamation of the Constitution of the Federal Democratic Republic of Ethiopia, 1995, Proc. No. 1, Neg. Gaz. Year 1, no. 1.

<sup>126</sup> Supra note 39, p. 13.

<sup>127</sup> Ibid.

<sup>128</sup> Ibid.

<sup>129</sup> Vienna Declaration and Programme of Action, Adopted by the World Conference on Human Rights on 25 June 1993, Para.5.

(CSOs)”<sup>130</sup> has a freedom to form, join or leave association of any kinds and natures for any lawful cause and purpose so long as organization formed in compliance with appropriate law, respecting and accepting constitutional order. Neither the Human Rights Committee nor other international treaties monitoring bodies address the issue of whether and how the right to freedom of association, a right typically formulated in various convention as individual right, can be extended to other entities, such as CSOs.<sup>131</sup> The Council of Europe and the Organization for Security and Co-operation in Europe (OSCE) provides that “All persons, natural and legal, national and non-national and groups of such persons shall be free to establish an association, with or without legal personality.”<sup>132</sup> The landmark decisions of the European Court of Human Rights have, however, affirmed that international law recognizes the right of individuals to form associations and that, once the associations are formed; the associations have the right to function freely.<sup>133</sup> In the *United Communist Party of Turkey and Others v. Turkey*<sup>134</sup>, the Court decided that;

*[T]he Convention [the European Convention on the Protection of Human Rights and Fundamental Freedoms] is intended to guarantee rights that are not theoretical or illusory, but practical and effective. . . . The right guaranteed by Article 11 would be largely theoretical and illusory if it were limited to the founding of an association, since the national authorities could immediately disband the association without having to comply with the Convention. It follows that the protection afforded*

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<sup>130</sup> Article 2(17) shall mean any physical and legal person.

<sup>131</sup> This does not include trade unions. In a number of conventions negotiated under the auspices of the International Labor Organizations (ILO), it is unambiguously affirmed that trade unions have the right to freedom of association. See, Freedom of Association and Protection of the Right to Organize Convention (ILO No. 87); Right to organize and Collective Bargaining Convention (ILO No. 98); Workers' Representatives Convention (ILO No. 135); and Labor Relations (Public Service) Convention (ILO No. 151), as cited on supra note 39, p.9.

<sup>132</sup> Guidelines on Freedom of Association, Adopted by the Council of Europe's Commission for Democracy, at its 101st Plenary Session (Venice, 13-14 December 2014, Para.28.

<sup>133</sup> Supra note 39, p.9.

<sup>134</sup> *United Communist Party of Turkey and Others v Turkey*, (19392/92, European Court of Human Rights, January 30, 1998), available at (<http://www.unhcr.org/refworld/docid/4721cf132.html>) last visit on September 15, 2009 53 Id, Para. 33, as cited on supra note 39, p.9.

*by Article 11 lasts for an association's entire life and that dissolution of an association by a country's authorities must accordingly satisfy the requirements of paragraph 2 of that provision.*<sup>135</sup>

Ethiopia is part to various human rights instruments incorporating and recognizing the right to associations; it ratified and made it a part and parcel of the law of the land (9(4) of the FDRE constitution).<sup>136</sup>

Pursuant to “article 13(2) of the constitution”<sup>137</sup> the human rights chapter of FDRE constitution shall be interpreted in line with international bill of rights (UDHR, ICCPR and ICESCR). Article of the constitution protecting right to association (article 31) is found in chapter three of the constitution (article 13-44); hence, be interpreted in conformity with international human rights standards for better protection of the right guaranteed in this parts of the constitution in general and the right to association in particular.

Being a constitutional provision, article 31 does not set out the detailed content of the right to freedom of association and the specific obligation of Ethiopia in protecting and promoting the same.<sup>138</sup> The constitution is a general law, providing general rules and standards governing a matter. Currently effective and specific law regulating activities of CSOs in Ethiopia is Civil Societies Proclamation No. 1113/2019 (The Proclamation) and “Regulation No. 168/2009<sup>139</sup> as vividly provided under article 88(1) of Civil Societies Proclamation No. 1113/2019.

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<sup>135</sup> Id, Para.33, as cited on supra note 39, p.9.

<sup>136</sup> Article 9(4) of FDRE constitution reads as “All international agreements ratified by Ethiopia are an integral part of the law of the land.”

<sup>137</sup> Article 13(2) of FDRE constitution reads as “The fundamental rights and freedoms specified in this Chapter shall 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.”

<sup>138</sup> Note, 39 p. 14.

<sup>139</sup> The Charities and Societies Council of Ministers Regulation No. 168/2009.

Article 88 (1) “The Charities and Societies Regulation No. 168/2009 and Directives issued by the Agency prior to the enactment of this Proclamation shall be for one year from the promulgation of this Proclamation in the Federal Negarit Gazette to the extent that they do not contravene with the provision of this Proclamation.”

The Proclamation classified CSOs into two; as Local and Foreign Organization, Local Organization means a Civil Society Organization formed under the laws of Ethiopia by Ethiopians or foreigners resident in Ethiopia or Both.<sup>140</sup>—be it established by two or more persons.<sup>141</sup> The Proclamation under article 18 further enumerates types of Local Organizations as association, board-led Organizations, a charitable endowment, a charitable trust and a charitable committee Foreign Organization is defined as a non-governmental organization formed under the laws of foreign countries and registered to operate in Ethiopia,<sup>142</sup> established by non-citizens under non-Ethiopians laws but permitted to operate in Ethiopia. The Proclamation aimed to govern both charitable organizations and professional associations. Charitable organizations is an Organization established with the aim of working for the interest of general public or third party.<sup>143</sup> Professional associations is an organization formed on the basis of profession, and its objective may include protecting the rights and interests of its members, promoting professional conduct, building the capacity of members or mobilize professional contributions of its membership to the community and the country.<sup>144</sup>

As far as the scope of application of the proclamation is concerned article 3 of the Proclamation states that it shall be applicable to; Organizations operating in two or more regional states, Foreign Organizations, Organizations established in Ethiopia to work on International, regional or sub regional issues or not operate abroad, Organizations operating in two Chartered city (Addis Ababa and Dire Dawa), charitable Organizations established by religious Organizations. Sub article 3 of article 3 of the Proclamation provides activities which are beyond the scope of application of the Proclamation. Accordingly, Religious institutions except charitable organizations established by religious institutions, traditional institutions (Ekub, Edir and others) and Organizations formed under other laws are out of the scope of application of the Proclamation.

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<sup>140</sup> Supra note 9 Article 2(2).

<sup>141</sup> Id, article 17.

<sup>142</sup> Id, article 2(3).

<sup>143</sup> Id, article 2(4).

<sup>144</sup> Id, article 2(5).

As vividly stipulated on the preamble, the purpose of the proclamation is to “--- ensure the realization of the right to association enshrined in the constitution of FDRE and international bill of human rights,--- to enhance democratic governance, accountability and transparency and the roles of CSOs in the overall of socio-economic development and democratization of the country.<sup>145</sup> Further the preamble states that the proclamation aimed to nurture the culture of philanthropy and voluntarism in society and to do away with the repressive provision of previous law thereby to have robust and enabling legal tools to ensure CSOs flourish in the country.

### **3.2. The Registration and Formation of CSOs**

With regard to formation and registration of organizations the proclamation under article 16 provides general principles for the formation of organizations. Accordingly, the organization may be formed either for definite or indefinite period to serve the interest of public at large or third parties or to crystallize or solidify professional rules and standards. The joining or disjoining membership shall be voluntary and out of the volition of (dis)member’s.<sup>146</sup> The formation and internal governance of the organizations shall be based on democratic principles, non-discriminatory rule, independent and neutral principle.<sup>147</sup> Organizations shall acquire legal personality and be legalized to operate upon registration given that it satisfy legal requirements provided under article 57(1) of the proclamation. The Proclamation provides addition and distinct criteria for foreign organizations as far as registration of organizations is concerned. Article 58 stipulates that application for registration by local organizations shall be signed by the founders and contains the following particulars;

*The minutes of formative meeting indicating the names, address and citizenship of the founders, personal identity card or passport of the founders, the name, address and logo of organization, the objective and region where the organization intends to operate, rules of organization (article of association) of the organization.*

The Proclamation proscribes further requirements applicable to Foreign Organizations to be registered and operate in Ethiopia. Accordingly, application for registration of foreign organization

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<sup>145</sup> Id. Preamble, parag. 4.

<sup>146</sup> Article 16(6) of the Proclamation.

<sup>147</sup> Id, article 16(7) of the Proclamation.

shall be accompanied with documents; “dully authenticated certificate of registration showing its establishment from its country of origin, dully authenticated resolution of its competent organ to operate in Ethiopia, dully authenticated power of delegation of the country representative, letter of recommendation from the Embassy in which the charity is incorporated or in default of such by a competent authority in the country of origin from Ministry of Foreign Affairs of Federal Democratic Republic of Ethiopia, and a work plan for a minimum period of two years.”<sup>148</sup> The proclamation “exhaustively”<sup>149</sup> enumerates the grounds that the agency may raise to refuse application for registration. The Agency shall refuse to register an organization where it finds that the application does not comply with the necessary conditions set out under article 58 (1) an (2)-when the aim and activities of the organizations are contrary to law and/or public morality, when the name or symbol it proposed to use may create misleading or resembles to the name and symbol of other organization or contrary to law and/or public morality-organization should not offer for registration a name that is misleading or identical with that of an already registered organization,<sup>150</sup> and when the document furnished for the registration by the organization is found to be forged or obtained fraudulently.<sup>151</sup> Article 59(3) gives Organizations the opportunities to fulfill document(s) not provided to Agency during previously refused application by obliging Agency to give a written response allowing the applicant(s) to come up the missed document(s), in default it may reject the application stating the legal grounds to do so. Registration is the entry point for legal existence of CSOs,<sup>152</sup> and it conferred legal personality upon organization and licenses them to operate, own property, to undertake any lawful juridical acts.

In principle legal personality is a right to be sought by organizations for their own advantage as organization cannot do any civil acts such as entering into contracts, thereby owning properties,

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<sup>148</sup> Id, article 58(2(a)-(d) of the Proclamation.

<sup>149</sup> It is an exhaustive grounds because article 59(2) states that the Agency my not refuse applications for registration for the reasons other than those specified under article 59 (1 (a) – (d) on the basis of practice or directive.

<sup>150</sup> Note1, p. 13.

<sup>151</sup> Note 9, article 59 (1) of the Proclamation.

<sup>152</sup> Note 1, p. 13.

hiring staff, etc... without having legal personality.<sup>153</sup> The merits of registration as provided under article 61 of the proclamation inter alia are; acquisition of legal personality, right to sue or to be sued, entering into contracts, right to own, use, administer and transfer properties, right to engage in the sector of one's choice- save the case of sectors that the law requires special license from specific government authority.

### **3.3. Funding and Operational Freedom of CSOs**

As far as the issue of funding is concerned “Checklist for CSO Laws”<sup>154</sup> provides that CSOs should be permitted to engage in all legally acceptable and culturally appropriate fundraising activities including door-to-door, telephone, direct mail, television, campaigns, lotteries, raffles, and other fundraising events.<sup>155</sup> An organizations have the right to engage in any lawful business and investment activities in accordance with the relevant trade and investment laws in order to raise funds for the fulfillment of its objectives,<sup>156</sup> which may be done through establishing a separate business organization (company) or acquiring shares in an existing company or collect public collections or operating its business as a sole proprietorship.<sup>157</sup> An organization engaged in any income generating activities shall open a bank account and keep separate books of account for its business in accordance with the relevant commercial and tax laws,<sup>158</sup> bank account independent and separate from account used to deposit resources they gain from other sources through its ritual funding system (soliciting, membership dues or donation, etc). The registration, tax and licensing system for organizations engaged in income generating activities will subject to the same tax laws, investment laws, licensing and registration process and procedure as business organizations established with principal purpose of carry out commercial activities, any public collection shall be informed to the Agency and organizations should notify such intention to Agency no later than

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<sup>153</sup> Id, p. 10.

<sup>154</sup> The International Center for Not-for-Profit Law, 2006.

<sup>155</sup> Id, p. 4.

<sup>156</sup> Note 9, article 63(1) (b).

<sup>157</sup> Id, Article 64(1).

<sup>158</sup> Id, Article 64(2).

fifteen days.<sup>159</sup> The organizations have the right to solicit, receive and utilize funds from *any legal sources* to attain its objectives.<sup>160</sup> A CSOs that is properly registered or incorporated should generally be allowed to receive cash or in-kind donations or transfers from aid agencies of another country, a multilateral agency, or an institutional or individual donor located in another country, as long as all generally applicable foreign exchange and customs laws are satisfied.<sup>161</sup>

Thus, organizations can solicit resources (funds in any kinds and anywhere) from foreign or domestic sources to ensure its financial sustainability with no limitation so long as the source of fund is legal, moral, socially acceptable and culturally appreciated. Liberalization of sources of funds for CSOs is mean a lot and is one way of boosting financial capacity of CSOs thereby to have financially sustained and flourished CSOs. This will have direct and positive impacts on the planning, performance and efficiency of their projects and undertakings.

The only limitation as far as fundraising activities is concerned is that it “ requires registration with a state organ (in our case Agency) or an independent supervisory organ which will issue permits, badges, and other identification materials to the fundraisers, set standards for public solicitation activities, provide information to the public, and sanction inappropriate conduct.”<sup>162</sup>

The check list provides that CSOs should be allowed to engage in fundraising activities upon permit as well as lawful economic activities; exempted from income taxation on moneys or items received from donors, membership dues, etc.; public benefit CSOs should be given preferential treatment under value added tax (VAT) and other taxes; donations to CSOs should be entitled to reasonably generous income benefits, such as deductions; CSOs should be entitled to receive donations from any source – locally or otherwise; and the laws, including the procurement legislation where appropriate, should contain provisions that encourage partnership between government and NGOs,

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<sup>159</sup> Id, article 64(6) and (7).

<sup>160</sup> Id, article 63(1) (c).

<sup>161</sup> Note 154, p. 6.

<sup>162</sup> Id, p. 4.

providing for government financing of projects carried out by NGOs, through grants and contracts.<sup>163</sup>

With regard to operational freedom, the proclamation under article 62(2) stipulates that “an organization shall have the liberty to engage in any sectors and area of operation without restriction and limitation of whatsoever so long as an activities and objective it aimed to achieve is legal, moral and pro-culture, social values and norms. CSOs should be treated like all other legal entities and be permitted to engage in activities for the benefit of their members and in public benefit or “charitable” activities<sup>164</sup>

Article 62(2) of the Proclamation states that “an Organization shall have the right to engage in *any lawful activity* to accomplish its objective.” No restriction and limitation on the area or sectors organizations choice engage in except the sole requirement that the organization may not engaged in illegal activities either as area of operation or sources of funds.

The proclamation expressly permit collaboration between local and foreign organizations in that foreign organizations may work in partnership with local organization by providing financial, technical support to build capacity of local organizations,<sup>165</sup> both foreign and local organization shall make a necessary efforts to ensure that its activities help to bring about sustainable development, contribute to the democratization process, promote the rights and interests of its members or enhance the profession they engaged in.<sup>166</sup>

Further, though organizations are free to engage in any lawful activities and sectors to pursue their objectives, the proclamation require them to get permit and legal authorization (license) to engage in certain sectors which is upon the authorization of relevant government bodies. In this regard article 62(9) states that “an organization can not engage in sectors which require additional permit by law without getting the necessary permit from the relevant government bodies.”

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<sup>163</sup> Id, p. 5 as cited on Tsehai Wada; The Regulatory Framework for Civil Society Organizations in Ethiopia, Civil Society at the Cross Roads: challenges and prospects in Ethiopia, Forum for Social Studies, 2008, p. 17.

<sup>164</sup> Id, p.2.

<sup>165</sup> Note 9 article 62(6) and (7).

<sup>166</sup> Id, article 62(8).

In sum, Organizations are free to solicit, receive and utilize funds either from foreign or local sources given that the sources of funds are legal, and it may undertake any activities they choice in the area of it wish provided that the activity is legal or given special permitted from the concerned government bodies for the area sectors which require so.

### **3.4. Dissolution and Liquidation of CSOs**

The checklist for CSO laws provides that CSOs can be dissolved for any one of the following reasons; voluntarily by the decision of the highest organ that should be given the power to do so, liquidation through court order, involuntarily for the most flagrant violations but only after failure to rectify a legal or ethical violation and such decisions are subject to judicial supervision.<sup>167</sup>

The relevant provisions of article 83 of the Proclamation provides that Organizations can be dissolved upon the decision of the Organization’s competent organ in accordance with its rules, upon the decision of the Board of the Agency or upon the decision of the Federal High Court-for serious criminal offence or recidivist of minor offence, and the violation entails criminal liability-the Agency will direct the case to the competent body of the police or public prosecutor<sup>168</sup> and due to insolvency.

In sum, dissolution of an organization can be voluntary or involuntary. Article 83(1/a) talks about voluntary dissolution-the dissolution ordered by organizations competent organ in accordance with its rules. The cumulative reading of article 83(1) (b) and (c), 83 (2) (a) and (b), 70 and 78(4)

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<sup>167</sup> Supra note 149, p. 1.

An organization fails to provide its report within three months from the expiry of the time frame set under article 70 (1) and (2) of the proclamation for submission of reports, “if the organization does indeed maintain existence but the representative of the organization falls to explain to this effect and the “Director General”<sup>167</sup> submits the issue to the Board. Article 2 (7) of the Proclamation, Board refers to the Civil Society Organizations Board established in accordance with the provision of this proclamation.

For the decision of dissolution of the Organization or upon the order of the Director General-if the organization fails to rectify its practice after receiving strict warning-for the reason that the Organization committed a grave fault and fails to redress its fault after being given clear warning (article 78(3)), -the warning must be in writing and shall specify the violation, the measures to be taken and the timeframe to rectify the violation taking into account the gravity of the violation and complexity of the case(article 78(2)).

<sup>168</sup> Article 78(6).

provides grounds for involuntary dissolution, which are; by the decision of Board of Agency, by the decision of Federal High Court and Insolvency of the organization.

Once the dissolution of the organization will be effected as per article 83 of the proclamation, the property of the organization shall immediately vest in the liquidator appointed by the Agency in according to article 6(17) of the Proclamation. The Agency is empowered “to prepare a list of liquidators and monitor their performance in the dissolution of organizations.” Liquidator shall not perform any activities other than those necessary for its liquidation and, shall perform acts of preservation-sustaining the rights of an organization as prudent administrator or “bonus pater familias.”<sup>169</sup> Then when the liquidation process is concluded liquidator shall effect the transfer of the remaining money or property to another organization in accordance with the rules or prior decision of the supreme body of the Organization.<sup>170</sup>

The winding up of the tasks and powers of liquidator(s) (the liquidation process) may end up in cancellation of the name of organization from the Registry of Agency of CSOs thereby resulting in death of the implicated organization.

### **3.5. Institutional Arrangement**

#### **3.5.1. The Roles of CSOs Agency, the Board and Director General in Dissolution of Organizations**

##### **A) Roles of CSOs Agency**

Agency defined under the proclamation as “Agency for CSOs established by the proclamation having its own separate legal personality as institution of federal government.”<sup>171</sup> The objective of the Agency as stated under article 5(2) is to “--- ensure maximum public benefit by supervising whether organizations carry on their activities in accordance with their registered objectives ---”

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<sup>169</sup> Article 1010, Negarit Gazeta, Gazzeta Extraordinary; Civil Code of the Empire of Ethiopia Proclamation No. 165 of 1960, Berhanenna Selam Printing Press of H.I.M. Haile Selassie I - 17-9-52- No. 2071-52- 5000, Addis Ababa 5<sup>th</sup> of May 19960, 9<sup>th</sup> year, No.2.

<sup>170</sup> Article 84(3) of the Proclamation.

<sup>171</sup> Article 4(1) of the Proclamation.

Beside the power to prepare a list and monitor their performance of liquidators article 6 of the Proclamation provides the powers and functions of Agency, to mention some; the power to monitor and supervise organizations to ensure that they undertake their activities in compliance with the law, examine annual activity and financial reports of organizations conduct necessary follow up in accordance with the stipulations under the Proclamation, conduct research and advise government on the roles of organizations in the protection of human rights, democratization and development activities of the country.

Thus, the roles of Agency in the process effecting the death of CSOs is pivotal as establisher of the liquidators or itself order the death of organizations or as decision maker pursuant to cumulative reading of article 7(a), 6(11) and 83(1/b) of the Proclamation or as initiator of the dissolution in according to article 7(b) cum 70(2) cum 78(4) of the Proclamation.

#### B) Roles of Civil Organizations Board

Civil Organizations Board have the power to set policy directions for the governing body of CSOs as stated under article 9(1) in that it may determine how, the way and the manner CSOs may function. The Board may serve as the appellate organ hearing and deciding appeals brought before it from the decisions of Director General, the decision may include the decision suspend the Organization which may result in death of Organizations as per article 9(2) and 78(4). Thus, have roles in dissolution of termination process of CSOs.

#### C) Roles of General Director

With regard to the roles of General Director article 12 of the Proclamation provides that it shall have the power to direct and manage the activities of the Agency, exercise the powers and functions of Agency including the power of registration and authentication of documents with regards to Organizations, prepare liquidators and monitor their performance in the dissolution of Organizations and administer Civil Society Fund pursuant to cumulative reading of article 12(1), 12(1) (a), 6(2), (11), (17) and (18) of the Proclamation. Hence, the roles of General Director on dissolution of Civil Society Organizations are apparent as roles of Agency.

## CHAPTER FOUR

### THE IMPROVEMENTS, CHALLENGES AND THE PROSPECTS OF CSOs PROCLAMATION NUMBER 1113/2019

#### 4.1. The Improvements

Although the new 2019 Proclamation starts in a very similar manner to the old – by stating that it is enacted for the purpose of giving effect to the right to freedom of association enshrined under FDRE constitution and other international as well as continental Human Rights instruments it outlines an entirely new approach to the regulation of civil society organizations.<sup>172</sup> The new Proclamation departs from the previous in many ways and aspects inter alia; in funding and membership-based categorization system, no dichotomization of Organizations as Ethiopians, Resident and Foreign Organization with all its implication on funding and area of operations, the previous Proclamation provides that Charities or Societies can be classified into three and these are: Foreign, Ethiopian and Charities or Societies of Ethiopian residents'. An Ethiopian charity or society is a charity or society that is formed under the laws of Ethiopia and all of whose members are Ethiopians and is funded or controlled by Ethiopians. However, it may be deemed as an Ethiopian society if it receives from foreign sources money, not more than ten percent of its total income. On the other hand, Foreign Charities defined as those charities and Societies whose members are all residents of Ethiopia, which get more than 10% of their income from foreign sources and established under Ethiopian law<sup>173</sup>, the new legislation rather refers only to Local (indigenous) and Foreign Civil Society Organizations,<sup>174</sup> With no effects and implication on either sources of funds or area of engagement.

The now working legislation explicitly provides that all Organizations have the right to engage in any lawful activity to accomplish their objectives. In other words, Foreign and foreign-funded Organizations are no longer prohibited from engaging in activities such as advocacy, lobbying

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<sup>172</sup> Supra note 79, p.2.

<sup>173</sup> Article 2(2), (3), (4) of Charities and Societies Proclamation No.621/2009.

<sup>174</sup> Ibid.

and human rights work<sup>175</sup>-save article 62(5) of the Proclamation. But under previous Proclamation No. 621/2009 as provided under article 14(5) except Ethiopian Charities and Societies, neither Ethiopian Residents Charities or Ethiopian Residents Societies nor Foreign Charities were allowed to engage in the area such as 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 and the promotion of conflict resolution or reconciliation.*

No restrictions on sources of funds either from domestic or foreign sources (article 63 (1) (b) and (c) of the Proclamation so long as the sources of funds is legal. But the previous legislation states, under article 2(2) that Ethiopian Societies should not use more than ten percent of their funds from foreign sources rather they should generate 90% of their funds from local sources, given lack of culture of philanthropy in Ethiopia it is hard for CSOs to raise 90% of their funds locally. Hence, it was one of the disabling grounds of the same Proclamation.

The new Proclamation granted Organizations a full liberty to choose their own respective area of engagement, operational freedom on sectors they prefer to work. Again something which is a super improvement in this regard as “Dina and other”<sup>176</sup> argue is, the move from state regulation CSOs to self-regulation marks a significant shift. He holds that in the past decades, the sector has been tightly and closely regulated by the state but the new Proclamation creates a mechanism for self-governance, and self-regulation. Cumulative reading of article 2(14), 5(5), 6(4) and 5(7) reveals that the Proclamation introduces and aim to advances a self-regulatory system for CSOs. Self-regulation is defined as a mandatory regulatory system led by voluntary code of conduct adopted by Organizations through the Council to govern themselves (article 2(14)).

The other improvement of the new Ethiopia CSOs law, which was missed under previous law, is that, the adoption process of the new legislation was participatory in a sense that high level of participation by CSOs in the process of adoption of new legislation<sup>177</sup>, and the Agency Board is

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<sup>175</sup> Ibid.

<sup>176</sup> Supra note 79, p. 3.

<sup>177</sup> Ibid.

more representative than previous. The Board shall have eleven members composed of three representatives from government bodies, three from CSOs, two from National Federation of Disability Associations, two from Women and Youth Associations and one Expert.<sup>178</sup> While as the previous Proclamation No. 621/2009 under article 8 provides that “the Board *shall have seven members*, including its Chairperson, to be nominated by the government among the board members *two of them shall be nominated from the Charities and Societies.*”

Other normative improvement that the new CSOs law has over the previous Charities and Societies law is on the grounds for the refusal of application for registration. Under Charities and Societies Proclamation as stated under article 69 (2) and (5), the Agency may refuse the application for registration “if 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 and/or where the nomenclature of the Charity or Society is country wide and the composition of its members or place of business do not show the representation of at least five regional states.”<sup>179</sup> None of these grounds of denial of registration was tenable, the term used, “the charity or society is likely to be used for unlawful purposes or for purposes prejudicial to public welfare or good order in Ethiopia”, is so subjective and amenable to abuse. Moreover, terms such as public welfare and good order are vague and open to diverse interpretation.”<sup>180</sup> A society that intends to operate throughout the country may begin to operate from Addis Ababa or Dire Dawa and then expand to other regions depending on its resources, programmes and the prevailing conditions.<sup>181</sup> Thus demanding representation from “five” regional states is an unnecessary administrative burden that should not be imposed on a society intending to serve a wider public.<sup>182</sup> But under the new legislation there is no such vague, haphazard and restrictive articulation, rather the Proclamation provide a clear and exhaustive grounds that the Agency may raise to refuse registration for application (art.59 (2)). Thus, this is again a positive improvement with regards

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<sup>178</sup> Article 8 of the Proclamation.

<sup>179</sup> Article 69(2) and (5) of Charities and Societies Proclamation No.621/2009.

<sup>180</sup> Supra note 1,p.13.

<sup>181</sup> Ibid.

<sup>182</sup> Ibid.

to encouraging application for registration, clarifying the procedure and grounds and restricting unrestricted powers of the Agency.

The other improvement of the new Ethiopia new CSOs law is with regard to the right to appeal against the decision to deny registration by Board. Article 104(3) of Proclamation No. 621/2009 states that “Ethiopian Charity or Society aggrieved by the decision of the Board may appeal to the Federal High Court within 15 days from the date of the decision.” Meaning, it allow the right of appeal to Ethiopian Charities and Societies excluding the Foreign Charities which was clearly against the right to access to justice, principle of equality and non-discrimination. But the new Proclamation under article 57(7), 59(8) and 77(5) provides that the applicants (CSOs either Local or Foreign Organizations) dissatisfied by decision of the Board/Agency may lodge appeal to the Federal High Court without further conditions either to Local or Foreign Organizations.

Notification of meeting to Agency, removal and replacement of officers by Agency are the other improvements. 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 (article 86 of Proclamation no. 621/2009), given the number of Charities and Societies in the country and number of staffs Agency have it is burdensome to Organizations to report each and every mini and large or general meetings to the Agency, and it is impracticable for Agency to attend all the meetings of all those Organizations. Again as stipulates under article 91 of the Proclamation No. 621/2009 Agency may order the removal or suspension of the Officers. This is a direct intrusion in the internal affairs of the Organizations as the appointment, removal and replacement of the Officers should be the business of internal rules of the Organizations and members, and Officers will be appointed based on his/her skills and qualification. Hence, should not be removed or/and suspended by external authority. Instead the new Proclamation No. 1113/2019 encourages self-regulation and internal rules and standards of Organizations.

Besides the improvements and advancement the new legislation is remain with some setback which need to be improved and further for the betterments of the legal system, pro-CSO law and strong and effective institutions and Organizations.

## 4.2. The Challenges and Gaps in the Proclamation No.1113/2019

Though there is an improvements and advancements on the Proclamation No. 1113/2019, it has some provisions which would however be continue to be significantly impeding the enjoyment of fundamental right and freedom namely, the right to association, assembly and expression. The gaps on the Proclamation No.1113/2019 are;

### i. Registration

Jointly reading of article 57 (1) and 88 (3) of the Proclamation requires CSOs whether Local or Foreign Organizations to be registered or reregistered to operate in the country, in default the Organization is under the pain of losing legal personality thereby denied not to engage in any juridical activities, as registration is a prerequisite to acquire legal personality as provided under article 61(1) of the Proclamation. The proclamation made registration a mandatory precondition for the formation and operation of CSOs. In contrast ACHPR Guidelines on Freedom of Association and Assembly in Africa provides the following;

*“States shall not compel associations (CSOs) to register in order to be allowed to exist and to operate freely. Registration shall be governed by a notification rather than an authorization regime, such that legal status is presumed upon receipt of notification. And the registration procedures shall be simple, clear, non-discriminatory and non-burdensome, without discretionary components.”*<sup>183</sup>

A means of noticing Civil Society Organizations Agency as to the formation and establishment of CSOs is should be through registration which shall be governed by a notification regime rather than an authorization regime. Meaning for the Organizations to establish, acquire legal personality and operates in the area of their choices they should not be expected to follow stringent procedure of registration rather notifying the relevant authority as to the formation of the Organization be suffice.

The checklist for CSO laws follow similar pipeline in stating that, in creation of a CSO, protecting fundamental freedoms of expression, association, and peaceful assembly means that CSOs should be allowed freely to come into existence and should not be required to obtain legal personality in order

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<sup>183</sup> Supra note 52, Para. 13.

to engage in lawful activities.<sup>184</sup> The European Court of Human Rights has addressed that the right of individuals to require registration of legally recognized associations that are not political parties, in the *Sidiropoulos and Others v. Greece*, in holding that Greece could not refuse to register an association named the Home of Macedonian Culture the purposes of which were exclusively to preserve and develop the traditions and folk cultures of the Florina Region,<sup>185</sup> the Court, *inter alia*, said that:

*[T]he right to form an association is an inherent part of the right set forth in Article 11, even if that Article only makes express reference to the right to form trade unions. That citizens should be able to form a legal entity in order to act collectively in a field of mutual interest is one of the most important aspects of the right to freedom of association, without which that right would be deprived of any meaning.*<sup>186</sup>

In South Africa the legal framework surrounding the establishment of CSOs is conducive to an enabling environment as there are minimal legal restrictions.<sup>187</sup> The Non-Profit Organizations Act, 71 of 1997<sup>188</sup> is aimed to encourage and support organizations in a wide range of the work they do by creating an enabling environment for non-profit organizations to flourish, and setting and maintaining adequate standards of governance, accountability and transparency.<sup>189</sup> The Act provides a voluntary registration facility for non-profit organizations.<sup>190</sup> Article 12(1) of the Act provides that “any nonprofit organization that is not an organ of state may apply to the director for registration.”

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<sup>184</sup> *Supra* note 154, p.1.

<sup>185</sup> *Supra* note 39, p.9.

<sup>186</sup> *Sidiropoulos and Others v. Greece*, (57/1997/841/1047, European Court of Human Rights: Chamber decision, July 10, 1998), available at (<http://www.icnl.org>) last visit on September 15, 2009, as cited on *supr* note, 39, p.10.

<sup>187</sup> Corlett Letlojane; Hunan Rights Institute of South Africa (HURISA); a national assessment of the enabling environment for civil society organizations in South Africa Johannesburg, July 2015, p.11.

<sup>188</sup> Republic of South Africa Government Gazette, No. 1627, No. 71 of 1997: Non-profit Organizations Act, 3 December 1997.

<sup>189</sup> *Supra* note 187, p.11.

<sup>190</sup> *Ibid*.

Hence, unlike ours, it is conducive, enabling legal regime in particular with regard to registration and operation of CSOs.

The other critic raised with regard to article 59(3), (5), (6) and (8) is that the registration period is unduly lengthy. It may take up to four months for Local Organization and more for Foreign Organization which in effect highly burdensome. The cumulative registration period, including the appeal process, for a domestic CSO is four months, and for a foreign CSO is more than four months, such a prolonged registration period infringes on the right to association.<sup>191</sup> The ACHPR Guidelines on Freedom of Association and Assembly in Africa provide that “registration procedures shall be simple, clear, non-discriminatory and non-burdensome, without discretionary components.”<sup>192</sup> They also presume that an association is established after their application is filed;

*“Associations shall be provided with official documents confirming their submission of notification upon such submission. Should the authorities fail to provide such documents, mailing records and copies of the notification form submitted shall suffice as evidence of submission of notification.”*<sup>193</sup>

Such a notification procedure is in force in a number of countries (e.g. Cote d’Ivoire, Djibouti, Morocco, Portugal, Senegal, Switzerland and Uruguay).<sup>194</sup>

Article 88(3) stipulates that “all Organization registered under Proclamation No. 621/2009 except those Organizations operating in a single region shall register again within one year from the coming into force of this Proclamation.” The Organization(s) which already registered and operating under the repealed legislation Proclamation No. 621/2009 should get registered again under the new law under the pain of losing legal personality conferred to it by previous Proclamation if fail to get reregistered.

In this regard ACHPR Guidelines on Freedom of Association and Assembly in Africa provides that, *“Associations (CSOs) shall not be required to register more than once or to renew their*

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<sup>191</sup> Amnesty International, Commentary on Ethiopia’s draft CSO law, p. 5.

<sup>192</sup> Supra note 52, Para. 13.

<sup>193</sup> Id, Para.16.

<sup>194</sup> Supra note 59.

registration.”<sup>195</sup> The UN Special Rapporteur on Freedom of Association and Peaceful Assembly underlined that individuals involved in unregistered associations should be free to carry out any lawful activities in association with others, including peaceful assemblies without fear of criminal sanctions.<sup>196</sup> Thus, requiring Organizations to get registered again for second time under new Proclamation is not in line with ACHPR Guidelines on Freedom of Association and Assembly in Africa in one hand and is creating additional and unnecessary hurdles and burden on CSOs in addition to tightfull bureaucracy.

ii. Restrictions on purposes and activities of Foreign CSOs

Article 62 (5) unduly restrict Foreign and Local Organizations established by foreign citizens who are a residents of Ethiopia not to engage in lobbying political parties, engage in voters education or election observations. The full text of the article is reads as;

*Notwithstanding sub-article 4 of article 62 unless it is permitted with another law Foreign Organizations or Local organizations which are established by foreign citizens which are the residents of Ethiopia may not engage in lobbying political parties, engage in voters education and election observations.*

Advocacy and lobbying activities capture a variety of legitimate and crucial activities that Foreign Organizations could conduct including trainings, researches, publications and public discussions impacting policy choices of political parties and, their respective members.<sup>197</sup> CSOs, irrespective of being national or foreign, should also be allowed to carry out activities aimed towards influencing political parties’ positions and programmes that relate to promotion and protection of human rights in Ethiopia.<sup>198</sup> ACHPR Guidelines on Freedom of Association and Assembly in Africa provides that;

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<sup>195</sup> Supra note 52, Para. 17.

<sup>196</sup> UN, Report of the Special Rapporteur on the Rights to Freedom of Peaceful Assembly and of Association, Maina Kiai, Human Rights Council Twentieth Session, A/HRC/20/27, 21 May 2012, Para. 56, [https://www.ohchr.org/Documents/HRBodies/HRCouncil/RegularSession/Session20/A-HRC-20-27\\_en.pdf](https://www.ohchr.org/Documents/HRBodies/HRCouncil/RegularSession/Session20/A-HRC-20-27_en.pdf) (accessed 30 October 2018). As cited on Amnesty International, Commentary on Ethiopia’s draft CSO law, p. 4.

<sup>197</sup> Id, p.7.

<sup>198</sup> Ibid.

*Associations shall determine their purposes and activities freely --- associations shall be able to engage in the political, social and cultural life of their societies, and to be involved in all matters pertaining to public policy and public affairs, including, inter alia, human rights, democratic governance, and economic affairs, at the national, regional and international levels.*<sup>199</sup>

Article 22(2) ICCPR lists out exhaustive grounds on which the right(s) may subject to restriction-is when prescribed by law, necessary in a democratic society in the interests of national security or public safety, public order (ordre public), the protection of public health or morals or the protection of the rights and freedoms of others. Prohibiting Foreign CSOs to engage in advocacy, lobbying, voters' education could not be justified as per this provision. The author believes no national security, no public safety and order as well as no public health and morality be endangered by allowing Foreign Organizations to engage in lobbying political parties, engage in voters education and election observations given the country have robust legal regime governing CSOs and effective institutions.

iii. Restrictions on “administrative costs”<sup>200</sup> (80%-20% rule)

The capacity of the organizations to solicit and utilize resources is so important for the effective planning, functioning and efficient utilization funds and “to the development of civil society.”<sup>201</sup>

Article 63(2) states that “*the administrative costs of an Organization established for the benefit of the general public or that to the third parties may not exceed twenty percent of its total income.* It is positive that the Proclamation lifts restrictions on receiving foreign funding, but it place excessive controls on use of resources by capping administrative costs at 20% of income (compared to 30% in

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<sup>199</sup> Supra note 52, Para 25.

<sup>200</sup> Administrative expenses are defined under the proclamation article 63(2) very expansively, as expenses which are not related to the project activities of an Organization but are necessary to ensure the continuity of an Organization and related to administrative activities, and shall include: salaries and benefits of administrative employees; purchase of consumables and fixed assets and repair and maintenance expenses related to administrative matters, office rent, parking fees, audit fees and advisement expenses, bank service fees, expenses for electricity service, fax, water and internet services, postal and printing expenses, tax, purchase and repair of vehicles, for administrative purposes, and procurement of oil and lubricants for the same; insurance costs, penalties and attorney fees.

<sup>201</sup> Supra note 191, p. 10.

the previous CSO Proclamation No.621/2009).<sup>202</sup> The 70/30 rule of previous legislation has been replaced by 80/20 rule-now only 20% of an Organization's income can be spent on administrative costs. The rule applies to all organizations 'established for the benefit of the general public or that of third parties.'<sup>203</sup>

Restriction on expenditure appropriation limits the financial autonomy of CSOs and goes against established norms under international law, including as reflected in the ACHPR's Guidelines on Freedom of Association and Assembly in Africa which provides "*the law shall clearly state that associations have the right to seek, receive and use funds freely in compliance with not-for-profit aims.* Every CSO --- shall utilize its financial and other resources for the attainment of its aim (non-profit making aim), objects and purposes,<sup>204</sup> non-commercial and non-business making purposes and the officers or employees shall not use its objects, aims and purposes for personal financial gain or profit or for gain or profit of relatives or friends."<sup>205</sup>

In practice, the distinction between administrative and programmatic costs is subjective and varies from one CSO to another.<sup>206</sup> This limitation will naturally constrain the works of CSOs as a result of which it can be considered as a disabling ground, Moreover, given the fact that not all but some CSOs consume most of their money for administrative purposes out of necessity than choice, the formula is one size fits all and this needs to be rectified.<sup>207</sup> As a result, Organizations have been unable to conduct inter alia trainings of their staffs, hire researchers or commission studies, network or collaborate, participate in workshops and other learning and sharing opportunities without overspending their allocated 20%.<sup>208</sup> But compare to the previous Charities and Societies Proclamation No.621/2009 the new legislation try to minimize the restrictive effects of this provision

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<sup>202</sup> Ibid.

<sup>203</sup> Supra note 79, p.3.

<sup>204</sup> Article 37 of draft Civil Society Organizations Act, Act No. 2004.

<sup>205</sup> Id, article 6(5).

<sup>206</sup> Ibid.

<sup>207</sup> Supra note 1, p. 25.

<sup>208</sup> Supra note 79, p.2.

by allowing that the income generated from income generating activities shall be used to cover administrative and program costs of Organizations (article 64(4)).

Thus, is better to design strategies to encourage the use of funds for beneficiaries through non-mandatory best practice standards,<sup>209</sup> to work away with such cumbersome, constraining provisions, and CSOs should be permitted and encouraged to set higher standards of conduct and performance through self-regulation and codes of ethics.<sup>210</sup> And such undue restrictions should be in line with ACHPR's Guidelines on Freedom of Association and Assembly in Africa and other international standards. Flexible, transparent and democratic finance and financing system (fiscal and administrative transparency) should be in place to guarantee CSOs operational freedom to the reasonable and expected degree than adherence to blanket application of 80-20% rule of resource allocation.

But author do believe that the financial rule of 80%-20% has just policy rational among which is to enhance accountability and financial transparency in CSOs. And civil society organisations operated unchecked would lead to massive financial mismanagement which meant that funds collected by these organisations were not being applied for the amelioration of the intended beneficiaries.<sup>211</sup>

#### iv. Power of Inspection

Article 77 of the Proclamation empowers the Agency to conduct inspection and investigation with due consideration and precaution once it secure sufficient reason to do so on the basis of information it obtained from government organs, donors, or public as well as information obtained by itself during the performance of its work. The Agency is conferred with the power from inspection and investigation of facts up to suspending the activities of the Organization through the decision of Director General of the Agency when the Agency finds a grave violation of the law entailing suspension.

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<sup>209</sup> Supra note 191, p.10.

<sup>210</sup> Supra note 154, P.4.

<sup>211</sup> Communication 445/13- Human Rights Council and Others v. Ethiopia, parag.31.

In line with this, the Checklist for CSO Laws (The International Center for Not-for-Profit Law) provides that;

*“---consistent with the normal state powers of inspection for all legal entities, the supervisory organ should have the right to examine the books, records, and activities of a CSO during ordinary business hours, with adequate advance notice and this audit power should not be used to inhibit the freedom of association of the individuals connected with the organization nor to harass the organization--- ”*<sup>212</sup>

In the same manner ACHPR’s Guidelines on Freedom of Association and Assembly in Africa provides that; state inspections of associations by oversight bodies *shall only be permitted following a judicial order* in which clear legal and factual grounds justifying the need for inspection are presented,--- in no cases shall inspections be utilized in order to harass or intimidate associations of which political authorities disapprove and inspecting authorities shall respect the right to privacy of associations and shall not subject them to undue surveillance.<sup>213</sup>

Sub-article 5 of article 77 says decision of Director General to suspend the Organization is appealable by aggrieved party to Federal High Court with 30 days after Board gave decision. It is positive that the provision permits the right to appeal from the decision of Director General both for Local and Foreign Organizations which were missed under the previous law. But the impediment remain is that the Proclamation failed to empower court of law at initial steps to order and over-see inspection and investigation process as this is where the crucial rights of Organizations is infringed by Agency and Organizations harassed by the same for no just and sufficient reason. Besides the neutrality of court to order and supervise the investigation processes the other reason why judiciary ought to be involved in inspection and investigation

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<sup>212</sup> Id, p.7.

<sup>213</sup> Supra note 52, Para.34 (a), (e) and 35.

ACHPR’s Guidelines on Freedom of Association and Assembly in Africa Paragraph 35 stipulates that, surveillance may only be pursued in cases where reasonable suspicion of an infraction of the law has led to a court-issued warrant authorizing such. Associations and individuals who have their rights to freedom of association and privacy violated through illegitimate surveillance shall be afforded appropriate redress.

process at initial stage is that, the inspection and investigation should be conducted by Agency after it secure court warrant, during ordinary business hours and with adequate advance notice.

### **4.3 Prospects**

Given the improvement and advancements both in law and institution (reduction in power of Agency), the future of CSOs in Ethiopia is brighter compared to the darkest seasons of the repressive legislation that the Organization was under for a decade from 2009 to 2019.

Mindfully understanding the positive effects that the new legislation will produce many Organizations which previously exiled as a result of inability to cop up with the requirements of the previous repressive legislation or disabling intends of the then regime or for the reason that they or their official or professionals were targeted or jailed for no convincing reasons but political motives, now they are coming back home to work here under the new legislation.

Additionally, the advancements like self-regulation, fair representation in governance of the Organizations, operational and funding freedom will hopefully bring about a positive and constructive contribution to CSOs operating or to operate in Ethiopia thereby playing its roles in the socio-economic as well as the democratization and promotion and protection of human rights in the country.

## CHAPTER FIVE

### CONCLUSION AND RECOMMENDATIONS

#### **5.1. Conclusion**

The history of Civil Society Organizations as many major human civilizations is traced back to the two prominent world civilization, the Greek and Roman civilization. The Organizations established to serve humanity beyond the border, persons in distress like due to hostilities of war, wounded and sick soldiers who are off any human help and support. Accordingly the development of these Organizations is highly related to major world and internal wars and crisis.

Continentially speaking, CSOs was first introduced in Africa following to the Era of colonization after the 1885 Berlin agreement (scrambling of Africa) to provide humanitarian aid and support following the foot print of the colonizers as religious or non-partisan organizations to serve the causalities of war from either sides. In Ethiopia it began to emerge in the 1960s with the adoption of the law governing Civil Society Organization, the 1960 Civil Code of Ethiopia. Apart from the traditional associations, such as Iqubs, Idirs, debo established as self supporting institutions.

The functions and undertakings of CSOs have great contributions to over all development of the nation in general and human rights protection and promotion in particular as they may access individual or groups the state may not access as they have better flexibility, financial autonomy, willingness and commitment than state and state authorities. The legal regime regulating CSOs in Ethiopia includes, Civil Code which is found to be insufficient to cop up with variety, purpose and procedure as CSO are now, the repressive Proclamation No. 621/2009 which was chained Organizations not to function if not at all but in its full potential. Ethiopia recently introduced new CSOs law Proclamation number 1113/2019. The new law made a lot of improvements inter alia, uplifting of sectors restriction, operational freedom and remove restriction on sources of funds either form foreign on locally as well as from income generating activities, participatory and representative nature of the legislation. Comparatively speaking, the new legislation come up with new hopes and better prospects for CSOs in Ethiopia and brought a brighter chapter for CSOs in general and human rights NGOs in particular thereby enhance promotion and

protection. By and large, with all its setback the new Ethiopia CSOs law proclamation No. 1113/2019 is inline with FDRE constitution, ACHPR guideline on freedom of association and assembly in Africa as well as advanced and improved than its predecessors' proclamation No. 621/2009. Thus, Better is yet to come for CSOs to flourish in Ethiopia.

## **5.2 Recommendations**

Based on the analysis made and the conclusion arrived at in this study, I recommend the following:

1. The government of Ethiopia should consider adopting more favourable provision to ensure the respect for the principle freedom of association as delineated in the ACHPR Guidelines on freedom of association and assembly in Africa, in compliance with article 11 of ACHPR guideline, adopting a notification regime rather than an authorization one.
2. The government of Ethiopia should create conducive environment for independent Civil Society Organizations to conduct civic and voters' education, monitor elections and organize election debates by lifting up all undue restrictions on activities.
3. Article 62(5) restricts Foreign Organizations from engaging in lobbying political parties, voters education or election observations unless otherwise permitted by an other law which in effect could negatively mpact crucial activities, such as training, research and organizations of workshops unless the government comes up with specific and detailed law dealing with the matter in due time.
4. The House of Peoples Representative need to revise article 88(3) of the Proclamation which requires Organizations to be reregistered before the Agency of CSOs as this creates additional burden and bureaucracy to Organizations. CSOA can easily get all data and information about a given organization from the previous Charities and Societies Agency.
5. The House of Peoples Representative need to limit the excessive power of investigation and inspection of CSOs Agency which includes investigation, search without court

warrant as it could be abused by Agency at the expense of the right to association and privacy.

6. The House of Peoples Representative need to reconsider article 63(2) which provides for 80%-20% rule of resources allocations, as it is difficult for Organizations to cop up with such restriction and could hinder them for unleashing their full pontetional.

# BIBLIOGRAPHY

## **I. Primary Sources**

### **A. Binding and non-binding international laws**

1. Universal Declaration of Human Rights, adopted on 10 December 1948 by General Assembly of the United Nations.
2. International Covenant on civil and political rights, adopted and opened for signature, ratification and accession by General Assembly resolution 2200 A (XXI) of 16 December 1966 and entry into force on 23 March 1976.
3. International Covenant on Economic, social and cultural rights, adopted and opened for signature, ratification and accession by General Assembly resolution 2200 A(XXI) of 19 December 1966 and entry into force on 23 March 1976.
4. Convention on the rights of the Child adopted and opened for signature, ratification and accession by General Assembly resolution 44/25 of 20 November 1989, entry into force 2 September 1990.
5. International Convention on the Protection of the rights of All Migrant Workers and Members of Their Family, Adopted by General Assembly resolution 45/158 of 18 December 1990, enters into force on 1 July 2003.
6. The International Center for Not-for-Profit Law, 2006.
7. Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, Adopted by the General Assembly in 1998, A/RES/53/144, and 9 Dec. 1998.

### **B) Binding and non-binding Regional laws**

1. African Charter on Human and People's Rights, Adopted in June 1981 and came into force in October 1986. Ethiopia acceded to the Charter on 15 June 1998.

2. African Charter on the Rights and Welfare of the Child, Adopted in July 1990 and came into force in November 1999. Ethiopia acceded to the Charter on 2 October 2002.
3. African Charter on Human and Peoples Rights, Guidelines on Freedom of Association, Office for Democratic Institutions and Human Rights (ODIHR) Miodowa 10 00-557 Warsaw Poland [www.osce.org/odihr](http://www.osce.org/odihr) OSCE/ODIHR 2015 ISBN 978-92-9234-906.
4. African Commission on Human and Peoples' Rights (ACHPR), Guidelines on Freedom of Association and Assembly in Africa, 60th Ordinary Session, Niamey, Niger, 8-22 May 2017.
5. Guidelines on Freedom of Association, Adopted by the Council of Europe's Commission for Democracy, at its 101st Plenary Session (Venice, 13-14 December 2014).
6. United Communist Party of Turkey and Others v Turkey, (19392/92, European Court of Human Rights, January 30, 1998), available at (<http://www.unhcr.org/refworld/docid/4721cf132.html>) last visit on September 15, 2009.
7. Sidiropoulos and Others v. Greece, (57/1997/841/1047, European Court of Human Rights: Chamber decision, July 10, 1998), available at (<http://www.icnl.org>) last visit on September 15, 2009.

### **C) National laws**

1. Proclamation of the Constitution of the Federal Democratic Republic of Ethiopia, 1995, Proclamation No. 1, Neg. Gaz. Year 1, no. 1.
2. Organizations of Civil Societies Proclamation No. 1113/2019, adopted on 12<sup>th</sup> Day of March 2019.
3. The Charities and Societies Council of Ministers Regulation No. 16812009.

## II) Secondary Sources

### A. Journal Articles

1. Sisay Alemahu Yeshanew; CSO Law in Ethiopia: Considering its Constraints and Consequences, *Journal of Civil Society* Vol. 8, No. 4, 369–384, December 2012.
2. Mizanie Abate Tedesse, The Implications of 2009 Ethiopian CSOs Law on the Right to Freedom of Association, *Journal of Ethiopian Law*, Vol.27, No.1, Fall 2015.
3. Tsehai Wada; The Regulatory Framework for Civil Society Organizations in Ethiopia, *Civil Society at the Cross Roads: challenges and prospects in Ethiopia*, Forum for Social Studies, 2008, available on <https://addisababa.academia.edu/TsehaiWada> access on 24 August 2019.
4. Dessalegn Rahmato, Akalewold Bantirgu and Yoseph Endeshaw, CSOs/NGOs in Ethiopia, Partners in Development and Good Governance: A Report Prepared for the Ad Hoc CSO/NGO Task Force, Consortium of Christian Relief and Development Association, Addis Ababa 2008, available on <http://www.crdaethiopia.org/Documents/CSOsNGOs%20in%20Ethiopia%20%20Partners%20in%20Development.pdf> accessed on 23 September 2014.
5. Bharat Prasad Badal (PhD Fellow at TU), *Historical Development of Civil Societies*.
6. Henok Abebe, *Defeating the Defenders Defeating the Defenders: Foreign Fund Restriction under Charities And Societies Proclamation*.
7. Micheal Bratton, 'Civil Society and Political Consolidation in Africa' (1994) *IDR Reports* 11 (6) 4-5 in John Keane (edn) *Civil Society and the State: New European Perspectives* (Verso1988); Jean Cohen and Andrew Arato, *Civil Society and Political Theory* (MIT Press 1994); Ernest Gellner, *Conditions of Liberty: Civil Society and its Rivals* (Allen Lane 1994); James Schmidt, 'Civility, enlightenment, and society: conceptual confusions and kantian remedies' ( 1998) *American Political Science Review*

- 92 ( 2) 423; Helmut Anheier, *Civil Society: Measurement, Evaluation , Policy* (Earth scan 2004).
8. Yntiso Gebre; *Reality Checks: The state of civil society organizations in Ethiopia*, *African Sociological Review* Volume 202 (2016).
  9. Fasil Mulatu Gessesse and Rubiyat Mohammed Seid; *Revitalizing the roles of Non-governmental Human Rights Organizations in Ethiopia*, *EJHR* Vol. II December (2014).
  10. Bekalu Tilahun, “Implications of the Ethiopian Charities and Societies Proclamation for the Current Operations of CSOs/NGOs”, *Journal of Ethiopian Civil Society Organizations* Vol. 1, No 1(2011).
  11. Mr. Bernard Akplogan *Civil Society in Africa definition and role in the process of the African Union programme – NEPAD, Pilot Project of a consultative approach by United Nations Educational, Scientific and Cultural Organization with regard to Nigeria, Ghana, Gambia and Cameroon; Published by the United Nations Educational, Scientific and Cultural Organization (UNESCO) 7, place de Fontenoy, 75352 Paris 07 SP, France, Africa Department, (2009).*
  12. Dina Townsend with Nicky Broeckhoven and Desta Gidey; *Ethiopia’s new civil society law.*
  13. Ardian Kastrati; *Civil Society from Historical to Contemporary Perspectives*, *European Journal of Multidisciplinary Studies*, January-April 2016 Vol.1 Nr.
  14. Henry George Liddell and Robert Scott, *A Greek-English Lexicon* (Oxford: Clarendon, 1940), s.v. "koinonia.” as cited on Boris DeWiel; *A Conceptual History of Civil Society: From Greek Beginnings to the End of Marx.*
  15. Raj Dahal; *Civil Society Groups in Nepal Their Roles in Conflict and Peace-building*, *Support for Peace and Development Initiative*, UNDP Kathmandu, Nepal May 1, 2006.
  16. Boris DeWiel; *A Conceptual History of Civil Society: From Greek Beginnings to the End of Marx.*

17. Amnesty International, Commentary on Ethiopia's draft CSO law.
18. Department of Law, School of Law, Addis Ababa University.
19. Lester Salamon and Helmut Anheier, 'Measuring the non-profit sector Cross-nationally: a comparative method' (1994) *Voluntas* 4(4) 538.

#### **B) Thesis**

1. Abiy Chelkeba, Impact Assessment of the Charities and Societies Law on the Growth and Programs of Non-Governmental Organizations (A Survey Study of Addis Ababa City Administration, Addis Ababa, Ethiopia); A Thesis submitted in Partial Fulfillment for the Requirements of the Degree of Master of Laws (LL.M) to the Department of Law, School of Law, Addis Ababa University.
2. Tessema Mebratu Beyene, Laws Governing Civil Society Organizations And Their Impacts On The Democratization Of A Country: Ethiopia In Case; Thesis submitted in accordance with the requirements of the University of Liverpool for the degree of Doctor in Philosophy; (November 2015).

#### **C) Resolutions**

1. Resolution on the Right to Freedom of Association (1992), ACHPR/Res 5 (XI) 92.
2. Resolution on Protection of Human Rights Defenders in Africa (2004), 35th Ordinary Session, Banjul, the Gambia.

#### **D) Report**

1. UN, Report of the Special Rapporteur on the Rights to Freedom of Peaceful Assembly and of Association, Maina Kiai, Human Rights Council Twentieth Session, A/HRC/20/27, 21 May 2012.

#### **E) Website**

1. The World Bank Defining civil society, (August, 2010), GCSE Learning for Life and Work, available on <http://go.worldbank.org/4CE7W046K>.

2. Analysis of Ethiopia's Draft Civil Society Law, available on <https://www.hrw.org/news/2008/10/13/analysis-ethiopias-draft-civil-society-law> accessed on 19 September 2019.
3. Analysis of Ethiopia's Draft Civil Society Law, (Human Rights Watch, 13, October, 2008) available at <http://www.hrw.org/news/2008/10/13/analysis-ethiopia-s-draft-civilsociety-law-0> accessed on 12 June 2014.
4. Roman GirmaTeshome, Does the revised Ethiopian civil society proclamation deliver the promise of reform? The Reporter, 16 February 2019 Available on <https://www.thereporterethiopia.com/article/does-revised-ethiopian-civil-society-proclamation-deliver-promise-reform>.
5. International African Censorship and freedom of expression, Ethiopia: Commentary on Ethiopia's draft CSO law Amnesty 21 December 2018, Index number: AFR 25/9622/2018 Available on <https://www.amnesty.org/en/documents/afr25/9622/2018/en/>.
6. Amnesty International, Comments on the Draft Charities and Societies Proclamation (1 October 2008), (<http://www.amnesty.org/en/library/asset/AFR25/008/2008/en/6ec4fbd7-a748-11dd-88998f759187dd0e/afr250082008en.html>) last visit on August 21, 2009
7. Human Rights Watch, Human Rights Watch's Analysis of Ethiopia's Draft Civil Society Law, 13/October/2008/[http://www.reliefweb.int/rw/RWFiles2008.nsf/FilesByRWDocUni dFilename/CJAL-7N4SXA\\_full\\_report.pdf/\\$File/full\\_report.pdf](http://www.reliefweb.int/rw/RWFiles2008.nsf/FilesByRWDocUni dFilename/CJAL-7N4SXA_full_report.pdf/$File/full_report.pdf)) last visit on September 12, 2009 8 The East and Horn of Africa Human Rights Defenders Network, Regional rights network condemns charities and societies law (17 January 2009) (<http://en.ethiopianreporter.com/content/view/561/1/>) last visit on September 13, 2009.
8. Ethiopia: Civil Society Proclamation Advances Essential Freedoms available on <https://freedomhouse.org/article/Ethiopia-civil-society-proclamation-advances-essential-freedoms> (Washington February 9, 2019).