

THE ROLE OF NGOs IN THE ENFORCEMENT OF INTERNATIONAL HUMAN RIGHTS LAW IN ETHIOPIA

BY: SHIMELES DINKU



ADDIS ABABA UNIVERSITY

FACULTY OF LAW

MARCH 2009

ADDIS ABABA

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BY: SHIMELES DINKU

ADVISOR: VAIBHAV GOEL (Dr.)



**A THESIS SUBMITTED IN PARTIAL FULFILMENT OF THE REQUIREMENTS FOR
DEGREE OF MASTERS OF LAW (LL.M) TO THE FACULTY OF LAW, ADDIS ABABA
UNIVERSITY**

**MARCH 2009
ADDIS ABABA**

SIGNED APPROVAL SHEET BY THE BOARD OF EXAMINERS

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BY: SHIMELES DINKU

ADVISOR: VAIBHAV GOEL (Dr.)

APPROVED BY BOARD OF EXAMINERS

Advisor: _____ **Signature:** _____

Date: _____

External Examiner: _____ **Signature:** _____

Date: _____

Internal Examiner: _____ **Signature:** _____

Date: _____

Acknowledgments

My sincere gratitude goes to my advisor Dr. Vaibhav Goel for his scholarly comments on the first draft of the paper.

The encouragement and friendly understanding of my colleagues; Dawit, Henok and Teferi was unforgettable. Thanks a lot.

My heartfelt gratitude goes to my wife, Almaz Gemechu for her encouragement and heartedly support and love. I owe special gratefulness to her.

Last but not least, I want to thank W/ro Mekdelawit Woyessa, the owner of Abenzer Computer Center for her Secretarial Service.

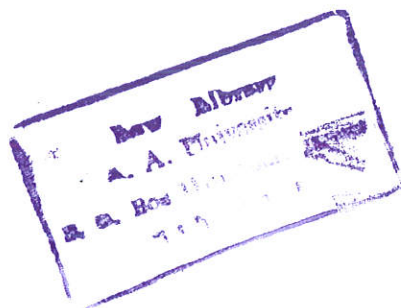


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5.1 Conclusions.....106

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Abbreviations

AAE	Action Aid Ethiopia
ACSI	Amahara Credit and Saving Institution
AEMFI	Association of Ethiopia
CAT	Conventions against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
CCFC	Christian Children's Fund of Canada
CCFI	Christian Children's Fund of Inc.
CEDAW	Convention on the Elimination of All Forms of Discrimination against Women
CPU	Child Protection Unit
CRDA	Christian Relief and Development Association
CRPD	Convention on the Rights of Persons with Disabilities
CSO	Civil Societies
CSSP	Civil Society Support Program
DECSI	Dedebit Credit and Saving Institution
DPPA	Disaster Prevention and Preparedness Agency
DPPC	Disaster Prevention and Preparedness Commotion
EBA	Ethiopian Bar Association
EC	European Commotion
EHRCO	Ethiopian Human Rights Council
EPRDF	Ethiopian People's Revolutionary Democratic Front
EWLA	Ethiopian Women's Association
FSCE	Forum on Street Children Ethiopia
HSDP	Health Sector Development Program
IAG	Inter African Group
ICPRMW	International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families
ICCPR	International Covenant on Civil and Political Rights
ICERD	International Convention on the Elimination of All Forms of Racial the Discrimination

IDP	Integrated Development Program
MFI	Micro- Finance Institution
NGO	NON-Governmental Organization
NSA	Non-State Actors
PASDEP	Plan for Accelerated and Sustained Development to End Poverty
UDHR	Universal Declaration of Human Rights
UNDP	United Nations Development Program
UNICEF	United Nations Children Fund
USAID	United States Agency for International Development
WVE	World Vision Ethiopia

Introduction



Thus, during the past two regimes, the works of NGOs in Ethiopia were more related to relief activities and later on to rehabilitation and development. However, in these periods, there was no room for the establishment of right-based NGOs. Neither imperial government nor the Derge regime tolerated the existence of other NGOs than those

involved in relief and development. These limited engagements of NGOs can mainly be attributed to the limited and varied level of conception about the role of NGOs by the sector, government and international partners. The legal environment was not also quick to respond for the diversifying NGOs areas of work. Coupled with this, the low levels of capacity and other factors such as resources, and lack of opportunities have also contributed for the underdeveloped activities of NGOs.

After the downfall of the Derge, the present FDRE Constitution guaranteed the establishment of independent associations and consequently a number of NGOs have flourished compared to the previous times. In addition to their numerical growth, the activities of NGOs have diversified in all respects. In the post 1990s, there are not only relief and development organizations but also those that undertook human rights, governance and advocacy programs, environmental rehabilitation, civic education, policy investigation and monitoring activities. In this regard, NGOs and civil societies have been significantly contributing their share in the economic, social and political development of the country.

Despite these progresses, several problems and challenges remain untouched to the extent that the circumstances demand. Compared with countries elsewhere, the NGO sector in the country is very small. Its operating capacity, while expanding, remains too limited, and the geographical focus of NGO activities is visibly confined to the center. NGOs are also limited by other local factors such as insufficient institutional frameworks, insufficient collaboration from local governments, weak relationships with local communities and other organizational problems within themselves.

As far as the legal and policy environment is concerned, the government has recently enacted a new Charities and Societies Proclamation; Proclamation No. 321/2009. This Proclamation is considered as devastating legislation by many concerned groups. What is more, the relationship between NGOs, particularly human rights NGOs, and the government seem to be more hostile. The proclamation entirely excludes foreign charities and Ethiopian charities or societies that receive more than 10% of their funds from

foreign sources from operating in human rights areas. Hence, as in the other cases, the relationship between governments and nongovernmental organizations has come to be “a political question that impinges on the legitimacy of various types of institutions to exercise power.” For that purpose, the historical centralization of power in the country seems to leave long shadows and the impulse to extend strict and at times arbitrary authority over various civil society entities remains embedded in the current system of the government.

1.2. Statement of the Problem

The effective enforcement of human rights requires the cooperation and strong network of all actors in the human rights movement. Alongside the states, the human rights movement embraces the United Nations and its specialized agencies, international organizations, regional organizations and nongovernmental organizations. Each of these actors has its own contributions for the advancement of human rights in general and in solving the problems of enforcement of international human rights law in particular. More importantly, the engagement of NGOs at national, regional and global levels has been recognized as an essential and complementary precondition for poverty reduction, democracy, good governance, development and for the respect and realizations of the economic, social, political, and other human rights.

Though civil society associations including NGOs remain underdeveloped in the country, their number, size and diversity has dramatically increased in recent years. Accordingly, there are many NGOs working on governance, human rights, policy issues, and right-based activities, besides humanitarian and other charity works.

More significantly, NGOs have been extensively engaged in and contributed to development, governance, and human rights. They have engaged in agricultural and rural development; such as: strengthening rural institutions, environmental rehabilitation, promoting conservation based sustainable development, addressing chronic food insecurity, water supply and sanitation, pastoralist livelihood development, and

strengthening government capacity. Promotion of human development and provision of social services has also been another major area for NGOs engagement. In this regard, NGOs engaged in promotion of health services, education, child protection and welfare, and institution building and empowerment. NGOs have also contributed significantly in promoting public awareness and participation of citizens in governance, democracy and human rights and peace building through mobilizing and empowering grassroots, religious, community and mass based organizations.

Despite the aforesaid and other roles of NGOs in human rights and other related activities, there are different problems and challenges with regard to NGOs in Ethiopia. Indeed, some of these problems and challenges may not be unique to Ethiopia. Firstly, while the term NGO was established and introduced into international arena by the UN Charter, there is no generally accepted definition of the term and the term carries different connotations in different circumstances. This also holds true in the Ethiopian legal system. This definitional ambiguity in itself may create difficulty in defining the structure, organization, and institution of NGOs. Related to this, the status of NGOs is not yet clearly defined under different national and international system. As such, NGOs lack sufficient framework for working in cooperation with national, regional and international legal entities.

NGOs have also limited participation in regional and international monitoring and litigation as NGOs have no right to lodge complaints under most regional and international human rights instruments except when they themselves are victims of violation. This, in effect, hampers the contributory role of NGOs in the protection promotion and enforcement of human rights in general and international human rights in particular.

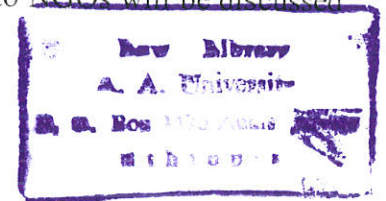
There is still another challenge for NGO with regard to their activities within specific legal and policy environment of states. The relationship between NGOs and governments is very loose. NGOs are usually seen as opponents of governments challenging their policies and programs. This challenge is more evident in the country's case particularly

when these actors involve in criticism or exposure of government's misdeeds or incompetence.

Another peculiar and serious challenge in the current situation of NGOs operating in Ethiopia is the newly enacted Charities and Societies Proclamation. This legislation has been considered by many as a destructive legislation that would squash NGOs working in the country. These and other challenges and problems related to NGOs will be discussed in this paper.

1.3. Objectives of the Study

The main objective of the thesis is to investigate the role and contributions of NGOs in the protection, promotion and enforcement of international human rights law within the framework of nation-state in general and in Ethiopia in particular. More specifically, the study explores the main activities involved in the protection, promotion and enforcement of international human rights law that can effectively be handled by NGOs owing to their peculiar features that the nation- states are found to be inadequate and ineffective. The thesis will also examine the existing normative and institutional framework for the protection, promotion and enforcement of international human rights law to reveal the gaps and weakness of the state-centric paradigm. This would lay the foundation for evaluating the role that NGOs can, owing to their valuable assets, play in complementing the protection, promotion and enforcement of international human rights law. Based on the findings, possible measures and recommendations will be proposed as a way forward in alleviating the problems related to the role of NGOs in the protection, promotion and enforcement of international human rights law within the framework of nation-state system in general and in Ethiopia in particular.



1.3.1. General Objectives

The thesis primarily focuses on the following major objectives:

1. Evaluating whether NGOs, as a complementary actors, are working to the level of their expectation in the full realization of international human rights law in Ethiopia.
2. Investigating the contributions and achievements of NGOs at the time of monitoring the status of protection, promotion and enforcement of international human rights law in Ethiopia at the national, regional and international level.
3. Assessing the participation and accomplishment of NGOs in other human rights related issues which have been taken by NGOs as a prime motive to draw the attention of government and other concerned organs of the state.

1.3.2. Specific Objectives

In particular, this study attempts to:

- examine the conceptual and theoretical framework set up for the enforcement of international human rights law at state level.
- inquire the different connotations and definitions accorded to the term NGOs and the distinguishing features of NGOs.
- identify the status (non-status of NGOS under international law in general and international human rights law in particular.
- apprise the role of NGOs in the protection, promotion and enforcement of international human rights law in the world - wide perspective in general and in the Ethiopian perspective in particular.
- evaluate the current policies, legislations, directives and guidelines of Ethiopia related to NGOs to see their adequacy and effectiveness in strengthening and encouraging NGOs to contribute their part in the enforcement of human rights law in general and international human rights law in particular.

- investigate the activities and achievements of NGOs in Ethiopia in assisting the state in implementing and realizing the social, economic and political and other human rights as envisaged in its domestic and international commitments.
- inquire as to what NGOs have done so far in monitoring the protection, promotion and enforcement of international human rights law in Ethiopia and point out the possible measures to be taken in this regard; by both NGOs and the government.

1.4. Research Questions

This thesis attempts to investigate the role of NGOs in the protection, promotion and enforcement of international human rights law in Ethiopia and suggest certain measures to be taken as a way forward to alleviate the problems related to the role and contributions of NGOs in the protection, promotion and enforcement of international human rights law in Ethiopia. Specifically, the paper will answer the following questions.

- What is the status of the legal and policy environment and future prospects for the NGOs sector in Ethiopia?
- What have NGOs done so far in assisting the government in the full realization of human rights envisaged in the domestic and international human rights instruments to which the state is committed as a result of its incorporation or ratification of international human rights instruments?
- What is the status of national and international human rights system in accommodating the participation of NGOs in the protection, promotion and enforcement of human rights?
- How encouraging/ inhibiting is the environment for the formation and operation of NGOs in Ethiopia?
- What mechanisms and measures should be taken as a way forward in alleviating the challenges of NGOs and their recognition as complementary actors within a nation-state system in general and in Ethiopia in particular?

1.5. Research Methodology

With the objective of evaluating the role of NGOs in the enforcement of international human rights law in Ethiopia, the thesis will principally make use of the following methods.

Literature Review: Attempt will be made to review the relevant literatures on the problems related to enforcement of international human rights law and the role of NGOs with regard to human rights in general and enforcement of international human rights law in particular. In view of that, the study will set up the proper conceptual, legal and institutional framework, which serves as a spring board to determine the role and contributions of NGOs in protection, promotion and enforcement of international human rights law in Ethiopia.

Documentary Analysis: International human rights instruments, different general comments, recommendations, guidelines and action plans related to enforcement of international human rights law and the role of NGOs in this respect will be assessed. Domestic policies, legislations, directives and guidelines of Ethiopia will also be evaluated to see the adequacy and effectiveness of the existing environment for the formation, operation and participation of NGOs in the protection, promotion and enforcement of international human rights law in Ethiopia.

Interviews and case Analysis: Interviews with the concerned governmental officials, officials of the human rights commission and non-governmental organizations and other stakeholders will be held to see the encouraging or inhibiting environment for the operation of NGOs and to assess the role of NGOs in the protection, promotion and enforcement of international human rights law in Ethiopia. Specific cases demonstrating the role of NGOs in the protection, promotion and enforcement of international human rights law in Ethiopia will also, as much as possible, be analyzed.

1.6. Scope of the Study

The thesis, with the purpose of investigating the role of NGOs in the protection, promotion and enforcement of international human rights law in Ethiopia, evaluates the different activities of NGOs in the country. However, given the narrowness of the scope of the title and the time limitation, the thesis will focus only on the prominent NGOs actively participating in the protection, promotion and enforcement of human rights in Ethiopia. What is more, the study may not deal with NGOs and other civil society organizations embarking on humanitarian and relief activities; it only considers NGOs the activities of which directly relates to the protection, promotion and enforcement of human rights. The study may, however, include the cases of both domestic and international NGOs operating in the country in relation to the issue at hand.

1.7. Significance of the Study

The findings of this thesis will hopefully benefit both government and the NGOs. If this research reveals the flaws and weakness of the government, the findings will help the government to rectify its defaults and take positive measures in encouraging and strengthening NGOs to play their role, to the extent possible, in the protection, promotion and enforcement of international human rights law in the country. Similarly, if the study finds out that there are weaknesses and problems with NGOs, the findings will provide an avenue for NGOs on the measures to be taken as a way forward in alleviating such problems. The measures taken in this regard, would ultimately benefit individual citizens and the public at large by developing human rights culture through the cooperation of NGOs and the state in protecting, promoting and enforcing human rights law in general and international human rights law in particular; of course under the regulation and supervision of the states and the inter governmental agencies.

1.8. Limitation of the Study

In evaluating the encouraging or inhibiting environment for the operation of NGOs in the country, besides legal and policy analysis, investigation of the existing factual situations on the ground is equally important. In this regard, the fear of the writer is that it may be difficult to get sufficient and reliable data addressing all the problems related to the formation and operation of NGOs and the role and contribution of NGOs in the protection, promotion, and enforcement of international human rights law in the country. What is more, given the wide range of NGOs in the country and their diversified activities, the study may not cover problems related to all NGOs operating in the country.

1.9. Organization of the Thesis

In this thesis, attempt will be made to show the role of NGOs in the protection, promotion and enforcement of international human rights law in Ethiopia. To this end, the thesis is organized in five chapters. Accordingly, chapter one introduces the background of the problem, the statement of the problem, objective of the study, research methodology, scope of the study, significance of the study and limitation of the study. Chapter two gives a brief explanation on the theoretical, normative and institutional framework set up for the enforcement of international human rights law to evaluate the adequacy and effectiveness of the traditional state-centric paradigm of enforcement of human rights law. Chapter three will address the nature, status and the legal regime governing NGOs on international and national level. An attempt will also be made to briefly explore the different roles played by NGOs in the international human rights movement. Chapter four evaluates the different activities performed by NGOs in the enforcement of human rights law in Ethiopia. It will inquire as to whether NGOs are living up to their expectations in addressing their promises and performances in relation to protection, promotion and enforcement of human rights law. It will also assess the constraints facing NGOs operating in the country. The last chapter, by way of conclusion, forwards certain measures to be taken in alleviating the problems related to the activities of NGOs and the roles in the enforcement of international human rights law in Ethiopia.

Chapter Two

The Role of NGOs in the Enforcement of International Human Rights Law: Theoretical Framework

2.1 Enforcement of International Human Rights Law in General

The human rights aspect of the UN Charter has eventually developed to the International Bill of Rights constituting the Universal Declaration of Human Rights (UDHR), the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR). The continuous work of the international community has also been supplemented by a wide range of multilateral conventions covering specific areas of human rights. These instruments, in particular, focuses on the rights of women, children, refugees and stateless persons, elimination of all forms of racial discrimination, and freedom from torture and other cruel, inhuman or degrading treatment or punishment.

In addition to an extensive network of widely adopted human rights instruments covering nearly all aspects of human life, the international community has established an elaborate institutional framework for protecting, promoting and enforcing human rights norms. These institutions assume the international authority in implementing international human right law within the framework of a nation-state arrangement.

2.1.1. Concept, Origin and Development of International Human Rights Law

Human rights are universal guarantees protecting individuals and groups against actions of governments interfering with their rights and fundamental freedoms. They are the minimal rights which every individual must have against the state or other public

authorities by virtue of being human. To call them "rights" implies that they are claims as of rights, not by appeal to grace, charity, brotherhood or love; they need not be earned or deserved. Human rights are inherent and universally applicable to every human being in every society.

The origin of human rights, as embodying the minimum rights of an individual versus his own state, is as old as political philosophy and religious edifices. Indeed, early kings, prophets and philosophers of the ancient world had contributed a lot to the development of the modern conception of human rights. According to some sources, the first mention of human rights was made in the code enacted by King Hammurabi of ancient Babylon.¹ The Bible and the Quran were also argued to be the historical foundations of human rights.

In due process, the philosophic and political movements of the different regions, particularly the western world, influenced the human rights movements. In this regard, the major developments include: the religious crisis in Europe in the 1200s, debates on freedom of conscience and the concept of national rights in the 1600s, American Revolution (1775-1776) which led to the American Declaration of Independence, and French Revolution (1789) which brought about the French Declaration of the Rights of the Man.

However, international human rights - international concern with the conditions of human rights of individuals and groups within a nation-state framework - was conceived during World War. It was also in the aftermath of the Second World War that international human rights law emerged as distinct field of international law. In fact, a considerable amount of progress in the development of human rights rules and principles has been made since the establishment of the United Nations in 1945.

¹ Charles A. Robinson, Ancient History 1951, P.16

The United Nations Charter commenced the process of the development of international law by committing each member states to “reaffirm faith in fundamental human rights, in dignity and worth of the human person, in the equal rights of man and women...”² more specifically, Article 55 of the Charter required member states to provide for all individuals “higher standard of living, full employment and conditions of economic and social progress and development... [and] respect for, and observance of human rights and fundamental freedom for all.”

2.1.2 Enforcement Mechanisms of International Human Rights Law

It is shown that, owing to different factors, generalizing about human rights enforcement is a laborious task. The international human rights system is neither unified nor static.³ Over its relatively brief evolution, the system has generated a rather complicated structure comprised of numerous institutions of varied decision making authority, enforcements capacities and mechanisms. What is more, the success of the enforcement efforts of these institutions has also varied from one another.

Most of the international human rights instruments recognize that the primary responsibility to give effect to international human rights lies in the hands of domestic institutions. The enforceability of international human rights obligations via domestic institutions in itself mostly depends on the voluntary compliance of the government. Thus, effective domestic implementation usually rests upon the will and actions of the governments.

In addition to the domestic institutions, all most all international human rights instruments have also established different international institutions. These institutions have, at a minimum, the mandate to “monitor” or “supervise” the enforcement of international obligations by state parties. These human rights institutions adopt different

² Preamble of the UN Charter

³ Douglas L. Donoho, Human Rights Enforcement in the 21st Century, *Bepress Legal Series*, 2006, P.8

mechanisms to ensure state compliance. Most of the time enforcement of international human rights on the international plane is accorded by complying states through mobilization of shame, economic sanctions and other related mechanisms.

Thus, it is possible to generally conclude that the enforcement of international human rights, as it exists, involve the interplay of domestic and international institutions. Accordingly, international institutions monitor state compliance and may offer alternative forms of remedy when the national system fails. However, the effectiveness of international remedies commonly depends on the willingness of governments to comply with such decisions. This mostly owes to the lack of independent enforcement capacities of the international monitoring or supervising organs.⁴

2.1.2.1 Instrumental Framework for the Enforcement of International Human Rights Law

The first stage of the development international human rights instruments began with the entry in to force of the UN Charter. The process has also continued to this day. The process commenced by the UN Charter has laid the foundation for many human rights instruments. Indeed, the first 20 years following the establishment of the UN have signification contributions in the development of international human rights instruments.

Accordingly, the success of the UN effort is reflected in the adoption of the International Bill of Rights and the vast number of international human rights instruments in existence today. The major instruments include: the Universal Declaration of Human Rights (UDHR), the International Covenant on Civil and Political Rights (ICCPR), International Convention on the Elimination of All Forms of Racial the Discrimination (ICERD), Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), Conventions against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), Convention on the Rights of the Child (CRC), the

⁴ Douglas L. Donoho, Supra note 3, P. 9

International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families (ICPRMW), Convention on the Rights of Persons with Disabilities (CRPD), and International Conventions for the Protection of All Persons from Enforced Disappearance.

The major human rights instruments establish different mechanisms of monitoring the implementation or enforcement of obligations of state parties. The common mechanisms of these instruments are individual/collective complaints, state to state complaints, and examination of state reports. The third mechanism, state report involves the evaluation of the status of enforcement of human obligations by state parties on the basis of the reports submitted by the state and information gathered from other independent sources like NGOs. Individual/collective complaints involve a procedure through which individuals or groups bring complaints to the monitoring bodies against a member state on the other hand; the procedure of state to-state complaints creates a mechanism for a member state to communicate a violation of human rights by another member state to the monitoring bodies.

From the three mechanisms, examination of state reports is the commonly used method in the monitoring of the enforcement of the obligations contained in the instruments. The other two mechanisms; state-to-state complaints and individual communications are not commonly applied or insuring the enforcement of human rights norms owing to different factors.

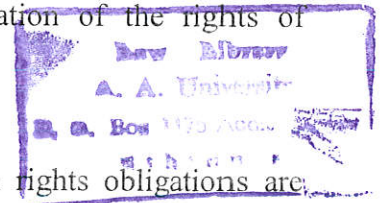
2.1.2.2. Institutions for the Enforcement of International Human Rights Law Framework

Many of the international human rights treaties establish a treaty monitoring body in the form of supervisory quasi judicial institutions. The major treaty bodies include: the Human Rights Committee under the ICCPR, Committee on Economic, Social and Cultural Rights under the ICESCR, Committee on the Elimination of Racial Discrimination under the Convention on Racial Discrimination, Committee on the Elimination of

Discrimination Against Women under the Convention on Elimination of all forms of Discrimination Against Women, Committee Against Torture under the Convention on Torture, Cruel, Inhuman or Degrading Treatment or Punishment and Committee on the Rights of the Child under the Convention on the Rights of the Child.

These bodies are composed of independent experts acting in their individual capacity and not as representative of their governments. The bodies are given under most of the instruments the mandate to receive state reports and thereby make comments and recommendations on state compliance with the treaty obligation. Under some instruments including ICCPR, ICERD, CAT and CEDAW, the monitoring organs may also consider individuals complaints to determine whether there is a violation of the rights of individuals under the treaties and render its remedies.

In the treaties establishing these different Committees, human rights obligations are undertaken by States. The casting and selection of the members of the bodies and the method of monitoring is also designated by States.



2.2 The Role of NGOs in the International Human Rights System in General

Nowadays, the role of NGOs in the global affairs has extensively increased making them indispensable actors in the world community. More importantly, NGOs have highly been motivated towards the protection, promotion and implementation of human rights. Indeed, their proliferation has gone hand in hand with the development of international human rights norms, institutions, and procedures. In view of that, NGOs have become an invaluable asset in the protection, promotion and enforcement of international human rights at all levels; national, regional or international.

In this chapter, attempt will be made to highlight on the concept of nongovernmental organization and its distinguishing features. The chapter will also trace the origin and development of NGOs in the international human rights system. Taking this point further,

a thorough discussion on the role of nongovernmental organizations in the international and regional human rights system will be made to show the contributions of nongovernmental organizations in the protection, promotion and enforcement of human rights at the national, regional and international level thereby laying the foundation to evaluate their relevance to Ethiopia.

2.2.1 Definition of NGOs

As will be seen later, the very term “nongovernmental organization” was initially coined by the United Nations with the introduction of its Charter in 1945. The UN Charter does not, however, define the term “nongovernmental organization”. It only provides for the UN Economic and Social Council (ECOSOC) to consult with nongovernmental organizations for specific purposes when dealing with matters falling within the competence of the United Nations. Indeed, there is “no generally accepted definition of an NGO and the term carries different connotations in different circumstances”.⁵

Gordenker and Weiss expressed the problems related with defining NGOs in the following words.

*In spite of the growth of the NGO phenomenon, confusion or ignorance persists as to the definition of the participation and the nature of their relationship to the UN system and to one another. Theoretical explorations have tended to be few in number and specific to a particular sector of activity, especially aspects of economic and social development and of the environment. A considerable body of writing has a primarily legal character, which overlook or understates the richness of NGO activity...*⁶

⁵ Peter Willets, “What is a Non-governmental Organization?” <http://www.Staff.City.ac.UK/P.Willets/CS-NTWKS/NGO-ART-HTML>, (Last viewed on 7,04, 2008), P.3

⁶ Leon Gordenker and Thomas G. Weiss, “Pluralizing Global Governance: Analytical Approaches and Dimensions,” in Thomas G Weiss and Leon Gordenker (eds.) *NGOs, the UN and Global Governance*, 1995, P.17

This observation clearly reveals the difficulty of having a uniform definition of the term nongovernmental organization. In addition to the diversified activities of NGOs ranging from those which are principally oriented to care and welfare to those concerned with change and development, NGOs also vary in their level of operation, size, purpose and funding. These all factors have contributed their share to the problem of defining NGOs and the absence of a comprehensive definition of the concept.

Basically, there are two distinct approaches in defining NGOs: juridical and sociological approaches. In the juridical approach, the focus is on the legal status of NGOs in the national context and the resulting implementations for international law. The sociological approach, on the other hand, is more concerned with the role and contribution of NGOs in the transnational arena.⁷

The juridical approach of defining NGOs has so far appeared to be more problematic, as the status of NGOs under international law is not still clearly defined. In any case, the most authoritative body in the juridical approach is the UN, and as such its definition in different circumstances are the most commonly accepted. With regard to the sociological approach, there is no serious restraint on providing definitions and one could find many definitions of the term NGO.

In one definition from a rather sociological approach, NGOs are defined as:

*...self serving, private, not-for-profit organizations that are geared toward improving the quality of life of disadvantaged people. They are neither part of government nor controlled by a public body.*⁸

⁷ Kerstin Martens, "Mission Impossible?: Defining Nongovernmental Organizations," *Voluntas: International Journal of Voluntary and Nonprofit Organizations*, Vol.13 Issue 3, 2002 P. 271

⁸ Peter Van Tuijl, "NGOs and Human Rights: Source of Justice and Democracy", *Journal of International Affairs*, Vol. 52, Issue 2, 1999, P. 495

In a similar manner, Diane Otto emphasizes the civil and political nature of NGOs in defining the term NGO. He describes NGOs as:

*... Organizations that aim to represent values and aspirations associated with peoples rather than with States, including the promotion of human rights, gender and race, equality, environmental protection, sustainable development, indigenous rights, nonviolent conflict resolution, participatory democracy, social diversity and social and economic justice.*⁹

From these two definitions, one can observe that NGOs, as non-state actors, creates a basic forum for public participation involving in multifaceted activities including human rights. But, to be more specific about the nature of NGOs, it will be better to see the following definition. NGOs are:

*...independent voluntary associations of people acting together on a continuous basis, for some common purpose other than achieving government office, making money or illegal activities.*¹⁰

As this definition makes clear, NGOs share certain common characteristics. Firstly, NGOs must be independent from the direct control of government. Secondly, NGOs should be non-profit making and thirdly, NGOs should not involve in any criminal or violent activities. The discussion of these common features is the subject of the next section.

2.2.2 Main Features of NGOs

Due to the various forms of establishment, size, operation and the diversified activities of NGOs, drawing a representative and common characteristics of NGOs is a burdensome

⁹ Diane Otto, "Nongovernmental Organizations in the United Nations System: The Emerging Role of International Civil Society", *Human Rights Quarterly*, Vol. 18, Issue 1, 1996, P. 112

¹⁰ Peter Willets, *Supra*, note 1, P. 4

task. However, the study of different scholars reveals that NGOs share the following main distinguishing features.

A. Independence from any Interference

Independence is one of the defining characteristics of NGOs arising from the very name “nongovernmental organization”. This principle presupposes that NGOs have the autonomy to determine their objectives, management of activities and funding. This does, however, not mean that they are unregulated. Indeed, as NGOs operate within the legal framework of a country, they must comply with the laws of the country as regards their establishment and operation. This commonly requires such formalities as registration and reporting.

Here it must be noted that independence of NGOs may be limited in the circumstances where governments, as most often do, intervene in the operation of NGOs demanding the activities of NGOs to fall in the realm of their development plans and strategies and where donors instead of regular reports require NGOs to fit their tastes by interfering in the internal affairs of NGOs.

Thus, it is generally agreed that NGOs must have certain kind of independence from both the government and donors to be entities worth their name. However, the level of independence of NGOs, to a greater extent, depends on the socio-political circumstances of the country and the resulting legal system and the nature of NGOs and their mode of establishment and operation.¹¹ Moreover, determining the degree of independence that NGOs should enjoy requires weighing between the autonomy of NGOs and their accountability to the public. Hence, one has to strike a balance between the two competing values; independence and accountability of NGOs.

B. Non Profit Orientation

¹¹ Sjef Tennis (ed.), *Non-governmental Developmental Organizations of Developing Countries*, 1992, P.311

Non-profit orientation is one of the distinguishing features of NGOs. In essence, NGOs are prohibited from neither engaging in profit making activities nor in distributing net earnings. However, this attribute of NGOs is challenged by two instances. The first instance revolves around the issue of compensation of employees, officers and directors of NGOs for services rendered for the organization. In this case, the problem arises when these persons obtain unreasonable personal benefits under the guise of just compensation. Indeed, this instance requires the supervision of the regulatory organ of a government.

The second exceptional instance to non-profit orientation of NGOs is the possibility to involve in income generating activity. In many legal systems, NGOs are not prohibited from engaging in income generating ventures in as long as the proceeds are used to the pursuit of the purpose for which they are established. This would certainly increase their self-sufficiency and independence.¹²

C. Public Benefit (Benevolence) Aspect

Public benefit oriented purpose is one aspect of NGOs activity. As such, most legal systems have put benevolence as one test for NGOs status; an organization can be considered non-profit only if it benefits the whole community or an appreciable section of it.¹³ This feature of NGOs sets NGOs from similar entities like labor unions, credit associations and other membership benefit associations. Thus, NGOs are organizations which are concerned with the interests of disadvantaged and "issues which are detrimental to the wellbeing, circumstances or prospects of people or society as a whole".¹⁴

2.2.3 Historical Development of NGOs

¹² Sjef Tennis, *Supra*, note 7, P. 8

¹³ Lester M Salamon and Susan L.Q .Flaherty, *Non Profit Law, Ten Issues in Search of Resolution*, 1996, P. 7

¹⁴ Colin Ball and Leith Dunn, *Non-governmental Organization : Guide Lines for Good Policy and Practice*, 1995, P. 20

Historically, doing some good to the sick, needy, destitute individuals was a major starting point for much of the philanthropic, welfare, and social service works of NGOs.¹⁵ Accordingly, the larger social context and rationale arising out of that context served as the basis for the emergence and development of NGOs which aim at the "impoverishment of the poor and oppressed, the building and strengthening of people's organizations, the strengthening, re-energizing and rejuvenation of social movement, and the promotion of democratic practices and processes."¹⁶

However, many writers consider the sixteenth century as a landmark in terms of tracing the origin of nongovernmental organizations within the broader conception of civil society organizations, particularly in respect of their philanthropic role in Africa, Asia, and Latin America. In this regard, one scholar has stated that:

*In addition to the important role charitable agencies have played in the historical evolution of social services inside Western nations, they have also been conduits of humanitarian assistance sent abroad. For nearly 400 years, in fact, nonprofit groups (beginning with missionary societies in Europe in sixteen century) have been sending aid overseas that now assists the needy in Asia, Africa, Latin America, and the Middle East.*¹⁷

On international level, NGOs generally developed with the development of human rights awareness and treaty obligations.¹⁸ During the League of Nations, it was often possible for them to propose and advance their stand points and opinions.¹⁹ The Covenant of the League of Nations referred to NGOs indirectly, by recognizing the work of the International Red Cross. During these periods, NGOs had also contributed in various legislative arenas such as the rights of refugees, minorities, women and children.²⁰

¹⁵ R. Tandon, NGO - Government Relations : A Source of Life or a Kiss of Death?, 1989, P. 15

¹⁶ R. Tandon, *Supra*, note 11, 1989, P. 15

¹⁷ Ibid

¹⁸ Claude Welch, Protecting Human Rights in Africa: Roles and Strategies of NGOs, 1995, P. 48

¹⁹ Kerstin Martens, "Examining the (Non-) Status of NGOs, 10 *Ind. J. Global Stud.* 2, 4, 2003

²⁰ Ibid

The League of Nations, however, did not make use of the expression “nongovernmental organization.” The League officially referred to its *liaison* with the term “private organizations”. The term “nongovernmental organization” was used for the first time with the foundation of the United Nations in 1945. The UN Charter adapted the term “nongovernmental organization” to make distinction between the participation procedure of intergovernmental specialized agencies and those of international private organizations.²¹

In the history of NGOs, the 1970s is of a great importance as their number and activities grew substantially.²² In this regard, Claude Welch expressed the activities of NGOs in Africa during these periods in the following words.

*Within Africa, NGOs have multiplied because of urgent relief, development and Political needs. The trend first become obvious in the early 1970s with the diminished efficiency of African governments in providing services, external governments and private aid givers sought to bypass or supplement patently weak regime by turning to NGOs.*²³

Therefore, as NGOs have grown in number and become increasingly organized, they have increased their impact in the human rights system; both on the national and international level. As such, many NGOs that initially worked only in the domestic sphere have gradually extended their activities beyond national borders and have started interacting with intergovernmental organizations. These intergovernmental organizations have internally established institutional frameworks to regulate their interaction with NGOs. More importantly, after the series of World conferences in the early 1990s, many NGOs have been granted “consultative status” in the United Nations.²⁴ In addition, many other intergovernmental organizations (for instance the Organization for Security and

²¹ Peter Willets, *Supra*, note 1, P. 3

²² Cenap Caknak, *Civil Society Actors in International Law and World Policies: Definition, Conceptual Framework, Problems*, 2008, P. 25

²³ Claude Welch, *Supra*, note 14, P. 45

²⁴ Wendy Schoener, “Non-Governmental Organizations and Global Activism: Legal and Informal Approaches” 4 *Ind. J. Global Stud.* 537, 1997

Cooperation in Europe and the Council of Europe) followed the example of the United Nations, incorporating NGOs into their frameworks and establishing directives for cooperation.²⁵

In sum, as different studies reveal, the involvement and contribution of NGOs in the formulation and implementation of international norms in general and international human rights norms in particular has increased from time to time. Accordingly, NGOs have consistently continued their efforts to strengthen the international, regional and domestic human rights systems and have succeeded in influencing the formulation and implementation of different human rights instruments.

2.2.4 Status of NGOs under International Law

As pointed earlier, NGOs are given important roles within legal arrangements specified under some significant regional and international human rights systems. However, this does not necessarily mean that NGOs are international legal entities recognized under international law. Despite their significant influence in global affairs including human rights, their status under international law is not yet clearly defined. Hence, “from a legal perspective on international affairs, NGOs seems to remain *terra incognita*” since States have not yet agreed on the standard under which NGOs operate in international sphere.²⁶ As such NGOs have no legal personality under international law. But, the case of International Committee of Red Cross (ICRC) is an exception as it enjoys a special status under international law.²⁷

The discussion of the legal personality of NGOs can be traced back as far as 1910, when, at its session in Paris, the institute *de Droit international* brought forward Convention on NGOs and proposed a study on “the juridical conditions of international association.”²⁸ A similar attempt had been taken at another session in Madrid in 1912 and a first draft

²⁵ Ibid

²⁶ Kerstin Martens, *Supra*, note 15, P. 5

²⁷ Ibid

²⁸ Id, P. 7

treaty on the international legal personality of NGOs was developed.²⁹ In 1923, the institute prepared another draft treaty on the legal status of international associations.³⁰ None of these attempts, however, led to the establishment of an internationally agreed upon conventions on NGOs. Several other attempts at NGO treaties had also failed principally owing to the lack of consent of States.³¹

Thus, at present, there are no regulations under international law governing the establishment, requirements, and the legal status of NGOs. As a result, NGOs are obliged to accept the national legislations of the State in which they have been established and where they are based. National laws, however, differ from country to country, changing the status of NGOs as well. In particular, national judicial systems differ in terms of recognition, rights and duties of NGOs.

It is to be noted, however, that within the international law context, some progress in the codification of NGO's personality has been made on a regional level. The European Convention on the Recognition of the Legal Personality of International Non-Governmental organizations provide for the general recognition of the legal personality of an NGO in any State that is party to the Convention. This Convention was adopted in 1986 and came in to force in 1991. But, this Convention does not still entitle NGOs with international personality. It only recognizes the national law of the respective State in which the NGO has its headquarters. Thus, "every international NGO carries with it its identity and its status without having to request new recognition from the various countries on its activities."³²

In addition to their non-status under international law, NGOs also lack a strong framework for working in cooperation with the international legal entities. As will be discussed later, the UN Charter and the ECOSOC Resolutions provided a legal setting ensuring NGOs access to the UN and its affiliate units. However, as many scholars argue,

²⁹ Ibid

³⁰ Ibid

³¹ Kerstin Martens, *Supra*, note 15, P. 8

³² Ibid

even though the UN embraced NGOs and other civil society actors, in fact, the permissible sphere of action granted to NGOs is very limited and narrow. What is more, there is no agreement among member States on whether the level of participation of NGOs in the UN activities should be extended or not.³³ The UN system of NGOs participation is further flawed by the UN Committee on NGOs, which tends to grant consultative status to a great number of NGOs but often obstructs the organizations permitted to conduct their activities within the UN system on the ground that they manifestly misbehave and abuse the consultative status recognized to them under the UN system.³⁴

The non-status of NGOs under international law may sometimes be considered as an opportunity for maintaining a variety of voices of civil society in the international arena. This would be the case as the criteria for NGOs are not rigorously regulated. Such instance would give various kinds of societal actors the opportunity to contribute their share in the global affairs when they would otherwise be excluded. This non-status of NGOs, on the other hand, creates various problems, among which, lack of legitimacy is the critical one.³⁵ It means that the lack of status on part of NGOs creates doubts on the recognition of NGOs as respected actors on the global level.

Despite, the lack of legal personality of NGOs under international law and the restrictive participation of NGOs under the UN system, the significant spaces provided for NGOs at least "provide an opportunity to support a move towards democratic reform of the UN by carving out a more substantial role for NGOs as a voice piece for multilayered transnational identities that are barely audible in the current State-dominated system."³⁶ Accordingly, the traditional State-centric paradigm has been extended to recognize NGOs as actors that

³³ Cenap Cakmak, *Supra*, note 18, P. 22

³⁴ Jurij Daniel Aston, "The United Nations Committee on Non-Governmental Organizations, Guarding the Entrance to a Politically Divided House," *European Journal of International Law*, Vol.12, Issue 5, 2001, P. 943 and 944

³⁵ Kerstin Marten, *Supra*, note 15, P. 2

³⁶ Diane Otto, *Supra*, note 5, P. 140

have the necessary assets influencing “the emergence, formulation, and monitoring of international norms.”³⁷

2.2.5 Participation of NGOs during the League of Nations

As discussed in the preceding sections, the origin of NGOs in the international context goes back to the period of the League of Nations in which case the Covenant of the League indirectly referred to NGOs by recognizing the work of the International Red Cross.³⁸ In these periods, NGOs advised the League on many counts, proposed resolutions as well as amendments to international negotiations and even sat in official delegations at meetings. Indeed, a large number of NGOs enjoyed intense cooperation with the League; it is assumed that around 450 international NGOs had contact with the League on a regular and close basis.³⁹

NGOs also participated as “assessors” within the League system but with a varying status from one commission to the other.⁴⁰ Some NGOs representatives sat on the League Committees and enjoyed all rights and privileges of official representatives other than voting rights. Few NGOs like the International Chamber of Commerce even enjoyed full voting rights and direct participation in League negotiations. Thus, it can be assumed, as one writer observed that “the early League attitude towards the private organizations was one of wholehearted cooperation.”⁴¹

During the League era, many new NGOs were established. Some of these NGOs were even formed on the initiative of the League. For example, the International Institute of

³⁷ Maia Torngvist Chesnier, “NGOs and International Law”, *Journal of Human Rights*, Vol. 3, Issue 2, 2004, P. 253

³⁸ Article 24 of the Covenant of the League gives a loophole for the establishment of other International bodies, such as NGOs.

³⁹ Charles Chatfield, “Intergovernmental and Nongovernmental Associations to 1945”, in Jackie Smith *et al* (eds.), *Transnational Social Movements and Global Politics*, 1997, P.25

⁴⁰ Bill Sear Y., “The Early History from the Congress of Vienna to the San Francisco Conference” in Peter Willets (ed.), *The Conscience of the World: The Influence of Non-governmental Organizations in the UN System*, 1996, P. 23

⁴¹ Ibid

Statistics, the Joint Committee of the Major International Associations, and the Committee of International Students' Organizations are the results of the League's efforts for further international exchange.⁴² These relations of NGOs with the League had various effects in the international arena. In particular, it facilitated international exchange and coordination with an added value of increased international networking.⁴³

However, the League of Nations, over the years, changed its policy concerning formal arrangements with NGOs. In 1921, the League envisaged patronage for all international organizations including private organizations.⁴⁴ But a few years later, it withdrew from this position on the justification of guaranteeing the pluralism and autonomy of NGOs.⁴⁵ Despite the close previous interactions with NGOs, the League then cut back relations with them.

Therefore, the League of Nations, as a result of political and economic situation of the time, had retreated entirely from the interaction of NGOs in the late 1920s and early 1930s. As one scholar expressed it "the interaction between the League and International NGOs supporting and contributing to the policy work of the League of one where the League was less interested in the Opinions of NGOs but more willing to provide information for and about them."⁴⁶ Hence, the League, through time, shifted from intense interactions with NGOs to minimal contacts with NGOs.

During the League periods, besides their participation in the League of Nations, NGOs were also active in other international actors like the International Labor Organization (ILO) and Permanent Court of International Justice (PCIJ). Accordingly, the ILO maintained a constantly open and interactive relationship with NGOs.⁴⁷ Similarly, the PCIJ allowed for the inclusion of NGOs before the Court for the purpose of providing information or submitting other instruments.

⁴² Charles Chatfield, *Supra* note 35, P 26

⁴³ *Ibid*

⁴⁴ Charles Chatfield, *Supra* note 35, P 21

⁴⁵ *Ibid*

⁴⁶ Bill Sear Y., *Supra*, note 36, P.22

⁴⁷ Wendy Schoener, *Supra*, note 20, P.538

2.2.6 Involvement of NGOs in the United Nations Human Rights System

As pointed out earlier, the term NGO was first officially acknowledged in international law in 1945, with the introduction of the UN Charter, Article 71 of which referred to “non-governmental organizations.” This arrangement introduced a new standardized form of cooperation between actors in the international society. Accordingly, NGOs have contributed to the drafting of the International Bill of Rights and other international and regional human rights instruments and are currently monitoring the implementation of the obligations thereof. In this respect, the UN system opens its doors to NGOs and calls for their protection, because it realizes that their contributions are indispensable for the protection, promotion and enforcement of human rights. Normally, human rights under the UN are promoted either by bodies which are directly established under the authority of the UN or bodies that are specifically created by the UN human rights treaties. The next sections are devoted to the discussions of the role of NGOs under these two tiers of UN human rights system.

2.2.6.1 The Role of NGOs in the UN Charter Based Bodies

The United Nations, as one of its essential principles and purposes, advocates for the universal respect of human rights. The UN Charter, including its preamble, embodied different articles related with human rights.⁴⁸ Accordingly, the UN Charter requires the member States to promote respect for human rights within their domestic arena.

With regard to the involvement of NGOs in the UN system, Article 71 of the Charter has codified the custom of NGO participation in the League of Nations. It states that:

[t]he Economic and Social Council may make suitable arrangements for consultation with nongovernmental organizations which are concerned with matters within its competence.

⁴⁸ Articles 1(3), 8, 13, 55, 56, 62, 68 and 76 of the United Nations Charter

As this provision makes clear, the Economic and Social Council (ECOSOC) was mandated to grant consultative status to NGOs which would allow them to participate in, speak at and submit documents at a wide range of UN meetings focusing mainly on human rights issues. However, the UN Charter barred NGOs from having any role in the UN's more substantive organs; namely the General Assembly and the Security Council as it consigns NGOs to the lowly ECOSOC. Moreover, the permissive drafting of Article 71 gives the discretion to the ECOSOC in making arrangements for consultation with NGOs. But, still the inclusion of Article 71 in the UN Charter effectively "brought NGOs greater formal recognition than they had enjoyed previously with any other intergovernmental organization."⁴⁹

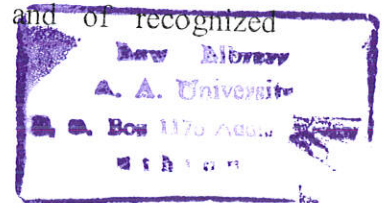
Indeed, even from the inauspicious departure point of Article 71 of the UN Charter, NGOs rapidly overcame the apparent limitations of the role proffered by the Charter and moved to assert a more influential, albeit informal, function within the international system and in the shaping of international human rights law. Accordingly, while 71 of the Charter established a "formal relationship" between the UN and NGOs, it ultimately generates multiple informal channels of communication each one serving to entrench and expand the function and centrality of human rights NGOs within the international system.

In accordance with Article 71 of the UN Charter, the ECOSOC adopted Resolution 1296 to regulate the granting of consultative and observe status to NGOs. This resolution set forth, in detail, how the interaction between the UN and NGO is regulated. In particular, it provided for the requirements of granting consultative status to NGOs, the rights and obligations of NGOs with consultative status, procedures for the withdrawal or suspension of consultative status, the role and functions of the ECOSOC Committee on NGOs, and the responsibilities of the UN Secretariat in supporting the consultative relationship.

⁴⁹ E.A. Bock, Representation of Non-Governmental Organizations at the United Nations, 1995, P.2

In light of Resolution 1296, the Council determined that the recognition of the consultative status of NGOs require for approval, contingent on several key principles including that:⁵⁰

- the aims and purposes of the organization shall be in conformity with the spirit, purposes and principles of the Charter of the United Nations;
- the organization shall undertake to support the work of the United Nations and to promote knowledge of its principles and activities;
- the organization shall be of representative character and of recognized international standing; and
- the organization shall be international in its structure.



As some scholars argue, Article 71 of the UN Charter “initiated a new experiment in linking private international voluntary organizations...with inter-governmental organizations.”⁵¹ However, a close reading of the provisions of Resolution 1296 reveals built-in safeguards to prevent too much NGO participation. Article 14 of the Resolution, in particular, states that:

[c]onsultative arrangements are to be made, on the one hand, for the purpose of enabling the Council....to secure expert information or advice from organizations having special competence....and, on the other hand, to enable organizations which represent important elements of public opinion in a large number of countries or express their views.

By reading this provision, one can argue that the Resolution sought to create an exchange between ECOSOC and NGOs, whereby NGOs provided ECOSOC with expert information and advice and ECOSOC, on its part, furnished NGOs with a platform for expressing their views. However, the drafting of Article 14 clearly points to the expectation that the ECOSOC would listen to only NGOs representing public opinion “in large number of countries”. That is, the opinion must be presented by NGOs having

⁵⁰ E.S.C. Res. 1296, Art.1- 9

⁵¹ E.A. Bock, Supra, note 45, P.2

international presence and focus on a genuinely international character. As such, the ability of NGOs to express views could be stifled by the mere fact that the opinions were not of a truly international character.

In spite of the above and other restrictions in Resolution 1296, NGOs still continued to expand their role in formal and informal way in influencing the international human rights system. Indeed, the expansion of participation of NGOs would continue despite the fact that the original ECOSOC guideline remained unchanged for nearly 30 years until the Council completed an extensive intergovernmental review that culminated in a new resolution expanding the formal role extended to NGOs at the United Nations in 1996.

The revision of ECOSOC Resolution 1296 nearly 30 years after its enactment revealed that NGOs obtained a greater level of respect with the UN. The revised Resolution, Resolution 1996/31, among other things, did away with the previous prohibition of Resolution 1296 against bestowing consultative status upon NGOs having only a national or regional focus. Accordingly, ECOSOC Resolution 1996/31 opened “special consultative status” to any NGO - particularly Human rights NGO - that pursued:

*the goals of promotion and protection of human rights in accordance with the spirit of the Charter of the United Nations, the Universal Declaration of Human Rights and the Vienna Declaration of Human Rights and program of Action.*⁵²

Hence, as this provision makes it clear, the Resolution gives recognition to all NGOs the purpose of which relates to the protection, promotion and enforcement of human rights as envisaged in different human rights instruments. In line with this guideline, Resolution 1996/31, as a departure from Resolution 1296 that only enabled “organizations which represent important elements of public opinion in a large number of countries to express

⁵² Consultative Relationship between the United Nations and Nongovernmental Organizations, E.S.C. Res.1996/31, ECOSOC R. 49thplen.mgt (1996) available at <http://www.un.org/documents/ecosoc/res/1996/-31.html>. Last visited Sep. 25, 2008

their views,” permits “international, regional, sub-regional and national organizations that represent important elements of public opinion to express their views.”⁵³

In addition to the ECOSOC, NGOs have created a close relationship with the UN Human Rights Council which recently replaced the UN Human Rights Commission. The Commission, in particular, began accepting comments and information in 1964. In 1980s, NGOs were allowed to name country violator in their comments to the Commission.⁵⁴ NGOs with consultative status were participating in the various governmental meetings of the Human Rights Commission. In these meetings, NGOs were able to raise human rights issues, and where the focus was on a specific country, media were also involved in their mobilization of shame.⁵⁵ The activities of NGOs have also continued with the Council as many of them, through time, have become increasingly sophisticated in their approach. Among these NGOs, Amnesty International, Human Rights Watch, Women Organizations, Organizations representing indigenous peoples and organizations working to enhance respect for the rights of the child have become more successful.⁵⁶

Despite the constricted role established by the UN Charter and the ECOSOC Resolutions, the growth in role of NGOs, especially human rights NGOs, has not restricted itself to the confines of ECOSOC. In fact, the expansion of their influence extends to the UN General Assembly and Security Council. In this regard, one writer states that:

[m]any NGOs.... are now more active in the General Assembly than in the Economic and Social Council. In addition, several subsidiary bodies of the General Assembly have devised informal arrangements allowing NGOs to take the floor or circulate documentation. Similarly, NGOs

⁵³ *Id.*, Art. 20

⁵⁴ James A. Paul, NGO Access at the UN, available at <http://www.globalpolicy.org/ngos/analysis/jap-access.html>, Last visited on October 7, 2008

⁵⁵ *Ibid*

⁵⁶ *Ibid*

*have participated actively in hearings of special committees... or in special sessions of the General Assembly.*⁵⁷

In accordance with these developments, NGOs have also actively sought to have their voice heard within the Security Council as well. For this purpose, the Security Council employed a method called 'Arria formula'. This mechanism allows NGOs "to give testimony to Security Council members in relation to specific crises, as well as on such issues as children in armed conflict" outside of official Security Council meetings.⁵⁸ Besides this mechanism, NGOs also have the access to "actively lobby the Council and to meet with individual missions on a continuous basis."⁵⁹ As such, as one observer has remarked, "NGOs often act as full participants and sometimes as principal actors" at the crucial working group level, which, significantly has its stake "in terms of legal expertise and technical skills."⁶⁰

2.2.6.2 The Role of NGOs in the UN Human Rights Treaty Bodies

As pointed out earlier, the major human rights instruments under the UN establish different treaty bodies. However, these instruments envisaged "no formal role... for NGOs in connection with the interpretation, implementation or monitoring" of the treaties.⁶¹ These tasks are explicitly reserved for committees of experts set up in accordance with specific and predetermined terms.⁶²

The growing yet informal trend in favor of incorporating the role of NGOs is readily confirmed in all UN human rights treaty bodies. These bodies "established functioning

⁵⁷ A. Donini, "The Bureaucracy and The Free Spirit: Stagnation and Innovations in the Relationships between the UN and NGOs", in L. Gordenker and T. G. Weiss(eds.), *NGOs, The UN and Global Governance*, 1996, P. 85

⁵⁸ Strengthening of the United Nations: An Agenda for Further Change: Report of the Secretary General, U.N.Doc A/57/347, Sep. 9, 2002, Para. 137

⁵⁹ Global Policy Forum Special Meetings between NGOs and Security Council Members, available at <http://www.globalpolicy.org/security/ngowkgrp/members.html>, Last visited on September 14, 2008.

⁶⁰ H. Cook, Amnesty International at the United Nations in the Conscience of the World, P.204

⁶¹ Ibid

⁶² *Id*, P.205

informal arrangements for meeting with, and using information" provided by NGOs.⁶³ However, these bodies have remained reluctant to formalize any participation of NGOs. In this respect, one scholar noted that:

*It is generally left to the Committees to invite input rather than giving NGOs and others any right of initiative. Over time... informal practices established by NGOs themselves in regularly transmitting information to the Committees have become a more accepted and regular aspect of their work.*⁶⁴

However, NGOs have, despite their lack of formally defined roles in the human rights bodies, managed to develop a role within the treaty bodies regarding the State reporting procedures.⁶⁵ Their role is particularly significant owing to the inability of expertise of the treaty bodies to examine the human rights situations in every State party and the usually exaggerated State reports that hide the practical human rights situation within the reporting State.

The importance of NGOs participation in the work of the treaty bodies has been underlined repeatedly by the meeting of the persons chairing United Nations human rights treaty bodies,⁶⁶ who have pointed to the vital role of NGOs in supplying the treaty bodies with documentation and other information on human rights developments. More importantly, at their seventh meeting in 1996, the chair persons encouraged NGOs to continue to take an active role in "critically examining the role of the treaty bodies" towards more effective performance by treaty bodies as a whole, as well as individual experts.

⁶³ H. Cook, *Supra*, note 56, P.205

⁶⁴ *Ibid*

⁶⁵ Effective Implementation of International Instruments on Human Rights, Including Reporting Obligations under International Instruments on Human rights: Note by the Secretary-General, UN Doc, A/49/15 37, Oct. 19, 1994, Para 14.

⁶⁶ *Ibid*

The most effective way of approaching a treaty body is to submit to it systematic information such as, 'counter reports', 'shadow reports' or 'alternative reports' as they have become known in the NGO terminology. These reports address the issues relevant to the treaty under consideration or react to the official report submitted by governments. In this respects, the pressure of the non-state sector forces the governments to make the reports available to the public and the expose it to scrutiny and debate.

In addition to their role in State reports, NGOS also take a significant stake in the complaint procedure. More importantly, NGOs can play role in situation where the complaint is based on the status of an individual victim or group of victims, but addresses systematic wide scale violations; NGOs can raise such issues directly to the relevant Committee as is the commonly the case in the Committee Against Torture. However, NGOs do not usually submit direct complaints to the treaty bodies. This arises from the fact that most of the existing procedures do not allow NGOs to lodge complaints unless they themselves are claiming to be victims of the violation or are the authorized representatives of the victim.⁶⁷

In general, the role of NGOs particularly the human rights NGOs at the UN has become so integral to the operation of UN human rights mechanisms that "UN treaty bodies, Committee chairs, and the General Assembly have all affirmed that none of the actions involved in the human rights monitoring could work well without NGOs."⁶⁸ Many scholars have also realized that without the input provided by human rights NGOs, UN treaty bodies would today find themselves "operating in vacuum."⁶⁹ As such, the centrality of NGOs to the UN human rights system has been described as "the fuel and the lubricant which allow the machine to function and speed of the work up."⁷⁰

⁶⁷ Agenda for further change, *Supra*, note 54, Para 137

⁶⁸ *Ibid*

⁶⁹ M. Lempinen, Consultative Relationship between the United Nations and Nongovernmental Organizations, P.34; available at <http://www.abo.fi/institut/imr/norfa/miko-pdf>, last visited on October 23, 2008

⁷⁰ H. Cook, *Supra*, note 56, P. 198

2.2.7 The Role of NGOs in the Regional Human Rights Systems

In addition to the UN system, currently, there are three regional human rights system that supplement the international system in monitoring the protection, promotion and enforcement of human rights within the domestic sphere of States. These are the African, the Inter American and the European human rights system. All the three systems recognize the significance and contribution of NGOs in the protection, promotion and enforcement of human rights.

2.2.7.1 The Role of NGOs in the African Human Rights System

The role of NGOs in the African human rights system began with the early establishment of the Organization of African Union (OAU). However, it was only in the late 1990s that the OAU started to realize that cooperation with NGOs would be of great value to the organization in enhancing its work. In particular, the OAU Ministerial Conference on Human Rights in Africa came up with the Grand Bay Declaration in 1999. The Declaration recognizes in its preamble "the contribution made by African non-governmental organizations to the promotion and protection of human rights in Africa." The Declaration further calls upon:

*All international organizations, governmental, intergovernmental and non-governmental, to cooperate and harmonize their initiatives with the OAU and its relevant organs as well as the various sub regional bodies within Africa for a more coordinated approach to the implementation of human rights in Africa and for maximum effect of such programs and initiatives.*⁷²

Thus, this declaration recognized the invaluable assets of NGOs in the protection, promotion and implementation of human rights within the Continent. As a result, it

⁷² Para 18 of the Grand Bay Declaration

required the cooperation of NGOs with the OAU and called upon African governments to offer their constructive assistance to NGOs with the aim of consolidating democracy and durable development.⁷³

Meanwhile, the African leaders established the African Union (AU) with the view of creating more popular participation in the construction of the new continental organization and responsive entity 'to the demands of the prevailing circumstances. The AU act provides, as a priority, protection and promotion of human rights both in its preamble and its substantive provisions. The AU has the objective of promoting popular participation and operates on the basis of the principle of participation of the African Peoples in the activities of the Union. In line with his objective, the first Ministerial Conference of the AU came up with the Kigali Declaration. This declaration recognized the importance of NGOs. It state that:

*[The Assembly] recognizes the important role of an civil society organizations (CSOs) in general and human rights defenders in particular, in the promotion and protection of human rights in Africa, calls upon member states and regional institutions to protect them and encourage the participation of CSOs in the decision making processes with the aim of consolidating participatory democracy and sustainable development, and underscores the need for CSOs to be independent and transparent.*⁷⁴

As this paragraph makes clear, the African human rights system has recognized the significant role of NGOs in the protection, promotion and enforcement of human rights. In deed, the Declaration also envisaged for the protection and encouragement of NGOs towards more popular participation.

⁷³ *Id.*, Para 17

⁷⁴ Para 28 Kigali Declaration

The African human rights system, hence, is open to contribution from local, national and international institutions as long as they are committed to the promotion and protection of human rights as laid down in the African Charter. Article 45 of the Charter, in particular, requires the African Human right Commission to cooperate with other institutions concerned with the protection and promotion of human rights.

2.2.7.2 Participation of NGOs in the Inter American Human Rights System

The Charter of the Organization of American States, the Charter that established the Organization, imposes certain obligations up on member States with regard to human rights. However, a comprehensive enumeration of human rights provisions was made with the adoption of the American Convention on Human Rights. The Convention, beyond defining the rights and fundamental freedoms of individuals, established the Human Rights Commission and the Human Rights Courts towards the effective implementation of the Convention in cooperation with non-state actors, principally NGOs.

NGOs have participated actively in the development of the work of the Commission and the Court. With respect to the Commission, they have played a crucial role in supporting its tasks by reporting violations, providing information relevant to the preparation of country reports, summoning victims to give statements before Commission during its on site visits, and so on. The participation of NGOs has also been very relevant in the processing of cases before the Court, whether as advisors or as representatives of victims.

However, the participation of NGOs in the political bodies of the Inter-American Human Rights system; the Permanent Council and General Assembly was minimal. This began to change during the 1990s when the participation of NGOs increased its presence before the political bodies.

The Guidelines for the participation of civil society organization in OAS Activities provides a set of principles governing the participation of NGOs in the Inter American Human Rights system. Among other things, it requires that:

*[t]he matters with which they are concerned must fall within the competence of the OAS, and the aims and purposes they pursue must be consistent with the spirit, aims and principles established in the Charter of the OAS and that their activities shall contribute to the development of the activities of the organizations of the OAS.*⁷⁵

Once NGOs have obtained consultative status, they can, as of right, participate in the activities of the political bodies of the OAS (permanent council and General Assembly). In fact, obtaining consultative status is not a mandatory requirement for NGOs to participate in the political bodies of the OAS. However, when an NGO does not have consultative status, its participation or non-participation depends up on the completely discretionary decision of the political bodies. Having consultative status, besides granting participation right, will allow the NGO to stay better informed as to the tasks of the OAS, placing it in better conditions so as to make its participation more effective.⁷⁶

Moreover, the resolution of the Permanent Council strengthened the participation of civil society organizations, especially of those registered under the system of consultative status.⁷⁷ It charges several organizations of that substitution with implementing a series of practical measures on the subject, so as to increase NGO access to information on the OAS, and to create regular instances for debate in the OAS with the participation of those institutions towards establishing suitable mechanisms for the protection and promotion of human rights.

⁷⁵ Guideline on the consultative status of NGOs at OAU, Para 4(a) and (b)

⁷⁶ Global Rights Partners for Justice, Using the Inter- American system for Human Rights, A Practical Guide for NGOs, 2004, P. 18

⁷⁷ Ibid

2.2.7.3 Involvement of NGOs in the European Human Rights System

Under the auspices of the Council of Europe, NGOs hold consultative status similar to the one at the UN. Under the terms of Resolution 93 (38) consultative status may be granted to the international organizations active at the European level, which are particularly representative in the field(s) of their competence and which, through their work, are capable of supporting the achievement of the objectives of the Council of Europe by contributing to its activities.

The Council of Europe has also adopted the Convention on the Recognition of the Legal Personality of International Non Governmental Organization in 1986 which came into force in 1991. The preamble of the Convention emphasizes the significance of NGOs when it states that "... International non-governmental organizations carry out work of value to the international community, particularly in the scientific, cultural, charitable, philanthropic, health and education fields...". Accordingly, the Convention recognizes the national law of the respective State in which the NGO has its head quarter to facilitate the activities of such NGO. However, the Convention is not meant to entitle an international personality; instead it enables every international NGO to have its identity and status without having to request new recognition from the member countries on its activities.

In respect to the European Convention on Human Rights, an NGO can bring a complaint to the European Human Rights Court alleging a violation of the Convention on Human Rights. But that NGO must claim to be a victim of the alleged violation. In fact, NGOs can also provide useful advice or even legal representation for persons who wish to bring complaints before the European Court of Human Rights. In certain cases, NGOs can also be invited to provide information to the Court. Under the European Convention on Human Rights as amended by Protocol 11, Article 36(2) explicitly provides for third party interventions from "any person who is not the applicant" at the invitation of the President of the Court.

Under the European Social Charter, NGOs have also the opportunity to submit information on specific country situations relating to one or more of the rights guaranteed by the Charter or provide comments on national reports. In addition, international NGOs may be consulted by the inter-governmental committees on issues on which they have particular competence. The 1995 Additional protocol to the European Social Charter providing for a system of collective complaints assigns a specific role to NGOs in the complaints procedure. It allows international NGOs with consultative status with the Council of Europe to lodge complaints against State parties that have failed to comply with one or more provisions of the Charter. National NGOs can also lodge complaints provided that the State concerned has made a declaration to this effect as per Article 2 of the Protocol.

More importantly, the Fundamental Principles on the Status of NGOs in Europe has recognized the significant role of NGOs in human rights and other related issues. It states that NGOs make an essential contribution to the development, realization and continued survival of democratic societies, and the cultural life and social well being of societies.⁷⁸ These Fundamental Principles also acknowledge the diverse bodies of activities undertaken by NGOs. Accordingly, the activities of NGOs can range from acting as a vehicle for communication between different segments of society and public authorities through the advocacy of change in law and public policy, the provision of assistance of those in need, the elaboration of technical and professional standards, and finally the monitoring of compliance with existing obligations under national and international law.⁷⁹

⁷⁸ Preamble 3 of the Fundamental Principles on the Status of Non Governmental Organizations in Europe, adopted in 2002

⁷⁹ *Id.*, preamble 5

Chapter Three

Origin, Historical Development and Regulatory System of NGOs in Ethiopia

3.1 Historical Background of NGOs in Ethiopia

Before the emergence of formal NGOs in Ethiopia, there were several community based associations like “idir”, “iqub” and “mehaber” exercising mutual self help activities in the society. The voluntary actions of these traditional institutions were very similar with the present day NGOs and civil societies. Thus, one can safely say that the notion of NGOs and civil society institution in Ethiopia, at least in its traditional sense, is as old as the formation of the society itself.

However, modern civil society institutions are recent phenomenon in Ethiopia. They began to emerge in country during the 1930s as a result of urbanization and economic development.¹ In these periods, the few NGOs operating in the country were more of faith based organizations. For instance, the Norwegian Lutheran started a program in Gamo Gofa in the 1930s.

The law meant to recognize and codify civil societies including NGOs was passed in 1960 with the enactment of the 1960 Civil Code of Ethiopia.² But, even then, civil society entities in general were slow to take root in the country. It was during the 1973 Ethiopian famine that many local and international NGOs evolved in Ethiopia. As a result, the major activities of the NGOs were related to the provision of relief and humanitarian

¹ Jeffrey Clark, Civil Society, NGOs, and Development in Ethiopia, A snapshot view, 2002, P.4

² Articles 404 - 549 of the Ethiopia Civil Code govern the formation and operation of Civil Societies and NGOs in Ethiopia

services. In fact, very few civil societies and NGOs were also engaged in policy and advocacy activities.

After the downfall of the imperial regime, the Derge regime came up with the socialist ideology narrowing the civic space for citizens associations and participation. As a result, the dynamism in non-governmental organizations that was in making up in the 1950s and 1960s was totally reversed. During these periods, NGOs operated in the country only under strict state control; particularly in between 1974 and 1984. After the outbreak of the major famine of 1984 - 1985, however, the government was forced to open up the space for the participation of NGOs. In effect, the number of NGOs operating in the country grew rapidly. This was, in part, welcomed by the Derge as a means of securing international aid resources; and also that it wanted to be seen as assisting its own people in the north and east of the country.³

The activities of the majority of NGOs during these periods were overwhelmingly focused on relief and rehabilitation works. There were also few NGOs engaged in development projects. However, these NGOs were tolerated so long as they did not challenge the policies of the Derge regime openly. What is more, NGOs were restricted from operating in regions experiencing civil conflict or warfare. Under the regime, the institutional arrangement relating to NGOs was also strictly controlled by the government. Every NGO was required to register with the Relief and Rehabilitation Commission. Moreover, the projects of NGOs had to be cleared with the relevant Ministry. These mechanisms were generally used to restrict the operation of NGOs. As in the case of the imperial regime, the Derge regime did not also allow the establishment of right based and professional organizations save for exceptional cases for the later types of organizations.⁴

³ Will Campbell, The Potential for Donor Mediation in NGO State Relations: An Ethiopian Case Study, IDS working paper, 1996, P.13

⁴ Desalegn Rahmato, 'Civil Society Organizations in Ethiopia', in Bahru Zewude and Siegfried Pause Wang (eds.), *Ethiopia: The Challenge of Democracy from Below*, 2002, P.109 and 111

The proliferation of operational NGOs was evident in Ethiopia since 1991. After this period, the number of NGOs, particularly the indigenous ones, has increased dramatically. One of the major contributions for the growth in number of NGOs was the natural and man-made disasters of the past decades that the country has experienced and the aftermath results it has produced. Recurrent drought, environmental degradation and civil unrest which use to be the major challenges of the country in the 1980s and 1990s still continues to have their negative effects although to a lesser degree of severity.⁵ It is against these backgrounds that most of the NGOs have evolved in Ethiopia.

The dramatic increase of domestic NGOs in Ethiopia in post 1990s owes mainly to the policy shift of international NGOs from direct implementation to working through local 'partners' organizations, which encourages local initiatives to seize the opportunity and form NGOs. A similar policy from the government that discourages the direct implementation role of international NGOs has also enabled local NGOs to channel resources from the international NGOs.

The constitutional recognition of freedom of association⁶ and establishment of independent associations with the increase in the political space for civil society has relatively created a better relationship between NGOs and the State. As a result, certain changes have been noticed. These could be evidenced through the adoption of NGO guideline (1995), the making of management policy that governs the National Disaster and Preparedness Commission (1993) (now the Disaster Prevention and Preparedness Agency), and the registration mandate given to the Ministry of Justice (1997) and of course the adoption of the new Charities and Societies Proclamation (though criticized by many as a restrictive and prohibitive law). These arrangements particularly reveal the recognition of the role of NGOs beyond disaster response and relief works.

⁵ Daniel Sahleyesus and Michaela V. Freyhold, *Does the North South Cooperation of NGOs Contribute towards Structural Stability and Conflict Prevention in African Societies? The Case of Ethiopia*, 2002 .P. 15

⁶ The Constitution of the Federal Democratic Republic of Ethiopia, 1995, *Fed. Neg. Gaz.* Year 1 No.2, Article 31

In accordance with these progresses, so many NGOs have been established in the country engaging in such diverse activities as; attending the needs of underprivileged groups of the society (children, the disabled, the elderly and women), health, education, food security, HIV/AIDS, water, environment research, training, advocacy, lobbying and public policy investigation and monitoring activities. In this regard, NGOs contribute in the protection, promotion and enforcement, of human rights and human rights related issues by identifying policy gaps and issues, providing services which also complement government endeavors, grass roots interventions, mobilizing community participation, strengthening community based organizations, bringing the voice of the poor to the wider public and to government, and mobilizing external resources.⁷

3.2 Growth and Diversity of NGOs in Ethiopia

As in the case of other countries, NGOs and civil societies in general are visible on the overall institutional landscape of Ethiopia. They are active in all parts of the country though their number and scope of work vary to a great extent from one region to the other. At present, majority of NGOs are more active in three or four regions with a relatively developed communication system and infrastructure. The remote regions of the country; Gambella, Benishangul-Gumuz, Afar, Somali and the Harari have still few active NGOs.

Thus, because of the specific contexts, compared to many other African Countries, the Ethiopian NGOs and civil societies sector in general is not that developed in terms of diversity, size and capacity despite the very large number of the country's population. It is particularly during the last two decades that the community has had, in relative terms, some opportunity for growth in size, diversification in make-up and self organization for active participation in the national realization and enforcement of the civil, political, economic and social rights of individuals and the wellbeing of the general public. The

⁷ CRDA , Assessment of the operating Environment for CSOs/NGOs in Ethiopia, 2006, P.7

following two tables show the growth of NGOs in terms of number and diversity in the post Derge regime.

Table 1: Growth of National and International NGOs

NGOs	Years				
	1994	1996	1998	2000	2007
NNGOs	24	96	160	246	1742
INGOs	46	96	119	122	234
Total	70	192	270	368	1976

Source: Ministry of Justice 2008

Table 2: Current Number and Diversity of NGOs/CSOs

Organizations	Number
National NGOs	1742
International NGOs	234
Professional Associations	149
Civic advocacy	125
Religious groups	8
Adoption agencies	47
Total	2305

Source: Ministry of Justice, 2008

As table 1 indicates, the number of NGOs increased highly with the relatively encouraging environment for NGOs. More importantly, the table shows the rapid expansion of local NGOs in the country. According to this figure, local NGOs accounted 75% of the total NGOs in the country, while the rest constitutes international NGOs, professional associations, civic, advocacy, religious groups, and adoption agencies. The size of local NGOs, in particular, represented significant numerical strength compared to where it was some five years back.

As table 2 above shows the number of organizations in the country as a whole stands at over 2300. But this figure does not include NGOs/CSOs registered at regional level. Even if it is difficult to obtain their exact number, regions have registered many more localized NGOs/CSOs. If this is included, the total number of formally registered CSO/NGOs is expected to be more than 4,000.

Therefore, the CSO/NGO activities are widely distributed throughout the country and both in urban and rural areas. However, as pointed out earlier, there is less concentration of NGOs and CSO activities in some areas than other parts of the country. There are more ongoing projects in the bigger Regions, particularly in Oromiya, Amhara, SNNP, Tigray and Addis Ababa. The following table shows the crude figure of on-going projects by region.

Table 3: Ongoing Projects of NGOs in the Country

Regions/Administration Councils	Types of NGOs			Total
	INGOs	NNGOs	RNGOs	
Oromiya	53	176	-	229
Addis Ababa	44	173	-	217
SNNP	28	70	-	98
Amhara	34	41	15	90
Tigray	14	9	43	66
Somali	22	17	15	54
BSGR	14	3	24	41
Afar	11	7	0	18
Dire Dawa	5	6	1	12
Gambella	7	1	4	12
Harari	3	8	-	11

Total	235	511	102	848
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Source: EC 2008

As this table reveals, the projects of NGOs are concentrated in areas where there is relatively sufficient infrastructure and suitable working environment for the activities of NGOs. In those remote areas where the working environment is not encouraging, only few NGOs have been operating. This clearly indicates the unevenly distribution of NGOs in the country.

3.3 Classification of NGOs in Ethiopia



From the common practices it is possible to classify NGOs on different grounds. For instance, one may classify NGOs on the basis of their source of income, program of orientation, affiliation, level or area of operation. On the basis of their income, source of income of NGOs may be donation based or commercial. Donation based NGOs get their income from donors while the commercial NGOs obtain their source of income from income generating activities. It is to be noted that these types of NGOs are not common in Ethiopia since the Ethiopia legal system does not allow NGOs to engage in profit making activities except in situation where NGOs practically involve in such activities on the ground of fund raising schemes.

NGOs may also be classified on the ground of program of orientation. In this respect, NGOs may be relief oriented, development oriented or advocacy oriented. It is also possible to classify NGOs on their basis of their affiliation as religious and secular. Finally, NGOs can be classified by their origin as indigenous and international NGOs.

Here one point is worth mentioning that despite the classification of NGOs on the aforementioned grounds, these grounds for the classification of NGOs do not practically enable us to categorize the NGOs operating in the country as tight and marked. These results from the fact that there are NGOs that falls in more than one category. For instance, there are NGOs which engage in both relief and development activities at the

same time. There are also so many NGOs local in their establishment but entirely dependent on the external sources for funding and technical assistance. In short this is to mean that the classification is not an exhaustive scheme of classification; instead it only enables to grasp the nature of NGOs operating in the country by providing theoretical insight in to their activities.

3.3.1 Classification of NGOs on the Basis of Origin

As noted earlier, NGOs can be classified as indigenous NGOs and international NGOs on the ground of their origin. Indigenous NGOs are relatively a recent phenomenon in Ethiopia. Although a few of them were established earlier, the majority of indigenous NGOs emerged with the dawn fall of the Derge regime in the 1990s. Currently there are so many NGOs operating in areas of child welfare, rights of women, environmental protection, development, infrastructure building... and variety of other issues. Most of the indigenous NGOs in Ethiopia are development oriented that receive funds from foreign donors. This characteristic of NGOs has apparently contributed to the friction in the relationship between government and NGOs.

With regard to international NGOs, Ethiopia is familiar with these actors with its recurrent draught and famine as early as the period/reign of the imperial regime. In particular, the 1973/74 and the 1984/85 famine, drought and severe food shortage urged the then governments of Ethiopia to appeal for international relief assistance. This had led to the flow of many relief and humanitarian NGOs in to the affected areas of the country. Due to their historical evolution, most international NGOs were relief oriented until recently. This original relief oriented activities of NGOs through time, incorporated different activities related to development in taught of the government policies towards sustainable development.

3.3.2 Classification of NGOs on the Basis of Program of Orientation

As pointed earlier, NGOs may involve in so many diverse activities. Accordingly, NGOs may engage in relief oriented activities, development related activities or right based activities. The first category of NGOs, relief oriented NGOs, emerged with the frequent/chronic draught and famine in the country. This holds particularly in case of international NGOs during the Ethiopian Famine of 1973/74 and 1984/85. Today, some of NGOs are mixed oriented NGOs but more of development activities responding to the demand of government from temporary relief activities to long run sustainable development.

The other category of NGOs; development oriented NGOs, are the results of the shift of policy from relief oriented activities to the long run development oriented activities. This was particularly evident in the country with the issuance of the guidelines for NGOs operation in 1995 which provide the guidance on the priority areas for NGO programming. The areas designed were broad and included agriculture, environment, education, health, women's empowerment, infrastructure, and the like. This evolution of NGOs to implementation of long-run development has, through time, increased their reach, impact, and to some extent their value in the eyes of the government.

The third category of NGOs; advocacy NGOs, are right based organizations that are established with the purpose of contributing their share in the protection, promotion and enforcement of human rights. Some of these NGOs are involved in the protection of human rights in general while others focus on the rights of particular marginalized groups such as children, women, disabled persons, elders, etc. They usually involve in awareness creation, promotion of respect for rule of law, and protection of human rights.

3.4 The Legal Regime Governing NGOs in Ethiopia

In the preceding sections, attempt has been made to trace the origin and historical development of NGOs and their current status in the social, economic and political aspect of the country. Once this has been appreciated, it would be logical to inquire within what

policy and legal framework NGOs operate in the country. This is the core issue to be discussed in this section.

From the outset, it must be noted that the mode of regulating the relationship between NGOs and the State is, in some respect, different from the regulation of other private sectors. This principally results from the special nature of NGOs that they share the feature of both private sector and public sector. On one hand, they resemble the private sector in their source of funds and at times in their mode of operation. On the other hand, they are similar with the public sector as their purpose is oriented towards specific group of the society or the whole society.

The ground for regulating the private sector as a whole owes much the failure of market to regulate itself. In their respect, governments justify their interventions in the market on such grounds as: controlling monopoly, correction for 'spill-over' costs, 'Wind fall' profits, alimentionation of excessive competition, etc. These grounds, in one way or another relates to be profit motive that initiates the private sector in general.

However, the profit motive, at least in principle, lacks in the operation of NGOs. NGOs are established for the purposes other than profit; i.e. humanitarian, charitable or public service orientations. This implies that the rational and mode of regulation of NGOs is entirely different from private sector. Even some people argue that owing to their non-profit, voluntary and charitable features, NGOs sector should be deregulated for the same reason that the other private sector is regulated.

This is an extreme side of the argument which fails to consider some issues peculiar to the nature and operation of NGOs. The fact that NGOs are not moved by the profit motive is undeniable. Similarly, it is reasonable that this absence of profit motive in the nature and operation of NGOs should be taken in the account in determining their regulatory atmosphere. But, it would be unreasonable to argue, beyond the need for a different form of regulation, that NGOs should not be regulated at all. Rather one could logically argue that owing to their benevolence and non-profit orientation, the regulatory

system of NGOs should be more liberal and encouraging ^{compared} to that of the private economic sector

Now, let us examine the peculiar feature of the operation of NGOs which called for their regulation, the rationale behind the regulatory system of NGOs and the limits of such regulation in terms of the negative implications of over regulation atmosphere of NGOs.

3.4.1 The Grounds for Regulation of NGOs

As discussed in the second chapter of this paper, there has been a paradigmatic shift since the 1970s in the attitudes of donors and development policy makers away from state-centered models towards more participatory approaches. This paradigmatic shift away from the state towards NGOs has contributed to the hostile relationship between NGOs and governments. This particularly holds true in case of human rights NGOs.

In particular, the relationship between NGOs and governments in Africa, owing to their historical processes, are often characterized by conflict. In this regard, one writer argues that:

At base, the relationship between governments and non-governmental organizations is a political question that impinges on the legitimacy of various types of institutions to exercise power. Who has the right to assert leadership, to organize peoples, and to allocate resources in the development enterprise?⁸

Indeed, the nature of relationship of NGOs with government partly depends on the functions served by NGOs. NGOs which engage in welfare provision and humanitarian relief are the least likely to experience conflict with the state. They are usually welcomed by governments as they reduce the burden on the state to provide social services. On the other hand, NGOs engaged in grassroots development work, particularly in the instance

⁸ Will Campbell, *Supra* note 3, P.5

where they espouse a development philosophy in conflict with that of state; are more likely to provoke hostility. But, NGOs experiencing the most hostile response from governments are those engaged in advocacy, including human rights work, in host countries. These types of NGOs are commonly considered as opponents to government policies and, sometimes, to state structures. As a result, most governments are likely to monitor and attempt to control their activities; some may even ban or expel them.

In the case of the latter category of NGOs, one writer has particularly attempted to show how the work of human rights NGOs is hampered by the presence of the limitations, obstructions, and difficulties they have to confront. Taking the instance of Uganda, this writer stated that Ugandan human rights NGOs have had a limited role in creating a positive human rights culture in their home country, as historically rooted repression has created a dominant feeling of fear among the public, a fact that has made people indifferent to what those organizations offer⁹. As a consequence, they said, “[human rights NGOs], not willing to risk state repression or lose foreign aid, thus resort to non-contentious human rights issues that do not engage the regime or test the resolve or interest of society to demand for human rights for all.”¹⁰

Thus, it is a general consensus that the relationship between NGOs and a government would usually co-exist and be peaceful when the government feels neither endangered nor challenged, and when the NGO's tasks are not incompatible with its own objectives. However, given the indispensable contribution of NGOs in a society, it is highly recommended that states create a minimum working environment for the operation of NGOs.

3.4.1.1 The Significance of Regulation

⁹ Susan Dicklitch and Doreen Lwanga, “The Politics of Being Non Political Human Rights Organizations and Creation of a Positive Human Rights Culture in Uganda,” *Human Rights Quarterly*, Vol. 25, Issue 2, 2003 P. 482

¹⁰ Ibid

It is known that NGOs, as a principle, act primarily for the interest of certain group of a society or the whole society. It is also noted that the main source of income for NGOs is donation. In this regard, both the beneficiaries and donors have got an interest in the activities of NGOs. On the one hand, those who benefit from the activities of NGOs, at least, need to see to it that they receive the benefit intended. On the other hand, the donors want to ascertain that their money is being used properly and applied to the purpose they set out to finance.

Partly, it is the interests of these entities that necessitate regulation of NGOs. The government, owing to its institutional capacity and means at its disposal, can regulate the activities of NGOs to the demands of both the beneficiaries and donors.[†] It may enact laws and create a regulation system to ensure that the beneficiaries receive the benefit intended. It can also make sure that NGOs do not waste valuable resources and that their activities are coordinated with the existing government and private institutions operating towards the same objectives.

Government must also take measures to ensure that the activities of NGOs do not endanger the life, health and security of the public at large. In the words of one scholar, the purpose of governmental regulation of NGO activity aim “to achieve goals which are considered desirable for moral and political reasons or out of preserving order.”¹¹ Another scholar has also the following to say in a more detail manner.

*Governments that establish laws regulating the conduct of NGOs do so in the name of protecting their societies against illegal activities or activities which threaten public order or other fundamental national interests. Clearly, governments have a right even an obligation, to provide such protection.*¹²

¹¹ Edwards A. Audiin Yaansah, “Legislation to Regulate the Activities of Local and Foreign NGOs: A Comparative Perspective” *Workshop on the Role of NGOs in an Emerging Ethiopian Society* (unpublished, October 26, 1996), P.1

¹² Lawyers’ Committee for Human Rights, *Freedom of Association in International Law* (Unpublished May 1996), P.1

Thus, government is the major stake holder in the activities and operations Of NGOs as a logical consequence of its general obligation to protect the safety, of its society and the interests of its subjects as well. This includes protecting the interests of those individuals or group of individuals for whose benefit the donation was made and the interests of the general public by ascertaining efficient allocation of resources, preventing legal and immoral activities and securing the general public security and order. With this general frame work, let us discuss the specific reasons for regulation of NGOs.

3.4.1.2. Privileged Position of NGOs

One of the reasons for regulating the activities of NGOs is the existing of a variety of privileges provided for NGOs for the purpose encouraging NGOs to operate effectively. These privileges are enjoyed by NGOs at the expense of the interest of the state and the society at large. Governments normally provide such privileges to NGOs by contributing to the activities of NGOs either financially or otherwise. The mode and extent of the privileges may vary from one legal system to another. Commonly, the privileges provided for NGOs included tax exemptions, preferential treatment under regulatory laws and tort immunity.

Among the aforementioned privileges, tax exemption is the common and most important privilege available to NGOs. It relieves the funds available to NGOs from deduction of taxes. This privilege encourages NGOs to work towards public benefit. Indeed, undertaking activities normally falling within the duties of the government, NGOs relieve burdens on the tax supplied government treasury. This logically dictates for exemption of taxes to NGOs. What is more, requiring NGOs to pay taxes will led to an unnecessary duplication of administrative efforts in collecting it since the rescore will in the final analysis be used for the purpose identical to the one undertaken by NGOs.

Different theories have been developed to justify tax exemption to the NGO sector. One of the theories holds that "tax exemption is a means for providing a government subsidy

to organizations that relieve governmental burdens by providing essential services.”¹³ This theory is principally based on the principle of subsidy requiring governments to exempt taxes for those actors that share the obligations of the government in one way or another.

Another theory that is forwarded to justify tax exemption of NGOs is the capital formation theory. According to this theory, tax exemptions are meant to make up for the lack of competitiveness exhibited by NGOs in the capital market due to the “non distribution constraint” or non-profit nature of NGOs. Thus, as this theory dictates, the government provides tax exemption in favor of NGOs to narrow down the gap in capacity of NGOs to raise capital in relation to the profit making sector. But this theory has been criticized for disregard of the public benefit purpose of NGOs as a basis for tax exemption.

There is still another theory proposed to justify tax exemption for NGOs. This is what is called ‘the donation based theory’. According to this theory, NGOs act to make up for the failures of the private profit making and government sectors. In the instance where these latter actors fail to respond to the demands of a section of the community, NGOs come in to scene to create an alternative supply funded by donations. Thus, as the proponents of this theory argue, the primarily rationale for the charitable exemption is to subsidize the organizations capable of attracting substantial donation.

In spite of the above and other different theories set forth to justify tax exemption, many countries provide it for the purpose of encouraging operation of NGOs towards public benefit. For instance, the NGO legislations of African countries like Ghana, Nigeria, Kenya, Rwanda and South Africa provide tax exemption which may include one or more of the variety of taxes; transaction taxes, import duties, value added taxes.

¹³ “Development in the Law of Non-Profit Corporations”, *Harvard Law Review* (May 1992), Vol.105, No 7 P.1620

In case of Ethiopia, the 1969 customs tariffs regulation which is still applicable under the newly adopted Charities and Societies Proclamation No. 621/2008 exempts NGOs from customs tariffs. It states that:

*Any item imported by any religious, educational, medical or charitable institution or organization where the customs are satisfied that the same has been received as a bona fide free gift or donation from abroad and is intended solely and exclusively for the educational, medical, and charitable activities of the institution or organization and will not be disposed of for profit or gain...*¹⁴

In addition to the exemption of custom duties, the currently applying Value Added Tax and Income Tax legislations give certain tax advantages for charitable organizations.

3.4.1.3 Avoiding the Possibility of Abuses

Besides the ground of their privileged position, the regulation of NGOs can also be seen from the perspective of the potential for abuses. It is known that NGOs handle a very large sum of money and highly valued assets susceptible of abuses to the detriment of the beneficiaries and the society at large. This, would, as one writer noted, urge the government to act out of 'duty to protect their constituencies from unscrupulous practices'. One of such protection mechanism could be taking necessary measures to ensure that NGOs create a financial transparency concerning amounts, sources and expenditures.

The large amount of money received by NGOs from different sources supplemented by other support and encouragement of government, may lead the managers and founders of NGOs into unscrupulous acts. Indeed, there is a high possibility that the managers and founders may use the resources of NGOs for personal benefit. For this reason, many scholars recommend for the establishment of a government agency concerned with

¹⁴ Customs Tariffs Regulation, Legal Notice No 354 of 1969, *Negarit Gazeta*, Year 28, No 6, Art.430 (6)

regulating NGOs as a consequence of the possibility or probable actuality of resource abuses.

In the context of Ethiopia, the provisions of the Civil Code and other subsidiary legislations show the concern with the possibility of abuses of resources of NGOs particularly with that of tax free status. The Civil Code, in particular, provides that an association which undertakes any object different from the one stated in its memorandum of association or statute shall be dissolved by court order.¹⁵

Above all, the recently adopted Charities and Societies Proclamation come up with stringent regulations not only on the abuse of financial resources of NGOs but on the operation of NGOs in general. The Proclamation, in particular, establishes the Charities and Societies Agency with the objective of creating a situation in which the operation of Charities and Societies is transparent and accountable¹⁶ and ensuring that charities and societies operate legally.¹⁷

In line with this objective, the proclamation set forth different mechanisms to regulate the activities of NGOs. For instance, Article 78 requires NGOs to keep accounting records that show their financial transactions. But this provision goes further than the common practice imposing strict procedures on keeping accounting records. Sub articles 3 of this Article states that “Charities and Societies may not receive anonymous donations and shall at all times keep records that clearly indicate the identity of donors”.

On the other hand, Article 103 provides that a charity or society which violates Article 78 shall be punishable with a fine not less than Birr 10,000 and not exceeding Birr 20,000 and officers and workers who have participated in this act are punishable with a fine not less than Birr 5,000 and not exceeding Birr 10,000 or with simple imprisonment not exceeding five years or both. This may discourage donors in providing funds to NGOs. Urging Charities and Societies to disclose the identity of donors will also violate the right to privacy of donors besides affecting their economic freedom. This is particularly

¹⁵ Art.461 of the Ethiopian Civil Code

¹⁶ Art.5 (2) of the Charities and Societies Proclamation No. 621/2009

¹⁷ *Id*, Art. 5 (3)

evident in the case where the donors are not interested in the disclosure of their identities but still willing to help others by assisting the activities of NGOs.

Towards this strict regulation, the Proclamation has also fixed the expenses that charities and societies must allocate for administrative costs and implementation of their purpose. Article 90 (1) of the Proclamation provides that charities and societies shall allocate not less than 70 percent of the expenses in the budget year for the implementation of its purpose and an amount not exceeding 30 percent for their administrative activities. A violation of this will result in criminal liability which is made punishable by fine or imprisonment as per Article 103 of the Proclamation. Though, the intention behind this provision is to regulate the possibility of abuse of financial resources by NGOs, it is too stringent as it does not allow NGOs to expand more than 30 percent of its income for administrative activities even in case where there is a justifiable cause to that effect.

Above all, the Proclamation, with a view to regulate abuse of financial resources, requires NGOs to submit to the Charities and Societies Agency an annual statement of accounts and activity reports.¹⁸ Moreover, the Proclamation entitles the supervising Agency to conduct sudden and mandatory audits through an auditor designated by the Agency.¹⁹ However, the Proclamation doesn't provide guarantees against unnecessary intrusions on the liberty of the organization during the process of conducting such sudden and involuntary audits. It also fails to clearly mention the conditions that necessitate sudden audits.

3.4.1.4. The Need for Coordination

Another ground for regulating NGOs arises from the need to coordinate the activities of NGOs. Countries, particularly those of the developing third World, need to efficiently use the available human, material and financial resources to the reviving socio-economic development. Accordingly, they need to make sure that the activities of NGOs fall in to

¹⁸ Art.79 and Art.81 of the Charities and Societies Proclamation No.621/2008

¹⁹ Id, Art.80

their own development strategies and complement government activities in the same area or sector of operation.²⁰ By the same token, NGOs may need such regulatory mechanism for coordinating their activities with each other.

In this regard, many countries have adopted different legislations in coordinating the activities of NGOs with that of the government or among the NGOs themselves. For instance, the UK Charities Act opens the space for NGOs to coordinate their activities with that of the concerned government organs towards the protection of the interests of persons who may benefit from the services of NGOs or from the charity.²¹ The Kenyan NGO Coordination Act also envisages the need for coordination of the activities of NGOs with the national development plan of the country. But, the Kenyan NGO act is stringent as it tends to impose on NGOs a mandatory coordination system with government plans and operations in the same area or sector. For that purpose, the concerned government organ can provide a 'policy guideline' for NGOs to harmonize their activities with the national development plan of the country.²² Similarly, in Rwanda NGO legislation acknowledges the activities of NGOs as a complementary force to government efforts in which case it recommends the activities of NGOs to be coordinated with those of the government and other NGOs by way of suggesting changes in areas and sector of operation.²³

In case of Ethiopia, before the coming in to force of the recent Charities and Societies Proclamation, the Disaster Prevention and Preparedness Commission (DPPC) and the Ministry of Justice use to coordinate and supervise the activities of NGOs. In particular, the National strategy and General Guidelines of the DPPC impose a mandatory coordination system on NGOs with the purpose of ensuring efficient utilization of resources and avoiding duplication of efforts.²⁴

²⁰ Bruce R. Hopkins, *A Legal Guide to Starting and Managing a Non Profit Organization*, 1993, P.3

²¹ The U.K. Charities Act of 2006

²² The Republic of Kenya, *The Non Governmental Organizations Coordination Act*, No 19 of 1990 Art. 7F)

²³ Republic of Rwanda, *Working Procedures for Local and International Non Organizations*, December 1994 Preamble

²⁴ Relief and Rehabilitation Commission, *General Guidelines for the Implantations of the National Policy on the Disaster Prevention and Management*, (Chapter 6) P.25

The newly adopted Charities and Societies Proclamation affirms in its preamble that the law is necessitated ‘to aid and facilitate the role of charities and societies in the overall development of Ethiopian peoples.’ This clearly shows that there is a need on part of the government that the activities of NGOs be coordinated to complement the development policies of the country. Beyond this, the Proclamation sets the areas or sectors in which NGOs can take part with a strict regulation of foreign NGOs and national NGOs receiving more than 10% of their funds from foreign country sources.

The latter types of NGOs cannot dwell in one or more of the activities mentioned in Article 14 (j)-(n) of the Proclamation. These activities are: 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 conflict resolution or reconciliation, and the promotion of the efficiency of the justice and law enforcement services. Accordingly, the Proclamation limited the activities of these kinds of NGOs to relief and development related activities in line with the development policies and strategies of the government.

In this regard, some critics not only challenge the constitutionality of the provision of Article 14 (5) of the Proclamation but question the discriminatory nature of the provision as contrary to the international instruments ratified by Ethiopia; particularly the International Covenant on Civil and Political Rights (ICCPR). As per Article 31 of the FDRE Constitution and Article 22 of the ICCPR the limitation that can be placed on the right to freedom of association should be clear and aim at achieving a legal end that facilitates the creation of a democratic society. But, as critics have it, “it is hard to imagine the harm that may follow in the country's effort of the creation of a democratic society”²⁵, if Ethiopian residents and foreign charities engage in those fields mentioned above.

With regard to the issue of coordination of the activities of NGOs among themselves, the Proclamation allows NGOs to form their own associations. It states that “charities may

²⁵ Task Force Commentary on The Draft Proclamation

form a consortium charity to co-ordinate their activities.”²⁶ However, the law leaves the particular and detail requirements and the respective rights and duties of the consortium to be determined by the Agency through its directives.

for

3.4.2. Limitation on Over-Regulation

As discussed earlier, governments need to regulate the activities of NGOs due to different factors that demand the interference of the government. Accordingly, governments utilize various mechanisms and mode of regulation. The most widely used modes of regulation, as observed in different legal system, are the requirement of registration, licensing and reporting mechanisms.

Many governments, therefore, require that NGOs be registered with a centralized agency or concerned executive organ before becoming operational in their countries. This enables the concerned government organ acquire information on the conditions of establishment and plans of operation of NGOs thereby giving the chance for the government to check whether the operation of the NGOs is in the interest of the general public and to see to it that the activities of the NGO is in line with its policies and strategies. The mechanism of reporting, on its part, helps the government to have a constant flow of information to the government on the financial, material and personal position of the NGO and the state of its activities. In addition to enabling the government to control the activities of NGOs, this periodic reporting mechanism facilitates the efforts of coordinating the activities of NGOs with that of the government and among the NGOs themselves by providing the necessary information on the activities of NGOs.

It is to be noted, however, that despite its significance, a stringent regulation of NGOs may lead to unfavorable effects on the establishment and operation of NGOs. Over regulation of NGOs, in general, discourages the formation and operation of NGOs to the detriment of the beneficiaries and the society at large. This is particularly the case where the requirements of registration and reporting are unreasonably cumbersome.

²⁶ Art.15 (3) of Proclamation No. 621/2009

Beyond creating an unfavorable atmosphere and discouraging the establishment and operation of NGOs, over regulation may also limit the freedom of association and other related rights of individuals. International human rights instruments envisage that individuals have inalienable right to organize themselves towards the realization of their economic, social and political rights. Those instruments also set forth the extent to which and the circumstances under which governments may put limits to these rights. Once a government adopts or ratifies these instruments, it will be committed to protect the rights and freedoms embodied therein. The government will also be required to observe the limitation on the interference of government in the activities of NGOs. In the next few paragraphs, attempt will be made to briefly assess the ill effects of over regulation indicated earlier.

3.4.2.1. Over Regulation as a Restriction on Individual Freedom

Among other things, the establishment and operation of an NGO involves certain basic individual rights and freedoms. Indeed, establishing an NGO is a manifestation of exercising the right to freedom of association by the members and founders of the NGO. Obviously, the freedom of assembly and expression will be effective once the NGO is established.

The right to freedom of association is recognized in the important international human rights instruments. Particularly, Article 20 of the UDHR and Article 22 of the ICCPR provide in a similar terms that every individual has the right to associate himself/herself with others in pursuit of a common purpose and interest. However, as in the other cases, the right to freedom of association has its own limitation. In this respect, the ICCPR provide that:

No restriction 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 interest 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.

According to this provision, limitation on the right to freedom of association can be admitted in such exceptional cases where, at least, three elements are satisfied. First, the restriction on the freedom should be determined and prescribed by law. It means that the limitation or restriction of the right should be done through an explicit provision of a regularly enacted law so as to determine, in advance extent of individual rights. Second, the restriction of limitation must be necessary in a democratic society. In other words, even in case where restriction or limitation is permitted, unnecessarily excessive or unjustifiably cumbersome restrictions should be avoided. Third and last, the restriction or limitation must be imposed for the purpose of protecting national security, public order, public safety, public health, morals and the rights and freedoms of others.

The requirements provided in the above provision of the ICCPR are incorporated in the Ethiopian Constitution in one way or another. For one thing, the FDRE constitution under Article 31 clearly recognizes 'the right to the freedom of association for any cause or purpose' but with the prohibition of unlawful associations. For the other things, Ethiopia being signatory to the ICCPR accepted the requirements of the above provision. What is more, Article 9 (4) of the Constitution makes the international agreements ratified by Ethiopia to be part of its domestic laws. As a supplement to this, Article 13(2) of the Constitution requires the interpretation of the fundamental rights and freedoms enshrined in the Constitution in conformity with the principles of the Universal Declaration of Human Rights, International Covenants on Human Rights and international instruments adopted by Ethiopia.

From the above provisions of the Constitution, one can observe that the government is committed to respect and protect individual rights and freedoms as defined under international human rights instruments and as incorporated in the Constitution. This implies that a violation of the standards provided in the international instruments and the Constitution of the country will be a violation of such commitment dictating 'any law or

act of an agency of the government or official' contrary to this standard as unconstitutional.²⁷

3.4.2.2. Over Regulation as a Restriction on NGO Activity

There is a general consensus that the establishment and operation of NGOs and the willingness of donors to support them relates with the existence of an accommodating legal system in the host country. Over regulation of the activity of NGOs has a deterrent effect on the establishment and operation of NGOs. It has also the effect of discouraging foreign NGOs and donors working in a host country. In extreme cases, it may lead these actors to exit the country or withdraw their charitable activities. In short, over regulation of these actors will discourage private contribution to the achievement of philanthropic and charitable ends.

As will be discussed in the next chapter, NGOs play a significant role in the overall economic, social and cultural and political atmosphere of countries. There are NGOs that share the burdens on government resources and help the government to attend to its other tasks more effectively. There are also NGOs that operate as checks on governmental power by organizing and upholding the interests of marginalized sections of the society and influencing governmental decision making. However, in many cases, governments consider this latter activity of NGOs as contrary to their policies and strategies. For this reason, governments tend to restrict NGO operations, in order to prevent NGOs from spreading their control over development resources and endangering their political ideologies.

In some cases, the regulatory system of NGOs is very restrictive. It may totally ban the activities of NGOs. In other cases, the restriction on the operation of NGOs may be expressed by prohibiting NGOs from involving in the areas where the government thinks that it is against its policies and strategies or against its political interests. These

²⁷ The Constitution of the Federal Democratic Republic of Ethiopia, 1995, *Fed. Neg. Gaz.* Year 1 No.2, Article 9(1)

restrictive regulations generally discourage the involvement of NGOs in the overall economic, social, cultural and political conditions of a country.

3.5. The Regulatory System of NGOs in Ethiopia

In the preceding sections, attempt has been made to light on the rational and limits of regulation of the operation of NGOs. In this section, as a logical antecedent, we will briefly discuss the regulatory system of NGOs in Ethiopia.

There are different mechanisms of regulating NGOs. The common modes of regulatory systems are registration, coordination, reporting and self-regulation. From these modes of regulations, registration and reporting play a very significant role. These mechanisms usually function as a means of granting approval and continuous follow up by governments and substantially determine the relationship between NGOs and the government.

The later modes; coordination and self-regulation are commonly used to assist the other forms of regulation; registration and reporting. Coordination generally requires a continuous communication of information on the activities and plans of NGOs to the coordinating governmental bodies or among the NGOs themselves. Self-regulation, on the other hand, involves a mechanism whereby NGOs regulate the activities of fellow organizations through their consortium or umbrella organization. For this purpose, they usually adopt a code of conduct that focus on the values, ideals and standards and other regulatory mechanisms which the organizations in question need to stick in their entire activities and dealings with fellow organizations, government, target groups and other members of the society. Let us now discuss these modes of regulations one by one as envisaged in the Ethiopian legal system.

3.5.1. Registration of NGOs in Ethiopia

Registration as a form of regulation of NGOs demands the fulfillment of set of conditions prescribed in advance by the government hosting the NGOs activities. However, it is important to take in to account certain fundamental conditions in setting such requirements. Firstly, establishing many agencies mandated to register NGOs that require multiple registration criteria and procedures may prove cumbersome and inconvenient for NGOs. Secondly, the registration process should not take up more time unnecessarily and should not require NGOs unreasonably exaggerated fee. Thirdly, the formalities to be fulfilled for the registration should not be too stringent and cumbersome. Finally, the effect of registration or its failure should not be overemphasized. Registration is not more than a means of bestowing personality over NGOs, of giving approval to become operational or a license to enjoy some privileges.

These essential considerations can be summarized in the following statements:

What must be avoided is the danger of too many regulations, over regulation makes it difficult and burdensome for the poorest members of society to come together for citizen action. In addition, any legal burdens imposed on CSOs/ [NGOs] must necessarily reflect a balancing of the rights of individuals to exercise their freedoms and the need for public protection.²⁸

Accordingly, any legislation that provide for the registration of NGOs must take into account on the one hand the right of individuals to exercise their freedom of association and the need for the protection of the general public on the other. This, in principle, requires striking a balance between the two interests. But, such delineation, among other things, must be seen in light of the purpose of registration. Principally, registration is for the interest of the NGOs themselves; it facilitates their operation by entitling them with legal personality and giving recognition for their operation. Of course, on part of the government, it also serves as mode of regulating the activities of NGOs.

²⁸ Woldetensay Woldemelak, The Third Sector- Principles and comparative Legal Analsis, 2003 P.73

3.5.2. The Organ empowered to Register NGOs

The mandate to register NGOs is given for different governmental organs in different countries. Commonly, the organs empowered to register NGOs are designated by; Charity Commission, Board, Registrar, Directorate or Agency. For instance, the U.K Charities Act of 2006 establishes a Charity Commission while the South African Non-profit Act of 1997 empowers the task of registering to a directorate for Non-profit organization. In other countries like, Kenya, Uganda and Nigeria the mandate of registration is given to a board established for this purpose.

In case of Ethiopia, before the enactment of the recently adopted Charities and Societies Proclamation No.621/2008, there had been sort confusion as to the organ empowered to register NGOs. The confusion emanated from the unclear role of the Disaster Prevention and Preparedness Commission and the Ministry of Justice in the registration and supervision of the activities of NGOs. The Ministry of Justice which up to the recent time was registering NGOs based its claim mainly upon the provisions of the Proclamation Defining the Powers and Duties of the Federal Executive Organs. Under this Proclamation, the Ministry of Justice was empowered to register international NGOs and transnational associations.²⁹ Accordingly, the Ministry had established an office of associations and NGOs and provided for detailed regulations for the registration of these actors.³⁰ The Disaster Prevention and Preparedness Commission (DDPC), on its part, used to claim the power to register NGOs on the ground of its establishment Proclamation which empowers it to 'register all forms of assistance' among its other powers and duties. Indeed, the DDPC is the immediate successor to the RRC that used to organize and supervise the activities of NGOs during the 1973/74 and the 1984/85 famine.

²⁹ Definition of Powers and Duties of the Executive Organs of the Federal Democratic Republic of Ethiopia, Proclamation No, 471/ 2005, *Fed. Nag. Gaz.* Year 12, No. 1, Art.23 (8)

³⁰ Association Registration Regulation, Legal Notice No. 321 of 1966, *Negarit Gazeta*, Year 26 Number 1

With the enactment of the new Charities and Societies Proclamation, an agency to register, license and supervise charities and societies has been established. This has solved, at least, the confusion that arose with regard to the organ empowered to register NGOs. The Charities and Societies Agency is established under Article 4 (1) of the Proclamation with its own legal personality and as an institution of the federal government. The Agency is accountable to the Ministry of Justice.

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As the experiences of many countries reveal, NGOs are required to fulfill certain conditions. Commonly, NGOs are required to provide detail information on its proposed activities. Moreover, the objective of NGOs should not be contrary to 'national interest' or 'public interest'. These conditions are, more or less, reflected in the 2006 Charities Act of UK, the 1997 Non Profit Organizations Act of South Africa, the 1989 NGO Registration Act and its 2006 amendment act of Uganda, the 1992 Non-Governmental organizations Regulations of Kenya and other NGOs legislations of different countries.

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In addition to the above common conditions, different governments impose other requirements for registration of NGOs depending on the practical realities of the countries and the political will of the governments to tolerate and encourage public participation.

When we come to the Ethiopian case, the Ministry of Justice has been registering NGOs up to the enactment of the new Charities and Societies Proclamation, for the purpose of conducting the registration, the ministry had adopted other guidelines in addition to the 1969 legal notice issued by the Ministry Internal affairs. Under the legal notice, an NGO or an association could be granted registration except where its object is illegal or immoral and where the purpose of establishment of the NGO or Association is against national unity and integrity.³² But, the general guidelines adopted by the Ministry require the fulfillment of additional conditions. NGOs must submit project ideas and provide information on the sources of funding. International NGOs should, in addition, submit a certificate of registration in their home country and be tax exempt in its country of origin. A more stringent requirement of the guidelines is that the intended activities of both local and international NGOs should not even partly be political in nature. This gave the Ministry a wide discretion to determine what activities amount to political activities. Even the other set of conditions provided by the guidelines opened the space for abuse by the office of the registration as the requirements were added by the Ministry without an enabling legislation to that effect.

When we come to the newly promulgated Charities and Societies Proclamation, section five of the Proclamation stipulates about the formation, licensing and registration of Charities and Societies. Article 65 (2) of the Proclamation, in particular, provide that "any charity or society shall apply for registration within three months of its formation". Of course, the time limit may be extended by the decision of the agency where good cause is shown as per sub article 2 of the same article. However, the Proclamation does

³²Associations Registration Regulation, legal Notice No. 321/1996, *supra* note 30, Article 8(1)(b) (c)

not provide the grounds that amount to good cause. This in advance gives the Agency the discretion to either accept or refuse the request for registration depending on the ground for the delay as the Agency appreciates it.

Article 69 of the Proclamation requires the Agency to register an applicant NGO after ensuring that the legal requirements are met. For this purpose, the applicant must submit such requisite documents and other details as: a copy of the rules of the charity or society and other similar documents, disclosure of the goals, objectives and activities of the applicant as per the form of the Agency and other duly completed forms as the Agency may demand. In addition to these requirements, foreign NGOs must also provide the particulars listed in Article 69 (4) of the Proclamation. These requirements include; a certificate of registration in its home country, letter of recommendation from an Ethiopian Embassy or a governmental organ in which the NGO is incorporated, letter of recommendation from Ministry of Foreign Affairs and power of attorney of the country representative.

However, even where the above requirements are satisfied, the Agency may refuse the registration on the grounds mentioned in Article 70 of the Proclamation. Some of these grounds give a broad discretion to the Agency while others impose stringent and restrictive conditions on NGOs. As per this Article, the Agency may refuse to register the NGOs where:

- its rules do not comply with the necessary conditions set by the law,
- the proposed NGO is likely to be used for unlawful purposes or purposes prejudicial to public,
- the application does not comply with the provision of the law or any regulation,
- the name under which the NGO to be registered resembles the name of another NGO or other institution or is contrary to public morality or is illegal; and
- the nomenclature of the NGO is country wide and the composition of its members or its work place do not show the representation of at least five regional states.

As pointed out in the preceding sections, the best practices of other systems reveal that the conditions for the registration of NGOs should not be too cumbersome and the process of registration should not take unreasonably long period. It must, as much as possible, be quick, easy and inexpensive. Seen in this light, the above restrictions and stringent requirements for registration are extremely cumbersome, particularly for foreign NGOs. What is more, giving the Agency the power to demand unspecified additional documents for registration than one mentioned in the Proclamation leaves the door open for abuse and unnecessary administrative discretions.

When we see the grounds for refusal of registration, some of them are too general while others are unclear. For instance, the ground that require NGOs not to be used for purposes prejudicial to public peace, welfare, good order of the country and contrary to public morality are vague and open for abuse. There is no any standard or measure as to when the Agency can from the very beginning of the request refuse registration for the mere fact that the NGOs is intended to be used for purpose prejudicial to public peace, welfare, good order of the country or contrary to public morality. The condition that requires NGOs to comply with the provision of the law or regulations is also general which entitles the Agency to refuse registration on such ground that certain conditions are not satisfied to the requirement of the law or regulation. These grounds should have been clearly provided under the law to avoid such administrative discretion and possibility of abuses by the Agency.

1.5.4. Effect of Registration

As indicated in the preceding section, the very purpose of registration of NGOs is to acquire legal personality. In fact, legal personality is acquired by virtue of registration. In many countries, NGOs are required to be registered before commencing their activities and the failure to register bars NGOs from becoming operational. Some countries impose penalties for cases where NGO commence operations without complying with the requirement of registration or after denial or cancellation of the registration.

The provisions of the Civil Code which are impliedly repealed by the recently enacted Charities and Societies Proclamation imposed a duty to get registered on all associations including NGOs under article 482 (1). But, the Civil Code did not clearly provide about the effect of registration. The legal notice, on the other hand, prohibits any activities of associations in the absence of registration except those necessary for establishment prior to registration.³³

When we come to the new Charities and Societies Proclamation, Article 66 (2) of the Proclamation clearly provides about the effect of registration. It states that “up on registering and thus acquiring legal personality, the rights and duties of the Charity or Society formed shall accrue to the registered Charity or Society”. Similarly, sub-article 1 of the same article provides that “merely formed Charities and Societies have no legal personality.” Thus, the main effect of registration is acquisition of personality.

On the other hand, Article 66 (3) provides as to the effect of failure to register. It states that “failure to register within the prescribed period shall be a ground for cessation of the formed Charity or Society.” However, the provision does not provide the consequence of the Cessation. In particular, the law is silent about the contracts or other legal acts concluded by the founders in the process of formulation of the Charity or Society and the fate of the monies collected thereof.

The other thing that has to be inquired with respect to the effect of registration is the case where an NGO commence operations without complying with registration requirements or after denial or cancellation of the registration. Unlike the provisions of the Civil Code and the legal notice discussed above, the Proclamation is silent on this issue. However, the fact that the Proclamation has made registration mandatory requirement logically imply that the non-compliance will incur liability. What is more, given the stringent nature of this law, it would have provided the consequence of commencing operation without registration as it did in case of the failure to keep books and accounts, submit annual statements of accounts, report about its bank accounts annually or upon request,

³³ Associations Registration Regulation, legal Notice No. 321/1996, *supra* note 30, Article 4 and 12

and allocate not less than 70 percent of its expenses for implementation of its purpose and not exceeding 30 percent for its administrative activities.³⁴

3.5.5. Reporting of NGOs

Another major mechanism of regulating the activities of NGOs is reporting of the implementation of the same as accountability to the governmental regulatory authorities. In this respect, both the Civil Code and the legal notice required NGOs to submit annual report containing the balance sheet, auditors' report and activity reports of the NGOs.³⁵ NGOs were also asked to report any changes made in the particulars filed with the application for registration; which may include any changes in the statutes of the association, dismissal and appointment of officers.³⁶

The new Charities and Societies Proclamation, on the other hand, impose reporting obligations on NGOs with its stringent penalties. In the first place, the law requires NGOs to maintain accounts and records. Article 78 (1) of the Proclamation states that:

The officer of a Charity or Society shall ensure that accounting records are kept in respect of the Charity or Society which are sufficient to show and explain all the transactions and disclose at any time.

Concerning details of the financial records, sub article 2 of the same article provides that:

The accounting records shall, in particular, contain entries showing from day to day all sums of money received and expended by the Charity or Society, and the matters in respect of which the receipt and expenditure takes place; and records of the assets and liabilities of the Charity or Society.

³⁴ Article 103 Of Proclamation No. 621/2008

³⁵ Article 478 of the Civil Code and Art.12 of the Legal Notice

³⁶ Article 474- 477 of the Civil Code and Art.10 of the Legal Notice

Accordingly, any charity or society shall submit to the agency an annual statement of accounts prepared in accordance with acceptable standards.³⁷ But, those charities and societies whose annual flow of funds does not exceed Birr 50,000, submitting a receipt and payment accounts and a statement of assets and liabilities suffice for submission of an annual statement of accounts prepared in accordance with acceptable standards.

The Proclamation also demands for the annual examination of accounts of charities and societies.³⁸ In fact, the law envisages three kinds of auditors and auditing methods. Where the annual gross income of a charity or society preceding the specified budget year is less than Birr 100,000, the organization shall be audited by an internal auditor. But, if its income is above Birr 100,000, it has to be audited by an external auditor. The third type of audit can be allowed in either of the two ways. It can be conducted through a sudden audit by internal, external auditor or an auditor designated by the Agency any time according to the directives to be issued by the Minister. It can also be conducted through an auditor appointed by the Agency in case where a charity or society is not audited within the past five months from the end of that year or to be audited by an external auditor.

In addition to the financial transactions of NGOs, the Proclamation requires NGOs to submit annual activity report. It states that “the officers of a charity or Ethiopian residents’ societies shall prepare and transmit to the Agency an annual activity report on the major activities and relevant information regarding the charity.”³⁹ This will enable the Agency to follow up the activities of NGOs and their compliance with the law. The Proclamation also envisages the possibility of reporting to persons or organs other than the Agency.⁴⁰ Such persons or organs may include donors or umbrella organization of NGOs.

³⁷ Article 70 (1) of Proclamation No 621/2009

³⁸ *Id.*, Art.80

³⁹ Article 81 (1) of Proclamation No 621/2009

⁴⁰ *Id.*, Article 83

Finally, NGOs are required to notify their bank accounts. Article 84 of the Proclamation clearly states that Charities and Societies should report to the Agency annually and upon request about all their bank accounts with necessary particulars. This is the stringent case of the law that authorizes the Agency to inquire every financial transaction of NGOs opening the door to unnecessary intrusions on the liberty of the organizations.

With regard to the effects of failure to comply with the obligation of reporting as prescribed by the Proclamation, the law envisages the possibility of suspension or cancellation of license or imposition of penalties or both. As per Article 94 (1) of the Proclamation, a Charity or Society may be suspended where it submits falsified accounts and reports to the Agency. The license of the Charity or Society may also be cancelled where the Charity or Society fails to rectify the submitted falsified accounts and reports.⁴¹

As per Article 103 of the Proclamation, the failure to comply with the requirement of reporting is also made punishable under the law. Sub-article 2 of this article clearly provides that the failure to keep accounting records (Art. 78), submission of annual statements of accounts (Art. 79), and notification of bank accounts (Art. 84) results in criminal liability of the Charities or Societies and their officers. Depending up on the nature of the obligation, its failure may produce a punishment with a fine of not less than Birr 10,000 (ten thousand Birr) or not exceeding Birr 100,000 (hundred thousand Birr). In addition to the Charities or Societies, any officer or employer of a Charity or Society who participates in such acts may be punishable with fine not less than Birr 10,000 (ten thousand Birr) and not exceeding Birr 20, 000 (twenty thousand Birr).

Hence, as it can be seen from the analysis of the above provisions, the Proclamation imposes stringent penalties on NGOs that fail to comply with the requirements of reporting. What is more, the failure to submit report in line with the Proclamation may at the same time bring about the suspension or cancellation of license and the punishment provided in Art.103 of the Proclamation. This may lead to a disproportionate penalty.

⁴¹ Article 94 (2) (c) of Proclamation No 621/2009

3.5.6. Other Mechanisms of Regulating of NGOs

In addition to the registration and reporting mechanisms, the Charities and Societies Proclamation provides other forms of regulating systems. In this respect, the coordination and supervision mechanisms set forth in the provision of section seven of the Proclamation (Art.85 - 96) are the case in point. Some NGOs and civil societies in Ethiopia, as in the case of other systems, through their consortium, have also adopted a code of conduct for the purpose of self-regulation.

When we see the coordination and supervision mechanism of the Proclamation, both the Agency and the Sector Administrators are empowered to coordinate and supervise the activities of NGOs. In particular, the Agency is given a wide discretionary power in the supervision of NGOs. It has the power to institute inquiries (Art.85), cause the production of documents and search records of NGOs (Art.86), regulate the allocation of administrative and operational costs of the NGOs (Art.90), regulate the proper management of the property of the NGOs (Art.92), supervise the removal and replacement of officers (Art.93), suspend or cancel licenses (Art.94) and dissolve the NGOs (Art. 95).

Accordingly, the Agency can require any Charity or Society or an officer or employee thereof to furnish accounts and statements or respond to answers to any questions or inquiries addressed to him/her on any such matter, demand any Charity or Society or an officer or employee thereof to furnish any information in his/her position, search any records and keep any copy or extract from a document, check whether NGOs are allocating their administrative and operational costs as per the law, take necessary measures in case of misconduct or mismanagement of the Charity or Society for the purpose of protecting the property thereof and finally, take such other measures provided in the proclamation in the case of failure to observe the requirements of the law (i.e. suspension of license, cancellation of license and dissolution of the charities or societies).

Chapter Four

The Role, Strategies and Activities of NGOs in the Protection, Promotion and Enforcement of International Human Rights Law in Ethiopia

4.1 Introduction

In the preceding chapters, a brief discussion has been made to show the significant place of NGOs in the protection, promotion and enforcement of international human rights law at the global, regional and national level. A thorough investigation is also conducted to reveal the historical development of NGOs and the legal regime governing NGOs in Ethiopia. In this chapter, attempt has been made to assess and evaluate the role along with different strategies and activities of NGOs in Ethiopia in the protection, promotion and enforcement of international human norms and human rights related issues. An inquiry has also been made to see the challenges and constraints that would face NGOs engaged in the protection, promotion and enforcement of human rights in Ethiopia.

4.2. The Different Roles and Strategies of NGOs in the Protection, Promotion and Enforcement of Human Rights

As discussed in the second chapter of this paper, the existing human rights system of protection, promotion and enforcement of human rights law, to a great extent, lies in the hands of the State and its institution and the different international and regional intergovernmental monitoring organs. However, this traditional mode of state centric paradigm, though played its contribution, in the protection, promotion and enforcement of human rights norms, has proved failure. For this purpose, the full realization of human rights requires the participation of other actors than governments and intergovernmental monitoring bodies; particularly NGOs and Civil Societies. These actors, through their

On the other hand, sector administrators; the relevant federal executive organs are empowered to supervise and control operational activities of charities and societies and take necessary measures according to laws establishing it.⁴² For this purpose, a sector administrator may, as per Article 88 of the Proclamation, make arrangements with charities for coordinated efforts towards the achievement of the common goals of the charities and the said sector administrator.

From the above discussions of the provisions of the Proclamation, one can observe that the Agency and the administrative sectors are given wide discretionary power that invite unreasonable intrusion in the internal affairs of NGO.

The final mode of regulation of NGOs is self regulation through a code of conduct adopted by the NGOs themselves. In this respect, the few umbrella organization in Ethiopia (the Christian Development Association (CRDA), the consortium of Ethiopian Voluntary Organization (CEVO), Society for the Participatory Development in Ethiopia (SPADE), and the Consortium of Family Planning NGOs in Ethiopia (COFAP) through their member organization adopted a code of conduct for NGOs in Ethiopia in March 1999. The Code, among other things, aims towards ensuring transparency and accountability in the operation of NGOs by voluntary self regulation, improving the qualities of services provided by NGOs by helping NGOs to adopt high standard of conduct and to devise efficient decision making process, and improving communication between the NGO community and the various stake holders. However, the Code of Conduct has not been recognized on part of the government and its practical application is not yet realized.

⁴² Article 68 (3) of Proclamation No 621/2009

different strategies and engagements, provide a significant asset to back up the existing system of human rights protection, promotion and enforcement.

As pointed out in the preceding chapters, NGOs play a significant role in the protection, promotion and enforcement of human rights norms. In this respect, their role is demonstrated through the different activities of NGOs at local, regional and global level. Some of these activities include; creation of human rights awareness, investigation and documentation of human rights violations, monitoring of human rights situations, advocacy and representation for the vulnerable and disadvantaged groups, and operating on the other needs and interests of these section of the society or for the whole society. The next sections are devoted to discuss these major activities and strategies of NGOs employed in the protection, promotion and enforcement of internal human rights norms.

4.2.1 Human Rights Education

Human rights education is one of the mechanisms adopted in the protection, promotion and enforcement of human rights law. This mechanism is incorporated in the fundamental international and regional human rights instruments as well as the different domestic legislations of specific countries. For instance, the UDHR recognizes human rights education as significant machinery in the promotion and enforcement of human rights norms. It states that:

...every individual and every organ of society, keeping this declaration constantly in mind shall strive by teaching and education to promote respect for these rights and freedoms.¹ (emphasis added)

In this respect, NGOs play a significant role. Indeed, some human rights instruments recognized the contribution of NGOs in human rights education. For instance, the Vienna Declaration and Program of Action require governments to promote an increased awareness of human rights and natural tolerance with the assistance of national

¹ Universal Declaration of Human Rights, Preamble

institutions and non-governmental organizations.² It also acknowledges the contribution of NGOs in increasing public awareness of human rights issues.³

NGOs are involved in human rights education with a view to build the culture of human rights through awareness creation. Accordingly, they play a significant role in the formation of informed, responsible and responsive citizenship. They empower the citizens to know their rights and responsibilities and to measure the action of the government and state officials against such knowledge.⁴ This will in turn enable them to question violation of human rights and seek remedies when it occurs. NGOs, may also, thorough human rights education, assist in creating committed and responsible leadership to the betterment of the social, political and economic life of the society.

4.2.2 Monitoring, Investigating and Documenting Human Rights Violations

Another role of NGOs in the protection, promotion and enforcement of international human rights law relates with the task of monitoring, investigating and commenting human rights violations. Through this mechanism NGOs draw the attention of the concerned organs to human rights violations so as to redress the grievances or stop the forgoing abuses.

The task of monitoring generally involves the activity of gathering and disseminating of information about the existing status of human rights situations so as to assess the human rights performance in accordance with the international standards.⁵ More specifically human rights monitoring is:

² The Vienna Declaration and Program of Action, 1993, Para. 82

³ *Id*, Para. 38

⁴ Felisa Tibbitts, Overview of Research and Evaluation within Human Rights Education, 2007 P.14, available at http://www.educadem.oas.org/documentos/Equitas_HREResearch_Tibbitts.pdf (last visited Nov23, 2008)

⁵ Manuel Guzman and Bert Verstappen, What is Monitoring? *Human Rights Monitoring and Documentation Series*, Vol. 1, 2003

the long run observation and analysis of the human rights situation in a country or region. It generates an important data base which allows to build a picture of the human rights situation in the country or region and make judgments about reports of human rights violations, and permits an informed assessment of individual allegations.⁶

Hence, monitoring of human rights, particularly by NGOs, consists of collecting systematically and consistently information that may be related to human rights violations with the view to cross check the government compliance with the international human rights norms or domestic legislations. Indeed, other actors like intergovernmental organizations and governmental organizations may conduct human rights monitoring. However, the work of NGOs in this regard usually complements or provides a balance to the monitoring activities of the other actors. For instance, in area of monitoring the compliance of state parties with their obligation, the monitoring inter governmental bodies primarily receive information from the governments themselves. They also obtain information from NGOs to corroborate the government reports.

Normally, NGOs collect information about the human rights situations of a country from different sources. These may include print media, radio broadcasts, official reports, court records, statement and interviews of witnesses and victims, individual allegations of human rights violations, reports from other NGOs or intergovernmental organizations and internet sites.⁷ However, as the task of monitoring is usually very expensive and labor intensive, it requires NGOs to make choices on the basis of their financial and human resources.

In the process of monitoring, NGOs may also engage in investigation of human rights violations. Investigation, in this case, refers to the process of finding out the facts surrounding an event which carries or suspected to carry out one or more human rights

⁶ Amnesty International and CODESRIA, *Monitoring and Documenting Human Rights Violations in Africa*, 2003, P. 8

⁷ Amnesty International and CODESRIA, *Supra* note 5, P.9

violations.⁸ It involves a fact finding in a specific incident or allegations of human rights violations, collecting or finding a set of facts that proves or disproves that the incident occurred and how it occurred, and verifying allegations or rumors.⁹

In this process of fact finding activities, NGOs may utilize different methods and strategies depending on the types of violation being investigated, the location of the violation and the objectives of the investigation. Accordingly, NGOs should adopt a fact finding mechanism that would enable them to come up with a high degree of verifiability and reliability of findings and more objective conclusions.¹⁰ That is very significant as the reliability of information collected by NGOs largely depends on the procedure and mechanism used to obtain such information.

Related to this, NGOs may involve in the documentation of human rights situations. Documenting generally involves "assessing individual allegations, analyzing the overall evolution of the human rights situations; identifying trends; processing information in a report; recording and storing information."¹¹ In short, it is the recording of the results of an investigation.

Documentation of human rights situations normally complements states reports. Governments, with a view to evade human rights violations, rarely report honestly on their domestic human rights situations. In such circumstances, the investigation and documentation of human rights situation conducted by NGOs could be used to counterbalance the reports of states.¹² Thus, NGOs can play a significant role in uncovering and publicizing problems related to the protection, promotion and enforcement of human rights.

⁸ *Id.*, P.12

⁹ *Ibid*

¹⁰ Hans Thoolen and Berth V., *Human Rights Mission: A Study of the Fact Finding Practice of NGOs*, 1986, P.1

¹¹ Amnesty International and CODESRIA, *Supra* note 5, P.15

¹² Rajja Hanski and Marku S. (eds.), *An Introduction to the International Protection of Human Rights*, 1997, P.406

To sum up, NGOs engage in monitoring, investigating and documenting human rights situations with a country thereby drawing public attention to the possible human rights violations. In so doing, NGOs, either at national, regional or international level, in one way or another, provide immediate assistance to the victim of human rights violation (for instance, to establish the whereabouts of the victim, or to ascertain the safety of a detainee), assist the victim in seeking redress or remedies, pressure the government to change its legislations or policies, and raise public awareness to protest against violations or prevent further violations.

4.2.3 Participating in Norm or Standard Setting

In the preceding chapters, it has been noted that NGOs are distinguished from both the states and intergovernmental organizations because of the place of advocacy is their *raison d'être*. It is shown that virtually all NGOs have an advocacy dimension and mostly exist for the purpose of advocacy related activities. They create or influence the creation of standards and follow up the implementation or enforcement of the standards.¹³

There are many circumstances that show the involvement of NGOs in setting human rights standards. Whether at national, regional or international level, NGOs have become the leading force behind creation of human rights norms. For instance, with regard to torture, rights of children, women's rights, labor rights and the rights of indigenous peoples, NGOs have become the active participants in the international standard setting bodies within the United Nations. NGOs also play a significant role in domestication of these instruments at national level.

NGOs have significant contributions to the work of standard setting owing to their proximity to the grassroots and the prevalence of their expertise. These assets make NGOs purveyors of accurate information and a good source of analysis on standards and their weakness. Many states lack the capacity or political will to obtain such data,

¹³ Makua Mutua, Standard Setting in Human Rights: Critique and Prognosis, *Human Rights Quarterly*, Vol.29, No3, 2002 P. 550

information and analysis. For this purpose states and intergovernmental organizations rely on NGOs for advice, expertise and information. This allows NGOs to use information and expertise to manipulate states and intergovernmental organizations. However, as states remain the repositories of sovereignty and the main actors in international human rights regime, NGOs exhibit love and hate relationships with states, depending on the effect of the standard on state sovereignty.¹⁴ This is the area where NGOs must strive to strengthen their power and pressure. It is shown that more inclusive coalitions of NGOs have a better chance of gaining access to and persuade states and intergovernmental organizations in setting human rights norms.¹⁵ NGOs need to realize that in unity, diversity and numbers there is strength and credibility.

In addition to their participation in setting international human rights norms, NGOs also involve in the initiation, drafting and lobbying for adoption of human rights norms and standards at domestic level. Accordingly, by critically interacting with the Government on the planning, decision-making and implementation of various policies and programs regarding human rights, NGOs can ensure better legislation so that the rights and fundamental freedoms in the national Constitutions, international and regional human rights instruments adopted by a country are protected.

4.2.4 Providing Legal Assistance

The provision of legal assistance including counseling and representation is another area for the involvement of NGOs in the protection, promotion and enforcement of human rights. It is inevitable that even if every possible effort is made to protect promote and enforce human rights, violations could occur. In this respect, NGOs engage in assisting the victims of human rights violations in bringing cases on their behalf within their national system, or under regional or international mechanisms in claiming a remedy for the alleged human rights violations. This role of NGOs is particularly, important for those

¹⁴ *Id*, p.601

¹⁵ *Ibid*

individuals who may not know their rights or the means available to claim a remedy for violations.

NGOs can provide legal assistance to the needy through different methods. They may decide to bring cases to a court or tribunal on behalf of the victims. They may also cooperate with lawyers who engage in legal defense, for assisting the victim. They may also opt to supply amicus curie briefs to adjudicatory bodies or assign legally trained observers to public trials.¹⁶ Thus, NGOs provide legal assistance to the victims of human rights violations engaging in one or more of these activities.

4.2.5 Advocacy and Lobbying

The task of advocacy and lobbying is the main strategy for NGOs operating in the protection, promotion and enforcement of human rights standards and norms. In this context, advocacy refers to “a process through which individuals or organizations engage with decision makers to influence public policy decisions or legislation on specific issues.”¹⁷ In general, advocacy consists of an:

*organized efforts and actions that use the instrument of democracy to establish and implement laws and policies that will create a just and equitable society. These instruments include elections, mass mobilization, civil action, lobbying, negotiations, bargaining and court action.*¹⁸

Hence, advocacy involves recommending or otherwise seeking to provoke, specific policy choices in keeping preferred values.¹⁹ Accordingly, advocacy may be conducted

¹⁶ Claude Welch, Protecting Human Rights in Africa, 1995, P. 70

¹⁷ Transnational Monitoring Group, A Hand book for NGOs on Advocacy and Lobbying Skills to Promote Electoral Reforms, 2006, P.4, available at <http://www.tnmgigeria.org/publications/manualonadvocacy-lobbying.pdf>, (last visited on Dec. 6, 2008)

¹⁸ *Ibid*

¹⁹ Atif Rahman, The Role of NGOs in Advocacy: Lessons Learnet from Bangladesh and other South Asian Countries, P. 15 available at <http://www.york.ac.uk/inst/sci/prp/pd/docs/Issue%20Paper%203.pdf>, (last visited on Jan. 14, 2009)

through many different types of activities, including, lobbying, mobilizing people at the grassroots level, strategic litigation, using the media to raise public awareness or build visibility for the issue, and protests or demonstrations.²⁰

Among the different tools used in advocacy, lobbying constitutes the major tool used by NGOs to influence public policy or to make an input into policies and directives of a government. In relation to the issue of human rights, lobbying is carried out with a view to evoke "specific policy response by targeting and gaining access to decision makers who can influence and change policy along the lines needed or opposed to remedy particular human rights violations."²¹ Hence, access to and persuasion of decision makers serves to broaden the scope of policy making to include citizen's voices in decision making process that affect their lives. Therefore, NGOs, through their program of advocacy and lobbying, contribute their share in shaping the public agenda and framing the nature of rights discourse by identifying and articulating the areas and issues that require attention.²² However, contrary to the democratic process that demand the participation of NGOs in policy programs, many governments are uncomfortable about NGOs that engage in advocacy and lobbying activities on the allegation that they involve in political activities.²³

4.2.6 Involvement in Democratization and Development Process

Another area of participation for NGOs is the process of democratization and development in a country. The process of democratization and development requires the contribution of NGOs and civil societies in general. This arises particularly from the inability of the government to satisfy every interest in fostering democratization and development processes. Accordingly, NGOs play an important role in complementing the activities of the government by filling the gaps where the government fails. They may

²⁰ *Ibid*

²¹ Transnational Monitoring Groups, *Supra* note 15, P. 6

²² Kathleen E. Mahoney and Paw M., Human Rights in Twenty –first Century: a Global Challenge, 1993, P.15

²³ Laurie Wiseberg, "The Role of Non- Governmental Organizations in Human Rights in the World Community", in Richard P.C. and Burns H.W.,(eds.), *Human Rights in the World Community*, 2nd ed, 1992, P.375

also assist the government in identifying societal problems, which have not been addressed by the government.

The contribution of NGOs is particularly significant in the circumstances where State funds are limited, political situations are fluid, natural disasters resulting from both predictable and unpredictable environmental circumstances occur, ethnic strife is rampant, and the ability of individuals and societies to purchase the needed goods and service is minimal.²⁴ In this respect, the role of NGOs may range from providing relief services, conserving the environment, contributing to development projects or simply battling with government over human rights issues.²⁵

In terms of the role of NGOs in democratization process, it has been observed that NGOs, in one way or another, involve in the political system of a country. Though they are different from political parties or interest groups since they do not seek political power or struggle to attain specific rights or privileges to their members, NGOs still struggle to open the political system for all.²⁶ Indeed, the struggle for favorable environment for the protection, promotion and enforcement of human rights involves and is mostly the result of a political struggle in the human rights movement. Accordingly, NGOs strive to promote a democratic exercise of power towards creating a governmental system committed with human rights protection, promotion and enforcement.²⁷ More specifically, NGOs engage in promoting the values of democratic governance and a system committed to freedom of associations, independent court and media, free election, and full participations of non-state actors (including NGOs and civil societies) in the overall economic, social and political phenomena of a country.

²⁴ Abel E. Ezeoha, *Can NGOs Aid Governance and Sustainable Development in Africa?*, 2005, P. 128 available at <http://www.jsdArc.Can%20%20NGOs%20Aid%20Good%20Governance.pdf>, (last visited on Jan, 25, 2009)

²⁵ Zenebe Nega Bashaw, "NGO - Government Relations: Conflict and Co-operation in Development Management for Rehabilitation of Demobilized Soldiers: The Case of Eastern Tigray, Ethiopia", *African Development*, Vol. XXVI, No 1&2, 2001, P. 282

²⁶ Claire Mercer, "NGOs, Civil Society and Democratization: A Critical Review of the Literature," *Progress in Development Studies*, Vol. 2, No. 1, 2002, P. 12

²⁷ Global Poverty Research Group (GPRG), *Reclaiming Development? NGOs and the Challenges of Alternatives*, 2006, P. 24

4.3 Activities of NGOs in the Protection, Promotion and Enforcement of Human Rights and Related Issues

As discussed in the preceding section, NGOs involve in the protection, promotion and enforcement of human rights norms through different methods and strategies including; awareness creation, monitoring and investigation, advocacy and lobbying, provision of public services and participation in the overall democratization and development process of a country. In this section, an evaluation of the different activities of NGOs in the country will be made so as to show their inevitable and invaluable contribution in the realization of the civil, political, social, economic and cultural rights and fundamental freedoms of individuals and the societies in general. These actors are visible on the overall institutional landscape of the Ethiopian societies. They are also engaged in diversified activities including provision of social services and promotion of human development, promotion of good governance and democratic values and participation in the overall socio economic development of the country.

4.3.1 Provision of Social Services

One area of activity of NGOs/CSOs in the country is their engagement in the area of social services or generally activities related to human development. In particular, NGOs/CSOs in the country involve in areas of promotion of health services, education, child protection and welfare, institutional building and community empowerment. In most cases, NGOs complement the ongoing programs of the government. In some cases, NGOs complement the ongoing programs of the government. In some cases, NGOs/CSOs come up with alternative programs and policy directions. For instance, NGOs/CSOs introduced alternative approaches such as community-based approaches to health services and basic education to education sector thereby contributing their share to progresses of health and education sectors of the country.

Research conducted in this area revealed that over the last decade, basic services, in particular, health, education and sanitation have attracted the largest share of investment

by the voluntary sector.²⁸ However, there is no complete and comprehensive data that show the exact figure of financial costs and spending invested for this purpose. Commonly, the information on these matters is obtained from records of governmental agencies responsible for monitoring the activities of NGOs on the basis of the NGOs project plans and budgets submitted to the agencies. However, such figure may not include the project spending of those NGOs which either have not signed project agreements or have failed to submit the necessary information.

But still, it is possible to roughly indicate, in broad terms, the magnitude of investments of NGOs across the projects and their priorities. For instance, a study carried out in 2004 shows that nearly half of the investment of NGOs in the country in the period indicated was invested on health, water, and education.²⁹ Similarly, a recent European Commission mapping study has shown that investment in the broad area of social services amounts to 5.1 billion Birr and made up 54 percent of all project investment by NGOs in the country in the period 2004-2007.³⁰ A data taken from the SNNP region indicating the sectoral breakdown of investments of NGOs operating in SNNP region also shows that more than 61 percent of investment of NGOs in the region in 2006/07 went to social services, out of which nearly a 1/4 of all the investment is spent in the health sector.

The resource flows indicated above are circulated within the framework of government policies and the needs and priorities of the respective regions in which NGOs/ CSOs are active. More importantly, the current poverty reduction strategy of the government, the plan for Accelerated and Sustainable Development to End Poverty (PASDEP), recognizes the need for the full and active participation of NGOs/CSOs in the poverty reduction strategy. The following table clearly shows the high expectation of government demanding NGOs/CSOs to provide a huge amount of financial and other resources outlays throughout the five year period of the plan.

²⁸ European Commission Updated Mapping Study of Non State Actors in Ethiopia, Vol. I, 2008, P.5 8-87 (Main Report)

²⁹ CRDA and DPPC, Information Package on NGOs Contribution, 2004, P.26

³⁰ European Commission, *Supra*, note 28, P.76

Table 3: Poverty Reduction Financing and NGOs Contributions

Sector	Total fund Needed (Bn Birr for 5 yrs)	From Gov't and Donors (%)	From NGOs, private and communities (%)
Education	53.7	67	33
Health	34.9	44	56
HIV/AIDS	6.2	23	77
Water/Sanitation	15.6	77	23

Source: PASDEP

As the table shows NGOs will provide a huge amount of resources and financing to the poverty reduction programs what is more, the broad framework of priorities set by PASDE for the social service sector demands the intervention of NGOs in light of the priorities of the government in meeting the Millennium Development Goals (MDG) within the time frame set by the United Nations. Accordingly, the engagement of the voluntary sector in the social service sectors complements and supports the broad priorities set by the government in its PASDEP document. This clearly indicates the government's recognition of the significant contribution of NGOs in the allocation of resources to human development. Now it is time to briefly discuss the contribution of NGOs in the specific areas of the social service sector.

A. Contribution in the Health Sector

NGOs generally involve, in one way or another, in almost all areas of health care and service delivery. They also contribute a lot in the capacity building of the health sector at every level of the community; wereda, zonal, regional or country level. In particular, NGOs involve in such areas of activity as: primary health care, reproductive health and family planning services, prevention and control of communicable and other disease, promotion of environmental hygiene and sanitation, construction and management of health facilities, emergency care and services and capacity building of the sector. In these diversified areas of health services, NGOs perform different tasks including provision of

basic services, awareness raising activities, counseling and guidance on preventive precautions, provisions of nutritional services and health facilities, training of health personnel and other capacity building activities.

More importantly, the involvement of NGOs in the activities related to reproductive health, family planning, and the community based health services is considered as an innovative contribution of NGOs in Ethiopia. They are committed towards gender and women's empowerment in using family planning services and adolescent reproductive health services. They have also established a mechanism of community based health services through community based agents providing health services and education on health care and basic hygiene. They mobilize the community for health intervention programs such as HIV/AIDS and malaria prevention, immunization, and environmental hygiene. This later activities of NGOs is ultimately taken by the government through the program of health extension services. Accordingly, the joint cooperation of the community based health services of NGOs and the government's health extension services has played a significant role in expanding community access to basic health services and information.

B. Contribution in the Education Sector

Another contribution of NGOs in the social services relates to education sector. In this arena, different NGOs have been operating in the country to assist the government meet the MDG goals of primary education for all, and to bring about a better quality in education. Their contribution is particularly manifested in; the construction, expansion and renovation of schools and training institutes, provision of necessary materials and supplies to educational institutions managing regular, specialized and technical and vocational schools, establishing and managing non-formal or alternative educational institutions and capacity building of educational institutions.

Most NGOs working in education sector give particular attention to female children education opportunities. In other words, NGOs invest in providing the access and

opportunity to proceed with education for girls through programs of protection of female students from various hazards or risks including abduction, early marriage, and sexual abuse. For instance, according to the EC mapping study, there are over 300 regular schools run by NGOs providing education to more than 100,000 children throughout the country.³¹ NGOs also work in vocational schools producing qualified and skilled craftsmen and organizing young and unemployed persons in to cooperatives and assist in creating job opportunities.

In addition to the formal education system, NGOs have also introduced non-formal or alternative education approaches to meet the needs of children who cannot attend regular schools due to various reasons including marginalized life conditions, poverty, non availability of schools near the homes of the children. For this purpose, some NGOs have set up alternate and specialized education centers particularly in the remote parts of the country. In the cases of the marginalized life conditions of the parents and children, NGOs may involve in income generation programs of the parents of the children or at times a school feeding programs addressing the problem of poverty by and shortage of food in such exceptional circumstances. These alternate education schemes have now been adopted by the government in reaching a larger number of children from poor and marginalized communities.

C. Child Welfare and Protection

In relation to child welfare and protection, NGOs may engage either in the promotion of the welfare of disadvantaged children or the protection of children against abuse, sexual and physical exploitation or both. In both circumstances, the main activities of NGOs focus on supporting and fostering orphaned and destitute children, providing shelter, safe homes and rehabilitation to children in distress, providing health, education, and material support to children from very poor families of destitute children, working on improving the life conditions of street children, working with juvenile delinquents, managing special youth homes, capacity building for communities and the concerned government bodies to

³¹ European Commission, *Supra*, P.67

support children in difficult circumstances, and advocacy works and public awareness of the rights of children with a view to protect children from abuse and exploitation. With these objectives, NGOs work in collaboration with the concerned governmental bodies such as police, courts, persecutors office, schools, and the social Affairs and Women's affairs organs in relation to child protection. Accordingly, NGOs operate to promote child rights and the protection of children from abuse, exploitation and any risks or dangers that may also relate to harmful traditional practices or beliefs.

A particular case study in Adama is a good instance that shows the innovative reform scheme of NGOs/CSDs adopted to promote child protection. This scheme has been initiated and assisted by a number of CSOs/NGOs working in the town including, FSCE, Lawyers Association for Human Rights (LAHR), Vision, ARAYA Yemelkam Zega Association, EWLA, and Ellilta Women at Risk Project and others. The program has targeted not only communities but also law enforcement and court officials, medical personnel and wereda prosecutors. Accordingly, the program established a special Child Protection Unit (CPU) in the town's police station. There are also child friendly and trained police officers to handle the case of children who have been abused, exploited or in distress. For the purpose of medical services of these children, a special unit in the town's hospital is also established. If the case is to be brought before a court, there are special court rooms connected by close circuit TV to the court where a judge trained to handle abused or exploited children entertains their case. The special court rooms are prepared for children and their counselors to enable the children to tell their story without intimidation or fear of those they are accusing or others. There are also alternative safe homes operated by NGOs for the protection of the abused or exploited children. What is more, there is a free phone call line connected to the CPU in police station for children at risk to get immediate help or the public to inform such acts.

D. Institutional Building and Empowerment

NGOs in the country have also played a significant role in organizing and building diversified self-managed organizations both in urban and rural areas. Some of these

organizations include youth and women's associations, saving and credit associations, farmers' organizations, cereal bank groups, microfinance organizations and school-based environmental associations. NGOs have been also providing financial and resource assistance and capacity building support to the existing community based organization and the informal customary organizations such as "Iddirs".

NGOs also provide different capacity building programs to these institutions. In particular, they conduct a variety of training programs including management skills, financial and leadership trainings. They also provide information dissemination and awareness raising program to these different associations.

There are many examples of such NGOs initiated associations and cooperatives which have become very successful and conserve as models for other related initiatives. For instance, Abdi Gudina Cooperative Union which is based in Adama was initially made up of savings and credit cooperatives organized by NGOs like Vision and other NGOs working in Adama. This Union has now an asset of over 10.6 million Birr and the beneficiaries of the Union interviewed stated that their lives has improved significantly due to their involvement in the Union. There is also another Union called 'Hunde' which has established over 200 cereal banks in the country in partnership with NGOs. This Union operates market stabilization and improving food security of peasants through its different schemes.

4.3.2 Contribution to Development

The other major area of contribution of NGOs relates to their participation in the development of the country, particularly in the agricultural and rural development sector. The NGOs community in the country has adjusted its roles and approaches of engagement from one of the relief and welfare -orientation to that of supporting and complementing the long term sustainable development strategies of the country. Indeed, the policy directions and strategies of the government recognize the important

contribution of NGOs and popular participation in attaining sustainable economic development.

A recent study conducted by EC revealed that during the period 2004-2008, NGOs have invested about 10 million Birr for their various development project and programs in regions. According to this study, about 3.8 billion (40%) was allotted to programs of integrated rural development, food security, water supply and sanitation, environment and natural resources management, the promotion of specific husbandries and other non-agricultural rural-based livelihoods.³²

A. Strengthening Cooperatives

The specific areas of activities of NGOs in the agricultural and rural development sectors include: Providing trainings and assisting the organizing and strengthening of business oriented cooperatives and unions, conducting specialized trainings to cooperatives and unions to that relate to agricultural marketing, price stabilization, and warehouse management, creating market linkages to the products of farmers, developing and assisting irrigation based cooperatives, introducing the grain bank schemes, and participating in the capacity building of the sector.

NGOs are also active in the evolution and development of saving and credit cooperatives and microfinance intuitions. They have initiated the formation of the today stronger microfinance institutions in the country such as: Amhara Credit and Saving Institutions (ACSI), Dedebeit Credit and Saving Institution (DECSI), Meket, Meklet, Gasha, etc. They have also provided donations and grants for strengthening and expanding these institutions. In addition these institutions, NGOs have contributed to the emergence and strengthening of self help and other grass roots organizations.

³² European Commission, Updated Mapping Study of Non State Actors in Ethiopia, Vol. II, 2008, P.58 (Regional Report)

B. Environmental Rehabilitation

NGOs are also participating in environmental rehabilitation and protection of natural resources. In particular, NGOs involve in such various activities as: construction of soil conservation measures, production and distribution of different types of forest and forage seedlings, gully rehabilitation, and establishment of communal plantation for conservation and construction purpose. NGOs also played a significant contribution in creating awareness of farming communities towards conserving their environment.

NGOs have also taken the lead role in piloting participatory approaches for ecological resource management and facilitating access to global resources for environment development and poverty reeducation programs in the country including carbon sequestration, biodiversity enhancement, natural resource management and restoration habitat for the threatened species. In this regard, NGOs led programs of Bale Eco-Region sustainable management and the Humbo and Soddo community Based Natural Regeneration Programs are important instances revealing the contribution of NGOs in this sector. Some of the NGOs engaged in these area included SOS Sahel, Farm Africa, WVE, ORDA, REST, FHI and other.

C. Water Supply and Sanitation

In relation to their contributions in development, NGOs also engages in the activities of water supply, sanitation and hygiene promotion. According to the 2008 EC mapping report, NGOs have invested about 575 million Birr in the water supply and sanitation since 2004. The water supply and sanitation participation of NGOs has particularly benefited women who otherwise are traditionally overburdened to fetch water from over long distances.

D. Pastoralist Livelihoods Promotion

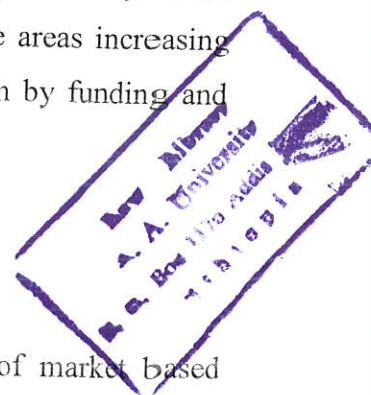
In the pastoralist areas, NGOs have engaged not only in the provision of basic services but also in opening up economic opportunities for the community and implementing projects and programs. The major activities of NGOs in this regard include: initiating and managing alternative basic education, developing infrastructures for social services like schools, veterinary posts, health facilities and water supply assisting the implementation of integrated agro pastoral development projects, and creation of community awareness and campaign against harmful traditional practices.

E. Addressing chronic food Insecurity

As indicated earlier, there are a number of NGOs operating in the drought prone and food insecure parts of the country. Indeed, some of the diversified approaches and technologies promoted by NGOs have provided expanded models and insights for the government to shape its national program direction. This is the case particularly in the productive Safety Net programs that targets chronically food insecure areas increasing assets at community level. They are also participating in this program by funding and implementing projects in various weredas across regions.

F. Market Development

NGOs also play a significant role in the introduction and growth of market based agriculture and market development. In this regard, NGOs involve in the transformation of farming practices to increased production of high value market crops. NGOs have also played in strengthening cooperatives to participate in global market. Accordingly, NGOs have taken the lead in enabling small scale farmers to obtain better income and the nations' improved export earnings.



4.3.3. Contributions of NGOs in the Promotion of Democratic Values and Civil Rights

Another area of contribution of NGOs/CSOs in the country is the promotion of the realization of the civil and political rights and the democratic values in general. In this respect, a number of NGOs/CSOs have engaged in promoting public awareness and participation of citizens in governance and democracy through mobilizing and empowering grass roots, religious, community and mass based organizations. They are also involved in promoting access to justice through the provisions of legal aid services to the poor, women, children and other marginalized sections of the society. NGOs/CSOs have also contributed a lot to the legal system and legal form program of the country through initiation of and advocacy for the enactment of laws incorporates the norms and standards of international instruments, and through providing trainings and capacity buildings to concerned governmental bodies.

A. Promoting Public Awareness and Participation in Governance

With the purpose of ensuring the realization of the civil and political rights of individuals and the development of democratic values, most of the NGOs/CSOs operating in the country have adopted the program of awareness creation. The specific areas where NGOs/CSOs opt for arising public awareness include: child rights, women's rights, and the right of persons with disabilities, access to justice, democracy and voters education.

For this purpose, NGOs/CSOs use different strategies to reach out to the general public. Some of these mechanisms are the publication and dissemination of posters, leaflets, or brochures, organizing training workshops, organizing debate forums among contending parties with a view to provide access to information to the public on the programs different parties and running radio programs on different human rights and governance issues. Some of these NGOs/CSOs include: Society for the Advancement of Human Rights Education (SAHRE), Action Professionals Association for People (APAP), Forum on Street Children in Ethiopia (FSCE), HUNDEE, etc.

B. Contribution to Better Access to Justice

Besides raising awareness of different groups of society, NGOs/CSOs engaged in supporting the societies especially the poor and marginalized groups of the society to claim their rights and fundamental freedoms. Most NGOs/CSOs render legal advice, counseling and representation to the marginalized groups such as children, women and persons with disability. Some of these NGOs/CSOs include the African Child Policy Forum (APPF), Ethiopian Women Lawyers Association (EWLA), APAP, Ethiopian Bar Association, etc.

In some cases, NGOs/CSOs engage in public interest litigation in addition to rendering individual legal aid services. In this respect, NGOS/CSOS initiate judicial proceeding on behalf of certain groups of the society or initiates the change in a law or interpretation of a law. For instance, EWLA has the experience of using selected cases of gender based violence to demonstrate or change gender biased interpretation of the law. In related instance, the Children's Legal Protection Center (CLPC) of the African Child Policy Forum has initiated courts to take notice of pleadings submitted directly by a plaintiff minor particularly, in the cases where a child claims abuse by his/her guardian. APAP has also once lodged administrative proceedings on behalf of 42 households questioning the legality of eviction measure taken by Addis Ababa City Administration.

C. Contribution to Improved Policies, Laws and Programs

Many NGOs/CSOs operating in the country have also a program of advocacy works with the aim of bringing about changes in public policy, laws, and decision-makings. A number of NGOs/CSOs have produced research reports with a view to bring to attention the various problems of the poor and disadvantaged groups of the society.

The advocacy initiatives of NGOs/CSOs principally use the existing public participation framework, and the public consultation mechanisms to convince policy makers, and government officials at various levels on the need for new policies, laws and other

measures or review of the existing policies or laws. In line with this general understanding, a number of NGOs/CSOs have initiated and contributed to the development and adoption of different policies, strategies, laws and programs through the communication of the different federal and regional governmental institutional structures.

In particular, NGOs/CSOs have actively participated in the initiation and promotion of policy dialogues in areas of the rights of women, children, people with disabilities and other vulnerable groups. Accordingly, NGOs/CSOs like the EWLA have contributed a significant role in the revision of the Family Laws and the Penal Code of Ethiopia. Some NGOs/CSOs like the CRDA have also contributed a lot in the formulation of different policies including the Poverty Reduction Strategic Plan of the Government. NGOs/CSOs including Forum on Street Children Ethiopia (FSCE), Save the Children Sweden, and Save the Children Norway have initiated and contributed their share in the National Plan of Action on Sexual Abuse and Exploitation of children.

Another aspect of NGOs/CSOs contribution in relation to their involvement in the policies and strategies of the government is their participation in the establishment of specialized law enforcement and judicial structure adaptive to the needs and interest of vulnerable groups of the society. In particular, their contribution is observed in the establishment of Child Protection Units (CPUs) in the police structure and child and victims friendly benches in the judicial structure.

D. Monitoring Democratic Process, Rule of Law and Violations of Human Rights

Another important area for the involvement of NGOs in the country is the monitoring of democratic process, rule of law and violations of human rights. In this respect, there are very few number of NGOs in the country that engage in monitoring and reporting the violations of human rights or the democratization and rule of law in general. The Ethiopian Human Rights Council (EHRCO) is the leading NGO that undertakes the monitoring and reporting of human rights violations such as extra-judicial killings,

arbitrary detention, torture, forced disappearances, unlawful and arbitrary confiscation of property, violation of privacy, unlawful dismissal of employees, denial of the freedom of conscience, religion, expression and association, etc.

In relation to democratic process, particularly with regard to the promotion of fair and democratic election, few NGOs/CSOs mainly EHRCO and Inter African Groups (IAG) are involved in election monitoring, conducting civil education programs and organizing debate forums among contending parties to ensure access to information to the public on the programs and plans of action of different parties. In doing so, NGOs, besides contributing to fair and democratic elections, contribute their share in the development of a democratic culture, based on dialogue, accommodation and tolerance at local level of administration.

4.4. Challenges and Constraints of NGOs in Ethiopia

As discussed in the preceding chapter of this paper, the newly adopted Charities and Societies Proclamation No.621/2009 delineates the operating space of NGOs/CSOs with its too restrictive and prohibitive provisions. This has resulted in the aggravation of the already existing constraints and challenges of NGOs/CSOs operating in the country.

Regardless of some of the positive measures taken to create conducive environment for NGOs/CSOs, including the enactment of the newly adopted Charities and Societies Proclamation, NGOs/CSOs encounter different constraints and challenges. It is possible to classify these various constraints and challenges as internal and external. The former constraint or challenge relates to the legal and policy environment of NGOs/CSOs while the later refers to issues of access to resource and organizational capacity of NGOs/CSOs.

4.4.1. Legal Impediments

As pointed out in the earlier chapter, Ethiopia has enacted a new Charities and Societies Proclamation after a long period of time as it claims, with the purpose of aiding and

facilitate the role of Charities and Societies Proclamation in the overall development of the country and in a way, ensuring the realization of citizen right to association. It is true that though international instruments including those ratified by Ethiopia guarantee the freedom of association as a fundamental right, this right is not absolute and can be limited by the government in order to regulate the way in which such rights are carried out. However, as clearly underlined in the previous chapter, such regulatory framework must be reasonable and provide no limitation or restriction affecting the very essence of the right to freedom of association.

In this light, the restrictive and at times prohibitive provisions of the new Charities and Societies Proclamation will have negative implications on the emergence, development and effectiveness of NGOs/CSOs in the country. Among other things, by excluding local NGOs/CSOs that receive more than 10% of their fund from external sources and foreign NGOs from operating in areas of human rights and governance. The law fails to take into account the indivisible nature of human rights; the civil and political rights on the one hand and the socio- economic rights on the other. What is more, effective strategies to realize socio-economic development demands the intervention of CSO/NGOs in governance and policy advocacy besides their participation in development related activities.

Another related challenge for NGOs in the country will be the possibility of arbitrary and unreasonable interference of the government in the operation of NGOs. The Charities and Societies Proclamation gives an expanded regulatory power for the Charities and Societies Agency. As discussed in the preceding chapter, the agency has been given enormous discretionary power to accord legal personality to NGOs/CSOs, to disband NGOs/CSOs that have acquired legal personality and to subject NGOs/CSOs under strict supervision and regulation. This will have the tendency to make NGOs/CSOs highly insecure and uncertain of their role and future prospects. It may also discourage citizens to organize and establish new NGOs/CSOs there by weakening the significant contributions of NGOs/CSOs in the over all, civil, political, social, economic and cultural situations of the country.

4.4.2. Policy Impediments

Compared to the previous regimes, the current government has, for some time, developed a better relationship with NGOs and non state actors in general. However, there is still and even worse atmosphere of distrust and suspicion of NGOs/CSOs on part of the government particularly after the 2005 election. This is clearly evidenced with the enactment of the new Charities and Societies Proclamation. Through the promulgation of this law, the government has technically squashed out NGOs /CSOs from operating in promotion of civil and political rights and politically affiliated activities.

Indeed, despite the recognition and inclusion of NGOs/CSOs in various national plans, policies and frameworks including the PASDEP, there is no comprehensive policy that governs the NGOs/CSOs sector. Instead, government rhetoric and attitude towards NGOs/CSOs has remained 'policy as discourse'.³³ "In this regard, it is common to deduce such policy' from various statements made by key policy and law makers. However, there is an ambiguity as to whether these constitute official government policy demanding a clearly defined policy that ensures a uniform approach to the sector. This has partly contributed to the lack of consensus and clear operational framework of NGOs and the modalities of interaction and collaborative relations between NGOs and the government as set out in the new Charities and Societies Proclamation.

What is more, the government seems to fail in appreciating and tolerating the politically affiliated activities of NGOs that may include the promotion of fair and democratic election or monitoring the violations of human rights by the government. Though these activities may affect the interest of the party in power, play a significant contribution to the development of a democratic and human rights culture based on dialogue, accommodation and tolerance. In fact, it seems that it is the political stance of the government, for the most part, that results in the enactment of the newly adopted

³³[http://www.deleth.ec.europa.eu/en/aid_effectiveness/docs/studies/governance/Towards%20NGO%20Policy%20in%20Ethiopia%20\(OSJE,%202008\).pdf](http://www.deleth.ec.europa.eu/en/aid_effectiveness/docs/studies/governance/Towards%20NGO%20Policy%20in%20Ethiopia%20(OSJE,%202008).pdf), (last visited on Jan. 27,2009)

restrictive and prohibitive Charities and Societies Proclamation negatively affecting the working environment of the non-state actors, in general. As far as, these adverse attitudes have not changed towards this sector, a mere reform of legislations cannot bring any difference.

4.4.3 Financial Impediments

Contrary to the case of developed countries where NGOs raise much of their funds from local philanthropic organizations or private persons, most of NGOs in Ethiopia receive their funding from external sources. As in the case in many developing countries, the private sector in the country is underdeveloped and is unable to lead in the economic sphere. As a result, voluntary support from private individuals or private organization in the country is very minimal.

However, this extreme dependence on external donors has its own repercussions. Firstly, it forces NGOs to compromise their independence and effectiveness to get funds. It means that NGOs will be resource or donor led in their operations and may be used as instrument for achieving the political or economic objectives of the donors. Secondly, such external donor based organizations lack sustainable, regular and long term sources of fund and expanded income base to accomplish their objectives.

To worsen matters, the new Charities and Societies Proclamation has technically closed the door for external donation as a source of fund for NGOs. It is true that, under the law, NGOs can still obtain funds from external sources. But, the source from where NGOs get funds determines the very nature and area of operation of NGOs. An NGO that receive more than 10 percent of its funds from foreign source even if all of its members are Ethiopians cannot be considered as an Ethiopian NGO. Rather, it is considered as "Ethiopian Residents Charities or "Ethiopian Residents Societies". As a result, this later kinds of NGOs will lose any rights or privileges bestowed on Ethiopian NGOs.

Among other things, Ethiopian Residents Charities cannot take part in such activities as: the advancement of human and democratic rights, the promotion of the rights of the disabled and children's rights, the promotion of conflict resolution or reconciliation, and the promotion of the efficiency of the justice and law enforcement services.³⁴ This category of NGOs has also been denied the right to access to justice and adequate guarantee to the right of association recognized in the very Constitution and international instruments ratified by the country. These instances also holds true for foreign NGOs.

In sum, owing to the restrictions of the new Proclamation and lack of fund raising opportunities in the country, the source of fund would be one of the major challenges for NGOS that would operate in the country. In fact, this has the tendency to close down many of the vocal and prominent organizations particularly those who work in the area of human rights and governance. It would also discourage the emergence of active NGOs/CSOs that may engage in the area of human rights and governance.

³⁴ Article 14(5) of the Charities and Societies Proclamation No.621/2009

Chapter Five

Conclusions and Recommendations

5.1. Conclusions

The term “non-governmental organization” is recognized in many international, regional and national instruments. Indeed, the term was initially coined by the United Nation with the introduction of its Charter in 1945. However, neither the UN Charter nor the other regional and national instruments have come up with a uniformly accepted definition of the concept. But still, there are certain common characteristics that NGOs reveal. They are: independent from the interference of the government and donors, non-profit oriented and benevolent (i.e. they have public benefit aspect).

On international arena, the growth and increasing influence generally relates with the human rights movement and the development of human rights awareness and treaty obligations. It was often possible for NGOs to propose or advance their opinions with regard to different human rights issues during the League of Nations. However, it was during the United Nations that NGOs obtained express recognition in the international instruments. More importantly, many NGOs have been granted consultative status and a cooperative framework with the United Nations and different regional intergovernmental organizations after a series of world conferences in the late 1980s and early 1990s.

However, despite their significant influence in the global affairs and their recognition in different intergovernmental organizations, NGOs have not yet acquired legal personality under international law. Indeed, the attempt to grant international legal personality to NGOs has begun as early as the 1910s. However, none of the attempts have succeeded late alone in bringing an international instrument granting legal personality to NGOs but in establishing a strong framework for working in cooperation with international legal

entities. As a result, NGOs are obliged to accept the diversified domestic legislations of the states in which they have been established and where they are based.

Despite the lack of their legal personality under international law, NGOs have significantly contributed their share in the drafting of the International Bill of Rights and other international and regional human rights instruments and are currently involving in the domestication and monitoring of the implementation of the obligations there of. Both the UN and the current regional human rights systems have opened the door for NGOs and recognized the indispensable contributions of NGOs in the protection, promotion and enforcement of human rights norms.

The evolution and growth of NGOs in Ethiopia, in its modern sense, was as recent as the 1960s and 1970s. The right based NGOs particularly flourished with a greater number only after the change of the Derge regime in 1991. The earlier experience of NGOs in the country was mainly associated with the activities of rehabilitation and relief assistance. More importantly, the contribution of NGOs was very evident during the 1997/4/75 and 1984/85 with the severe famine of the country.

After the downfall of the Derge regime, owing to the Constitutional recognition of freedom of association and the increased political space for non-state actors, a number of operational NGOs, both national and international, emerged in the country. These NGOs have engaged in so many diverse activities including: human rights education, monitoring and investigation of human rights violations, initiating and participating in creation and adoption of human rights norms, involvement in advocacy and lobbying activities, provision of social services and participation in the development related activities.

Currently, though their number and scope of activities vary from one region to the other, NGOs are active in all parts of the country with the institutional framework of the government. Indeed, there is a relatively positive trend in the distribution of NGOs across regions. As the data collected during the study reveal, Oromiya, Amara and Addis Ababa

have a greater number of NGOs while Harari and Gambella have the least number of NGOs engaged in different human rights and human rights related activities.

It is common to classify NGOs on different grounds that may include: source of income, program of orientation, affiliation, and level or area of operation. On these grounds, NGOs may be classified as domestic and international NGOs, donation based and Commercial based NGOs, relief, development or advocacy oriented NGOs, and religious and secular NGOs respectively. Contrary to this common practice, the new Charities and Societies Proclamation creates three categories of NGOs based on the origin of their source of funds. These are Ethiopian Charities or Societies Foreign Charities and Charities or Societies of Ethiopian Residents.

For a long period of time, Ethiopia has not developed a clearly defined legal or policy framework to the level of the demand of the emerging NGOs, and the growth of the sector in general except for some of the outdated provisions of the 1960 Civil Code and the 1966 Associations Registration Regulation. The absence of such comprehensive regulatory framework has created uncertainties for the sector in terms of its operations and relations with government. However, the government has recently enacted a new Charities and Societies Proclamation. This legislation has contained many restrictive or prohibitive provisions which hamper the ongoing activities of NGOs and the development and effectiveness of the sector in general.

Different mechanisms are set forth for regulating the formation and operation of NGOs. The common modes of these regulatory systems include registration, coordination, reporting and self-regulation. These modes of regulations are incorporated, in one way or another, in the Ethiopian legal system governing the NGO sector. The first three modes of regulations are generally used by the concerned governmental bodies to permit for the operation of NGOs or to approve the ongoing activities of NGOs thereby ensuring a continuous follow up of the activities of NGOs. The later mode of regulation, self regulation together with coordination sets the mechanism through which NGOs regulate the activities of their follow NGOs through their consortium or umbrella organizations.

In this regard, the new Charities and Societies Proclamation has come up with stringent mechanisms of regulations of NGOs. The Proclamation has also contained so many provisions that permit the Agency to excessively interfere in the functioning of NGOs affecting the autonomy or independence of NGOs. More specifically, the Agency is assigned with a wide discretionary power with regard to registration, supervision and cancellation of license of NGOs. The Proclamation also empowers the sector administrators to make arrangements for coordinated efforts towards achieving common goals of the Charities and the sector administrators there by entitling the executive authorities to interfere in day to day activities of NGOs.

So far, NGOs have played a significant role in the civil, political, economic, social and cultural atmosphere of the country. In fact, NGOs adopt different strategies in the protection, promotion and enforcement of human rights law. Some of their common strategies include human rights education, monitoring, investigation and documentation of human rights violations, participation in the setting and domestication of human rights norms or standards, provision of legal assistance, advocacy and lobbying activities, provision of social services and involvement in the democratization and development process of a country.

In this regard, NGOs, both indigenous and international, have been involving in so many diverse activities in every landscape of the country. They have engaged in the provision of social services including the promotion of health services, sanitations, education, child welfare and protection, institutional building and community empowerment. NGOs have also been participating in the realization of the overall socio-economic development of the country engaging in such activities as: strengthening rural and urban cooperatives, microfinance and other grassroots associations, environmental rehabilitation, ecological protection, addressing chronic food insecurity, water supply and sanitation, market development and strengthening the capacity of the different sectors of the government. Though limited in number, NGOs have also been involving in promotion of good governance, democratic values and human rights culture through human rights education, provision of legal aid services to the poor, women, children and other marginalized

sections of the society, advocacy and lobbying activities, investigation and monitoring of human rights violations, and initiation of legal reforms in different areas related to human rights and good governance.

However, the enactment of the new Charities and Societies Proclamation has created so many threats and challenges for the growing sector; NGOs and CSOs that would contribute its invaluable share in the country. Among other things, the Proclamation imposes unreasonable limitations on domestic NGOs/CSOs that receive funds from external sources and discriminately treats foreign organizations. It also permits excessive governmental interference in and control of the activities of NGOs thereby jeopardizing the independence of NGOs. The Proclamation also provides excessive reporting and registration requirements with severe penalties in case of non-compliance. It also denies charities of Ethiopian residents and foreign charities the right to appeal to the courts against grievances relating to the implementation of the Proclamation. These and other specific provisions of the Proclamation and the policies of the government has created a threat to the already operating NGOs and the future growth of the sector in general thereby casting a shadow on the contributions of the sector in the overall civil, political, social and economic situations of the country.

5.2 Recommendations

In light of the study conducted and the general observations made so far, the following points are to be considered in measures to be taken as a way forward.

- It is recommended that before a legislative review or formulation, a clearly defined policy should be set. This will provide an underlying rational /framework for the subsequent legislations. It will also provide the stake holders and the law makers the avenue for consultative and participatory process. However, the absence of such comprehensive policy with regard to NGOs in Ethiopia has created a threat to NGOs/CSOs and brought about a hostile relationship between the government and NGOs/CSOs with the enactment of the restrictive Charities

and Societies Proclamation. Thus, the government must formulate a clearly defined NGOs/CSOs policy in line with the demands and the developments of the sector and the policies, plans and strategies that recognize the significant contribution of the sector and accordingly revise the newly promulgated Proclamation.

- The government needs to reconsider its adverse and hostile attitudes against the activities of NGOs/CSOs. The freedom of association recognized in the very Constitution and the international instruments adopted by the country guarantees the freedom of participation of citizens in the overall civil, political, and socio-economic situations of the country. However, the ongoing actions of the government do not confirm this guarantee. Hence, the government must tolerate and open the door for the participation of citizens, through NGOs/CSOs, in the realization of the civil, political and socio-economic rights of individuals and the society at large. It should also develop a strong mechanism for working in cooperation with NGOs/CSOs.
- If the freedom of associations is to have a meaning in practice, it must allow NGOs/CSOs to participate actively in the local and national public policy discourse as well as in the overall civil, political and socio-economic atmosphere of the country. Governments are, therefore, obligated to proactively create conducive environment ensuring a flexible establishment and operation of NGOs. Contrary to this, the Ethiopian government has issued a law that creates barriers to the formation of NGOs/CSOs by restricting the source of funds of NGOs/CSOs and limits the operation of NGOs by excluding domestic NGOs/CSOs that receive more than 10% of their fund from foreign sources not to engage in the advancement of human and democratic rights and related issues. This law needs to be revised in light of the modern democratic culture and freedom of association guaranteed in the Constitution of the country and international norms and standards.

- Independence from either the government or donors is one of the distinguishing features of NGOs. Hence, any regulatory system of the government should not jeopardize the very essence of NGOs. However, the newly enacted Charities and Societies Proclamation permits excessive governmental discretion and interference in the formation and operation of NGOs. This excessive and unreasonable interference of the government, particularly in the registration, licensing, reporting and dissolution of NGOs/CSOs must be relaxed to enable NGOs/CSOs operate with a relative autonomy and independence ensuring the regulation of these actors at the sometime.
- The new Charities and Societies Proclamation also excessively penalizes NGOs/CSOs and their staffs for the failure to comply with requirements of the Proclamation. These excessive and disproportionate punishments have the tendency to discourage individuals from exercising their constitutional freedom to associate and participate in the NGOs/CSOs activities. These stringent penalties should also be made lenient to give the space for the operation of NGOs/CSOs without any fear or for punishment.
- The new Charities and Societies Proclamation has denied Ethiopian residents' charities and foreign charities the right to appeal to courts for any grievances against administrative decisions. This limitation restricts the right to access to justice guaranteed in the Constitution of the country without any justification. Thus, the limitation and discrimination of the law should be amended in line with the Constitution of the country and the international norms and standards adopted by the country.

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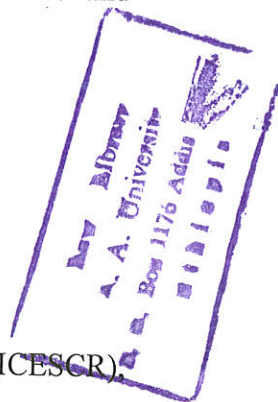
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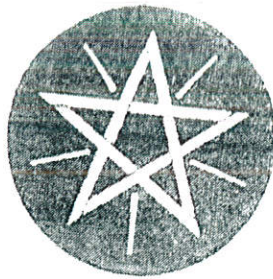
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የኢትዮጵያ ፌዴራላዊ ዲሞክራሲያዊ ሪፐብሊክ

ፌዴራል ነጋሪት ጋዜጣ

FEDERAL NEGARIT GAZETA

OF THE FEDERAL DEMOCRATIC REPUBLIC OF ETHIOPIA

የፌዴራል ነጋሪት ጋዜጣ ቁጥር ፳፭ በአዲስ አበባ የካቲት ፳ ቀን ፳፻፩ ዓ.ም	በኢትዮጵያ ፌዴራላዊ ዲሞክራሲያዊ ሪፐብሊክ የሕዝብ ተወካዮች ምክር ቤት ጠባቂነት የመጣ	15 th Year No. 25 ADDIS ABABA 13 th February 2009
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አዋጅ ቁጥር ፳፻፩/፪፻፩ ዓ.ም
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ገጽ ፪፻፩

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ከዓፄ አገደ
ጠቅላላ

፩. አዋጅ ርዕስ

ይህ አዋጅ የሕግ አድራጊነት ድርጅቶችና ማህ
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ይችላል፡፡

PROCLAMATION NO. 621/2009.

PROCLAMATION TO PROVIDE FOR THE REGISTRATION AND REGULATION OF CHARITIES AND SOCIETIES.

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

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

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

SECTION ONE GENERAL

1. Short Title

This Proclamation may be cited as the "Charities
and Societies Proclamation No 621/2009."

ነጋሪት ጋዜጣ ምክር ቤት
Negarit G. P.O. Box 80001

1280

፩. ትርጓሜ

በዚህ አዋጅ ውስጥ የቃሉ አገባብ ሌላ ትርጉም የሚያሰጥ ካልሆነ በስተቀር፤

አ/ "የብጅት ዓመት" ማለት በኢትዮጵያ አቆጣጠር ከሐምሌ ፩ እስከ ሰኔ ፱ ወይም በግሪግ ስኔት አቆጣጠር ከጁንዋሪ ፩ እስከ ዲሴምበር ፱ ያለው ጊዜ ነው፤

ለ/ "የኢትዮጵያ የበጎ አድራጊት ድርጅት" ወይም "የኢትዮጵያ ማህበር" ማለት በኢትዮጵያ ሕግ መሰረት የተመሰረተ፤ ሁሉም አባላቱ ኢትዮጵያውያን የሆኑ፤ የገቢ ምንጩ ከኢትዮጵያ የሆነና ኢትዮጵያውያን መሆኑ በመሆኑ የሚቆጣጠሩት ነው፤ ነገር ግን የገቢያቸውን ከ፲ በመቶ የማይበልጥ ከውጭ ምንጭ የሚገኝ ገቢ የሚጠቀሙ ከሆነ የኢትዮጵያ በጎ አድራጊት ድርጅት ወይም ማህበር ሆነው ሊቆጠሩ ይችላሉ፤

ለ/ "የኢትዮጵያ ነዋሪዎች የበጎ አድራጊት ድርጅት" ወይም "የኢትዮጵያ ነዋሪዎች ማህበር" ማለት ሁሉም አባላቱ በኢትዮጵያ ነዋሪ የሆኑ፤ ከ፲ በመቶ በላይ ከውጭ ምንጭ የሚገኝ ገቢ የሚጠቀሙ እና በኢትዮጵያ ሕግ መሰረት የተቋቋሙ የበጎ አድራጊት ድርጅት ወይም ማህበር ነው፤

ሀ/ "የውጭ የበጎ አድራጊት ድርጅት" ማለት በውጭ ሕግ መሰረት የተቋቋመ ወይም የውጭ ዘጎች በአባልነት ያሉበት ወይም ከውጭ ምንጭ የሚገኝ ገቢ የሚጠቀሙ ወይም የውጭ ዘጎች የሚቆጣጠሩት የበጎ አድራጊት ድርጅት ነው፤

ለ/ "ብዙሃን ማህበራት" ማለት የመያያዝ ማህበራትን፤ የሌሎች ማህበራትን፤ የጠባቢ ማህበራትን፤ ሌሎች ተመሳሳይ የኢትዮጵያ ማህበራትን ያካትታል፤

ሀ/ "ሚኒስቴር" እና "ሚኒስትር" ማለት እንደ ቅድምተክተላቸው የኢትዮጵያ ፌዴራል ዲሞክራሲያዊ ሪፐብሊክ የዋናነት ሚኒስቴር እና ሚኒስትር ነው፤

ለ/ የሥራ መሪ ማለት አዲተርን ሳይካትት የበጎ አድራጊት ድርጅቱን ወይም የማህበሩን የአለት ተስሰት አስተዳደር በአጠቃላይ የሚቆጣጠር እና የሚመራ ሰው ነው፤

ለ/ "ሰው" ማለት ማናቸውም የተፈጥሮ ሰው ወይም ሕጋዊ ሰውነት ያለው አካል ነው፤

2. Definition

In this Proclamation, unless the context requires otherwise:

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

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

3/ "Ethiopian Residents Charities" or "Ethiopian Residents Societies" shall mean these Charities or Societies that are formed under the laws of Ethiopia and which consist of members who reside in Ethiopia and who receive more than 10% of their funds from foreign sources;

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

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

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

7/ "Officer" shall mean a person who has the general control and management of the day to day administration of a Charity or Society and shall not include an auditor;

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

፱/ "የሥራ ቦታ" ማለት የአንድ ሰው ሠነዶችና የሂሳብ መዝግብት የሚቀመጡበት ወይም አንድ ሰው ሥራውን የሚያካሂድበት ቦታ ነው።

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

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

፲፪/ "የዘርፍ አስተዳዳሪ" ማለት በዚህ አዋጅ አንቀጽ ፳፮ የተሰየመ የፌዴራል አስፈጻሚ መሥሪያ ቤት ነው።

፲፫/ "ክልል" ማለት በኢትዮጵያ ፌዴራላዊ ዲሞክራሲያዊ ሪፐብሊክ ሕገ-መንግስት አንቀጽ ፵፮ የተመለከተው የኢትዮጵያ ፌዴራላዊ ዲሞክራሲያዊ ሪፐብሊክ አባል የሆነ ክልል ነው።

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

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

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

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

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

12/ "Sector Administrator" shall mean a Federal Executive Office designated as such in accordance with Article 66 of this Proclamation;

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

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

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

፲፮/ “የሃይማኖት ድርጅት” ማለት የአንድ ሃይማኖት ተከታዮች ሃይማኖታቸውን ለማደራጀት እና ለማስፋፋት የሚያቋቁሙት ተቋም ሆኖ በዚህ አዋጅ ትርጓሜ የበጎ አድራጎት ዓላማዎች ለማሳካት የተቋቋሙ ድርጅቶችን ወይም የሃይማኖት ድርጅቱ የሚያቋቁማቸው የበጎ አድራጎት ድርጅቶችን አያጠቃልልም፡፡

፫. የተፈጻሚነት ወሰን

፩/ ይህ አዋጅ በሚከተሉት ላይ ተፈጻሚ ይሆናል፤

ሀ/ ከአንድ በላይ በሆኑ ክልሎች በሚሰሩ የበጎ አድራጎት ድርጅቶችና ማህበራት ወይም የአባላት ጥንቅቶቻቸው ከአንድ ክልል በላይ በሆኑ ማህበራት፤

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

ሐ/ በአዲስ አበባ ወይም በድራዳዋ ከተማ አስተዳደር በሚሰሩ የበጎ አድራጎት ድርጅቶችና ማህበራት፡፡

፪/ ይህ አዋጅ በሚከተሉት ላይ ተፈጻሚ አይሆንም፤

ሀ/ በሃይማኖት ድርጅቶች፤

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

ሐ/ በዕድርጥ በዕቅድ እና ተመሳሳይ ባህላዊ ወይም ሃይማኖታዊ ይዘት ባላቸው ማህበራት፤ እና

መ/ በሌላ ሕግ በሚሸፈኑ ማህበራት፡፡

ክፍል ሁለት

የበጎ አድራጎት ድርጅቶችና ማህበራት ኤጀንሲ

፩/ መቋቋም

፩/ የበጎ አድራጎት ድርጅቶችና ማህበራት ኤጀንሲ (በዚህ በጋላ “ኤጀንሲ” እየተባለ የሚጠራ) የሕግ ሰውነት ያለው የፌዴራል መንግሥት መሥሪያ ቤት ሆኖ በዚህ አዋጅ ተቋቁሟል፡፡

16/ “Religious Organization” means an institution established by believers to organize and propagate their religion and shall not include organizations established for the achievement of any charitable purpose as defined in this proclamation or charities established by the religious organizations.

3. Scope of Application

1/ This proclamation shall be applicable to;

- Charities or Societies that operate in more than one regional state or Societies whose members are from more than one regional state;
- Foreign Charities and Ethiopian Resident Charities and Societies even if they operate only in one regional state;
- Charities or Societies operating in the City Administration of Addis Ababa or Dire-Dawa.

2/ This proclamation shall not be applicable to;

- religious organizations;
- international or foreign organizations operating in Ethiopia by virtue of an agreement with the Government of The Federal Democratic Republic of Ethiopia;
- “Edir”, “Ekub” and other similar cultural or religious associations;
- Societies governed by other laws.

SECTION TWO

CHARITIES AND SOCIETIES AGENCY

4. Establishment

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

፪/ ኢጀንሲው ተጠሪነቱ ለሚኒስቴሩ ይሆናል።

የኢጀንሲው አላማዎች

ኢጀንሲው የሚከተሉትን አላማዎች ይኖራል፤

አ/ የበጎ አድራጎች ድርጅቶችና ማህበራት እንዲሰፋፋና ተልዕኳቸውን በሕግ መሠረት ፤ እንዲወጡ ማስቻልና ማበረታታት፤

፩/ የበጎ አድራጎች ድርጅቶችና ማህበራት አሠራር ግልጽነትና ተጠያቂነት የሰፈነበት ሊሆን የሚችልበትን ሁኔታ መፍጠር፤

፪/ የበጎ አድራጎች ድርጅቶችና ማህበራት በሕግ መሠረት መስራታቸውን ማረጋገጥ።

የኢጀንሲው ሥልጣንና ተግባራት

አ/ ኢጀንሲው የሚከተሉት ሥልጣንና ተግባራት ይኖራል፤

ሀ/ በዚህ አዋጅ መሠረት ለበጎ አድራጎች ድርጅቶችና ማህበራት ፈቃድ መስጠት፤ መመዝገብና መቆጣጠር፤

ለ/ የበጎ አድራጎች ድርጅቶችና ማህበራት የተሻለ አሠራር እንዲኖራቸው ማበረታታት፤

ሐ/ ከሥልጣንና ተግባሩ ጋር ግንኙነት ያላቸውን መረጃዎች ማሰባሰብ፤ መተንተን፤ ማሰራጨት፤

መ/ የበጎ አድራጎች ድርጅቶችና ማህበራትን ምዝገባ በሚመለከት መረጃ በጋዜጣ ማሳተፍና ማሰራጨት፤

ሠ/ የመንግሥት አካላት እና የበጎ አድራጎች ድርጅቶችና ማህበራት የሚሳተፉ ባቸውን የምክክር መድረኮች ማዘጋጀት፤

ረ/ ዓላማውን ለማሳካት የሚያስችል የውሳኔ ሀሳብ ለሚኒስቴሩ ማቅረብ፤

ሰ/ ለምዝገባና ፈቃድ ጥያቄ የሚያቀርቡ የበጎ አድራጎች ድርጅቶች ወይም ማህበራት ጉዳይ ከሚመለከተው ዘርፍ አስተዳዳሪ ጋር በመመካከር መርምሮ መወሰን፤

2/ The Agency shall be accountable to the Ministry.

5. Objectives of the Agency

The Agency shall have the following objectives.

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

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

3/ to ensure that Charities and Societies operate legally.

6. Powers and Functions of the Agency

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

a) to license, register, and supervise Charities and Societies in accordance with this Proclamation;

b) to encourage Charities and Societies to have better administration;

c) collect, analyze and disseminate information that has connection with its powers and functions;

d) publish and distribute information about the registration of Charities and Societies in the Gazette;

e) organize consultative forum for governmental organs and Charities and Societies;

f) to make proposals to the Ministry on matters relating to meeting its objectives;

g) take decisions, in cooperation with the concerned Sector Administrator, on the application of Charities and Societies for registration and license;

- ሸ/ በአዋጅ ቁጥር ፫፻፴፱/፲፱፻፺፭ (አንደተኛ ሻለ) ስለሰነዶች ማረጋገጥና ምዝገባ የተደነገገው እንደተጠበቀ ሆኖ የዘላቂነት በጎ አድራጎት እና የአደራ በጎ አድራጎት ድርጅት ሰነዶችን ማረጋገጥና መመዝገብ፤
- ቀ/ ለሚሰጣቸው አገልግሎቶች በመንግሥት በሚጸድቀው ተመን መሠረት የአገልግሎት ክፍያዎችን መሰብሰብ፤
- በ/ የንብረት ባለቤት መሆን፣ ውል መዋዋል፣ በራሱ ስም መከሰስና መከሰስ፤
- ተ/ አስፈላጊ ሆኖ ሊያገኘው በዚህ አዋጅ የተሰጡትን ሥልጣንና ተግባራት በውክልና መስጠት፤ እና
- ቸ/ ዓላማዎቹን ለማሳካት አስፈላጊ የሆኑ ሌሎች ተግባሮችን መፈጸም፡፡

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

፯. የኢጀንሊው አቋም

ኢጀንሊው፣

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

፪/ በመንግሥት የሚሾም ዋና ዳይሬክተር፣ እና

፫/ አስፈላጊ ሠራተኞች፤

ይኖሩታል፡፡

፰. የቦርዱ አባላት

፩/ ቦርዱ ሰብሳቢውን ጨምሮ በመንግሥት የሚሰየሙ ሰባት አባላት ይኖሩታል፡፡

፪/ በዚህ አንቀጽ ንዑስ አንቀጽ (፩) መሰረት ከሚሰየሙ የቦርዱ አባላት መካከል ሁለቱ ከበጎ አድራጎት ድርጅቶችና ከማህበራት የተውጣጡ ይሆናሉ፡፡

፱. የቦርዱ ሥልጣንና ተግባር

ቦርዱ የሚከተሉት ሥልጣንና ተግባራት ይኖሩታል፤

- h) without prejudice to the provisions of Proclamation No. 334/2003 (as amended), to exercise the powers of registration and authentication of documents with regard to Charitable Endowments and Charitable Trusts;
- i) to collect fees for the services it renders in accordance with the rate to be approved by the Government;
- j) to own property, enter into contract, sue and be sued in its own name;
- k) to delegate, when it deems necessary, the powers and functions given to it by this Proclamation; and
- l) carryout such other activities necessary for the attainment of its objectives.

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

7. Organization of the Agency

The Agency shall have:

- 1/ A Charities and Societies Board (hereinafter referred to as the "Board");
- 2/ A Director General to be appointed by the Government; and
- 3/ The necessary staff.

8. Members of the Board

- 1/ The Board shall have seven members, including its Chairperson, to be nominated by the government.
- 2/ Among the board members who are appointed in accordance with sub-article (1) of this Article, two of them shall be nominated from the Charities and Societies.

9. Powers and Functions of the Board

The Board shall have the following powers and functions:

ሐ/ ከዚህ አዋጅ አፈጻጸም ጋር ተያይዞ የሚነሱ የፖሊሲ ጉዳዮችን መርምሮ የውሳኔ ሃሳብ ለሚኒስቴሩ ያቀርባል፤

ከ/ የበጎ አድራጎች ድርጅቶች እና ማህበራት አስተዳደርን በተመለከተ ለሚያጋጥሙ ችግሮች መፍትሔ ይሰጣል፤

ለ/ የኢጀንሲው ዋና ዳይሬክተር በሚሰጠው ውሳኔ ላይ በዚህ አዋጅ መሠረት የሚቀርቡ ይግባኞችን መርምሮ ይወስናል፤

ሀ/ በዚህ አዋጅ መሠረት በኢጀንሲው የሚወጡ መመሪያዎችን መርምሮ ያጸድቃል፤

ሐ/ በዋና ዳይሬክተሩ የሚቀርቡለትን የበጎ አድራጎች ድርጅቶችና ማህበራትን የሚመለከቱ ሌሎች ጉዳዮች መርምሮ ይወስናል፡፡

፪. የቦርዱ ስብሰባ

ሐ/ ቦርዱ በወር አንድ ጊዜ ይሰበሰባል፤ ሆኖም እንደአስፈላጊነቱ በማናቸውም ጊዜ አስቸኳይ ስብሰባ ሊያደርግ ይችላል፡፡

ከ/ በቦርዱ ስብሰባ ከግማሽ በላይ የሚሆኑት አባላት ከተገኙ ምልዐተ ጉባኤ ይኖራል፡፡

ለ/ የቦርዱ ውሳኔዎች በድምጽ ብልጫ ያልፋሉ፤ ሆኖም ድምጽ እኩል በእኩል ከተከፈለ ስብሰባው ወሳኝ ድምጽ ይኖረዋል፡፡

ሀ/ የዚህ አንቀጽ ድንጋጌዎች እንደተጠበቁ ሆነው ቦርዱ የራሱን የስብሰባ ሥነ-ሥርዓት ደንብ ሊያወጣ ይችላል፡፡

፫. የዋና ዳይሬክተሩ ሥልጣንና ተግባር

ሐ/ ዋና ዳይሬክተሩ የኢጀንሲው ዋና ሥራ አስፈጻሚ ሆኖ ከሚኒስቴሩ በሚሰጠው አጠቃላይ መመሪያ የኢጀንሲውን ሥራዎች ይመራል፤ ያስተዳድራል፡፡

ከ/ የዚህ አንቀጽ ንዑስ አንቀጽ (ሐ) አጠቃላይ አነጋገር እንደተጠበቀ ሆኖ ዋና ዳይሬክተሩ፡

ሀ/ በዚህ አዋጅ አንቀጽ ፮ ለኢጀንሲው የተሰጡትን ሥልጣንና ተግባራት በሥራ ላይ ያውላል፤

ለ/ የኢጀንሲውን ሠራተኞች የፌዴራል ሲቪል ሰርቪስ ሕጎችን መሰረታዊ ዓላማዎች ተከትሎ በመንግሥት በሚጸድቅ ደንብ መሠረት ይቀጥራል፤ ያስተዳድራል፤

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

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

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

4/ approves directives to be issued by the Agency;

5/ decides on other matters concerning Charities and Societies submitted to it by the Director General.

10. Meetings of the Board

1/ The Board shall meet once every month. It may; however, conduct emergency sessions as may be deemed necessary.

2/ There shall be a quorum where more than half of its members are present.

3/ Decisions of the Board shall be made by a majority vote; in case of a tie, however, the Chairperson shall have a casting vote.

4/ Without prejudice to the provisions of this Article, the Board may prescribe its own rules of procedure.

11. Powers and Functions of the Director General

1/ The Director General shall be the chief executive of the Agency and shall, according to the general directions given to him by the Ministry, direct and administer the activities of the Agency.

2/ Without prejudice to the generalities of sub-Article (1) of this Article, the Director General shall:

a) exercise the powers and functions of the Agency specified under Article 6 of this proclamation;

b) employ and administer the employees of the Agency in accordance with regulations issued by the Government following basic principles of Federal Civil Service Laws;

ሐ/ የኤጀንሲውን የሥራ መርሐ ግብርና በጀት ያዘጋጃል፤ በሚኒስቴሩ ሲጸድቅም ሥራ ላይ ያውላል፤

መ/ ለኤጀንሲው በተፈቀደው በጀትና የሥራ መርሐ ግብር መሠረት ገንዘብ ወጪ ያደርጋል፤

ሠ/ ከሦስተኛ ወገኖች ጋር የሚደረጉ ማናቸውንም ግንኙነቶች በተመለከተ ኤጀንሲውን ይወካል፤

ረ/ የኤጀንሲውን የሥራ አፈጻጸምና የሂሳብ ሪፖርት አዘጋጅቶ ለሚኒስቴሩ ያቀርባል፡፡

፫/ ዳይሬክተሩ ለኤጀንሲው የሥራ ቅልጥፍና በሚያስፈልግ መጠን ሥልጣንና ተግባርን በክፍል ለኤጀንሲው የሥራ ሃላፊዎችና ሠራተኞች በውክልና ሊያስተላልፍ ይችላል፡፡

፲፪. በጀት

የኤጀንሲው በጀት በመንግሥት ይመደባል፡፡

፲፫. የሂሳብ መዛግብት

አ/ ኤጀንሲው የተሟሉና ትክክለኛ የሆኑ የሂሳብ መዛግብት ይይዛል፡፡

ለ/ የኤጀንሲው የሂሳብ መዛግብትና ሌሎች ገንዘብ ነፃ ሰነዶች በዋናው አዲተር ወይም በዋናው አዲተር በሚሰየም አዲተር በያመቱ ይመረመራሉ፡፡

ክፍል ሦስት
የበጎ አድራጊነት ድርጅቶች
ንዑስ ክፍል አንድ
ጠቅላላ

፲፬. ትርጓሜ

አ/ “የበጎ አድራጊነት ድርጅት” ማለት ለበጎ አድራጊነት ዓላማ ብቻ የተቋቋመና ለህዝብ ጥቅም የሚሰጥ ተቋም ነው፡፡

ለ/ “የበጎ አድራጊነት ዓላማ” የሚከተሉትን ያካትታል፤

ሀ/ ድህነትን ወይም አደጋን መከላከል፤ መቀነስ ወይም ማስወገድ፤

c) prepare the work programme and budget of the Agency; and implement same upon approval by the Ministry;

d) effect expenditure in accordance with the budget and work programme approved for the Agency;

e) represent the Agency in all its dealings with third parties;

f) prepare and submit to the Ministry the activity and financial reports of the Agency.

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

12. Budget

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

13. Books of Account

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

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

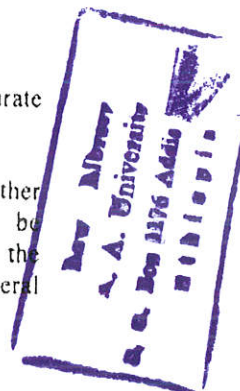
SECTION THREE CHARITIES Sub-Section One General

14. Definition

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

2) “Charitable Purposes” shall include:

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



- ለ/ የኢኮኖሚና ማህበራዊ ዕድገት እና የአካባቢ ጥበቃን ወይም ማሻሻልን ማፋጠን፤
- ሐ/ የእንስሳት ደህንነትን ማስፋፋት፤
- መ/ ትምህርትን ማስፋፋት፤
- ሠ/ ጤንነትን ወይም ሕይወት ማዳንን ማራመድ፤
- ረ/ ጥበብን፣ ባሕልን፣ ቅርስን ወይም ሣይንስን ማዳበር፤
- ሰ/ አማተር ስፖርትንና የወጣቶችን ደህንነት ማስፋፋት፤
- ሸ/ በዕድሜ፣ በአካል እና በአዕምሮ ጉዳት፣ በገንዘብ ወይም በሌሎች ምክንያቶች የተቸገሩትን መታደግ፤
- ቀ/ የአገሪቱን የረጅም ጊዜ የልማት አቅጣጫ መሰረት በማድረግ የአቅም ግንባታ ሥራዎችን ማበረታታት፤
- በ/ የሰብአዊና ዲሞክራሲያዊ መብቶች ተግባራዊነትን ማበረታታት፤
- ተ/ የብሔሮች፣ ብሔረሰቦችና ሕዝቦች፣ የጾታ እና የሃይማኖት እኩልነት መረጋገጥን ማበረታታት፤
- ቸ/ የሕጻናትና የአካል ጉዳተኞች መብቶች መከበርን ማበረታታት፤
- ገ/ የግጭት አፈታትን ወይም ዕርቅን ማስፋፋት፤
- ነ/ የፍትህና የህግ ማስፈጸም አገልግሎቶችን ተልጣፋነት ማጠናከር፤
- ኘ/ ሌሎች እጅግሲው በሚያወጣው መመሪያ የሚደነገጉ ዓላማዎች፤
- ፪/ ሕዝባዊ ጥቅም ይኖራል ተብሎ የሚቆጠረው፤
- ሀ/ የበጎ አድራጊነት ድርጅት ዓላማዎች አንድ ተለይቶ የሚታወቅ ጥቅም ለሕዝቡ የሚያስገኝ ሲሆን፤
- ለ/ የበጎ አድራጊነት ድርጅት ዓላማዎች ሊጠቀሙ የሚገባቸውን ሰዎች የማያገለግሉ ሲሆን፤ እና

- b) the advancement of the economy and social development and environmental protection or improvement;
- c) the advancement of animal welfare;
- d) the advancement of education;
- e) the advancement of health or the saving of lives;
- f) the advancement of the arts, culture, heritage or science;
- g) the advancement of amateur sport and the welfare of the youth;
- h) the relief of those in need by reason of age, disability, financial hardship or other disadvantage;
- i) the advancement of capacity building on the basis of the country's long term development directions;
- j) the advancement of human and democratic rights;
- k) the promotion of equality of nations, nationalities and peoples and that of gender and religion;
- l) the promotion of the rights of the disabled and children's rights;
- m) the promotion of conflict resolution or reconciliation;
- n) the promotion of the efficiency of the justice and law enforcement services; and
- o) any other purposes as may be prescribed by directives of the Agency.
- 3/ A public benefit shall be deemed to exist where:
- a) the purposes of the Charity can generate an identifiable benefit to the public;
- b) the purposes of the Charity do not create a situation wherein its benefits exclude those in need; and

ሐ/ ለግለሰቦች ወይም ለድርጅቶች የሚያስገኘው የግል ጥቅም የድርጅቱ ዋና የሥራ ዓላማ በመሆኑ ሣይሆን በአጋጣሚ እና ድርጅቱ ዓላማውን በሚያሳካበት ጊዜ በተቀፅላላነት የተገኘ ሲሆን፤ ብቻ ነው።

፬/ ኢጀንሲው የበጎ አድራጊነት ዓላማዎችንና የህዝብ ጥቅምን በተመለከተ ዝርዝር መመሪያ ሊያወጣ ይችላል።

፭/ በዚህ አንቀጽ ንዑስ አንቀጽ ፪ (በ)፣ (ተ)፣ (ቸ)፣ (ኀ) እና (ነ) በተመለከቱት የበጎ አድራጊነት ዓላማዎች ላይ መሰማራት የሚችሉት የኢትዮጵያ የበጎ አድራጊነት ድርጅቶች እና ማህበራት ብቻ ይሆናሉ።

፲፭. የበጎ አድራጊነት ድርጅት ዓይነቶች

ሐ/ የበጎ አድራጊነት ድርጅት፤

ሀ/ የዘላቂታ በጎ አድራጊነት ድርጅት፤

ለ/ የበጎ አድራጊነት ተቋም፤

ሐ/ የአደራ በጎ አድራጊነት ድርጅት፤ ወይም

መ/ የበጎ አድራጊነት ማህበር፤

ሆኖ ሊመሰረት ይችላል።

፪/ በዚህ ክፍል ንዑስ ክፍል አምስት ስለበጎ አድራጊነት ኮሚቴዎች የተደነገገው እንደተጠበቀ ሆኖ በበጎ አድራጊነት ሥራ ለመሠማራት በዚህ አንቀጽ ንዑስ አንቀጽ (፩) ከተመለከቱት የበጎ አድራጊነት ድርጅቶች አንዱን መመሥረትና በቅድሚያ የፈቃድና የምዝገባ የምስክር ወረቀት ማግኘት ያስፈልጋል።

፫/ የበጎ አድራጊነት ድርጅቶች ሥራቸውን የሚያስተባብር የበጎ አድራጊነት ድርጅቶች ሕብረት ማቋቋም ይችላሉ። ዝርዝሩ ኢጀንሲው በሚያወጣው ዝርዝር መሰረት ይወሰናል።

ንዑስ ክፍል ሁለት የዘላቂታ በጎ አድራጊነት ድርጅቶች

፲፮. ትርጓሜ

“የዘላቂታ በጎ አድራጊነት ድርጅት” ማለት አንድ የተለየ ንብረት በሰጦታ ወይም በኑዛዜ ወይም በኢጀንሲው ትዕዛዝ በዘላቂነትና በማይመለስ ሁኔታ ለበጎ አድራጊነት ዓላማ ብቻ የሚውልበት ነው።

c) any private benefit of individuals and organizations could be acquired only incidentally and as a secondary consequence of the organization's activities.

4/ The Agency may determine the details of charitable purposes and the public benefit by directives.

5/ Those who can take part in activities that fall under Sub-article 2 (j), (k), (l), (m) and (n) of this Article shall be only Ethiopian Charities and societies.

15. Types of Charities

1/ A Charity may be formed as:

a) a Charitable Endowment;

b) a Charitable Institution;

c) a Charitable Trust; or

d) a Charitable Society.

2/ Without prejudice to the provisions of Sub-section five of this Section concerning Charitable Committees it shall be necessary to form and acquire a Registration and License Certificate in order to carry out charitable acts.

3/ Charities may form a consortium Charity to co-ordinate their activities. Particulars shall be determined by the directives of the Agency.

Sub-Section Two Charitable Endowments

16. Definition

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

፲፮. ለምዝገባ ስልጣን መስጠት

፩/ መሥራቹ በሕይወት ያለ ከሆነ የዘለቂታ በጎ አድራጎት ድርጅት ምዝገባ የሚጠየቀው በመሥራቹ በራሱ ወይም ለዚህ ጉዳይ በወከለው ሰው ብቻ ነው፡፡

፪/ መሥራቹ ከሞተ በኋላ ጥያቄው የሚቀርበው መሥራቹ አደራ በሰጠውና ይህን በተቀበለው ሰው ወይም የመሥራቹን ኑዛዜ በሚያስፈጽሙ ሰዎች ነው፡፡

፫/ በዚህ አንቀጽ ንዑስ አንቀጽ (፩) እና (፪) የተጠቀሱት ሰዎች በማይኖሩበት ጊዜ ንብረትን ለዘለቂታ በጎ አድራጎት ዓላማ የመስጠት ውል ያዘጋጁ፣ ምስክር የሆኑ ወይም ውሉን በአደራ ያስቀመጡ ሰዎች የምዝገባ ጥያቄ ያቀርባሉ፡፡

፬/ በዚህ አንቀጽ መሠረት ምዝገባ የመጠየቅ ግዴታ የተጣለባቸው ሰዎች ምዝገባውን ሳይጠይቁ የቀሩ እንደሆነ መሥራቹ ከሞተ ከሦስት ወር በኋላ የዘለቂታ በጎ አድራጎት ድርጅቱ በማንኛውም ይመለከተኛል በሚል ሰው አመልካችነት ወይም በኢጀንሲው አነሳሽነት ሊመዘገብ ይችላል፡፡

፭/ ኢጀንሲው የዘለቂታ በጎ አድራጎት ድርጅቶች ከፈለጉ ሊጠቀሙ የሚችሉባቸውን ሞዴል መተዳደርያ ደንቦችን ያዘጋጃል፡፡

፲፭. ንብረትን ለዘለቂታ በጎ አድራጎት ዓላማ የመስጠት ተግባርን መሻር

፩/ ንብረትን ለዘለቂታ በጎ አድራጎት ዓላማ የመስጠት ተግባር በኢጀንሲው ከመመዝገቡ በፊት መሥራቹ ሊሸረው ይችላል፡፡

፪/ የመሥራቹ ወራሾች የመሻር መብታቸውን ሊጠቀሙ የሚችሉት የዘለቂታ በጎ አድራጎት ድርጅቱ እንዲመዘገብ ለኢጀንሲው ጥያቄ በቀረበ በ፯ ወራት ጊዜ ውስጥ ሳይመዘገብ ከቀረ ነው፡፡

፲፬. የዘለቂታ በጎ አድራጎት ድርጅቶች አደራጃጀት

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

17. Application for Registration

1/ The registration of a Charitable Endowment may not be sought during the lifetime of the founder, except by the founder herself/himself or a person designated for that purpose.

2/ After the death of the founder, it shall be sought by the person to whom the founder has entrusted such task and who has accepted it or the executors of the founder's will.

3/ In default of the persons in Sub-article (1) and (2), it shall be sought by those persons who have drawn up the act of Endowment or who have been witnesses to it or who hold that act in deposit.

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

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

18. Revocation of an Act of Charitable Endowment

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

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

19. Structure of Charitable Endowments

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

፳. የሥራ አመራር ቦርድ ጥንቅር

፩/ የሥራ አመራር ቦርድ አባላት በመሥራቱ ወይም እርሱ በወከለው ሰው ካልተሾሙ ኤጀንሲው የሚሾሙበትን መንገድ ያመቻቻል።

፪/ የቦርዱ አባል በማንኛውም ምክንያት ኃላፊነቱን መወጣት ካልቻለ በዘላቂነት በጎ አድራጊነት ድርጅቱ መተዳደሪያ ደንብ መሰረት አዲስ የቦርድ አባል ይሾማል።

፫/ የሥራ አመራር ቦርድ አባላት ቁጥር በምንም ዓይነት ሁኔታ ከሦስት በታች ሊሆን አይችልም።

፳፩. የሥራ አመራር ቦርዱ ሥልጣንና ተግባራት

የሥራ አመራር ቦርዱ የሚከተሉት ሥልጣንና ተግባራት ይኖሩታል፤

፩/ የዘላቂነት በጎ አድራጊነት ድርጅቱ የበላይ አካል ይሆናል፤

፪/ የዘላቂነት የበጎ አድራጊነት ድርጅቱን የሚመራ ሥራ አስኪያጅ ይሾማል፤ ያሰናብታል፤ እና

፫/ የዘላቂነት የበጎ አድራጊነት ድርጅቱን በመተዳደሪያ ደንቡ መሰረት ያስተዳድራል።

፳፪. የሥራ አመራር ቦርዱ ስብሰባዎች

፩/ የሥራ አመራር ቦርዱ በዘላቂነት በጎ አድራጊነት ድርጅቱ መተዳደሪያ ደንብ በተመሰከተው መሠረት ይሰበሰባል።

፪/ የዘላቂነት በጎ አድራጊነት ድርጅቱ የሥራ አመራር ቦርድ ውሣኔዎችን የሚያሳልፈው በድምጽ ብልጫ ይሆናል።

፳፫. ሰቦርዱ አባላት የሚፈጸሙ ክፍያዎች

፩/ በዘላቂነት በጎ አድራጊነት ድርጅቱ መተዳደሪያ ደንብ ወይም በማንኛውም ሕግ ካልተወሰነ በስተቀር አንድ የቦርድ አባል ምንም ክፍያ አያገኝም።

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

፳፬. የሥራ አስኪያጁ ሥልጣንና ተግባራት

የዘላቂነት በጎ አድራጊነት ድርጅት ሥራ አስኪያጅ፤

፩/ የዘላቂነት በጎ አድራጊነት ድርጅቱን ሥራ ይመራል፤ ድርጅቱን በመተዳደሪያ ደንቡ መሠረት ያስተዳድራል፤

20. Composition of the Board of Management

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

2/ Where a member of the Board is, for any reason, unable to perform his duties, a new member shall be appointed according to the rules of the Endowment.

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

21. Powers and Functions of the Board of Management

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

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

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

3/ administer the Endowment as per its rules.

22. Meetings of the Board of Management

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

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

23. Remuneration of Board Members

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

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

24. Powers and Functions of the Manager

The manager of the Endowment shall:

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

፪/ ከሦስተኛ ወገኖች ጋር በሚደረጉ ግንኙነቶች ድርጅቱን ይወካል፤

፫/ የሥራ አመራር ቦርዱ ውሳኔዎችን ሥራ ላይመዋላቸውን ይከታተላል፤ ይቆጣጠራል፤

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

፭/ የድርጅቱን ገቢ የሚያሳድጉ ሁኔታዎችን ያጠናል፤ በሥራ አመራር ቦርዱ ሊጸድቁ ተግባራዊ ያደርጋል፤

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

፯/ ሌሎች በሰራ አመራር ቦርዱ የሚሰጡትን ተያያዥ ተግባራት ያከናውናል፡፡

፳፭. የአዲተር ሥልጣንና ተግባራት

አዲተር፡

፩/ የዘለቂታ በጎ አድራጎት ድርጅቱን የገንዘብና የንብረት አስተዳደር ይቆጣጠራል፤

፪/ የድርጅቱን የውስጥ አዲት ሪፖርት በኢትዮጵያ ተቀባይነትን ባገኘ መመዘኛ መሰረት አዘጋጅቶ ለቦርዱ ያቀርባል፡፡

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

፳፮. ተጠቃሚዎችን ስለመወሰን

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

ንዑስ ክፍል ሦስት

የበጎ አድራጎት ተቋማት

፳፯. የበጎ አድራጎት ተቋም

፩/ የበጎ አድራጎት ተቋም ቁጥራቸው ቢያንስ ሶስት በሚደርሱ ሰዎች ለበጎ አድራጎት ተግባራት ብቻ የሚቋቋም የበጎ አድራጎት ድርጅት ነው፡፡

፪/ የዘለቂታ በጎ አድራጎት ድርጅትን አደረጃጀት የሚመለከቱ የዚህ አዋጅ ድንጋጌዎች ከአስፈላጊ ማስተካከያ ጋር ለበጎ አድራጎት ተቋም አደረጃጀትም ተፈጻሚ ይሆናሉ፡፡

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

3/ follow up and supervise the implementation of the decisions of the Board of Management;

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

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

6/ sign on the bank account opened in the name of the Endowment in accordance with its rules; and

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

25. Powers and Functions of the Auditor

The Auditor shall:

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

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

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

26. Determining the Beneficiaries

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

Sub-Section Three Charitable Institutions

27. Charitable Institution

1/ A Charitable Institution is a Charity formed by at least three persons exclusively for charitable purposes.

2/ The Provisions of this Proclamation relating to the structure of Charitable Endowment shall apply, with the necessary adjustments, to Charitable Institutions.

፫/ በዚህ አንቀጽ ንዑስ አንቀጽ (ጀ) የተደነገገው በፍርም የተቋሙ መተዳደሪያ ደንብ የበጎ አድራግነት ተቋሙ አደረጃጀት በዚህ አዋጅ ክፍል አራት ስለማህበር አደረጃጀት በተመለከቱት ድንጋጌዎች መሰረት እንዲመራ ሊደነግግ ይችላል።

፳፭. የአባላት ሃላፊነቶች እና ግዴታዎች

ለ/ እያንዳንዱ የበጎ አድራግነት ተቋም አባል ወይም አዲስ አባል ድርጅቱ እርሱ አባል በነበረበት ጊዜ ወይም አባልነቱ ካበቃ በኋላ በአንድ ዓመት ጊዜ ውስጥ ሲፈርስ አባልነቱ ከማብቃቱ በፊት ለነበሩት የድርጅቱ ዕዳዎች እና ሃላፊነቶች እንዲሁም ድርጅቱን ለማፍረስ የሚያስፈልጉ የአገልግሎት ዋጋዎችንና ወጪዎችን ለመሸፈን ከተወሰነ ጣሪያ በላይ ያልሆነ ዋስትና መግባት ይኖርበታል።

፪/ አጅንሲው የበጎ አድራግነት ተቋማት ለምዝገባ በሚቀርቡበት ወቅት ዋስትና ሊሰጡ የሚገባቸውን አነስተኛ የጥንብ መጠን በመመሪያ መወሰን ይችላል።

፳፬. ለምዝገባ ስለማመልከት

የበጎ አድራግነት ተቋም የማቋቋም ዓላማ ያላቸው ሰዎች በዚህ አዋጅ አንቀጽ ፳፭ በተደነገገው መሰረት ለመምዝገብ ለአጅንሲው ማመልከት አለባቸው።

ንዑስ ክፍል አራት
የአደራ በጎ አድራግነት ድርጅቶች

፴. ትርጓሜ

“የአደራ በጎ አድራግነት ድርጅት” ማለት የአደራ በጎ አድራግነት ድርጅቱን በሚያቋቁመው ሰነድ መሰረት አንድ የተለየ ንብረት ለበጎ አድራግነት ዓላማ ብቻ እንዲውል በአደራ ጠባቂዎች የሚተዳደር ድርጅት ነው።

፴፩. አመሰራረት

ለ/ የአደራ በጎ አድራግነት ድርጅት በስጦታ ወይም በንብዛ ወይም በአጅንሲው ትዕዛዝ ሊቋቋም ይችላል።

፪/ በዚህ አንቀጽ ንዑስ አንቀጽ (ጸ) የተጠቀሰው ስጦታ ወይም ንብዛ አማባብ ባላቸው የፍትሐዊነት ሕግ ድንጋጌዎች መሰረት ይመራል።

3/ Notwithstanding sub-article (2) of this Article, the rules of the Institution may; however, provide that the Charitable Institution be structured in the form of a Society as provided for in section four of this Proclamation.

28. Duties and Responsibilities of Members

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

2/ The Agency may by directives determine the minimum amount of guarantee required for the registration of Charitable Institutions.

29. Application for Registration

Persons with the intention of forming a Charitable Institution shall apply to the Agency in accordance with Article 68 of this Proclamation.

Sub-Section Four
Charitable Trusts

30. Definition

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

31. Formation

1/ A Charitable Trust may be constituted by a donation or by a will or by order of the Agency.

2/ A donation or will under Sub-article (1) of this Article shall be subject to civil law provisions.

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

ህፃ. የአደራ በጉ አድራጎች ድርጅት ቀጣይነት

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

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

፫/ የአደራ የበጎ አድራጎች ድርጅቱ ገቢ ከሚያስገኙ ሥራዎች፣ ከሕዝባዊ መዋጮ ወይም ከማናቸውም ምንጭ ያገኛቸውን ሃብት በተለየ የሃሳብ መዝገብ መያዝ አለበት፡፡

ህፃ. በአደራ ጠባቂዎች የሚቀርብ የምዝገባ ማመልከቻ

፩/ የአደራ በጉ አድራጎች ድርጅት መስራች የሆነው ሰው አደራ ጠባቂዎችን መሾም አለበት፡፡ እነዚህ አደራ ጠባቂዎች በዚህ አዋጅ አንቀጽ ፳፱ በተደነገገው መሠረት የፈቃድና ምዝገባ የምስክር ወረቀት ለማግኘት ለኢጀንሲው የምዝገባ ጥያቄ ማቅረብ ይኖርባቸዋል፡፡

፪/ አደራ ጠባቂዎች የአደራ በጉ አድራጎች ድርጅት በተቋቋመ በሶስት ወር ጊዜ ውስጥ የምዝገባ ጥያቄ ማቅረብ ይኖርባቸዋል፡፡

፫/ አደራ ጠባቂዎች የምዝገባ የምስክር ወረቀት ከማግኘታቸው በፊት በስጦታው ወይም ኑዛዜው ላይ የተመለከተውን ሀብት ባለይዘታነት ወይም ባለቤትነት ወደ አደራ በጉ አድራጎች ድርጅቱ ለማስተላለፍ ከሚያስፈልጉ ድርጊቶች በስተቀር ሦስተኛ ወገኖችን የሚያካትት ማናቸውንም ድርጊት መፈፀም አይችሉም፡፡

ህፃ. የአደራ ጠባቂዎች ብዛት

፩/ የአደራ ጠባቂዎች ብዛት በማናቸውም ምክንያት ከ፪ ያነሰ እና ከ፭ የበለጠ ሊሆን አይችልም፡፡ ከ፫ ያነሱ ሰዎች ተጠቅለው ከሆነ ይህን መመዘኛ ለማሟላት ኢጀንሲው ቀሪዎች የሚሾሙበትን መንገድ ያመቻቻል፡፡

፪/ ከ፭ በላይ አደራ ጠባቂዎች ተጠቅለው ከሆነ መሥራት የሚችሉና ፈቃደኝነት ያላቸው በቅድሚያ የተጠቀሱት ርሳዎች ብቻ አደራ ጠባቂ ይሆናሉ፡፡ ቀሪዎች ሰዎች ከፍት ቦታዎች ተፈጥረው ካልተሾሙ በስተቀር አደራ ጠባቂ ሊሆኑ አይችሉም፡፡

3/ An implied provision in the donation or will shall suffice for the constitution of the Charitable Trust.

32. Perpetuity of a Charitable Trust

1/ A Charitable Trust may be constituted for a definite period. However, those assets obtained from income generating activities, public collections or any other sources shall not be used for purposes other than those for which the trust is instituted.

2/ Where a Charitable Trust is constituted for an indefinite period, it shall be perpetual and irrevocable.

3/ The charitable trust shall keep separate books of account for assets obtained from income generating activities, public collections or any other sources.

33. Application for Registration by Trustees

1/ Trustees shall be appointed in accordance with Article 35 Sub-article (1) and such trustees shall apply, in the manner provided in Article 68, to the Agency for a certificate of license and registration.

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

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

34. Number of Trustees

1/ The number of trustees shall not in any case be lower than 2 and more than 5. Where less than 3 persons are named, the Agency shall facilitate the appointment of the number of people required to fulfill this requirement.

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

፫/ በዚህ አንቀጽ ንዑስ አንቀጽ (፩) የተደነገገው ቢኖርም አንድ ወይም ከዚያ በላይ የሆኑት አደራ ጠባቂዎች የበጎ አድራጎት ድርጅቶች ከሆኑ የአደራ ጠባቂዎች ብዛት ከሦስት በታች እንዲሆን አጀንሲው ሊፈቅድ ይችላል፡፡

፬/ በዚህ አንቀጽ መሠረት ከሚሾሙት አደራ ጠባቂዎች ቢያንስ አንዱ መደበኛ ቦታው ኢትዮጵያ ውስጥ መሆን አለበት፡፡

፴፭. የአደራ ጠባቂዎች ስሻሻያ

፩/ አደራ ጠባቂውን የሚሾመው የአደራ በጎ አድራጎት ድርጅቱን ያቋቋመው ሰው ወይም እርሱ የወከለው ሰው ነው፡፡ እነዚህ ሰዎች ከሌሎች አጀንሲው አደራ ጠባቂው የሚሾም በትን መንገድ ያመቻቻል፡፡

፪/ የተሾመው አደራ ጠባቂ ውክልናውን አልቀ በልም ካለ ወይም በማናቸውም ምክንያት አደራ ጠባቂነቱን ማከናወን ካልቻለ በመተዳደሪያ ደንቡ መሰረት አዲስ አደራ ጠባቂ ይሾማል፡፡

፴፮. የበጎ አድራጎት ድርጅትን በአደራ ጠባቂነት መሾም

፩/ የአደራ በጎ አድራጎት ድርጅት የሚያቋቁም ሰው የበጎ አድራጎት ድርጅትን በአደራ ጠባቂነት ከሾመ የተሾመው ድርጅት ሰራተኛዎች የአደራ በጎ አድራጎት ድርጅቱን ያስተዳድራሉ፡፡

፪/ በዚህ አንቀጽ ንዑስ አንቀጽ (፩) የተጠቀሰው የበጎ አድራጎት ድርጅት የአደራ በጎ አድራጎት ድርጅቱን በኑዛዜው፣ በስጦታው ወይም በአጀንሲው ትዕዛዝ በተወሰነው መሠረት ከሌሎች ስጦታዎች ወይም ዓላማውን ለማሳካት ከሚጠቀምበት ገቢ ላይቶ በመያዝ ያስተዳድራል፡፡

፴፯. የአደራ በጎ አድራጎት ድርጅት አደራጃጀት

፩/ የአደራ በጎ አድራጎት ድርጅትን የሚያቋቁም ሰው አደራ ጠባቂ ሥራ አስኪያጅ፣ ገንዘብ ያዥ እና ኦዲተር ካልሾመ ወይም እነዚህን የሚሾም ሰው ካልወከለ አደራ ጠባቂዎች ከራሳቸው መካከል እነዚህን ይመርጣሉ፡፡

፪/ አደራ ጠባቂዎች ይህን ምርጫ ያላደረጉ ከሆነ ወይም መወሰን ካልቻሉ አጀንሲው ይሾማል፡፡

፫/ ከሦስት በላይ የሆኑ አደራ ጠባቂዎች ሲኖሩ ያልተሾሙት አደራ ጠባቂዎች በዚህ አንቀጽ ንዑስ አንቀጽ (፩) ወይም (፪) መሠረት የተሾሙት አደራ ጠባቂዎች በተሾሙበት ቦታ ያሉባቸው ሃላፊነቶች ውጭ ሌሎች አደራ ጠባቂዎች ያሏቸው መብቶችና ሃላፊነቶች ይኖሯቸዋል፡፡

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

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

35. Appointment of Trustees

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

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

36. Appointment of a Charity as a Trustee

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

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

37. Structure of a Charitable Trust

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

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

3/ Where there are more than three trustees those who have not been designated under Sub-article (1) or (2) shall have all the rights and obligations of the other trustees except those rights and obligations inhering in the designated responsibilities.

ሀ/ አደራ ጠባቂዎች ስብሰባቸውን የሚመራ ሊቀመንበር ከመካከላቸው ይመርጣሉ።

ሀ። የአደራ በጎ አድራጎት ድርጅት አስተዳደር

- ሀ/ የአደራ በጎ አድራጎት ድርጅት አስተዳደር በተመለከተ ከአደራ ጠባቂዎች ቢያንስ አንዱ በጽሑፍ አስክልተኛነት ድረስ የአደራ ጠባቂ ሥራ አስኪያጁ የሌሎች አደራ ጠባቂዎች ስምምነት ሳያስፈልገው የማስተዳደር ሥራዎችን ይፈጽማል።
- ለ/ ከማስተዳደር ሥራዎች ውጭ ያሉ እና በቢህ አንቀጽ ንዑስ አንቀጽ (፩) መሠረት ተቃውሞ የቀረበባቸው ውሳኔዎች ከአደራ ጠባቂዎች ውስጥ ቢያንስ ሦስቱ በተገኙበት ስብሰባ በድምጽ ብልጫ ይወሰናል።
- ሀ/ የተለያዩ ሃሳቦች ከአደራ ጠባቂዎች ውስጥ እኩል ድጋፍ ያላቸው ሲሆኑ የመጨረሻው ውሳኔ የስብሰባው ሊቀመንበር በሚሰጠው ድምጽ ይወሰናል።
- ለ/ በቢህ አንቀጽ ንዑስ አንቀጽ (ደ) እና (፫) መሰረት በተሰጠው ውሳኔዎች የማይስማሙ አደራ ጠባቂዎች የልዩነት ሃሳቦቻቸው በቃላት ጉባኤው ላይ እንዲመዘገቡ መጠየቅ ይችላሉ።
- ሀ/ አደራ ጠባቂዎች በአደራ በጎ አድራጎት ድርጅቱ ስራ መረገጥቸው ለፈጸሟቸው ከሥልጣን በላይ ለሆኑ ድርጊቶች በግል ሃላፊ ናቸው።

ሀሀ. የአደራ ጠባቂዎች ሥልጣን

- ለ/ አደራ ጠባቂዎች በአደራ በጎ አድራጎት ድርጅቱ ላይ ያላቸው ሥልጣን የአንድ ባለንብረት ሥልጣን ነው።
- ለ/ የአደራ በጎ አድራጎት ድርጅቱ በተቋቋመበት ሀገር ተቀራኒ ድንጋጌ ከሌለ በቀር አደራ ጠባቂዎች አስቀድመው ለኢጄንሲው ሳያስታወቁ የማይንቀሳቀስ ንብረት ባለቤትነት ለሌላ ሰው ሊያስተላልፉ አይችሉም።
- ለ/ አንስተኛ የበጎ አድራጎት ድርጅቶችን የሚመለከቱ ድንጋጌዎች እንዲተጠቡ ሆነው አደራ ጠባቂዎች የአደራ በጎ አድራጎት ድርጅቱን ንብረት ያለ ዋጋ ለሌላ ሊያስተላልፉ አይችሉም።

ሀሐ. የአደራ በጎ አድራጎት ድርጅትን ስለመወከል

- ለ/ አደራ ጠባቂ ሥራ አስኪያጁ የአደራ በጎ አድራጎት ድርጅቱን ይወክላል። አደራ ጠባቂ ሥራ አስኪያጁ በእርሱ ምትክ ድርጅቱን የሚወክለውን አደራ ጠባቂ ይመርጣል፤ እንዲሁም ማኖቸውም የአደራ በጎ አድራጎት ድርጅቱን ጉዳዮች የሚከታተል ጠበቃ መወከል ይችላል።

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

38. Administration of a Charitable Trust

- 1/ The trustee manager shall perform all acts of management without the approval of the other trustees except where at least one of the trustees submits a written protest concerning any administrative act.
- 2/ Decisions beyond acts of management and those decisions protested to under Sub-article (1) shall be taken by majority where at least three of the trustees are present.
- 3/ Where opposing notions are supported by an equal number of trustees, the final determination shall lie with the chairperson of the meeting.
- 4/ Those who are against a decision taken under Sub-article (2) and (3) may require that their dissenting opinion be recorded in the minutes.
- 5/ The trustees shall be individually liable for the *ultra vires* acts they take as officers of the charitable trust.

39. Powers of Trustees

- 1/ The powers of the trustees on the Charitable Trust are those of an owner
- 2/ Without prejudice to any provision to the contrary in the act of constitution of the Charitable Trust, the trustees may not alienate immovable property without prior notification to the Agency.
- 3/ Subject to the provisions on small charities the trustees may not alienate the property of a Charitable Trust by a gratuitous title.

40. Representation of a Charitable Trust

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

ይ/ አደራ ጠባቂዎች ከሥልጣን ወሰናቸው ማያልፉ ለፈጸሟቸው ሕጋዊ ድርጊቶች ተጠያቂ የሚሆነው የአደራ በጉ አድራጎች ድርጅቱ ነው።

ግ፩. ለአደራ ጠባቂዎች የሚፈፀም ክፍያ

፩/ የአደራ በጉ አድራጎች ድርጅቱ በተቋቋመበት ሀገሩ ወይም በማናቸውም ሌላ ሕግ ክፍያን የተመለከቱ ድንጋጌዎች ከሌላ በቀር አደራ ጠባቂ ክፍያ የማግኘት መብት አይኖረውም።

ይ/ የዚህ አንቀጽ ንዑስ አንቀጽ (አ) ቢኖርም ሁሉም አደራ ጠባቂዎች ክፍያ ሊፈጸም እንደሚገባ በአ ሁኔታ ሲሰማሙ እና ኤጀንሲው ሲያበድት በባለሙያነት የሠራ አንድ አደራ ጠባቂ ለአደራ በጉ አድራጎች ድርጅቱ ለሰጠው ወይም የአደራ በጉ አድራጎች ድርጅቱን በመወከል ለፈጸማቸው ድርጊቶች ከበጎ አድራጎች ድርጅቱ ሀብት ተመጣጣኝ ክፍያ ይገኛል።

ሀ/ የዚህ አንቀጽ ንዑስ አንቀጽ (፩) ቢኖርም አንድ አደራ ጠባቂ የአደራ በጉ አድራጎች ድርጅቱን ከማስተዳደር ጋር በተያያዘ በግል ያወጣቸው ወጭ እና ሃላፊነቶች እንዲተኩሉት የመጠየቅ መብት አለው።

ግ፪. የአደራ ጠባቂዎች ኃላፊነት

አደራ ጠባቂዎች በውክልና ድንጋጌዎች መሠረት ለአደራ በጉ አድራጎች ድርጅቱ ተጠቃሚዎችና እንደ ነገሩ ሁኔታ የአደራ በጉ አድራጎች ድርጅቱ ስቀር ንብረቱን መቀበል ለሚገባቸው ሰዎች የአደራ በጉ አድራጎች ድርጅቱን መልካም አስተዳደር በሚመለከት ሃላፊ ይሆናሉ።

ግ፫. የአደራ ጠባቂው ሥራ መልቀቅ

፩/ የአደራ ጠባቂው ሥራ የመልቀቅ ሞብ ካለው ስራውን ከመልቀቁ ከሁለት ወር በፊት ለሌሎች አደራ ጠባቂዎች እና ለኤጀንሲው ሳያስታውቅ ቢቀር ከዚህ የተነሳ በአደራ የበጎ አድራጎች ድርጅቱ ላይ ለሚደርሰው ኪሳራ ኃላፊ ይሆናል።

ይ/ አደራ ጠባቂው ሥልጣኑን ለሌላ አደራ ጠባቂ እስከሚያስተላልፍ ድረስ የአደራ በጉ አድራጎች ድርጅቱን የማስተዳደር ኃላፊነት አለበት።

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

41. Remuneration of Trustees

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

2/ Notwithstanding sub-article (1) of this Article, a trustee who acts in a professional capacity shall be entitled to receive reasonable remuneration out of the trust funds for any services that he provides to or on behalf of the trust if all the trustees have agreed in writing and approved by the Agency that he may be remunerated for the services.

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

42. Liability of Trustees

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

43. Resignation of a Trustee

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

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

፪/ አንድ አደራ ጠባቂ የሥራ መልቀቂያ ጥያቄ ያቀረበ አንደኛው በዚህ አንቀጽ ንዑስ አንቀጽ (፩) የተደነገገው የማስጠንቀቂያ ጊዜ ከማለፉ ስ ወር አስቀድሞ የአደራ በጎ አድራጎት ድርጅቱን ባቋቋመው ሰው ወይም ይህን ለመፈጸም ሥልጣን በተሰጠው ሰው፤ እነዚህ ባይኖሩ በኢ.ጀ.ንሲ.ው አዲስ አደራ ጠባቂ ይሾማል፡፡

፬. የአደራ በጎ አድራጎት ድርጅቱን ማስያዝ

፩/ የተጠቃሚዎች አበዳሪ የሆኑ ሰዎች የአደራ በጎ አድራጎት ድርጅቱን ወይም ማኅተሙንም ተጠቃሚው ሊያገኝ የሚገባውን አበል በማኅተሙም ሁኔታ ማስያዝ አይችልም፡፡

፪/ ለተወሰነ ጊዜ የተቋቋመ የአደራ በጎ አድራጎት ድርጅት ሲፈርስ ንብረቱን ለመውሰድ መብት ያላቸው ሰዎች አበዳሪዎች የአደራ በጎ አድራጎት ድርጅቱን ማስያዝ ወይም የአደራ በጎ አድራጎት ድርጅቱ በሚቀርበት ጊዜ ባለዕዳውን መተካት ይችላሉ፡፡

፫/ የዚህ አንቀጽ ንዑስ አንቀጽ (፪) ቢኖርም በዚህ አዋጅ አንቀጽ ፴፪ ንዑስ አንቀጽ (፩) መሰረት ከገቢ ማስገኛ ሥራዎች፣ ከሕዝባዊ መዋጮ ወይም ከማኅተሙም ምንጭ በተገኙ ንብረቶች ላይ አበዳሪዎች መብት አይኖራቸውም፡፡

፴፭. የተጠቃሚዎች መብቶች

፩/ ተጠቃሚዎች በአደራ በጎ አድራጎት ድርጅቱ ማቋቋሚያ ሰነድ መሠረት የሚገባቸው ጥቅም እንዲሰጣቸው የአደራ በጎ አድራጎት ድርጅቱን ሊጠይቁ ይችላሉ፡፡

፪/ በዚህ አንቀጽ ንዑስ አንቀጽ (፩) የተመለከተው አንደተጠበቀ ሆኖ ተጠቃሚዎቹ መብቶቻቸውን የሚጎዳ ሁኔታ ሲፈጠር አደራ ጠባቂው እንዲሻር ወይም ተገቢ የሆነ ሞስትና እንዲሰጥ ኢ.ጀ.ንሲ.ውን መጠየቅ ይችላሉ፡፡

፫/ ተጠቃሚዎቹ የአደራ በጎ አድራጎት ድርጅቱ አካል በሆኑ ንብረቶች ላይ የማዘዝ ወይም የማስተዳደር እንዳች መብት የላቸውም፡፡

፬/ በዚህ አንቀጽ ንዑስ አንቀጽ (፫) የተደነገገው ቢኖርም እነዚህን ንብረቶች በሚመለከት የደርጋ በመን እንዲቋረጥ ማድረግን በመሳሰለው ሥራ መብቶቻቸውን የመጠበቅ ሥራዎችን ብቻ መፈጸም ይችላሉ፡፡

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

44. Attaching Charitable Trusts

1/ The creditors of beneficiaries may in no case attach a Charitable Trust or any allowance to which a beneficiary is entitled

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

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

45. Rights of Beneficiaries

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

2/ Without prejudice to the provisions of Sub-article (1) of this Article where the rights of beneficiaries are jeopardized, they may apply to the Agency for the dismissal of the trustee or to compel him to give appropriate guarantees.

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

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

፭/ ተጠቃሚዎች ሦስተኛ ወገኖች እንዲያውቁት አንድን ንብረት የአደራ በጎ አድራጎት ድርጅቱ ንብረት አካል መሆኑን በማስታወቂያ መግለጽ ይችላሉ።

፮/ መሥራቹ የአደራ በጎ አድራጎት ድርጅቱ ተጠቃሚዎችን በበቂ ሁኔታ ካልወሰነ እደራ ጠባቂዎቹ ከመሥራቹ ሃሳብ ጋር ይስማማል ብለው በሚገምቱት መልኩ ተጠቃሚዎችን ሊወስኑ ይችላሉ።

ንዑስ ክፍል አምስት

የበጎ አድራጎት ማህበራት እና የበጎ አድራጎት ኮሚቴዎች

፵፮. ትርጓሜ

፩/ "የበጎ አድራጎት ማህበር" ማለት ለበጎ አድራጎት ዓላማ የተቋቋመ ማህበር ነው፤

፪/ "የበጎ አድራጎት ኮሚቴ" ማለት ቁጥራቸው ርዕይም ከዚያ በላይ የሆኑ ከሕዝብ ገንዘብ ወይም ሌላ ንብረት ለበጎ አድራጎት ዓላማ ለመሰብሰብ ሃሳብ ያላቸው የተፈጥሮ ሰዎች ስብስብ ነው።

፵፯. የበጎ አድራጎት ማህበር

፩/ አግባብነት ያላቸው የማህበር አደረጃጀትንና አሰራርን የሚመለከቱ የዚህ አዋጅ ድንጋጌዎች ለበጎ አድራጎት ማህበራት ተፈጻሚነት ይኖራቸዋል።

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

፵፱. የበጎ አድራጎት ኮሚቴዎችን ስለማጽደቅ

፩/ የበጎ አድራጎት ኮሚቴዎች በኢጀንሊው ላይፀድቁ ገንዘብ ወይም ንብረት ማሰባሰብ ወይም ማናቸውንም ድርጊት መፈጸም አይችሉም።

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

፫/ ኢጀንሊው የበጎ አድራጎት ኮሚቴዎችን ሲያጽድቅ የዚህን አዋጅ አንቀጽ ፷፱ እና ፸ ድንጋጌዎች በማገናዘብ መወሰን አለበት።

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

6/ Where the beneficiaries are not sufficiently determined by the founder, the trustees may determine such beneficiaries as they deem consistent with the intention of the founder.

Sub-Section Five

Charitable Societies and Charity Committees

46. Definition

1/ A "Charitable Society" shall mean a Society which is established for charitable purposes.

2/ A "Charity Committee" is a collection of five or more natural persons who have come together with the intent of soliciting money or other property from the public for purposes that are charitable.

47. Charitable Society

1/ All appropriate Provisions of this Proclamation concerning the structure and working of Societies shall apply to Charitable Societies.

2/ Without prejudice to the provisions of Sub-article (1) of this Article all appropriate provisions of this proclamation concerning Charities shall apply to Charitable Societies.

48. Approval of Charity Committees

1/ Charities Committees may not collect funds or perform any other activities without acquiring an approval from the Agency.

2/ Sub-article (1) of this Article shall not apply to activities necessary for the formation of a Charity Committee.

3/ The Agency shall consider Articles 69 and 70 of this Proclamation when approving a Charity Committee;

፲. የሂሳብ መግለጫ

- ሸ/ የበጎ አድራጊነት ኮሚቴው ተቀባይነት ባላቸው መመዘኛዎች መሰረት ዓመታዊ የሂሳብ መግለጫውን ለኢጀንሊው ማቅረብ አለበት፡፡
- ሸ/ የበጎ አድራጊነት ኮሚቴው የተቋቋመው ከአንድ ዓመት ላነሰ ጊዜ ከሆነ ይህ ጊዜ እንዳለቀ የሂሳብ መግለጫ ማቅረብ አለበት፡፡

የበጎ አድራጊነት ኮሚቴ አደራሻጀት

- ሸ/ የበጎ አድራጊነት ኮሚቴን የማፅደቅ ውሳኔ መስራች አባላት እና የበጎ አድራጊነት ኮሚቴውን ማረጋገጫ ገንዘብ ያሻርና አዲተር ዝርዝር ሁኔታ ማሳየት ይኖርበታል፡፡
- ሸ/ ውሳኔው የበጎ አድራጊነት ኮሚቴውን ዓላማዎች እና ዓላማዎቹን የሚያሳካበትን ጊዜ መግለጽ ይኖርበታል፡፡
- ሸ/ አስፈላጊ ሆኖ ሲገኝ ውሳኔው የበጎ አድራጊነት ኮሚቴው ሥራዎች እንዴት መከናወን እንዳለባቸው መወሰን እና በኮሚቴው የሚሰበሰበውን ገንዘብ እና ንብረት መጠንና አጠቃቀሙን ለመቆጣጠር አስፈላጊ የሆኑ እርምጃዎችን ማስቀመጥ ይኖርበታል፡፡ ዝርዝሩ በመመሪያ ይወሰናል፡፡

፩. የአባላት ሃላፊነት

- ሸ/ ከበጎ አድራጊነት ኮሚቴው አንቅስቃሴ ለሚመነጩ ግዴታዎችና ዕዳዎች አባላት ወይም የበጎ መሪዎች በአንድነትና በነጠላ ሃላፊ ይሆናሉ፡፡
- ሸ/ በዚህ አንቀጽ ንዑስ አንቀጽ (ሸ) የተደነገገውን በተመለከተ ማናቸውም ስጋሽ፣ አባል፣ ተጠቃሚ፣ ኢጀንሊው ወይም የዘርፍ አስተዳዳሪ ክስ የማቅረብ መብት አለው፡፡

፪. በቂ ያልሆነ ገንዘብና ንብረት

- ሸ/ በበጎ አድራጊነት ኮሚቴው የተሰበሰበው ገንዘብና ንብረት በኮሚቴው የተሰበሰበውን ዓላማ ለማግኘት በቂ ካልሆነ ወይም ዓላማውን ማሳካት የማይቻል ከሆነ ይህ ገንዘብ ወይም ንብረት የኮሚቴው መቋቋም በሀደቀበት ውሳኔ መመሪያ በሥራ ላይ ይውላል፡፡

49. Statement of Accounts

- 1/ A Charity Committee shall submit its annual statement of accounts that conform to acceptable standards to the Agency.
- 2/ A Charity Committee should submit its statement of accounts at its dissolution where the length of time for which the Charity Committee is formed is not longer than one year.

50. Structure of a Charity Committee

- 1/ The decision granting the approval of the Charity Committee shall specify the particulars of persons who constitute the Charity Committee and those who shall act as president, treasurer and auditor of the Charity Committee.
- 2/ The decision shall specify the purposes of the Charity Committee and the time within which it has to achieve them.
- 3/ The decision shall determine, where appropriate, the manner in which the activities of the Charity Committee may be carried out and prescribe such measures as are necessary to control the amount and the use of the funds collected by the Charity Committee. Particulars shall be determined by directives.

51. Liability of Members

- 1/ The members or officers of a Charity Committee shall be jointly and severally liable for obligations and debts arising out of its activities.
- 2/ Any donor, member, beneficiary, the Agency or the Sector Administrator shall have standing for the purpose of sub-article 1

52. Insufficient Fund and Property

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

፪/ ማህበራት ሥራዎቻቸውን የሚያስተባብር የማህበራት ሕብረት ማቋቋም ይችላሉ። ዝርዝሩ ኤጀንሲው በሚያወጣው መመሪያ መሠረት ይወሰናል።

፫. የማህበራት ሕጋዊ ሰውነት

፩/ ማህበራት በኤጀንሲው እንደተመዘገቡ ሕጋዊ ሰውነት ያገኛሉ።

፪/ የማህበር አባልነት ለሰውነት ወገኖች ተላልፎ አይሰጥም ወይም አይተላለፍም።

፬. የማህበራት መብቶችና ግዴታዎች

፩/ ማንኛውም ማህበር የማህበሩን መስፈርት ለሚያሟላ አዲስ አባል ክፍት መሆን አለበት።

፪/ ማንኛውም ማህበር የሚመራው በአባላት መሰሉ ተሳትፎ በተመረጡ ሰዎች ነው።

፫/ ማንኛውም የማህበር አባል አንድና እኩል ድምጽ አለው።

፬/ ማንኛውም ማህበር በመተዳደሪያ ደንቡ መሰረት ካልሆነ በቀር አባላትን ሊቀበልና ሊያሰናብት አይችልም።

፭/ አባልነቱ እንዲቋረጥ የሚደረግ ማንኛውም የማህበር አባል የመጨረሻ ውሳኔ ከመስጠቱ በፊት በሥራ አስፈጻሚው የመሰማት መብት አለው።

፮/ ማህበሩ የፌዴራል ባህሪ እና ስያሜ ያለው ከሆነ የሥራው ቦታ ወይም የአባላት ጥንቅር ቢያንስ የአምስት ክልሎች ውክልና ያለው መሆን አለበት።

፯/ ኢትዮጵያውያን ብዙሃን ማህበራት በዴሞክራሲያዊ ሥርዓት ግንባታና በምርጫ ሂደት በተለይም ትምህርታዊ ሲሚናሮችን በወቅታዊ ጉዳዮች ላይ በማዘጋጀት፣ የተወዳዳሪዎችን ፕሮግራም በመረዳት፣ የምርጫ ሂደቶችን በመታዘብና ከምርጫ አስፈጻሚ አካላት ጋር በመተባበር ረገድ በንቃት መሳተፍ ይችላሉ።

፰/ የማንኛውም ማህበር መተዳደሪያ ደንብ በአባላቱ አብላጫ ድምጽ የሚሻሻል መሆን አለበት።

፱/ ማንኛውም ማህበር አባላቱ በጠየቁ ጊዜ ስለማህበሩ እንቅስቃሴ የሚገልፁ ሰነዶችን የማሳየት ግዴታ አለበት።

2/ Societies may form a consortium Society to coordinate their activities. Particulars shall be determined by the directives of the Agency.

56. Legal Personality of Societies

1/ Societies shall acquire legal personality upon registration by the Agency.

2/ Membership in a Society shall not be transferred or passed to third parties.

57. Rights and Obligations of Societies

1/ Any Society shall be open to a new member that fulfills the requirements of the Society.

2/ Any Society shall be managed by persons elected through the full participation of members.

3/ Every member of any Society shall have equal and one vote.

4/ No Society may admit or dismiss members except as provided by its rules.

5/ The member of any Society whose membership is terminated shall have the right to be heard by the executive organ before a final decision is made.

6/ Where the Society has Federal character and nomenclature, its work place and composition of the members shall show the representation of at least five Regional States.

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

8/ The rules of any Society shall be subject to amendment by the vote of a majority of members.

9/ Any Society shall, upon its member's request, disclose documents that show its activities.

፩። የማህበራት አደረጃጀት

- አ/ የማንኛውም ማህበር አደረጃጀት በማህበሩ መተዳደሪያ ደንብ ይወሰናል።
- ለ/ የዚህ አንቀጽ ንዑስ አንቀጽ (አ) ቢኖርም ማንኛውም ማህበር ጠቅላላ ጉባኤ፣ አስፈላጊ የሥራ መሪዎች እና የውስጥ አዲተር የያዘ መሆኑን አለበት።
- ለ/ የውስጥ አዲተር በማህበሩ የስራ መሪነት ቦታ ሊይዝ አይችልም።

፪። የጠቅላላ ጉባኤ ሥልጣንና ተግባራት

ጠቅላላ ጉባኤው የማህበሩ የበላይና የመጨረሻ ውሳኔ ሰጪ ሆኖ፡-

- አ/ የማህበሩን መተዳደሪያ ደንብ ያወጣል፣ ያሻሽላል፤
- ለ/ የማህበሩን የስራ አስፈጻሚ ኮሚቴ አባላት ይመርጣል፣ ያሻሽላል፣ ያሰናብታል፤
- ለ/ በመተዳደሪያ ደንቡ መሰረት የማህበሩን አዲተር ይመርጣል፣ ያሻሽላል፣ ያሰናብታል፤ ክፍያውን ይወስናል፤
- ለ/ በማህበሩ የፖሊሲና ስትራቴጂ ጉዳዮች ላይ ይወስናል፤
- ለ/ በማህበሩ ሌሎች አካላት ሥልጣንና ተግባራት ስር በማይወድቁ ማህበሩን በሚመለከቱ ጉዳዮች ላይ ይወስናል፤
- ለ/ የማህበሩን መፍረስ ይወስናል፤
- ለ/ በማህበሩ መተዳደሪያ ደንብ የተሰጡትን ሌሎች ሥራዎች ያከናውናል።

፫። ከጠቅላላ ጉባኤው ውሳኔዎች መለየት

- አ/ የተለየ ሃሳብ ያለው የማህበር አባል የልዩነት ሃሳቡን በታሰብ-ጉባኤው ላይ ለይቶ ማስፈር ይችላል።
- ለ/ ማንኛውም የማህበር አባል ከጠቅላላ ጉባኤው የተላለፈው ውሳኔ የማህበሩን መተዳደሪያ ደንብ እና ሌሎች አግባብነት ያላቸውን ሕጎች ይጥላል ብሎ ሲያምን ለአጀንዳው ሊያመለክት ይችላል።

58. Structure of Societies

- 1/ The organizational structure of any Society shall be determined by its rules.
- 2/ Notwithstanding Sub-article (1) of this Article, no Society shall be organized without having a General Assembly, the necessary Officers and an Internal Auditor.
- 3/ An Internal Auditor shall not assume the position of an Officer.

59. Powers and Functions of the General Assembly

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

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

60. Dissents from the Resolutions of the General Assembly

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

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

፳፫. አባላትን የሚመለከቱ መረጃዎች

- ፩/ የማህበሩ የሥራ መሪዎች የአባላቱን ዝርዝር ጉዳዮች ይመዘግባሉ፤ ይጠብቃሉ፤ ሲጠየቁ ለኤጀንሲው ያቀርባሉ፡፡
- ፪/ ከማህበራት የሚፈለጉ መረጃዎች ዝርዝር ኤጀንሲው በሚያወጣው መመሪያ ይወሰናል፡፡

ከፍል አምስት
የበጎ አድራጎት ድርጅቶችና ማህበራት
አመሰራረት፤

ፈቃድ አሰጣጥና ምዝገባ
ንዑስ ክፍል አንድ

የበጎ አድራጎት ድርጅቶችና ማህበራት አመሰራረት**፳፬. አመሰራረት**

- ፩/ የበጎ አድራጎት ድርጅቶች ወይም ማህበራት በዚህ አዋጅና አዋጁን ለማስፈጸም በሚወጡ ደንቦች የተቀመጡ መስፈርቶችን አሟልተው ሲገኙ እንደተመሰረቱ ይቆጠራል፡፡
- ፪/ ማንኛውም የበጎ አድራጎት ድርጅት ወይም ማህበር በተመሠረተ በሰባት ወር ጊዜ ውስጥ ለምዝገባ ማመልከት አለበት፡፡
- ፫/ በዚህ አንቀጽ ንዑስ አንቀጽ (፪) የተደነገገው ቢኖርም የበጎ አድራጎት ድርጅቱ ወይም ማህበሩ በቂ ክንያት መኖሩን ካሳየ የጊዜ ገደብ ቢያልፍም ለምዝገባ እንዲያመለክት ኤጀንሲው ሊፈቅድ ይችላል፡፡

፳፭. የመመስረት ውጤት

- ፩/ የበጎ አድራጎት ድርጅቶች እና ማህበራት በመመስረታቸው ብቻ ሕጋዊ ሰውነት አይኖራቸውም፡፡
- ፪/ የተመሰረተው የበጎ አድራጎት ድርጅት ወይም ማህበር ሲመዘገብና ሕጋዊ ሰውነት ሲያገኝ መብቶቹና ግዴታዎቹ ወደ ተመዘገበው የበጎ አድራጎት ድርጅት ወይም ማህበር ይተላለፋሉ፡፡
- ፫/ የበጎ አድራጎት ድርጅቱ ወይም ማህበሩ ከመመዝገቡ በፊት የሚያስባስበው ገንዘብ ወይም ንብረት ከብር ሺሊ (ሃምሳ ሺህ ብር) በላይ ሊሆን አይችልም፡፡
- ፬/ በሕግ በተወሰነው የጊዜ ገደብ ያልተመዘገበ የተመሠረተ የበጎ አድራጎት ድርጅት ወይም ማህበር እንዲቋረጥ ምክንያት ይሆናል፡፡

63. Information about Members

- 1/ The Officers of the Society shall record and keep the particulars of its members and furnish the same to the Agency upon request.
- 2/ The particular information required from Societies shall be determined by the directives of the Agency.

SECTION FIVE
FORMATION, LICENSING AND
REGISTRATION OF CHARITIES AND
SOCIETIES
Sub-Section One
Formation of Charities And Societies

64. Formation

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

65. Effects of Formation

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

፩. የዘርፍ አስተዳዳሪዎች

- ሀ/ አግባብነት ያላቸው የፌዴራል አስፈጻሚ መስሪያ ቤቶች የበጎ አድራጎት ድርጅቶችና ማህበራት የዘርፍ አስተዳዳሪ ሆነው በሚኒስትሩ ይሰየማሉ፡፡
- ለ/ ለዚህ አዋጅ አፈጻጸም የበጎ አድራጎት ድርጅቱ ወይም ማህበሩ በአንድ የተወሰነ የዘርፍ አስተዳዳሪ የማይሸፈን ወይም ከአንድ በላይ የዘርፍ አስተዳዳሪ የሚመለከት ከሆነ ለጅንሰው የዘርፍ አስተዳዳሪ ይሆናል፡፡
- ሐ/ ማናቸውም የዘርፍ አስተዳዳሪ በዚህ አዋጅ የተሰጡትን ሥልጣንና ተግባር ተጠሪ ለሆኑት የፌዴራል መንግስት አካላት በውክልና ሲሰጥ ይችላል፡፡

፪. የዘርፍ አስተዳዳሪዎች ሥልጣንና ተግባራት

የዘርፍ አስተዳዳሪዎች የሚከተሉት ሥልጣንና ተግባር ይኖራቸዋል፡

- ሀ/ በበጎ አድራጎት ድርጅቶችና ማህበራት ምዝገባ ሂደት ለአጅንሰው አስፈላጊውን ድጋፍ ይሰጣል፡፡
- ለ/ የበጎ አድራጎት ድርጅቶችና ማህበራትን ፕሮግራሞችና ፕሮጀክቶች የሚገመግሙና አስተያየት የሚሰጡ ባለሙያዎችን ይመድባል፡፡
- ሐ/ በማቋቋሚያ ሕጉ በተሰጠው ሥልጣንና ተግባር እና ከበጎ አድራጎት ድርጅቶችና ማህበራት ጋር በሚገቡት ስምምነት መሰረት የበጎ አድራጎት ድርጅቶችና ማህበራትን የሥራ እንቅስቃሴ ይከታተላል፤ ይቆጣጠራል፤ አስፈላጊውን እርምጃ ይወስዳል፡፡
- ወ/ የዘርፍ አስተዳዳሪው በዚህ አንቀጽ ንዑስ አንቀጽ (ሮ) መሰረት የወሰደውን እርምጃ በሰዓት የሥራ ቀናት ውስጥ ለአጅንሰው ያሳውቃል፡፡
- ረ/ ከበጎ አድራጎት ድርጅቶች እና ማህበራት ሥራዎች ህብረተሰቡ የላቀ ተጠቃሚ መሆኑን ለማረጋገጥ አጅንሰው ሊከተላቸው የሚገቡ መሰረቶችን ያወጣል፡፡
- ረ/ የበጎ አድራጎት ድርጅቶችና የዘርፍ አስተዳዳሪውን የጋራ ግቦች ለማግኘት የበጎ አድራጎት ድርጅቶች ተቀናጅተው የሚሰሩበትን ዑኔታ ያመቻቻል፡፡

66. Sector Administrators

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

67. Powers and Functions of Sector Administrators

Sector Administrators shall have the following powers and functions:

- 1/ provides necessary support to the Agency in the process of registration of Charities and Societies;
- 2/ assigns professionals who evaluate and recommend on the Charities' and Societies' programs and projects;
- 3/ supervises and controls operational activities of Charities and Societies and take necessary measures according to laws establishing it and its agreements with the Charities and Societies;
- 4/ A Sector Administrator taking measure by virtue of this Article shall notify the Agency of such measures within seven working days.
- 5/ Develop criteria that have to be followed by the Agency which shall assure the maximum benefits of the public from the activities of Charities and Societies.
- 6/ may make arrangements with Charities for coordinated efforts towards the achievement of the common goals of the Charities and the said Sector Administrator.

ንዑስ ክፍል ሁለት

የበጎ አድራጎች ድርጅቶችና ማህበራት ምዝገባ

፳፮. ምዝገባ

፩/ በዚህ አዋጅ አንቀጽ ፳፱ የተደነገገው እንደ ተጠበቀ ሆኖ ኢጅንሲው ማመልከቻ ሲቀርብ ለት በቃ ቀናት ውስጥ በዚህ አዋጅ የተደነገጉት አስፈላጊ ሁኔታዎች መሟላታቸውን ካረጋገጠ በኋላ አመልካቾችን በበጎ አድራጎች ድርጅትነት ወይም በማህበርነት በመመዝገብ የሕጋዊ ሰውነት ማረጋገጫ ምስክር ወረቀት ይሰጣል፡፡

፪/ በዚህ አንቀጽ ንዑስ አንቀጽ (ጃ) ኢጅንሲው የሕጋዊ ሰውነት ማረጋገጫ የምስክር ወረቀት ካልሰጠ ወይም የማይሰጥ መሆኑን ካላሳወቀ አመልካቹ በንዑስ አንቀጽ ከተቀመጠው የመጨረሻ ቀን በ፲፭ ቀናት ውስጥ ለቦርዱ ይግባኝ ማቅረብ ይችላል፡፡

፫/ በዚህ አንቀጽ መሠረት የሚቀርብ የምዝገባ ማመልከቻ ኢጅንሲው በሚያዘጋጀው ፎርም መሰረት የበጎ አድራጎች ድርጅቱን የማህበሩን ግብ፣ አላማና ሥራ የሚመለከቱ መግለጫዎችን የያዘ ሆኖ ከሚከተሉት ጋር ተያይዞ መቅረብ ይኖርበታል፤

ሀ/ የበጎ አድራጎች ድርጅቱ ወይም የማህበሩ መተዳደሪያ ደንብ እና እንደአስፈላጊነቱ የዘለቁታ በጎ አድራጎች ድርጅቱን ወይም የአደራ በጎ አድራጎች ድርጅቱን ያቋቋመው ሠነድ ቅጂ፤

ለ/ እንዳስፈላጊነቱ ኢጅንሲው የሚጠይቃቸው ሌሎች ሠነዶች፡፡

ሀ/ በዚህ አንቀጽ ንዑስ አንቀጽ (ጃ) ከተደነገጉት አስፈላጊ ሁኔታዎች በተጨማሪ ውጪ አገር የተመሰረተ የበጎ አድራጎች ድርጅት የሚከተሉትን ማቅረብ ይኖርበታል፤

ሀ/ የበጎ አድራጎች ድርጅቱ መቋቋሙን የሚያሳይ ከተቋቋመበት አገር የተሰጠውን የተረጋገጠ ሰነድ፤

ለ/ ሥልጣን ያለው የድርጅቱ አካል ድርጅቱ በኢትዮጵያ ውስጥ እንዲሠራ ያሳስፈው የተረጋገጠ ውግኔ፤

ሐ/ ኢትዮጵያ ከሚገኝ የበጎ አድራጎች ድርጅቱ ከተቋቋመበት አገር ኢምባሲ ወይም ኢምባሲ ከሌለ ከተቋቋመበት አገር ስልጣን ባለው አካል የተሰጠ የድጋፍ ደብዳቤ፤

Sub-Section Two

Registration of Charities and Societies

68. Registration

1/ Subject to Article 69, the Agency shall, upon application and after ensuring the fulfillment of the requirements stipulated under this Proclamation, register the applicants as a Charity or a Society and issue a certificate of legal personality within 30 days from the date of application.

2/ Where the Agency does not issue a certificate of legal personality or does not make known that it will not do the same the applicant may apply to the Board not later than 15 days from the last date of the time limit prescribed in the sub-article.

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

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

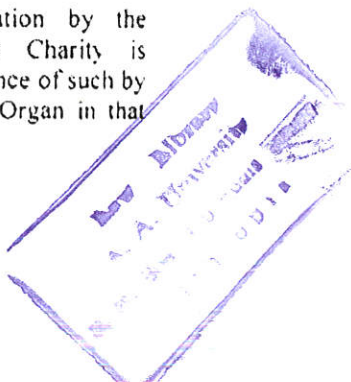
b) such similar documents and duly completed forms as the Agency may require.

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

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

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

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



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

ሠ/ የአገር ውስጥ ተወካዩ የተሰጠው የተረጋገጠ የውክልና ሥልጣን፡፡

ሯ/ በዚህ አንቀጽ መሠረት የምዝገባ ማመልከቻ ሲቀርብ ተገቢው የምዝገባ ክፍያ መፈጸም አለበት፡፡

፱. የምዝገባ ጥያቄን ሰላሰመቀበል

ኢጅንሊው ከሚከተሉት አንዱ ምክንያት መኖሩን ካረጋገጠ የበጎ አድራጎት ድርጅቱን ወይም ማህበሩን አይመዘግብም፤

ሸ/ ሊቋቋም የታሰበው የበጎ አድራጎት ድርጅት ወይም ማህበር መተዳደሪያ ደንብ በዚህ አዋጅ የተደነገጉትን መስፈርቶች የማያሟላ ሆኖ ሲገኝ፤

ሹ/ ሊቋቋም የታሰበው የበጎ አድራጎት ድርጅት ወይም ማህበር ሕገ-ወጥ ለሆነ ዓላማ፣ የሕዝብን ሰላም ለሚያደፈርስ ተግባር ወይም የኢትዮጵያን ደህንነትና መረጋጋት ለመጉዳት መጠቀሚያ ሊሆን ይችላል የሚያሰኝ በቂ ምክንያት ሲኖር፤

ሰ/ የምዝገባ ማመልከቻው የዚህን አዋጅ ወይም በዚህ አዋጅ መሠረት የወጡ ደንቦችን ድንጋጌዎች የማያሟላ ሲሆን፤

ሱ/ የበጎ አድራጎት ድርጅቱ ወይም ማህበሩ የሚመዘገበበት ስም ከሌላ የበጎ አድራጎት ድርጅት ወይም ማህበር ወይም ከማንኛውም ሌላ ተቋም ስም ጋር የሚመሳሰል ከሆነ ወይም የሕዝብን ጥራል ወይም ሕግን የሚቃረን ሲሆን፤

ሻ/ የበጎ አድራጎት ድርጅቱ ወይም ማህበሩ ስያሜ አገር አቀፋዊ ወይም ፌዴራላዊ ሆኖ የአባላት ጥንቅር ወይም የሥራ ቦታው ቢያንስ የአምስት ክልሎች ውክልና የሌለው ከሆነ፡፡

፷. በሥራ መሪነት መሥራት የማይችሉ

ሰዎች

ማንኛውም ሰው በአንድ የበጎ አድራጎት ድርጅት ወይም ማህበር ወይም በእነዚህ ቅርንጫፎች በሥራ መሪነት መሥራት የማይችለው፤

ሸ/ በማፍበርበር ወይም ታማኝነትን በማጓደል ወንጀል ጥፋተኛ ሆኖ የተቀጣ ከሆነ፤

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

e) power of attorney of the country representative.

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

69. Refusal of Application for Registration

The Agency shall refuse to register a Charity or Society where one of the following reasons occurs:

1/ the rules of the proposed Charity or Society do not comply with the necessary conditions set by this Proclamation;

2/ 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;

3/ the application for registration does not comply with the provisions of this law or any regulations made hereunder;

4/ the name under which the proposed Charity or Society to be registered resembles the name of another Charity or Society or any other institution or is contrary to public morality or is illegal;

5/ 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.

70. Persons Who shall not Act as Officers

No person shall act as an Officer of a Charity or Society or a branch thereof if that person:

1/ has been convicted of a crime that involves fraud or other crimes that involve dishonest acts;

፪/ በማናቸውም ወንጀል ጥፋተኛ ሆኖ የሲቪል መብቱን የተገፈፈና መብቶች ያልተመለሱለት ከሆነ፤

፫/ በሕግ መሠረት ከችሎታ ማጣት የተነሳ መሥራት የማይችል ከሆነ፤

፬/ በፍርድ ክልከላ የተደረገበት ከሆነ፤

፭/ ኢትዮጵያ ውስጥ ከሌለና አለመኖሩ ለበጎ አድራጎት ድርጅቱ ወይም ማህበሩ ትክክለኛ አስተዳዳሪ እንቅፋት የሚሆን ከሆነ፡፡

፳፩. የበጎ አድራጎት ድርጅቶችና ማህበራት

መዝገብ

፩/ ኤጀንሲው ማንኛውንም የበጎ አድራጎት ድርጅት ወይም ማህበርን በሚመለከት በየጊዜው የሚወሰናቸው ዝርዝሮች የሚመዘገቡበት የበጎ አድራጎት ድርጅቶችና ማህበራት መዝገብ ይይዛል፡፡

፪/ የዚህ ዓይነት ሀሳድ መብት ወይም ክፍል ማልባጭ በኤጀንሲው ዳይሬክተር ትክክለኛ ቅጂ ለመሆኑ የተመሠከረ ከሆነና የኤጀንሲው ማሕተም ከተደረገበት በማናቸውም የክርክር ሂደቶች በማስረጃነት ተቀባይነት ይኖረዋል፡፡

፫/ የበጎ አድራጎት ድርጅቶችና ማህበራት መዝገብ በኤ.ኤስ.ት.ሮ.ኒ.ክ መልክ ጨምሮ ኤጀንሲው አግባብ ነው ብሎ በሚገምተው መንገድ ተዘጋጅቶ ይቀመጣል፡፡

፬/ ኤጀንሲው በዚህ አዋጅ መሠረት የተመዘገቡትን የታገዱትንና ከመዝገብ የተሰረዙትን የበጎ አድራጎት ድርጅቶችና ማሕበራት ዝርዝር በጋዜጣ ያወጣል፡፡

፳፪. የበጎ አድራጎት ድርጅት ወይም ማህበር

ቅርንጫፍ

፩/ ማንኛውም የበጎ አድራጎት ድርጅት ወይም ማህበር አስቀድሞ ኤጀንሲውን በማሳወቅ በመተዳደሪያ ደንቡ መሠረት ቅርንጫፍ ሊከፍት ይችላል፡፡

፪/ በዚህ አንቀጽ ንዑስ አንቀጽ (፩) መሠረት ለሚከፈሉት ቅርንጫፍ የሚሰጠው ሥልጣን ራሱን የቻለ የበጎ አድራጎት ድርጅት ወይም ማህበር የሚያደርገው ወይም የበጎ አድራጎት ድርጅቱ ወይም ማህበሩ በቂ ቁጥጥር እንዳያደርግበት የሚያደርገው ሊሆን አይችልም፡፡

2/ has been convicted of any crime as a result of which she/he has been deprived of her/his civil rights and her/his civil rights have not yet been restored.

3/ is unable to act by reason of incapacity within the meaning of law.

4/ has been interdicted by a court;

5/ is outside Ethiopia and his absence impedes the proper administration of the Charity or Society

71. Register of Charities and Societies

1/ The Agency shall keep a register of Charities and Societies in which shall be entered such particulars as it may from time to time determine of any Charities and Societies registered therein.

2/ A copy of or extract from any such document certified to be a true copy or extract under the signature of the Director of the Agency and seal of the Agency shall be admissible in evidence in any proceedings.

3/ The register of Charities and Societies may be prepared and kept in such manner as the Agency may think fit, including in electronic form.

4/ The Agency shall, by notification in the Gazette, publish the list of Charities and Societies registered, suspended or cancelled under this Proclamation.

72. Branch of a Charity or a Society

1/ Any Charity or Society may establish a branch based on its rules by giving prior notice to the Agency.

2/ The powers of the branch of the charity or society established under Sub-article (1) of this Article shall not make it an independent Charity or Society or not adequately under the control of the charity or society.

፩. ስያሜ፣ የሥራ ቦታ ወይም መተዳደሪያ ደንብ

ሰላመለወጥ

ሸ/ ማንኛውም የበጎ አድራጎት ድርጅት ወይም ማህበር ስያሜውን ወይም የሥራ ቦታውን ከሰጠ ወይም መተዳደሪያ ደንቡን ካሻሻለ ለውጡን ወይም ማሻሻያውን ለኢጀንሲው አቅርቦ በዚህ አዋጅ አንቀጽ ፳፱ መሠረት ማስመዝገብ አለበት፡፡

ሸ/ የበጎ አድራጎት ድርጅት ወይም ማህበር ከተመዘገበ በኋላ በዚህ አዋጅ አንቀጽ ፳፱ ንዑስ አንቀጽ (ሐ)፣ (ለ)፣ (ሐ) ወይም (ሐ) የተደነገገው በማናቸውም ምክንያት ሳይከበር መታሰፉ ከተረጋገጠ ኢጀንሲው በተወሰነ የጊዜ ገደብ ውስጥ መተዳደሪያ ደንቡ እንዲሻሻል ወይም ጉድለቱ እንዲታረም ሊያዝ ይችላል፡፡

፪/ በዚህ አንቀጽ መሠረት የተፈጸመ የሰላመለወጥ የበጎ አድራጎት ድርጅቱን ወይም ማህበሩን ማናቸውንም መብቶች ወይም ግዴታዎች አይነካም፡፡ በቀድሞ ስሙ ተጀምረው የነበሩ ክርክሮች በአዲሱ ስም ይቀጥላሉ፡፡

፪. በምልክቶች ሰላመለወጥ

ሸ/ ማንኛውም የበጎ አድራጎት ድርጅት ወይም ማህበር በኢጀንሲው ሳያስመዘግብ ማናቸውንም ምልክት መጠቀም አይችልም፡፡

ሸ/ ኢጀንሲው በዚህ አንቀጽ ንዑስ አንቀጽ (ሐ) መሠረት የቀረበለትን ዓርማ ለመመዝገብ በዚህ አዋጅ አንቀጽ ፳፱ የተደነገጉትን የምዝገባ መመዘኛዎችን ግምት ውስጥ ያስገባል፡፡

፫. የምስክር ወረቀትን በይፋ ስለ ማሳየትና ስለ

ማስታወቂያ ሰሌዳ

ሸ/ ማንኛውም የበጎ አድራጎት ድርጅት ወይም ማህበር የምዝገባ የምስክር ወረቀቱን በዋናው መሥሪያ ቤትና ግልባጩን በየቅርንጫፎቹ ለማናቸውም ጉብኝ ሊታይ በሚችል ቦታ ማስቀመጥ ይኖርበታል፡፡

ሸ/ አንድ የበጎ አድራጎት ድርጅት ወይም ማህበር የማስታወቂያ ሰሌዳ የሚጠቀም ከሆነ ኢጀንሲው በመመሪያ የሚወስናቸውን ዝርዝሮች በሰሌዳው ላይ መለጠፍ ይኖርበታል፡፡

73. Change of Name, Place of Work or Rules

1/ If a Charity or Society Changes its name, place of work or amends its rules, it shall submit the change or amendment and get it registered under Article 68 of this Proclamation.

2/ The Agency may, after setting a reasonable time limit, order the amendment of the rule or correction of a fault where it is found that the provisions of sub-articles (1), (3), (4) and (5) of Article 69 are not complied with.

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

74. Use of Symbols

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

2. The Agency shall consider the requirements of registration under Article 69 while registering a symbol under Sub-article (1) of this Article.

75. Display of Certificate and Use of Advertisement Boards

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

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

፩. ፈቃድ ስለማሳደስ

፩/ የበጎ አድራጊት ድርጅቶች እና ማህበራት በዚህ አዋጅ አንቀጽ ፳፭ እና ዝግ መሠረት አመታዊ የሥራ ክንውን ሪፖርትና የሂሳብ መግለጫዎችን ለኢጀንሲው የማቅረብ ግዴታቸው እንደተጠበቀ ሆኖ ፈቃዳቸውን በየሦስት ዓመቱ ማሳደስ አለባቸው፡፡

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

፫/ ኢጀንሲው፡

ሀ/ የበጎ አድራጊት ድርጅቱ ወይም ማህበሩ የሰራ አፈጻ ፀምና የአዲት ሪፖርቶች የተሟሉና ትክክለኛ መሆናቸውን፤ እና

ለ/ የበጎ አድራጊት ድርጅቱ ወይም ማህበሩ የዚህን አዋጅ ድንጋጌዎች ወይም በዚህ አዋጅ መሠረት የወጡ ደንቦችንና መመሪያዎችን ወይም በኢጀንሲው የተሰጡ ትዕዛዞችን ወይም የራሱን መተዳደሪያ ደንብ ያል ጣሰ መሆኑን፤

ሊያረጋግጥና አስፈላጊው የማሳደሻ ክፍያ ከተፈጸመ በኋላ ፈቃዱን ያድሳል፡፡

**ከዩናይትድ ስቴትስ
ስለ የበጎ አድራጊት ድርጅቶችና ማህበራት
ሂሳብ እና ሪፖርቶች**

፩. የሂሳብ መዝገብ የመያዝ ግዴታ

፩/ የበጎ አድራጊት ድርጅት ወይም ማህበር የሰራ መሪዎች የበጎ አድራጊት ድርጅቱን ወይም ማህበሩን የገዝብ እንቅስቃሴዎች የሚያብራሩ እና በማናቸውም ጊዜ ሊያሳይ የሚችል የሂሳብ መዝገብ የመያዝ ግዴታ አለባቸው፡፡

፪/ የበጎ አድራጊት ድርጅቱ ወይም ማህበሩ የሂሳብ ሰነዶች የበጎ አድራጊት ድርጅቱ ወይም ማህበሩ የተቀበለውን ጠቅላላ ገንዘብና ያወጣውን ወጪ፤ የወጪውን ምክንያት፤ ሀብትና ስጽ ያካተቱ መሆኑን አለባቸው፡፡

፫/ የበጎ አድራጊት ድርጅቶችና ማህበራት ስሙ ካልተገለፀ ሰው ልገላ መቀበል አይችሉም፡፡ በማናቸውም ጊዜ የሊገኝ ማንነት በግልጽ የሚያመለክቱ መዝገቦችን መያዝ አለባቸው፡፡

76. Renewal of License

1/ Without prejudice to the obligation of Charities to submit statements of accounts and annual reports as stipulated under Article 78 and 80 of this proclamation, the license of Charities and Societies shall be renewed every three years.

2/ The license shall be renewed not later than two months after the expiry date mentioned on the certificate of registration and license

3/ The Agency shall renew the license of Charities or Societies upon payment of renewal fees and when it ensures that:

a) the performance and audit reports are complete and accurate;

b) the Charity or Society has not violated the provisions of this Proclamation or Regulations or directives issued thereunder

**SECTION SIX
CHARITY AND SOCIETY ACCOUNTS AND
REPORTS**

77. Duty to Keep Accounting Records

1/ The Officers of a Charity or Society shall ensure that accounting records are kept in respect of the Charity or Society which are sufficient to show and explain all the transactions and disclose at any time.

2/ The accounting records shall, in particular, contain entries showing from day to day all sums of money received and expended by the Charity or Society, and the matters in respect of which the receipt and expenditure takes place, and record of the assets and liabilities of the Charity or Society.

3/ Charities and Societies may not receive anonymous donations and shall at all times keep records that clearly indicate the identity of donors.

፱/ የበጎ አድራጊነት ድርጅቱ ወይም የማህበሩ የሥራ መሪዎች በዚህ አንቀጽ መሠረት የተዘጋጁ የሂሳብ ሰነዶችን ሰነዶቹ የተዘጋጁበት የበጎ አድራጊነት ድርጅቱ ወይም የማህበሩ የሂሳብ ዓመት ካልቀ በኋላ ቢያንስ ለ፭ ዓመታት ጠብቀው ማቆየት አለባቸው።

፺/ ኢጀንሊው ሰነዶቹ እንዲወጡ ወይም በሌላ መንገድ እንዲወጡ በጽሁፍ ካልፈቀደ በስተቀር ከሂሳብ ሰነድ ጋር በተያያዘ በንዑስ አንቀጽ (፱) የተገለጸው አምስት ዓመት ከማለቱ በፊት የበጎ አድራጊነት ድርጅቱ ወይም ማህበሩ ከሌላው ተመ የሂሳብ ሰነዶችን ጠብቆ የማቆየት ግዴታ በበጎ አድራጊነት ድርጅቱ ወይም በማህበሩ ቀሪ የሰራ መሪዎች ተፈጻሚ መሆኑ ይቀጥላል።

፳፰. ዓመታዊ የሂሳብ መግለጫ

ሀ/ ማንኛውም የበጎ አድራጊነት ድርጅት ወይም ማህበር ተቀባይነት ባላቸው መመዘኛዎች መሰረት የተዘጋጀ ዓመታዊ የሂሳብ መግለጫ ኢጀንሊው በአድራሻ መላክ አለበት።

ለ/ የዚህ አንቀጽ ንዑስ አንቀጽ (ሀ) ቢኖርም የሚያንቀሳቅሱት ገንዘብ ከብር ፶፬ /፶፬ ሺ/ የሚበልጥ የበጎ አድራጊነት ድርጅቶችና ማህበራት ገቢን፣ ወጪን፣ ሃብትንና ዕዳን የሚያመለክት መግለጫ ብቻ ማቅረብ ይችላሉ።

ለ/ የበጎ አድራጊነት ድርጅት ወይም ማህበር የሥራ መሪዎች በዚህ አንቀጽ ንዑስ አንቀጽ (ሀ) እና (ለ) መሠረት የተዘጋጀ የሂሳብ መግለጫና ተያያዥ ሰነድ የበጎ ዓመቱ ካበቃበት ቀን ጀምሮ ቢያንስ ለአምስት ዓመታት ጠብቀው ይቆያሉ።

፳፱. ዓመታዊ የሂሳብ ምርመራ ስለማድረግ

ሀ/ የማንኛውም የበጎ አድራጊነት ድርጅት ወይም ማህበር ሂሳብ በየዓመቱ በተመ ለከረለት አዲተር ወይም የውስጥ አዲተር ወይም ኢጀንሊው በሚሾመው አዲተር መመርመር አለበት።

ለ/ ማንኛውም የበጎ አድራጊነት ድርጅት ወይም ማህበር በውጭ አዲተር የመመርመር ግዴታ የሚኖርበት አግባብነት ባለው የበጎ ዓመት ቀድሞ ያለው የበጎ ዓመት ሂሳብ ከብር ፳፻፲ /፳፻፲ መቶ ሺ/ የሚበልጥ ሲሆን ነው።

ለ/ የዚህ አንቀጽ ንዑስ አንቀጽ (ለ) ቢኖርም ሚኒስትሩ የሚያወጣው መመሪያ መሰረት ማንኛውም ዓይነት የሂሳብ ምርመራ በማንኛውም ጊዜ በውጭ ወይም በውስጥ ኢጀንሊው በሚሾመው አዲተር ሊመረመር ይችላል።

4/ The Officers of a Charity or Society shall preserve any accounting records made for the purposes of this Article for at least 5 years from the end of the financial year of the Charity or Society in which they are made

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

78. Annual Statements of Accounts

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

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

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

79. Annual Examination of Accounts

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

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

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

፱/ የበጎ አድራጊነት ድርጅቱ ወይም የማህበረ ህዝብ ዓመቱ ባለቀ አምስት ወራት ውስጥ ካልተመረመረ ወይም በውጭ አዲተር ማስመርመር የተሻለ ሆኖ ሲገኝ እ.ኤ.አ.ው አዲተር ሾሞ ማስመርመር ይችላል።

፺/ በዚህ አንቀጽ ንዑስ አንቀጽ (፱) መሠረት በእ.ኤ.አ.ው በተሾመው አዲተር ለተከናወኑ ማናቸውም የአዲት ሥራዎች ወጭ የሚከፍለው የሚመለከተው የበጎ አድራጊነት ድርጅት ወይም ማህበር ወይም ጥፋተኛ ሆነው ሲገኙ የሰራ መሪዎቹ ይሆናሉ።

፳. ዓመታዊ የሥራ ክንውን ሪፖርት

ለ/ የሥራ መሪዎች የበጎ አድራጊነት ድርጅቱን ወይም የኢትዮጵያ ነዋሪዎች ማህበርን የእያንዳንዱን የበጀት ዓመት ዋና ዋና ክንዎች ሪፖርትና አስፈላጊ መረጃ በማዘጋጀት ለእ.ኤ.አ.ው ማቅረብ አለባቸው።

ሀ/ በዚህ አንቀጽ ንዑስ አንቀጽ (ለ) የተመለከተው ሪፖርት የሂሳብ ዓመቱ ባለቀ በምስት ወር ጊዜ ውስጥ እንዲሁም እ.ኤ.አ.ው በማናቸውም ልዩ ምክንያት በሚጠይቀው ጊዜ ውስጥ የሥራ መሪዎቹ ለእ.ኤ.አ.ው ማቅረብ አለባቸው።

ለ/ ማንኛውም የሥራ ክንውን ሪፖርት ለእ.ኤ.አ.ው ሲደረግ የሂሳብ መግለጫ አብሮ መያያዝ አለበት።

፳፩. ዓመታዊ ሪፖርት ለሕዝብ ክፍት ስለማድረግ

በእ.ኤ.አ.ው ዘንድ የሚገኝ ማናቸውም የበጎ አድራጊነት ድርጅቶች ወይም ማህበራት የዓመት ሪፖርት ወይም ሌላ ሠነድ ጉዳዩ በሚመለከተው አካል ወይም በእ.ኤ.አ.ው ወይም በሚመለከተው የዘርፍ አስተዳዳሪ ወይም በበጎ አድራጊነት ድርጅቱ እና ማህበሩ ውሳኔ በማናቸውም አመቹ ጊዜ ለሕዝብ ክፍት ሊደረግ ይችላል።

፳፪. ለሌሎች ሰዎች ሪፖርት ስለማድረግ

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

፳፫. የባንክ ሂሳብ ስለማስታወቅ

የበጎ አድራጊነት ድርጅት ወይም የማህበር መሪዎች የበጎ አድራጊነት ድርጅቱን ወይም የማህበሩን የባንክ ሂሳብ ከሚፈለገው ዝርዝር ጋር ለእ.ኤ.አ.ው በየአመቱና በተጠየቁ ጊዜ ማሳወቅ አለባቸው።

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

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

80. Annual Activity Report

1/ The Officers of a Charity or Ethiopian Resident Society shall prepare and transmit to the Agency an annual activity report on the major activities and relevant information regarding the Charity or Society

2/ The annual activity report required under sub article (1) of this Article shall be transmitted to the Agency within three months from the end of that financial year or within such period as the Agency may for any special reason require.

3/ Every such annual activity report shall have attached to it the annual statement of accounts.

81. Disclosure of Annual Activity Report

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

82. Reporting to other Persons

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

83. Notification of Bank Accounts

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

SECTION SEVEN

SOCIETIES

84. Power to Institute Inquiries

1. The Agency may from time to time institute inquiries with regard to Charities or Societies or a particular Charity or Society or class of charities or societies, either generally or for particular purposes.

2. For the purposes of any such inquiry, the Agency may by order require any Charity or Society or an officer or employee thereof:

a. furnish accounts and statements in writing with respect to any matter in question the inquiry, being a matter on which the person has or can reasonably obtain information, or to return answers in writing to any questions or inquiries addressed to him or any of his officers in any such manner.

to any manner or form at the discretion of the publisher.

and provide the necessary evidence to support the claim.

The Agency may use, for the purpose of an inquiry, any source of information including reports from the public, reports from government agencies including the reports of Charities and Societies.

85. Power to Cause the Production of Documents and Search Records

1. The Agency may, for the purpose of discharging its functions under the Proclamation, by order, require any Chartered Society or an officer or employee thereof

to justify the
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the
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b7: to furnish the Agency with a copy of, or extract from the document, or

1956: 100
1970: 100
1980: 100

11/10/1973

[illegible][illegible]

የህመም ሕብጻዊ ግንዛቤ ስለሆነው ጥያቄ
 ተሞልቶ የሚገኝበት ሁኔታ ሲፈጸም ስለሆነ
 ሕግጋዊ ምርመራ ማድረግ አለበት፡፡

[illegible]

የሚገኝ ሲሆን፡

[illegible][illegible]

፲፭.፻፲፱ ሰላም
 ግሙ ግሙ ሰላም ግሙ ሰላም ግሙ ሰላም
 ግሙ ሰላም ግሙ ሰላም ግሙ ሰላም ግሙ ሰላም
 ግሙ ሰላም ግሙ ሰላም ግሙ ሰላም ግሙ ሰላም

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668(1) 1.3.1984. (1) 1.3.1984
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ከፍል ሰባት**የበጎ አድራጊነት ድርጅቶችንና ማህበራትን ስለመቆጣጠር****፳፬. ምርመራ የማድረግ ሥልጣን**

ሀ/ አጽንሰው በሃገሪቱ ለአጠቃላይ ወይም ለአንድ የተወሰነ ጉዳይ የበጎ አድራጊነት ድርጅቶችን ወይም ማህበራትን ወይም የተወሰነ ወይም አንድ ዘርፍ የበጎ አድራጊነት ድርጅቶችን ወይም ማህበራትን የተመለከተ ምርመራ ሊያካሂድ ይችላል።

ለ/ ለአንዲት ዓይነት ምርመራ ጉዳይ አጽንሰው ማንኛውንም የበጎ አድራጊነት ድርጅት ወይም ማህበር ወይም የሥራ መሪ ወይም ሠራተኛ፤

ሀ/ የሚያውቀውን ወይም መረጃ ሊያገኝ የሚያስችለው ምክንያታዊ ግምት ኖሮ ምርመራው የሚካሄድበትን ጉዳይ በተመለከተ ሂሳብና መግለጫ በጽሁፍ እንዲሰጥ፤ ጉዳዩን በተመለከተ ለቀረበለት ጥያቄ ወይም ምርመራ በጽሁፍ መልስ እንዲሰጥ፤

ለ/ በምርመራው ሂደት መመርመር ያለበትን ማንኛውንም ጉዳይ በተመለከተ በእጁ ወይም በቁጥጥሩ ሥር ያሉትን ሠነዶች ቅጂ እንዲሰጥ፤

ሐ/ በተወሰነ ጊዜና በታዘዘበት ማስረጃ ወይም ሠነዶችን እንዲያቀርብ፤

ሊያዝ ይችላል።

ለ/ አጽንሰው ምርመራ በሚያካሂድበት ወቅት ከአገባው የሚቀርቡ ጥቆማዎችን፤ ከመንግሥት አካላት የሚቀርቡ ሪፖርቶችን እና ከበጎ አድራጊነት ድርጅቶችና ከማህበራት ከራሳቸው የሚቀርቡ ሪፖርቶችን ጨምሮ ማንኛውንም የመረጃ ምንጭ ሊጠቀም ይችላል።

፳፭. ሠነዶች እንዲያቀርቡ የማዘዝና ሪከርዶች እንዲመረመሩ የማድረግ ሥልጣን

ሀ/ አጽንሰው በዚህ አዋጅ የተሰጠውን ሥልጣን በሥራ ላይ ለማዋል ከአንድ የበጎ አድራጊነት ድርጅት ወይም ማህበር ወይም የሥራ መሪ ወይም ሠራተኛ፤

ሀ/ አንድን የበጎ አድራጊነት ድርጅት ወይም ማህበር የሚመለከት በይዘታው ሥር ያለ ማንኛውንም መረጃ በጽሁፍ ወይም በቃል ለአጽንሰው እንዲሰጥ፤ ወይም

ለ/ የሠነዱን መሰረት ወይም ክፍል ማልባጭ ለአጽንሰው እንዲሰጥ፤ ወይም

**SECTION SEVEN
SUPERVISION OF CHARITIES AND SOCIETIES****84. Power to Institute Inquiries**

1. The Agency may from time to time institute inquiries with regard to Charities or Societies or a particular Charity or Society or class of charities or societies, either generally or for particular purposes.

2. For the purposes of any such inquiry, the Agency may by order require any Charity or Society or an officer or employee thereof

a' furnish accounts and statements in writing with respect to any matter in question at the inquiry, being a matter on which the person has or can reasonably obtain information, or to return answers in writing to any questions or inquiries addressed to him on any such matter;

b' to furnish copies of documents in his custody or under his control which relate to any matter in question at the inquiry;

c' to attend at a specified time and place and give evidence or produce documents.

3. The Agency may use, for the purpose of the inquiry, any source of information including reports from the public, reports from government agencies including the reports of Charities and Societies.

85. Power to Cause the Production of Documents and Search Records

1. The Agency may, for the purpose of discharging its functions under the Proclamation, by order, require any Charity or Society or an officer or employee thereof

a' to furnish orally or in writing the Agency with any information in his possession which relates to any Charity or Society; or

b' to furnish the Agency with a copy of an extract from the document, or

ሐ/ ሠነዱ የአንድ ፍርድ ቤት ወይም የመንግሥት መሥሪያ ቤት ሪከርድ ወይም ሠነዶች አካል ካልሆነ በስተቀር ሠነዱን ራሱን ለምርመራ ለአጀንሳው አንዲሰጥ፤

በትዕዛዝ ሊጠይቅ ይችላል።

፪/ አጀንሳው በዚህ አንቀጽ ንዑስ አንቀጽ (፩) መሠረት ማናቸውንም ግልባጭ ወይም የሠነድ ክፍል ያለ ክፍያ የማግኘት ሥልጣን አለው።

፹፮. በብሰባዎችን ስለማስታወቅ

ማንኛውም ማህበር የማህበሩ ጠቅላላ ንብረት ከመካሄዱ ከሰዓት የሥራ ቀናት አስቀድሞ የሰብሰባውን ጊዜና ቦታ ለአጀንሳው በጽሑፍ ማሳወቅ አለበት።

፹፯. መረጃ ስለመግለጽ

በሌሎች ሕጎች በግልጽ የተደነገጉት ከልክላዎች እንዲተጠበቁ ሆነው አጀንሳው ወይም የዘርፍ አስተዳዳሪው ሥራዎቹን በሚገባ እንዲከናወኑ ለማስቻል ወይም ለመርዳት ማንኛውም ሰው ያገኛቸውን ማናቸውንም መረጃ ለአጀንሳው ወይም ለዘርፍ አስተዳዳሪው መግለጽ ይችላል።

፹፰. የአስተዳደራዊና የዓላማ ማስፈጸሚያ ወጪዎች

ሐ/ ማንኛውም የበጎ አድራጊነት ድርጅት ወይም ማህበር በየበጀት ዓመቱ ከሚያወጣው ወጪ ከፋ በመቼ የማያንሰውን ዓላማውን ለማስፈጸም እና ከፃ በመቼ የማያበልጠውን ለአስተዳደራዊ ሥራ ማዋል አለበት።

፪/ በዚህ አንቀጽ ንዑስ አንቀጽ (፩) የተጠቀሰው በኖርም ከጠቅላላ ገቢው ከፍተኛ በመቼ በላይ ለዓላማው ማስፈጸሚያ ለሚያውል ወይም የላቀ የሥራ አፈጻጸም ላላ የበጎ አድራጊነት ድርጅት ወይም ማህበር መንግሥት የተለያዩ ማበረታቻዎችን ሊያደርግ ይችላል።

፹፱. የውጭ ዜጎችን ስለ መቅጠር

ሐ/ ማንኛውም የበጎ አድራጊነት ድርጅት ወይም ማህበር አግባብ ባለው ሕግ መሠረት የሥራ ፈቃድ ያልተሰጠውን የውጪ ዜጋ መቅጠር አይችልም።

፪/ የዚህ አንቀጽ ንዑስ አንቀጽ (፩) ድንጋጌ በኖርም የውጭ የበጎ አድራጊነት ድርጅት የውጭ ዜጋን የሀገር ውስጥ ተወካይ አድርጎ ለመመደብ ገደብ አይኖርበትም።

c/ to transmit the document itself to the Agency for its inspection unless the document forms part of the records of other documents of a court or public authority.

2/ The Agency shall be entitled without payment to keep any copy or extract furnished to it under Sub-article (1) of this Article.

86. Notification of Meetings

Any Society shall notify the Agency in writing the time and place of any meeting of the General Assembly of the Society not later than seven working days prior to such meeting.

87. Disclosure of Information

Subject to any express restriction imposed under any other law any person may disclose to the Agency or to any sector administrator information received by him for the purpose of enabling or assisting the Agency or the sector administrator to discharge its functions.

88. Administrative and Operational Costs

1/ Any charity or society shall allocate not less than 70 percent of the expenses in the budget year for the implementation of its purpose and an amount not exceeding 30 percent for its administrative activities.

2/ Notwithstanding subarticle (1) of this Article the government may confer various incentives to a charity or society that allocates more than 80% of its total income for operational purposes or demonstrates outstanding performance.

89. Employment of Expatriates

1/ No Charity or Society shall employ expatriates unless a work permit is granted in accordance with the relevant law.

2/ Notwithstanding the provision of Sub-article (1) of this Article there shall be no restriction on the entitlement of Foreign Charities to designate country representatives.

፩. የንብረት ጥበቃ

ሀ/ ኤጀንሲው ማንኛውንም የበጎ አድራጊነት ድርጅት ወይም ማህበር በተመለከተ በሚያደርገው ክትትል ወይም ምርመራ ተገቢ ያልሆነ የሥራ አመራር ወይም ድርጊት መፈጸሙን ሲያረጋግጥ የበጎ አድራጊነት ድርጅቱን ወይም ማህበሩን ንብረት ለመጠበቅ አስፈላጊ ሆኖ ሲያገኝው የሚከተሉትን እርምጃዎች መውሰድ ይችላል፤

ሀ/ ተገቢ ላልሆነው የሥራ አመራር ወይም ድርጊት ላለፈ የሆነውን የሥራ መሪ ማገድና ሥልጣን ያለው የበጎ አድራጊነት ድርጅት ወይም ማህበር ተተኪ እንዲመድብ ያዛል፤

ለ/ የበጎ አድራጊነት ድርጅቱ ወይም ማህበሩ የአሠራር ሥርዓቱን እንዲያሻሽል ያዛል፤

ደ/ የበጎ አድራጊነት ድርጅቱ ወይም ማህበሩ በዚህ አንቀጽ ንዑስ አንቀጽ (ሐ) ወይም (ለ) መሠረት የተሰጠውን ትረጉሟ ተግባራዊ እስከሚያደርግ ድረስ፤

ሀ/ ያለ ኤጀንሲው ፈቃድ የበጎ አድራጊነት ድርጅቱን ወይም ማህበሩን የተወሰኑ ግዴታዎች ውስጥ የሚያስገቡ ውሎች እንዳይደረጉ ወይም የተወሰኑ ካይዎች እንዳይፈጸሙ ያግዳል፤

ለ/ የበጎ አድራጊነት ድርጅቱ ወይም የማህበሩ ንብረት በይዞታው ስር ያለን ሰው ወይም ባለዕዳን ያለ ኤጀንሲው ፈቃድ ንብረቱን እንዳይመለስ ወይም ዕዳውን እንዳይከፍል ያግዳል ወይም ኤጀንሲው በሚወስነው ቦታ ወይም ባንክ እንዲቀመጥ ያደርጋል፡፡

፪. የሰራ መሪዎችን ስለ ማንሳትና መተካት

ሀ/ ማንኛውም የበጎ አድራጊነት ድርጅት ወይም የማህበር መሪ በዚህ አዋጅ አንቀጽ ፪ ከተመለከቱት መመዘኛዎች አንዱን ያንደለ እንደሆነ ሥልጣን ባለው የበጎ አድራጊነት ድርጅቱ ወይም ማህበሩ አካል እንዲነሳና በሌላ እንዲተካ እንዲደረግ ኤጀንሲው ያዛል፡፡

ደ/ በዚህ አንቀጽ ንዑስ አንቀጽ (ሐ) የተጠቀሰው የሥራ መሪ በሌላ እስኪተካ ድረስ ከሃላፊነት እንዲታገድ ኤጀንሲው ሊያዝ ይችላል፡፡

፫. ፈቃድ ስለማገድና ስለመሰረዝ

ሀ. ማንኛውም የበጎ አድራጊነት ድርጅት ወይም ማህበር፡-

ሀ/ በዚህ አዋጅ አንቀጽ ፪(ደ) መሠረት የተላለፈውን የኤጀንሲውን ትዕዛዝ በተወሰነው የጊዜ ገደብ ውስጥ ሳይፈጽም ከቀረ፤

90. Protection of Property

1/ Where, at any time the Agency has upon an inquiry or investigation with respect to any Charity or Society and is satisfied that there is or has been any misconduct or mismanagement in the administration of the Charity or Society and when it is necessary to act for the purpose of protecting the property of the Charity or Society the Agency may take the following measures

a/ suspend the officer responsible for the misconduct or mismanagement and order the appropriate organ of the Charity or Society to assign another person;

b/ order the Charity or Society to improve its system of operation.

2/ Until the Charity or Society acts upon the Agency's orders given pursuant to Sub articles (1) (a) and (b) of this Article, the Agency may:

a/ prevent the Charity or Society from entering into certain obligations or making certain types of payments;

b/ order any person who holds any property on behalf of the Charity or Society or any debtor, not to part with the property or not to pay his debt without the approval of the Agency or to deposit the payment in a certain place or bank

91. Removal and Replacement of Officers

1/ The Agency may order the appropriate organ of the Charity or Society to remove an officer who falls short of any of the requirements set forth under Article 70 and to assign another person as an officer.

2/ Until the replacement an officer mentioned under sub article 1 of this article by another officer, the Agency may order the suspension of an officer.

92. Suspension and Cancellation of License

1/ Any Charity or Society:

a/ that fails to comply with the Agency orders under Article 73(2) of the proclamation within the time limit set by the Agency;

ለ/ ያቀረበው ሪፖርት ሀሳብ ከሆነ፤

ሐ/ የዚህ አንቀጽ ንዑስ አንቀጽ ፪(ሐ) እንደ ተጠበቀ ሆኖ የዚህን አዋጅ ድንጋጌዎች ወይም በዚህ አዋጅ መሠረት የወጡ ደንቦችና መመሪያዎችን ወይም በኢ.ጅ.ንሲ.ው የተሰጡ ትዕዛዞችን ወይም የራሱን መተዳደሪያ ደንብ የጣሰ እንደሆነ፤

መ/ በዚህ አዋጅ መሠረት ለኢ.ጅ.ንሲ.ው ማቅረብ የሚገባቸውን መረጃዎች በወቅቱ ያላቀረበ እንደሆነ፤

ጉድለቶችን እስከሚያስተካክል ድረስ ፈቃዱ በኢ.ጅ.ንሲ.ው ሊታገድ ይችላል።

፪/ ማናቸውም የበጎ አድራጎት ድርጅት ወይም ማህበር፤

ሀ/ የተመዘገበው በማታለል ወይም በማጭበርበር ከሆነ፤ ወይም

ለ/ ሕገወጥ ለሆነ ዓላማ፤ ወይም የሕዝብን ሀላምና የአገርን ደህንነት ለሚጎዱ ዓላማዎች ውሎ ከሆነ፤

ሐ/ በዚህ አንቀጽ ንዑስ አንቀጽ (፩) መሠረት ለዕግድ ምክንያት የሆኑትን ጉድለቶች ኢ.ጅ.ንሲ.ው በሚወስነው የጊዜ ገደብ ውስጥ ካላስተካከለ፤ ወይም

መ/ በዚህ አዋጅ አንቀጽ ፪፮ መሠረት ፈቃዱን ካላሳደሰ፤

ሠ/ የወንጀል ሕጉን ወይም የዚህን አዋጅ ድንጋጌዎች በመጣስ የወንጀል ድርጊት ከፈጸመ፤

ፈቃዱ ይሰረዛል።

፳፫. የበጎ አድራጎት ድርጅቶችና ማህበራት መፍረስ

ለ/ የበጎ አድራጎት ድርጅት ወይም ማህበር በሚከተሉት ምክንያቶች በኢ.ጅ.ንሲ.ው ሊፈርስ ይችላል፤

ሀ/ የበጎ አድራጎት ድርጅቱ ወይም ማህበሩ ሥልጣን ያለው አካል በመተዳደሪያ ደንቡ መሠረት እንዲፈርስ ሲወስን፤

ለ/ የበጎ አድራጎት ድርጅቱ ወይም ማህበሩ ፈቃድ በዚህ አዋጅ አንቀጽ ፪፪ መሠረት በኢ.ጅ.ንሲ.ው ሊሠረዝ፤ ወይም

ሐ/ የበጎ አድራጎት ድርጅቱ ወይም ማህበሩ ዕዳውን የመከፈል ችሎታ የሌለው ሲሆን።

፪/ በዚህ አንቀጽ ንዑስ አንቀጽ (፩) መሰረት የኢትዮጵያ የበጎ አድራጎት ድርጅቶች እና ማህበራት የሚፈርሱት በፌዴራል ከፋተኛው ፍርድ ቤት ውሳኔ ነው።

b/ that has submitted falsified accounts and reports to the Agency;

c/ without prejudice to Sub-article 2(c) of this Article that contravenes the provisions of this Proclamation or Regulations and Directives issued thereunder or orders of the Agency or its own rules;

d/ that fails, within the appropriate time, to provide the Agency with information required by this Proclamation; may be suspended by the agency until it comes into compliance.

2/ The license of any Charity or Society shall be canceled where:

a/ its registration has been procured by fraud or misrepresentation;

b/ it has been used for unlawful purposes or for purposes prejudicial to public peace, welfare or security;

c/ it fails to rectify the causes for suspension within the time limit set by the Agency in accordance with Sub-article (1) of this proclamation; or

d/ it fails to renew its license in accordance with Article 76 of this proclamation;

e/ It commits a crime by violating the provisions of the criminal code or that of this Proclamation.

93. Dissolution of Charities and Societies

1/ A Charity or Society may be dissolved by the Agency where:

a/ the appropriate organ of the Charity or Society decides to dissolve it in accordance with its rules;

b/ the Agency cancels the license of the Charity or Society in accordance with Article 92 of this Proclamation; or

c/ the Charity or Society has become insolvent.

2/ The dissolution of Ethiopian Charities and Societies in accordance with Sub-article (1) of this Article shall be effected by the decision of the Federal High Court.

፳፩. የመፍረስ ውጤት

- አ/ የበጎ አድራጊነት ድርጅት ወይም ማህበር እንዲፈርስ ትዕዛዝ ወይም ውሳኔ ሲሰጥ፤
- ሀ/ ንብረቱ ወዲያውኑ የማፍረስ ውሳኔ በተሰጠበት ትዕዛዝ ወይም ውሳኔ የማፍረስ ሂደቱን እንዲያከናውን በተሾመው ሂሳብ አጣሪ ኃላፊነት ስር ይሆናል፤
- ለ/ ሂሳብ አጣሪው የበጎ አድራጊነት ድርጅቱን ወይም ማህበሩን እዳዎችና ኃላፊነቶች እንዲሁም የማፍረስ ሂደቱን ለማከናወን የሚያስፈልጉ ወጪዎች ተጠናቀው ከተከፈሉ በኋላ የበጎ አድራጊነት ድርጅቱ ወይም ማህበሩ ቀሪ ንግዝብ ወይም ንብረት ካለ ተመሳሳይ ዓላማ ላለው የበጎ አድራጊነት ድርጅት ወይም ለማንኛውም የበጎ አድራጊነት ድርጅት ወይም ማህበር እንዲተላለፍ አጀንሊው ትዕዛዝ ይሰጣል፤
- ዘ/ የፈረስ የበጎ አድራጊነት ድርጅትን ወይም ማህበርን የሂሳብ አጣሪ መሾም በተመለከተ ኢጂ ንሲው ወይም ፍርድ ቤት የበጎ አድራጊነት ድርጅቱ ወይም ማህበሩ የሥራ መሪዎችን ወይም ማኛውንም ሰው ሊሾም ይችላል።
- ሀ/ ሂሳቡ በመጣራት ላይ ያለ የበጎ አድራጊነት ድርጅት ወይም ማህበር ከዓላማው ጋር የተያያዙና ሊቋረጡ የሚችሉ ሥራዎችን አጀንሊውን በማስፈቀድ ለማጠናቀቅ ካልሆነ በስተቀር ከሂሳብ ማጣራቱ ውጭ ሌላ ተግባር ማከናወን አይችልም።
- ለ/ የበጎ አድራጊነት ድርጅቱ ወይም የማህበሩ የሂሳብ ማጣራት ሥራዎች ተጠናቀው ምግባባው እስከሚሰረዝ ድረስ ሕጋዊ ሰውነቱን እንዲያዝ ይቆያል።

ከፍል ስምንት ንብረትን ለተቀራረቢ ዓላማ ማዋል

፳፩. ንብረትን ለተቀራረቢ ዓላማ ማዋል ስለሚፈፀም ባቸው ሁኔታዎች

- አ/ የበጎ አድራጊነት ድርጅቱ የመጀመሪያ ዓላማ ሊለወጥ የሚችልባቸውና የተሰጠው ሙሉ ንብረት ወይም ከፊሉ ለሌላ ተቀራረቢ ዓላማ እንዲውል በሚከተሉት ሁኔታዎች ይፈጸማል፤
- ሀ/ የመጀመሪያው ዓላማ ሙሉ በሙሉ ወይም በከፊል ሲሞላ ወይም የማይሞላ ወይም ሊሞላ የማይችል ሲሆን፤
- ለ/ ድርጅቱ ለመጀመሪያው ዓላማ ካለው ንብረት ከፊሉ ብቻ በጥቅም ላይ እንዲውል የሚያመለክት ሲሆን፤

94. Effects of Dissolution

- 1/ Where an order or decision of dissolution against any Charity or Society is given:
 - a/ the property of Charity or Society shall forthwith vest in the liquidator appointed for the purpose of winding up in the dissolution order or decision;
 - b/ the liquidator or that other officer shall proceed to wind up the affairs of the Charity or Society and, after satisfying and providing for all debts and liabilities of the Charity or Society and the costs of winding up, shall transfer the surplus assets, if any, of the Charity or Society to a Charity or Society with a similar purpose or to any Charity or Society by the order of the Agency.
- 2/ The Agency or the court may appoint officers of a Charity or Society as liquidators for the Charity or Society dissolved.
- 3/ A Charity or Society that is being dissolved shall not perform activities other than the necessary for its liquidation unless the Agency authorizes it to undertake activities that are related to its objectives and cannot be discontinued.
- 4/ The Charity or Society shall retain its legal personality until its liquidation is completed and its registration is cancelled.

SECTION EIGHT APPLICATION OF PROPERTY CY-PRÈS

95. Conditions for Applying Property Cy-près

- 1/ The circumstances in which the original purposes of a Charity can be altered to all the property given or part of it to be applied cy-près shall be as follows:
 - a/ where the original purposes in whole or part have been fulfilled or cannot be fulfilled or impossible to fulfill;
 - b/ where the original purposes provide a part only of the property available to the Charity;

ሐ/ ለበጎ አድራጊት ድርጅቱ የተሰጠ ስጦታ መንፈስ ሳይነካ በስጦታው መሠረት ያለው ንብረት እና ለተመሳሳይ ዓላማ የሚውል ሌላ ንብረት እና ቢቀናጁ እመቼ በሆነ ሁኔታ የበለጠ ጠቅሞ በሆነ መንገድ ለጋራ ዓላማዎች ጥቅም ላይ ሊውሉ የሚችሉ ሲሆኑ፡፡

ከ/ የዘለቂታ በጉ አድራጊት ወይም የአደራ በጎ አድራጊት ድርጅት ማቋቋሚያ ጉዳዩ በሚመለከታቸው የሥራ መሪዎች ላይ ሁኔታው በሚያስገድድበት ጊዜ ንብረቱ ወይም ከፊሉ ለተቀራረቢ ዓላማ ማዋል እንዲፈጸምበት ተገቢ እርምጃዎችን መውሰድ አለባቸው፡፡

ለ/ ጉዳዩ የሚመለከታቸው የበጎ አድራጊት ድርጅቱ የሥራ መሪዎች በዚህ አንቀጽ ንዑስ አንቀጽ (ሸ) ስር የተጠቀሱትን ተግባራት ሊፈፅሙ የሚችሉት በሁለት ሦስተኛ ድምፅ ውሳኔ ሲያስተላልፉ ብቻ ነው፡፡

ሰ/ ንብረቱ የተሰጠው ይህ አዋጅ ተፈጻሚ ከመሆኑ በፊት ቢሆንም ይህ አንቀጽ ለበጉ አድራጊት ዓላማዎች በተሰጠ ንብረት ላይ ተፈጻሚ ይሆናል፡፡

ረ/ በዚህ አንቀጽ መሰረት የሚከናወኑ ተግባራት ተፈጻሚነት የሚኖራቸው በኢ.ፌ.ዲ.ሪ. ሲጸድቁ ብቻ ነው፡፡

፲፮. የማቋቋሚያ ሰነድ ወይም ትዕዛዝ መመሪያዎች

ሸ/ የአደራ በጎ አድራጊት ድርጅት አደራ ጠባቂ ወይም የዘለቂታ በጎ አድራጊት ድርጅት ቦርድ ድርጅቱን ካቋቋመው ሰነድ ወይም ትዕዛዝ የተቀበላቸውን ግልጽ የሆኑ መመሪያዎችን መከተል አለበት፡፡

ከ/ በዚህ አንቀጽ ንዑስ አንቀጽ (ሸ) የተደነገገው ቢኖርም በአደራ ወይም የዘለቂታ በጎ አድራጊት ድርጅት ተጠቃሚ ለሆነው ሰው ጥቅም የሚያስፈልግ ሆኖ የታየ እንደሆነ ከተባሉት መመሪያዎች ውጭ ለመስራት አደራ ጠባቂው ወይም ቦርዱ ከኢ.ፌ.ዲ.ሪ. ፈቃድ መጠየቅ ይችላል፡፡

፲፩. የአስተኛ በጎ አድራጊት ድርጅቶች ልዩ ድንጋጌዎች

ሸ/ የበጉ አድራጊት ድርጅቱ የመጨረሻው የሐ. ማብ ዓመቱ ጠቅላላ ገቢው ከሸሹ ሺር /ከሃምሳ ሺ. ብር/ በላይ ካልሆነና የማይንቀሳቀስ ንብረት ባለቤት ካልሆነ በስተቀር የበጉ አድራጊት ድርጅቱ የበላይ አካል የሚከተሉትን ሊፈጽም ይችላል፡፡

c/ where the property available by virtue of the gift and other property applicable for similar purposes can be more effectively used in conjunction and to that end can suitably, regard being had to the spirit of the gift, be made applicable to common purposes.

2/ An act of endowment or trust for charitable purposes places the concerned officers under a duty, where the circumstances require the property or some part of it to be applied cy-près, to secure its effective use for Charity by taking steps to enable it to be so applied.

3/ The competent officers of a Charity may take the actions provided for in sub-article (1) of this Article only by a two thirds majority decision.

4/ This Article shall apply to property given to charitable purposes, notwithstanding that it was so given before the effective date of this Proclamation.

5/ The provisions of this Article shall apply only upon the prior approval of the Agency.

96. Directions of the Constitutive Instrument or Act

1/ The trustee or board shall conform to the express instructions of the instrument or act constituting the Charitable Trust or Endowment.

2/ Irrespective of the provision of Sub-article (1) of this article where the interests of the beneficiaries of a Charitable Trust or an Endowment so require, the trustee or the board may obtain an authorization from the Agency to depart from such instructions.

97. Special Provisions to Charities

1/ Where the gross income of a Charity in its last financial year does not exceed Bir 50,000.00 (fifty thousand) and it does not own any immovable property, the competent organs of the Charity may decide that

- ሀ/ የበጎ አድራጊነት ድርጅቱ ሁሉም ንብረቶች ለሌላ የበጎ አድራጊነት ድርጅት እንዲተላለፍ ወይም እንዲከፋፈል፤
- ለ/ የመተዳደሪያ ደንቡ ሁሉንም ወይም ማንኛውንም የበጎ አድራጊነት ድርጅቱን ዓላማዎች በጎ አድራጊነት ወደሆኑ ሌሎች አላማዎች በመለወጥ እንዲሻሻል ማድረግ፤
- ሐ/ የሰራ መሪዎች የበጎ አድራጊነት ድርጅቱን በማስተዳደር ረገድ ሊከተሏቸው የሚገቡ ስነ/ሥርዓቶችን በተመለከተ የበጎ አድራጊነት ድርጅቱን መተዳደሪያ ደንብ እንዲሻሻል ማድረግ፤
- ፪/ በዚህ አንቀጽ ንዑስ አንቀጽ (አ) መሠረት ማንኛውም ውሳኔ የሚተላለፈው በአደራ ጠባቂዎች ወይም በቦርዱ አባላት ሁለት ሦስተኛ ድምጽ ብቻ ነው፤
- ፫/ በዚህ አንቀጽ መሰረት የሚከናወኑ ተግባራት ተፈጻሚነት የሚኖራቸው በኢ.ጂ.ንሲው ሲጸ ድቅ ብቻ ነው፤
- ፬/ የዚህ አንቀጽ ንዑስ አንቀጽ (አ) ቢኖርም ኢ.ጂ.ንሲው የበጎ አድራጊነት ድርጅቶች በንዑስ አንቀጽ (አ) (ሀ)-(ሐ) የተመለከቱትን ድንጋጌዎች እንዲፈጽሙ ውሳኔ መስጠት ይችላል።

ከፍል ዘመን

ሕዝባዊ መዋጮ

፳፭. ለሕዝባዊ መዋጮ ስለማመልከት

- አ/ ማንኛውም የበጎ አድራጊነት ድርጅት ወይም ማህበር ሕዝባዊ መዋጮ ማካሄድ የሚችለው በኢ.ጂ.ንሲው ሲፈቀድለት ብቻ ነው።
- ፪/ በዚህ አንቀጽ ንዑስ አንቀጽ (አ) መሰረት የሚሰጥ ፈቃድ የሕዝባዊ መዋጮውን ዓላማ፣ የሚቆይበትን ጊዜ፣ ቦታውንና ሌሎች በኢ.ጂ.ንሲው የሚወሰኑትን መመዘኛዎች መያዝ አለበት።
- ፫/ ማንኛውም የበጎ አድራጊነት ድርጅት ወይም ማህበር በዚህ አንቀጽ ንዑስ አንቀጽ (አ) የተደ ነገገውን ተላልፎ የተሰበሰበው ማንኛውም ንግዝብ ወይም ንብረት በኢ.ጂ.ንሲው ተወርሶ ለተመሳሳይ የበጎ አድራጊነት ወይም ማህበር ዓላማ እንዲውል ይደረጋል።

፳፬. በማመልከቻ ላይ መወሰን

- አ/ ሕዝባዊ መዋጮ ለመስብሰብ ማመልከቻ ሲቀርብ ኢ.ጂ.ንሲው አስፈላጊውን ማጣራት በማድረግ ፈቃዱን በገደብ ወይም ያሳገደብ መስጠት ወይም ውድቅ ማድረግ ይችላል፤

- a/ all the property of the Charity should be transferred or divided to such other charities;
- b/ the rules of Charity should be modified replacing all or any of the purposes of Charity with such other purposes, being law charitable;
- c/ to amend the rules of charity regarding the procedures that has to be followed by officers to administer the charity

- 2/ Any action taken under Sub-article (1) of this Article must be passed by two-thirds of the trustees or board members.

- 3/ The provisions of this Article shall apply only upon the prior approval of the Agency.

- 4/ Notwithstanding Sub-article 1 of this Article the Agency may determine that the provisions of Sub-article 1 (a)-(c) be employed.

SECTION NINE PUBLIC COLLECTIONS

98. Application for Public Collection

- 1/ No Charity or Society may conduct or public collection unless permit is granted by the Agency.
- 2/ The permit given under this Article shall specify the public collection purpose, duration, place and any other criteria set forth by the Agency.
- 3/ Any money or property collected in contravention of Sub-article (1) of this Article shall be confiscated by the Agency and applied to the purpose of a similar Charity or Society.

99. Decision on Application

- 1/ On receiving an application for public collections permit the Agency may make such inquiries as it deems fit and determine whether to issue or refuse a permit with or without conditions.

፪/ አገልግሎት ማመልከቻውን ወደቅ ካደረገ ወይም በፈቃዱ ላይ ማኖቸውንም ገደብ ሊያደርግ ለማመልከቻ አቅራቢው ውጤቱን ከነምክንያቱ በጽሁፍ መስጠት አለበት።

፫. የሕዝባዊ መዋጮ ፈቃድ የሚያስከላከል ምክንያቶች

አገልግሎት በሚከተሉት ምክንያቶች የሕዝባዊ መዋጮ ፈቃድ ሊከላከል ይችላል፡

ሐ/ ሕዝባዊ መዋጮው ለበጎ አድራጎት ድርጅቱ ወይም ለማህበሩ ዓላማ የሚውል ካልሆነ፤

ከ/ በአመልካቹ የቀረበው መረጃ ሐሰተኛ ወይም አሳሳች ከሆነ፤

ለ/ ሕዝባዊ መዋጮውን የሚያከናውኑት ሰዎች በዚህ አዋጅ አንቀጽ ፪ የተደነገጉትን መመዘኛዎች የማያሟሉ ከሆኑ።

፬. የሕዝባዊ መዋጮ የመሰብሰብ ፈቃድን ስለመሰረዝ

ሐ/ አገልግሎት በሚከተሉት ምክንያቶች ሕዝባዊ መዋጮ የመሰብሰብ ፈቃድን ሊሰርዝ ይችላል፡

ሀ. ፈቃዱ ከተሰጠ በኋላ የዚህ አዋጅ አንቀጽ ፺፭ ድንጋጌዎችን አንዳልተሟሉ ሲረጋገጥ፤

ለ. ሕዝባዊ መዋጮው ትክክለኛ ባልሆነ መንገድ አንዳልተደረገ የተደረገ ሲሆን፤

ሐ. ፈቃዱ ሲሰጥ በአገልግሎት የተሳሳተ ገደብ የተሰጠ ሲሆን።

ከ/ በዚህ አንቀጽ ንዑስ አንቀጽ (፩) መሠረት ሕዝባዊ መዋጮ የመሰብሰብ ፈቃድ ሲሰርዝ የተሰበሰበው ንግድ ወይም ንብረት በአገልግሎት ተወሰዶ ለበጎ አድራጎት ሊሰጥ ይችላል።

ከፍል አሥር ልዩ ልዩ ድንጋጌዎች

፩. ቅጣት

ሐ/ ማንኛውም የዚህን አዋጅ ድንጋጌዎች የጣለ የበጎ አድራጎት ድርጅት ወይም ማህበር ወይም ማንኛውም ሰው በወንጀል ሕግ ድንጋጌዎች መሰረት ይቀጣል።

ከ/ የዚህ አንቀጽ ንዑስ አንቀጽ (፩) ቢኖርም፤

2/ Where the Agency refuses to issue a permit or attaches any condition to the permit, it must serve on the applicant written notice of its decision and the reasons for its decision.

100. Grounds for Refusal of a Public Collections Permit

The Agency may refuse to permit a public collection on the following grounds:

1/ where the public collection is not going to be utilized for the purposes of the Charity or Society;

2/ any information provided by the applicant is false or misleading;

3/ where that any of the persons who are to conduct the public collection do not fulfill the requirements set forth in Article 70.

101. Grounds for Revocation of a Public Collections Permit

1/ Agency may revoke a public collection permit where:

a) after a permission is granted, it is shown that the requirements under Article 98 have not been fulfilled;

b) the public collection has been improperly administered;

c) the conditions set by the Agency for granting the permit have not been complied with.

2/ Where the Agency revoke a license under Sub-article (1) of this Article any money or property collected may be taken by the Agency and given to charitable purposes.

SECTION TEN MISCELLANEOUS PROVISIONS

102. Penalty

1/ Any person who violates the provisions of this proclamation shall be punishable in accordance with the provisions of the criminal code.

2/ Notwithstanding subarticle (1) of this Article:



፪/ ኢ.ጂ.ንሲ.ው ማመልከቻውን ጠጥሮ ካደረገ ወይም በፈቃዱ ላይ ማጥፋቱንም ገደብ ሲያደርግ ለማመልከቻ አቅራቢው ጥሪውን ከነምክንያቱ በጽሁፍ መስጠት አለበት።

፫. የሕዝባዊ መዋጮ ፈቃድ የሚያስከለክል ምክንያቶች

ኢ.ጂ.ንሲ.ው በሚከተሉት ምክንያቶች የሕዝባዊ መዋጮ ፈቃድ ሊከለክል ይችላል፤

ለ/ ሕዝባዊ መዋጮው ለባሉ አድራጎች ድርጅቱ ወይም ለማህበሩ ዓላማ የሚውል ካልሆነ፤

፩/ በአመልካቹ የቀረበው መረጃ ሐሰተኛ ወይም አሳሳች ከሆነ፤

፪/ ሕዝባዊ መዋጮውን የሚያከናውኑት ሰዎች በዚህ አዋጅ አንቀጽ ፭ የተደነገጉትን መመዘኛዎች የማያሟሉ ከሆኑ።

፬. የሕዝባዊ መዋጮ የመሰብሰብ ፈቃድን ስለመሰረዝ

ለ/ ኢ.ጂ.ንሲ.ው በሚከተሉት ምክንያቶች ሕዝባዊ መዋጮ የመሰብሰብ ፈቃድን ሊሰርዝ ይችላል፤

ሀ. ፈቃዱ ከተሰጠ በኋላ የዚህ አዋጅ አንቀጽ ፮ ድንጋጌዎችን አንዳልተሟሉ ሲረጋገጥ፤

ለ. ሕዝባዊ መዋጮው ትክክለኛ ባልሆነ መንገድ አንዳልተዳደረ የተደረገ ሲሆን፤

ሐ. ፈቃዱ ሲሰጥ በኢ.ጂ.ንሲ.ው የተጣለው ገደብ የተጣለ ሲሆን።

፩/ በዚህ አንቀጽ ንዑስ አንቀጽ (አ) መሠረት ሕዝባዊ መዋጮ የመሰብሰብ ፈቃድ ሲሰረዝ የተሰበሰበው ንግድ ወይም ንብረት ይዘት ኢ.ጂ.ንሲ.ው ተወስዶ ለባን አድራጎች ሊሰጥ ይችላል።

ዘፍል አሥር ልዩ ልዩ ድንጋጌዎች

፩. ቅጣት

ለ/ ማንኛውም የዚህን አዋጅ ድንጋጌዎች የጣሰ የባን አድራጎች ድርጅት ወይም ማህበር ወይም ማንኛውም ሰው በወንጀል ሕግ ድንጋጌዎች መሰረት ይቀጣል።

፩/ የዚህ አንቀጽ ንዑስ አንቀጽ (አ) ቢኖርም፤

2/ Where the Agency refuses to issue a permit or attaches any condition to the permit, it must serve on the applicant written notice of its decision and the reasons for its decision.

100. Grounds for Refusal of a Public Collections Permit

The Agency may refuse to permit a public collection on the following grounds:

1/ where the public collection is not going to be utilized for the purposes of the Charity or Society;

2/ any information provided by the applicant is false or misleading;

3/ where that any of the persons who are to conduct the public collection do not fulfill the requirements set forth in Article 70.

101. Grounds for Revocation of a Public Collections Permit

1/ Agency may revoke a public collection permit where:

a) after a permission is granted, it is shown that the requirements under Article 98 have not been fulfilled;

b) the public collection has been improperly administered;

c) the conditions set by the Agency for granting the permit have not been complied with.

2/ Where the Agency revoke a license under Sub-article (1) of this Article any money or property collected may be taken by the Agency and given to charitable purposes.

SECTION TEN MISCELLANEOUS PROVISIONS

102. Penalty

1/ Any person who violates the provisions of this proclamation shall be punishable in accordance with the provisions of the criminal code.

2/ Notwithstanding subarticle (1) of this Article:



ሀ/ የዚህን አዋጅ አንቀጽ ፳፭ በመጣስ የሂሳብ መዝገብ ያልያዘ የተቀበለውን ገንዘብ የገንዘቡን ምንጭና ወጪ ያልመዘገበ የሂሳብ ሰነዶችን የበጀት ዓመቱ ካበቃበት ቀን ጀምሮ ለአምስት ዓመታት ጠብቆ ያላቆየ የበጀት አድራጊት ድርጅት ወይም ማህበር ከብር ፳፯ (ሃያ ሺ ብር) በማያንስና ከብር ፶፯ (ሃምሳ ሺ ብር) በማይበልጥ መቀጮ ይቀጣል።

ለ/ የዚህን አዋጅ አንቀጽ ፳፭ በመጣስ ተቀባይነት ባላቸው ደረጃዎች መሰረት የተዘጋጀ ዓመታዊ የሂሳብ መግለጫ ለኢጅንሰው ያልላከ ወይም ገቢው ከብር ፶፯ (ሃምሳ ሺ ብር) በታች ሲሆን ገቢን ወጪንና ሃብትን ዝርዝር ለኢጅንሰው ያላተረበ ወይም የሂሳብ መግለጫውንና ተያያዥ ሰነድ ለአምስት ዓመት ጠብቆ ያላቆየ የበጀት አድራጊት ድርጅት ወይም ማህበር ከብር ፶፯ (አስር ሺ ብር) በማያንስና ከብር ፳፯ (ሃያ ሺ ብር) በማይበልጥ መቀጮ ይቀጣል።

ሐ/ የዚህን አዋጅ አንቀጽ ፳፭ በመጣስ የበጀት አድራጊት ድርጅቱን ወይም የማህበሩን የባንክ ሂሳብ ከሚፈለገው ዝርዝር ጋር በየዓመቱ እና በተጠየቀበት ለኢጅንሰው ያላተረበ የበጀት አድራጊት ድርጅት ወይም ማህበር ከብር ፶፯ (ሃምሳ ሺ ብር) በማያንስና ከብር ፳፯ (አንድ መቶ ሺ ብር) በማይበልጥ መቀጮ ይቀጣል።

መ/ የዚህን አዋጅ አንቀጽ ፳፭ በመጣስ የየበጀት ዓመት አስተዳደራዊ ወጪውን ከበጀቱ ፱ በመቶ በላይ ያወጣ ወይም የዓላማ ማስፈጸሚያ ወጪውን ከ፪ በመቶ በታች ያደረገ የበጀት አድራጊት ድርጅት ወይም ማህበር ከብር ፳፯ (አምስት ሺ ብር) በማያንስና ከብር ፶፯ (አስር ሺ ብር) በማይበልጥ መቀጮ ይቀጣል።

ለ/ በዚህ አንቀጽ ንዑስ አንቀጽ (፩) በተመለከተው ወንጀል ተሳታፊ የሆነ ማንኛውም የበጀት አድራጊት ድርጅት ወይም ማህበር የሥራ ጋላፊ ወይም ሠራተኛ አግባብ ባለው የወንጀል ሕግ ድንጋጌ የተመለከተው የእስራት ቅጣት ተፈጻሚነት እንዲተጠበቅ ሆኖ ከብር ፶፯ (አምሳ ሺ ብር) በማያንስና ከብር ፳፯ (ሃምሳ ሺ ብር) በማይበልጥ መቀጮ ይቀጣል።

a/ any Charity or Society whose in violation of Article 77 fails to keep its books or accounts, to record money received, its source and the amount expended, to preserve any accounting records for at least five years from the end of its financial year shall be punishable with fine not less than birr 20,000.00 (Twenty thousand birr) and not exceeding Birr 50,000.00 (fifty thousand Birr) ;

b/ any Charity or Society who in violation of Article 78 fails to submit to the Agency an annual statements of account prepared in accordance with acceptable standards; to prepare the statements of receipts, payments and assets and send the same to the agency; to preserve all statements of accounts and related documents for at least five years from the end of its financial year shall be punishable with fine not less than Birr 10,000.00 (ten thousand birr) and not exceeding birr 20,000.00 (twenty thousand Birr) ;

c/ any Charity or Society who in violation of Article 83 fails to report annually upon request about all its bank account with the necessary particulars shall be punishable with fine not less than Birr 50,000.00 (fifty thousand birr) and not exceeding Birr 100,000.00 (hundred thousand Birr) ;

d/ any Charity or Society who in violation of Article 88 fails to allocate not less than 70 percent of its expenses in each budget year for the implementation of its purposes and not exceeding 30 percent for its administrative activities shall be punishable with fine not less than Birr 5,000.00 (five thousand Birr) and not exceeding birr 10,000.00 (ten thousand Birr).

3/ Any officer, or employee of a Charity or Society who participates in the criminal act stated under sub-article (2) of this Act shall, without prejudice to the applicability of the relevant provisions of the Criminal Code prescribing a penalty of imprisonment, be punishable with fine not less than Birr 10,000 (ten thousand birr) and not exceeding Birr 20,000 (twenty thousand birr)

፪/ በውሳኔው ውስጥ ይህን በሚመለከት የተገለፀ ነገር የሌለ እንደሆነ ገንዘቡ ወይም ንብረቱ በኢ.ጅ.ንሲ.ው ቁጥጥር ሥር ሆኖ በዚህ አዋጅ ድንጋጌዎች መሠረት ለተመሳሳይ የበጎ አድራጎት ዓላማ ይውላል፡፡

፫/ ለበጎ አድራጎት ኮሚቴው ገንዘቡን ወይም ንብረቱን የሰጠ ለዎች መልሰው ሊወስዱት አይችሉም፡፡

፶፫. ቀሪ ገንዘብና ንብረት

፩/ በበጎ አድራጎት ኮሚቴው የተሰበሰበው ገንዘብ ወይም ንብረት ዓላማውን ለማሳካት አስፈላጊ ከሆነው በላይ ከሆነ ቀሪው ገንዘብ ወይም ንብረት ኮሚቴውን ባፀደቀው የኢ.ጅ.ንሲ.ው ውሳኔ መሠረት ሥራ ላይ ይውላል፡፡

፪/ በውሳኔው ውስጥ ይህን በሚመለከት የተገለፀ ነገር የሌለ እንደሆነ ገንዘቡ ወይም ንብረቱ ኢ.ጅ.ንሲ.ው የሚያዝበት ሆኖ በዚህ አዋጅ ድንጋጌዎች መሠረት ለተመሳሳይ የበጎ አድራጎት ዓላማ ይውላል፡፡

፫/ ለበጎ አድራጎት ኮሚቴው ገንዘቡን ወይም ንብረቱን የሰጠ ለዎች መልሰው ሊወስዱት አይችሉም፡፡

፶፬. ወደ ዘላቂ በጎ አድራጎት ድርጅትነት ስለመለወጥ

፩/ የበጎ አድራጎት ኮሚቴው በፀደቀበት ውሳኔ ላይ በተመለከተው መሠረት በኮሚቴው የተሰበሰበው ገንዘብ ወይም ንብረት ለአንድ ለተወሰነ ዘላቂ ዓላማ የሚውል ከሆነ ይህንኑ ዓላማ ለማሳካት ዘላቂ የበጎ አድራጎት ድርጅት ይቋቋማል፡፡

፪/ በበጎ አድራጎት ኮሚቴው የተሰበሰበው ገንዘብ ወይም ንብረት የታቀደውን ዓላማ ለማሳካት አስፈላጊ ከሆነው እጅግ የበዛ ከሆነ የኮሚቴው አባላት በዘላቂ የበጎ አድራጎት ድርጅትነት ለመመዝገብ ፈቃድ እንዲሰጣቸው እጅግ ንሲ.ውን ሲጠይቁና ሲፈቀድላቸው ሊያመልኩ ይችላሉ፡፡

ከድል አራት ማህበራት

፶፭. ትርጓሜ

፩ "ማህበር" ማለት ዓላማው ትርፍ ለማግኘት ያልሆነ የአባላቱን መብትና ጥቅም ለማስጠበቅ እና ተመሳሳይ ሕጋዊ ዓላማዎችን ለማሳካት እንዲሁም ተመሳሳይ ዓላማ ካላቸው ተቋማት ጋር ለመተባበር በአባላቱ ስምምነት የተመሠረተ የሰዎች ስብስብ ነው፡፡

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

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

53. Balance

1/ Where the money or property collected by the Charity Committee amounts to more than what is necessary for the attainment of the proposed purpose, the balance shall have the destination prescribed by the decision of the Agency approving the Charity Committee

2/ In the absence of any Provision to that effect, it shall be placed at the disposal of the Agency and shall be destined for a similar charitable purpose in accordance with the provisions of this Proclamation.

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

54. Change into a Charitable Endowment

1/ Where under the decision approving the Charity Committee the money or property collected by the Charity Committee is to be destined to a specific lasting object, a Charitable Endowment shall be constituted for the attainment of such object.

2/ Where the money or property collected by the Charity Committee is significantly larger than what is necessary for the attainment of the proposed purpose, the members of a Charity Committee may seek permission and apply to the Agency for registration as a Charitable Endowment.

SECTION FOUR SOCIETIES

55. Definition

1/ "Society" means an association of persons organized on non-profit making and voluntary basis for the promotion of the rights and interests of its members and to undertake other similar lawful purposes as well as to coordinate with institutions of similar objectives.

፳፻፫. የገቢ ማስገኘት ስራዎች

አ/ የበጎ አድራጊነት ድርጅት ወይም ማህበር ከኢ.ጀንሲው በጽሁፍ በሚሰጠው ፈቃድ መሠረት ለበጎ አድራጊነት ድርጅቱ ወይም ማህበሩ አባላት ወይም ተጠቃሚዎች ሊከፋፈል የማይችል እና ገቢው ለዓላማው ማስፈጸሚያ የሚውል ከአላማው ጋር ተያያዥነት ያላቸውን ገቢ የማመንጨት ሥራዎች ሊያከናውን ይችላል፡፡

አ/ ገቢ የሚያስገኙ ስራዎችን የሚሰሩ የበጎ አድራጊነት ድርጅት ወይም ማህበር ገቢ የሚያስገኙ ሥራዎችን በተመለከተ የተለየ የሂሳብ መዛግብት መያዝ አለበት፡፡

ለ/ የበጎ አድራጊነት ድርጅት ወይም ማህበር ትርፉን ለአባላቱ አከፋፍሎ ወይም የተለየ የሂሳብ መዛግብት ሳይዝ ቢገኝ ኢ.ጀንሲው በዚህ አዋጅ አንቀጽ ፺፪ መሰረት አግባብነት ያለውን እርምጃ ይወስዳል፡፡

ወ/ በዚህ አዋጅ የተመለከቱት ድንጋጌዎች በሌሎች ሕጎች ንግድን፣ ኢንቨስትመንትን እና ሌሎች ትርፍ ለማግኘት የሚሰሩ ሥራዎችን ምዝገባና ፈቃድ በሚመለከት የተደነገጉትን መስፈርቶች እና ሥነ/ሥርዓቶች አያስቀርም፡፡

፳፻፬. አቤቱታ እና ይግባኝ

አ/ የኢ.ጀንሲው ዋና ዳይሬክተር በኢ.ጀንሲው አሰራር ላይ ተገቢውን የአስተዳደር እርዛኞች ተከትሎ የሚቀርብለትን ማንኛውንም አቤቱታ ተቀብሎ በ፲፭ ቀን ውስጥ መወሰን አለበት፡፡

አ/ በማንኛውም ዋና ዳይሬክተሩ በሰጠው ውሳኔ ላይ ቅሬታ ያለው ሰው ውሳኔው በተሰጠ በ፲፭ ቀን ውስጥ ለቦርዱ ይግባኝ ማቅረብ ይችላል፡፡ ቦርዱ የሚሰጠው ውሳኔ የመጨረሻ ይሆናል፡፡

ለ/ የዚህ አንቀጽ ንዑስ አንቀጽ (፯) ቢኖርም የኢትዮጵያ የበጎ አድራጊነት ድርጅት ወይም ማህበር ቦርዱ ውሳኔ ላይ ቅሬታ ካለው ቦርዱ ውሳኔ በሰጠ ፲፭ ቀን ውስጥ ለፌዴራል ከፍተኛ ፍርድ ፌት ይግባኝ ማቅረብ ይችላል፡፡

4/ በዚህ አንቀጽ መሰረት በይግባኝ ሂደት ላይ የሚገኝ የምዝገባ ወይም የሰረዛ ጉዳይ ከሆነ የሚመለከተው አካል የመጨረሻ ውሳኔ እስከ ከሚሰጥ እንዳልተመዘገበ ወይም እንዳልተሰረዘ ይቆጠራል፡፡

103. Income Generating Activities

1) Charities or Societies may, upon a written approval of the Agency, engage in income generating activities that are incidental to the achievement of their purposes and the proceeds of which shall not be distributed among the members or beneficiaries of the Charity or Society and are used to further the purposes for which the Charity or Society was established.

2) A Charity or a Society that undertakes income generating activities shall keep separate books of account with respect to such activities.

3) Where a Charity or Society is found to have distributed its profits or should it fail to keep separate books of account, the Agency shall take appropriate measures in accordance with Article 92 of this Proclamation.

4. Nothing in this Proclamation shall affect the requirements and procedures laid down in any other laws concerning the registration and licensing requirements for activities related to trade, investment or any profit making activities.

104. Claims and Appeals

1/ The Director General of the Agency shall decide over claims that have exhausted administrative stages and made to him; in relation to the Agency's activities within 15 days.

2/ Any person aggrieved by any decision of the Director General may appeal to the Board within fifteen days from the date of the decision. The decision of the Board shall be final.

3/ Notwithstanding Sub-article (2) of this Article, Ethiopian Charity or Society aggrieved by the decision of the Board may appeal to the Federal High Court within 15 days from the date of the decision.

4/ Any Charity or Society in the process appeal, where it is in relation to registration or cancellation shall be deemed not registered or cancelled until final decision is rendered by the concerned authority.

፳፻፩. ወንጀልን ስለመመርመርና ክስ ለማቅረብ

- ለ/ በዚህ አዋጅ ወይም በዚህ አዋጅ መሠረት በወጡ ደንቦች የተደነገገውን ማናቸውንም ወንጀል በተመለከተ የሚካሄድ የምርመራ ወይም የክስ ማቅረብ ሂደት በወንጀል ሥነ ሥርዓት ሕግ ይመራል።
- ዘ/ የዚህ አንቀጽ ንዑስ አንቀጽ (፩) ቢኖርም አጂንሊው ለወንጀል ክስ የሚረዱ ማናቸውንም ማስረጃ በማደራጀት ክስ የመመስረት ሥልጣን ላለው አካል የማቅረብ ግዴታ አለበት።

፳፻፪ መዋሐድ

- ለ/ ሁለት ወይም ከዚያ በላይ የሆኑ የበጎ አድራጊነት ድርጅቶች ወይም ማህበራት አግባብነት ባላቸው ሕጎችና በመተዳደሪያ ደንባቸው መሠረት በአዲስ ስም ወይም ከሚዋሃዱት በአንዱ የበጎ አድራጊነት ድርጅት ወይም ማህበር ስም ሊሞሉ ይችላሉ። ውህደቱ ሲፈጸም የቀድሞ የበጎ አድራጊነት ድርጅቶች ወይም ማህበራት መብትና ግዴታ ወደ ተዋሃደው ድርጅት ይተላለፋል።
- ዘ/ የተዋሃደው አዲስ የበጎ አድራጊነት ድርጅት ወይም ማህበር በዚህ አዋጅ መሠረት መመዝገብ አለበት።

፳፻፫ መከፋፈል

- ለ/ የበጎ አድራጊነት ድርጅት ወይም ማህበር መተዳደሪያ ደንቡ የሚፈቅድ ከሆነ እና አግባብነት ያለው አካል ከፈቀደ በሕግ መሰረት ሊከፋፈል ይችላል።
- ዘ/ የተከፋፈለው የበጎ አድራጊነት ድርጅት ወይም ማህበር ስልጣን ያለው አካል ተቃራኒ ውሳኔ አስከሬናው ድረስ የተከፈለው የበጎ አድራጊነት ድርጅት ወይም ማህበር የቀድሞ የበጎ አድራጊነት ድርጅት ወይም ማህበር ላለበት ግዴታና መብት አኩል ተካፋይ ነው።
- ለ/ የቀድሞው የበጎ አድራጊነት ድርጅት ወይም ማህበር ትልቅና የሚያበቃው ለአዲሶቹ የበጎ አድራጊነት ድርጅቶች ወይም ማህበራት የምዝገባና ፈቃድ የምስክር ወረቀት ሲሰጥና የንብረት ክፍፍል ሲደረግ ነው።
- ዘ/ በሁሉም አዲሶቹ የበጎ አድራጊነት ድርጅቶች ወይም ማህበራት ስምምነት ከነሱ አንዱ የቀድሞው የበጎ አድራጊነት ድርጅት ወይም ማህበር ስም ይዞ እንዲቆይ አጂንሊው ሊፈቅድ ይችላል።

105. Investigation and Prosecution of Offences

- 1/ Investigations and prosecution in respect of any offence under this Proclamation or any regulations made hereunder shall be conducted by organs authorized in accordance with the Criminal Procedure Code.
- 2/ Notwithstanding sub-article (1) of this Article, the Agency shall collect and organize any evidence necessary for criminal prosecution and submit the same to the appropriate authority.

106. Merger

- 1/ Two or more Charities or Societies may merge into one under a new name or under the name of one of the former Charity or Society in accordance with relevant laws and in accordance with their rules. The rights and obligations of the former Charities or Societies shall be transferred to the newly formed organization.
- 2/ The newly established Charity or Society shall be registered anew in accordance with this Proclamation.

107. Division

- 1/ A Charity or Society may be divided into two or more organizations where its rules allow and its competent organ so determines.
- 2/ Unless determined otherwise by the competent organ of the original Charity or Society the Charities or Societies that result from the division shall bear the obligations and utilize the rights jointly.
- 3/ The existence of the former Charity or Society shall cease at the time when the certificates of license and registration are issued to the new Charities or Societies and division property is completed.
- 4/ The Agency may allow one of the new Charities or Societies to retain the name of the previous Charity or Society where the retention of such name is agreed upon by the new Charities or Societies.

፳፻፳. ስለ መቀየር/መለወጥ

አ/ በዚህ አዋጅ አንቀጽ ፺፭ የተደነገገው አንድተጠበቀ ሆኖ ማንኛውም የበጎ አድራጉት ድርጅት በመተዳደሪያ ደንቡ መሰረት በድርጅቱ የበላይ አካል ውሳኔ በዚህ አዋጅ አንቀጽ ፪ ንዑስ አንቀጽ (፪)፣ (ሀ) ወይም (ወ) ከተጠቀሱት የበጎ አድራጉት ድርጅቶች ወደ አጭር ሊቀየርና በኢጀንሲው ሊመዘገብ ይችላል።

ደ/ ማንኛውም ማህበር በዚህ አዋጅ እና በመተዳደሪያ ደንቡ መሰረት በዚህ አዋጅ ከተጠቀሱት የበጎ አድራጉት ድርጅቶች ኅደነት ወደ አንዱ ሊቀየርና በኢጀንሲው ሊመዘገብ ይችላል።

፳፻፶ ደንብ የማውጣት ሥልጣን

የሚኒስትሮች ምክር ቤት ይህን አዋጅ ለማስፈጸም የሚያስፈልጉ ደንቦችን ሊያወጣ ይችላል።

፳፻፯. ተፈጻሚነት ስለማይኖራቸው ሕጎች

ይህን አዋጅ የሚቃረን ማንኛውም ሕግ፣ ደንብ፣ መመሪያ ወይም ልምዳዊ አሰራር ተፈጻሚነት አይኖረውም።

፳፻፲፩. የመሸጋገሪያ ድንጋጌዎች

አ/ ይህ አዋጅ ከመውጣቱ በፊት ተደርጎ በፀደቀው ሕግ የተገኘ መብትና ግዴታ ይህን አዋጅ አሰላለፋቸው ድረስ ይቀጥላል።

ደ/ ቀደም ሲል የተመዘገቡ ማንኛውም የበጎ አድራጉት ድርጅቶች እና ማህበራት ይህ አዋጅ ከጸናበት ቀን ጀምሮ በአንድ ዓመት ጊዜ ውስጥ እንደገና መመዝገብ አለባቸው።

፳፻፲፪. ስዋጁ የሚጸናበት ጊዜ

ይህ አዋጅ በፌዴራል ንጋሪት ጋዜጣ ታትሞ ከወጣበት ቀን ጀምሮ የፀና ይሆናል።

አዲስ አበባ የካቲት ፳፱ ቀን ፳፻፱ ዓ.ም
ግርማ ወልደጊዮርጊስ

የኢትዮጵያ ፌዴራላዊ ዲሞክራሲያዊ
ሪፐብሊክ ፕሬዝዳንት

108. Conversion

1/ Without prejudice to Article 95 of this Proclamation any Charity may be converted into any of the types of charities listed under sub articles (2), (3) and (4) of Article 2 of this proclamation and be registered with the Agency where its competent organ so decides in accordance with its rules.

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Done at Addis Ababa, this 13th day of February, 2009

GIRMA WOLDEGIORGIS

PRESIDENT OF THE FEDERAL
DEMOCRATIC REPUBLIC OF ETHIOPIA

፩፻፳. በሰላማዊ/መለወጥ

ሀ/ በዚህ አዋጅ አንቀጽ ፲፭ የተደነገገው አንድተጠበቀ ሆኖ ማንኛውም የበጎ አድራጎች ድርጅት በመተዳደሪያ ደንቡ መሰረት በድርጅቱ የበላይ አካል ውሳኔ በዚህ አዋጅ አንቀጽ ፩ ንዑስ አንቀጽ (፩)፣ (፪) ወይም (፬) ከተጠቀሱት የበጎ አድራጎች ድርጅቶች ወደ አንዱ ሊቀየርና በኢጀኔራው ሊመዘገብ ይችላል።

ወ/ ማንኛውም ማህበር በዚህ አዋጅ እና በመተዳደሪያ ደንቡ መሰረት በዚህ አዋጅ ከተጠቀሱት የበጎ አድራጎች ድርጅቶች ዓይነት ወደ አንዱ ሊቀየርና በኢጀኔራው ሊመዘገብ ይችላል።

፩፻፶ ይንብ የማውጣት ሥልጣን

የሚኒስትሮች ምክር ቤት ይህን አዋጅ ለማስፈጸም የሚያስፈልጉ ደንቦችን ሊያውጣ ይችላል።

፩፻፶፫ ተፈጻሚነት ስለማይኖራቸው ሕጎች

ይህን አዋጅ የሚቃረን ማንኛውም ሕግ፣ ደንብ፣ መመሪያ ወይም ልምዳዊ እስራር ተፈጻሚነት አይኖረውም።

፩፻፶፭ የመሸጋገሪያ ድንጋጌዎች

ሀ/ ይህ አዋጅ ከመውጣቱ በፊት ቀድሞ ይፈጸመው ሕግ የተገኘ መብትና ግዴታ ይህን አዋጅ እስከላተቃረነ ድረስ ይቀጥላል።

ወ/ ቀደም ሲል የተመዘገቡ ማንኛውም የበጎ አድራጎች ድርጅቶች እና ማህበራት ይህ አዋጅ ከጸናበት ቀን ጀምሮ በአንድ ዓመት ጊዜ ውስጥ እንዲገናኙ መመዝገብ አለባቸው።

፩፻፶፮ ስዋጁ የሚጸናበት ጊዜ

ይህ አዋጅ በፌዴራል ነጋሪት ጋዜጣ ታትሞ ከወጣበት ቀን ጀምሮ የፀና ይሆናል።

አዲስ አበባ የካቲት ፳ ቀን ፪ሺ፩ ዓ.ም

ግርማ ወልደጊዮርጊስ

የኢትዮጵያ ፌዴራላዊ ዲሞክራሲያዊ ሪፐብሊክ ፕሬዝዳንት

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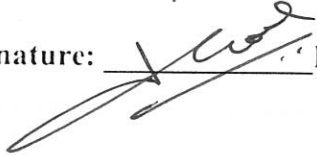
DECLARATION

I, the undersigned, declare that this Thesis is my original work, has not been presented for a degree in any other university and that all source materials used for the thesis have been acknowledged.

Author's name: Shomeles Dinku

Signature:  Date: 16/03/09

Supervisor's name: Vaibhav Goel

Signature:  Date: May 11, 2009