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**ADDIS ABABA UNIVERSITY  
FACULTY OF BUSINESS AND ECONOMICS  
DEPARTMENT OF PUBLIC ADMINISTRATION AND  
DEVELOPMENT MANAGEMENT**



**STAKEHOLDERS' PERSPECTIVES AND EXPERIENCES ON AND POSSIBLE  
CONSEQUENCES OF THE 2009 CHARTIES AND SOCIETIES PROCLAMATION  
ON NGOs AND CSOs IN ADDIS ABABA**

**A THESIS SUBMITTED TO THE SCHOOL OF GRADUATE STUDIES OF ADDIS  
ABABA UNIVERSITY IN PARTIAL FULFILLMENT OF THE TOTAL  
REQUIREMENTS FOR THE DEGREE OF MASTER OF ARTS IN PUBLIC  
ADMINISTRATION**

**BY:**

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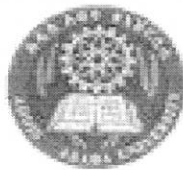
**Dr. TEFAYE DEBELA**

**MAY 2010,  
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# SCHOOL OF GRADUATE STUDIES

## ADDIS ABABA UNIVERSITY

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Date

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## ... My Blessings!

I feel blessed! And I know I am blessed!

With

**My God:** the Omni-potent, who has made me who I am, and who has bestowed upon me my abilities and the capacity to flourish and grow!

My family: **My Father**, Fisseha Beyene, for sowing in me the seed of education and its unparalleled importance; **My Mother**, Sr. Belaynesh Huluka, for her unconditional love whatsoever; my siblings Mimi, Nunu and Yonas for all the advice, support and love and especially **My big sis**, for making me believe that with perseverance, positive attitude and wisdom, you can make it to anywhere...

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## **LIST OF ACRONYMS**

CCRDA	Consortium of Christian Relief and Development Agency
CRDA	Christian Relief and Development Agency
CSA	Charities and Societies Agency
CSI	Civil Society Index
CSO	Civil Society Organizations
CSP	Charities and Societies Proclamation
DPPC	Disaster Prevention and Preparedness Commission
DSA	Development Studies Associates
EHRCO	Ethiopian Human Rights Council
FDRE	Federal Democratic Republic of Ethiopia
FSS	Forum for Social Studies
Govt.	Government
HRW	Human Rights Watch
ICNL	International Center for Not-for-Profit Law
IJNL	International Journal for Not-for-Profit Law
MOJ	Ministry of Justice
NGO	Non-governmental Organizations
NPO	Not-for-Profit Organizations
RRC	Relief and Rehabilitation Commission
UN	United Nations
UNESCO	United Nations Educational, Scientific, and Cultural Organization

## **ABSTRACT**

Ethiopia has a long history of informal community-based organizations but it took some time for the formal civil society to take root during the imperial regime in Ethiopia, and was severely restricted during the socialist derg regime. After the downfall of the derg, it became a relatively better period with respect to the freedom of civil society activities and their operational climate.

Through the ages, different governments have enacted their own laws and regulations for the proper registration, coordination and administration of organizations in the third sector. The icebreaker was the 1966 Associations Proclamation based on the then civil code of Ethiopia. Other regulations to mention are the 1995 Guidelines for NGO Operations and the 1999 NGOs Code of Conduct. Recently, the FDRE came up with a new proclamation providing for the registration and regulation of charities and societies in the country. The proclamation was met with mixed reactions, predominantly negative from opposition parties, human rights watch dogs and the NGO/ CSO community.

This research was undertaken to find out the actual fact on the ground regarding the perspectives, experiences and possible consequences of the proclamation as per the views of NGOs and CSOs; government officials and parliament members; and development practitioner researchers and journalists. The research used explanatory and descriptive research methods. The findings of the research indicate that there are indeed sizable disparities as to how the different respondent groups perceive the proclamation: how important they think the proclamation is, the actual reason for the government to come up with the proclamation at this time, how satisfied they are with their actual experiences, whether they think the pre-enactment process was fair and open to all, what they think of specific provisions and what they think would be the effect of the proclamation and whether those effects are positive or negative. But, the common ground that can be reached from their views on the issue is that there are some areas where by each and every concerned party should work on more to make the overall outcome better. Accordingly, based on the research's findings, conclusions and recommendations were drawn.

The recommendations include that NGOs should be more proactive in their operations to align themselves better with the proclamation's provisions, that the agency should build more capacity to better meet the needs of its clientele, that the agency and the NGO/ CSO community should promote a spirit of cooperation between them, that if possible some provisions have to be amended in the proclamation, that awareness programs should be undertaken, that the NGOs and CSOs should be given more time to register, and finally that the agency should offer strategic assistance to organizations in the third-sector.

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## **Chapter 1 Introduction**

### **1.1 Introduction**

In contemporary society, the agendum of development undoubtedly has an upper hand over almost all other issues on the tables of executives in government, inter-governmental and international organizations, and other huge global initiatives. These developmental agenda incorporate everything from miniscule societal endeavors in small villages and communities to large and integrated undertakings at continental and global levels.

Evidently, the realization of development in a country places huge demands on its government and people and the concerted efforts of all developmental actors is important, of which NGOs and CSOs are a part. Ethiopia and its people have also, through the ages, been benefited from the contribution of these third sector organizations. This paper is concerned with checking whether NGOs and CSOs indeed have inevitable roles to play in the country's national development, but mainly concerned to see if the enactment of the 2009 Charities and Societies Proclamation (CSP) brought about any challenges for their operation, how their experiences were like and what they project its possible consequences to be.

### **1.2 Background of the Study**

Development by and in itself is a huge concept and can possibly apply to all walks of life and all disciplines. Economic development, the type of development that principally deals with the improvement of the economic status of society, is the increase in the standard of living of a nation's population with sustained growth from a simple, low-income economy to a modern, high-income economy. Its scope includes the process and policies by which a nation improves the economic, political, and social well-being of its people.

Sustainable development is a term widely used by politicians all over the world, even though the notion is still rather new and lacks a uniform interpretation.

Important as it is, the concept of sustainable development is still being developed and the definition of the term is constantly being revised, extended, and refined. The United Nations World Commission on Environment and Development (1987) asserts development to be sustainable if it “meets the needs of the present without compromising the abilities of future generations to meet their own needs” in all its main component factors: social, economic or environmental. Sustainable development is a buzzword used by many scholars, practitioners and executives in government and other developmental stakeholders.

‘Development Stakeholders’ is the collective name given to all those parties who have an interest in a country’s development. Stakeholders of development principally fall in three broad categories: people for whom the development is planned and undertaken for, formal frameworks in governmental administrative machinery to lead and coordinate these developmental endeavors and other actors that complement and support the efforts undertaken by the two aforementioned groups; the latter being principally composed of non-governmental organizations (NGOs), civil society organizations (CSOs), not-for-profit organizations (NPOs), global organizations like the United Nations (UN) and the like.

As stated earlier, development is a huge concept be it in minuscule terms or on a world-wide scale, which entails the fact that the efforts of the formal administrative framework laid by governments proves to be quite insufficient for the daunting task of realizing development in a certain locality and this calls for the essential and at times inevitable role played by non-governmental organizations, civil society groups, associations, charities and similar other groups of organizations.

Ethiopia, as one of the world’s most impoverished countries, needs resources on a huge scale, be it human, material or financial, from these organizations (usually collectively referred to as ‘the third sector’) to complement its scarce

provisions for development. To this end, it's indisputable that all countries need to come up with a workable legal framework to channel the efforts of all such organizations for the ultimate benefit of the country. The government of the Federal Democratic Republic of Ethiopia (FDRE) has recently come up with a proclamation governing actors in the 'third sector' operating in the country.

This paper tries to explore the provisions in the proclamation, compares and contrasts the proclamation with today's global trends in NGO/CSO laws to avoid myopic judgment and lastly, it looks into possible consequences the proclamation can possibly have on the existence, operation and sustenance of these organizations.

### **1.3 Statement of the Problem**

The newly enacted CSP has been met with mixed reactions and reviews from various forces in the development sphere and beyond. The government claims it's a long overdue law and its sole purpose is to frame the actions of the charities and societies involved in a legal and concerted approach while the organizations concerned themselves, most often than not, claim there is an intentional back drop to the proclamation that wants to possibly weaken and potentially destroy their existence altogether.

Many NGOs, civil society organizations, charities and other similar associations claim the new proclamation is doing the exact opposite. They claim it's almost impossible for them to carry out their short-term operational plans and long-term strategic visions within the framework of the new proclamation. Let us look at some of the statements issued by such organizations in order to highlight this fact.

The Human Rights Watch (2008), one of the prominent human rights watchdogs globally, commented that the law is ostensibly a tool for enhancing the transparency and accountability of civil society organizations. But in fact, its provisions would create a complex web of arbitrary restrictions on the work civil

society groups can engage in, onerous bureaucratic hurdles, draconian criminal penalties, and intrusive powers of surveillance.

The Ethiopian Human Rights Council (EHRCO, 2008) is concerned on its part that the draft<sup>1</sup> makes a distinction between 'foreign' and 'Ethiopian' Charities and Societies. For a charity or society to be considered 'Ethiopian', it should not draw more than 10% of its funding from foreign sources, among other things.

Additionally, the bi-weekly Reporter printed on its issue of Wednesday, 25 November 2009, that the Ethiopian Human Rights Council (EHRCO) is forced to close ten regional bureaus it used to operate due to lack of finances arising from the enactment of the new charities and societies proclamation. It also highlighted the fact that another NGO by the name of Landmine Action has gone out of operation recently for lack of finances.

Amnesty International (2008), on its part, comments that it is deeply concerned by the repressive draft Charities and Societies Proclamation, which clearly aims not only to undermine and frustrate the work of independent civil society organizations in Ethiopia but also to bar foreign non-governmental organizations (NGOs) such as Amnesty International from operating in the country. The draft Proclamation demonstrates the government's increasing intolerance of the work of human rights defenders and civil society organizations, and would seem to be a ploy by the government to conceal human rights violations and prevent public protest and criticism of its actions.

Amid all this controversy, it is apparently easy to notice how challenged CSOs and NGOs would be to undertake their operations and how inconvenient their regulatory and operational environment. This research undertaking focuses on what these problems are and possible alternatives to be taken in order to alleviate the problems of these supposedly versatile actors in development.

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<sup>1</sup> All comments given on the draft proclamation and that are included in this thesis are provisions that have not been changed in the enacted proclamation.

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## **1.4 Research Objectives**

### **1.4.1 General Objective**

The general objective of this research is to shed light on the regulatory provisions governing non-governmental and civil society organizations as stipulated in the CSP. To that end, the thesis also tries to find out developmental stakeholder perspectives, experiences, and possible consequences with respect to the existence, operation and sustenance of organizations in the 'third sector'.

### **1.4.2 Specific Objectives**

The specific objectives of this study are:

- To assess whether non-governmental and civil society organizations have a significant role in the country's development,
- To find out what thoughts and perspectives different developmental stakeholders have on the proclamation and their experiences to date,
- To shed light on what the global trends in NGO/ CSO laws are today and where this proclamation stands in comparison to them and
- To find out the possible short-term effects and long-term consequences, if any, the proclamation will have on non-governmental and civil society organizations.

## **1.5 Research Questions**

The basic questions the research aims to answer are:

1. Does the 'third sector' really have important and sizable contributions to the country's development? (In terms of resource mobilization, financing and working on developmental activities, providing employment etc.)
2. What are the thoughts and perspectives of organizations in the 'third sector' towards this proclamation? What was their contribution before its enactment?

3. Will the proclamation have an effect on the formation, existence, operation and sustenance of developmental non-governmental and civil society organizations? What are the proclamation's short-term effects and long-term consequences?
4. What is the current global trend on NGO/ CSO laws around the world? And does this proclamation follow in the trend or are there any huge deviations there of?

### **1.6 Significance of the Study**

As stipulated in the introduction, the CSP can conveniently be placed high on the list among the most controversial, the most debated and the most popularly talked-about proclamations in recent history. The controversy has led people to hold quite varying views as to whether it basically has positive or negative outcomes, and as to whether it's timely or not. Most peoples' attitudes, however, are merely based on media reports, hear-say arguments and not-so-detailed reviews and comments of other people.

The significance of this study can therefore be in one, some or possibly all of the following points:

- It tries to answer, taking into account all stakeholders in development and based on a scientific research, whether the new proclamation has either positive or negative outcomes.
- It may be taken as a reference and recommendation, be it for the government, the charities and societies themselves, or for the general public who have an interest to look deeper into whether the proclamation is fair, enabling and constructive.
- It also highlights the proclamation in comparison with the global trends in third sector, with relatively newly enacted laws governing NGOs and CSOs, a feature which would help us check whether it's fair and timely.

---

## **1.7 Scope and Limitation of the Study**

### **1.7.1 Scope of the Study**

This research focuses on the perspectives and experiences on and the effects of the Charities and Societies Proclamation No. 621/2009 of the FDRE. And as such, it doesn't concern itself with a detailed analysis of any other laws or regulations promulgated earlier in connection with regulatory mechanisms to govern NGOs and CSOs in the country. The possible consequences of any such other laws and guidelines are beyond the scope of this study. Additionally, the effect of the proclamation on consortia of smaller NGOs and CSOs (Network Organizations) is beyond the scope of this research. Moreover, the study is concerned with and conducted on the NGO/CSO community in Addis Ababa and the resultant inferences may only apply to NGOs and CSOs operating in Addis Ababa.

### **1.7.2 Limitations of the Study**

The limitations of this study include:

- **Time and Financial Limitations:** Due to the huge amount of time and financial outlay required, this study should only be understood in the context that it pertains only to NGOs/CSOs in Addis Ababa.
- **Lack of Systematized Information:** As the agency is established recently, data are not compiled and classified. There is so far no systematic set up of data from which researchers can draw a pattern making sampling frame and identification of population daunting tasks.
- **Access and Bureaucracy:** Access to data and respondents also proved to be quite a limitation while undertaking this research. Potential respondents were unwilling, in quite a few cases, to respond to the questionnaires. On the other hand, bureaucracy also managed to be a huge obstacle while doing the research because the Ministry of Justice and officials of the agency didn't respond to enquiries on a timely and

cooperative manner; they rather claimed the agency is new and thriving and data, though available, was not readily provided.

## **1.8 Research Methodology**

This research assessed the consequences of the (CSP), enacted in 2009. It evaluated the experiences of and effects on NGOs and CSOs operating in Addis Ababa. The study used descriptive and explanatory research methods. The proclamation was evaluated and analyzed with specific details and it was also tried to assess as well as explain its existing and possible consequences on NGOs and CSOs operating in Addis Ababa.

### **1.8.1 Data Sources and Tools**

The study made use of both primary and secondary data. Books, published and unpublished sources, media releases, newspaper articles and documents from concerned governmental and non-governmental bodies were used as a secondary data source. Primary data was collected from the NGOs and CSOs themselves (officers and first-line development workers), government officials and parliament members through interviewer-administered and structured questionnaires. A more in-depth interview was conducted with key informants working in the field and officers in the charities and societies agency to find out pertinent information.

### **1.8.2 Sampling Technique**

As stipulated in the scope and limitations section of this chapter, it was found to be difficult to systematize respondent groups and apply probability sampling because many respondents were not willing to respond to the questionnaires because of its sensitive nature and political backdrop. Accordingly, non-probability sampling was applied to determine the sample out of the total population. To this end, the purposive and snowball sampling methods were used to gather data: purposive because respondents with the needed sampling

characteristics were contacted and snowball because networking and acquaintance were used to gather this supposedly sensitive information.

### **1.8.3 Sampling Size**

Earlier literature suggests that the number of NGOs and CSOs operating in Ethiopia was around 3,800. The agency, in its preparation before launching its operations, undertook an audit of 50.2% of these third-sector organizations (1918 organizations). It was found out that only 38.5% of the audited organizations (739 of them) were actually actively operating while an overwhelming 61.5% of the organizations were out of operation and all their communications with the Ministry of Justice were inexistent in terms of either renewal of registration or other reporting requirements.

The agency re-registered 1615 NGOs and CSOs as required by the proclamation. To achieve a sample that is representative of the whole population, the questionnaire was distributed to 110 NGOs and CSOs, only 100 of which responded; 25 government officers and parliament members, only 20 of which responded; and 37 development practitioner researchers and journalists, only 30 of which responded. Accordingly, the sample represents close to 7% of the total population (of NGOs and CSOs), without considering the second and third respondent groups.

### **1.8.4 Response Rate**

A total of 172 questionnaires were distributed, out of which 150 were duly filled and returned, accounting for a general response rate of 87.20%. Looking at the various respondent groups and their respective response rates, the group of NGOs and CSOs has a response rate of 90.90%, while the group of government officials and parliament members, and development practitioner researchers and journalists each has response rates of 80% and 81% respectively.

## **1.9 Data Analysis**

The data collected for this research were predominantly of two types: primary and secondary. Primary data collected through questionnaires were coded and organized and data obtained through interviews with key informants were synchronized. These organized data were presented in tables and graphs accompanied by the necessary analyses and interpretations. Based on these analyses, conclusions and recommendations were drawn.

## **1.10 Organization of the Paper**

Chapter 1 of this thesis on the CSP will discuss general introductory issues about the research and its relation with actors in the 'third sector' concerned with it, like non-governmental organizations and civil society groups within the framework of the proclamation. It generally gives information on the modalities of the research, what the problem in question is, the research's purpose and significance, and the sampling design.

Chapter 2 is dedicated to the exploration of related literature pertaining to issues raised in the thesis. It basically discusses development in itself and within the framework of development studies, non-governmental organizations and civil society organizations. Chapter 3 deals with a comparative analysis of Ethiopian NGO/ CSO laws and regulations, from earlier periods to the present one, principally pertaining to NGOs and CSOs and takes on a detailed presentation and analysis of the CSP.

Chapter 4 discusses the research's findings and sheds a light on their interpretation by way of analysis. Finally, Chapter 5 deals with conclusive arguments and recommendations solely based on the findings of the research – comprising of the basic reason of why the research was undertaken.

---

## Chapter 2 Literature Review

### 2.1 Introduction

#### 2.1.1 Development

Development is conceived to be a continuing transformation of cultural, political, social and economic conditions, patterns or situations of a region, society or country considered underdeveloped. Poverty is often linked to underdevelopment, and it should consequently be alleviated by development or developmental initiatives. (Spicker et al, 2006 :23).

Rostow (1995:47) argues that, early on, development was seen as a gradual economic change which would reflect the economic history of those countries branded as developed willing to improve people's standard of life, and remove any form of poverty. Escobar (1995), Sachs (1999) and Ferguson (1999) all see development as a discourse imposing a particular way of life to the underdeveloped countries, where 'progress' is meant to be a unique, irreversible and ineluctable process. This discourse emerged at the onset of the post-war period and the establishment of the United Nations, as part of the growing influence of the USA over global geopolitics. (Spicker et al., 2006:24)

Moreover, Spicker et al (2006:24) argue that development programs, promoted by international agencies, were focused on clearing the hurdles linked to the mental, attitudinal and behavioral aspects which had been assigned to those individuals presumed to be underdeveloped, as a way to alleviate poverty. Individuals, cultures and societies characterized as underdeveloped, are said to be in an 'inferior' stage of evolution and values, and hence are required to promote changes so as to usher in 'modern' cultural values.

Thirlwall (2005:87) believes that the economic and social development of the world's poorest countries is perhaps the greatest challenge facing humankind at the beginning of this new millennium. He further opines:

“Over one billion of the world's six billion population live in absolute poverty; the same number suffers various degrees of malnutrition, and millions have no access to safe water, healthcare and education. This poverty is concentrated largely in counties described as 'developing', and co-exists with the affluence enjoyed by the vast majority of people in counties described as 'developed'.”

### **2.1.2 Development and Development Studies**

Early views of development within the field of development studies, undoubtedly stressed catching up with, and generally imitating, the 'West'. The failure of development in so-called Third World Countries (TWCs), together with the postmodern critique and trends of globalization, are customarily regarded as having given rise to a major impasse in development studies in the 1980's. (Desai and Potter, 2002: 49)

Additionally, The World Bank (2000:7) asserts that in the 1950's, development and poverty alleviation were thought to be achieved by substantial investments in physical capital and infrastructure. Increasing GDP per capita in a given country was held to be the benchmark for measuring progress. However, a growing body of evidence in the 1970's disputed the likelihood of ever alleviating poverty by growth alone; instead, a 'redistribution with growth' was emphasized. In addition, 'extra-economic factors'- the so-called social and cultural aspects – played a major role in promoting development by them.

In the 1980's, evidence suggested that economic growth was not necessarily connected with social development; hence, the notion of development at minimal level was promoted by satisfying the minimum basic needs (Leguizamon 2005; Sachs 1999) of the poor through targeting. By the 1990's, the 'thought of development has focused on the capabilities and liberties as definitive goals' strongly swayed by Amartya Sen, who asserts that poverty means not only the lack of resources but also a lack of capabilities. (Spicker et al, 2006:24)

From this point onwards, the new stage of development is referred to as 'Human Development'. Sen believes that 'the expansion of liberties is the main purpose and the main means for development. Enrichment of human liberties is to include the removal of this person's deprivations. The various rights and opportunities add to the expansion of human liberty and to development (Desai, 2006: 50).

At the turn of the twenty-first century, human well-being, including individual civil and political liberties, as well as meeting the physical and material needs of human society, are accepted concerns for development, both as outcomes and conditions for sustained progress. Issues of egalitarian development, democracy, participation, ethics and human rights suffuse development theory, the pronouncements of major development institutions such as the United Nations and the World Bank, and the activities of new social movements alike. In short, the practice and discourses of development have become more morally informed particularly over the last decade. (Spicker et al, 2006:27)

### **2.1.3 Actors in development**

Actors in development can be broadly categorized as state and non-state actors. (Rostow, 1995:47). According to Rostow, the state is the forerunning stakeholder that partakes in developmental endeavors. But, the limited financial resources of the state limit its ability to undertake a fully-fledged developmental initiative.

Here comes the much-needed assistance from non-state actors. Non-state actors have a focused approach on a certain area of need in the society. They usually build on voluntary help from various parts of the society and also aggressively act to ultimately come up with huge financial resources. The predominantly active sections of the non-state actors come from non-governmental and civil-society organizations.

## **2.2 Civil Society and Non-Governmental Organizations**

### **2.2.1 Civil Society Organizations**

Civil Society is a concept usually interpreted to mean many things to many actors in development and beyond. Willets (2001) defines it as:

“Civil Society is a complex contested term, usually referring to all people, their activities and their relationships that are not part of the process of government. It may also be used to cover all processes other than government and economic activity”.

Van Rooy (2002:155) wrote that as a concept, civil society is essentially an intellectual product of 18<sup>th</sup> century Europe, when citizens sought to define their place in society independently of the aristocratic state and when, simultaneously, the certainty of a status-based social order began to suffer irreversible decline. The early theorists of civil society welcomed these changes. For Adam Smith, trade and commerce among private citizens created not only wealth but also invisible connections among people: the bonds of trust and social capital in today's terminology. Others such as John Locke and Alexis de Tocqueville saw civil society less in relation to the market but more in political terms and emphasized the importance of democratic association in everyday life as a base of a functioning polity. Van Rooy (2002) went on saying:

“During the 20<sup>th</sup> century, civil society became associated with notions of civility (Elias, 1994), popular participation and civic mindedness (Verba et al, 1995), the public sphere (Habermas, 1992), social capital (Putnam, 2000 and Coleman, 1990), culture (Gramsci, 1971) and community (Etzioni, 1971). The various concepts and approaches emphasize different aspects or elements of civil society: values and norms such as tolerance in the case of civility, the role of the media and intellectuals, connections among people and the trust they have in each other, the moral dimensions that communities create and need, and the extent to which people constitute a common public space through participation and civic engagement.” (Van Rooy, 2002:159)

Willets (2001) further asserts civil society to encompass all public activity, by any individuals, organizations or movements, other than government employees acting in a governmental capacity. In the broadest sense, it encompasses all social, economic, cultural and political relations, but the emphasis is usually on the political aspects of these relations. Thus, it can be used in reference to any level from the local to the country as a whole, or even global interactions.

What constitutes a civil society varies from culture to culture. A civil society can be defined by one culture in terms of the results or behaviors produced. Another definition may focus on the preconditions or foundations for civil society. A third culture may describe it as a desirable state for all society. And a fourth may emphasize the composition of civil society—who is and is not included. Within these four broad categories are many variations. Another consideration in discussing civil society is the cultural context. What are considered essential elements for a civil society in one culture may not be essential elements in another culture. (Peace Corps, 2003)

According to the London School of Economics, civil society is a concept located strategically at the cross-section of important strands of intellectual

developments in the social sciences. Civil Society refers to the arena of uncoerced collective action around shared interests, purposes and values. In theory, its institutional forms are distinct from those of the state, family and market, though in practice, the boundaries between state, civil society, family and market are often complex, blurred and negotiated. Civil Society commonly embraces a diversity of spaces, actors and institutional forms, varying in their degrees of formality, autonomy and power. Civil Societies are often populated by organizations such as registered charities, development non-governmental organizations, community groups, women's organizations, faith-based organizations, professional associations, trade unions, self-help groups, social movements, business associations, coalitions and advocacy group.

Van Rooy (2002:159) opined that the term civil society "has a long history in political philosophy, and its definition has altered with Roman, Lockean, Hegelian, Marxist and Gramscian interpretations long before it was resurrected in the 1990s. " Van Rooy questions what messages we have brought forward today. His answer is that he thinks there are at least six different elements, and at least as many dangers in turning them into policy directions."

- Civil Society as Values and Norms: For some, the 'civil' in civil society is the operative word: the term describes the kind of well-behaved society that we want to live in, the goal of our political and social efforts.
- Civil Society as a Collective Noun: While the normative note is always present, civil society is most commonly defined as a collective noun: synonymous with the voluntary sector (or the Third Sector), and with advocacy groups, human rights organizations and other actors explicitly involved in change work, and most often excludes those groups belonging to the marketplace, the state and political parties.

- Civil Society as a space for action: Civil society has also been used to describe the sphere or arena in which civil organizations prosper (or wilt).
- Civil Society as a historical moment: Others describe civil society as a historical moment, either a real or idealized description of society when a set of prerequisites was in place.
- Civil Society as an antidote to the state: The other overlapping optic describes civil society by its activities in opposition to a centralized or autocratic state. Promoting civil society has come to mean limiting the state.

Talk about civil society is shaping the very way in which we 'do' international relations today. That conversation pulls together global ideas, values, institutions and dollars in a vibrant, and sometimes violent, fashion. In many ways, civil society is the Rome of today's internationalism. (Van Rooy, 2002 :160)

### **2.2.2 Non-governmental Organizations**

The term, "non-governmental organization" or NGO, came into currency in 1945 because of the need for the UN to differentiate in its Charter between participation rights for intergovernmental specialized agencies and those for international private organizations. At the UN, virtually all types of private bodies can be recognized as NGOs. They only have to be independent from government control, not seeking to challenge governments either as a political party or by a narrow focus on human rights, non-profit-making and non-criminal. (Willets, 2001)

Willets (2001) wrote about the history of nomenclature of non-governmental organizations as follows:

“The term non-governmental organization or NGO was not in general currency before the UN was formed. When 132 international NGOs decided to co-operate with each other in 1910, they did so under the label, the Union of International Associations. The League of Nations officially referred to its "liaison with private organizations", while many of these bodies at that time called themselves international institutes, international unions or simply international organizations. The first draft of the UN Charter did not make any mention of maintaining co-operation with private bodies. A variety of groups, mainly but not solely from the USA, lobbied to rectify this at the San Francisco conference, which established the UN in 1945. Not only did they succeed in introducing a provision for strengthening and formalizing the relations with private organizations previously maintained by the League, they also greatly enhanced the UN's role in economic and social issues and upgraded the status of the Economic and Social Council (ECOSOC) to a "principal organ" of the UN. ”

Willets (2001) went on to explain the exact way by which the term NGO was coined as follows: “To clarify matters, new terminology was introduced to cover ECOSOC's relationship with two types of international organizations. Under Article 70, "specialized agencies, established by intergovernmental agreement" could "participate without a vote in its deliberations", while under Article 71 "non-governmental organizations" could have "suitable arrangements for consultation". Thus, "specialized agencies" and "NGOs" became technical UN jargon. Unlike much UN jargon, the term, NGO, passed into popular usage, particularly from the early 1970s onwards.”

Table 2.1 Changes in Terminology covering NGOs

<b>Level of Organization</b>	<b>1945 to Early 1990s</b>	<b>Early 1990s Onwards</b>
<b>Local</b>	National NGO at the UN, not discussed elsewhere	Grass-roots, Community-based or civil society organization, or local NGO
<b>National</b>	National NGO at the UN, not discussed elsewhere	NGO or national NGO or civil society organization
<b>Regional</b>	International NGO	NGO or Civil Society Organization
<b>Global</b>	International NGO	NGO or Major Group or Civil Society Organization

(Source: Willetts, 2001)

Willetts (2001) is of the opinion that many diverse types of bodies are now described as being NGOs. There is no generally accepted definition of an NGO and the term carries different connotations in different circumstances. Nevertheless, there are some fundamental features the author indicates:

“Clearly an NGO must be independent from the direct control of any government. In addition, there are three other generally accepted characteristics that exclude particular types of bodies from consideration. An NGO will not be constituted as a political party; it will be non-profit-making and it will be not be a criminal group, in particular it will be non-violent. These characteristics apply in general usage, because they match the conditions for recognition by the United Nations.”

## 2.3 Types of Third Sector Organizations

Willets (2001) posits that the structures of NGOs vary considerably. They can be global hierarchies, with either a relatively strong central authority or a more loose federal arrangement. Alternatively, they may be based in a single country and operate trans-nationally. With the improvement in communications, more locally-based groups, referred to as grass-roots organizations or community based organizations, have become active at the national or even the global level. Increasingly this occurs through the formation of coalitions. There are international umbrella NGOs, providing an institutional structure for different NGOs that do not share a common area of operation.

Similarly, civil society is the broader concept to cover all social activity by individuals, groups and movements. It remains a matter of contention whether civil society also covers all economic activity. Usually, society is seen as being composed of three sectors: government, the private sector and civil society, excluding businesses.

There is a great variety of ways in which NGOs are structured. The classic model is of a membership organization, co-coordinated in a geographically-defined hierarchy. Individual people work in local groups, which co-ordinate in provinces and then have a headquarters in the capital city for the country as a whole. Such country-wide organizations are called National NGOs (NNGOs). Frequently, the national NGOs combine in an International NGO (INGO), which may consist of regional groups of countries and be capped by a global body.

Kassahun (2002 :29) mentioned that there principally are five types of NGOs operating in Ethiopia, which are:

**2.3.1 Traditional Voluntary Organizations:** The most known are Equb, Debo, Maheber, Senbete and Idir( CRDA, 1998). The traditional voluntary

organizations have come into being due to the willingness of a community to perform a certain activity; it could be social or economical. Tsegaye (1994) cited in Kassahun (2002:29) described the traditional voluntary organizations of Ethiopia as:

“ Idir and equb are voluntary mutual aid association organized by the people at the grassroots with varying sizes, invariably small. Idir is organized for certain social functions and equb is organized to perform certain economic objectives and serve as a saving cooperative. Idir is socially broad based and equb is invariably composed of the same economic class.” (Kassahun, 2002:29)

**2.3.2 Professional Associations:** These are a body of scholars, artists and literate men who encouraged learning, literature and art by research and publications. These associations are responsible in promoting the professional know how of their members and preserving their professional ethics. Moreover, they are involved in protecting the rights of their members, provide professional, technical, financial and informational assistance to the members.

**2.3.3 Development Associations:** In Ethiopia, there are different development associations some of which are regional based like Amhara, Oromo, Tigray and Southern regional development associations. These associations promote a nation wide campaign of fund raising and collect a huge amount of money in addition to the money that they receive from regional states. They involve in different development activities in their respective regions like social and infrastructure development (CRDA, 2000).

**2.3.4 National NGOs (NNGOs):** The national NGOs are called indigenous NGOs. The NNGOs, which are religious based on secular, work relief, rehabilitation and development in which most of them have child care development program. Most of them work with churches and provide clothing,

food, health care and education for the poorest of the poor households. Their main sources of fund are their members or churches in the north that sponsor the program. However, the NNGOs are not strong enough to perform large development programs but they are growing fast and INGOs also support them to grow up to carry out development activities and replace them. (Kassahun, 2002:30)

**2.3.5 International NGOs (INGOs):** Most of INGOs in Ethiopia are religious based or secular and had been working on relief, rehabilitation and development works and they are active in their operations. Most of them work with the people at the grass-roots level using local resources. Their head offices or supporting offices are located in the north and they are responsible in fund raising to the program.

## **2.4 Functions of Third Sector Organizations**

According to Arronson (2004:3), organizations in the third sector carry out the following functions:

- Advocate particular political, social or economic positions
- Lobby governments at the local, regional, national and international level
- Provide consultative services at the local, national, or international level (eg. UN)
- Provide crucial services either in cooperation with, or in place of, the state
- Engage in economic development, education, and capacity building at the local, regional, national, or international levels
- Provide emergency assistance at the local, regional, national, or international levels

- Provide emergency assistance at the local, regional, national, and international level
- Engage in 'self help'
- Increasingly a source of ideas and claims about how the world ought to be
- Creation of a global 'human rights' culture, thanks to NGOs at all levels, from Human Rights Watch and Amnesty International to the tiny organizations that collect information about violations on a shoestring budget. (Arronson, 2004:3)

## 2.5 NGOs and CSOs in Ethiopia

It used to be widely argued that NGOs were predominantly a feature of Western societies. This false proposition was derived from a mixture of ignorance, western presumptions of their superiority in the Cold War and nationalist rhetoric from authoritarian regimes. All societies in modern times have had large numbers of NGOs at least at the local level. Under the most authoritarian regimes or in the least developed countries there are still self-help co-operative groups, community welfare associations, religious groups, professional and scientific associations, sports and recreational bodies, etc. (willets, 2001)

Ethiopia has a long tradition of informal community-based organizations like the 'Idir' and 'Equb' – self-help associations that operate at the local level and offer mutual socio-economic support to their members. Formal civil society – that is, organizations with legal personality – is a recent development. Civil society was slow to take root under the Ethiopian Empire regime (1137 – 1974). It was also severely restricted under the rule of the military junta, a.k.a. Derg (1974-91). Modern civil society organizations were first established as faith-based organizations in the 1930s, and beginning in the 1950s, welfare organizations like the Red Cross started to operate in Ethiopia. As a result of the 1973-74 and 1984-1985 famines, many more non-governmental organizations (NGOs)

emerged with a focus on relief and humanitarian services. It was after the downfall of the Derg regime in 1991 that saw NGO numbers substantially increase. (ICNL, 2009:7)

Willets (2001) further opines that the presence or absence of a democratic political culture is one of the major variables determining the number of NGOs, but the size of a country, its ethnic, religious and cultural diversity, the complexity of its economy and the quality of its communication infrastructure are also of crucial importance. Thus there are tens of thousands of NGOs in countries such as Bangladesh and India, while there are relatively few in Iceland or Finland.

### **2.5.1 Ethiopia: Country Profile**

Ethiopia is unique among African countries in that the ancient Ethiopian monarchy maintained its freedom from colonial rule with the exception of a short-lived Italian occupation from 1936-41. In 1974, a military junta, the Derg, deposed Emperor Haile Sellasie (who had ruled since 1930) and established a socialist state. Torn by bloody coups, uprisings, wide-scale drought, and massive refugee problems, the regime was finally toppled in 1991 by a coalition of rebel forces, the Ethiopian People's Revolutionary Democratic Front (EPRDF). A constitution was adopted in 1994, and Ethiopia's first multiparty elections were held in 1995. In its 2009 estimates, Ethiopia has a total population of 85,237,338 and is 1,104,300 Sq Km wide. (World Fact Book, 2009)

Regarding the economy, the country's poverty-stricken economy is based on agriculture, accounting for 45% of GDP, and 85% of total employment. The agricultural sector suffers from frequent drought and poor cultivation practices. Coffee is critical to the Ethiopian economy with exports of some \$350 million in 2006, but historically low prices have seen many farmers switching to qat to supplement income. The war with Eritrea in 1998-2000 and recurrent drought

have buffeted the economy, in particular coffee production. In November 2001, Ethiopia qualified for debt relief from the Highly Indebted Poor Countries (HIPC) initiative, and in December 2005 the IMF forgave Ethiopia's debt. (Desalegn et al., 2008) They further state:

“ . . . Ethiopia is one of the least developed countries; as a result, it is highly dependent on external assistance. According to the World Bank (2007), aid flows now are equivalent to about eight percent of the country's GDP, and currently, external assistance covers one-third of the country's national budget. All the indications are that further increases in development assistance will be required to sustain on-going economic growth and capacity building as well as to enable the country to meet the MDGs. On the other hand, the country continues to be burdened by frequent and endemic humanitarian crisis, and consequently humanitarian and food aid constitutes between 30 – 50 percent of total aid. Bilateral and multilateral assistance continues to be provided largely by the country's traditional donors, among which some of the most important include: USA, Japan, Germany, and the Scandinavian countries, on the one hand, and the World Bank, UN agencies, European Union and the African Development Bank on the other.”

### **2.5.2 Historical Overview of Associations, NGOs and CSOs in Ethiopia**

According to Desalegn et al. (2008 :33), there are two important aspects in the evolution of the voluntary sector in Ethiopia that have had an enduring impact on the sector: one was that until very recently the sector consisted of a small number of organizations, and the second that they have operated under difficult and sometimes trying circumstances. Both the Imperial and Derg regimes were unwilling to tolerate independent citizen activism and to allow autonomous non-state organizations.

“ . . . Both regimes were forced by pressing circumstances, namely environmental disaster and human crisis, to allow NGOs to operate in the country. In the beginning most of these were Northern NGOs and faith-based local groups, all of which were expected to engage in activities which were considered ‘safe’, such as relief and rehabilitation work. The changes since the fall of the Derg and the establishment of the current federal government has brought with it a degree of liberalization and the opening up of the political space, nevertheless, the relations between the voluntary sector and the federal government continue to be a cause for concern to the sector as well as to its supporters in the international community.”

When the Civil Code containing the law of associations meant to govern all voluntary organizations was issued in 1960, there were hardly any active organizations that may be described as NGOs or CSOs in the proper sense of the word. By the latter part of the 1960s, there were a small number of professional associations registered with the Ministry of Interior, which was then the regulating body, but these were mainly concerned with the basic interests of their members and professions and did not play any significant role in development or other public issues. There were also government supported women’ associations, patriotic groups and others but these played a marginal role and had only a muted voice. (Desalegn et al., 2008 :35)

The following table summarizes the major historical events in Ethiopian history from the start of Haile Sellasie’s regime until the start of the new European Millennium and corresponding developments in the civil society sector (Clark, 2000 :27):

Table 2.2: NGO/CSO developments in Ethiopia: 1930-1999.

Major Historical Event	Year	Civil Society Activities
Haile Sellasie Crowned Emperor	1930	First Civil Society entities began to form
UN Economic commission for Africa established in Addis Ababa; Eritrea Annexed	1960	First international and indigenous NGOs began operation
Famine stroke Welo and Tigray provinces; 200,000 die	1973	NGOs became major players in relief operations CRDA formed
Drought: catastrophic famines hit; 1 million died	1984-85	NGOs pivotal in relief operations. REST and others carry out cross-border operations.
Derg was defeated	1991	New national NGOs form, multiply
Eritrea achieves independence	1993	Regional development associations formed; government required NGOs to register
Meles Zenawi elected prime minister	1995	Guidelines for NGO operations established by government
	1996	Pact launches Ethiopian NGO sector Enhancement Initiative
Border war with Eritrea begins	1998	CRDA officially registered as NGO umbrella organization
Peace negotiations between Ethiopia and Eritrea began	1999	Code of Conduct for NGOs adopted

(Source: Clark, 2000:27)

### 2.5.3 Growth and Diversity

According to Dessalegn et al. (2008: 39), until the mid-1990s, the growth of the voluntary sector was quite slow by international standards, and by the end of the 1980s the strength of the sector was relatively small compared to many African countries as well as to the size of the country's population. By the latter part of the 1980s there were perhaps sixty to sixty-five NGOs operating in the country of which the great majority were international organizations. After the fall of the Derg, there was a steady increase all through the 1990s, and accelerated growth from the end of the decade onwards. What is distinctive about the changes that occurred in the late 1990s and later was not only the numerical growth of the sector but its diversity in many respects. These changes may be described as follows:

- Growth in the numerical strength of the sector as a whole.
- Growth in the strength and activism of local or national organizations, and the relative decline of international NGOs.
- Growth in diversity: in the post-1990s there were not only relief and development organizations but also those that undertook human rights, governance and advocacy programs, voter education, environmental advocacy, and public policy investigation and monitoring activities.

Table 2.3: Growth of National and International NGO's

NGOs	1994	1996	1998	2000	2007
<b>National NGOs</b>	24	96	160	246	1742
<b>International NGOs</b>	46	96	119	122	234
<b>Total</b>	70	192	270	368	1976

Source: Desalegn 2002; MoJ 2007 cited in Desalegn et al. (2008:39)

Two points are worth stressing here: these are the accelerated growth of NGOs as a whole and the rapid expansion of local NGOs in particular.

Another aspect that needs to be emphasized is the growth of network organizations in the last ten years. For many years CRDA was virtually the sole umbrella organization established in the country. At present however there are a growing number of networks, consortia and coalitions, although some of them are not sufficiently active or dynamic.

As the voluntary sector has grown, diversified and expanded its program activities and areas of public engagement, it has gained increased support and recognition from many quarters. The government itself has gradually opened avenues for CSO/NGO involvement in many areas. PASDEP, the government's poverty reduction document recognizes the strong role NGOs have and will continue to play in the effort to overcome poverty and meet the Millennium Development Goals, MDGs. According to data compiled by the Ministry of Justice in 2007, the number of voluntary organizations in the country as a whole stands at over 2300.

Table 2.4: Number and Diversity of CSOs/NGOs in 2008

<b>Organizations</b>	<b>Number</b>
National NGOs	1742
International NGOs	234
Prof. Associations	149
Civic advocacy	125
Religious groups	8
Adoption agencies	47
<b>Total</b>	<b>2305</b>

(Source: Desalegn et al, 2008: 42)

## 2.5.4 Contribution of NGOs and CSOs to Ethiopia's Development

### 2.5.4.1 Resource Mobilization

It is widely accepted that the voluntary sector mobilizes immense resources though there are no precise and accurate figures available. The EC mapping study produced in mid-2008 estimates that between 2004 and 2007 NGOs' budget for over 2000 projects throughout the country came to 10 billion Birr. Other evidence suggest, as we shall see further down, that the organizations' annual resource investment is equivalent to 25 percent of the government's annual budget. (Desalegn et al., 2008) The following table gives a comparative picture of resources acquired through exports earnings, transfers to NGOs and remittances sent by Ethiopians abroad.

Table 2.5: Earnings from Selected Exports, NGO and Private Transfers (In Million USD)

Source of Income	2004/05	2005/06	2006/07	2007/08
<b>1. Coffee Export</b>	335.2	354.3	424.2	145.0
<b>2. Oil seeds Export</b>	125.0	211.4	187.4	66.9
<b>3. Chat</b>	100.2	89.1	92.8	55.4
<b>4. Leather &amp; products</b>	67.6	75.0	89.6	49.4
<b>5. NGO Transfers (Cash)</b>	444.0	497.8	537.4	305.3
<b>6. Private Individual Transfers (Cash)</b>	350.8	354.9	632.6	415.4

Source: Dessalegn et al. (2008: 47)

A comparison between export earnings and earnings through NGO transfers reveals the importance of the latter to the country's economy and development effort. Coffee export remains the largest hard currency earner for the country followed by exports of other agricultural goods: ". . . Earnings flowing into the country through transfers to NGOs have been far higher than earnings from

coffee exports for all the years for which there is evidence. In 2006/07, for example, transfers to NGOs were 537.4 million USD while coffee earnings were 424.2 million. Earnings through NGOs as well as those from remittances are described by the National Bank of Ethiopia (NBE) as “unrequited” transfers, meaning they are freely acquired and no resources are exchanged in return.” (Desalegn et al., 2008 :47)

#### 2.5.4.2 Resource Use and Distribution

According to Desalegn et al. (2008 :50), Oromia has the largest number of on-going projects and nearly 45 percent of CSO/NGO resources have been invested in the Region between 2004 and 2008. It is followed by Amhara, Addis Ababa and SNNPR. Interestingly enough, pastoral Afar has attracted considerable investment, over 637 million Birr in the same period.

Table 2.6: Actual and Planned NGO Project Expenditures (2004 - 2008)

Region	No of Projects	Total Expenditures in Birr
Addis Ababa	281	1,114,223,785
Oromia	844	4,434,215,156
Dire Dawa	24	36,721,184
Harari	18	54,603,118
Afar	57	637,085,008
Tigray	66	492,069,831
Amhara	317	1,881,878,827
Benishangul Gumuz	51	153,889,665
Gambella	19	31,305,656
SNNPR	312	1,004,498,134
Somali	76	135,875,029
<b>Total</b>	<b>2065</b>	<b>9,976,410,395</b>

Source: Desalegn et al. (2008 :51)

The distribution of resources across program activities shows that the selection of priorities by the voluntary sector is in line with and complements that of the government. The bulk of NGO resources has been going into human development (health, education, child welfare) and agriculture and food security. These are the same priority areas emphasized by the government's poverty reduction program as set out in PASDEP. Moreover, while the information is not provided in the table, it is clear that at present relief activities attract only a small amount of the resources of the voluntary sector. This is in sharp contrast to the period during the Derg and Imperial regimes. According to evidence provided by a report prepared by CRDA and DPPC (2004), NGOs invested about ten percent of their resources in emergency relief activities in the period 1997 to 2001.

#### **2.5.4.3 Contributions to National Policy**

Desegregation of roles and engagements of NGO/CSOs provide a good framework for analyzing and summarizing their contribution to development and good governance. This would also provide some insight on the diversity of roles and thereby counter the stereotyping of NGOs as a homogenous block. According to Desalegn et al. (2008), the following are the main contributions to national policy and program directions:

- Some NGOs promoted strategic activities for strengthening capacity of government to provide effective leadership. Examples; supports provided for food security strategy drafting, strategic and development plans for woredas and regions.
- Some NGO/CSO's promoted initiatives for strengthening partnership and collaboration between NGO/CSO and Government at different layers. Examples include supports for drafting collaboration guidelines, organizing group events and supporting joint reviews/assessments.
- Some promoted activities/strategies that are meant to emerge as alternative or complementary to the prevailing or established

governmental strategies at the specific time. NGOs have experimented and successfully piloted approaches and technologies which eventually came to be part of the governments' national strategies and programs in different sectors. Examples include community-based approaches to health services; alternative basic education; technologies for water-lifting and apiculture; improving access to finance and market by the rural poor and promotion of new and high-value crops and stocks.

- CSOs also promoted activity areas, which (for various reasons) were not amongst the priorities (at the specific time) of the government and that of the private sector. Some specific examples include: urban poverty in general, urban agriculture and environment, rural potable water supply, support for the Elderly.
- NGOs/CSOs also promoted activities that are best done by non-state actors - facilitating community compacts, community-organizing and mobilizations, etc.
- Some NGO/CSO groupings promoted activities that aim at tracking, reflecting and informing on performances of public institutions with regard to delivering planned services and goods. This is one of the recent engagement areas of Ethiopian CSO's associated with the poverty reduction strategy process, initially and now linked to the Protection of Basic Services (PBS).
- There are NGOs engaged in promoting activities for enhancing benefits of Ethiopia from global cooperation and marketing processes - The Fair Trade Campaigns, the export of Organic Produces by social-economy organizations, CTF, reporting to UN conventions monitoring committees, etc.
- Emergency response - where regional and local governments find themselves unprepared to respond (budget-wise) to local needs, like

natural calamities (e.g. flooding) or conflicts (as the case in Benishangul) NGOs provide supports to fill the emergency need.

## 2.6 Conclusion

Development is a hot issue in today's political arenas and on the world stage. Governments are undertaking regional, continental and even global initiatives to realize development throughout the world, especially in the developing world where the adverse effects of poverty and underdevelopment, as reflected in lack of knowledge and economic capacity, are still depriving billions of decent livelihoods.

The activities and initiatives being taken by governments don't seem to be enough to alleviate the daunting level of misery and extreme poverty being faced by people in the third world. Here comes the indispensable contribution from organizations in the third sector, principally NGOs and CSOs, as important actors in development. Organizations in the third sector carry out many important activities. They claim they are voice of the voiceless, strength for the weak and filling in for services that can't possibly be provided by the state.

Ethiopia, as a developing country in Africa, needs a huge amount of resources to bring about development to its society and end the misery of its poor people. To that, NGOs and CSOs have had and are still having a very important contribution. NGOs and CSOs in Ethiopia have been actively participating in resource mobilization, resource use and distribution, and contributions to national policy and program directions.

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## **Chapter 3: Comparative Analysis of Third-Sector Laws and Regulations in Ethiopia**

### **3.1 Introduction**

The Ethiopian legal system is broadly classified as a 'civil law' system which has its origin predominantly from the French legal system. Almost all of the basic laws and the first written constitution were introduced when the country was under imperial rule. Various legislations in subsequent governments have changed only some part of the basic laws, which leaves considerable part of the imperial laws still in force. In 1995, the country has adopted a new constitution which has established a federal form of government. (Daniel, 2004 :1)

Though NGOs have been operating in Ethiopia considerably early on, the original law authorizing and recognizing them was put in place by Haile Sellasie's regime in 1960 (Clark, 2000). That law provided the basis for the regulation procedures detailed by the Ministry of Internal Affairs in 1966 with the issuance of "Regulations issued pursuant to the control of Associations provision of the civil code of 1960."

Clark (2000 :5) further wrote that "The government's 1995 guidelines for NGO operations updates those procedures, outlines major classifications for the sector, and defines areas for programmatic activities. Registration of NGO's is under the authority of the national Ministry of Justice. Before 1995, this responsibility rested with the Disaster Prevention and Preparedness Commission (DPPC). Once registered, NGOs' operations are then under the supervision of the DPPC and the Bureaus for Disaster Prevention and Preparedness (BDPP) at the regional level."

### **3.2 The 1966 Associations Proclamation**

NGOs as a concept of judicial entity are variously known in different terminology in the different legal systems of the world. The most important defining

characteristics of the entity being non-governmental and not for profit institute, the Ethiopian legal system recognizes three types of such institutions that can be assimilated to the concept of NGOs, according to the “Civil Code provisions” and the “Association Registration Regulation of 1966.” (Daniel, 2004 :1)

1. Association (Article 404-482 of the civil code of Ethiopia): The civil code defines an association as a grouping formed between two or more persons with a view to obtaining a result other than the securing or sharing of profits. The code makes a distinction between civil associations as are defined above and other types of groupings formed with a view to defending the financial interests of their members or to representing a particular calling and groupings of a religious character. Such an association could be a membership or a non-membership organization and the law doesn't make a distinction between the two. The purposes of the associations vary in accordance with various lawful objectives and activities members wish to undertake. There is no limit on the type of purposes as long as it is lawful.
2. Endowment (Article 483-506 of the civil code of Ethiopia): Endowment is another type of not-for-profit institute which is constituted when a person destines a certain property irrevocably and perpetually to a specific object of general interest other than the securing of profits. An endowment may be constituted either by a donation or by a will and it requires the approval of the Ministry of Justice (MOJ) to be definitively constituted. The act by which an endowment is approved shall determine the organism that is responsible for the protection and control of the endowment. It provides that the provisions of the civil code relating to name, residence, capacity, directors, liquidation and control of associations shall also apply to endowments.
3. Trusts (Articles 526-544 of the civil code of Ethiopia): The civil code defines a “trust” as an institution by virtue of which specific property is

constituted in an autonomous entity to be administered by a person, the trustee, in accordance with the instructions given by the person constituting the trust. A trust is administered by the trustees appointed by the person constituting the trust. The trustee shall represent the trust in judicial proceedings.

### **3.3 The 1995 Guidelines for NGO Operations**

The guidelines for NGOs operations of 1995 was prepared as one of the eight chapters of the "General Guidelines for the Implementation of the National Policy on Disaster Prevention and Management" which the relief and Rehabilitation Commission Prepared and which deals with the modalities of NGO operations in Ethiopia. The general guidelines highlight the approaches and modalities which have to be followed in the implementation of the national policy. (Guidelines for NGOs operation in Ethiopia, 1995)

As per the guideline, NGOs can be classified in various ways: By origin (indigenous or international), geographic area (general or localized), affiliation (religious or non-religious), involvement (implementing or funding), and program orientation (development or relief-oriented). Regarding possible areas for NGO operations, there is no restriction as long as their work is in line with the National Plan for Disaster Prevention and Management (NPDPM). Their contribution can be in project/ program implementation, funding projects or programs and supporting/ supplementing other projects or programs.

There are a lot of activities which NGOs may undertake during normal and disaster periods, which are:

- Funding or implementing development and development oriented projects
- Provision of rehabilitation assistance
- Distribution of relief items to GR beneficiaries
- Health activities
- Maintenance of cattle camps, veterinary services and distribution of fodder

- Running supplementary nutrition center
- Distribution and transport of donated and/or allocated materials.

In order to effectively undertake the above-mentioned activities and dispose a significant contribution, registration is of vital importance. As per the national policy on disaster prevention and management and its directives, the Relief and Rehabilitation Commission (RRC) is the only mandated government agency to register NGOs interested to work in Ethiopia. Registration entails guaranteeing legal status to an NGO, as long as they operate under the framework of this guideline and the policy and regulation of the government. The guideline further outlines procedures for NGO registration, renewal of agreement and certificate of registration.

NGOs may secure resources from their donors in different forms. They may receive it in terms of commodities that could be sold and be used for their planned projects. The sale should take place through standard tender procedures. NGOs are not profit making, and except in activities approved by the RRC, they are not expected to be involved in trade and other profit making ventures.

Additionally, employment of expatriate staff would basically be allowed for international NGOs only. Indigenous NGOs should not, as a matter of principle, employ expatriate personnel. At the headquarter level, international NGOs should not go for more than three expatriate staff including the head of the agency. As for expatriate project staff, they should be covered by a specific project agreement between the NGO and concerned government offices. Justification must have been already given in the project agreement.

### **3.4 The 1999 NGOs Code of Conduct**

The leading NGOs (both national and international) originally became involved in order to mitigate the effects of the droughts of 1973-74 and 1984-85. Since then, however, their emergency response and relief activity roles have gradually

declined and today the important challenges are in the fields of rehabilitation and development. (NGOs Code of Conduct, 1999:3)

The Code of Conduct further claims that this change from emergency relief to sustainable development is of far reaching significance to Ethiopia and needs to be handled with care, transparency and accountability. There is also an increasing involvement of NGO's in advocacy, human rights and civic education. As NGOs have emerged as important development partners, they need to inform what they stand for, their policies, and achievements. It claims that it has introduced for the first time standards for previously unregulated activities. It will encourage more effective and efficient ways of working and will improve the partnership between the NGO sector, the government and the private sector. It will ultimately contribute to an enabling environment for all sectors and to the sustainable development of Ethiopia and its people. The code was meant to serve the following purposes:

- To ensure transparency and accountability in the operation of NGOs by voluntary self regulation;
- Improve the quality of services provided by NGOs by helping NGOs to adopt high standards of conduct and to devise efficient decision making process;
- Improve communication between the NGO community and the various stakeholders.
- Improve the performance of the NGO community by encouraging the exchange of experiences among its members and learning from proven best practices. The standard of conduct shall refer to the way in which signatories behave and work.

The Code of Conduct has further stipulated that the signatories have agreed that their activities shall abide by the following standards of conduct:

- People centered
- Fairness and equity

- Moral and ethical integrity - Transparency and accountability
- Guard governance - Independence
- Communication and collaboration - Gender equity
- Environmental consciousness - Sustainability
- Impact

The scope of application of the code was:

- To all signatories, which fall under the definition of NGOs in the code of conduct and operate in Ethiopia?
- To all officials and employees who act for and/or on behalf of NGOs which have agreed to abide by this code.

### **3.5 The 2009 Charities and Societies Proclamation**

The proclamation to provide for the registration and regulation of charities and societies (Proclamation No. 621/2009) was enacted on 13 February 2009 taking effect as of immediate as the overall legal framework under which charities, societies, associations, non-governmental and civil society organizations are governed. In its preamble, the proclamation asserts that it was proclaimed because it was found out to be important to ensure the realization of citizens' right to association and to promulgate a law to aid and facilitate the role of charities and societies in the overall development of Ethiopian people. The proclamation holds 10 sections and 112 articles.

#### **3.5.1 Legal Forms and Scope of Application**

According to the proclamation, the possible legal forms for operating NGOs and CSOs in Ethiopia are the following:

1. "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 (CSP, 2009);

2. "Ethiopian Resident Charities" or "Ethiopian Resident Societies" shall mean those 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(CSP, 2009);

3. "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 (CSP, 2009);

4. "Mass-based societies" shall include professional associations, women's associations, youth associations and other similar Ethiopian societies (CSP, 2009);

It is also clearly stated in the proclamation that its scope of application is only up to and including the following entities:

- 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; and in line with this, the proclamation shall not be applicable to religious organizations, international or foreign organizations operating in Ethiopia by virtue of an agreement with the government, 'Idir', 'Ekub' and other similar cultural or religious associations and societies governed by other laws (CSP, 2009).

### 3.5.2 The Charities and Societies Agency

Another founding feature of this proclamation is the establishment of a separate agency to solely deal with NGOs and CSOs: The Charities and Societies Agency with its own legal personality and as an institution of the Federal Government, accountable to the Ministry of Justice. The agency has the following objectives:

- To enable and encourage charities and societies to develop and achieve their purposes in accordance with the law;
- To create a situation in which the operations of charities and societies is transparent and accountable;
- To ensure that charities and societies operate legally (CSP, 2009).

The section establishing the agency further outlines the powers and functions of the agency and its organization (composed of a Charities and Societies Board, A government appointed General Director and the necessary staff), members of the board and its powers, functions and meetings. It also describes the powers and functions of the Director General, the agency's budget and the agency's need to keep complete and accurate books of account and the auditing modalities.

### 3.5.3 Charities

According to the proclamation, 'A Charity' means an institution, which is established exclusively for charitable purposes and gives benefit to the public. The two defining elements of a charity are therefore charitable purposed and benefit to the public. 'Charitable Purposes' outlined in the proclamation include, but are not limited to:

- The prevention or alleviation or relief of poverty or disaster,
- The advancement of the economy and social development and environmental protection or improvement;
- The advancement of education;
- The advancement of health or the saving of lives;

- The advancement of the arts, culture, heritage or science;
- The relief of those in need by reason of age, disability, financial hardship or other disadvantage.
- The advancement of capacity building on the basis of the country's long term development directions and so on.

A public benefit shall be deemed to exist where:

- The purposes of the charity can generate an identifiable benefit to the public;
- The purposes of the charity do not create a situation wherein its benefits exclude those in need;
- Any private benefit of individuals and organizations could be acquired only incidentally and as a secondary consequence of the organization's activities (CSP, 2009).

An article in the sub section establishing charities and societies (Sub article 5 of Article 14) constitutes what seems to be the most fundamental point of disagreement between the concerned organizations and the government. The sub article proclaims that some 'charitable purposes' may only be pursued by Ethiopian charities and societies (Article 14-2, items j-n):

- The advancement of human and democratic rights,
- The promotion of equality of nations, nationalities and peoples and that of gender and religions;
- The promotion of the rights of the disabled and children's rights;
- The promotion of conflict resolution or reconciliation;
- The promotion of the efficiency of the justice and law enforcement services.

The types of charities that can possibly be formed under this proclamation are:

- A Charitable Endowment
- A Charitable Institution

- A Charitable Trust or
- A Charitable Society

It is also clearly highlighted in the proclamation that there is a need for NGOs and CSOs to form and acquire a registration and license certificate in order to carry out charitable acts (Art 15.2). Additionally, charities may form a consortium charity to co-ordinate their activities, the particulars of which are to be determined by the directives of the agency (Art 15.3).

Section Four, consisting of nine articles, exclusively posits the definition, legal personality, rights and obligations and structure of societies along with the powers, functions and other modalities of the general assembly, the auditor and members.

### **3.5.4 Societies**

As defined in the proclamation, a '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. Societies shall acquire legal personality upon registration by the agency. (Article 56.1)

Rights and obligations of societies as stipulated in the proclamation include, but are not limited to:

- Any society shall be open to a new member that fulfills the requirements of the society.
- Any society shall be managed by persons elected through the full participation of members.
- Every member of any society shall have equal and one vote.
- No society may admit or dismiss members except as provided by its rules.
- 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 (CSP, 2009).

- 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.
- 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.
- The rules of any society shall be subject to amendment by the vote of a majority of members.
- Any society shall, up on its member's request, disclose documents that show its activities.

With respect to the structure of societies, Article 58.1 posits that the organizational structure of any society shall be determined by its rules\*; but no society shall be organized without having a general assembly, the necessary officers and an internal auditor. Moreover, an internal auditor shall not assume the position of an officer.

The general assembly of the society is the society's supreme and final decision making organ (Articles 59 -61). The auditor, on its part, shall have the following powers and functions, as per Article 62 of this proclamation:

- Monitor the financial and property administration of the society.
- Prepare the internal audit report of the society in accordance with standards acceptable in Ethiopia and submit to the general assembly.
- Notwithstanding the provisions of this proclamation regarding external audits the society may at any time use an external auditor.

### **3.5.5 Formation, Licensing and Registration**

Section Five of the proclamation deals with the formation, licensing and registration of charities and societies. According to Article 64 of the proclamation,

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 the proclamation and they should consequently apply for registration within three months of their formation. The effects of formation as stipulated in Article 65 of the proclamation include that:

- Merely formed charities and societies shall have no legal personality.
- Upon registering and thus acquiring legal personality, the rights and duties of the charity or society.
- Charities and societies may not solicit money & property exceeding fifty thousand Birr before its registration;
- Failure to register within the prescribed period shall be a ground for cessation of the formed charity or society.

Regarding the registration of charities and societies, 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. The agency may as well refuse the application for registration of a charity or a society for one of the following reasons (Article 69):

- The rules of the proposed charity or society do not comply with the necessary conditions set by this proclamation;
- 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;
- The application for registration doesn't comply with the provisions of this law or any regulations made hereunder;
- 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 contrary to public morality or is illegal;

- 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.

This sub-section further underlines the particulars needed in an application for registration (Art 68.3) , requirements for charities that are established abroad (Art 68.4) and persons who shall not act as officers (Article 70), which include persons convicted of crimes involving fraud or dishonest acts, is deprived of her/his civil rights due to crime conviction and these rights are not restored, is unable to act by reason of incapacity within the meaning of law, has been interdicted by a court, or is outside of Ethiopia and his/her absence impedes the proper administration of the charity or society.

### **3.5.6 Financial and Accounting Records**

Section Six proclaims the need for charities and societies to keep duly accurate accounting records, to undertake annual examination of accounts by a certified auditor or internal auditor or an auditor assigned by the agency, to prepare and transmit to the agency an annual activity report on the major activities and relevant information regarding the charity or society, on reporting to other persons and notification of bank accounts.

### **3.5.7 Supervision of Charities and Societies**

Section Seven deals with the supervision of charities and societies. The agency, to undertake its responsibility effectively, may exercise power to institute inquiries (Art 84) and power to cause the production of documents and search records (Art 85). All charities and societies on their part have a duty to:

- Notify the agency in writing of the time and place of any meeting of the general assembly of the society not later than seven working days prior to such meeting.

- Up on their volition, to disclose to the agency or to any sector administrator any information received by him for the purpose of enabling or assisting the agency or the sector administrator to discharge its functions.

Article 88 cements the proportion of administrative and operational costs charities and societies may allocate from their resources. Any charity or society shall allocate not less than 70 percent of the expenses in the budget year for the implementation of its purposes and an amount not exceeding 30 percent for its administrative activities. According to Article 88.2, the government may confer various incentives to a charity or society that allocate more than 80% of its total income for its operational purposes or demonstrates outstanding performance. Furthermore, no charity or society shall employ expatriates unless a work permit is granted in accordance with the relevant law (Article 89.1); which doesn't however mean that there would be a restriction on the entitlement of foreign charities to designate country representatives. This section further proclaims provisions regarding protection of property, removal and replacement of officers, suspension and cancellation of license, dissolution of charities and societies and the effects of dissolution.

### **3.6 Stakeholder Reviews**

The 2009 charities and societies proclamation has been met with mixed reactions from various developmental stakeholders and parts of society. Right from the first moment the first draft was put forth by the Ministry of Justice /MOJ/ for comments and debate by concerned parties and ultimately the public at large, it has been received with strikingly different reactions: some encouraging and constructive and a sizable number of others extremely damaging and negative.

#### **3.6.1 Positive Reviews**

The Minister of Justice at the time the proclamation was put forth for discussion, Ato Assefa Kesito, and Ato Abadir Mohammed, one of the drafters, stated the

main policy objectives and rationales of the draft proclamation to be (The Forum for Social Studies, 2008 :3):

- The fact that the former law is outdated and does not correspond to the level of development, characteristics, and activities of civil society in Ethiopia.
- The regulations currently in force are too cumbersome and unsuitable for registering the organizations, regulating their operations and ensuring their accountability.
- The need to facilitate for civil society organizations to become development partners of the government.
- The need to create a conducive environment to enable citizens to exercise their constitutionally guaranteed right to associate.
- The need to legislate a law that enables to identify illegal activities within the civil society organizations and to penalize the offenders (CSP, 2009).

The Forum for Social Studies (2008) in its own commentary adds what it believes are the positive aspects of the proclamation as outlined below:

- The drafting of a separate legislation focusing on NGOs/CSOs: as the former law doesn't create an enabling environment for their operations because it was not formulated in such a way as to accommodate the diversity of civil society institutions, their operations and unique characteristics.
- The incorporation of specific provisions for different types of NGOs/CSOs.
- Making provision for the establishment of consortium of charities and societies.
- Allowing charities and societies to engage in income generating activities.
- Exemption from income tax for charities (CSP, 2009).

### 3.6.2 Reviews by various groups/organizations

The Human Rights Watch (2008:1) commented on the new proclamation stating that “The law is ostensibly a tool for enhancing the transparency and accountability of civil society organizations. But in fact, its provisions would create a complex web of arbitrary restrictions on the work civil society groups can engage in onerous bureaucratic hurdles, draconian criminal penalties, and intrusive powers of surveillance.”

The commentary continues, “In human rights watch’s view, the intended and actual result of this law would be to make it nearly impossible for any civil society organization to carry out work the government does not approve of. It also contravenes fundamental human rights guaranteed by international law and by Ethiopia’s constitution. Most notably, the law would criminalize human rights related work carried out by non-Ethiopian organizations while at the same time making it impossible for domestic human rights organizations to operate with any real degree of effectiveness or independence.”

The Ethiopian Human Rights Council (2008:2) claims that the new legislation threatens the very existence of the Ethiopian Human Rights Council (EHRCO) as a human rights NGO, and will at best seriously impair the effective functioning of EHRCO. These provisions are:

1. Provisions that threaten the continued existence of EHRCO
  - Article 2(3) and 2(4): The legislation makes a distinction between ‘Foreign’ and ‘Ethiopian’ charities and societies. For a charity or society to be considered ‘Ethiopian’, it should not draw more than 10% of its funding from foreign sources, among other things. EHRCO is almost entirely dependent on foreign funding to run its activities. Even in the unlikely event that EHRCO succeeds in registering as a ‘foreign’ NGO, there is another obstacle. The proclamation expressly bars ‘foreign’ NGOs from engaging in activities that are related to the advancement of human

rights, democracy, good governance and a range of other rights based advocacy activities.

## 2. Provisions that seriously constrain EHRCO's effective functioning.

- Exclusion from human rights work for charities and societies deemed to be "foreign".
- Federal status requirement: this provision requires NGOs to have a representation (in the form of members) and presence in at least five regional states if their character and nomenclature have a federal nature. The provision lacks clarity as to how the agency would define the requirement of "representation of membership and work place" for granting federal status.
- Particulars of members: officers of NGOs are required by this provision to keep the particulars of members and furnish the same to the agency upon request. There is no limitation indicated as to the nature of the information required to be furnished about the members. Given the possibility of such information being used to monitor the civic engagements of citizens and given past experiences of harassment of human rights defenders in times of political crises, this provision can deter individuals from seeking membership in human rights NGO's like EHRCO and have the effect of pushing existing members to quit their membership.

Likewise,

- Prohibition of donation from anonymous sources
- Excessive power of the agency to institute inquiries
- Unlimited power to enter premises & attend meetings by the agency, a sector administrator or any policy officer authorized by the agency at any time are all provisions that can seriously constrain EHRCO's effective functioning.

The Forum for Social Studies (2008) set forth its concerns over the legislation citing a few of them as:

- Instituting accountability in the institutions of civil society can best be realized primarily not through government control, but through the CSOs/NGOs' internal systems of control and accountability.
- In the first place, the primary cause of the problems encountered in the existing regulatory practices is not one of law, but one of implementation and institutional capacity. Consequently, the first step should have been to identify the operational deficiencies that hamper the CSOs registration office from effectively dispensing with its regulatory and monitoring responsibilities in accordance with the existing law.

Amnesty international (2008) commented on what it claims are the key provisions the proclamation.

- The draft proclamation provisions and objectives are inconsistent and incompatible with Ethiopia's international and national human rights obligations.
- The proclamation directly impinges international standards by prohibiting or restricting access of domestic human rights NGOs to foreign funding and by excluding the work of 'non-Ethiopian or foreign organizations'.

### **3.7 Global Trends on CSO/NGO Laws**

Since September 11, 2001, the United States and other governments have frequently asserted that threats to national peace and security warrant restricting civic rights and clamping down on civil society organizations (CSOs). For many repressive and even democratic regimes, the attacks of 9/11 have served to legitimize state abuse of civic rights in the name of national security, political stability and non-interference in a country's internal affairs. (Le-Ba, 2008:4)

International Journal of Not-for-Profit Law (Vol. 8, No. 4, August 2006 :2) came out with a study which revealed that nineteen countries have enacted or

proposed laws that would in some way restrict the activities of civil society over the past five years. Although these types of laws can be found in almost any region of the world, they tend to be concentrated in Africa, the Middle East, and the Newly Independent States of the former Soviet Union.

As per the study that came out on the journal, countries with restrictive laws generally exhibit the following characteristics:

- 1) The country is either governed through a dictatorship or, if elections are held, they are deemed not to be free and fair (e.g., Egypt, Azerbaijan, and Eritrea)
- 2) The country is a theocracy or has a strong politico-religious contingent either where a particular religion's tenets or values are perceived as inconsistent with or threatened by the human rights agenda, or where a particular religious group seeks to use such legislation to suppress another group (e.g., Nepal)
- 3) The country operates in a "closed" or command economy (e.g., China, and Cuba)
- 4) There is political unrest in the country or neighboring country threatening the current government regime or incumbent party (e.g., Zambia, Sudan, and Ethiopia)
- 5) Similar legislation or practices have been enacted or introduced in sister regimes (e.g., Belarus, Russia, and Middle East)
- 6) The country controls, restricts, or monitors media (e.g., Cuba)
- 7) The country has a history of human rights abuses (e.g., Belarus, and Zimbabwe).

The reasons given for the proposal and enactment of these laws vary depending on the situation. Oftentimes, the government will provide an "official" rationalization for a proposed law that does not match the reasons perceived by the international community and local NGOs. For example, in Russia, the government has described the law described above as necessary to counter

terrorism and money laundering. Similarly, both the governments of Kazakhstan and India claimed that their recent attempts to enact laws restricting NGO financing were necessary security measures for their countries. Other governments insist that the laws are needed to encourage greater transparency and accountability among CSOs. (IJNL, 2006 :3)

IJNL (2006:3) further states that in some cases, the restrictive legislation may in fact simply be a misguided attempt to achieve the stated goal. However, in virtually all of the cases cited, the means deployed are far more harsh and restrictive than necessary to fight abusive CSO practices, and often are contrary to obligations to protect the right to free association imposed either by the country's constitution or by international conventions to which it is a party.

According to international covenants and principles (i.e. the International Covenant for Civil and Political Rights; the International Principles Protecting Civil Society), civic rights and freedoms are clearly defined to protect CSOs and civil society actors from repressive intrusions from the state. (Le-Ba, 2008 :4) These principles include:

1. The right to entry (freedom of association);
2. The right to operate free from unwarranted state interference;
3. The right to free expression;
4. The right to communication and cooperation;
5. The right to seek and secure resources; and
6. The state's duty to protect civil society.

The state's adherence to these six principles is indispensable for advancing, consolidating and strengthening democracy. A strong and vibrant civil society acts as an alternative to state provided service delivery of social welfare provisions, as well as a watchdog of the state, and other sectors (e.g. corporations), with the intention of protecting citizen rights, interests, and needs. (World Movement for Democracy/ICNL, 2008:5)

Le-Ba (2008:4) further opines that looking at the Civil Society Index (CSI) findings, several clear patterns emerge regarding possible and entrenched threats to civil society and CSO activities, which include:

### **1. Complicated Registration Process**

Many states require CSOs to undergo formal registration or incorporation procedures in order to obtain legal entity status for them to operate. However, some states make this process so difficult that it effectively prevents CSOs from being registered and, thus, forcing them to operate illegally and face severe penalties if caught. In China, Egypt, Russia, and Uganda, there are separate laws and different registration procedures for different types of CSOs.

### **2. Co-optation and the silencing of dissent**

The CSI findings reveal that the widespread practice of connections and acquaintances in civil society through which the state and political actors control and influence civil society undermines the autonomy and credibility of CSOs. Co-optation is a serious threat to CSOs' ability to act as a watchdog over state actions that violate civic rights and freedoms. Through government funding, connections, and political favors, many CSOs are often politically influenced and permitted only to perform a very limited and uniform role such as service delivery of the state's welfare provisions. Not surprisingly many CSOs become risk averse and refuse to voice dissent because of fears of state persecution and loss of financial support or political favoritism. In Slovenia, where there are no formal barriers to advocacy activities, many civil society actors and CSOs often refuse to criticize the state because they are in fear of informal pressures or negative consequences from both the national and local authorities.

### **3. Interference in operational and advocacy activities**

Despite internationally accepted principles of civic freedoms, many states continue to place restrictions on CSO activities, constrain their work, and harass

and intimidate civil society activists. In a number of CSI countries, such as China, Costa Rica, Bolivia, and Fiji, there are very restrictive laws curtailing civic rights and freedoms, allowing intrusive monitoring and interference of CSO activities by the state. In particular, CSOs engaged in advocacy work in the areas of human rights, environmental protection and workers' rights or trade unions are routinely targeted. In Uganda, many essential workers are barred from forming unions and strikes are only permitted after a lengthy reconciliation process. Human rights organizations in Egypt are constrained by misinterpretations of state laws to inhibit advocacy and activities relating to the monitoring of human rights violations.

International Journal of Not-for-Profit Law (Vol. 8, No. 4, August 2006) further opines that the use of restrictions by foreign governments on NGO formation, operation, and financing is increasing. Several trends have emerged with respect to authoritarian governments' use of such restrictions. Following is the summary of some of the more common legal barriers included in restrictive legislations according to the journal. These restrictions have posed obstacles to the ability of both foreign and domestic civil society groups to form, operate, and sustain themselves.

- 1) Limited Rights to Associate and Form NGOs: In the most restrictive environments, governments do not grant the right to associate or form organizations. Examples:
  - In Saudi Arabia, there is no law governing CSOs, and as a result only a few organizations established by royal decree or under government control exist.
  - In Libya, there is no right to associate recognized by law.
  - Cuba strictly controls CSOs, even going so far as to form its own organizations.

2) Inability to Obtain Foreign Funding or to Raise Domestic Funding: Perhaps the most common tactic used by governments to restrain civil society is to restrict the access of CSOs to foreign funding, apparently as a means to reduce foreign influence. Legislative provisions used to restrict foreign funding have included requirements that:

- CSOs re-register or receive a special license to receive foreign funding;
- All CSOs be granted prior government permission to receive foreign funding (on a donation-by-donation basis);
- All foreign funding be channeled via government or designated, monitored bank accounts;
- Foreign aid be subject to tax;
- A CSO's total funding from foreign sources be limited to a stated percentage;
- Foreigners' participation in domestic associations be limited, or that a person be a citizen in order to be a member of an association.

Good examples include Zimbabwe, which in 2004 enacted a "CSO Bill" that prohibits local CSOs engaged in "issues of governance" from accessing foreign funds and foreign CSOs involved in these activities from registering. The bill was decried as a direct attack on human rights groups and attempts to scrutinize Zimbabwe's human rights record. Likewise, in Eritrea, the government introduced CSO Administration Proclamation No.145/2005 that prohibited the UN and other similar organizations from funding CSOs, prohibited international agencies from directly funding local CSOs under most circumstances, and required all donor funds to flow through government ministries. The proclamation also imposed taxes on food aid and other donations, outlawed CSO work in fields other than relief and rehabilitation, and increased reporting requirements.

- 3) **Arbitrary or Discretionary Termination and Dissolution:** Some countries retain substantial discretion to shut down CSOs and use that discretion to quash opposition groups. Belarus, for example, in 2004 enacted a law providing the government with the authority to close a CSO for violating laws restricting the use of foreign funds or for demonstrating in violation of the Law on Mass Meetings. Egypt's Law 84/2002 permits the supervising Ministry to shut down an organization at any time on the grounds that it is "threatening national unity" or "violating public order or morals," broad and ambiguous terms that afford the government substantial discretion to terminate CSOs.
- 4) **Inability to Advocate for Particular Causes or Get Its Message Out to Constituents:** In Nepal, a proposed CSO Code of Conduct would have outlawed "attempts of political influence" on others, as well as preaching religious conversion or speaking for or against religions.
- 5) **Arbitrary and Stringent Oversight and Control:** Once an NGO has been formed and registered with the proper authorities, governments may continue to restrict its activities through unchecked oversight authority and interfering in the activities. An organization's failure to comply with government demands may lead to daunting sanctions and penalties. For instance, the recently adopted amendments to Russian law strengthen the government's control over the activities of organizations by authorizing registration authorities to audit their activities and finances. The authorities may also request any financial, operational, or other internal documents from an organization at any time and without any limitation, and even send government representatives to the organization's events. These provisions are overbroad, lack protections for organizations, and could well have a chilling effect on an organization's activities.
- 6) **Harassment from Government Officials:** For Instance, in Cuba, officials have used the provisions of the Law for the Protection of National Independence

and the Economy of Cuba, which outlaws "counter-revolutionary" or "subversive" activities, to harass dissidents, human rights activists, and others.

- 7) Establishment of "Parallel" Organizations: Restrictive governments have sometimes sought to undermine the CSO sector by establishing captive CSOs, or GONGOs. Governments can use these organizations to channel government funding to preferred causes and away from opposition groups, to discredit opposition groups by claiming that its captive organizations are the only "legitimate" civil society, or to appear supportive of at least some portion of civil society. We can look at the case of Tunisia, where the government has established GONGOs with the aim of monitoring the activities of independent CSOs; representatives of the GONGOs reportedly attend conferences and other events and transmit intelligence to the government regarding other CSOs.
  
- 8) Criminal Penalties against Individuals Associated with an Organization: Individuals who are found responsible for certain NGO activities can be held criminally liable and fined or imprisoned. This has an obvious chilling effect on individuals seeking to exercise their right to associate, and discourages active participation in NGOs. In Egypt, Law 84 / 2002 imposes severe individual penalties for non-compliance with its provisions. These penalties include up to one year in prison and a fine of up to 10,000 Egyptian pounds for establishing an association that threatens "national unity" or violates "public order or morals"; up to six months in prison and a fine of up to 2,000 Egyptian pounds for conducting NGO activity "without following the provisions prescribed" by the law, conducting activity despite a court ruling dissolving or suspending an association, or collecting or sending funds abroad without the supervising ministry's permission and so on.

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## Chapter 4: Primary Data Presentation and Analysis

### 4.1 Introduction

This chapter will principally discuss the actual findings of the research undertaken on the stakeholder perspectives, experiences and possible consequences of the 2009 Charities and Societies Proclamation of Ethiopia. In the trial to incorporate the perspectives and thoughts of all developmental stakeholders, three major kinds of respondents have been identified, which are:

- Non-governmental and Civil Society organizations: these make up the lion's share of respondents as they constitute the group which is affected first-hand, either positively or negatively, by the proclamation.
- Government officials and parliament members: the perspectives of government officials and parliament members is also important from the point of view that they were principally involved in drafting, debating, enacting and implementing the proclamation. The government officials principally include officers in the Charities and Societies Agency and the Ministry of Justice.
- Development practitioner Researchers and Journalists: this group on its part is mainly composed of lawyers, researchers and journalists working in the development vocation. The inclusion of this group is critically important in the sense that their thoughts and perspectives will serve as an unbiased backdrop against which the data from the two earlier groups can be compared and contrasted.

To make the most out of the research and to systematically present its findings, three genres were developed on which the three groups of respondents were asked to cast their views. These three genres were:

- **Perspectives:** this genre as applied in this research depicts the thought frameworks with which the respondent groups view the proclamation, the level of importance they accord to the proclamation,

how they perceive the overall process in the preparation, enactment and implementation of the proclamation and other related matters within this scope.

- **Experiences:** this genre concerns itself with the experiences so far of these three groups in relation to the proclamation. For NGOs and CSOs, it deals with issues like registration and licensing, the agency's services and the demands set forth by the proclamation on their organizations. For the sub-group of government officials, it means what the experience is like in undertaking the day-to-day operations of the agency; and for parliament members it means what the experience was like in parliamentary debating sessions before the enactment of the proclamation.
- **Possible Consequences:** this specific view sheds light on the possible future consequences entailed due to the proclamation's coming to effect in the eyes of the respondents. This also serves the purpose that based on respondents' projections, necessary improvements can possibly be recommended.

A total of 150 questionnaires have been duly filled and returned from a total of 172 questionnaires distributed, accounting for a response rate of 87.21%. Of the 150 questionnaires filled by potential respondents of this research, the group consisting of non-governmental and civil society organizations accounts for 66.67% of responses (100 in absolute terms), while the other two groups each account for 13.33% (government officials and parliament members) – or 20 respondents, and 20% (journalists and researchers) or 30 respondents in absolute numbers.

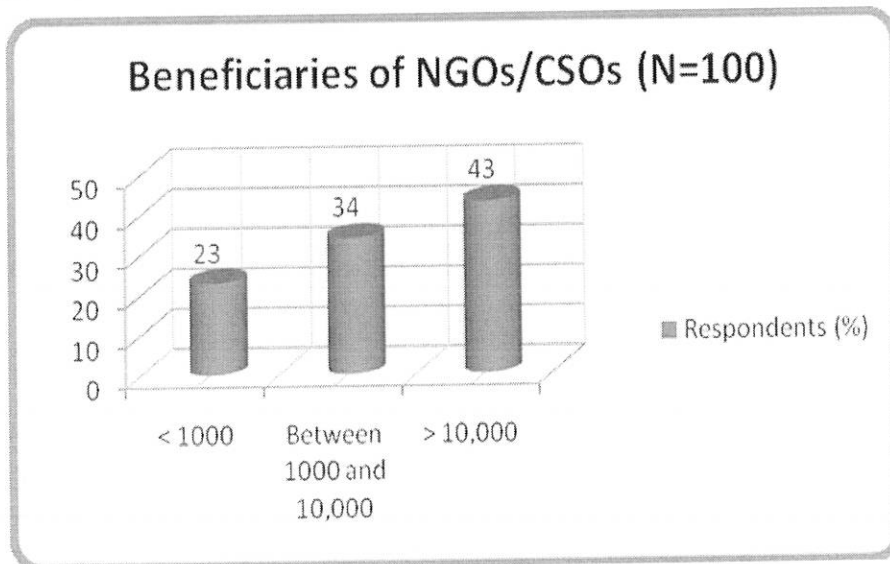
#### **4.2 Contribution of NGOs/CSOs to National Development**

It has been argued by many researchers that NGOs and CSOs play an important role in any country's development, and hence Ethiopia's development. A study by

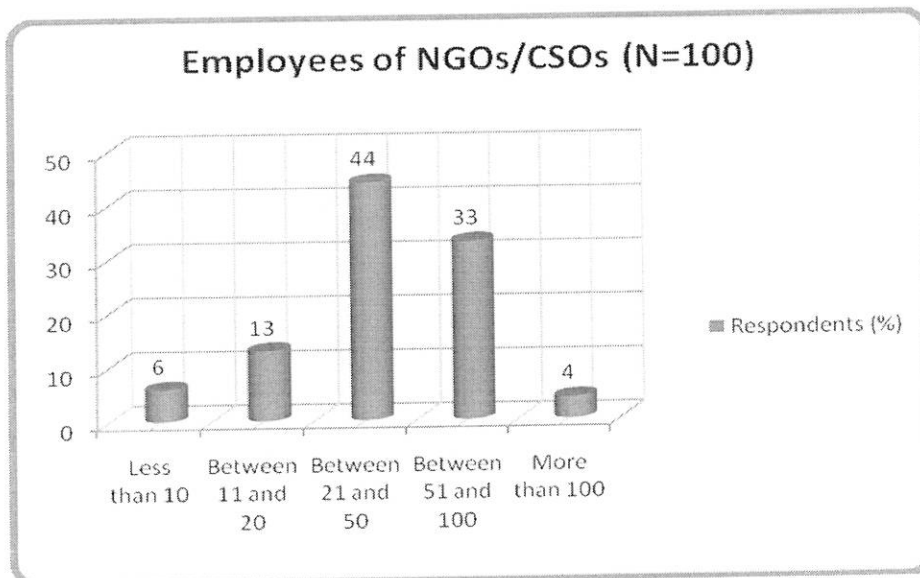
Development Studies Associates (2004:17) posits that, initially, NGOs' operations were focused on relief that saved millions of lives. Since then, they have become a permanent feature in the country's development process. As the NGOs were increasingly pulled into the development front, their role and areas of intervention changed. Apart from direct effects on the country's economic development, NGOs contribute hugely to democratization and good governance.

Akalu (2005) opines that the contribution of NGOs and CSOs to democratization and good governance can be summarized in four: public policy and decision making, transparency and information, enhancing state performance and social justice, rights and the rule of law. Accordingly, NGOs and CSOs are very important partners in the developmental endeavors of any nation. This is indisputably proved by the amount of funds mobilized annually and the number of beneficiaries and employees of the respondents to this research; which can then be projected to the national level. Dessalegn et al. (2008 :43) wrote that in the first half of the fiscal year 2007/08 alone, the National Bank of Ethiopia has registered NGO cash transfers of USD 305.3 Million (compared to 145.00 Million USD of coffee export, 66.9 Million USD of oil seeds export and 49.4 Million USD of leather and leather products export.)

In factual testimony to this fact, almost one third of the NGOs/CSOs that participated in this research responded as mobilizing funds between ETB 100,000 and ETB 500,000 annually while only 7% responded that they mobilize between ETB 10,000 and ETB 100,000 per annum. 24% responded that they mobilize funds that are between ETB 500,000 and ETB 1,000,000 per annum, and the balance of 37% responded as mobilizing funds that are worth more than ETB 1,000,000 per annum. With respect to the number of beneficiaries and employees of the NGOs and CSOs, the outcome of the research predicts that they indeed impact thousands and thousands. The following graphs indicate their contribution to societal benefits in terms of filling in developmental needs and employment creation.

**Figure 4.1: Number of beneficiaries of respondent NGOs/CSOs**

(Source: Own Survey)

**Figure 4.2: Number of employees of respondent NGOs/CSOs**

(Source: Own Survey)

The three sets of data as shown above are clear indications of the fact that the third-sector, i.e. NGOs and CSOs are important stakeholders in a nation's efforts of development. By conservative estimates, i.e. taking the lowest possible bound in each response category, the 100 NGOs that took part in this research mobilize,

between themselves, at least an annual budget of ETB 52,900,000; benefit in various forms, by conservative estimates again, at least 628,000 people and employ well more than 4685 people.

When this is projected to how much of a contribution it makes to the country's development and the national economy, the claims of various writers such as Desalegn et al. (2008) and Development Studies Associates (2004) would indeed seem viable. Based on these facts, it can be safely deduced that NGOs and CSOs are important partners of development and the government should do its level best to ensure a conducive environment for their operation.

### **4.3 Characteristics of the Respondents**

As indicated earlier, the respondents to the questionnaires and interviews undertaken in this research are basically composed of three groups. The information gathered as background information (respondent profile) has been presented in the following sub-sections, and compiled in Table 4.1.

#### **4.3.1 Non-governmental and Civil Society Organizations**

In this group, a total of 110 questionnaires were distributed out of which 100 were duly filled and returned accounting for a response rate of 90.9%. As discussed below in table 4.1, 64% of respondents in this group are male while the remaining 36% are female. 27% of the respondents' age lies between 18 and 30 years; whereas more than half of the respondents, accounting for 58%, have ages that range from 31 to 45 years. The balance of 15% is made up by respondents whose age is above 46 years.

**Table 4.1: Respondent Profiles compiled; NGOs and CSOs, Government Officials and Parliament Members, and Researchers and Journalists.**

Data Description		Percentage of Respondents		
		NGOs and CSOs (N=100)	Gov't Officials and MPs (N=20)	Researchers and Journalists (N=30)
Sex	Male	64	85	73.33
	Female	36	15	26.67
	Total	100	100	100

Age	18-30 Years	27	10	46.67
	31-45 Years	58	65	30
	46 and Above	15	25	23.33
	Total	100	100	100

Educational Level	Primary School	1	-	-
	Secondary School	7	-	-
	Technical/Vocational	11	-	6.67
	Diploma	32	40	23.33
	Bachelor's Degree	41	55	43.33
	Post-graduate	8	5	26.67
	Total	100	100	100

Level of Responsibility in Organization	Front-line	2	25	36.66
	Supervisory	13	30	-
	Middle-level Management	77	30	6.67
	Executive-level Management	8	5	6.67
	Lecturer/Researcher	-	-	50
	Member	-	10	-
	Total	100	100	100

(Source: Own Survey)

Also indicated in the table is the level of education of the respondents. 19 respondents have not attended college (1 primary school, 7 secondary school and 11 vocational training graduates). The vast majority of respondents have been found to have attended college, accounting for 81% of the total respondents, with 32% having graduated with diplomas, 41% with bachelor's degrees and 8% having pursued their studies to the post-graduate level. In terms of the level of responsibility of respondents in their organization, 10% responded that they hold either front-line or executive level management positions (8 executive-level management and 2 front-line respondents), while the rest 90% responded as having positions of supervisory or middle-management level.

#### **4.3.2 Government Officials and Parliament Members**

The preamble of the Charities and Societies Proclamation (2009) states that there are two basic reasons that necessitated the enactment of the proclamation: in order to ensure the realization of citizens' right to association enshrined in the constitution of the Federal Democratic Republic of Ethiopia (FDRE) and because it was found essential to promulgate a law to aid and facilitate the role of charities and societies in the overall development of the Ethiopian People.

Additionally, The Forum for Social Studies (FSS, 2008) wrote: "In spite of the concerns of the NGOs/CSOs over a number of the provisions, they also note that the proclamation has several encouraging features, for which they appreciate MOJ's efforts. These positive features include the drafting of a separate legislation focusing on NGOs/ CSOs, the incorporation of specific provisions for different types of NGOs/ CSOs, making provision for the establishment of consortium of charities or societies, allowing charities and societies to engage in income generating activities and exemption from income tax for charities. Based on these, it can be inferred that the underlying assumption with which the

government of Ethiopia came up with the CSP is to effectively govern the activities of non-governmental and civil society organizations and to make their efforts in the country's development a fruitful and worthwhile endeavor.

Contrary to the government's claim, many stakeholders including the non-governmental and civil society organizations themselves, human rights watchdogs, opposition political parties, prominent human rights lawyers, journalists and researchers alike have criticized either one or another part of the proclamation as effectively doing the exact opposite of the government's claim.

To this end, the researcher has deemed it to be of absolute importance to incorporate the perspectives of government officials with specific relevance to the proclamation, and hence officials working in the Ministry of Justice and the Charities and Societies Agency were approached. To have a more defined and clearer picture of the whole scenario, two parliament members – one from the incumbent party and one from the opposition – have been interviewed by the researcher. The outcome of the interview was very fruitful in the sense that these parliament members not only helped answer to the specific questions in the questionnaires, but also they shed light on the debate processes held in the House of Peoples' Representatives leading to the endorsement and consequent enactment of the proclamation.

From a total of 25 questionnaires distributed for potential respondents in this group, 20 were duly filled and returned, amounting to a response rate of 80%. Of the twenty respondents in this group that have filled out the questionnaires, 90% were government officials working in the Ministry of Justice and the Charities and Societies Agency and the balance is settled by the two parliament members interviewed.

As indicated in Table 4.1, 85% of respondents in this group are male and the rest 15% are female while 65% of respondents in the same group have ages between 31 and 45 years and only 2 respondents, making up only 10% of the

entire sample population within this specific group are younger; their ages between 18 and 30 years. The balance of 25% then goes to respondents who are 46 years old and beyond. Pertaining to their level of education, there was no respondent identified in this group as not having attended college. All of the respondents have attended college, with 40% having diplomas, 55% having bachelor's degrees and 5% (only 1 respondent) having a post-graduate degree.

#### **4.3.3 Development Practitioner Researchers and Journalists**

The two respondent groups discussed so far are principally composed of the party who came up with, debated for, endorsed and implemented the proclamation (Government Officials and Parliament Members) while the other group consists of those on which the proclamation will have an immediate impact, be it positive or negative (Non-governmental and Civil Society Organizations). To check and balance between the two, the researcher posits that there needs to be another group – the sound of reason – which will presumably have minimal bias and gives independent and professional judgment on the issue.

Journalists, researchers and lawyers working in the development and third-sector vocations were deemed to be the possible focus groups to be identified as potential respondents in this group. As development is a huge and fertile arena of news, studies and researches, there are very many journalists and researchers involved in this specific area of enquiry, and more so with absolute relevance to this specific proclamation. Hence, the group consists of journalists who were extensively writing and reporting on the proclamation and lawyers who have a solid background in terms of experience in legal and human rights issues. As such, 37 respondents were identified and provided with the questionnaires in this group, 30 of which duly filled the questionnaires – accounting for a response rate of 81.08%.

As depicted in Table 4.1 earlier, 73.33% of respondents are male and the remaining 26.67% are female. Almost half of the respondents, 14 in absolute number, are 30 years or younger while nine respondents have ages ranging from 31 to 45 and seven respondents have ages above 46 years.

A third of the respondents are either technical/vocational graduates (6.67%) or hold a post-graduate degree (26.67%) leaving the lion's share of 66.66% to diploma and bachelor degree holders, each accounting for 23.33% (7 respondents) and 43.33% (13 respondents) respectively. With regard to respondents' level of responsibility in their organization, 50% of them identified themselves as either lecturers or researchers while 36.66% of them, a little bit over one-third of the respondents in this group, identified themselves as having front-line roles highly probably working as reporters, article writers or data collectors. The remaining four responded as being in Middle-level management (2 of them) and executive-level management.

From the profiles of respondents discussed so far, it can be safely inferred that the respondents have a reasonably enough educational preparation and professional exposure to respond to the questionnaires in the study.

#### **4.4 Data Presentation and Analysis on the Proclamation**

##### **4.4.1 Stakeholder Perspectives**

This section discusses the perspectives of stakeholders of development in the country, as represented by the three respondent groups, towards the 2009 charities and societies proclamation. It principally deals with their thoughts, positive comments and critics about the proclamation in comparison and contrast with earlier similar laws and regulations in the country and the prevailing trends in other countries around the world.

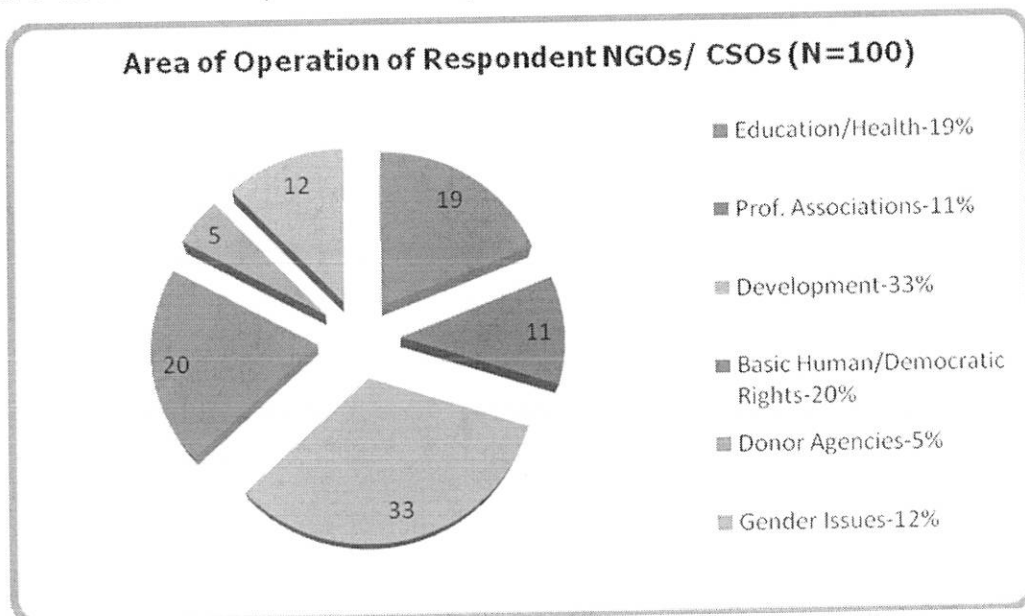
#### 4.4.1.1 Non-governmental and Civil Society Organizations

As the proclamation is principally meant for governing non-governmental and civil society organizations, they are the ones with the first-hand exposure to and experience on the proclamation.

Aronson (2002) wrote that NGOs undertake different kinds of activities which include, but are not limited to, lobbying governments at the local, regional, national, or international levels, providing consultative services at the local, national or international level, providing crucial social services either in cooperation with, or in place of, the state, and engaging in economic development, education, and capacity building at the local, regional, national or international levels.

Likewise, the NGOs/CSOs which participated in the study have different areas of operation or focus and so claim that they are affected differently by the proclamation. The following figure shows the NGOs/CSOs and their area of operation.

Figure 4.3: Areas of Operation of respondent NGOs and CSOs by percentage.



(Source: Own Survey)

Most of the non-governmental and civil society organizations surveyed (87%) were established in the EPRDF regime meaning they have been in operation for a maximum of 18 years. Accordingly, they were being governed by the 1995 Guidelines for NGO operations, as stipulated by the then Disaster Prevention and Preparedness Commission (DPPC) and the 1999 NGOs Code of Conduct and as such were not sufficiently aware of the 1966 Association Proclamation. Only 13% said that they were also operating during the Imperial and Derg regime and were being governed by the 1966 Associations Proclamation.

But, asked as to whether they were well aware of the 2009 Charities and Societies Proclamation, 100% responded as knowing the fundamental provisions of the proclamation. It seems that as the proclamation is one of the most publicly scrutinized and debated proclamations in recent history of Ethiopian politics, most respondents said they are well aware of the proclamation's provisions, and especially the ones that were controversial icebreakers. It also seems that they are aware of the provisions in the proclamation because it, in most cases, fundamentally changes the status-quo of how they used to operate.

In pursuit, respondents were asked to rank the laws and regulations they were aware of in terms of being favorable to the operations of NGOs and CSOs operating in Ethiopia. All of them ranked the 2009 charities and societies proclamation as the least favorable law governing third-sector organizations. The respondents were unanimous irrespective of their operational age, i.e. NGOs/CSOs that were formed during the EPRDF regime or before responded alike.

One possible way to avoid this notoriety of being the least favorable law was for the concerned government body to organize consultative and awareness raising meetings and programs well before the promulgation of the law. Asked as to whether they took part in any such consultative meeting or debate, 89% responded as not having taken part in any such proceeding. Only 11

respondents, accounting for 11%, replied that they took part in such proceedings. Among the 11 respondents which participated in consultative meetings, 7 responded as having taken part in a meeting organized by CRDA (now CCRDA), 3 took part in a consultation with the Prime Minister and 8 responded as having participated in a consultative and awareness raising panel organized by the Ministry of Justice; some of them participated in even more than one such proceeding while an overwhelming majority of others didn't even get a chance to cast their views and concerns.

Looking deeper into the reasons why they did not take part in consultative meetings before the enactment of the law, respondents gave replies which are consolidated in the ensuing table:

Table 4.2: Respondent ratings on reasons why NGOs/ CSOs didn't partake in pre-enactment consultative meetings

No.	Reason for not participating	Frequency	Percentage
1	I was not aware of any such proceeding.	18	20.22
2	I was aware, but not invited.	43	48.32
3	I was invited, but thought my ideas won't be considered.	25	28.09
4	I was not interested	3	3.37
<b>Total</b>		<b>89</b>	<b>100</b>

(Source: Own Survey)

Among the 11 respondents, which took part in consultative meetings before the proclamation's enactment, four work on development, two are donor agencies; two are professional associations and three work on the advancement of basic human/ democratic rights. Even though the distribution seems fair among those who took part in the pre-enactment consultations, it can be readily inferred that the meetings were not participatory enough in the sense that they left out much of the NGO/ CSO community.

Responding to what they believe is the actual reason for the government to come up with this proclamation at this point in time, only 8% believe that the government's intention is to effectively govern NGOs and CSOs, while the majority of them, 92%, claimed that the government's intention is to systematically weaken some NGOs and CSOs operating in the country. Some of them also gave comments that the proclamation is meant to hamper the interference of NGOs and CSOs in the upcoming elections as they were vocally critical of the government during the last elections.

It can be implied from the discussions so far that both points raised are indications of the lack of communication and the absence of mutual comprehension and trust between the government and third-sector organizations. Had there been enough consultative meetings, the proclamation could have come out taking into account, as much as possible, the inputs of all developmental stakeholders. Likewise, the existence of mutual trust is of paramount importance to the acceptance of the proclamation as being good-spirited. The fact that 92% of respondents responded as thinking the reason for the proclamation's enactment is for the government to systematically weaken some NGOs and CSOs (and to effectively silence them for the upcoming elections) is an indication that many do not indeed believe the proclamation was enacted for the right reasons.

One of the most controversial provisions in the proclamation is that the proclamation puts a ceiling of 10% of foreign sources of funds especially on those NGOs/CSOs working on the advancement of basic democratic and human rights. Before the enactment of the proclamation, NGOs and CSOs were allowed, irrespective of their area of operation and focus, to bring in funds from foreign sources.

To concisely understand the effects of the proclamation in the sense that it limits the amount of foreign funds that NGOs and CSOS can bring into the country, the

proportion of local/ foreign sources of funds of the third-sector organizations which participated in the survey were checked. The findings are revealed in the following table:

Table 4.3: Respondent ratings on the proportion of foreign sources of funds of NGOs/ CSOs

No.	Area of Operation of NGO/ CSO	Total No.	Number and Percentage of NGOs whose source of funds are greater than 10%	
			Number	Percentage
1	Education/ Health	19	15	78.94%
2	Prof. Associations	11	5	45.45%
3	Development	33	25	75.75%
4	Basic Human/ Dem Rights	20	0	0%
5	Donor Agencies	5	5	100%
6	Gender Issues	12	8	66.67%
Total		100	58	58%

(Source: Own Survey)

As shown in the table above, most of the NGOs/CSOs which took part in the research get a substantial amount of their funds from foreign sources. The acid test that was intended to be conducted by this specific question was to see whether NGOs/CSOs working on the advancement of basic human and democratic rights were critically affected and would indeed abide by this specific provision of the proclamation and 100% of them responded as receiving less than 10% of their funds from foreign sources.

This would indeed lead to the inference that NGOs and CSOs working on the advancement of basic human and democratic rights wholly; and NGOs and CSOs that are professional associations partially are affected by this provision in the proclamation. Looking at how much foreign funding advocacy and human rights NGOs and CSOs prior to the enactment of the proclamation, the evidence provided by quite a few of them shows that most of their funds were indeed foreign. For instance, in its commentary on the proclamation, the Ethiopian

Human Rights Council (EHRCO, 2008) stated this provision as one that threatens the continued existence of EHRCO: "The draft makes a distinction between 'foreign' and 'Ethiopian' charities and societies. For a charity or society to be considered 'Ethiopian', it should not draw more than 10% of its funding from foreign sources, among other things. EHRCO is almost entirely dependent on foreign funding to run its activities. ... Moreover, there is very little possibility of raising funds through public collection, even if one gets permission from the agency."

As it has already been established earlier, the bi-weekly Reporter (Wednesday, 25 November 2009) printed that EHRCO is forced to close ten regional bureaus it used to operate due to lack of finances arising from the enactment of the new proclamation; and additionally, another NGO by the name of Landmine Action has gone out of operation recently for lack of finances.

The same is the case with the Ethiopian Women Lawyers Association (EWLA). Earlier, the association got much of its funds from sources overseas according to Mahidere Paulos, the Executive Director of EWLA. But, the new proclamation bars the association from continuing so, and so the association shifted its focus to looking for local sources of funds. For instance, the association organized an exhibition and bazaar from April 24 – 26, 2010 in order to fill in the gap between its demand for and supply with funds for sustenance of meaningful operation.

It can be inferred from the respondents rating on this provision that third sector organizations working on the advancement of basic human and democratic rights are most affected by this to an extent that it's getting to be difficult for them to continue operation in full swing like prior periods.

We can also project this impact to what it does to the national economy. As can be witnessed in Table 4.4 below, between the years 2004 and 2007, a total of ETB 44.03 Million has been invested on NGOs working on advocacy and peace building. Based on the instances given above, as most of the funds used by

advocacy and human rights NGOs are gained from foreign sources, this whole amount of money is being lost to the consequences of this proclamation. The table below provides information on how much has been invested and where in the period 2004 to 2007.

Table 4.4: NGO Projects in the Country and Resource Flows by Sector

Sector	No of Projects	Budget (Million Birr 2004/07)
Child Development	394	2,139.50
Education	206	621.01
Health	235	1,084.52
HIV/AIDS	175	710.96
Integrated urban/rural development & food security	336	2,977.75
Water & sanitation	141	573.62
Women and girls empowerment	96	217.73
Environment & Natural resource	74	154.01
Advocacy & peace building	34	44.03
Disability & elders support	35	82.50
Agriculture & agro-pastoral	117	467.95
Youth	23	142.05
Social welfare	15	53.83
Capacity Bldg & others	139	268.33
<b>Total</b>	<b>2046</b>	<b>9,537.79</b>

Source: Desalegn et al., 2008

This can also have far reaching outcomes on the employees and beneficiaries of those NGOs and CSOs working on advocacy and human rights. The 20 respondent NGOs and CSOs working on these issues responded as employing a

total of 550 people and benefiting 20,000 people, by conservative estimates. It can be readily seen from these data that the operational challenges faced by these advocacy and human rights NGOs will have a huge impact on the livelihoods of many people and their dependents.

#### **4.4.1.2 Government Officials and Parliament Members**

One of the visible effects of the proclamation is the fact that it established the Charities and Societies Agency with its own legal personality and as an institution of the Federal Government, accountable to the Ministry of Justice. The agency has the following objectives:

- To enable and encourage charities and societies to develop and achieve their purposes in accordance with the law;
- To create a situation in which the operations of charities and societies is transparent and accountable;
- To ensure that charities and societies operate legally.

As the agency is bestowed with the responsibility of implementing the proclamation and consequently supervises the charities and societies within the country, it has made preparations to undertake its responsibilities well before starting the registration and has for 5 months, September 2009 – February 2010, registered and re-registered NGOs and CSOs operating in the country. It therefore goes without saying that the agency's perspectives and those of its supervising ministry, the Ministry of Justice are absolutely important in judging the importance, fairness and effectiveness of the proclamation. To achieve this, the researcher has had 18 questionnaires filled in by officials in the government and ministry and two by members of parliament, one from the incumbent party and one from the opposition.

Shedding light on their perspective as to whether this proclamation as a whole was important or not, 75% of respondents said that it's highly important while 20% said that it's moderately important, and one respondent, accounting for 5%

of the total said that the proclamation was not important at all. Of the two members of parliament, one labeled the proclamation as moderately important while the other one said it's not important at all. The opposition parliament member stressed that even if such a law was important, a completely another version should have been adopted instead of this one, which he considers as not very liberal and potentially weakening to many NGOs and CSOs. The parliament member from the incumbent party labeled the proclamation as being of moderate importance based on his belief that there is room for some improvement in the provisions of the proclamation.

Those respondents who said that the proclamation is either highly or moderately important were further asked as to why they consider it to be so. They unanimously (100%) highlighted two reasons for its importance which were

- The fact that the earlier laws were outdated and
- To effectively administer NGOs and CSOs in the country.

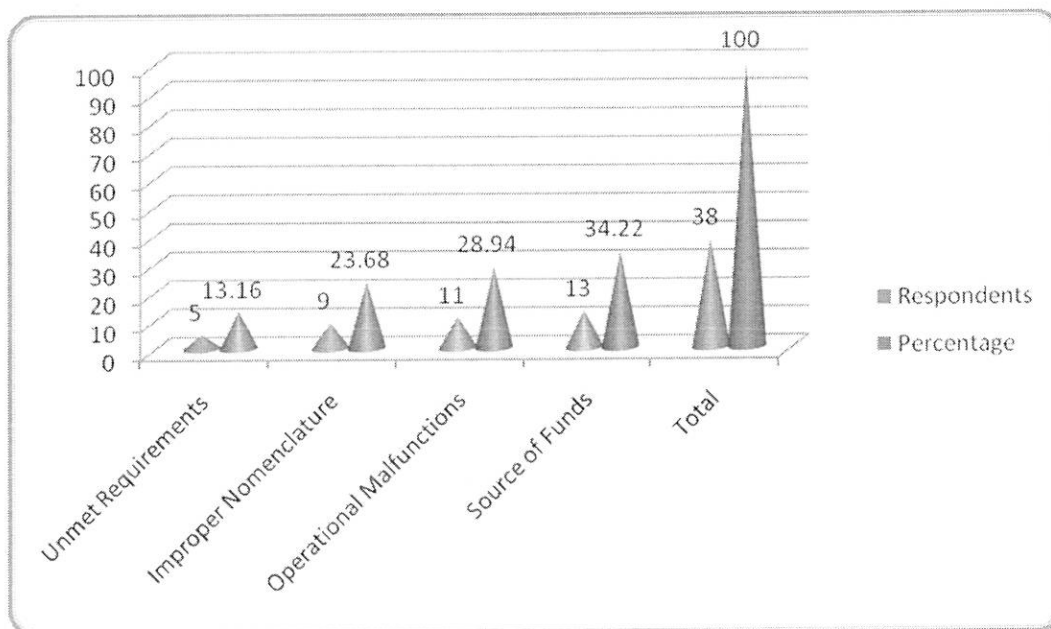
In terms of preparations done to effectively undertake its responsibilities, 95% claimed that the agency is well prepared to go on with its operations in full swing while the balance of 5% responded that the agency is ill-prepared for the huge and demanding task of administering NGOs and CSOs in the country. The one respondent which said that the agency is ill-prepared for the task further underlined that the fact that the proclamation – the basic legal framework with and upon which the agency operates – is faulty and repressive leads to the obvious result that the agency's preparations would add up to nothing except dissatisfaction and dismay on the part of the NGOs and CSOs dealing with it.

Only 18 respondents, or 90%, responded to the enquiry whether they believe that NGOs and CSOs are being so far fairly judged by the Charities and Societies Agency. The outcome was that they were unanimous in their belief that all NGOs and CSOs were being fairly and impartially served by the officers in the agency as per the provisions of the proclamation, though the opposition parliament

member claims that the fairness of the proclamation itself remains a question to be clarified.

These responses don't agree with the claims of NGOs and CSOs – which predominantly consider the agency as ill-prepared and its treatment of clients as unfair and unjust. Obviously, considerably many NGOs and CSOs have faced demands for rethinking the way they operate should they want to be registered as per the provisions of this proclamation and a few, even after undertaking those necessary rearrangements, were returned back by the agency and still a few have not been able to re-register. Looking at the reasons why these NGOs and CSOs were turned back and some even consequently failed to re-register is deemed by the researcher as another important aspect of enquiry in this research. Responses as to why these happen are summarized in the following graph:

**Figure 4.4:** Respondent ratings on reasons for failure to (re)register of some NGOs/ CSOs



(Source: Own Survey)

Looking deeper into these reasons, NGOs which failed to (re)register due to inappropriate source of funds for the purposes they want to pursue have the upper hand. This is evidently a testimony that the ceiling of ten percent foreign sources of funds is a truly challenging requirement to satisfy on the part of the NGOs/ CSOs working on the advancement of basic human/ democratic rights. Another group of 11 respondents said that operational malfunctions were the reason for their failure to (re)register, meaning that the agency didn't believe the way they operate is within the bounds of the proclamation. This, they claim, is not the story as reflected in their responses as to whether they are being fairly and impartially treated by the agency. But, the fact that the agency has huge discretion in confirming the appropriateness of their ways of operation seems to have affected them.

Another provision in the proclamation concerns the nomenclature of NGOs and CSOs – which has to be legal and unambiguous as per the proclamation. Moreover, third sector organizations should at least have representations in five regional states in order to have a name that is federal/ national in sense. This provision also doesn't seem to bring any substantial difference to the way NGOs and CSOs operate or on the services they provide.

#### **4.4.1.3 Development Practitioner Researchers and Journalists**

As stipulated earlier, this group was introduced to act as a middle ground between the two counterparts of this proclamation, and hence serve as the sound of reason – principally because they presumably have an objective, impartial and professional grip on matters and judgment on pertinent issues. As they are purposefully selected as having relation to the development vocation, they have a proved expertise on matters of high regard to this research.

Sharing their views on the legal framework administering NGOs and CSOs in Ethiopia, 93.33% of them responded that they are aware of all the four major laws and codes relating to the operation and governance of NGOs and CSOs in

Ethiopia in reasonable detail. The naturally ensuing question was then whether they consider the introduction of the 2009 Charities and Societies Proclamation was important, to which again 93.33% (28 respondents) responded positively. When asked to narrate their possible reasons for its importance, they cited reasons like the fact that the earlier laws were outdated, to control some unwholesome practices by some NGOs and CSOs, to curb the alarmingly high rate of adoptions, and to make sure the country gets its fair share of revenue from activities in the third-sector which were most often abused.

The evidently huge dismay of members of this respondent group is witnessed on their reflection as to whether they consider this proclamation as fair and just, to which 83.33% responded no, 6.67% responded as it being sufficiently fair and just while the balance of 10% (3 respondents) said that it was totally fair and just. The respondents who labeled the proclamation as unfair and unjust further opined on which specific provisions of the proclamation its unfairness and lack of justice is most exhibited and as per their views, provisions regarding charities and societies were generally the most repressive ones.

#### **4.4.2 Experiences To-date**

The perspectives of the three participating clusters or respondent groups in this research have so far been established. Their perspectives are only concerned with their general impression of the issues concerning the proclamation and their contribution to its enactment and implementation.

This sub-section further builds on findings regarding the actual implementation of the proclamation. Respondent groups were provided with queries that deal with what their experiences have been like after the proclamation was put to practice. Principally, only the first two respondent groups, NGOs and CSOs and Government Officials and parliament members, were provided with queries that fall in this category because they are the only ones which could possibly know the actual fact on the ground. Exposing the third group of respondents to these

queries was deemed unnecessary by the researcher as they are not directly related to or affected by the proclamation as the other two.

#### **4.4.2.1 Non-governmental and Civil Society Organizations**

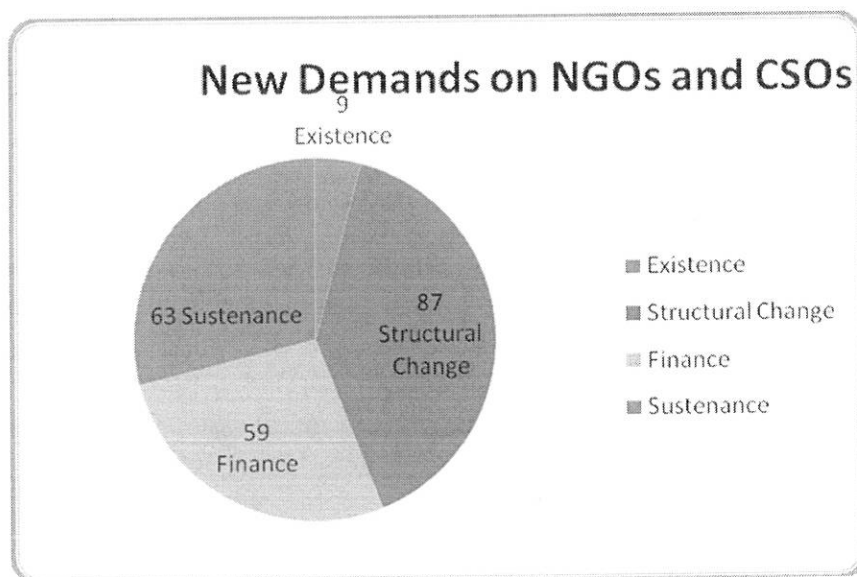
As the proclamation in question was promulgated to govern NGOs and CSOs, whatever good or bad sides it has will be directly reflected on them. The very fundamental infliction of the proclamation is, as claimed by the NGOs and CSOs, the situation that if they are not registered with the Charities and Societies Agency, their operational existence all together is illegal.

Based on this, the 100 respondents in this group were asked whether they have registered or re-registered according to the new proclamation. An overwhelming majority, which is 91% of them, said that they have registered/ re-registered while 7% of them responded that their trial for re-registration is still pending as the agency has asked them to fulfill certain criteria additionally. The balance of 2% responded that their trial of re-registration failed as the agency wouldn't let them to continue operation for falling short of meeting some criteria the agency set. While the agency has put forth a number of reasons for not re-registering these NGOs/CSOs, they claim that they were not given enough consideration in terms of time and other resources to live up to the par set by the proclamation. Respondents who said either that they have not registered or their registration is pending were further enquired to state their opinion whether the agency was fair in not registering them right away and 100% of them said that they definitely were not judged by a fair process.

Responding to an enquiry as to whether the registration/re-registration put any new demands on their operations, 98% responded positively saying that the new proclamation has in some way affected the manner with which they used to undertake their day-to-day operations while only 2% responded that the proclamation didn't put any new tangible demands on their organization. These new demands were felt in various forms in different NGOs/CSOs: some of the

provisions in the proclamation have huge relevance to some organizations while some other provisions affect the others tremendously. Respondents were asked which aspect of their organization was most affected. As respondents were allowed to go for more than one option should it be their case, the finding suggests that for any NGO or CSO, there were at least two new generic demands faced as a result of the enactment of the proclamation. The potential generic demands identified were demands on Existence (registration and securing certificate of license), structural change (org. structure, nomenclature, HR and staffing needs), financial demands (problems in terms of raising finances to continue meaningful operation) and Sustenance (registered and operating, but are not sure of the sustainability of the NGO/CSO.) Their responses have been consolidated in the following graph:

Figure 4.5 Respondent ratings on New Demands on NGOs and CSOs as a result of the proclamation (N=100)



(Source: Own Survey)

The trend of responses to this specific question further highlights another important aspect to be noticed – the fact that different kinds of NGOs and CSOS respond differently to these demands. One interesting trend to notice is the

finding that 100% of respondents which work on the advancement of basic human/democratic rights responded that financial demands were evident in their organization as a result of the proclamation and so were a considerable part of professional associations.

As discussed in various earlier sections of this research, the proclamation puts a ceiling of 10% foreign funding on NGOs and CSOs working on the advancement of basic human and democratic rights. Evidently, the principal reason why these specific types of NGOs and CSOs frame financial demands as happening in their organization is because of the prohibitively low amount of funding they can possibly secure from sources outside of the country. Many such NGOs and CSOs found it difficult to sustain meaningful operations, as witnessed by news releases and research outcomes.

Responding to the coping mechanisms with which these NGOs and CSOs tried to survive and go on with their operations, the following coping mechanisms were identified, the findings of which are depicted in the following table:

Table 4.5: Respondent ratings on coping Mechanisms adopted by NGOs and CSOs to meet the new financial demands (N=100)

No.	Coping Mechanism	No. of Respondents	Percentage
1	Downsizing	37	62.72
2	Changing Orientation	0	0
3	Looking for local funding sources	15	25.42
4	Engaging in money-generating activities	7	11.86
Total		59	100

(Source: Own Survey)

As depicted in the compiled data above, well more than half of the respondent NGOs and CSOs resorted to downsizing as a coping mechanism. This downsizing doesn't only affect the mere existence of the NGO/ CSO, but it will also have far-reaching outcomes on their economic contribution to the country, employees, and beneficiaries. A quarter of them said that they will now be looking for local sources of funds to continue meaningful operations while a tenth are now involved in money-generating activities.

As the agency has the sole responsibility of making sure that NGOs and CSOs alike are governed by the provisions of the proclamation, all the said third-sector organizations have to deal with the agency on many occasions. It then goes without saying that their perception of the proclamation is highly influenced by how the agency is implementing it and it's consequently important for the government to ensure that the agency disposes off its responsibility in the most fair, effective and righteous manner. To check whether this is the actual fact on the ground, respondents were asked to rate the agency's operational success (by way of finding out their sources of dissatisfaction) in their encounters so far, the findings of which are presented in the following table:

Table 4.6: Source of dissatisfaction of Respondent NGOs and CSOs on the charities and societies agency's services (N=100)

No.	Performance Parameters	Frequency	Percentage
1	Too many demands	21	21
2	High agency discretion	32	32
3	Inefficient service	19	19
4	Shortage of time	24	24
5	Unrealistic demands	3	3
6	No problem at all	1	1
	Total	100	100

(Source: Own Survey)

As can be inferred from the table above, the clients of the Charities and Societies Agency are not generally happy with the services they are being provided with as only 1% of them responded as encountering no problem at all with their dealings with the agency, while an overwhelming majority of them responded as having encountered problems like being subject to too many demands by the agency (21%), a very high agency discretion (32%), inefficient service (19%), shortage of time to register (24%) and unrealistic demands (3%). This can highlight the need to develop a customer-centered approach by the agency.

#### **4.4.2.2 Government Officials and Parliament Members**

The Charities and Societies agency is established as per the 2009 Charities and Societies Proclamation with the overriding objectives of ensuring favorable premises are put in place to assert citizens' rights to organize themselves, supporting, encouraging and coordinating NGOs and CSOs to play their evidently significant role in the country's overall development and most importantly because it was deemed essential that a thorough legal framework was important to ensure that transparency and accountability should be enforced in third-sector organizations. (Charities and Societies Agency, 2010:1).

The agency further claims that with the enactment of Proclamation No. 621/2001 on Yekatit 6, 2001 (February 13, 2009), it was possible to efficiently register and administer charities and societies, to classify them according to their sources of funds, to distinguish between their areas of operations and to monitor, support and control them unlike the earlier practices that were not formal, organized and aligned.

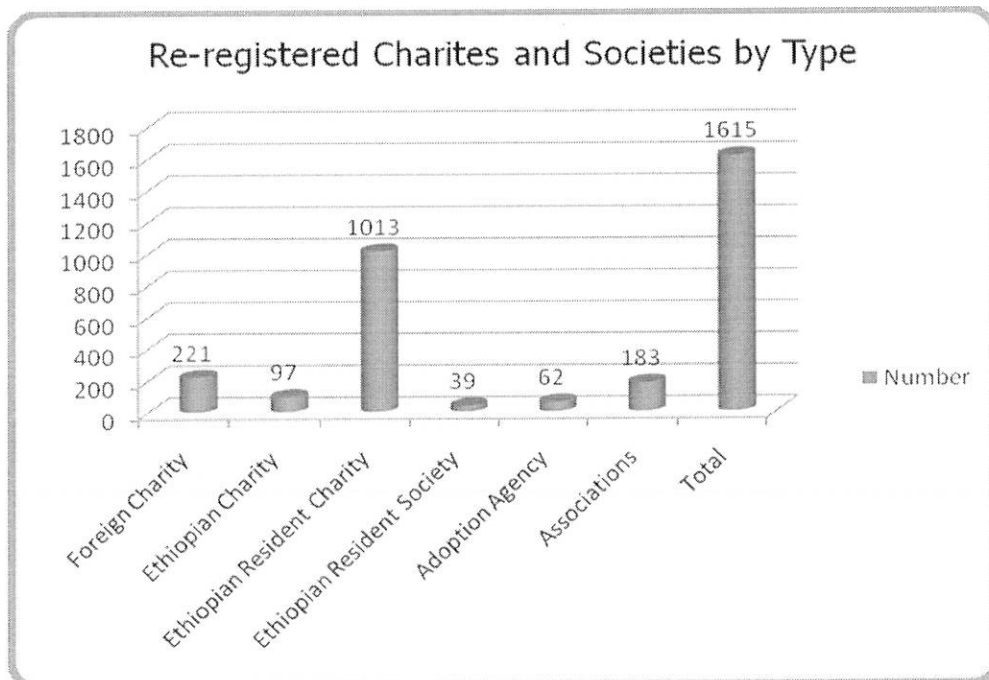
The agency has undergone necessary and inevitable preparations before it embarked on undertaking its duties, responsibilities and obligations as bestowed on it by the proclamation (Charities and Societies Agency, 2010 :2); which were:

- The agency has worked on its human resources, processes and organizations in such a way that they enable it to effectively undertake its underlying missions.
- The different discussions and consultative forums organized before the enactment of the proclamation also had a vital role in paving the way for the agency's operational responsibilities.
- The agency had also undertaken an audit of earlier registrations with the Ministry of Justice to expedite the re-registration process.

The re-registration process was undertaken based on the Business Process Reengineering (BPR) of the agency which was organized in such a way that clients will get a prompt service on one window: One-Stop shopping. To effectively undertake this, the agency organized 20 registration officers assigned on 20 windows. Along the way, all NGOs and CSOs were made to know what important criteria they were supposed to fulfill for the re-registration.

In the re-registration process that took about 5 months from September 2009 – February 2010, the following types of charities and societies were re-registered as consolidated and presented in figure 4.6 below. From the charities and societies that applied for re-registration, 10 were barred from re-registering and securing certificate of license by the agency, 9 of which were children's villages while one was a charity. The grounds for the agency to decline to register these NGOs/CSOs were failure to provide the children with enough nourishment, lack of the necessary facilities and inappropriate location to undertake operations, practices of child labor, not providing the children with appropriate medical care in terms of professionals and pharmaceuticals, being predominantly involved in the adoption of children to foreign nationals, and misappropriating funds earned on the children's behalf to private benefits.

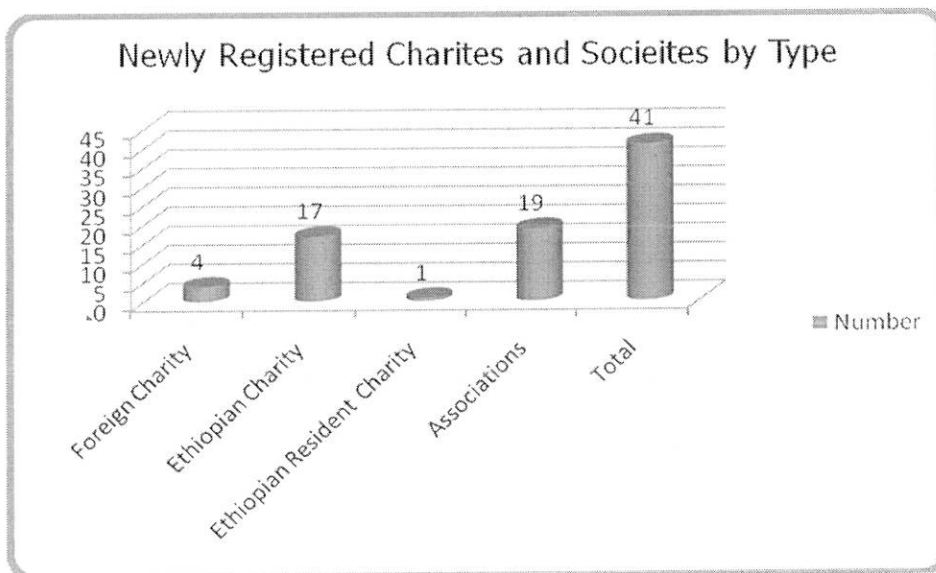
Figure 4.6 Re-registered Charities and Societies by type



(Source: Charities and Societies Agency, 2010:3)

Alongside the re-registration of charities and societies, the agency has also undertaken the registration of new charities and societies.

Figure 4.7: Newly registered charities and societies by Type



(Source: Charities and Societies Agency, 2010:3)

According to the Charities and Societies Agency (2010), from among the experiences it has so far, the challenges that had made the registration/re-registration process more difficult were:

- The fact that some NGOs and CSOs were not well prepared and didn't fulfill the necessary criteria and pre-conditions for (re)registration.
- Lack of transparency and accountability in their internal organization
- In case of some foreign charities, coming up with their own self-defined organizational portfolio instead of synchronizing it according to the provisions of the proclamation, letting some foreign nationals work for their company with tourist and business visas (and not work visa), not collecting the taxes due from foreign employees as per the tax proclamation of the country and the like.

Even in the face of these challenges, what the agency believes was crucial in its success are the willingness of NGOs and CSOs to be governed by law and the spirit of cooperation accorded by them which made the whole effort a worthwhile endeavor.

Additionally, parliament members interviewed on how the pre-enactment process in parliamentary sessions went had stark differences in their views. The parliament member from the incumbent party said that the debating session was a hotly contested affair between different interest groups and parties in the parliament. According to him, the session was very tense probably for one, some or potentially all of the following reasons:

- Foreign Jostling: Different foreign governments, global and continental organizations, human rights groups and others had much at stake as the proclamation hugely impacts their modes of operation in place. So, they had to make use of whatever power, be it influential or direct, to get their voices heard and possibly loosen some of the strict modalities set forth by

the proclamation. So, the parliamentary sessions were taking place under this condition, which made it to be a hotly debated session.

- **Broad Media Coverage:** Local and international media alike said and wrote a lot about this proclamation which resulted in the large public and all interested stakeholders being savvy about the issue and demanding that it be improved
- **Vested Interests:** Apart from the interests of foreign bodies who were jostling for position and consideration in the proclamation, there was also a considerable mass of local interest groups with a concern over the enactment of the proclamation. To mention one, opposition parties were not sure whether they would fall in that category and so were some powerful professional associations. Accordingly, their vested interests also made the debating parliamentary sessions an interesting and tense one.
- **Neo-liberal Forces:** There were also some neo-liberal forces, predominantly foreign, who wanted to meddle in the country's internal affairs under the cover of charity work through NGOs and CSOs. These forces were visibly concerned with the enactment of the law because the stricter control and reporting requirements set forth by the proclamation would potentially curb their capacity in undertaking their undercover operations.

The only thing the two members of parliament could agree on seems to be the fact that the parliamentary debating sessions were exceptionally tense, though both of them think that it's for quite different reasons. The reasons given by the opposition member of parliament were:

- **Government Oppression:** the government of Ethiopia, through its various organs, has been oppressing whoever has voiced their concerns and views on how the government goes about its affairs. And, the proclamation was

potentially one more way to suppress some groups which were critical of the government. So, the only way for the opposition members of parliament to air their concerns was the debating sessions, leading to it being a tight race among members of parliament.

- **Systematic Weakening of some NGOs/CSOs:** The public at large and various people working in the third-sector sphere were also of the belief that this proclamation was meant to systematically weaken some targeted NGOs and CSOs as they have constantly been critical of the government's human rights records, handling of the national economy, crimes against opposition politicians and lack of freedom of the free press. The distinguished member of parliament further claims that the proclamation was enacted taking the imminent elections into consideration since during the last election, some NGOs and CSOs have been quite instrumental and criticizing the government's mishandling of the election and its aftermath.

#### **4.4.3 Possible Consequences in the Future**

Finally, respondents were asked to project their views on what the possible short and long-term consequences of this proclamation would be. Irrespective of their group and their probable orientation towards the proclamation as reflected in earlier findings of perspectives and experiences, all of them projected both negative and positive sides of the proclamation's consequences.

Before that though, all three respondent groups were demanded of their opinion as to whether they believe that the proclamation will profoundly impact the overall NGO/ CSO community to which 98.66% (148 respondents) responded yes, while 1.34% responded no. On whether these profound impacts were positive or negative, 84.5% responded they are negative while the balance of 15.5% (23 respondents out of a total of 148) said the proclamation's impacts will be more positive than negative.

Table 4.7: Respondent ratings on possible consequences of the proclamation

No.	Respondent Group	Possible Consequences of the Charities and Societies Proclamation	
		Positive	Negative
4.4.3.1	NGOs/ CSOs	<ul style="list-style-type: none"> <li>* Updated laws with regard to some provisions.</li> <li>* Better organized systems and more knowledgeable staff.</li> <li>* Separate agency specializing on NGOs and CSOs – potentially better and swift service.</li> </ul>	<ul style="list-style-type: none"> <li>* Strict funding source requirements: not feasible for many NGOs and CSOs.</li> <li>* Heavy reporting requirements: operationally challenging for many NGOs and CSOs</li> <li>* Harsh punishment for non-compliance: will potentially put many NGOs and CSOs out of operation.</li> <li>* The proportion of administrative and operational costs is tight.</li> </ul>
4.4.3.2	Government Officials and Parliament Members	<ul style="list-style-type: none"> <li>* A more efficient and inclusive legal framework: efficient administration of NGOs and CSOs by the agency.</li> <li>* Curbing of earlier unwholesome practices by some NGOs and CSOs</li> <li>* More facilitated highway for NGOs and CSOS to partake in the country's development</li> </ul>	<ul style="list-style-type: none"> <li>* Lack of comprehension on the part of NGOs and CSOs may lead to their dissatisfaction with the proclamation and potentially reflect on their operation</li> <li>* Unwillingness of NGOs and CSOs to change their modes of operation and a consequent lack of spirit of cooperation</li> <li>* Impossibility to accept funds from anonymous sources.</li> </ul>
4.4.3.3	Development Practitioner Researchers and Journalists	<ul style="list-style-type: none"> <li>* An all-encompassing and trendy legal framework to govern NGOs and CSOs</li> <li>* A more organized and professional authority on data and researches regarding NGOs and CSOs in Ethiopia</li> <li>* Exemption of charities from tax</li> </ul>	<ul style="list-style-type: none"> <li>* Potentially many NGOs and CSOs will cease to exist due to strict financial and reporting requirements.</li> <li>* Excessive agency power and large space for discretion may pose a danger.</li> <li>* The relation between nomenclature and regional representation.</li> <li>*Lack of independent judicial review/ appeal.</li> </ul>

(Source: Own Survey)

Among the positive consequences of the proclamation, as per their projections, are found the fact that it's a comprehensive legal framework to effectively administer third sector organizations and also that it establishes a separate agency for governing NGOs and CSOs; while the negative projections include strict funding source requirements, heavy reporting requirements and excessive agency power.

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## **Chapter 5: Conclusion and Recommendation**

### **5.1 Introduction**

This chapter is composed of two important sections. The first one is concerned with the summary of findings: a compilation of the data presented and analyzed in the preceding chapter. The second section on its part discusses recommendations that are based on the findings of the research and hence make up the thoughts of the researcher as to what actions need to be taken by developmental stakeholders in order for the proclamation to bear fruit and be accepted to all concerned parties' contentment.

### **5.2 Summary of Findings**

This study was made on a sample of three identified respondent groups which are NGOs and CSOs, Government Officials and Parliament Members and Development Practitioner Researchers and Journalists; and they were asked to cast their views on three genres: their perspectives, experiences and possible future consequences. These three groups were purposefully selected because of their immediate proximity to the subject in discussion and for their potentially contrasting views which would give a balanced and clearer picture of the whole scenario.

It can be deduced from the findings of this research that the first respondent group, that of NGOs and CSOs, is not of a majorly positive opinion about the proclamation. Though they are well aware of the basic provisions of the 2009 Charities and Societies Proclamation in comparison to earlier laws and codes, they unanimously declared it as the least favorable law of all governing third-sector organizations. That potentially happened because most of the respondents, about 89%, didn't take part in any forum or consultative meetings before the law's enactment. Most of them are also of the stand that the government came up with this law at this point in time to systematically weaken some NGOs and CSOs.

The perspective of the group comprised of government officials and parliament members lies more on the positive side as most of them believe it's an ice-breaker in that it for the first time sets out a comprehensive set of provisions that can effectively administer NGOs and CSOs in the country. The vast majority of them, more than 95%, believe that it's either highly or moderately important; the same number believe that the agency is well prepared to carry out its responsibilities and about 90% of respondents deem the treatment of NGOs and CSOs by the agency so far as fair and just. The starkly contrasting perspective in this group was that of the opposition parliament member who is of an exactly opposite perspective to the responses given above.

An overwhelming majority, about 93%, of the third group of respondents, development practitioner researchers and journalists, opined that the introduction of the proclamation was essential for various reasons such as curbing unwholesome practices by some players in the third-sector, the fact that some of the earlier provisions were outdated, to lessen the exploding rate of adoption and to make sure the country gets its fair share of revenues from the third sector which was hugely misappropriated during earlier times; though their huge disagreement can be readily witnessed in the outcome that 90% of them labeled the proclamation as unfair and unjust.

Regarding the experiences of the respondents, 91% the NGOs and CSOs responded as having registered as demanded by the proclamation and almost all of them said that the new proclamation has set forth new demands on the way they used to operate earlier be it financial, existential, sustainability or structural change. It was also found out that different kinds of NGOs/CSOs react differently to these new demands. For instance, NGOs/CSOs working on the advancement of basic human and democratic rights feel the new financial demands set forth on a much heavier scale than the others. To curb this challenge, they came up with different coping mechanisms like downsizing (63%), looking for local sources of funds (25%) and engaging in money generating activities (12%).

As for the experiences of the agency, it has re-registered 1615 NGOs and CSOs where as it gave new licenses to 41 such organizations. To that end, it faced some challenges like ill prepared NGOs and CSOs to meet requirements and apparent lack of accountability and transparency in their internal organization. The positive things on the side of NGOs and CSOs were their display of a spirit of coordination and their willingness to abide by the law.

Regarding the possible consequences the proclamation will entail, some positive and negative reviews were given. Among the positive ones are found updated laws and better organized systems, separate agency specializing on NGOs and CSOs, and curbing of earlier unwholesome practices by some NGOs and CSOs; while the negative ones were strict funding source requirements, heavy reporting requirements, harsh punishment for non-compliance, potential going out of operation of many NGOs and CSOs and excessive agency power.

On a final note, the international media and local news outlets have both extensively claimed that this law is very restrictive in the sense that it makes their operational climate quite challenging and limiting at times. The International Journal for Not-for-profit law (2008) stipulated that countries with restrictive NGO laws exhibit certain characteristics as discussed earlier in the literature. Some of these characteristics as stipulated by the journal indeed apply to Ethiopia, some of which are: the country is governed by a dictatorship, or if elections are held, they are deemed not to be free and fair; there is political unrest in the country or neighboring country threatening the incumbent government; similar legislations or practices have been enacted or introduced in sister regimes; or the country controls, restricts or monitors media.

All the above points are indications of the fact that this proclamation could have possibly been triggered by other similar proclamations, predominantly in Africa and the Middle East, and it can be asserted, beyond any reasonable doubt, that the proclamation falls in the global trends of NGO/CSO laws in today's world.

### 5.3 Concluding Remarks

It has thus far been established that different development stakeholders, and hence different respondent groups in this research, hold strikingly different perspectives, have varied experiences and project opposing consequences in relation to the proclamation. Generally speaking, the NGOs and CSOs, on which the proclamation is implemented, hold a negative-leaning perspective of the proclamation, are vastly unhappy with their experiences in its enactment and implementation so far and project pessimistic consequences for the future.

On the other hand, government officials and parliament members give praise to the proclamation and are very optimistic about it and content with their experiences so far while the group of development practitioner researchers and journalists fall midway between the two, i.e. they hold a generally positive attitude towards the importance of the proclamation though they are unhappy with its fairness and justice.

### 5.4 Recommendations

Based on the research's findings and the theoretical underpinnings thereof, the following recommendations seem viable:

**5.4.1 Monitor the Implementation of the CSP to redeem its 'perceived' negative consequences:** the implementation of the CSP should be monitored on a constant basis to alleviate problems seen in its implementation and build on experiences. To this end, for instance, the development assistance group (DAG) has come up with an initiative to establish an independent monitoring system to track the implementation, enforcement and impact of the CSP. (BT Costantinos et al: 2009)

**5.4.2 NGOs/ CSOs should be more Proactive:** the third sector organizations the governance of which falls under the vicinity of this proclamation should devise ways to operate in sync with it; they should develop coping mechanisms that can enable them to ensure their continued existence and sustainable

operations for the ultimate goal of contributing their part and leaving a proud seal on the country's development.

**5.4.3 Need for Capacity Building:** Some of the complaints from the NGOs and CSOs, which took part in the study, were concerned with the fact that they are not happy with the agency's services. As a government establishment, the officers in the agency should stick to the highest standards of ethical conduct and treat their clients with utmost care and efficiency. To achieve this, the agency should develop its capacity in terms of human and material resources and build a knowledge base on which a standard platform for operations can be built.

**5.4.4 Build a Spirit of Cooperation:** In contemporary society, many misunderstandings and conflicts of interest can be resolved when a spirit of cooperation is cultivated between any two contesting interest groups, and the case is no different between the third-sector organizations and the charities and societies agency. Both parties should take it, as a matter of high priority, to approach each other with a solution-generating and friendly attitude which can take them a long way into developing a sustainable and fruitful working relationship.

**5.4.5 Some provisions to be amended:** It can be clearly inferred from the research's findings that some specific provisions are the basis for much of the dismay reflected in the disagreement between the two parties on the proclamation. I can for instance cite the 10% ceiling of foreign sources of funds for human rights NGOs, the severe punishment associated with non-compliance to the proclamation, the prohibitively heavy reporting requirements as areas where there is a potential room for improvement. It's evidently clear how difficult and seemingly impossible it is to change a proclamation once enacted. But, considering the important contributions of third-sector organizations to national development as testified in the research and their current level of dissatisfaction

with the proclamation, it's an endeavor worth striving for. All concerned parties, principally the government's executive and legislative arms, should take the initiative and spearhead the efforts to improvise some of the hotly contested provisions in the proclamation as the grievance of third-sector organizations can potentially have far-reaching negative effects on the country's development.

**5.4.6 Awareness Raising programs to be undertaken:** One of the prevalent shortcomings of the enactment and implementation of this proclamation, as per the findings of this research, was that sufficient debates and consultative meetings didn't take place – which led the third-sector organizations to believe that the whole business of the proclamation was a one-way process and their potential contribution to it was either overlooked or deemed unnecessary. As the saying goes – Better late than never – the government still has time to make good on the opportunity of raising the awareness of concerned parties and the public at large with regard to the proclamation. Different awareness raising programs should be put in place in order for the society to develop a better attitude towards the law and consequently be voluntarily abided by it.

**5.4.7 More Time to be allotted to register:** The time allotted for existing NGOs and CSOs to re-register was considered by many as insufficient and inconsiderate of the actual fact on the ground. As the proclamation has put in place, for the first time, hugely challenging requirements like source of funds, reporting requirements and who can possibly serve as officers in the organizations, the NGOs and CSOs believe the consideration of additional time only as fair and absolutely important for their viable re-registration.

**5.4.8 Support and Assistance to be offered:** The charities and societies agency is an implementing organ of the government under the Ministry of Justice (MOJ). To this end, it has a supply of experienced professionals who have been dealing with third-sector organizations. It can also readily have access to

technical support from various international ventures like the United Nations and the World Bank on how to effectively administer the NGO/ CSO community. Hence, the agency can use this vast base of experience and ready access to first-class expert information to offer strategic assistance to third-sector organizations for the ultimate purpose of making them more proactive and productive.

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# Appendices

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**ADDIS ABABA UNIVERSITY**

**FACULTY OF BUSINESS AND ECONOMICS**

**DEPARTMENT OF PUBLIC ADMINISTRATION AND DEVELOPMENT MANAGEMENT**

**Dear respondent,**

I am a student in the School of Graduate Studies of Addis Ababa University, pursuing the Master of Public Administration (MPA) program. Currently, I am conducting a research for my master's thesis on the 2009 Charities and Societies Proclamation of Ethiopia.

This questionnaire is prepared to gather information about stakeholder perspectives, experiences, and possible consequences of the 2009 Charities and Societies Proclamation of Ethiopia on non-governmental and civil society organizations operating in Addis Ababa. To this end, your contribution in filling out this questionnaire has been deemed decisively important.

Your kind cooperation, therefore, is desired to successfully undertake this study and find out the possible consequences of the proclamation, to find out the possible challenges and propose viable solutions to alleviate these challenges. I therefore take this opportunity to kindly ask you to be as open and as honest as possible to find out the actual fact on the ground.

The questionnaire, and all data filled in it, are solely meant for academic consumption and will in no way affect the persons or organizations filling it. Please rest reassured that all the information provided will be treated with the utmost confidentiality.

**General Instructions:**

- You don't need to write your or your organization's name.
- Indicate your answers with a tick mark(✓) where necessary.
- Use blank spaces to give short answers.
- You can tick more than once where necessary and appropriate.

**MANY THANKS IN ADVANCE!!!**



7. How many people do you believe are beneficiaries of your NGO/CSOs' activities?

- Less than 1,000       Between 1000 and 10,000       More than 10,000

8. How many employees does your NGO/CSO employ?

- Less than 10       Between 21 and 50       More than 100  
 Between 11 and 20       Between 51 and 100

9. Which laws/codes were you aware of as governing NGO/CSOs operating in Ethiopia? (Tick as many as appropriate)

- The 1966 Association Proclamation  
 The 1995 Guidelines for NGO operations  
 The 1999 Codes of Conduct for NGOs

10. Are you well aware of the 2009 Charities and Societies Proclamation of Ethiopia?

- Yes, very much.       Yes, not so much though.       No, not at all.

11. Based on questions 9 and 10, how do you rank these laws/codes in terms of being favorable to NGOs and CSOs operating in Ethiopia?

- 1<sup>st</sup> \_\_\_\_\_  
2<sup>nd</sup> \_\_\_\_\_  
3<sup>rd</sup> \_\_\_\_\_  
4<sup>th</sup> \_\_\_\_\_

12. Has your organization taken part in any debate/ consultative meetings on the 2009 Charities and Societies Proclamation?

- Yes       No

13. If Yes, please state where the meeting was organized and by whom.

\_\_\_\_\_.

14. If No, what was the reason for your organization's not partaking in any such debate/ meeting?

- We were not aware of any such proceeding.       We were aware, but not invited.  
 We were invited, but thought our ideas won't be considered.  
 Our organization was not interested.

15. What do you think is the reason for the government to enact this proclamation now?

- To efficiently govern NGOs/CSOs  
 To systematically weaken some NGOs/CSOs  
 Other. Please specify. \_\_\_\_\_.

16. Has your organization registered as per the new provisions of the 2009 C&S proclamation?

Yes

No

Pending

17. If yes, did your registration entail any new demands on your NGO/CSO?

Yes

No

18. Do you believe the agency's treatment of you and its clients is fair and just?

Yes, For sure.

Yes, but not always.

No, absolutely not.

19. If you are registered, which category of charities/societies do you fall in now?

Foreign Charity

Ethiopian Resident Charity

Adoption Agency

Ethiopian Charity

Ethiopian Resident Society

Association

20. If your answer to Question 17 is yes, which demands were most felt in your NGO/CSO? The demand was a question of . . . (Tick more than once if appropriate):

Existence i.e. registration and securing certificate of license.

Structural Change i.e. org. structure, nomenclature, HR and staffing needs.

Finance i.e. problems in terms of raising finances to continue meaningful operation.

Sustenance i.e. you are registered and operating, but are not sure of the sustainability of your NGO/CSO.

21. If financial, what coping mechanism did you develop?

Down sizing

Looking for local funding sources

Change of orientation

other

22. In your dealings with the Charities and Societies Agency, which problems were most prevalent in terms of customer dissatisfaction?

Too many demands

Inefficient service

Unrealistic demands

High agency discretion

Shortage of time

No problem at all

23. Do you view the 2009 Charities and Societies Proclamation as favorable to your organization's operations?

Yes

No

24. Do you think the 2009 Charities and Societies Proclamation will profoundly impact the overall NGO/CSO community in Ethiopia?

Yes, Very Much So.

I am not sure.

Absolutely Not.

25. If your answer to Question 24 is yes, what do you think will the impact be more like?

Positive

Negative

26. Can you mention some of the positive/ negative impacts?

- \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_

27. If your answer to Question 24 is yes, which type of NGOs/CSOs do you think will be impacted most? (Please rank)

- \_\_\_\_ Education/ Health-oriented                      \_\_\_\_ Basic Human/ Democratic Rights-oriented  
\_\_\_\_ Professional Associations                      \_\_\_\_ Donor agencies  
\_\_\_\_ Development-oriented                      \_\_\_\_ Gender-oriented                      \_\_\_\_ Other.

If other, Please specify. \_\_\_\_\_

28. Will the same profound impact apply to your own NGO/CSO?

- Yes, Very Much So.                       I am not sure.                       Absolutely Not.

29. Are you aware of any NGO/CSO that ceased to exist/ went out of operation due to the enactment of this proclamation?

- Yes                       No

30. What do you think should be improved in the 2009 C&S proclamation?

- Basic provisions i.e. its preamble and general provisions (Section 1)  
 Provisions regarding Charities and Societies Agency  
 Provisions regarding Charities and Societies  
 Miscellaneous provisions

31. If your answer to Qn. 30 is 'Provisions regarding Charities and Societies', which specific provisions do you think need to be improved?

- General Provisions (Sections 3 and 4)  
 Provisions regarding formation, registration and licensing (Section 5)  
 Provisions regarding accounts and reports  
 Provisions regarding supervision

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**MANY THANKS IN ADVANCE!!!**

1. Respondent profile:

1.1 Sex

- Male  
 Female

1.2 Age

- 18 -30 years  
 31-45 years  
 46 years and above

1.3 Level of Education

- Primary School                       Technical/ Vocational                       Bachelor Degree  
 Secondary School                       Diploma     Post-graduate

1.4 What is your level of responsibility in the organization?

- Front-line     Middle-level management  
 Supervisory     Executive-level management

2. Which laws/codes were you aware of as governing NGO/CSOs operating in Ethiopia? (Tick as many as appropriate)

- The 1966 Association Proclamation  
 The 1995 Guidelines for NGO operations  
 The 1999 Codes of Conduct for NGOs

3. Are you well aware of the 2009 Charities and Societies Proclamation of Ethiopia?

- Yes, very much.                       Yes, not so much though.                       No, not at all.

4. Based on questions 2 and 3, how do you rank these laws/codes in terms of being favorable to NGOs and CSOs operating in Ethiopia?

- 1<sup>st</sup> \_\_\_\_\_  
2<sup>nd</sup> \_\_\_\_\_  
3<sup>rd</sup> \_\_\_\_\_  
4<sup>th</sup> \_\_\_\_\_

5. Do you consider the 2009 Charities and Societies Proclamation is important?

- Highly Important                       Moderately Important                       Not important at all

6. Do you think the 2009 Charities and Societies Proclamation will profoundly impact the overall NGO/CSO community in Ethiopia?

- Yes, Very Much So.                       I am not sure.                       Absolutely Not.

7. If your answer to Question 6 is yes, what do you think will the impact be more like?

Positive

Negative

8. Can you mention some of the positive/ negative impacts?

- \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_

9. If your answer to Question 6 is yes, which type of NGOs/CSOs do you think will be impacted most? (Please rank)

\_\_\_\_ Education/ Health-oriented

\_\_\_\_ Basic Human/ Democratic Rights-oriented

\_\_\_\_ Professional Associations

\_\_\_\_ Donor agencies

\_\_\_\_ Development-oriented

\_\_\_\_ Gender-oriented

\_\_\_\_ Other.

10. Do you believe the charities and societies agency is well prepared to implement the proclamation and hence administer NGOs and CSOS in the country?

Yes, very much so.

Yes, but not fully

No, I don't believe so

11. Do you believe the charities and societies agency has sufficient capacity to implement the proclamation and hence administer NGOs and CSOs in the country?

Yes, very much so.

Yes, but not fully

No, I don't believe so

12. Do you believe the agency's treatment of its clients is fair and just?

Yes, I think so

No, I don't think so

13. What are the predominant reasons for the failure of NGOs and CSOs to re-register?

Unmet Requirements

Improper Nomenclature

Operational Malfunctions

Sources of funds

14. What do you believe needs to be improved in the proclamation to provide NGOs and CSOs with a better operational environment?

- \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_

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- \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_


## DECLARATION

I, the undersigned, declare that this thesis is my original work and has not been presented for a degree in any other university, and that all sources of materials used for the thesis have been duly acknowledged.

### **Declared by:**

Name: Yitseral Fisseha  
Date: 10 july 2010  
Signature: 

### **Confirmed by Advisor:**

Name of Advisor: Tesfaye Debela  
Signature:   
Place and date of Submission: July 12, 2010  
Addis Ababa