

Addis Ababa University  
School of Graduate Studies,  
College of Business and Economics  
Department of Public Administration and  
Development Management

**The Charities and Societies Proclamation:  
Current Practice, Challenges and Its impact on  
the activities of selected NGOs/CSOs**

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**Addis Ababa**

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This thesis is submitted to the College of Business and Economics in partial fulfillment of the requirements for MPMP degree in Public Management and Policy

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## **Acronyms**

ACHPR = African Charter on Human and Peoples Rights

CBOs = Community-based Organizations

CCRDA= Consortium of Christian Relief and Development Associations

CEOs = Chief Executive Officers

ChSA = Charities and Society Agency

CSOs = Civil Society Organizations

CSP = Charities and Societies Proclamation 621/2009

EHRCO) = Ethiopian Human Rights Counsel

EPRDF = Ethiopian People's Revolutionary Democratic Front

ERA= Eritrean Relief Association

EWLA=Ethiopian Women Lawyers Association

FDRE = Federal Democratic Republic of Ethiopia

HRC = Human Rights Committee

ICCPR = International Covenant on Civil and Political Rights

ICESCR = International Covenant on Economic, Social and Cultural Rights

NGOs = Non-Governmental Organizations

ORA= Oromo Relief Association

REST= Relief Society of Tigray

SPSS= Statistical Package for the Social Sciences

UDHR = Universal Declaration of Human Rights

USAID =United States Agency for International Development

## Abstract

*No other Ethiopian laws/proclamations have attracted as much attention as the CSP 621/2009. Ever since its inception over six years ago, it has aroused considerable attention and debate from a great variety of concerned parties. Despite this, the author is not aware of any previous comprehensive research study in the last three years that has been done on the CSP proclamation. Employing the Descriptive Qualitative Approach as its primary methodology, this study endeavors to extract the most important elements of this proclamation and examine why it has attracted so much attention. It examines the impact of CSP on the activities of CSOs/NGOs in the areas of the right of freedom of association, promotion of human rights, and the right to raise funds to support their programs and allocation of costs. Among the major issues examined are the restriction on Ethiopian Charities to mobilize at least 90% of their funding from local sources; the restriction of Ethiopian Resident Charities from participating in “rights activities”; and the 30% administrative ceiling and the way administration costs are defined. The study compares the CSP with CSO-related laws in other countries in Sub-Saharan Africa. The study found out that CSP is prohibitive in the area of Public Policy activities, restrictive in securing funding and lacks tax provision for individual and corporate donors to Charities, The study found out the positive impact of CSP as well: It encourages directing 70% or more of the fund to beneficiaries. It emboldens transparency stewardship and accountability of CSOs .Allowing CSO to involve in IGA was another positive finding. Finally, the study recommends practical ways that the government could change or modify the CSP legislation to create smoother and fairer relationships between the government and the CSOs serving the country.*

## CHAPTER ONE: INTRODUCTION

### 1.1 Background of the Study

*“Governments should view civil society not as a threat but as an asset. A genuine democracy is like a three-legged stool. One leg is responsive, accountable government; the second leg a dynamic, job-creating private sector; and the third leg is a robust and vibrant civil society” Hilary Clinton, US Secretary of State (2012) quoted in (World Economic Forum 213, p.35)*

The modern idea of Civil Society emerged in the late 18 century. According to Carothers, “A host of political theorists, from Paine to Hegel, developed the notion of civil society as a domain parallel to but separate from the state” (Carothers, 2000, p.18). This implies that civil societies are established to pursue their members’ need for liberty and interests which may further develop into demanding for the majority interest as it was demonstrated in the French revolution, and most recently in the ‘Arab uprisings’ of North African and the middle east countries. Carothers further claims that, “Civil Society has become one of the favorite buzz words among the global chattering classes, touted by presidents, and political scientists as the key to political, economic and societal success” (ibid).

Civil Societies as associational life functioning different roles in different cultures have been in existence in Ethiopia ever since communities live together. For instance, Iqub (form of saving by members and interest free lending to its members), Edir ( a form of membership supporting members during the time of grief), Mahiber (religious form of fellowship where each member prepares a feast to be enjoyed in fellowship), Debbo (cooperation and partnership to work for each member and at times to give support for the widowed and the elderly eg. In ploughing the land, harvest and house building),

## Current Practice, Challenges and Impact

Gaddaa system (a community leadership system in the Oromo culture especially in Borana Oromos), Bayto (an association of farmers for managing community affairs in Tigray community), shimagles etc. Documents in this area show that the modern civil society in Ethiopia has begun to emerge since 1930s. “Somewhat modern civil associations began to emerge in Ethiopia during the 1930s as a factor of urbanization and economic development” (Clark, 2000, p.11).

There is no single ‘right’ or ‘wrong’ way of defining Civil Societies. Different scholars and institutions define it differently, which may be problematic to understand the concept universally.

The World Bank has adopted a definition of civil society developed by a number of leading research centers: “the term civil society to refer to the wide array of non-governmental and not-for-profit organizations that have a presence in public life, expressing the interests and values of their members or others, based on ethical, cultural, political, scientific, religious or philanthropic considerations. Civil Society Organizations (CSOs) therefore refer to a wide of array of organizations: community groups, non-governmental organizations (NGOs), labor unions, indigenous groups, charitable organizations, faith-based organizations, professional associations, and foundations” (World Bank, 2007, p.1).

The African Development Bank defines civil society as the full range of formal and informal organizations within society.

According to the bank’s official definition,

*Civil society encompasses a constellation of human and associational activities operating in the public sphere outside the market and the state. It is a voluntary expression of the interests and aspirations of citizens organized and united by common interests, goals, values or traditions, and mobilized into collective action*

*either as beneficiaries or stakeholders of the development process. Though civil society stands apart from state and market forces, it is not necessarily in basic contradiction to them, and it ultimately influences and is influenced by both.*

The European governance white paper defines it in a little different way than the preceded definitions. Civil Societies are:

*Organizations representing social and economic players, which are not social partners in the strict sense of the term (for instance, consumer organizations); NGOs (non-governmental organizations), which bring people together in a common cause, such as environmental organizations, human rights organizations, charitable organizations, educational and training organizations, etc.; CBOs (community-based organizations), i.e. organizations set up within society at grassroots level which pursue member-oriented objectives, e.g. youth organizations, family associations and all organizations through which citizens participate in local and municipal life; and religious communities. So ‘civil society organizations’ are the principal structures of society outside of government and public administration, including economic operators not generally considered to be “third sector or NGOs (EU 2002, p. 6).*

This paper employs the definition of civil society used by the EU. For the sake of this paper, Civil Society Organizations (CSOs) and Non-Governmental Organization (NGOs) are used interchangeably.

Van Rooy (1998) cited in Lewis (2001),” has characterized the usefulness of the concept of civil society to development policy makers in terms of an ‘analytical hat-stand’ on which to hang a range of ideas about politics, organization, citizenship, activism and self-help” (Lewis, 2001, p.3).

According to Lewis, “civil society has become the phenomenon of prescription at the level of policy” He further believes that, “Within development policy discourse, the framework of good governance has brought support for civil society as part of a policy package transferred to Africa by official donors and NGOs” (ibid, p. 6).

As much as civil societies are capable of making a huge contribution to nations both democratically and socio-economically, they are not free from bias and error. Jaggar (2005, p.17) cited in Reverter-Bañón (2006, p.11) notes: “civil society is not the sphere of a higher ethical consciousness, so it is not necessarily purer or more virtuous than activism in formal politics.” This calls for a legal framework that enables CSOs to work lawfully and with maximum integrity as they serve the nation.

In general, the legal framework for civil society activity worldwide is ambiguous and inadequate at best, hampered with contradictions or out-of-date laws compared to what civil society currently needs. While some organizations may have managed to thrive despite an unfavorable legal environment, improvement of the legal environment for civil society has become a growing priority around the world for both the government and CSOs.

Just as the definition of civil societies differs, the legal framework for civil society varies immensely from country to country and it is loaded with contradictions and controversies. Despite the fact that there is no single or ‘right’ way to design society laws and regulations, it should be feasible to identify a set of generally-accepted principles or rules. The international Fellowship in Philanthropy, Institute for Policy Studies at Johns Hopkins (2004), identifies four general principles or rules of good practice that can usefully guide the development of civil society law around the world. First, the basic legal standing of civil society organizations and the registration procedures that help to define it; second, the tax treatment of civil society organizations and philanthropy; third, transparency, disclosure, and accountability standards for civil society organizations; and

fourth, the involvement of civil society in advocacy and civic engagement. (university, 2004, p. 2).

Even though civil societies/NGOs existed in Ethiopia for centuries, Civil Society in its current form and structure is a recent phenomenon developed within the past fifty years. The Civil Code of 1960 and the Associations Registration Regulation of 1966 were outdated laws that were used to administer and manage CSOs/NGO in Ethiopia. CSOs have increased in magnitude and in number and the laws were outdated and do not take into account the contemporary problems encountered in the registration, administration and management of CSOs the old law (prior to CSP 2009) was cumbersome.

Cognizant of this, it was crucial that the government of Ethiopia drafted and enacted a new law/ proclamation that can facilitate the function of CSOs. Thus, on February 13, 2009, the FDRE enacted a Charities and Societies Proclamation No. 621/2009, hereafter called CSP.

Evidence shows that prior to the enactment of CSP 2009, the Ministry of Justice prepared various drafts of a new legislation concerning the registration and regulation of CSOs/NGOs and presented them for discussion at different times, for example in 2002, 2003, and 2004. As a continuation of the process, the Ministry launched a forum on May 6, 2008 and invited CSOs/NGOs to its auditorium to discuss the recently issued draft Charities and Societies Proclamation (CCRDA, 2008).

According to the CCRDA's meeting minutes on June 4, 2008, CSOs had a high-level discussion with the late Prime Minister Melese Zenawi. The question, therefore, was not whether CSOs were given enough time to study the draft in depth, since these documents

demonstrate a sufficient time allowance; it should rather be to what degree was the government flexible to amend the draft based on the concerns raised by the CSOs. It has been six years since the CSP is being implemented. It still is the center of attention for international human rights organization, CSOs, opposition parties and citizens in general. What is the source of these contentions? Which part of the proclamation is more problematic? Why has the CSP taken more attention than other proclamations in Ethiopia so far? This paper will endeavor to dig into the main challenges of the CSP on the activities of those selected CSOs.

The purpose of this paper, therefore, is to explore and describe, the practice, challenges and the impact of CSP 2009 on the activities of selected NGOs/CSOs; to assess the practice and to identify challenges of CSOs; to examine whether CSP 2009 was indeed facilitative or a hurdle that restricted CSOs from fully participating in the economic, democratic and political development of the country.

## **1.2 Problem Statement**

As far as the knowledge of the researcher is concerned, there are no laws in Ethiopia so far that has taken more attention.

Some scholars believe that CSO proclamation 621/2009 was inspired by Zimbabwe's draft law, as well as by Singapore and Russia, which are considered repressive. They further argue that this law is even more restrictive of human rights activities than sub-Saharan African countries, thus, it should be repealed (Babcock, 2009, p.10).

Amnesty International issued a condemning statement of the CSP. According to its statement, "The law has had a devastating impact on human rights work, both in terms of

the practical obstacles it creates for human rights defenders, and in exacerbating the climate of fear in which they operate. The proclamation jeopardizes the observance and protection of the rights of every person in Ethiopia” (Amnesty international, 2012, p.1).

In its conference report, Amnesty continued to claim that, since the law was passed Ethiopian Human Rights Counsel (EHRCO ) has closed nine of its offices and has cut at least 75 percent (more than 40 people) from its staff...Ethiopian Women Lawyers Association has ceased to function” (ibid, p.2).

According to the ChSA website (2014), 57% of the existing CSOs have not been re-registered in the agency. “It has been found out that out of 3822 charities and societies that had been registered by the ministry of Justice [only] 1665 [43%] have been re-registered on the schedule. The rest have failed to re-register despite the agency’s recurring public media call because they do not get actively involved in any charitable or societal activity” (<http://www.chsa.gov.et/c/document>).

According to the ChSA official website, the government has drawn from the experiences of Singapore, Britain, South Africa and Uganda with the main purposes of: creating a conducive situation by providing legal grounds for citizens to realize their right to association enshrined in the constitution; encouraging charities and societies to contribute to the nation’s overall development; to determine the role other government sectors play with charities and societies; and to assure transparency and accountability in the sector and to allow citizens to benefit from the activities of charities and societies(ibid).

Despite the fact that the intention of the proclamation is to ensure the realization of citizens’ right to association enshrined in the Constitution and to aid and facilitate the role

of Charities and Societies in the overall development of Ethiopian peoples, studies as in the area (as in the Amnesty and Babcock mentioned before), show that the law is more restrictive than facilitative, and various CSOs have failed to re-register under the new proclamation or have been terminated for various reasons related to this proclamation.

Furthermore, in April 2014, ChSA was criticized by the Public Accounts Standing Committee of the House of Peoples' Representatives for failing to implement the law as it is stipulated in CSP 2009. The Director General of the Agency, Meseret Gebermariam, did not refute the standing Committees' criticism but he defended his agency by claiming that it was unable to supervise and monitor CSOs because of a shortage of manpower. He said "Of course what you raised is all true, we cannot deny. However we have a serious deficiency of manpower." He further indicated that the inability to implement the law goes even beyond a manpower shortage: "if we really implemented the proclamation fully, almost all the organizations should have been shut down." (Abiye, 2014). Is it the lack of human resource that hindered the agency from implementing fully or the cumbersome articles in the CSP that are difficult to implement and if implemented, would terminate many CSOs?

In an interview given to Zemen Megazine, Meshesha Shewarega, Chairman of CCRDA and board member of ChSA admitted that there has not been a comprehensive research in this area so far. According to Meshesha, "there are more than three thousand NGOs that receive their fund from abroad. However, there has not been a comprehensive research with regard to NGOs in Ethiopia and their contribution" (Dereje , 2015,p.17).

Despite the good intention of the law as argued by the government of Ethiopia, CSP 2009 has since its inception always been susceptible to controversies and paradoxes. This paper attempts to find out why has this proclamation attracted more attention than any other proclamations so far? Which articles or items of the proclamation are more cumbersome to implement and why? What should be done to find solution to these problems? What could both CSOs and government contribute to mitigate the challenges? This paper will attempt to explore and describe how CSOs are affected by the CSP2009 in the area of the right to freedom of association, promotion of human rights; raising of funds for their programs and allocation of programmatic and administrative costs.

### **1.3 Research Questions**

To address the problems stipulated in the statement of the problem, the researcher would endeavor to seek answers for the following questions:

1. To what extent has the government of Ethiopia been considerate to CSOs' concerns and feedbacks?
2. What are the specific challenges facing CSOs in implementing Charities and Societies Proclamation no. 621/2009?
3. How does raising 90% and more of their funds from local sources affect the Ethiopian Charities?
4. What impact does CSP 2009 have on the activities of CSOs?

## **1.4 Objectives of the Study**

### **General Objective:**

The main objective of the study is to examine the impact of Charities and Society Proclamation No. 621/2009 on the activities of CSOs/NGOs in the areas of the right of freedom of association, promotion of human rights, and the right to raise funds to support their programs and allocation of costs.

### **Specific Objectives:**

#### **The specific objectives are:**

1. To explore CSOs' role in the democratization, social and economic development of the country
2. To examine the government's responsiveness to CSOs concerns and feedback
3. To describe the challenges CSOs face in the implantation of CSP
4. To explore the impact of administrative vs. operational cost on CSOs
5. To assess the impact of raising 90% or more of their annual income from domestic source. on Ethiopian charities
6. To examine the impact of restricting Ethiopian resident and foreign charities from being involved in advocacy activities such as human rights, women's and children's rights, disabled person's rights, conflict resolution and the like.

## **1.5 Significance of the Study**

Although there are significant numbers of studies done on CSP 2009 since its inception, most of them were done at the very early stage of the implementation; thus it is very difficult to assess the long-term impact of the CSP on CSOs. To the knowledge of the

student researcher, there have been no studies carried out within the past three years or more. This study would therefore endorse or invalidate the studies in the area and through discovery of current challenges and impacts, and would provide fresh findings that would serve as an input for policy makers to rein-force, amend and/or terminate some sections of the proclamation. It will add to the knowledge base in this area. It will also serve as a springboard for further research in the area. Eventually, It leads to improve the way we live.

### **1.6 The Scope and Limitations of the Study**

For the sake of time and resource, the study is limited to CSOs that are headquartered in Addis Ababa. This study will not cover religious organizations; international or foreign organizations operating in Ethiopia by virtue of an agreement with the Government of The Federal Democratic Republic of Ethiopia; “Edir”, “Ekub” and other similar cultural or religious associations; and Societies governed by other laws.

### **1.7 Research Design and Methodology**

Kazdin (1992, 2003a cited in Marckzyk, Dematteo and Fesinger (2006, p.26) suggested that “research design refers to the many ways in which research can be conducted to answer the question being asked.”

Methodology refers to “the general principles, philosophy, procedures, and practices that govern research” (Dawson, 2002, p.14).

In order to describe, the challenges, practices and the impact of CSP on the activities of the selected NGOs/CSOs, a descriptive qualitative approach is employed. Because descriptive researches help to ask questions such as “what”, “how” and, “why” which are

assumed to be appropriate to help have thorough discernments and understandings of the topic under study. According to Dornnyci, “ qualitative research is concerned with subjective opinions, experiences and feelings of individuals and thus the explicit goal of research is to explore the participants’ view of the situation being studied” (Dornyci,2007,p.32).

Moreover, Dawson suggests that, “qualitative research explores attitudes, behaviors and experiences through methods such as interview or focus groups” (Dawson, 2002 p14). However, the researcher has marginally used a quantitative approach for simple statistical calculations and to capture data from participants that cannot be captured by qualitative approach such as how often and how many (methodological triangulation).

### **1.7.1 Research Methods**

“Methods are the tools used to collect data” (Dawson, 2002p27). To gather the necessary data about the experiences, challenges and impacts of the proclamation on the activities of CSOs, the researcher has used a combination of open-ended and closed-ended questionnaires, a semi-structured interview and key informant interview to get in-depth information from purposively selected informants.

### **1.7.2 Sample Design**

The researcher has used a non-probability theoretical purposive sampling technique. “Using this method the emerging theory helps the researcher to choose the sample. Within this sampling procedure, he might choose to sample extreme cases which help to explain something, or he might choose heterogeneous samples where there is a deliberate strategy to select people who are alike in some relevant detail” (Dawson, 2002 p51). The

participant NGOs were selected based on their category, area of intervention and year of establishment. Based on their role and experience in the agency and to get the government's perspective, the researcher had an in-depth interview with two ChSA directors accompanied by the close and open ended questionnaires.

### **1.7.3 Data Collection Techniques**

To get the necessary and adequate data, both primary and secondary data were collected. To collect primary data, Questionnaires were emailed to 200 CCRDA member NGOs. Out of the 200 only four (2%) responded through email. The researcher changed the mode of communication and approached these targets in person and delivered the questionnaires in person and with a hard copy. For different reasons, the researcher was not successful to get the questionnaires filled in the time that these data are useful. Thirty two questionnaires were returned properly and in time. After the SPSS analysis was finalized 8 more questionnaires were received, but these were not used in the frequency and percentage calculations, however, their explanatory comments were still used for the purpose of quotation. So, the SPSS analysis (frequency and percentage distribution of respondents' responses) are only for 32 CSOs.

. The researcher spent more than two hours of in-depth interview to collect valuable data from the government point of view. The researcher also had an in-depth interview with three CSO directors as key informants to get more compressive data for the area under the study.

The developed questionnaires and interview had been piloted on friends/colleagues before applied to the broader field of research. Books, journals, legislations, reports,

minutes etc. were utilized. To get the secondary data, the researcher looked at research books, research reports, journal and online articles etc.

#### **1.7.4 Methods of Data Analysis**

As the research is qualitative in its nature, all the qualitative Data Analysis techniques (mentioned here under) have been employed. For the interview, an interview summary form was prepared. The researcher completed the summary form immediately after each interview to avoid any errors and to capture the ideas fresh.

Comparative analysis: the researcher continued to compare data collected from respondents and contrasted with the government's responses until he was satisfied that no new issues are arising.

Content analysis: the researcher worked systematically by assigning each transcript a code. Basic knowledge of statistical techniques, a frequency count using SPSS is applied to describe what the researcher has found. SPSS is selected for its accuracy of frequency and distribution calculations.

#### **1.8 Structure of the Study**

This research is organized under five chapters. Chapter one concentrates on the problem and its approach. It includes the background of the study, statement of the problem, objectives of the study, significance of the study, the scope of the study and research design and methodology. The second chapter is a general literature review with focus on materials that are appropriate to the problem statement. The third chapter covers Data presentation and Discussion. The fourth chapter covers Data Analysis and interpretation. The last chapter focuses on the summary, conclusions and recommendations of the study.

## CHAPTER TWO: LITERATURE REVIEW

### **2.1 Understanding Civil Society Organization**

Due to the lack of a commonly accepted definition of civil societies, understanding the term is problematic. According to Lewis, the ambiguity came after the end of the Cold War. “Since the end of the Cold War there has been a global ubiquity to the concept of civil society among researchers and activists, and a widespread assumption among many policy makers in different parts of the world of its global relevance to strengthening development and democracy” (Lewis 2001, p. 1). This may hold true in understanding the concept in non-western contexts but the ambiguity existed long before the end of Cold War. What is more important here is what that ambiguity in the definition has brought about. This ambiguity has given governments, institutions and researchers the freedom to manipulate the definition to fit their own agendas.

Civil society is delicate says Lewis: “One is that civil society is essentially fragile, borne out by Putnam’s account of anxieties surrounding the ‘collapse’ of community in the United States (2000). The other is concern about the historical specificity of civil society (Blaney and Pasha, (1993) as cited in Lewis (2001, p2).

This holds true even today; the recent movements in North African and Middle Eastern countries is a good example that civil society can react and cause havoc to the state if the case is not handled with care.

Reverter-Bañón (2006) is convinced that some scholars’ concept of civil society is strongly linked to the concept of citizenship and citizen rights, a concept conceived in and from a highly patriarchal structure. According to Bañón, “...Civil society does not

equate to citizenship. In effect, the concept of civil society has greater scope than that of citizenship, because citizenship only encompasses members of society that are officially recognized as citizens” (Reverter-Bañón 2006, p. 8).

The concept of civil society did not lie as entirely dormant as some accounts would suggest. In Latin America from the 1970s onwards, the concept of civil society was embraced by activists fighting against the authoritarian military regimes. Keane (1998) cited in Lewis (2001, p.3).

Lewis’ views holds true even today in this part of the world, where democracy is at its infancy, and there is very limited freedom of speech and press. Donors use advocacy and relief organizations to channel funds to opposition groups. This has, perhaps, created a suspicious mentality in the minds of some African governments, resulting in the formulation of restrictive laws directed at some of the activities of some NGOs/CSOs.

As Walzer cited in Banon (2006) argues, “Only a democratic state can create a democratic civil society; only a democratic civil society can sustain a democratic state” (1992, p. 104; in McLaverty 2002, p. 311) as quoted in (Reverter-Bañón 2006, p. 15).

This is very true; there is a high level of mutual dependency between the two. We cannot give emphasis to one and neglect the other. Very often, the values that are observed on the state are the result of the values that are or have been created by the society.

She further argues that “The right direction is then to recognize that civil society is not necessarily democratic, as Anne Phillips has clearly posited in various works (1999, 2002). McLaverty (2002, p. 314) cited in Banon(2006), states that while civil society organizations may represent important democratic initiatives, in reality they often fall

short of democratic principles. “Part of what democracy is it should be to enhance inclusive and egalitarian public spheres” (Reverter-Bañón 2006, p. 15).

There is considerable debate about the meaning of civil society, its relevance, and its conceptual usefulness in the African context. “Civil society' is a notoriously slippery concept. It has entered donor terminology without careful definition.... In many respects, the term is used as a code for a set of ideas related to participation, good government, human rights, privatization and public sector reform.” (Riddell and Bebbington 1995: 23) as quoted in (Hearn n.d, p3). She further states “Despite a lack of theoretical clarity and conflicting understandings, when foreign donors refer to civil society they are generally alluding to a very narrow, specific section of it” (ibid, p4).

*The single most favored area of US civil society assistance is that of advocacy NGOs, such as human rights groups, election monitoring organizations ... the crucial feature that distinguishes such organizations ... is that they seek to influence governmental policy on some specific set of issues. It is this policy-oriented advocacy function that US aid officials hold to be the crux of the pro-democratic function of civil society. (Carothers 1997: 114) quoted in (Hearn n.d, p4).*

This perhaps has placed CSOs/NGOs in a dilemma between implementing the interests of the donors, the interests of the grass-roots communities and the interests of the government.

### **2.1.1 Defining Civil Society Organizations**

The term civil society is as controversial as it could be. Different institutions, scholars and governments define it differently. So far, there has not been a single way of defining a civil society. Individual definitions are based on the understanding that countries shape the framework for policies to regulate civil society organizations. Civil Societies according to the EU are:

*NGOs (non-governmental organizations), which bring people together in a common cause, such as environmental organizations, human rights organizations, charitable organizations, educational and training organizations, etc.; CBOs (community-based organizations), i.e. organizations set up within society at grassroots level which pursue member-oriented objective (EU 2002, p. 6).*

### **2.1.2 The future of civil society**

“The central challenge is how to build a pro-democratic strong civil society with freedom of choice and free markets without giving power to extremists who may undermine these efforts” Saperstein cited in World Economic Forum(213,p.18). This is indeed what countries are currently facing and they will continue to face. A typical example would be Ethiopia’s antiterrorism law (how to protect national interest and security without exerting too many restrictions on the right of citizens to communicate, associate and transfer funds to whomever they desire to do so).

World Economic Forum has forecasted the world of civil society in 2030 (World Economic Forum, 2013, p.21).

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1. Economic growth is relatively high over the period 2020-2030 and where the government and private sector are both deeply engaged in tackling societal challenges.
2. Access to data, technology and rigorous monitoring are the hallmarks of a revolution in both economic activity and social development.

It also poses the following challenges:

1. Who will have a lead role in addressing societal challenges?
2. What would the main sources of funding for civil society activities be in a world dominated by conflict and extremely tense international relations?
3. What kind of control would national governments exert over the civil society sector in a world where national governments and citizens in general were concerned with national and international security threats?
4. How would international civil society organizations, faith organizations, NGOs, religious groups and other cross-border civil society organizations adapt to a world with limited movement of people and goods? (ibidi).

This is a mixed blessing for civil society. The technology advancement may bring about economic growth and more resource to mobilize from donors and supporters, but tougher laws about travel and source of funding because of international threats. So, civil societies should not expect the old way of implementing their activities and remain stagnant of the old structure. They have to be strategic in their operation in the years to come.

## **2.2. Civil Societies and Development in Africa**

Hearn believes that “Donors that support advocacy organizations as part of a broader democratization strategy fall into two main categories” (Hearn NY, p5). According to Hearn, the first group is the official donors, which include bilateral agencies such as the

United States Agency for International Development (USAID), and multilateral agencies such as the World Bank. Official donors form the principal source of support for civil society. The second category includes non-governmental bodies or foundations that specialize in promotion of democracy and often act as intermediaries for bilateral agencies.

Hearn further claims that the US is by far the leading donor in aid to civil society. Using DAC data for 1995, van Rooy and Robinson (1998: 19) cited in Hearn (n.d) calculated that the United States is responsible for 85 percent of total civil society assistance. Another study indicates that the United States spent over \$100 million on civil society support in 1993 and 1994, equivalent to one third of its political aid spending (Hearn n.d., p. 5).

This shows that donors are more interested in the area of advocacy than sustainable development, which could enable the grass-root communities. This might also be one of the reasons that governments are skeptic of CSOs which are highly involved in advocacy activities; these could be considered as risky and a threat to the government. Hence, governments either restrict those CSOs who are mandated to be involved in advocacy, or else limit the source of funds that those CSOs could generate from.

According to the Nordic Africa institute, “NGOs and civil society organizations (CSOs) have, within the past two decades, become critical actors, expected to reconstitute the African state in order to build democratic forms of governance, including that of socio-economic development” (<http://www.nai.uu.se/search.xml?db=naiweb>). This is true even in Ethiopia; however their role and scope of their influence has so far been controversial.

This is going to be an area of further research need for many years to come. How these CSOs/NGOs are going to play a crucial role in agenda setting and policy formulation and representing the grass roots or the public interest without being used as implementers of the government's policy has yet to be researched in depth.

According to Lewis (2006, p4-5) four different possible answers can be identified to the question 'Is the concept of civil society relevant to Africa?' The first is a clear 'yes' based on the idea of a positive, universalist view of the desirability of civil society as part of the political project of building and strengthening democracy around the world.. The second is a clear 'no' based on the argument that a concept which emerged at a distinctive moment in European history has little meaning within such different cultural and political settings. The third is an adaptive view which suggests that while the concept is potentially relevant to non-Western contexts it will take on local, different meanings and should not therefore be applied too rigidly. Fourth, there are those who imply that the 'relevance question' is probably the wrong question to ask, arguing that the idea of civil society—whether explicitly recognized as such or not—has long been implicated in Africa's colonial histories of both domination and resistance.

James Ferguson (1998) cited in Lewis (2006) points out that civil society "has become one of those things (like development, education or the environment) that no reasonable person can be against" but that "... the current (often ahistorical and uncritical) use of the concept of 'civil society' in the study of African politics obscures more than it reveals, and, indeed, that it often serves to help legitimate a profoundly anti-democratic transnational politics" (Lewis 2006, p6).

As Lewis states, “the tendency among outside policy makers is for African civil society to be conceived of in terms of a set of ‘grassroots NGOs’, most of which are funded by the international community, or by transnational NGOs such as World Vision International, a giant transnational organization which is effectively taking over some of the state’s functions in health or education” (Lewis 2006, p7).

### **2.3. Historical Emergence of Civil Society in Ethiopia**

The first organizations in Ethiopia which can be considered NGOs were traditional self-help systems. They existed in the country for centuries before they started to develop some sort of structure. As this system developed over time, some were registered as proper organizations and today they are better known as Community Based Organizations (CBOs). Some of these early self-help systems were the Debo and Afarsata, which were systems providing mutual aid and reconciliation. Today the commonly known self-help systems are Ekub a traditional saving system where contributors get their saving and Edir that help members at time of grieving or at time of need. In 1960 both foreign and local NGOs were established when these self-help groups were no longer sufficient to support the needy of the country. The first ‘modern’ NGOs established in the country were the Ethiopian Red Cross and Swedish Save the Children. Following the famine of 1973 and later of 1984, the number of NGOs increased dramatically and these were mostly international. With the change in government in 1990 a more conducive environment was established, further encouraging the growth of NGOs in Ethiopia. This time as their numbers increased more local NGOs flourished. Today 90% of NGOs operating in the country are local.

In 1998 it was reported that around 240 local and international NGOs were registered in Ethiopia. Currently, the number has risen above 350. Considering this number we can say that the NGO sector in the country is large compared with Sudan, Eritrea, Djibouti or Somalia; however, when compared to other countries in Africa this is small.

NGOs in Ethiopia began by providing relief services, an era which lasted for a long time. With an improvement in the situation of the country after the famine, the focus of NGOs shifted towards rehabilitating people in need. This was then gradually followed by NGO involvement in development programs. Although a large majority of the NGO sector undertakes development programs today, because of recurring drought in certain pocket areas of the country, there are NGOs which undertake relief activity alongside their development programs. A further improvement in their development work is the establishment of a few advocacy NGOs. Today, NGOs advocate on different policy issues that have implication on their work and/or beneficiaries.

Source: Ethiopia – Country Profile 1998, Jos van Beurden, GOM, 1998. Quoted in( ChSA website <http://www.chsa.gov.et/c/document>).

#### **2.4 Classification of Civil Societies**

A possible typology can be proposed by following Iris M. Young's (2000) as cited in (Reverter-Bañón, 2006 p11) distinction between possible associations of civil society, namely:

1. Private associations like families and social clubs that exist primarily for the benefits of their members.

2. Civic associations, whose aim is to improve the collective life of the different communities,
3. Political associations, which focus on claims about what the social collective, ought to do.

This also gives us an understanding of the different agendas of the various types of associative movements in relation to the level of communication in the public sphere implied by each of the three levels of moral commitment

## **2.5 Laws, Rules and Regulations to Govern Civil Societies**

### **CSO/NGOs under International Law**

According to the International Journal of Not-for-Profit Law there is not much protection of NGOs internationally, unless countries sign to these international laws:

“NGOs occupy a precarious place in international law. Typically, they only have legal personality under domestic laws, not under international law. NGOs must therefore depend on individual states to grant them legal personality. Because states are traditionally seen to be the Exclusive holders of rights and duties under international law, NGOs encounter difficulties appealing to international law when a country does not grant them legal personality or places limits on their operation.

Despite the lack of formal legal personality under international law, international bodies have recognized varying roles for NGOs. For instance, Article 71 of the UN Charter provides that the Economic and Social Council may make suitable arrangements for consultation with nongovernmental organizations which are concerned with matters within its competence” Vernon 2009, p. 7).

## **2.6 The Sub-Saharan Africa Experience**

### **2.6.1 Botswana: State-Civil Society Relations in Botswana**

According to Kabonang and Lebotse, “civil society organizations are considered key partners in Botswana's developmental process. As encapsulated in the 2004 Policy Guidelines for Financial Support to Non-Governmental Organizations” (Kabonang Z. and Lebotse K., 2010).

The authors further argue that, “NGOs are active players in the development and growth of the economy of Botswana alongside Government, the Private Sector and other community-based institutions. NGOs have through their activities already demonstrated an ability to reach the vulnerable and disadvantaged groups of the society.”

According to Lekorwe and Mpabanaga, NGOs/CSOs play an implementing role for government development agenda; also represent the grassroots interest as watchdogs against the government. “NGOs are seen as agents of advocacy and contribute immensely to policy dialogue” (Lekorwe and Mpabanaga n.d., p. 5).

The authors further argue that, “NGOs are able to represent the interest of the people they work with and in this case can ensure that policies are adapted to real life situations. Finally, NGOs can oppose the state. They can do this by acting as watchdogs and holding the state accountable.” This is a good example that NGOs are not restricted to generate their own funds to act independent of the government in a democratic state as in the case of Ethiopian NGOs which have to secure not less than 90% of their income locally.

Because of Botswana's economic growth, NGOs/CSOs' funding from donors have dropped; thus they have been forced to be totally dependent on government sources to

fund some of their activities. “Donor agencies have reduced funding of NGOs once the country was elevated to an upper mid income status” (Lekorwe and Mpabanaga n.d., p. 18). The same authors argue that the lack of funds has forced some NGOs to close down. “This has led to some NGOs closing down in Botswana due to lack of funding and insufficient staffing levels. The common impact of financial dependence on donor funding is that once donors pull out their financial support NGOs collapse” (ibid).

#### ***2.6.1.1 Registration of NGOs or Civil Society Organizations in Botswana***

According to Kabonang and Leboste, NGOs' right to exist and to enjoy the protections afforded by law is not only provided for under statute but is also constitutionally guaranteed. The Constitution of Botswana provides for and guarantees freedom of association for people both as individuals and as members of organizations. These rights and freedoms are enshrined in the Constitution. The fact that their rights are written in the constitution, however, does not guarantee their rights and freedom on the ground. Other sources show that even the CSO law is not all that restrictive; NGOs/CSOs nonetheless suffer from a general lack of resources.

#### ***2.6.1.2 Appeal against Refusal to Register***

According to the above-mentioned authors, the registrar may refuse or exempt NGOs/CSOs for the reasons that are there, but appeal against the refusal is guaranteed, which makes it different from CSP 2009, which gives this right solely to Ethiopian charities/societies.

### **2.6.2 NGO Law in Kenya**

In Kenya, NGOs have complained about faults with their own country's laws. They have criticized the unaccountable authority vested in government officials and opined

inadequate definitions for distinguishing different types of organizations from each other. Kenyan government officials, NGO leaders and many others have reached a consensus that Kenya's 1990 NGOs Co-ordination Act is gravely flawed. However, the exact way in which to reform the law has been intensely debated. A comprehensive reform the NGOs Coordination Act may be close to fruition, (Kisinga 2009, p. 39) but it has taken two decades of advocacy and exhortations to reach this point.

#### **2.6.2.1 CSO ACTIVITIES**

Upon registration, CSOs acquire rights and powers like other legal entities with perpetual succession. They are capable of suing and being sued; taking, purchasing or otherwise acquiring, holding, charging or disposing of movable and immovable property; entering into contracts; and doing anything else that is permissible for a legal entity.

#### ***2.6.2.2 Expressive/Advocacy/Public Policy Activities***

The political environment for CSOs has improved somewhat since 2003. The space for public participation in policy formulation and through the operation of political systems has been enlarged. Campaigns for the promulgation of the Access to Information Act are also underway and are crucial for the creation of an enabling environment for advocacy work. Generally, there are no legal barriers for CSOs to speak out or engage in advocacy efforts on any issues of public importance.

The definition of NGO under section 2 of the NGO Coordination Act is limited in terms of the scope of activities envisaged for NGOs. Advocacy and public policy activities are not expressly included. Nonetheless, Sessional Paper No. 1 provides for a broader definition, which includes organizations that lobby or advocate on issues of public

interest. It is therefore envisioned that the new law will explicitly provide the space required for advocacy CSOs to register and operate.

### ***2.6.2.3 Seeking/Securing Funding***

There are no special rules relating to the receipt of foreign funds by CSOs.

NGOs are permitted to engage in economic activities to sustain themselves as long as they reinvest the profits into promoting the NGO's purposes and ensure that the activities are directly related to the NGO's purposes or carried out on behalf of its beneficiaries. NGOs can conduct the business activities either directly or through for-profit subsidiaries.

CSOs are permitted to compete for government funds in free and open competitions where specific guidelines have been established. There are, however, very few instances where CSOs receive funding from the Government.

Generally, Kenyan law provides a favorable framework for CSOs to seek and secure funding. Local resource mobilization through harambees (public fund-raisers) is recognized, as long as it adheres to the guidelines in the Public Collections Act, which are generally accommodating.

### ***2.6.2.4 Tax Deductible Donations***

Under the Income Tax (Charitable Donations) Regulations published in June 2007, persons (individuals or corporate entities) who give cash donations to eligible non-profit bodies are entitled to deduct 100% of the donation from their gross income before arriving at their taxable income. Under the Regulations, recipients of deductible donations must be charitable organizations, which are defined as: "Non-profit making

organizations established in Kenya and which are of a public character, and have been established for purposes of the relief of the poverty or distress of the public, or advancement of education.”

Suspicious and mistrust still characterize the Government-CSO relationship. The suspicion has been fueled by, among other things, the lack of a comprehensive framework for partnership and poorly defined structures for collaboration between CSOs and the Government. (Gitonga, 2010).

## **2.7 CSOs Law in Uganda**

Uganda is one of the countries that the Ethiopian government drew experience from for the drafting of CSP 2009. Just like CSP 2009, Uganda’s law/act has been a center of debate and controversy.

### **2.7.1 CSO ACTIVITIES**

Generally CSOs are not forbidden from exercising general rights and powers of juridical entities. However, Regulation 13 of NGO Registration Regulations limits the nature of activities an NGO can engage in.

### **2.7.2 Expressive/Advocacy/Public Policy Activities**

CSOs in Uganda are not prohibited from criticizing the government and advocating for human rights and democracy. Article 29 of the 1995 Constitution of Uganda guarantees every person the right to freedom of speech and expression which is relied on by CSOs that wish to involve themselves in the legislative process or government affairs. Even though there are no express legal restrictions on CSOs’ engagement in advocacy

activities, the government usually intimidates CSOs that seek to promote human rights and democracy.

CSOs in Uganda are allowed to participate in peaceful activities to influence the policies of government (Article 38 (2) of the 1995 Constitution of Uganda). Although there are no set rules governing the engagement of CSOs in legislative making, CSOs do generally engage in legislative activities. For instance, once a bill is tabled in Parliament the views of various stakeholders are sought—including CSOs—through consultative meetings, workshops and invitations of representatives of different factions of society likely to be affected by the legislation.

However, according to the law CSOs are not allowed to engage in political activities or belong to any political group because they are generally nonpartisan. As such they cannot directly or indirectly support a political candidate. But since they are regarded as partners with government in promoting good governance and democracy in the country, they can actively participate in the election process through monitoring, observing and documenting flaws in elections, sensitizing the population on the qualities of would-be leaders and urge them to vote wisely, and proposing ways of improving the electoral process.

### **2.7.3 Seeking/Securing Funding**

Foreign Funds: Generally there is a requirement for all organizations receiving monies in foreign currency to open and operate an external bank account with the Bank of Uganda (government-controlled bank) in which the currency is deposited and through which transactions are conducted (Regulation 15 (3) of the NGO Registration Regulation,

2009). There are no legal provisions that require CSOs to seek permission of a ministry before receiving foreign funds.

That said, Regulation 15 (4) of the NGO Registration Regulation 2009 permits NGOs to engage in economic activities for fundraising purposes by selling any goods or services to the public or to any other organization as long as the prices of the goods and services are in conformity with prices prescribed by the government or open market prices in Uganda. Any income received from the sale of any goods or services sold in excess of the administrative costs incurred in the sale shall be re-invested in the project or as directed by the organization (Regulation 15 (5) of the NGO Registration Regulation 2009). Therefore, with the application of the Regulations 15 (4) and (5) of the NGO Registration Regulations 2009, NGOs may directly conduct economic activities.

There are no other constraints imposed by law or implementation practice on the ability of CSOs to seek and secure funding.

#### **2.7.4 Donor Incentives**

Individuals and legal entities are eligible for tax deductions for charitable contributions to a tax-exempt organization listed in Section 2 (bb) (a) and (b) of the Income Tax Act. An individual may claim as a deduction up to 5% of that individual's taxable income for the year in which the gift is made.

#### **2.8 South Africa**

South Africa is another country whose experience was used in drafting CSP 2009; hence it is worth mentioning what CSOs in South Africa can be involved and what their sources of income/funds are.

### **2.8.1 CSO ACTIVITIES**

CSOs are not forbidden from carrying out any activities or exercising the general rights and powers of juridical entities.

### **2.8.2 Expressive/Advocacy/Public Policy Activities**

CSOs in South Africa are not prohibited from criticizing the government or advocating for politically unpopular causes. There are no legal restrictions or governmental harassment for such activities. CSOs that are involved with causes that are unpopular from a government's perspective may ordinarily not attract significant funding support from government. CSOs have been involved with the processes of drafting laws and lobbying for legislation and government policies. CSOs that have tax exemption cannot use their resources to support, oppose or advance the activities of any political party.

### **2.8.3 Seeking/Securing Funding**

**Foreign Funds:** There are no special rules for domestic CSOs to receive foreign funding.

**Economic Activities:** South African CSOs are permitted to carry on commercial activities. This can be done by the CSO itself or through a for-profit subsidiary.

**Government Funding:** South African CSOs can compete for government funds provided that objective criteria for funding are laid down.

**Other Constraints:** the law does not impose any other constraints on the ability of CSOs to seek and secure funding. However, the practices on the part of government departments and development funding agencies have impacted the ability of CSOs to secure funding.

#### **2.8.4 Donor Incentives**

Donors are entitled to deductions – a maximum of ten percent of their taxable income. The same percentage and requirements apply to both individuals and corporate donors (Wyngaard, 2010).

#### **2.9. Ethiopian CSP 2009**

The Constitution guarantees freedom of association for “every person” regardless of nationality, race, color, etc. In addition, the Constitution guarantees freedom of association irrespective of the cause or purpose for which the association is established or standing. Indeed, it should be noted that Article 31 of the FDRE Constitution enjoins only the positive freedom to associate, without explicitly stating the negative freedom not to associate. In other words, the Constitution does not give explicit protection to individuals to be not forced to join a certain association.

The law recognizes three different types of charities and societies and these are: Ethiopian, Ethiopian residents, and foreign. It can also be observed that the bases for classification are: the places of registration, nationality of members, sources of income and residences of members. Art.2/2 and 4 of CSP 2009.

The Ethiopian Civil Society Organizations ad-hoc taskforce disagrees with this type of classification. They state their opposition and the rationale for it in the following statement:

It is common in every legal system to classify juridical persons into domestic and foreign and the bases for such classification depend on the legal system of each country. Accordingly, classifications are made based on: the country/place where they are

registered and acquired legal personality, the place where the head office and/or the primary working place is situated and the nationality of owners. Such classification is commonly applied on business organizations. It is, however, uncommon to classify and determine the nationality of an organization based on the sources of its income as a result of which it is very hard to come across a legal system with such a practice and this is not common to the Ethiopian legal system CSOs task force (2008 p10).

### **2.9.1 Government Rationale**

The Government's rationale for the enactment of this law can be found in the law itself and other relevant documents.

1. To ensure that citizens' right to association is enshrined in the Constitution of the Federal Democratic Republic of Ethiopia;
2. To aid and facilitate the role of Charities and Societies in the overall development of Ethiopian peoples;
3. To provide a variety of measures to be taken against CSOs in case of fault;
4. To ensure the accountability, transparency and consistency of CSOs and their objectives to the public;
5. To provide a legal basis for the relationship between CSOs and Sector Administrators, which did not exist before;
6. To determine the amount of money CSOs may spend for administrative purposes and project activities (core objectives).

### **2.9.2 CSO ACTIVITIES**

Once legally registered, CSOs have legal personality and thus enjoy the general rights and powers of juridical entities, such as ownership of property or entering into contracts. However, though not provided by the CSP, the Civil Code requires foreigners to have special permission from the Government to own immovable property in Ethiopia.

### **2.9.3 Expressive/Advocacy/Public Policy Activities**

Advocacy activities are considered “political activities,” which are allowed only for Ethiopians and Ethiopian organizations that can mobilize more than 90 percent of their income from local sources. Article 14 (5) of the CSP lists those activities that are reserved only for Ethiopian Charities:

1. The advancement of human and democratic rights;
2. The promotion of equality of nations, nationalities and peoples and that of gender and religion;
3. The promotion of the rights of the disabled and children’s rights;
4. The promotion of conflict resolution and reconciliation;
5. The promotion of the efficiency of justice and law enforcement services.

(Hailegebriel, 2010).

Taken at face value, this law is intriguing because it will in the long run aid Ethiopian organizations in separating themselves from donors’ influence and becoming independent. However, despite the economic growth in the country, Ethiopia is still in the lists of the poorest of the poor. Ethiopian charities/societies are very unlikely to carry out

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those activities without the aid of financial sources either from abroad, or through networking with likeminded national or international organizations.

### **CHAPTER THREE: DATA PRESENTATION AND DISCUSSION**

In this chapter, data collected both from primary and secondary sources together with the literature review captured in this study is presented and discussed in detail. This chapter will serve as a baseline for chapter four, where data is analyzed and interpreted to give meaning to the readers.

Questionnaires were emailed to 200 CCRDA member NGOs. These NGOs were selected based on their category, area of intervention and year of establishment. Out of the 200 only four (2%) responded by email. The researcher changed the mode of communication and approached these targets in person and delivered the questionnaires in person and with a hard copy. For different reasons, the researcher was not successful to get the questionnaires filled in the time that these data are useful. Thirty two questionnaires were returned properly and in time. After the SPSS analysis was finalized 8 more questionnaires were received, but these were not used in the frequency and percentage calculations, however, their explanatory comments were still used for the purpose of quotation. So, the SPSS analysis (frequency and percentage distribution of respondents' responses) are only for 32 CSOs.

The researcher also had an in-depth interview with two ChSA directors accompanied by the completed questionnaire. The researcher spent more than two hours of in-depth interview to collect valuable data from the government point of view. The researcher also had an in-depth interview with three CSO directors as key informants to get more in-depth data for the area under the study.

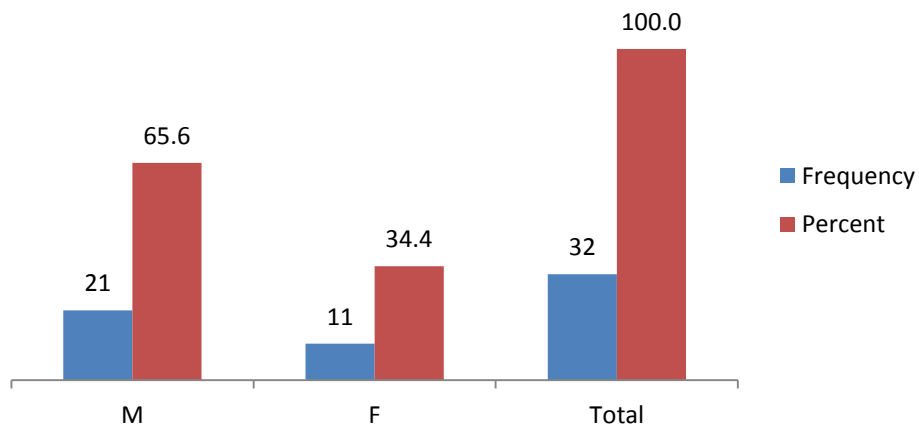
This chapter has eight sections: section one covers the general profile of respondents, section two deals with the role of CSO in Ethiopia from a historical perspective, section three deals with the enactment of CSP No.621/2009, section four covers the rights of NGOs/CSOs to operate in the country, section five deals with supervision of CSOs by the Government of Ethiopia, section six explores challenges faced by CSOs as the result of the CSP No.621/2009. And the final section presents the overall impact of CSP No.621/2009.

### 3.1 Profile of Respondents

This section presents profiles of Respondents of CSOs; their sex distribution, education level, and current organization category.

#### 3.1.1 Sex Distribution

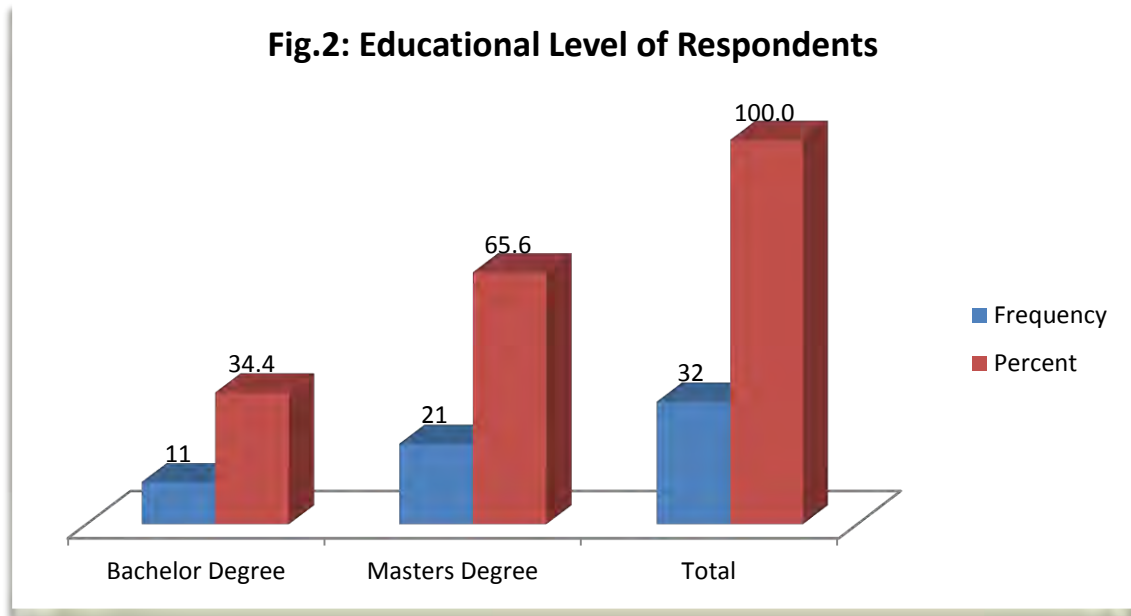
**Fig. 1: Sex Distribution of Respondents**



*Source: Own Survey (2015)*

As shown in fig 1, out of the 32 respondents 65.6% were men and 34.4% were Females.

### 3.1.2 Education Level

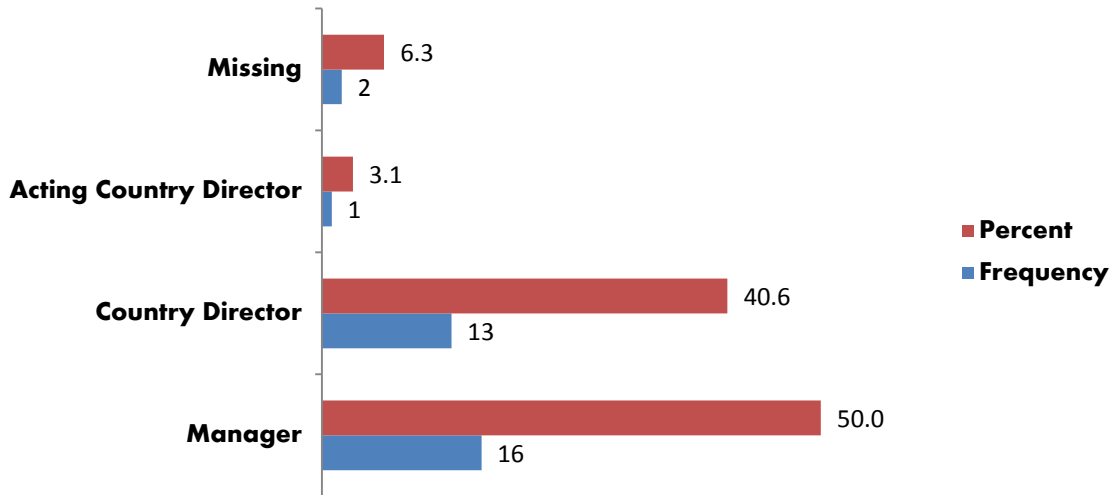


*Source: Own Survey (2015)*

Fig 2 above illustrates that 65.6% of the respondents have a Master's Degree and 34.4% have a Bachelor's Degree. About 66 % of the total respondents have a master's degree. The significant of this is that their opinionated evaluation of the proclamation makes it more comprehensive. This is because the level of education that they acquire plus with the experience that they have accumulated would give respondents expertise base evaluation of the proclamation when they answer the questionnaires.

### 3.1.3 Position or Title of Respondents

**Fig.3: Distribution of Title of Respondents**



Source: Own Survey (2015)

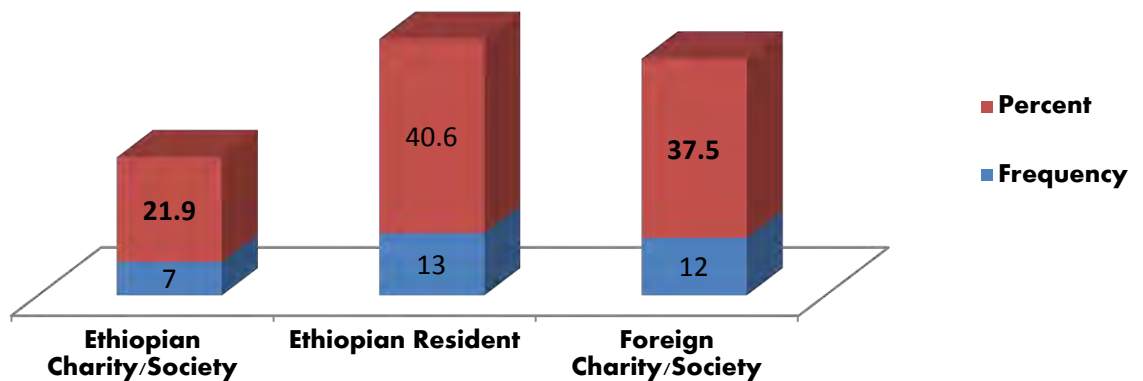
The figure above demonstrates that majority of respondents were Managers followed by country directors or CEOs of NGOs (50% and 40.6% respectively), the assumption about the missing 6.3% is that either respondents who were delegated to fill the questionnaires, because CEOs are busy on other tasks or they intentionally left out for their own convincing reasons. This not exceptional case, for instance, 2.1 of the questionnaires requires for the name of the organization, some respondents left blank, when the researcher enquired, respondents responded that it was intentional.

### 3.1.4 Current Organization Category

Fig. 4 below demonstrates that 40.6% of respondents were Ethiopian Resident, 37.5% were Foreign Charities or Societies, and 21.9% were Ethiopian charity/society. When Respondents were ask to write their current organization category, It was intriguing to learn that quite a number of Ethiopian resident respondents wrote Ethiopian Charities

when they were Ethiopian Residents according to CSP 2009. When their category did not match with their category of their profiles at CCRDA members' profile, the researcher made an enquiry and their response was that the classification was confusing because the founders and members are all Ethiopians, established in Ethiopia, governed by the Ethiopian law and they always consider themselves and their charity as Ethiopian. However, adjustments (placing them in their category) have been made for the sake of getting their category as per their registration. It is interesting because, it triggers a question how can one operate without knowing its category because each category is different. On the other hand, it is an indication that there is a confusion in categorization itself or lack of training by the agency to the CSOs. This issue has been raised during the interview with the agency directors and their response was they will continue educating CSOs on this and other issues with regard to the proclamation.

**Fig.4: Categorical Distribution of Respondent CSOs**



*Source: Own Survey*

Respondents were asked to give a reason why they chose one category over the other. Their response was that the law forced them to be in one and not in the other because of

their source of income and country of establishment. Foreign donors also have been forced to withdraw their donation from native/local charities, because, the CSO that they used to partner with is no more permitted to operate in the same area for instance advocacy and children rights. The researcher's interest in this category was to know which category of NGOs is more affected by the change in the law (CSP 2009). If the change in category was due to financing and how has that affected their passion? For instance, some explained that their passion was working in women and children rights but CSP prohibited them from involving in this unless they mobilize 90% or more of their annual budget from local resources. According to these respondents, they gave up their passion and re-registered as Ethiopian resident charities. The 22 % Charities were further enquired if mobilizing 90 % or of their annual budget from local resource was feasible? Their response was that it is not feasible given the current living condition of people and the people giving culture to charities is undeveloped. They said "Many people are struggling to survive and asking them to volunteer is too much to ask." They could not recruit or retain qualified staff with the funds that they raise from local sources; hence many of their staffs leave for 'greener pastures'. These forced the founders to terminate their vision and passion and either work elsewhere or else change their status to Ethiopian resident and seek for outside donations or income. The 38 % were foreign charities, their challenge was different from the Ethiopian in that since their source of income is totally from abroad their source of funding has not been affected by the CSP but they have to terminate some of their interventions (interventions that are restricted for Ethiopian charities). Foreign charities also lack the privilege of the right to appeal if terminates or by the agency. This applies to the Ethiopian residents as well.

### **3.2. The Role of CSOs in Ethiopia: Historical View**

The first organizations in Ethiopia which can be defined as NGOs were traditional self-help systems. They existed in the country for centuries before they started to develop some sort of structure. Today the commonly known self-help systems are Ekub and Edir which is a rotating saving and credit system. Debbo, Bayto, Gaadaa, shimagle, mahiber etc. the role of each social system has been discussed in the introduction part of this paper.

Modern civil associations began to emerge in Ethiopian during the 1930s. NGOs role especially the international ones was mainly relief in response to the two infamous famines 1973-74 and 1984-85 (Clark, 2000, p.4).

According to Clark” During the famine crisis of 1984-85, many international donors insisted upon channeling relief aid through nongovernmental groups because of well-founded suspicions of the policies of the Mengistu regime (ibid).

Clark further states that local NGOs were decidedly junior partners in these operations. On rebel controlled areas, the humanitarian wings of the rebel movements were operating for instance, the Relief Society of Tigray (REST) and Eritrean Relief Association (ERA) and, to a lesser extent, Oromo Relief Association (ORA) were managing increasingly large volumes of food and other emergency assistance (ibid).

#### **3.2.1 The Old Law vs. the New Law (CSP No.621/2009)**

The Civil Code of 1960 and the Association Registration Regulation of 1966 used to be the main legal documents used in administering CSOs. There was strong appeal for a new kind of law to be written in order to accommodate the new needs of CSOs. Cognizant of

this, the government of the Federal Democratic Republic of Ethiopia worked on the draft of a new law beginning in 2003, finally taking effect in February 2009 (CCRDA, 2008 and 2010). The Taskforce on Enabling Environment for Civil Society in Ethiopia has compiled the difference between the old and the new laws diligently.

**Renewal of License and Registration:** The old law requires it every year but the CSP requires CSO renew their license every three years.

**Area of operation and source of income:** The old law has no restriction on area of operation as long as its activity and source of income are lawful. Any CSO might work on human rights, democracy and conflict. However, the CSP puts restrictions on the area of operation based on CSOs source of income: Those getting more than 10 % of their budget from foreign sources (Ethiopian resident charities) and foreign charities cannot work in areas related to human rights, democracy, gender equality, child rights, disabled persons' rights, conflict resolution and supporting the judicial system.

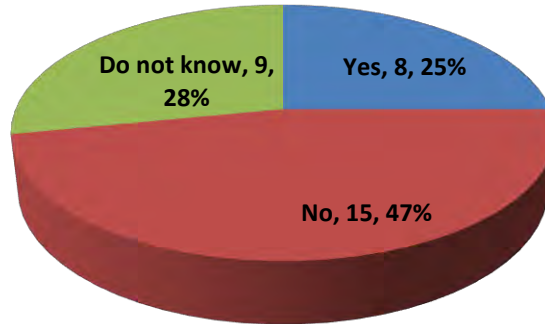
**Administration cost:** The old law has no ceilings on administration cost but the CSP puts a ceiling: The administrative cost of an organization should not be more than 30% of its total annual budget. Administrative cost is vaguely defined, but includes staff salary, and expenses related to purchase of goods and services for administrative purposes.

*Source: User's Manual for Charities and Societies Law (2011, pp.3-5).*

### **3.2.2 Participation of CSOs in the Draft Consultation Meeting**

Questionnaires were distributed to selected NGOs to know their level of participation in the consultation meeting of the draft proclamation.

**Fig 5.. Has Your Organization Participated in Consultation Meeting of the Draft Proclamation CSP No. 621/ 2009?**



As the figure 5 demonstrates, about 47% of the respondents said their organization did not participate and 28% did not know whether their organization had the chance to participate or not. Some of the group who said ‘do not know’ either were new or they could not find a document that tells the history. Ironically though, these were the group who also did not think that CSO had allowed enough time in the draft consultation meeting. The 25% who participated on the draft consultation said that there was enough time to forward their inputs though they are not satisfied about their impact in the final proclamation. Some who participated also said they were asked to participate just to hear what the government wanted to say but others said that the draft was a lot harsher than the enacted one so their participation was important.

### **3.3. Enactment of CSP No.621/2009**

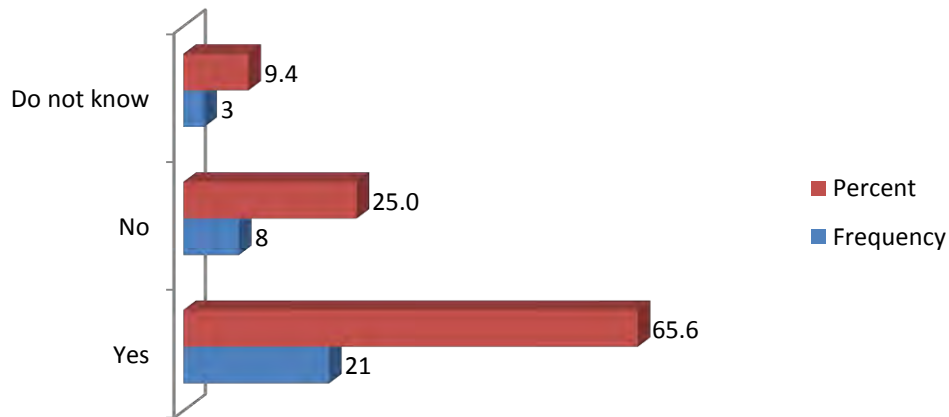
As it has been discussed in section 3.2.1, the old law could hardly handle the growing demand of CSOs that flourished after the downfall of the Derg and the relatively conducive environment of the new government that came into power in 1991. With the growth of CSOs in the country came a shifting of CSO roles from merely relief to

sustained development and involvement in advocacy, human rights, gender, children and disabled rights. Lack of accountability on the part of some NGOs, and involvement of some NGOs beyond their mandate such as channeling funds to opposition groups as pointed out in some research papers could be some of the reasons for this further involvement. For instance, in his thesis, Shibabaw B. Fanta reports that 31% of his respondents were involved in partisan politics (Fanta, 2010). According to Zemen Magazine, the founder and top leadership of Coalition for Unity and Democracy party (CUD) was also a board chairman of CCRDA which has 360 member NGOs (Tizazu, 2015, p. 20). So, the enactment of the law was inevitable and vital. The question many ask though was why did it wait for so long? Because the government started the draft in 2003, it took over five years for the law to be implemented. However, this not the scope of the research and other interested researchers are invited to pursue the study.

### **3.3.1 Intention of the Proclamation**

The intention of the proclamation is clearly stipulated in the proclamation itself. That is to ensure the realization of citizens' right to association enshrined in the Constitution and to aid and facilitate the role of Charities and Societies in the overall development of Ethiopian peoples. However, from its inception to the present day CSP is attracting more attention and it still is controversial. This paper has attempted to explore the intention and the current practice, the challenges to implement the law as it is written and the impact that this proclamation has brought about on the activities of CSOs. Participants were asked if there was a good reason for the enactment of the law in the first place. Their response is summarized in Figure 6.

**Fig 6. Do you believe that there was a good reason for the enactment of CSP No/621/2009?**



*Source: Own Survey (2015)*

As illustrated in Fig 6, about 66% of respondents believe that there was a convincing reason for the enactment of CSP. This supports the idea that laws prior to CSP 2009 were indeed out dated. Some of them even admitted that there were some “briefcase NGOs” that are not accountable at all and this proclamation perhaps encourages CSOs to be more accountable. This confirms to the overall conviction that has been discussed above thoroughly. That is to say that, CSOs welcomed the idea of a new law but the sections in the CSP were not what they anticipated. For instance, sections that prohibits Ethiopian and foreign charities from participating in human and democratic rights and the way operational and administration cost was defined etc. Moreover 25% do not think the new law was necessary. When they were asked to give more detail some said it was a political decision specifically designed to restrict the freedom of individuals to form association and challenge the government. It was intended for the government to stay in power and it was created after the 2005 national election. However, since the old law was not capable of handling the demand of NGOs/CSOs and the process of drafting this law started much

earlier, in 2003, there is no convincing evidence to claim that what inspired CSP was election 2005 or simply a political decision. This is because, documents in the area show that the draft law has been brought into discussion since 2003, the researcher also interviewed CSO directors and asked this specific concern but these directors dismissed the claim based on the ground that they were part of the consultation process before 2005 election and after the election.

### 3.3.2 Categorization of CSOs

The CSP 2009 categorizes CSOs into three categories according to the source of income:

1. Ethiopian Charity/Society: Gets nearly all of its income from local sources (Up to 10% of its funds may come from foreign sources)
2. Ethiopian Resident: Generates more than 10% of its income/funds from foreign sources
3. Foreign: Established in and gets all its income from abroad.

Respondents were asked to forward their opinion on the appropriateness of categorization of CSOs based on their income and place of establishment and their responses are summarized in table 1.

### 3.3.3 CSOs Reaction to the Categorization:

**Table 1: Reaction of Respondents to the Government's category of NGOs/CSOs**

Responses	Frequency	Percent
Necessary	14	43.8
Not necessary	8	25.0
Do not know	10	31.3
Total	32	100.0

Source: Own Survey (2015)

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As the figure in table 1 demonstrates, 44% said that the way the government categorized CSO was necessary. Respondents were asked to give a brief detail of why they think it was necessary. Their reasons were: Because it would help CSOs in their specific area of operation/intervention instead of generalizing all CSOs as one type in which it would be harder to monitor the activities of CSOs/NGOs. And this law could help Ethiopian Charities to be self-supportive and to avoid dependency on foreign funds. It also encourages indigenous CSOs to mobilize domestic resources and make them independent.

The 25% of respondents believe that the table 1 categorization was not necessary on the basis that, the issue of categorizing CSOs as above is not conducive because Ethiopian Residents are not allowed to do some activities which are done by Ethiopian Charities/societies. According to this group who believe that the categorization was not necessary stated that, this categorizing affects CSO's capacity. The categorization is based on the place of origin and source of income. It should have been based on the purpose and accountabilities. It also limits the dual citizenship of CSOs and different forms. It limited the consortium rights of structure among them.

Some of the respondents commented that Ethiopian Residents must have equal rights with Ethiopian Charities/Societies and treat International/foreign charities separately. The researcher raised this issue during the interview with ChSA and ChSA's response was that when the law was first drafted it had two categories, Foreign and Ethiopian. The consultation meeting of CSOs representatives with the late P.M. Meles Zenawi gave birth to the third category. It was CSO's demand for Ethiopian Resident to be created, according to ChSA. On the other hand, 31% of the respondents did not know if it was

necessary categorizing or not, this is a significant number and which also needs further discussion and analysis.

### **3.4 Rights of NGOs/CSOs to Operate in the Country**

The 1995 Constitution of the Federal Democratic Republic of Ethiopia (FDRE) recognizes the freedom of association thereby providing the basis for civil society organizations in the country. As per Article 31 of the constitution “every person has the right to the freedom of association for any cause or purpose”. The freedom of association is guaranteed to everyone without any qualification as to color, race, religion, opinion (political or otherwise), place of residence, etc. Every person is entitled to form or join associations for any reason or purpose including the advancement of the rights and interests of members, rights and interests of other people, or any other personal conviction; so long as it is lawful there is no restriction as to the purpose for which an association may be established and carry out. It permits state interference only in cases where the association is formed ‘to illegally undermine the constitutional order’. Freedom of expression and assembly are also recognized in Articles 29 and 30 of the FDRE Constitution. Moreover, the Constitution under Article 9(4) makes treaties ratified by the country part of the law of the land further entrenching the legal basis of civil society in the country.

#### **3.4.1 Registration Process of NGOs/CSOs**

Respondents were asked to evaluate the registration process of NGOs/CSOs by ChSA. Their response is summarized in table 3.

**Table 2: There is a straightforward and clear registration procedure and criteria.**

Responses	Frequency	Percent
Agree	22	68.8
Disagree	6	18.8
Neutral	3	9.4
Do not know	1	3.1
Total	32	100.0

Source: Own Survey (2015)

As the table 2 illustrates about 69% of respondents believe that there is a clear registration procedure and criteria. They supported their claim by mentioning the availability of online forms and hard copy forms; there are also people to assist anyone seeking help in this regard. The 19% who said they do not believe that there were clear registration procedures and criteria did not support their claim with evidence, and likewise the 3% who claim they do not know whether there or not did not offer any further comments. This should not be hard to know because no CSO could operate without registration and therefore all responding CSOs must have gone through such a registration process.

### **3.4.2 Appeal against Refusal to Register**

Article 104(3) of CSP 621/2009 guarantees the right of appeal only to Ethiopian Charities/Societies and not to Ethiopian Resident or Foreign. This is one of the controversial issues of this proclamation. Ethiopia has ratified many international laws which are considered part of the law of the country (Article 9/4) of the constitution. Some researchers believe that it is an infringement against human rights. All people and all

organizations have the right to appeal or have their case reviewed by a court that is independent. According to Zeleke in his published thesis:

*“Ethiopia has adopted major international and regional human rights treaties including the ICCPR and ICESCR that serve as a legally binding text of the UDHR, ACHPR and other agreements. By virtue of Article 9(4) of the Constitution, these instruments form part of the law of the land and hence part of the regulatory framework of CSOs” (Zeleke 2010, p. 25).*

The old law as it has been shown above had a provision for appeal for all CSO whose license is canceled or revoked. Respondents were asked to evaluate Article 104(3) – the right to appeal for court review regardless of the category and their responses are summarized in table 3 as follows:

Table 3: Respondents’ view to Court of Appeal (Article 104(3))

Responses	Frequency	Percent
Agree	4	12.5
Disagree	14	43.8
Neutral	6	18.8
Do not know	8	25.0
Total	32	100.0

*Source: Own Survey (2015)*

As table 3 illustrates, nearly 44% of respondents disagree with this article. The reason for this is that they believe that the right of access to justice or to appeal should be given to any human being. Justice should be equal to all as long as they are living in Ethiopia whether it is indigenous or foreign.

The nearly 13% respondents who agreed with this article said that Foreign-based NGOs are governed by foreign donating countries law and so they have no right to appeal if the government believes that their registration could harm the wellbeing of the public. The remaining 25% did not know.

### **3.4.3 NGOs/CSOs Activities**

As has been illustrated in table 1 before, NGOs/CSOs activities are restricted based on the source of funds and the country in which they are founded. There is a clear distinction where each category could participate in; however there are many concerns about the definition of each activity. For example, child rights, women rights, capacity building, research and development are among many that their meaning can overlap. The researcher's in-depth interview with t ChSA showed that the activities reserved for the government and Ethiopian charities/Societies are intentional and ideological. The government strictly believes what is left for the citizens (community-based organizations or CBOs and Ethiopian charities/societies) are political rights. Only citizens are guaranteed political rights. This raises the question, what about Ethiopian Resident CSOs? Are not the members Citizens of the FDRE? The government's response to that is if Ethiopian Residents are allowed to work in those political rights they would be used as the indirect hands of the neoliberals. The neoliberal concept of CSO does not fit with the revolutionary democracy which the government of Ethiopia follows.

Questionnaires were distributed to participants to find out whether their area of intervention has been affected or changed because of CSP 2009. This is summarized in table 5 below.

**Table 4: Frequency and Percentage Distribution of Responses for Area of Intervention**

Response	Frequency	Percent
Have not changed because of CSP 2009	17	53.1
Have changed because of CSP 2009	13	40.6
N/A	2	6.3
Total	32	100.0

*Source: Own Survey (2015)*

As demonstrated in table 4, 53% of respondents have not changed their area of intervention. However it is worth mentioning that they have indicated they terminated some of the previous activities such as advocacy, women’s and children’s rights, but it has not affected them much because these activities were just a few of their overall activities. Nearly 41% confirmed that they have changed their area of activities because of CSP 2009. As a result, CSOs could not carry on their interventions based on their founders’ visions and missions and this is a major challenge to securing funds from their supporters and or donors.

### **3.4.4 NGOs/CSOs Funding**

In the old or prior CSP 2009 laws, Income Generating Activities (IGA) was not expressly allowed but CSP 2009, Charities and societies could engage in income generating activities after getting permission from the Agency. They will be eligible for permission

when the activities are related to the purposes of the charity/society, and the income derived will be used to further its objectives.

Respondents were asked about the feasibility of the 90/10 funding scheme whereby Ethiopian Charities are privileged to participate in any rights activities without restriction but restricted on the amount of funds they can raise from abroad. That is, they cannot mobilize more than 10% of their annual budget from abroad. In other words, 90% or more of their funds must come from local sources.

**Table 5: Evaluative Opinion of Respondents towards 90/10 funding Scheme**

<b>Responses</b>	<b>Frequency</b>	<b>Percent</b>
Feasible	6	18.8
Not feasible	11	34.4
Restrictive of rights	8	25.0
Do not know	7	21.9
<b>Total</b>	<b>32</b>	<b>100.0</b>

*Source: Own Survey (2015)*

As table 5 summarizes, 34% of the respondents did not believe that it was feasible. The discussion in this regard showed that the giving culture of the business community and individuals to institution like theirs is underdeveloped. One respondent said; “when they approach the business community for contributions they laugh at them. Some give those 100 or 200 Ethiopian birr, others are used to giving cents”. According to these

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respondents even at board meetings members contribute not more than 100 birr. Furthermore, the country economic level does not permit that. When the researcher approached the Agency, the government does not believe that there is a shortage of resources, either financial or human, but seconded the idea put forward by CSOs that the giving culture in this country is not at a sufficient level for such purposes. Ethiopian Charity staff lack the knowledge and the skills to exploit the locally available resources. The government is aware of the problem and intending to work more through equipping the capacity of Ethiopian charities, connect them with government and donors that work in partnership with the government such IMF or World bank etc.

On the hand, 25% of the respondents expressed their views that this funding scheme is a sign of restrictive of individual and collective rights to associate and securing funds for the purpose that the association or charity stands for. Government restriction in this regard, according to them is an infringement of their constitutional rights. Some even went further to believe that it has a political motive in that the government wanted to control everything by creating its instrumental charities where it can manipulate for its survival in power.

The other 18% of respondents believe that it is feasible. With some support from the government in the area of training and other facilities, through awareness creation and mobilizing the huge human resource available in the country, it is feasible to meet the objectives that the organization was founded upon. They also believed that this will aid them to be self-supportive, to have the 'we can do it' mentality and sustainability of their programs.

### 3.4.5 Budget Allocation

The pre 2009 law did not place a ceiling on administrative costs but CSP 2009 has introduced the 70/30 budget allocation scheme-(Article 88(1) of CSP621/2009). This was the most contentious item among the respondents. The challenge is not about meeting the 30% admin cost; it is rather the vagueness of how ‘administrative costs’ was defined. Respondents were asked to evaluate the scheme and it is summarized in table 6.

**Table 6: Opinion of Respondents about the clarity of 70/30**

<b>Responses</b>	<b>Frequency</b>	<b>Percent</b>
Clear	10	31.3
Not clear	20	62.5
Do not know	2	6.3
<b>Total</b>	<b>32</b>	<b>100.0</b>

*Source: Own Survey (2015)*

As the table 6 above illustrates, nearly 63% believe that the definition was not clear. For instance, a respondent mentioned an incident where the organization purchased a water driller to take it to its operational area in S regional state. When the organization closed its account, it calculated the purchase price of the machine, loading and unloading costs, and other related costs with the machine, but what the organization books of accounts and auditors report as its fair and true value was rejected by the Agency. The good news is that the government is aware of this problem; it has recently circulated a modification

which is believed to tackle some of the problems but the researcher's interaction and discussion with the respondents about the new modification shows it is a first step forward but will require significantly more modification. For instance, monitoring and evaluation cost is considered as administrative cost when it should be considered as operational costs. This was a concern for the NGOs under study. One CEO of the under study NGOs stated that a certified auditors have audited and the report showed that the NGO's administration cost was 23 % but the officer responsible for their organization did not want to accept it the auditors' report and in his own calculation he made it to 33 %. These types of complaints have been observed during the interview. This infringes the licensed and authorized Auditors' independent audit reports that are acceptable in Ethiopia. The Agency's unrestrained power and the impact is a question that needs further study.

### **3.5. Supervision of CSOs by the Government of Ethiopia**

Section 7 of the proclamation gives unrestricted power of the Agency to supervise CSOs, power to seek documents to be produced, sending records, notification of meetings to the Agency, administration and operational costs employment of expatriates etc. Participants were asked to evaluate this supervisory role of the Agency bestowed by CSP. The response is summarized in table 7.

**Table 7: Respondents’ View of the current discretionary power of ChSA over NGOs is fare in view of the FDRE Constitutional Provisions.**

<b>Responses</b>	<b>Frequency</b>	<b>Percent</b>
Agree	6	18.8
Disagree	14	43.8
Neural	8	25.0
I do not know	4	12.5
Total	32	100.0

*Source: Own Survey (2015)*

As the table 7 shows, about 44% of respondents do not agree with the current power of the Agency. They believe that the Agency is monopolizing the power. While 25% of respondents could not decide, about 19% of respondents agree that the Agency needed to have that power to monitor CSOs so that beneficiaries benefit from the funds that are raised in their name and for their cause. During the interview meeting with the agency, even with this much control they receive allegations from the public, beneficiaries and CSOs staffs about some misconducts of CSOs. The Agency believes this supervision is necessary for the benefit of the beneficiaries.

### **3.5.1 Reporting and Disclosure**

Article 87 of the CSP 2009 gives the Agency the mandate to demand disclosure of information and document at any request. However, CSOs believe that the government is meddling too much in their day to day activities and it is rooted in the deep suspicion of the government to CSOs.

### **3.5.2 Inquiry by the Government**

The proclamation guarantees the right of the Agency to request any information at any time in any form that it seeks to. According to respondents, CSOs live in fear of the agency; they report that individual officers sometimes threatened that they can close down the organization. However, the Agency's response to that is that, government appreciates CSOs support of the government in effort to develop the country, if anyone works genuinely and for the cause of the beneficiaries there shall not be any reason to fear. The Agency further also said that they have many channels where reports about any Agency officer who threatens CSOs could be communicated. Some of the channels for feedback and complaints according the agency are: Face to face; suggestion box; CSOs forums; through the board which NGOs are represented; during meetings with CSOs experts such as auditors and finance managers etc. The Agency also said that it has taken disciplinary action against some of its officers and will continue to do so if it finds evidence based on allegations.

### **3.5.3 Suspension of NGOs/CSOs**

Article 92 and 93 of the proclamation gives the agency the power to suspend and dissolve any charity or society that fails to obey the orders of the Agency. This again is opposed by CSOs that participated in this study saying that there should be another body where

CSOs could appeal the decision of the Agency. Article 104(3) states only Ethiopian Charity/Society has this privilege the rest two could apply only to the board.

### **3.5.4 Denial of Access to and the Right to Appeal**

As has been discussed thoroughly above, the proclamation gives only Ethiopian Charity /Society the right of access and the right to appeal if its rights are contested. The government however maintains that these are political rights and political rights are only the privileges of citizens.

### **3.5.5 Neutrality of Charities and Societies Agency (CHSA)**

Due to the unrestricted and extensive power that the Agency has because of the proclamation, some believe that this work should be administered by an independent body from the government or the registration and supervision of CSOs should be conducted by independent authority and not by the policy of a particular government. Participants' response is summarized in table 8 below.

**Table 8: Should Registration of CSOs be conducted by an independent authority and not by government?**

<b>Responses</b>	<b>Frequency</b>	<b>Percent</b>
Agree	4	12.5
Disagree	14	43.8
Neutral	6	18.8
I do not know	8	25.0
Total	32	100.0

*Source: Own Survey (2006)*

As illustrated by the table 8, about 44% believe that this matter should be handled by the government and not by any third party. This is because the government has a primary responsibility to safeguard the interest of the people, and the security of the country, and monitoring CSOs is one of them. This was a surprise finding for the researcher because researches that have been done much earlier showed that the registration and supervision of CSO should be conducted by an independent body.

About 44% believed that they do know and are neutral about the issue while about 13% suggested that it should be handled by an independent party that does not belong to any political party to keep the power balance and maintain objectivity.

### **3.5.6 CSOs as Challenges to State Sovereignty**

History of CSOs teaches us that CSOs have been instruments for state changes. Clark teaches about some CSOs becoming instruments for international donors in 'rebel controlled areas' CSOs such as REST, ERA and ORA have been cited as examples (Clark, 2000). The CSOs movements in South America and Japan were also used as instruments to change governments (Lewis, 2001). The recent so-called Arab youth revolution is another example where CSOs could challenge state sovereignty. Participants were asked to air their view in this regard and it is summarized in table 9.

**Table 9: Allowing all CSOs to participate in democratic and political right undermines state sovereignty. Respondents' View:**

<b>Responses</b>	<b>Frequency</b>	<b>Percent</b>
Agree	6	18.8
Disagree	10	31.3
Neutral	12	37.5
I do not know	3	9.4
Missing	1	3.1
Total	32	100.0

*Source: Own Survey (2015)*

As table 9 demonstrates 31% of the respondents, do not believe that CSOs participation in democratic and political rights could undermine state sovereignty. Their argument for this conviction was that those who are now categorized as Ethiopian Residents have been participating in those activities and they did not undermine or attempt to put state sovereignty in danger. About 19% of the respondents agree that allowing all categories of CSOs to participate in these activities would undermine state sovereignty. According to them, there are counties that use CSOs as the intelligence feeders to overthrow governments that do not bow down to their pressures. And about 38 % of the respondents expressed their neutrality to the issue.

### **3.6. Challenges Faced by CSOs as the Result of the CSP No.621/2009**

#### **3.6.1 Policy Environment**

The policy environment on theoretical level has no obstacles for CSOs to operate in the country. The constitution of FDRE which is the supreme law of the country guarantees a favorable environment for all: 1. Right of thought, opinion and expression – Art. 29; 2. The right of assembly, demonstration and petition, Art. 30; 3. Freedom of association, Art. 31; 4. Marital, personal and family rights, Art. 34; 5. Rights of women, Art. 35; 6. ; Rights of children: Art. 36 and 7. Right of access to justice, Art. 37.

However, in practice, the CSP 2009 is discriminatory against the three categories of CSOs either by source of fund or area of activity. According to the Ad-hoc taskforce for the draft constitution, classifying CSOs based on source of income has no legal system applicability. “It is ...uncommon to classify and determine the nationality of an organization based on the sources of its income as a result of which it is very hard to come across a legal system with such a practice and this is not common to the Ethiopian legal system” (Wada., 2008, p. 10).

#### **3.6.2 Operational Challenges**

The proclamation prohibits charities that raise more than 90% of their funding from foreign sources to participate in democratic, rights; equality of genders; religious and nationalities; the rights of children and the disabled; conflict resolution and reconciliation. Furthermore, lack of clarity on operational activities is a substantial challenge for CSOs operating in the country since the inception the CSP.

### **3.6.3 Funding Challenges**

The CSP 2009 restricts the amount of funds that CSOs can raise as well as the activities that CSOs can be involved in using those funds. Some of the challenges mentioned in this regard were lack of awareness in the Ethiopian business community, lack of experience and knowledge to mobilize local resources, lack of local donor support in the areas where foreign funds are restricted by CSP specially for Ethiopian Resident Charities; lack of tax deductible benefits both to corporate and individual donors in the country are amongst the challenges facing CSOs with regard to funding.

### **3.6.4 State CSO Relationships**

The relationship between CSOs and the Ethiopian state is not the best. The government considers NGOs/CSOs to be an instrument for neo-liberals to impose their ideology on the country indirectly, hence strict monitoring and supervision is vital for the state to remain sovereign and free from outside influence. Likewise, the CSOs feel that the state is only concerned about the interest of the government (staying in power), not necessarily the interest of the public at large, thus, there is a tendency for CSOs to be suspicious of government motives in any legislation affecting them. The CSOs working in Ethiopia possess substantial experience and expertise particularly at the grass root level. This expertise can help the government to formulate policy and strategy that is efficient and effective to solve social, economic and democratic need of the society. According to world economic forum,” By involving civil society as implementing partners, interventions are more likely to be effective on the ground and to reach those who are most in need (World Economic Forum,2013,p.11).

### **3.7 Overall Impact of CSP No.621/2009**

As the aforementioned discussions illustrate, this Proclamation has brought about new working modalities--for instance in the area of fundraising, registration and renewal of licenses, defining areas of operation, limiting operational and admin costs etc. Based on the data collected there are both positive and negative impacts.

#### **3.7.1 Positive Impacts**

The positive impact is that CSOs can now be involved in Income Generating Activities (IGA), to mobilize funds for their programs. Among the positive impacts that respondents mentioned are that the proclamation encourages self-reliance and sustainability of their programs especially for Ethiopian Charities/Societies. As shown in Table 11 next, about 19% of the respondents said that it was facilitative. Respondents were asked to briefly mention some of the positive impacts of the CSP, their responses are summarized hereafter.

1. It has helped NGOs to act legally, to be transparent and responsible.
2. It helps to believe that there is enough domestic resource if mobilized properly and may relieve from dependency syndrome.
3. The proclamation reduces the number of financial mismanagement and increases the focus to beneficiaries. It encourages Ethiopian charities and people to support each other.
4. It made things clear about what CSOs should do and should not do. It gave CSOs the right to generate their own income (25%).
5. It improves the quality of service to those capable NGOs.

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6. The proclamation clearly stipulated the requirements and procedures of establishment, manner of operation and right of CSOs. It clears ambiguity and confusions regarding the government regulations.
7. The yearly auditing of NGOs by government encourages accountability.
8. The 70/30 budget allocation scheme encourages NGOs to direct grater amount of the fund to beneficiaries.
9. It establishes a legal framework to operate in the country.
10. Having guiding policies helps to clearly know each CSOs mandate and how to operate under the legal cover.
11. To have the law itself, defining roles and responsibilities and acknowledging CSOs/NGOs.
12. It widens the income basis, granting opportunities such as the ability to raise funds locally and have government sponsorship for the works of NGOs/CSOs.
13. Serves as a clear guiding principle or a model for CSOs in Ethiopia, despite its restrictive nature.
14. Government as a representative of citizens knows what is going on by each of the CSOs registered by any of the categories; those “briefcase NGOs” can be easily identified and moved out of the sector; implementers’ attitude towards developmental activities are improved and creates a better environment to monitor and evaluate the performed activities.
15. Bringing in the issue of accountability to CSOs in the country, enabled self-reflection among organizations

### 3.7.2 Negative Impact

As table 10 demonstrates, 50% of the respondents were convinced that CSP 2009 was restrictive in its nature, while 25% of the respondents said it is neither restrictive nor facilitative and 6% said “do not know”.

**Table10. Evaluative Opinion of Respondents towards CSP no.621/2009**

<b>Responses</b>	<b>Frequency</b>	<b>Percent</b>
Facilitative	6	18.8
Restrictive	16	50.0
Neither facilitative nor restrictive	8	25.0
Do not know	2	6.3
<b>Total</b>	<b>32</b>	<b>100.0</b>

Source: Own Survey (2006)

Respondents were asked to briefly mention the Negative impacts of the CSP and their responses are summarized as follows:

1. Due to budget restrictions the number of CSOs working in the country drastically reduced; rights-based activities are very much affected due to budget dependency on local sources; development actors in the sector are frustrated; funding agencies lost their interest to support Ethiopian CSOs.
2. It systematically excludes interested parties to work on human rights and democracy in the name of 90/10 rule.

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3. The directive issued to divide the allocation of costs into program and administrative components deters the smooth operations of CSOs.
4. It has negatively affected the trust between government and NGOs. It is not taken favorably as a mutually owned document.
5. Created a sense of repulsive atmosphere for NGOs. It caused insecurity on NGOs and created a perception of insignificance and a sense that their work is underappreciated by the government.
6. The agency delegated to lead charities is not well staffed and equipped. Because of this, authority is delegated to less qualified and inexperienced officers.
7. The transition was not managed well and NGOs have not gotten the intended support and guidance.
8. Willingly veers off from internationally accepted definitions of what is 'admin' and 'program', appears to be restrictive and punitive rather than encouraging, appears to have an entrenched negative attitude towards CSOs (perception of organizations as dishonest, corrupt, etc.), and encourages relief rather than development.
9. There was an apparent disregard for the international NGOs questioning the intent to come alongside and help. ChSA was not very helpful and left the Foreign NGOs feeling unwelcomed to come and serve Ethiopia.
10. It opens the way for corruption in the licensing and reporting processes.
11. Capacity-building CSOs find out that many of the activities designed to build capacity (which in their eyes constitutes their primary program and purpose for operating) fall in the Admin side of the 70/30 split. It is also challenging to

comply with the local regulations while at the same time comply with the international regulations that an International Organization is bound to. In many cases in order to comply with the proclamation has meant a greater burden on the administrative staff within the organization, leading to an increase in admin costs that would not be present otherwise.

12. Defining the roles and responsibilities based on origin and source of income instead of other more sensible criteria.
13. The definition of Program and Admin costs (70/30) is not clear in practice.
14. Limited participation of organizations on human rights issues.
15. The government uses this to find faults and excuses to terminate NGOs.

### **3.7.3 No Impact**

It was observed as in Fig. 7 before that 25% of respondents said they are neutral about the impact of CSP 2009 and 16% of respondents said that it has not affected them at all. Though respondents were asked to give a brief description of their choice 'no impact', for their own reason, the respondents chose to simply tick the 'no impact' box without any explanation about it.

## **CHAPTER FOUR: DATA ANALYSIS AND INTERPRETATION**

Based on primary and secondary data collected, presented and discussed in detail in Chapter Three, this chapter attempts to analyze the findings and discussions, interprets the data in accordance with the intention of the proclamation retrospectively. The current government of Ethiopia ruled the country since 1991. Since then it has designed and implemented numerous policies. To the knowledge of the researcher there has been no law that has attracted more attention of so many different parties (Government, Interest Groups, individual citizens and the general public) in the history of this government's policy making than CSP 2009. Soon after its inception and continuing into the present, it has proved to be an issue of unending contention.

### **4.1. The Purpose of the Proclamation**

The purpose of the proclamation is vividly written in the proclamation itself which is to:

1. Ensure the realization of citizens' right to association enshrined in the Constitution of the Federal Democratic Republic of Ethiopia and
2. Promulgate a law to aid and facilitate the role of Charities and Societies in the overall development of Ethiopian peoples (ETHIOPIA O. T., 2009).

### **4.2. Limitations of CSP 2009**

In light of this, based on the findings and secondary data presented in the discussion, the researcher found out that the proclamation has limitations that hinder its implementation efficiently and effectively.

There are policy intention and policy implementation gaps. Restrictions on the rights of CSOs based on the source of income not only lacks legal basis but it violates the constitutional rights guaranteed to all as discussed thoroughly in Chapter three.

Ethiopian Resident Charities and Foreign charities feel unwanted in the economic, democratic and political development of the country. Even though, there is a provision of incentives by the government (Article 88/2) to CSOs that allocate more than 80 % of its total income for its operational purposes to recognize and encourage them. Some CSOs under study pointed out that the government especially in Addis Ababa (federal level) fails to recognize the efforts of CSOs that allocate more than 80% of their budget for operational purpose and show outstanding performance.

The law falls short of considering the role of Ethiopian Resident charities. Ethiopian Resident charity is envisioned, and founded by Ethiopians in Ethiopia established under Ethiopian law and implementing its programs in Ethiopia and yet categorized as an outsider by restricting its rights to participate in the activities that are allowed to Ethiopian Charity/Societies.

There is a gap between the Agency and CSOs, which demands an urgent fix and amendment of the relationship. Both parties look at each other suspiciously and this will harm the effectiveness of the program and eventually the beneficiaries' benefits. It could also be a catalyst to have affected parties to lobby against the government and eventually harm the county's interest and security.

The CSOs perceive the proclamation as restrictive of rights, incapacitating fund raising abilities of CSOs, activities and where state dominance and stronger bargaining power is

highly visible. There is also an ideology tilted obsession on the government's part, an adamant on party ideology. For instance, Government believes that all CSOs are neo-liberal agents or instruments. Neo-liberalism is non-workable in this country and all NGOs are neo-liberals. The government believes that 'Revolutionary Developmental State' is the only solution for the current problem of Ethiopia. Hence, getting consensus with CSOs is impossible. There should always be a room for a give and take. The government should be willing and committed to conduct a thorough investigation of the proclamation. Some parts of the proclamation that CSP 2009 has proved practically obstacles need to be removed or modified.

#### **4.3 The CSP in Comparison with other Sub-Saharan African CSO**

##### **Laws/Proclamations.**

There is no one common law that works equally across Sub-Saharan African countries with regard to managing CSOs. Each country has its own law unique to its context. However, there are certain common frameworks that are available in those countries which may lack in CSP 2009. The CSOs in South Africa and Uganda which the CSP took experience, Botswana and Kenya, all do not limit source of funding for NGOs to participate in certain areas.

##### **4.3.1 Expressive/Advocacy/Public Policy Activities**

The CSOs in South Africa are not prohibited from criticizing the government or advocating for politically unpopular causes. Moreover, CSOs in Uganda are not prohibited from criticizing the government and advocating for human rights and democracy. The CSOs in Kenya participate in policy formulation and operation of political systems. In Botswana, NGOs are seen as agents of advocacy and contribute immensely to policy

dialogue. ( Kabonang Z. and Lebotse K., 2010) (Kisinga, 2009) (Gitonga, 2010) (Wyngaard, 2010). In Ethiopia, Advocacy activities are considered “political activities,” which are allowed only for Ethiopians and Ethiopian organizations that can mobilize more than 90 percent of their income from local sources. Article 14 (5) of the CSP lists those activities that are reserved only for Ethiopian Charities.

#### **4.3.2 Seeking/Securing Funding**

In Kenya, there are no special rules relating to the receipt of foreign funds by CSOs. In South Africa, the law does not impose any other constraints on the ability of CSOs to seek and secure funding. There are no special rules for domestic CSOs to receive foreign funding.

Economic Activities: South African CSOs are permitted to carry on commercial activities. This can be done by the CSO itself or through a for-profit subsidiary.

#### **4.3.3 Donor Incentives**

In South Africa, donors are entitled to deductions – a maximum of ten percent of their taxable income. The same percentage and requirements apply to both individuals and corporate donors. In Uganda, individuals and legal entities are eligible for tax deductions for charitable contributions. In Kenya, (individuals or corporate entities) who give cash donations to eligible non-profit bodies are entitled to deduct 100% of the donation from their gross income before arriving at their taxable income. The CSP however, does not have any provisions of tax incentives either to individuals or corporations for contribution to Charities. The researcher approached the ChSA with this concern and the response seemed to indicate that they would not oppose this sort of tax provision for individual or

corporate donors; however, the tax system of the country would need to be modified to accommodate this innovation.

#### **4.4 Limitation of CSOs**

It is worth noting that there are some CSOs intentionally or out of donor pressure that they channel funds to opposition parties that try to overthrow the government in unlawful ways. There were NGOs that also serve as sources of intelligence for other countries which is against the national interest and national security of the country. According to Shibabaw's thesis (2010), 31 % of CSOs got involved beyond their mandate, i.e. they are involved in partisan politics. The reasons for involving in partisan politics according to Shibabaw B. Fanta were: "(1) availability of foreign fund in the area; (2) lack of transparency; (3) hidden agendas; (4) factors such as approaching election time; and (5) deficiency of previous laws" (Fanta 2010, p. 87).

Sometimes, CSOs/NGOs are in a dilemma between implementing the interests of the donors, the interests of the grass-roots communities and the interests of the government. Perhaps, this pressure forces them to involve in partisan politics. As partners with the government, CSO can play a role in promoting good governance and democracy in the country. They can actively participate in the election process through monitoring, observing and documenting flaws in elections, sensitizing the population on the qualities of would-be leaders and urge them to vote wisely, and proposing ways of improving the electoral process. However, they should not allow themselves to engage in political activities or belong to any political group because they are generally nonpartisan. As such they cannot directly or indirectly support a political candidate.

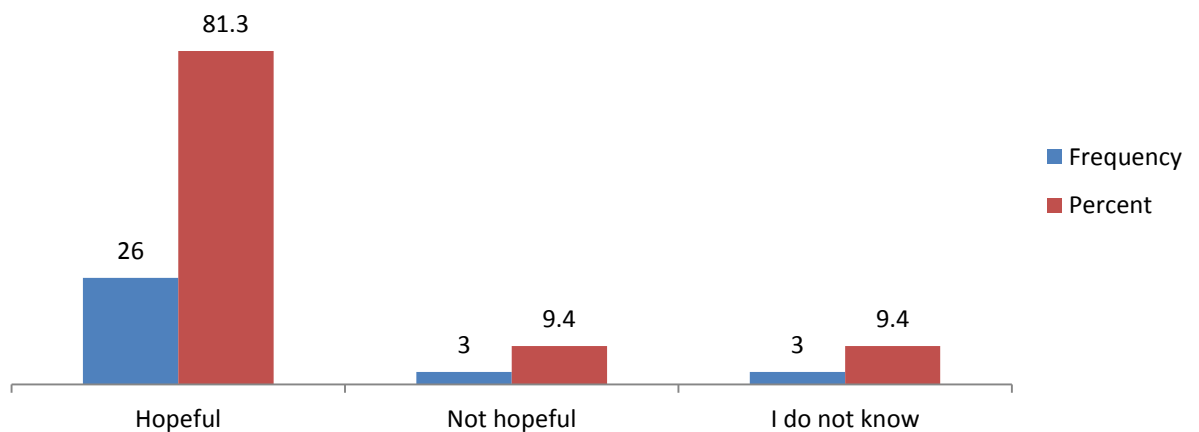
### 4.3 Future Aspiration of CSOs

On the other hand, there are many positive signs as well: the government is willing to listen to CSOs grievances, equip the capacity of Ethiopian Charities, and have already made some improvements to operational vs. admin costs (70/30).

After six years since its enactment, there are a number of CSOs who believe that it will encourage self-reliance, local resource mobilization capacity, and accountability of CSOs.

Participants were asked to see the future relationship of the agency and CSOs, if they believe the Agency will listen to their grievances and make adjustment to the proclamation.

**Fig.7: Respondents' Hope on the Government to Collect Feedbacks from CSOs to Amend and Termination Some Parts of CSP No.621/2009**



Source: Own Survey (2015)

The respondents were asked to express their views if they expect the government would collect feedbacks on the implementation of CSP and modify or terminate some parts of the CSP.

As demonstrated in fig 7, 81% of respondents believe the future is bright. The interview with the agency also compliments this wishful thinking of CSOs. According to the interview conducted, the government is listening to complaints, obstacles of the law, it has begun modifying some parts for instance the 70/30 budget allocation, and it will continue to work in collaboration with CSOs.

According to the ad-hock task force to comment on the proclamation and Interviewed directors who were in the consultation meeting, the first draft was worse than the last draft. Even though there is some improvement as a result of consultation meetings with the late Prime Minister, much of the contested areas were left unchanged. The task force remarks “It should be noted here that the new draft is completely different from the former that was by all standards generous. ... these drafts have not brought about significant changes on the contentious issues that have pitted the CSOs against the government” (Debebe Hailegebriel, 2008, p. 3) .

Perhaps, the continuous negotiations and recent modification on the 70/30 budget allocation has given CSOs some hope that working condition for CSOs would improve significantly in the future. After all, if the final draft was more generous than its predecessors, the next and improved one should be more flexible, less restrictive and conducive for CSOs to actively participate in the economic, democratic and political development of the country.

## **CHAPTER FIVE: SUMMARY OF FINDINGS, CONCLUSION AND RECOMMENDATIONS**

This Chapter has three sections, the first section summarizes the whole research, the second section presents the conclusion of the research and the last section suggests potential recommendation.

### **5.1. Summary**

The main objective of the study was to examine the impact of Charities and Society Proclamation No. 621/2009 on the activities of CSOs/NGOs in the areas of the right of freedom of association, promotion of human rights, and the right to raise funds to support their programs and allocation of costs. In order to achieve this objective the study attempts to answer the following decisive questions:

1. To what extent has the government of Ethiopia been receptive of to CSOs' concerns and feedbacks?
2. What are the specific challenges facing CSOs in implementing Charities and Societies Proclamation no. 621/2009?
3. How does raising 90% and more of their funds from local sources affect civil society organizations in promotion of human rights and their existence?
4. What impact does CSP 2009 have on CSOs?

Descriptive qualitative approach was taken as a methodology. However, the researcher marginally used a quantitative approach for simple statistical calculations and to capture data that cannot be captured by qualitative approach (triangulation). For this purpose SPSS was employed for data accuracy to calculate frequency and percentage distribution

of respondents. The researcher purposively selected participant CSOs according to their area of intervention, year of establishment and their category. To collect the necessary data, questionnaires, interview and secondary sources were reviewed. The findings of the study are summarized as follows.

### **5.1.1 Funding**

Source of Funds was one of the main concerns and challenges of the CSOs under study. The government used source of funds to categorize CSOs as Ethiopian Charity/Societies or Ethiopian Resident. To this end, 34% of respondents believed that mobilizing 90% or more of their annual budget from local resources was not feasible. 22% said they cannot tell if it is possible or not because it does not apply to them. This group represented the Foreign/international category. 25% believed that it restricts the right of association guaranteed in the constitution. In other words, and only 19 % believed that it was feasible. Contrary to the constitutional guarantee that allows the freedom of association for every lawful purpose to anyone, irrespective of one's nationality and source of income, the proclamation allocates this right to Ethiopian Charities alone. Source of funds was used as criteria to seek justice and appeal in court i.e. only those who can raise more than 90% have access to that right .Article 104(3).

To overcome the challenges faced to raise local resources there are no incentives by the government except allowing CSOs in IGA which also proved to be a complicated process because these CSOs have to get the license from a different authority and are subject to unexpected supervisions and undesired additional burden on the staff.

There is no tax provision for individuals or corporations that contribute to charities to encourage the culture of giving which was found out to be the main challenge.

Source of funds was used as the basis for Ethiopian Residents to prevent them from being involved in activities such as human and democratic rights; equality of genders, religious and nationalities; the rights of children and the disabled; conflict resolution and reconciliation.

### **5.1.2 Budget Allocation; Operation vs. Admin Cost (70/30)**

The old law did not have any sort of limitation on Admin costs; CSOs were allocating their budget based on their organization's own budgeting requirement. This freedom has created many 'briefcase' NGOs as respondents call them—organizations which allocate an undue amount of funding to keeping their staff employed without providing any substantial contribution to the community. CSP has placed a ceiling on admin cost which was considered commendable by many for its intention to assure accountability and transparency. However, this research showed that this is the most controversial and most challenging issue for CSOs. The CSOs did not object to the idea of having a ceiling, but the lack of clarity and sense in defining what costs contribute to that ceiling of admin costs. Some respondents said because of the vagueness of this clause, their process of license has been delayed; they have been prone to unnecessary scrutiny and conflicts with officers of the Agency. This vagueness also has given the Agency officers to threaten organizations to terminate the operation and to be prone to undesired and unethical behaviors.

The agency is however, willing to use all sorts of channels to get feedback about any misconduct of its officers. The researcher learned that the Agency takes this matter seriously; if an individual officer misbehaves it is that individual's failure to abide by law and that behavior is punitive. The agency has taken actions against some misbehaving individuals.

According to table 6, only 31% respondents said the 70/30 definition was clear. The 63 % said that the definition is not clear. The government has improved some of its definitions of operational costs. In this new modification, some activities that were formerly considered admin are now part of the operational costs. CSOs expressed their satisfaction in the new modification but suggested that that definition still needs more modification.

### **5.1.3. Impacts**

Overall impacts have been discussed thoroughly in Chapter three, and only a few will be reiterated here. Some CSOs have dissolved the organizations that they established with great passion and commitment, solely due to the lack of funds. For instance, Ethiopian human rights council (HRCO) Ethiopian Women's Lawyers Association (EWLA and others who opt to remain unanimous, they lacked fund for two main reasons:

First, the law restricts their areas of intervention based on their source of funds; that is, if they raise more than 90% of their income from abroad, they cannot be involved in these 'rights' activities. Donors on the other hand are interested in funding such activities. Why donors are interested in those activities is beyond the scope of this study, but this has left Ethiopian Residents with no choice but to terminate their organization. For instance, one respondent said his organization used to mobilize in millions every year, they had 34

professional staff but since the enactment of this law, there was high turnover and they have reduced to four staff. Even worse, the directors of this organization said after 21 years of service he is planning to phase it out in six months all because of CSP 2009 leaving this organization in an unfavorable condition. The Ethiopian Women's Lawyers Association (EWLA) was one of the many highly mentioned CSOs by international watch groups that were dissolved as a result of the proclamation.

Second, those who are registered as Ethiopian charities cannot raise enough of their budget. This is because the giving culture of the society to charities is underdeveloped; there is no incentive to the donors and involvement in IGA is more complicated than on paper.

In general, this law should act as whistle blower to the CSOs that operate in Ethiopia. The world is changing so fast, international and domestic threats are inevitable, as a result governments will likely formulate tougher policies to protect the interest and security of the people. CSO should be more innovative to manage to operate within the framework, however narrow that might be.

## **5.2 Conclusion**

The shock period of the proclamation seems to have ceased. It still has many limitations that the government must work on. The CSOs now have learned to live with it. They do not all together say that the proclamation has to be terminated. What CSOs demand is a mixed approach to the evaluation of the law both from top-down and bottom up approach. Current practices of CSOs show that the 90/10 funding mechanism and the 70/30 budget allocation schemes are their main challenges. All other major challenges

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emanate from these two. The discretionary power over the non-governmental organizations, including government surveillance, direct involvement in the running of the organization, the power to suspend license and confiscate and transfer of the assets of any organization was another concern that instilled fear and lack of confidence in their current role of CSOs leaders.

Observing CSP in Comparison to Sub-Saharan African countries, it is prohibitive in the area of expressive public policy activities. The CSP is restrictive in securing funding for CSOs to carry out their programs/activities. There are no donor incentives both individual and corporation to encourage local resource mobilization. The Government's rationale to its uniqueness from the sub-Saharan African countries is mainly ideological difference. The researcher, however, suspects that there is more to it than simply ideological. So, the researcher encourages other researchers to investigate more about why Ethiopia's situation in this regard is so peculiar?

On the other hand, government's willingness to engage more with CSOs either through the board or through direct contact of CEOs of CSOs, continuous dialogue with all stakeholders is appealing. The recent modification of 30 % administration cost definition is another sign that the government is willing to listen to CSOs, an initiative that signifies an enthusiastic future.

There should be a greater degree of activities by the Government of Ethiopia for collaboration and partnership between the Government, Business communities and civil societies. Societal challenges are talked better when each sector works in more integrated manner across the shared spaces, instead of acting independently in their defined roles.

### 5.3 Recommendations

1. The 90/10 scheme shall be amended. The proclamation should be amended and give NGOs/CSO 20 years to land at this scheme in. Ethiopian charity/Society shall have no restrictions on source of funding for the first five years of its registration. In the second phase (five years), they shall raise 30% of their annual budget from local source (30/70). In the third phase, they shall raise 60 % of their annual budget from local source (60/40). In the fourth phase, they shall raise 90 % of their annual budget from local source. If the country can mobilize 50% to 60% of its budget in loans and donations from the “neo-liberals”. It does not seem to be reasonable to demand Ethiopian Charities/Societies to mobilize 90 % of their annual budget from local sources.
2. The second category of NGOs (Ethiopian resident), shall be omitted. Ethiopian residents are not different in anyway from Ethiopian Charities.
3. CSOs should not be restricted from participating in human and democratic rights; equality of genders, religions and nationalities; the rights of children and the disabled; conflict resolution and reconciliation. There must be a different mechanism to protect national security and pressure of donor nations.
4. The 70/30 budget allocation must continue or even be amended to 80/20.  
However, the consensus of the policy implementers is that the definition of what constitutes administration vs. program costs needs to be substantially modified from the current definition. For instance, monitoring and evaluation cost should be treated as operational cost not as administration cost.

5. Article 104(3) shall be amended and it has to complement Article 37 of the constitution of the FDRE: all human beings, regardless of gender or religion, skin color or nationality shall have the right to justice. Ethiopian Charity/Society, Ethiopian Resident and Foreign Charity must have equal rights before the law and must all have the right to appeal to court when grievances occur.
6. Policy evaluation must be carried out by the government of Ethiopia. Not all policy is being implemented according to the intended purpose when the law was formulated.
7. The parliament should conduct its own research independent of the Agency about CSP 2009 and other contentious policy.
8. All policy actors (Government, interest groups, individual citizens, the general public) should be involved in the policy-making process of any public policy. If this had been done with CSP 2009, the issues that this research has discussed, issues which have fostered intense debate for more than five years, could all have been resolved before the policy was even implemented.
9. The Agency does not have a Research and Evaluation unit. It is imperative that the Agency creates such a department to evaluate the impact of CSP on regular basis.
10. The Government of Ethiopia should draft a new proclamation or modify CSP 2009 to allow individual citizens and corporations to claim tax deductibles for their donation to Charities and Societies.
11. The CSOs must have a seat in parliament so that the Civil Society community's interest is represented.

12. Government should intentionally use government media to create a positive image of CSOs so that the donation culture to charity work is promoted and local resource mobilization is achieved.
13. Last but not least, the government should practice article 88/2 to encourage CSOs that performs outstandingly and allocate more than 80 of their annual budget to operational purposes.

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## ANNEX

### **Annex 1: Interview Questionnaire for Charities and Societies**

Dear Respondent,

My Name is Habtu Mulata Assefa. I am a masters student in Public Management and Policy (MPMP) at Addis Ababa University. I am working on a Thesis topic “The Charities and Societies Proclamation (no.621/2009): Current practice, challenges and its policy impact on the activities of selected NGOs/CSO “, under the supervision of Dr. Mulugeta Abebe. So that I can find out the impact of CSP 2009 on the activities of CSOs/ NGOs in the areas of the right of freedom of association, promotion of human rights, the right to raise funds to support their programs and allocation of funds. Because I want my readers to understand better the current practice, challenges, impact of CSP 2009 and way forward. What I am hoping to learn from you is your genuine response to questionnaires and or interviews forwarded to you.

I would like to give you a full assurance that your information would strictly be used for the academic research purpose and without your consent no information would be passed on to the third party. Please feel free to contact me at +251 911 487 293 or [habtu2001@yahoo.com](mailto:habtu2001@yahoo.com)

I am so grateful for your precious time and invaluable responses and or inputs.

Yours cordially,

Habtu

## Current Practice, Challenges and Impact

### Questionnaires

#### I. Respondent's Background

1.1 Sex: Male  Female

#### 1.2 Education Level

Secondary School  Technical/Vocational  Diploma

Bachelor's Degree  MA/MSc  PHD  other

1.3 Position Title: \_\_\_\_\_

#### II. Charity/Society Background (please respond to question that applies to your organization)

2.1 Name of the organization: \_\_\_\_\_

2.2 Date and year of establishment: \_\_\_\_\_

2.3 Area of operation (activity engaged in):

Before the Proclamation \_\_\_\_\_

After the Proclamation \_\_\_\_\_

Reason for the change \_\_\_\_\_

2.4 Current organization category

Current Practice, Challenges and Impact

Ethiopian Society/Charity  Ethiopian Resident Society/Charity

Foreign Charity

2.5 Date of Re-registration: \_\_\_\_\_

2.6 Reason for choosing the above category? ( most important reasons)

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3. Has your organization participated in the draft consultation meeting of the proclamation/ CSP2009?

Yes  No  I do not know

If you answer is yes, please provide which of your opinions were incorporated in the proclamation.

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4. Do you believe the time given for CSOs was good enough to forward their concerns, even if your organization has not participated you could choose one based on your knowledge or reading.

They had enough time    they did not have enough time    I do not know

Please give a brief detail of you answer

Current Practice, Challenges and Impact

5 Do you believe there was a good reason for the enactment of CSP 2009?

Yes  No  I do not know

Please give a brief detail of your answer

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6. What do you think are the pros and cons of this proclamation?

Pros:

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Cons:

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7. How has the CSP 2009 affected your organization?

Positively  Negatively  Not affected  Neutral

Please give a brief detail of your answer

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Current Practice, Challenges and Impact

8. How do you evaluate CSP 2009 in general?

Facilitative  Restrictive  Neither facilitative nor restrictive  I do not know

Please provide a brief detail of your answer

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9. What is your evaluation of 90/10 funding policy?

Feasible  Nott feasible  restrictive of rights  I do not know

Please provide a brief detail of your answer

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10. What do you think of the clarity of the 70/30 definition?

Clear  Not clear  I do not know

Please give a brief detail of your answer

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11. What is your perspective of categorizing CSOs into Ethiopian, Ethiopian resident and foreign?

It was necessary  Not Necessary  I do not know

Please give a brief detail of your answer

12. The right of access to justice or to appeal is guaranteed to Ethiopian CSOs only, Article 104/3 and not to Ethiopian resident or foreign. What is your perspective of this?

Agree       Disagree       Neutral       I do not know

Please give a brief detail of your response

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13. Do you think procedures and criteria for registration are available, clear and straight forward?

Agree       Disagree       Neutral       I do not know

Please give a brief detail of your answer

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14. Some people believe that Registration of CSOs should be conducted by independent authorities and not by the policy of a particular government. What is your view?

Agree       Disagree       Neutral       I do not know

Please give a brief detail of your answer

Current Practice, Challenges and Impact

15. Some people believe that any denial of registration must be subject to court review.

What is your view of that statement?

Agree  Disagree  Neutral  I do not know

Please give a brief detail of your response

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16. The proclamation prohibits no Ethiopian charities from participating in activities such as human and democratic rights; equality of genders; religious and nationalities; the rights of children and the disabled; conflict resolution and reconciliation. What is your perspective of this?

Agree  Disagree  Neutral  I do not know

Please give a brief detail of you response

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17. Some believe that allowing all CSOs (Ethiopian, Ethiopian residence and foreign) to participate in the political and civil life of a country undermines state sovereignty. What is your view of that statement?

Agree  Disagree  Neutral  I do not know

Current Practice, Challenges and Impact

Please give a brief detail of your response

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18. CSP 2009 gives the Societies and Charities Agency discretionary power over non-governmental organizations, including government surveillance , direct involvement in the running of the organization, the power suspend license and confiscate an transfer the assets of any organization. What is your opinion of this?

Agree  Disagree  Neutral  I do not know

Please give a brief detail of your response

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19. It has been nearly five years since CSP 2009 has been stipulated or affected. Are you hopeful that the government of Ethiopia would collect some feedback from CSOs and amend and or remove or terminate some part of the law /proclamation?

Hopeful  Not hopeful  I do not know

Please give a brief detail of your response

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20. If there is one or two things that you would seek the government of Ethiopia to amend or remove from the proclamation what would it be? Do you have any recommendations please?

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Thank you again for your precious time

## **Annex 2: Questionnaires guide for the Charities and Societies Agency (ChSA)**

The main purpose of this questionnaire is to get relevant data regarding the current practice of CSOs, the challenges and way forward from the perspective of the government side. So that both perspectives are captured for readers to better understand the issue.

The aim of this questionnaire was to get relevant information and better understanding of the Proclamation from the Charities and Societies Agency.

1. The purpose of the CSP 2009 is clearly written on the proclamation. Standing on today, do you believe that the purpose is achieved?

Yes  No  Neutral  I do not know

Could you please give me a brief detail of your answer?

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2. In your view, what are 3 pros and 3 cons of the CSP 2009?

Pros :

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Cons:

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3. Some believe that this proclamation denies citizens the right of association that is granted on the constitution by restricting their source of income. What do you think of this claim?

Agree  Disagree  I do not know

Could you please give me a brief detail of your answer?

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4. Some CSOs claim that the 90/10 funding scheme for Ethiopian charities is not feasible given the economic status of Ethiopia as a result many CSOs especially those who work in human rights, child rights, gender have been made out of the market. What do you say to that?

5. Some CSOs and researchers in the area believe that the 90/10 fund raising scheme for Ethiopian charities came from the deep suspicion of the government on CSOs and it is against citizen's constitutional right and is very restrictive. What is your view to that claim?

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6. Do you believe that allowing all CSOs (Ethiopian, Ethiopian residence and Foreign) to participate in the political and civil life of a country diminishes state sovereignty?

Yes       No       I do not know

Please give a brief detail of your answer

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7. Some CSOs complain that 70/30 program vs. Administrative cost is vague and subject to misinterpretation and prone to subjectivity hence the decision varies from officer to officer. Have you received complaints? What is your view to these claims?

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8. Experiences of CSO laws in other countries examples including South Africa, Uganda and Kenya from which CSP 2009 has taken its inspiration do not put restriction of the amount of fund that CSO can secure from? Do you think in some near future the government of Ethiopia might revise the 90/10 fund raising scheme for Ethiopian resident Charities/societies? Why and why not?

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9. Again the laws in these countries example in neighboring Kenya persons (individuals or corporate entities) who give cash donations to eligible non-profit bodies are entitled to deduct 100 % of the donation from their gross income before arriving at their taxable income. Do you think the government of Ethiopia could apply the same especially to Ethiopian resident charities to boost their fund securing capacity?

Yes  No  I do not know

Please give a brief detail of your answer

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10. Is your agency or the government of Ethiopia getting feedbacks from the CSO community? Is it planning to respond to these feed backs in a positive way?

Yes  No  I do not know

Please give a brief detail for your answer

11. If there is one or two things that you would amend or terminate from CSP 2009 what would that be?

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12. Do you have any recommendations to the CSOs operating legally in Ethiopia?

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I am so grateful for you precious time and responses

Habtu

### **Annex 3: Interview questionnaires guide to ChSA**

The purpose of this questionnaire was to get data that were not captured in the questionnaires. The interview was conducted after the data from CSOs was collected this helped to get more clarity on the position of the government in response to some of the findings. This interview also got in-depth data that were not possible to get from the first interview and questionnaires. The researcher used open ended questions with more prom questions to get the desired data.

1. Does the Agency have a feedbacks receiving mechanism from the CSOs community? Could you briefly explain some instances you have changed or modified some practices as a result of the feedbacks?
2. How often do you get feedbacks in a formal way?
3. It is now 5 years since CSP 2009 was implemented or stipulated. Have you ever done any evaluation and research about its impact? Do you have a unit which does monitoring and evaluation?
4. If the government could fund its budget (50 % to 60 % from foreign source how do you think Ethiopian charities could raise 90 % or more of their annual budget from local source?
5. CSOs understanding of rights and development is not the same with government understands of rights and development because some developmental activities are
6. You allowed Ethiopian Charities to raise 90 % or more funds from local, Is there any limit where an individual can give and why do you demand the identity of the funder to be revealed?
7. In my interview with Ethiopian Resident NGOs. They did not choose to be Ethiopian Residents because the founders and all the workers for the most part are Ethiopians. They say their citizenship is ripped off because their source of funding is from a foreign source. If it were not for the CSP 2009 they would have remained as Ethiopian Charities/Societies. What is your view to that?
8. How about giving dual citizenship for the Ethiopian and even foreign NGOs?
9. Some people believe that Registration of CSOs should be conducted by independent authorities and not by the policy of a particular government. What is your view of that?
10. Budget allocation (70/30), most of my respondents and many research papers in that area said that government's definition of administration cost deviates hugely from the conventional definition. For instance, there was x organization which bought a heavy machine to dig water wells in Somalia regional state. As you may know in finance or accounting, the purchasing price, loading and unloading & related cost specific to that machine is part of the cost of the machine-a program cost but that organization was not allowed to portray it as a program cost only the purchasing price was considered as a program cost and that NOGO could not meet the requirement of 70/30? What is your view of that?
11. Well it could be true but I can assure you that there is a general biasedness towards NGOs. Let me share with you just one out of the money stories about NGOs, there was a famous preacher responding to a certain complaints about the salary of certain pastor, he said what is 70,000 salary a month for a pastor who ministered for 50 years, he needs more, a guard in NGO gets a salary of 100,000

per month. I shared this with you because it is public on you tube. So, not every allegation is valid & you need to verify it. I believe you have their financial reports in your office & did you find that a guard is paid that amount? Don't you think there should be a system to verify allegations?

12. Another concern raised by some respondents is that the government of Ethiopia or the proclamation does not have a clear working modality for foreign or International NGOs working with implementers. Do you have a clear working relationship or partnership between International NGOs /donors residing with offices in Ethiopia and implementers?
13. Some claim that ChSA pressures even legally registered, certified and licensed Auditors to meet CHSA requirements during audit. What is your response to that?
14. Does the government have any future intentions of tax provisions for corporate and individual donors to Charities to encourage local resource mobilization?

I am very grateful about your precious time and your endurance with me.