



**ADDIS ABABA UNIVERSITY  
COLLEGE OF LAW AND GOVERNANCE STUDIES  
SCHOOL OF LAW**

**Exploring the Use and Challenges of the Right to Peaceful Assembly as a Tool for Human Rights Advocacy by Civil Society Organizations (CSOs) Based in Addis Ababa**

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## Declaration

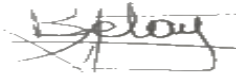
I, **Eyerusalem Belay Tulu** declare that this work is original and has not been presented in any other institution before, to the best of my knowledge and belief. I also declare that any information used here has been duly acknowledged and cited.

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I, **Belaynesh Tefera (Ph.D)**, have read this thesis and approved it for examination.

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September, 2024

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We never got to say goodbye but you are truly missed!

## **Abstract**

The right of peaceful assembly is a fundamental human right that is protected under international treaties and conventions such as the UDHR, and ICCPR and protected nationally under Article 31 of the FRDE Constitution. This right is important on its own as it protects the ability of people to share their thoughts and concerns but a valuable tool that is also used to protect and advocate for a wide range of other human rights. This research investigates the use of this right as a human rights advocacy tool by civil society organizations (CSOs) that work on human rights in Addis Ababa and the possible legal and institutional challenges faced by CSOs in the exercise of this right. In investigating this research problem, this study followed both doctrinal legal research methods that collected and analyzed exiting legal frameworks internationally and nationally as well as empirical data that was collected through qualitative interviews with members and leaders of civil society organizations in Addis Ababa working on human rights advocacy. The study found an almost non-existence practice of using peaceful assemblies by CSOs interviewed owing to frequent rejection and long bureaucratic chains for notice applications for assemblies, lack of clarity on the application procedures and appropriate mandates for the decision-making government body, and fear of illegal arrest or other human right violations for conducting such assemblies. The study also found gaps in Proclamation no 3/1991, the proclamation that governs public assemblies in Ethiopia including vague and wide-sweeping discretion to deny requests, lack of appeal or review systems for the decision on application, scarce protection for the human rights of participants during peaceful assemblies, lack of regulation for spontaneous and counter assemblies and a de-facto authorization regime despite the notification regime set up by law for peaceful assemblies in Ethiopia. The culmination of the above legal and practical challenges has collectively contributed to the poor use of peaceful assemblies as human rights advocacy tools within CSOs studied.

## **Acronyms**

- ACHPR: African Charter on Human and People's Rights
- ACSO: Authority for Civil Society Organizations
- CSRC: Civil Society Resource Center
- CSO: Civil Society Organization
- ECHR: European Court of Human Rights
- EHRCO: Ethiopian Human Rights Council
- EHRDC: Ethiopian Human Rights Defenders Center
- FDRE: Federal Democratic Republic of Ethiopia
- ICCPR: International Covenant on Civil and Political Rights
- OHCHR: Office of the United Nations High Commissioner for Human Rights
- UDHR: Universal Declaration of Human Rights

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# Chapter One: Introduction

## 1.1 Background of the Study

Peaceful assemblies have long been crucial tools in bringing together wide masses for a common cause both historically as one can see from the likes of the United States Civil Rights Movement, the Salt March, the Suffrage Parade, the Estonian Signing Revolution, and the more recent protests such as the Black Lives Matter, the Pension Reform Bill Protests in France and ongoing Israel-Hamas war protests across the world.<sup>1</sup>

While the right to peaceful assembly can and has been utilized to mobilize for political, economic, and social causes it is also used for human rights advocacy, Amnesty International calls peaceful protests “a way to speak truth to power.”<sup>2</sup> General Comment 37 on Article 21 of the ICCPR (Right to Peaceful Assembly) also provides that the fundamental human right to peaceful assembly is “a valuable tool that can and has been used to recognize and realize a wide range of other rights, including economic, social and cultural rights.”<sup>3</sup> The exercise of this right to peaceful assembly has likewise been described by the European Court of Human Rights as a “fundamental right in a democratic society and, like the right to freedom of expression, is one of the foundations of such a society.”<sup>4</sup>

Similarly in linking the right to peaceful assemblies to advocacy activities of civil society organizations, the United Nations Handbook for Civil Society acknowledges the transformative

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<sup>1</sup> More on these protests can be found via the following resources:

<https://westportlibrary.libguides.com/CivilRightsMovement> (Accessed: 21 December 2023).

<https://thenonviolenceproject.wisc.edu/2021/08/19/salt-march/> (Accessed: 21 December

2023)<https://sos.oregon.gov/archives/exhibits/suffrage/Pages/events/procession.aspx> (Accessed: 21 December

2023)<https://www.nonviolent-conflict.org/estonias> (Accessed: 21 December 2023).

<https://www.britannica.com/topic/Black-Lives-Matter/Subsequent-protests-George-Floyd-Ahmaud-Arbery-and-Breonna-Taylor> (Accessed: 21 December 2023).

<https://time.com/6263754/amidprotests-france-pushes-through-bill-to-raise-retirement-age-without-parliamentary-vote/> (Accessed: 21 December 2023).

<sup>2</sup> *Protest is an invaluable way to speak truth to power.* (2023) Amnesty International. Available at:

<https://www.amnesty.org/en/what-we-do/freedom-of-expression/protest/> (Accessed: 21 December 2023).

<sup>3</sup> General Comment No. 37 on Article 21 of the International Covenant on Civil and Political Rights – Right of peaceful assembly

<sup>4</sup> European Court of Human Rights, CASE OF DJAVIT AN v. TURKEY (2003).

power of civil societies in the advocacy and functionality of human rights.<sup>5</sup> This broad supporting framework for CSO operations and activities is supported by key national legislations including Proclamation No.1113/2019 which provides that civil societies shall have the right to engage in any lawful activity (*including peaceful assemblies*) to accomplish their objectives and further that CSOs can make necessary efforts to promote the rights and interests of its members.<sup>6</sup>

While the local civic society space has no doubt been reinvigorated following this 2019 legislation, this research aims to explore the use of the right to peaceful assembly as an important internationally, regionally, and nationally recognized tool for human rights advocacy within the context of civil society organizations based Addis Ababa.

## **1.2 Statement of the Problem**

As briefly mentioned in the background section, Ethiopian civil society organizations have been legally empowered to engage in human rights advocacy via various tools and activities one of which can be organizing and leading peaceful demonstrations. According to the FDRE Authority for Civil Society Organizations (ACSO), since its reorganization in 2019, the Authority has registered more than 4568 CSOs among those registered more than 1899 are re-registered CSOs; and the remaining more than 3669 are new CSOs.<sup>7</sup>

While this revived civic activity is welcomed after a decade of legal repression and slowing down of CSO activity in Ethiopia, the activities of these organizations as seen from a first glance seem to be limited to capacity-building and awareness raising and not so much use of peaceful public assemblies, in-person or virtually. This research paper has set out to explore legal frameworks that govern the right to peaceful assemblies in Ethiopia and the use and challenges of peaceful assemblies as tools for human rights advocacy within civil society organizations based in Addis Ababa.

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<sup>5</sup> *Working with the United Nations Human Rights Programme: A handbook for civil society* (2008). New York: Office of the United Nations High Commissioner for Human Rights.

<sup>6</sup> PROCLAMATION NO .1113/2019 ORGANIZATIONS OF CIVIL SOCIEITIES PROCLAMATION, Article 64: Freedom of Operations

<sup>7</sup> <https://acso.gov.et/en>

### **1.3 Objective of the Study**

The main objective of this study is to explore the practice of using peaceful assemblies as advocacy tools by human rights advocacy civil society organizations (CSOs) in Addis Ababa, Ethiopia.

Specific objectives include:

- Understanding and analyzing the legal frameworks that govern human rights advocacy of civic society organizations and the exercise of the right to peaceful demonstration in Ethiopia.
- Understanding and analyzing the gaps in national legal frameworks that govern the right to peaceful assemblies.
- Understanding the institutional challenges faced by CSOs in Addis Ababa in utilizing peaceful demonstrations as tools for human rights advocacy.

### **1.4 Research Questions**

This research paper will address the following research questions:

1. What are the existing international and national legal frameworks that govern the right to peaceful assembly as well as human rights advocacy of civil society organizations?
2. What are some of the legal gaps and challenges civil society organizations in Addis Ababa have faced in utilizing peaceful assemblies as tools for human rights advocacy?
3. Is there an existing and wide spread practice of using peaceful assemblies as a tool for human rights advocacy within civil society organizations in Addis Ababa?

### **1.5 Literature Review**

This sub-section is limited to outlining key findings from the literature reviewed focusing on outlining existing literature and gaps while broader discussions from the literature review are included in the doctrinal analysis section of this paper under Chapters Two and Three.

The researcher could not find literature particularly addressing the topic of **Exploring the Use and Challenges of Utilizing the Right to Peaceful Assembly as a Tool for Human Rights Advocacy by Civil Society Organizations Based in Addis Ababa**. However, the researcher has investigated international and national studies and publications that have addressed the legal frameworks that govern the right to public demonstration, civic society human rights advocacy

as well as national studies that have addressed the practice of public demonstrations in Ethiopia that have been relevant to the development of this thesis.

### **International Literature and Case Laws on the Importance of Right to Peaceful Assemblies for Human Rights Advocacy**

One can find multiple international publications and resources on the importance of the right to peaceful assembly itself and its usefulness for human rights advocacy and social movements in general. Notable literature includes General Comment 37 and commentaries on the General Comment, Guidelines for peaceful assemblies developed by human rights institutions, reports by major human rights organizations such as Amnesty International and Human Rights Watch, reports by the Special Rapporteur on the rights to freedom of peaceful assembly and of association and journal articles on the sources of right to freedom of peaceful assembly, the right to freedom of peaceful assembly in the digital environment of society and the role of civil societies in human rights advocacy.<sup>8</sup> Such international studies highlight the key role of the right to freedom of peaceful assembly and civil society in “acting as mediums of civic and political expression and serve as a bridge between communities and authorities.”<sup>9</sup>

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<sup>8</sup> The mentioned literatures are:

(1) General Comment No. 37 on Article 21 of the International Covenant on Civil and Political Rights – Right of peaceful assembly (2) Comments on the Human Rights Committee’s Revised Draft General Comment No. 37 on Article 21 (Right of Peaceful Assembly) of the International Covenant on Civil and Political Rights BONAVERO REPORT NO. 2/2020 21 FEBRUARY 2020 (3) Guidelines on freedom of Peaceful assembly: Second edition OSCE. Available at: <https://www.osce.org/odihr/73405> (4) Amnesty International: Protect the Protest <https://www.amnesty.org/en/what-we-do/freedom-of-expression/protest/> (5) Human Rights Watch: WORLD REPORT 2024, 2023, 2022 <https://www.hrw.org/world-report/2024> (6) The report of the Special Rapporteur on the rights to freedom of peaceful assembly and of association A/78/246 , Clément Nyaletsossi Voule, submitted in accordance with Human Rights Council resolutions 15/21, 32/32, 41/12 and 50/17. <https://www.ohchr.org/en/documents/thematic-reports/a78246-importance-rights-freedom-peaceful-assembly-and-association> (7) M. A. Sambor (2019) ‘Sources of right to freedom of peaceful assembly’ Law and Safety 75(4):13-23 DOI: 10.32631/pb.2019.4.01 (8) Tali Hatuka (2022) ‘Public space and public rituals: Engagement and protest in the digital age’ Urban Studies · May 2022 DOI: 10.1177/00420980221089770 (9) Vinod Prakash Gupta (2011) ‘ROLE OF CIVIL SOCIETY AND HUMAN RIGHTS’ The Indian Journal of Political Science Vol. 72, No. 2 (April - June, 2011), pp. 363-375 (13 pages)

<sup>9</sup>A/78/246 The report of the Special Rapporteur on the rights to freedom of peaceful assembly and of association available at <https://www.ohchr.org/en/documents/thematic-reports/a78246-importance-rights-freedom-peaceful-assembly-and-association> Paragraph 9

Further, the UN Human Rights Council underlines that “respect for the rights to freedom of peaceful assembly contributes to addressing and resolving challenges and problems that are important to society, including the realization of all human rights.”<sup>10</sup>

There is also a “growing jurisprudence of case law including decisions from the European Court of Human Rights, Inter-American Court of Human Rights and African Commission of Human and Peoples’ Rights on the issue of peaceful protests”.<sup>11</sup> Some notable cases include *Ibragimova v. Russia* (2022) where the European Court of Human Rights found the law prohibiting demonstrators from hiding their face during protests as a blanket and undue restriction on manner of assemblies. Similarly in *Kablis v. Russia* (2019), the court found the general ban on holding a demonstration in the city’s public square and ordering the removal of online posts as undue limitation on the place and manner of peaceful assemblies. In *Williams v. Zimbabwe* (2021), the African Commission of Human and People’s Rights found the government of Zimbabwe responsible for violating the human rights of protests that were harassed, intimidated, threatened, arbitrarily arrested, and prevented from engaging in public demonstrations and peaceful protests.<sup>12</sup>

These and other case laws in conjunction with General Comment 37 provide a legal framework for the understanding, exercising, and protection of the right to peaceful assemblies.

International literature also acknowledges civil society organizations as having a role in promoting the realization of all human rights and as key partners in the United Nations human rights system.<sup>13</sup> And lastly, more recent studies also assess the use of digital media especially in the post-covid 19 world as platforms for public protests by various actors including civil societies, and what that means for the protection and enjoyment of the right as it translates into online mediums.<sup>14</sup>

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<sup>10</sup> ID paragraph 9

<sup>11</sup> SPECIAL COLLECTION OF THE CASE LAW ON FREEDOM OF EXPRESSION, Global Freedom of Expression, Columbia University June 2023

<sup>12</sup> Id, Page 22, 23, 24 and 38

<sup>13</sup> Vinod Prakash Gupta (2011) ‘*ROLE OF CIVIL SOCIETY AND HUMAN RIGHTS*’ The Indian Journal of Political Science Vol. 72, No. 2 (April - June, 2011), pp. 363-375 (13 pages)

<sup>14</sup> Tali Hatuka (2022) ‘*Public space and public rituals: Engagement and protest in the digital age*’ Urban Studies · May 2022 DOI: 10.1177/00420980221089770

## **Studies on Civil Societies and Human Rights Advocacy in Ethiopia**

While international studies on the subject matter were ample, this researcher to the best of her knowledge and research found limited studies within the Ethiopian context and virtually none that directly answered the question of the practice of using public assemblies by Ethiopian civil societies as tools for human rights advocacy. Noteworthy studies include a Report on the Assessment of Gaps and Needs of Human Rights CSOs in Ethiopia by the Civil Society Resource Center (2021) which provides a comprehensive history of human rights civic society organizations in Ethiopia, the legal frameworks that have governed the civic space including the 2009 and 2019 proclamations and more recent existence and operations of human rights civil society organizations in Ethiopia.<sup>15</sup>

This study which surveyed a total of 20 human rights civil society organizations post the 2019 legal reform found while awareness-raising and research and advocacy activities were the top two areas of engagement for the majority of human rights organizations, a majority of respondents lacked adequate knowledge of human rights, faced limited staffing capacity and didn't have sufficient understanding of the legal regime governing civil society organizations in Ethiopia.<sup>16</sup>

Another relevant study within the context of Ethiopia is Protection of the Right to Freedom of Assembly under Ethiopian Law: Gaps and the Way Forward by Tsega Andualem Gelaye which extensively analysis the legal regime that governs public protests in Ethiopia and the legal and procedural gaps that hinder the practical implementation and protection of the right.<sup>17</sup> There are also a few other studies on the legal frameworks that govern the operation of civil societies in Ethiopia that have been incorporated in this research but the available literature doesn't provide the full answer to the research question raised for this study.

As such, this present paper is different from the others that have been reviewed for the following two main reasons:

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<sup>15</sup> Report on the Assessment of Gaps and Needs of Human Rights CSOs in Ethiopia by the Civil Society Resource Center (2021) available online at <https://csrc-et.org/resources/>

<sup>16</sup> ID. Page 48

<sup>17</sup> Tsega Andualem Gelaye (2016) "Protection of the Right to Freedom of Assembly under Ethiopian Law: Gaps and the Way Forward" Mizan Law Review / Vol. 10 No. 2 DOI <http://dx.doi.org/10.4314/mlr.v10i2.2>

- Content and thematic focus: studies within the Ethiopian context are limited to either the practice and legal regulation of peaceful assemblies in Ethiopia or the legal and practical operations of human rights civil societies in Ethiopia but not combining the two in a way this research seeks to do so and answering the specific question of whether civil societies in Addis Ababa use peaceful assemblies as tools in their human rights advocacy work.
- Source of data: the studies within the Ethiopian context focused on doctrinal analysis and understanding the existing legal regime as well as comparative studies of other legal regimes. Some that did include empirical data limited their questions to their specific research interest. This present research while including sections on legal analysis of legal frameworks also includes primary data collected from civil society organizations in Addis Ababa that answer the specific research question of whether civil societies in Addis Ababa use peaceful assemblies as tools in their human rights advocacy work.

## 1.6 Research Methodology

Legal research can be defined as “a systematic finding” or “ascertaining of law/s” on the identified topic or as well as “an inquiry” into law to make advancements in the science of law.<sup>18</sup> This research paper falls under the domain of legal research in that it aims to ascertain the law through an analysis of legal frameworks, identifying the gaps and ambiguities of the law, and suggesting possible legal reforms.<sup>19</sup> Due to the nature of the topic at hand, which aims to assess both the legal and on-the-ground realities, this study follows a combination of doctrinal and empirical research methodologies.

Where one seeks to understand and employ “legal research methods”, it’s important to note that while other social sciences have established a fairly robust research methodology the same can’t be said for legal research methodologies, which then resulted in the current form of “hybrid” legal research methodology which combines analytical research that studies and analysis the

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<sup>18</sup> Vibhute , K. and Aynalem , F. (2009) *Legal Research Methods*-Page 22  
extension://efaidnbmnnnibpcajpcgclefindmkaj/https://chilot.files.wordpress.com/2011/06/legal-research-methods.pdf. Addis Ababa, Ethiopia.

<sup>19</sup> Id. page 33-Importance of Legal Research

“letter of the law” along with empirical (social) research methods.<sup>20</sup> Accordingly, this research follows a combination of doctrinal and non-doctrinal research design and methodology. This mixed methodology allows social and legal methods to work together to achieve a better understanding and application of the law.<sup>21</sup>

### 1.6.1 Data Collection and Analysis: Methods and Tools

The data for the doctrinal analysis sections of this research was primarily collected through desk research on various websites, and free research databases such as Research Gate, Academia, Google Scholars, and the Addis Ababa University Library. Primary data sources used include international laws and treaties, regional treaties and conventions, General Comments as a treaty body's interpretation of human rights, the Federal Democracy Republic of Ethiopia Constitution, and relevant national Proclamations.

The empirical data for this research was collected via qualitative data collection and analysis methods and tools. Given the nature of the research question and its attempt to understand a previously unexamined phenomenon and the lack of other supplementary research on the same topic qualitative methodology was selected as it is best suited “when the research question requires ‘factual data’ and for answering non-numerical questions of experience, opinion, and perspective from a participant’s point of view.”<sup>22</sup>

The data collection sample was selected based on the thematic and geographic guidelines of the research question “human rights civil society organizations operating in Addis Ababa” and further narrowed down via snowball sampling, a non-probability qualitative sampling method that “involve chains of relationships that allow for transitioning from one unit to another based on information or recommendations obtained from those units.”<sup>23</sup> This sampling method was selected for its flexibility and cost-effective nature given the time and cost limitations of the research and also as it is well as suited for the exploratory nature of the research question.

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<sup>20</sup> Id. Page 45-Legal Research Methodology

<sup>21</sup> Ibrahim Ali, S., Mohamed Yusoff, Z. and Amin Ayub, Z. (2017) “*Legal Research of Doctrinal and Non-Doctrinal*”, International Journal of Trend in Research and Development 4(1), pp. 493–495.

<sup>22</sup> Karin Hammarberg, Maggie Kirkman, Sheryl de Lacey (2016) “*Qualitative research methods: When to use them and how to judge them*” Human Reproduction 31(3) DOI: 10.1093/humrep/dev334

<sup>23</sup> Sławomir Pasikowski (2023) “*Snowball Sampling and Its Non-Trivial Nature*” Przegląd Badań Edukacyjnych Educational Studies Review ISSN 1895-4308 nr 36 (1/2022), s. 261–280 DOI: 10.12775/PBE.2023.030 page 108

However, the researcher also included 4 respondents from the total sample size of 10 selected through purposive sampling to mitigate sample bias and limitation of generalizability that can affect snowball sampling.<sup>24</sup>

Finally, the total sample size selected for this research was 10 interviewees who worked in leadership/managerial roles within human rights-focused civil societies in Addis Ababa. Determination of sample size in quality research is affected by multiple factors, including the research topic, questions the research must answer, research complexity, research population's structure and access thereto, resources and time at disposal, and as such there are no hard rules for how many units should be included in the research sample or universal numeric recommendations concerning the sample size.<sup>25</sup> As such, the researcher selected the present sample size based on time and resource limitations but also found the sample did reach sufficient data saturation.

Data was collected through semi-structured in-depth interviews that were conducted both in person and virtually via Zoom/Google Meet with the selected participants. Annex 1 attached at the end of this research provides a list of interview questions used as well as the ethical disclosure clause which was read to each interviewee at the beginning of the interview ensuring voluntary participation, informed consent, anonymity, and confidentiality.

Data analysis was done through thematic analysis of interview transcripts and inductive and deductive thematic coding, where a prior code was assigned from the themes of the interview questions and subsequent codes were allowed to emerge from the transcripts along the way.<sup>26</sup> Annex 2 attached at the end of this research provides a list of codes and themes used for analysis.

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<sup>24</sup> Daniela Rusu Mocănașu (2020) “*Determining the Sample Size in Qualitative Research*”, International Multidisciplinary Scientific Conference on the Dialogue between Sciences & Arts, Religion & Education December 2020 DOI: 10.26520/mcdsare.2020.4.181-187 Page 183

<sup>25</sup> Id

<sup>26</sup> Muhammad Naeem, Wilson Ozuem, Kerry Howell, and Silvia Ranfagni (2023) “*A Step-by-Step Process of Thematic Analysis to Develop a Conceptual Model in Qualitative Research*” International Journal of Qualitative Methods Volume 22: 1–18 DOI: 10.1177/16094069231205789

## **1.6.2 Ethical Considerations**

The researcher has followed the core principles of research ethics including voluntary participation, informed consent, anonymity, and confidentiality. All interviewees were notified of the research objective and questions and asked to provide informed consent before interviews were commenced and recorded, all interviewees remain anonymous in the presentation and discussion of findings and no minors were included in this study. And finally, all original interview recordings and transcripts have been kept confidential.

## **1.7 Scope of Study**

The scope of this study is limited to assessing the existing legal framework governing peaceful assemblies in Ethiopia and exploring the practice of the use of the right to peaceful assembly as a tool for human rights advocacy by civil society organizations in Addis Ababa, Ethiopia. The study engages in understanding and analyzing the legal and institutional challenges faced by civil society organizations in the use of this crucial right. The geographical focus of the study is further limited to Addis Ababa with only a focus on CSOs working on human rights advocacy.

## **1.8 Significance of Study**

This study is significant in that it aims to tie together two fundamental human rights i.e. right to freedom of association and the right to peaceful assembly as it explores the use of the later as a tool for human rights advocacy in the exercise of the former. In addition to analyzing the legal frameworks that govern both human rights, the study also includes empirical data from civil society organizations in Addis Ababa that will shed light on institutional and legal challenges faced in the exercises of the right to peaceful assembly by civil society organizations. By highlighting both legal and practical issues this study can serve as a reference for legal and institutional reforms and a reference for further investigation by other researchers and can be used by civil societies to reflect and enhance their human rights advocacy works by including peaceful assemblies in their toolbox.

## **1.9 Limitation of the Study**

The primary limitation faced by the researcher in the development of this study is one of time and resources. Any research undertaking requires dedicated time and resources to yield optimum results, but the researcher acknowledges she had limited time to work on this research paper as both a full-time employee and student which might have limited the amount of literature that could be assessed and included as well as the depth and quantity of data that could have been collected. The limitation of resources that could be dedicated to this research has also limited the sample size and amount of interviews that could have been conducted. The last limitation is one related to the lack of access to online journals, books, and repositories which in most cases require subscriptions and institutional affiliations, and as such the researcher had to primarily rely on free journals and databases to develop this study.

## **1.10 Organization of the Study**

The organization of this study is divided into six chapters:

### **Chapter One: Introduction**

Provides the introduction of the study including a brief background that provides the broader context of the study, an outline of the problem addressed, study objectives, an overview of the literature reviewed and literature gaps identified, selected research methodology including data collections, tools, and ethical considerations, the scope of the study, the significance of the study and its limitations.

### **Chapter Two: Analysis of International Legal Frameworks and Guidelines on the Right to Peaceful Assembly**

This second chapter lays out international legal frameworks and principles for the rest of the chapters and the presentation of empirical data. It outlines the international legal frameworks that govern the right to peaceful assembly including its definition, scope of protection, limitations and restrictions on its exercise, and state party obligations. It also presents some international principles and codes of conduct for peaceful assemblies which again frame the discussion for the consequent chapters.

### **Chapter Three: Analysis of National Legal Frameworks on the Right to Peaceful Assembly and Civil Society Human Rights Advocacy in Ethiopia**

This chapter will narrow down the scope to specifically present and analyze how the right to peaceful assembly is protected and exercised under Ethiopian law as well as how civil society organizations are regulated in their human rights advocacy in Ethiopia, It will review key national legislations including Proclamation No. 3/1991 for Peaceful Demonstration and Political Meeting and Proclamation No.1113/2019 Organization of Civil Societies Proclamation.

### **Chapter Four: Presentation of Findings from Data Collected- The Use of Peaceful Assemblies as a Tool for Human Rights Advocacy by Civil Society Organizations Based in Addis Ababa**

This chapter is dedicated to the presentation of findings from data collected from leaders of civil society organizations in Addis Ababa. After introducing the organizations included in this study and their broader human rights advocacy mandates, it presents an assessment of the knowledge of peaceful assemblies and understanding of the legal and procedural frameworks for peaceful assemblies by CSOs followed by an assessment of the practice of using peaceful assemblies as tools for human rights advocacy by CSOs interviewed.

### **Chapter Five: Analyzing the Legal Gaps and Implementation Challenges in the Use of Peaceful Assemblies as Tools for Human Rights Advocacy by CSOs**

This chapter ties together the discussions under the legal framework analysis section as well as findings from empirical data collected to highlight legal and practical gaps that exist in the day-to-day implementation and protection of the right to peaceful assemblies. It specifically outlines some of the key gaps in Proclamation no 3/1991 including gaps in the notification system, undue restriction of peaceful assemblies, lack of due processes for judicial and/or administrative reviews, and scarce human rights protection during peaceful assemblies and how these gaps have practically contributed to the weakened use of peaceful assemblies as advocacy tools by CSOs.

### **Chapter Six: Conclusion and Recommendation**

## Chapter Two: Analysis of International Legal Frameworks and Guidelines on the Right to Peaceful Assembly

### 2.1 Overview

The right to peaceful assembly is a fundamental human right that is included in major international and regional human rights instruments including, Article 20 of the Universal Declaration of Human Rights, Article 21 of the International Covenant on Civil and Political Rights, Article 11 of the European Convention on Human Rights, Article 25 of American Convention on Human Rights and Article 11 of the African Charter on Human and People's Rights.<sup>27</sup> And 90% of the world's constitutions have also incorporated this right (with or without restrictions) as well.<sup>28</sup>

These instruments all collectively acknowledge the right to peaceful assembly as a fundamental human right to be protected by the state and restricted under limited circumstances such as in instances of national security and public safety, protection of public health, protection of other human rights, and other instances as prescribed by law. The right is also interrelated and crucial to the exercise and protection of other cultural, economic, social, and political rights, the development of a democratic culture, and its exercise as an "indicator" for how a given country projects and promotes other human rights.<sup>29</sup>

In recognition of the importance of the protection and promotion of this right, the United Nations Human Rights Council adopted resolution 15/21 establishing the Special Rapporteur on the Rights to Freedom of Peaceful Assembly and of Association in 2010. The current mandate holder appointed in April 2024 is Ms. Gina Romero. The Special Rapporteur in the decade since

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<sup>27</sup> Universal Declaration of Human Rights <https://www.ohchr.org/en/human-rights/universal-declaration/translations/english>

International Covenant on Civil and Political Rights <https://www.ohchr.org/en/instruments-mechanisms/instruments/international-covenant-civil-and-political-rights>

European Convention on Human Rights, <https://www.echr.coe.int/european-convention-on-human-rights>

American Convention on Human Rights <https://www.oas.org/en/iachr/mandate/Basics/3.AMERICAN%20CONVENTION.pdf>

African Charter on Human and People's Rights [https://au.int/sites/default/files/treaties/36390-treaty-0011\\_-\\_african\\_charter\\_on\\_human\\_and\\_peoples\\_rights\\_e.pdf](https://au.int/sites/default/files/treaties/36390-treaty-0011_-_african_charter_on_human_and_peoples_rights_e.pdf)

<sup>28</sup> Comparative Constitutions Project-Freedom of Assembly, May 2008

<sup>29</sup> "Best practices related to the rights to freedom of peaceful assembly and of association", Special Rapporteur on freedom of peaceful assembly and of association, 2012

its establishment has engaged in in-country visits, urgent appeals, and press releases, annual reports to the Human Rights Council and General Assembly, thematic reports including addressing emerging issues throughout the years, and more recently the development of General Comment 37.<sup>30</sup>

The right to peaceful assembly has two components: “*Assemblies*” which means the “intentional and temporary presence of several individuals in a public or private place for a common expressive purpose that can be static or moving”. Assemblies can be organized for various purposes such as expressing oneself, conveying a position on a particular issue, or exchanging ideas. “*Peaceful*” as an assembly is said to be peaceful if its organizers have professed peaceful intentions and the conduct of the assembly is generally non-violent. It is an individual right that is exercised collectively as a “vehicle for the exercise of many other rights guaranteed under international law.”<sup>31</sup> Peaceful assemblies can include many types of gatherings including public protests, meetings, rallies, strikes, sit-ins, runs, flash mobs, marches, etc. happening offline and online.”<sup>32</sup> Both the African Commission on Human and People’s Rights and the Inter-American Commission on Human Rights recognize online assemblies and their protection under this right as well.<sup>33</sup> The UN Human Rights Committee acknowledges that peaceful demonstrations can and do cause disruptions in the normal way of life including blocking roads and disrupting traffic, disrupting government/public services and offices, strikes in the workplace which have economic impact, etc. Yet “whether these disruptions are intentional or unintentional doesn’t call into question the protection of the participants under this right”.<sup>34</sup>

Crucial to the protection and exercising of this right is the “obligation on state parties to respect and ensure its exercise without discrimination”<sup>35</sup> This duty of states includes an obligation not to interfere in assemblies, unlawfully prohibit assemblies, and protect the rights of participants. As

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<sup>30</sup> More on the mandate and work of the Special Rapporteur on Freedom of Peaceful Assembly and of Association can be accessed here: <https://www.ohchr.org/en/special-procedures/sr-freedom-of-assembly-and-association>

<sup>31</sup> OHCHR AND THE RIGHT OF PEACEFUL ASSEMBLY | OHCHR, <https://www.ohchr.org/en/peaceful-assembly> (last visited Dec 28, 2023).

<sup>32</sup> Id 26

<sup>33</sup> SPECIAL COLLECTION OF THE CASE LAW ON FREEDOM OF EXPRESSION, Global Freedom of Expression, Columbia University June 2023 page 11

<sup>34</sup> Id 3 page 2

<sup>35</sup> Id 3 page 2

such, the duty of state parties is both active and passive. Likewise, the exercise of this right encompasses both procedural and substantive matters with non-uniform implementation and protections across various countries.

More on the substantive and procedural elements of this right such as scope of protection, grounds for limitation, and some accepted guidelines for the conduct of assemblies is provided in the sub-sections below.

## **2.2 Analysis of the Right to Peaceful Assemblies as Elaborated Under General Comment 37**

General Comment No. 37 on Article 21 of the International Covenant on Civil and Political Rights was adopted in July 2020 by the UN Human Rights Committee. It provides detailed guidelines on the interpretation of the right, its scope, state obligations in the protection of the right, use of force, and conduct of police during assemblies, etc., and serves as a crucial instrument in better understanding the right and its exercise.

### **2.2.1 The Peaceful Nature of Assemblies**

In defining what is meant by the right to peaceful assemblies and what types of gatherings are protected under this right, General Comment 37 highlights the “non-violent” or “peaceful” aspect of this right as particularly crucial. An assembly is said to be violent when there is use of physical force by participants against others that is “likely to result in injury or death, or serious property damage.” The possession by participants of certain objects such as gas masks or helmets and firearms by itself also doesn’t necessarily mean their actions are violent but rather each instance is to be evaluated based on national laws that regulate firearms and local culture on the use of weapons. Further, the pushing and shoving or disruption of vehicular or pedestrian movement or daily activities also do not amount to “violence” and such assemblies are still thus protected under the right to peaceful assembly.<sup>36</sup>

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<sup>36</sup> Paragraph 15 and 17, General Comment no 37 on Article 21 of the International Covenant on Civil and Political Rights available here: <https://www.undocs.org/Home/Mobile?FinalSymbol=CCPR%2FC%2FGC%2F37&Language=E&DeviceType=Desktop&LangRequested=False>

It's a tricky task of being able to determine if an assembly is peaceful or not, factors that create this complexity include how assemblies happen (spontaneously or planned), national limitations on the use of arms, and other external factors that turn initially peaceful assemblies into violent ones. General comment 37 provides the general assumption is the presumption in favor of considering assemblies to be peaceful and using if the acts of violence came from the participants or external parties as a test to see if the assembly is indeed peaceful or not. As such, the burden of proving acts of violence with credible evidence falls on the state parties in response to this general assumption. There is also case law that supports this general presumption such as the constitutional courts in Colombia and Uganda which have provided that as long as an assembly generally remains peaceful the fact that such assembly is disruptive, inconvenient, or has isolated incidents of violence doesn't make it violent.<sup>37</sup>

In practical terms, however, there may be instances within the assembly where part of the assembly group is protected under this right and others outside of the scope of protection depending on their actions. Further, important to also note that single instances of violent actions within the larger group don't deem the entire assembly as violent but rather the acts of violence should be widespread within the assembly.<sup>38</sup>

Peaceful assemblies and the protection given to peaceful assemblies cover a wide range of activities including forms of assemblies held online, those held in public and private spaces, stationary or moving, etc. General Comment 37 further notes that one-man assemblies, spontaneous assemblies (i.e. assemblies that happen impromptu without previous planning, organization, and notification to the relevant authorities), and counter-assemblies are all protected under this right.<sup>39</sup> Lastly, in respect to ascertaining the peaceful nature of assemblies, the carrying of firearms and other weapons in and of itself doesn't mean their actions are violent but rather each instance should be investigated by taking into account national laws and customs as well as intention for violent acts.<sup>40</sup>

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<sup>37</sup> Id at 33, Page 12

<sup>38</sup> Id at 36 Paragraph 17

<sup>39</sup> Paragraph 13 and 14, General Comment no 37 on Article 21 of the International Covenant on Civil and Political Rights available here:

<https://www.undocs.org/Home/Mobile?FinalSymbol=CCPR%2FC%2FGC%2F37&Language=E&DeviceType=Desktop&LangRequested=False>

<sup>40</sup> Id Paragraph 20

### 2.2.2 Obligation of State Parties

The protection of the right to peaceful assemblies primarily results in obligations on state parties. This duty on state parties is outlined in key international instruments including the UDHR, ICCPR, and African Charter on Human and Peoples' Rights. The primary obligation of state parties is to “*ensure and respect*”<sup>41</sup> thus implying both negative and positive obligations.

Looking at each obligation more closely, the first and most important state duty is removing undue limitations on the exercise of the right. This includes the non-prohibition and non-interference in peaceful assemblies this entails removing unjustified laws and institutional frameworks that make assemblies burdensome to hold including illegal arrest and detention of protesters before, during, and after protests. The second aspect of state duty is one related to creating an enabling environment for assemblies to take place. This includes the recognition of and protection of the right to peaceful assemblies in national laws, effective facilitation of assemblies by providing police protection and traffic redirection for protesters, providing adequate training and resources to government bodies involved in the decision-making and facilitation of assemblies, protecting protesters from acts of aggression by police and other third parties and also access to independent, transparent effective remedies, including judicial remedies in cases of violation. It’s also important to note state obligation isn’t only limited to the actual happening of the assemblies but also in the lead-up and immediate aftermath of assemblies.

### 2.2.3 Limitations and Restrictions

As mentioned in the previous section on state duties and obligations, states have the primary duty not to interfere in the conduct of peaceful assemblies unless in exceptional circumstances. Article 21 of the ICCPR sets the principle for limitations by providing that “*no restrictions may be placed on the exercise of this right other than those imposed in conformity with the law and which are necessary in a democratic society in the interests of national security or public*

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<sup>41</sup> Id Paragraph 21

*safety, public order (ordre public), the protection of public health or morals or the protection of the rights and freedoms of others.*<sup>42</sup>

General Comment 37 reiterates the Siracusa Principles on the Limitation and Derogation Provisions in the ICCPR by providing; that any limitation imposed on the right to peaceful assembly must be legal, necessary, and proportional.<sup>43</sup> All limitations imposed on the exercise of this right must interpreted narrowly and in favor of the right being protected, they must also be non-arbitrary and non-discriminatory, content-neutral, and without compromising the essence of the right itself but rather understood and implemented with a view of facilitating the exercise and enjoyment of the right.<sup>44</sup>

Limitations imposed by the state must first be imposed in conformity with the law (national or local legislations and administrative decisions) and such laws must be clear, precise, non-discriminatory, and reasonable.<sup>45</sup> Limitations and restrictions should also be “necessary in a democratic society”, this provision as provided under the ICCPR and interpreted by General Comment 37 as well as the Siracusa Principles on the Limitation and Derogation Provisions in the ICCPR shall mean the limitation is a proportionate response to a pressing social need, the protection of other human rights and upholding rule of law.

The ICCPR provides an exhaustive list of grounds for limitation which are “*the interests of national security; public safety; public order, the protection of public health or morals; or the protection of the rights and freedoms of others.*”<sup>46</sup> General Comment 37 under paragraphs 42-46 defines each of the above-listed grounds and outlines the need for a narrow interpretation and application of these grounds as grounds for limitation.

In regards to specific limitations related to the time, place, and manner of assemblies, such limitations should also not be unjustified including not placing time limitations on assemblies and allowing assemblies to take place at desired times, places, and for the desired frequency.

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<sup>42</sup> Article 21, International Covenant for Civil and Political Rights (ICCPR)

<sup>43</sup> Id at 28 Paragraph 36

<sup>44</sup> General Interpretative Principles Related to the Justification of Limitations, UN Commission on Human Rights, The Siracusa Principles on the Limitation and Derogation Provisions in the International Covenant on Civil and Political Rights, E/CN.4/1985/4, 28 September 1984, <https://www.refworld.org/legal/resolution/unchr/1984/en/57200>

<sup>45</sup> Id at 30 paragraph 39 and Id at 31

<sup>46</sup> Id at 29

Assemblies shall also not be limited to specific locations unless limitation on specific locations such as churches, schools, hospitals, government offices, etc. is justified based on the above parameters of necessity, legality, and proportionality. Protesters should also not be limited in how they would like to hold assemblies including how they dress, what posters, banners, colors, mottos, music, symbolisms, etc. they use unless again such limitation is justified on the grounds for limitations provided above.<sup>47</sup> And lastly, there must also be access to timely judicial and/or administrative remedies readily available to appeal/challenge undue limitations and restrictions imposed.

#### **2.2.4 Notification vs. Authorization**

The last key issue regarding the right to peaceful assemblies and its protection is a discussion on the difference between notification and authorization regimes in the exercise of the right to peaceful assemblies. According to paragraph 70 of General Comment 37, a notification regime is one where organizers of peaceful assemblies are required to **inform** relevant local authorities of their intention to hold such assembly which would allow the same to facilitate and assist in the conduct of the assembly. An authorization regime on the other hand is when organizers of assemblies must first obtain **permission/authorization** from the relevant authority including licenses/ permits etc. before they can legally hold assemblies.

General Comment 37 provides having to apply for “permission undercuts the idea of peaceful assemblies as a basic right” and thus supports a notification regime where organizers must merely notify and failure to do so doesn’t make assemblies illegal and outside the scope of protection provided for the right. Further, the lack of notification on the part of organizers including in cases of spontaneous assemblies as well as pre-planned assemblies still doesn’t remove the state's obligation to facilitate the assembly and to protect the participants.<sup>48</sup>

The requirements of a notification regime such as the minimum period for notification, method of communication, and details required for notification must be prescribed and clarified by relevant laws and regulations so that it is clearly known to the organizers and implemented consistently by relevant authorities. Administrative procedures and steps in a notification system

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<sup>47</sup> Id Paragraph 53-61

<sup>48</sup> Id Paragraph 70

should also be transparent and simple without creating an unnecessary bureaucracy that will in actuality turn notification systems into authorization systems.

## **2.3 Guidelines and Principles on the Conduct of Peaceful Assemblies**

This last section of the present chapter briefly outlines some international guidelines and principles that have been developed on the conduct of right to peaceful assemblies which provides practical recommendations to organizers, participants, and state parties on how the right is best protected and enjoyed.

### **2.3.1 Ten Principles for Proper Management of Assemblies by the United Nations Special Rapporteurs Maina Kiai and Christof Heyns (A/HRC/31/66)**

This checklist was published in 2016 based on a request by the Human Rights Council for Special Rapporteur on the rights to freedom of peaceful assembly and of association, Maina Kiai, and the Special Rapporteur on extrajudicial, summary or arbitrary executions, Christof Heyns, to prepare a joint report on the proper management of assemblies. It was developed in consultation with over 100 experts and more than 50 UN Member States and provides 10 key principles and a checklist that can be used to check a country's performance against the provided score sheet for proper management protests.<sup>49</sup>

**Principle 1: States shall respect and ensure all rights of persons participating in assemblies:** this principle outlines the need for a positive presumption in favor of holding assemblies, and having laws in place that protect assemblies including the conduct of police during assemblies.

**Principle 2: Every person has the inalienable right to take part in peaceful assemblies:** such includes the prohibition against undue state interfaces in the exercise of the right including onerous authorization requirements for organizers and protecting the rights of protesters during assemblies.

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<sup>49</sup> A step-by-step checklist for monitoring implementation of the practical recommendations on the management of assemblies report by United Nations Special Rapporteurs Maina Kiai and Christof Heyns (A/HRC/31/66) Published in September 2016 by the Special Rapporteur on the rights to freedom of peaceful assembly and of association. Available online at: <https://www.ohchr.org/en/documents/tools-and-resources/checklist-10-principles-proper-management-assemblies>

**Principle 3: Any restrictions imposed on peaceful assemblies shall comply with international human rights standards:** restrictions imposed by states must have a legitimate and formal basis in law must be proportional, and necessary and the onus of justifying a limitation rests with the authority.

**Principle 4: States shall facilitate the exercise of the right of peaceful assembly:** facilitation includes the responsibility to provide basic services, including traffic management, medical assistance, and clean-up services without cost to the organizers. Further, state protection against arbitrary arrest or detention.

**Principle 5: Force shall not be used unless strictly unavoidable, and if applied it must be done in accordance with human rights law:** use of force by law enforcement officials should be exceptional and must comply with the principles of necessity and proportionality. Firearms may be used only against an imminent threat either to protect life or to prevent life-threatening injuries and, there must be no other feasible option to address the threat to life.

**Principle 6: Every person shall enjoy the right to observe, monitor, and record assemblies:** individuals have the right to watch and record an assembly as well as get protection from the state during such participation.

**Principle 7: The collection of personal information in relation to an assembly must not interfere impermissibly with privacy or other rights:** this includes the public being notified when they are recorded during an assembly for privacy reasons and also notifying the collection of personal data and its use such as biometric information.

**Principle 8: Every person has the right to access information related to assemblies:** individuals should have easy and practical access to information related to assemblies including relevant regulations, protocols, registries, etc.

**Principle 9: Business enterprises have a responsibility to respect human rights in the context of assemblies:** this principle extends obligations to non-state actors such as businesses such as the obligation not to hinder assemblies that take place near business.

**Principle 10: The State and its organs shall be held accountable for their actions in relation to assemblies:** this last principle outlines the need for access to an independent and effective

judicial and administrative investigation and recourse in case of state and third-party violation in the protection and exercise of this right.

### **2.3.2 The Organization for Security and Cooperation in Europe: Guidelines of Freedom of Peaceful Assembly**

This guideline by the OSCE provides a practical toolkit for legislators and practitioners responsible for implementing laws related to the right to peaceful assemblies. It draws from national legislation in Europe and the case law of the European Court of Human Rights in the development of these guidelines.<sup>50</sup>

Some key guidelines provided include: (1) The presumption in favor of this right should be provided in a country's laws. (2) The responsibility of the state is to put in place adequate mechanisms and procedures to ensure that freedom is practically enjoyed and not subject to undue bureaucratic regulation. (3) The need for restrictions imposed on the right to peaceful assembly to be legal, proportional, and non-discriminatory. (4) The need for good administration on the part of the state including fair and transparent regulatory systems. (5) The liability of the regulatory authority including accountability for any failure – procedural or substantive – to do so.”<sup>51</sup>

Lastly, the guideline also provides organizers of peaceful assemblies should submit a notice of intent rather than a request for permission and such notification should be supportive and not onerous with prompt response to organizers, there should also be a review and appeal process to the decision of the regulator, the cost for providing adequate security of assemblies should be fully covered by the government funds and authorities should follow an overall human rights-based approach to policing assemblies.<sup>52</sup>

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<sup>50</sup> Guidelines on Freedom of Peaceful Assembly: Second Edition by Organization for Security and Co-operation in Europe, October 2010 <https://www.osce.org/odihr/73405>

<sup>51</sup> ID at 50; Guiding principles page 15-17

<sup>52</sup> ID at 50: Restrictions on Freedom of Assembly, Procedural Issues and Implementing Freedom of Peaceful Assembly Legislation pages 15-20

## **Chapter Three: Analysis of National Legal Frameworks on the Right to Peaceful Assembly and Civil Society Human Rights Advocacy in Ethiopia**

After the broad discussion on international legal frameworks and guidelines that protect the enjoyment and protection of the right to peaceful assembly in the previous chapter, this next chapter will narrow the scope to look at the right to peaceful assembly within Ethiopia's legal frameworks and how it relates to civic societies and their advocacy practices in Ethiopia.

### **3.1 The Right to Peaceful Assembly under Ethiopian Law**

#### **3.1.1 The FDRE Constitution**

The 1995 Federal Democratic Republic of Ethiopia Constitution includes the right to peaceful assembly under its Article 30 and provides that everyone has the right to assembly and peaceful demonstrations but also provides that such right might be limited including regulations on locations and routes for the protection of democratic rights, public morality and peace.<sup>53</sup> This inclusion in the current constitution is a new addition in contrast to previous constitutions (1931, 1955, and 1987) which paid little regard to the inclusion of human rights and international human rights obligations and treaties including the right to peaceful assemblies.<sup>54</sup>

It is, however, important to note that this right falls under the “ democratic rights sections ( article 29-44)” of the 1995 Constitution which makes a distinction between “human rights” and “democratic rights”. This distinction as understood from the preparatory notes of the constitution indicates the former group of rights is a set of rights granted by virtue of being a human while the latter is rights given to citizens only. As such, the right to peaceful assembly under the constitution is only granted to Ethiopian citizens. Such limitation is however in contradiction to the ICCPR as well as General Comment 37 which provides the right is granted to citizens and non-citizens alike and to be granted without discrimination.<sup>55</sup>

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<sup>53</sup> Article 30, 1995 Constitution of the Federal Democratic Republic of Ethiopia

<sup>54</sup> Adem Kassie Abebe (2011) ‘Human Rights Under the Ethiopian Constitution; a descriptive overview’ MIZAN LAW REVIEW Vol. 5 No.1, Spring 2011

<sup>55</sup> Id at 42

The Constitution also provides guidelines for limiting the exercises of this right including: *“regulations in the interest of public convenience relating to the location and the route of movement of demonstrators or, for the protection of democratic rights, public morality and peace during such a meeting or demonstration”* and a more sweeping limitation under sub-article 2 which provides that this right doesn’t exempt from liability under laws enacted to protect the well-being of the youth or the honor and reputation of individuals, and laws prohibiting any propaganda for war and any public expression of opinions intended to injure human dignity.”

As discussed in the previous chapter, limitations on the exercise of human rights and the right to peaceful assembly should meet the principles of legality, necessity, and proportionality. And accordingly, regarding the limitation placed under the Ethiopian Constitution while meeting the legality standard, this author is of the opinion the standards for necessity and proportionality aren’t sufficiently met as the limitation as the clause itself is general and open to subjective interpretation which may result in an undue limitation of the right. This view is shared by other authors who also provide that “the Constitution gives incomplete protection to the right, by failing to go beyond listing grounds of limiting it, without incorporating additional guarantees of preventing arbitrary restrictions such as necessity and proportionality explicitly.”<sup>56</sup>

The right to peaceful assemblies as provided under the Ethiopian constitution is derogable in cases of a state of emergency as per Article 93 of the Constitution and thus peaceful assemblies have been restricted during recent state of emergencies including the 2021-2022 state of emergency during the conflict between the Tigray Defense Force and the Ethiopian National Defense Force and in the 2023 state of emergency declared following conflict and instabilities in the Amhara regional state.<sup>57</sup> In a 2024 Joint Submission to the UN Universal Periodic Review Fourth Cycle of the UPR Working Group, a coalition of NGOs in Ethiopia reported that these frequent states of emergency and emergency command post restrictions have eroded the exercise

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<sup>56</sup> Tsega Andualem Gelaye (2016) “Protection of the Right to Freedom of Assembly under Ethiopian Law: Gaps and the Way Forward” *Mizan Law Review* / Vol. 10 No. 2 DOI <http://dx.doi.org/10.4314/mlr.v10i2.2>

<sup>57</sup> State of Emergency 5/14 in relation to armed conflict involving the Tigray People's Liberation Front (TPLF) in relation to the Tigray War and the Oromo Liberation Army (OLA) in relation to the Oromo conflict

of the right to peaceful assemblies as provided in the Constitution including imposing curfews, prohibit gatherings of any form and for any reason and illegal detentions of protestors.<sup>58</sup>

### **3.1.2 Proclamation No. 3/1991 for Peaceful Demonstration and Political Meeting**

The other relevant national legislation in regards to the right to peaceful assembly is Proclamation No. 3/1991 for Peaceful Demonstration and Political Meeting which predates the 1995 FRDE Constitution as it was enacted in 1991 during the transitional period. This brief proclamation defines a peaceful demonstration as “any public and orderly procession in which a group of people expresses their ideas through speeches, songs, etc. on a public square, street, or any place without carrying arms and without disturbing public peace.”<sup>59</sup> The Proclamation also provides for a “notice system” where organizers have to give written notice to the relevant authority containing the objective, place, time, duration of the assembly as well as the type of assistance required from the government for safety and security of the assembly.<sup>60</sup> The authority is required to notify in writing within 12 hours of submission if it deems the time and place of the meetings should be changed.<sup>61</sup> Lastly, the Proclamation provides a list of prohibited areas such as embassies, churches, mosques, marketplaces, etc. where such assemblies cannot be held.<sup>62</sup>

A detailed analysis of some of the gaps in this proclamation will be presented in Chapter 5 of this paper which ties together the findings from the empirical data collected with gaps in the existing legal framework and Chapter 4 will also present some of the practical challenges faced by civil society organizations during the implementation of this proclamation. But to briefly outline some key gaps in this proclamation for the purpose of this section: (1) This proclamation allows for authorities to postpone the assembly to another venue or time with concerns of safeguarding peace, and security or preventing the disruption of the day to day activities of the public giving

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<sup>58</sup> Federal Democratic Republic of Ethiopia Joint Submission to the UN Universal Periodic Review Fourth Cycle of the UPR Working Group. Submitted 8 April 2024 Submission by CIVICUS: World Alliance for Citizen Participation.

<sup>59</sup> Article 2, Proclamation No. 3/1991 for Peaceful Demonstration and Political Meeting

<sup>60</sup> Article 4 and 5, Proclamation No. 3/1991 for Peaceful Demonstration and Political Meeting

<sup>61</sup> Article 6, Proclamation No. 3/1991 for Peaceful Demonstration and Political Meeting

<sup>62</sup> Article 7, Proclamation No. 3/1991 for Peaceful Demonstration and Political Meeting

authorities wide powers. Such wide powers can be a partial explanation for the absence of a single demonstration in the Ethiopian capital between 2005-2013 and also cited as an explanation for the failure of the majority of assemblies after 2013.<sup>63</sup> (2) The proclamation doesn't include provisions where the decision of the authority to cancel or postpone assemblies can be appealed and/or reviewed (3) The proclamation has little reference to the protection of fundamental human rights during peaceful assemblies and police use of force, protection against arbitrary arrest, torture, etc. of participants. (4) The proclamation is silent on the regulation of spontaneous assemblies and counter assemblies. (5) The proclamation is silent on the use of firearms and conduct of police during assemblies and likewise silent on issues of facilitation and support by relevant government authorities for peaceful assemblies as part of the government's positive obligation in the exercise and enjoyment of the right (6) And lastly, the proclamation is also silent on the matter of assemblies conducted without prior notification but a reading of Article 482 of the Ethiopian Criminal Code provides that taking part in assemblies prohibited by law or authorities including people that make their land, house of premise to such assemblies criminally liable.<sup>64</sup>

In conclusion, the review of the existing legal frameworks that govern the implementation of the right to peaceful assemblies finds the FDRE Constitution lacks provisions that incorporate the positive obligation of the state to facilitate peaceful assemblies as well as sufficiently protect the human rights of protesters during peaceful assemblies. Similarly the other major legislation, Proclamations no. 3/1991 also has gaps mentioned above that give wide sweeping powers to authorities in the administration of the notification regime which has created a "de-facto authorization regime" which makes protest held without notifying authorities illegal in contrast to the notification regime that was theoretically set up the proclamation itself.<sup>65</sup> Lastly, the researcher notes the absence of supplementary legislation or guidelines/codes of conduct on the use of force and conduct of police when policing public assemblies as a major gap in the existing legal framework.

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<sup>63</sup> ID at 26 page 309-310

<sup>64</sup> Article 482, CRIMINAL CODE OF THE FEDERAL DEMOCRATIC REPUBLIC OF ETHIOPIA, 2005

<sup>65</sup> Tsega Andualem Gelaye (2016) "Protection of the Right to Freedom of Assembly under Ethiopian Law: Gaps and the Way Forward" Mizan Law Review / Vol. 10 No. 2 DOI <http://dx.doi.org/10.4314/mlr.v10i2.2>

### **3.2 Legal Frameworks Governing Civil Societies and their Human Advocacy Practices in Ethiopia**

The above sections have briefly presented the international and national legal frameworks that govern the protection and enjoyment of the right to peaceful assembly in Ethiopia, this last section of the present chapter will tie together the discussion above by analyzing the legal frameworks that govern civil society human right advocacy practices in Ethiopia in understanding the right to peaceful assembly as a tool for advocacy.

The right to freedom of association which encompasses the right to organize and operate civil society organizations is enshrined in the FDRE Constitution under Article 31. While the right has been constitutionally protected since 1995, civil society practices especially in human rights advocacy in Ethiopia is marked by low engagement and stifling legal repression. Prior to the 2009 Proclamation, there was “next to nothing in the Ethiopian legal system that directly addressed CSOs, irrespective of the fact that these organizations both formally and informally existed for over a century already.”<sup>66</sup>

In 2009, the much-criticized Charities and Societies Proclamation no. 621/2009 which was part of the government’s reactionary response to the post-2005 election public protests imposed restrictions on Ethiopian charities and societies that drastically changed the legal, institutional, and operational environment to the detriment of the civil society sector and laid the foundation for the weakened human rights advocacy civic space we have now.<sup>67</sup> A study by Kidan Dires Demissie provides the following three core rationales behind this proclamation: the first being a reactionary response to the post-2005 election where CSOs had played a key role in the democratic election process including engaging in public debate, providing voter education engaging in election observations etc., the second being the need to fill in the gaps in the accountability framework as the CSO space was virtually unregulated prior and the space was accused of corrupt fiscal management practices, and lastly it was in an effort to harmonize development efforts by considering CSOs as development partners and to protect the sovereignty

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<sup>66</sup> Kidan Dires Demissie, “*The 2009 and 2019 CSO Laws in Ethiopia: From Hinderance to Facilitator of CSO Activities?*” International Institute of Social Studies, December 2019 Page 16

<sup>67</sup> Report on the Assessment of Gaps and Needs of Human Rights CSOs in Ethiopia by the Civil Society Resource Center (2021) available online at <https://csrc-et.org/resources/> page 10

of the country by limiting foreign interference in the politics of the country through funding restrictions on CSOs.<sup>68</sup>

This 2009 proclamation included restrictions regarding, the source of funding for Ethiopian CSOs, the 70/30 rule which required all CSOs to allocate 70% of their budget to operational purposes and the remaining 30% to administrative activities without defining what costs fall under each category and thus resulted in strict and limiting interpretation by the regulator, limited the range advocacy of activities that could be carried out by CSOs, gave broad powers to the regulator including launching an investigation of records and suspension or cancelation of licenses and overall created a burdensome registration and operational CSO space which resulted in the closing down of existing human right CSOs or pushed CSOs to change their operational mandate and focus away from human rights, good governance and democratization.<sup>69</sup>

In 2019, after years of international and national criticism of this harsh law and as part of Prime Minister Abiy Ahemd's series of legal reforms, a new proclamation, Proclamation No. 1113/2019 was passed on February 5, 2019, which opened up the civic space for human rights advocacy. Proclamation No. 1113/2019 aimed to redress four core bottlenecks (1) funding source restrictions also called the 90/10 rule (2) limitations on scope of activities (3) lack of clear distinction between operational and administrative costs also called the 70/30 rule and (4) overbearing and intrusive power given to the regulator.<sup>70</sup>

Proclamation No. 1113/2019 provides that CSOs are required to allocate 80 percent of their budget to operational costs and the remaining 20 percent to administrative activities but unlike its predecessor, it provides a definition of what costs constitute administrative fees as those not related to the project activities of an organization but are necessary to ensure the continuity of an organization. Accordingly, administrative costs include salaries and benefits of administrative employees; purchase of consumables and fixed assets and repair and maintenance expenses related to administrative matters; office rent, parking fees, audit fees, advertisement expenses, bank service fees, fees for electricity, fax, water, and internet services; postal and printing

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<sup>68</sup> ID at 54 Page 16

<sup>69</sup> ID at page 7

<sup>70</sup> Id at 54 page 20

expenses; tax, purchase, and repair of vehicles for administrative purposes, and procurement of oil and lubricants for the same; insurance costs, penalties, and attorney fees.

The proclamation also lifts the classification of CSOs based on nationality and source of funding but instead provides a distinction between foreign and Ethiopian CSOs and provides both CSOs can engage in human rights advocacy with the limitation of engaging in voter education, lobbying, and election observation for foreign CSOs. The new proclamation establishes the Agency for Civil Societies Organizations Proclamation, now known as F.D.R.E Authority for Civil Society Organizations (ACSO) which oversees the regulation of CSOs including the registration, monitoring and supervision, and support of CSOs, and also acts as a liaison between CSOs and the rest of the federal government.

The proclamation further promotes the self-regulation of CSOs via the Council of Civil Society Organizations which consists of CSO representatives advising the ACSO on registration and administration processes, and otherwise representing the civil society sector. ACSO has since passed subsequent directives that govern specific aspects of CSO operations such as directives on administrative expenses, liquidators, procurement, sale and disposal of the assets of civil society organizations, income-generating activities, avoiding conflict of interest, and registration and administration of local CSOs.<sup>71</sup>

Following the 2019 proclamation, a wave of new civil society organizations including those dedicated to human rights advocacy flooded the Ethiopian civil society space some notable human rights organizations joined/rejoined the space including CEHRO, the Association of Human Rights in Ethiopia (AHRE), Coalition of Ethiopian Civil Society Organizations for Election (CECOE), Ethiopian Civil Society Forum (ECSF), the Inter-Africa Group (IAG), the Ethiopian Lawyers Association (ELA), Ethiopian Women Lawyers Association,(EWLA), Center for Advancement of Rights and Democracy (CARD), Ethiopian Human Right Council (EHRCO), CCRDA, NEWA, the Ethiopian Civic and Voters Education Actors and the Ethiopian National Disability Action Network (ENDAN).<sup>72</sup>

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<sup>71</sup> Full list of ACSO legislations can be found here: <https://acso.gov.et/en/legislation>

<sup>72</sup> Civil Societies Mapping Report Ethiopia, UN Women Ethiopia Country Office February 2020 available at <https://africa.unwomen.org/en/digital-library/publications/2020/02/publication-civil-societies-mapping-report-ethiopia>

While this reset and revival of human rights advocacy of civil society organizations in Ethiopia following the 2019 legal reform is commendable, it is important to note that many of these new human rights advocacy organizations have only been operational for no longer than five years, still face capacity limitations and also worth noting that there remains a significant difference between the number of CSOs registered and those actually in operation.<sup>73</sup>

Further, in particular relevance to this study, recent reports show that authorities have reverted to old tactics of repression against civil society especially around ongoing conflicts in northern Ethiopia. Including a warning against CSOs “working against Ethiopia's sovereignty and the public interest” with threats of revocation of licenses days after local CSOs released a statement calling for peace in Ethiopia and an end to the ongoing hostilities in parts of Afar, Amhara, and Tigray regions in 2022.<sup>74</sup> And more recently, the shutting down of at least 1,504 Civil Society Organizations (CSOs) for failing to submit their annual reports.<sup>75</sup>

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<sup>73</sup> ID page 31

<sup>74</sup> Federal Democratic Republic of Ethiopia Joint Submission to the UN Universal Periodic Review Fourth Cycle of the UPR Working Group. Submitted 8 April 2024 Submission by CIVICUS: World Alliance for Citizen Participation. Page 4

<sup>75</sup> Ethiopia: Massive crackdown on civil society organisations, International Federation for Human Rights July 2024 <https://www.fidh.org/en/region/Africa/ethiopia/ethiopia-massive-crackdown-on-civil-society-organisations>

## **Chapter Four Presentation of Findings from Data Collected: the Use of Peaceful Assemblies as a Tool for Human Rights Advocacy by Civil Society Organizations Based in Addis Ababa**

Previous chapters have provided an analysis of international and national legal frameworks governing the right to peaceful assemblies and operations of civil societies in Ethiopia. In this present chapter, the researcher will present findings from data collected from leaders and members of civil society organizations based in Addis Ababa on their respective experiences in using peaceful assemblies as tools for advocacy.

### **4.1 Broader Human Rights Advocacy Mandates and Practices within Civil Society Organizations in Addis Ababa**

Organizations interviewed for this study all engaged in human rights advocacy practices both as their day-to-day activities and also as part of their organizational mandates at a strategic level. Some of the organizations interviewed and their organizational mandates include:

#### **Ethiopian Human Rights Defenders Center (EHRDC)**

Established in 2019 and registered in 2020, EHRDC works to protect, build capacity, and advocate for human rights defenders in Ethiopia. EHRDC also hosts the Ethiopian Women Human Rights Defenders Network and Ethiopian Human Rights Defenders with Disabilities. EHRDC is mainly engaged in advocating for a free trial and, the rights of detainees and accused human rights defenders to be respected, conducts a quarterly assessment of human rights defenders' situation in Ethiopia, and lastly, also provides protection for human rights defenders at risk.

#### **Ethiopian Human Rights Council (EHRCO)**

EHRCO is perhaps one of the oldest human rights civil society organizations in Ethiopia having first been established on 10 October 1991 by Professor Mesfin Woldemariam and 31 other colleagues. EHRCO has a very long and rich history including periods of forced government closed down, arrests of members and staff, and following the 2019 law has re-registered and remains operational to date.

## **TIMARAN**

TIMRAN is an indigenous not-for-profit organization registered in March 2020, dedicated to advancing women’s participation in politics and public decision-making in Ethiopia regardless of their political opinion or party affiliation. TIMRAN engages in advocacy for increasing the number of women in decision-making roles and politics, round table discussions with different stakeholders quarterly on how to increase women’s political participation and decision-making and also works to organize annual regional and national conferences on Ethiopian women’s political participation and decision-making.

### **Civil Society Resource Organization (CSRC)**

The CSRC was set up in August 2019 as a knowledge hub for CSOs, where information, research, technical support, and assistance will be available to emerging CSO actors in Ethiopia. CSRC runs a state-of-the-art facility for existing and emerging CSO actors and aims at a number of activities, including institutional capacity-building, advocacy, and action-oriented research on the freedom of association and civil society sector.

Other organizations that also preferred to remain anonymous also included organizations that work on building the capacity of local CSOs to promote the respect of human rights, specifically political rights (the right to vote and be elected), and support university students in cultivating the culture of dialogue and peaceful resolution of disputes on campus and in their communities. A majority of the organizations interviewed were registered following the 2019 law and consider themselves as still new and “learning the ropes “of CSO operations in Ethiopia.

Advocacy can be understood as “a set of organized actions aimed at influencing public policies, social attitudes, or political processes” and human rights advocacy can include various activities such as “public education and awareness creation, media and social media engagements, legislative and government lobbying, etc.”<sup>76</sup>

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<sup>76</sup> Advocates for Human Rights, Chapter Seven: Page 97 and 98 available online at [chrome-extension://efaidnbmnnnibpcajpcglclefindmkaj/https://www.theadvocatesforhumanrights.org/Res/ch\\_7\\_2.pdf](chrome-extension://efaidnbmnnnibpcajpcglclefindmkaj/https://www.theadvocatesforhumanrights.org/Res/ch_7_2.pdf)

Accordingly, all of the organizations interviewed engaged in “human rights advocacy” on various human rights of interest to their particular organizations, some examples of their advocacy activities include:<sup>77</sup>

- Social media campaigns and awareness-raising activities online on the rights of women, persons with disabilities, the right to freedom of association, and political participation.
- Advocacy meetings with government officials for policy changes as well as providing policy analysis ensuring human rights government policies.
- Grass root mobilization of human rights defenders to know and advocate for their human rights and collaboration with AU and EU human rights reporting systems.
- Advocacy training to new CSOs joining the space and engaging these organizations in online advocacy campaigns such as a campaign to collect and compile comments and reviews on the draft disability rights proclamation and share the same with the Ministry, advocating for accessibility of buildings in Addis Ababa for persons with disabilities, a documentary on Indigenous peacebuilding practice in Ethiopia.
- Consistent and continued human rights monitoring, investigation, and reporting on human rights violations across Ethiopia for the last three decades.
- Position statements and expectations for participation of women in the national dialogue, and training for women and political party leaders.

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<sup>77</sup> Some of the advocacy works of these organizations can be accessed via the links below:

<https://africasacountry.com/2020/07/what-she-wore>  
<https://youtu.be/19WXl8ivH3s?si=3nMy-Vx2kgF4lk-->  
<https://www.facebook.com/share/p/YM1qmkEJDCUfMNQu/?mibextid=WC7FNe>  
<https://www.facebook.com/share/v/RoVEts3hrARwyR38/?mibextid=WC7FNe>  
<https://www.facebook.com/share/v/EuqBLJnRsenit1D8/?mibextid=WC7FNe>  
<https://www.facebook.com/share/p/ZpKzY6ALuGYuAa63/?mibextid=WC7FNe>  
<https://www.facebook.com/share/W2j4xFpwbZ1Pp199/?mibextid=WC7FNe>  
<https://www.facebook.com/share/p/om1ScRPviSVj2JUG/?mibextid=WC7FNe>  
<https://www.facebook.com/share/p/iuiXQzb3m7BXbS6P/?mibextid=WC7FNe>  
<https://timran-et.org/%e1%88%b4%e1%89%b6%e1%89%bd%e1%8a%95-%e1%89%a0%e1%88%9a%e1%88%98%e1%88%88%e1%8a%a8%e1%89%b5-%e1%8b%a8%e1%8a%a2%e1%89%b5%e1%8b%ae%e1%8c%b5%e1%8b%ab-%e1%88%9d%e1%88%ad%e1%8c%ab-%e1%88%95%e1%8c%8d/>  
<https://timran-et.org/%e1%88%81%e1%88%88%e1%8a%95%e1%89%b0%e1%8a%93%e1%8b%8a-%e1%8b%88%e1%89%85%e1%89%b3%e1%8b%8a-%e1%8b%a8%e1%88%b0%e1%89%a5%e1%8a%a0%e1%8b%8a-%e1%88%98%e1%89%a5%e1%89%b6%e1%89%bd-%e1%8c%8d%e1%88%9d/>

## **4.2 Assessing the Use of Peaceful Assemblies as Tools for Human Rights Advocacy by Civil Society Organizations in Addis Ababa**

### **4.2.1 Assessing the knowledge of peaceful assemblies and understanding of the legal and procedural frameworks for peaceful assemblies in Ethiopia by CSOs**

All interviewed organizations and leaders of organizations had knowledge of “the right to peaceful assemblies” as a constitutionally protected right and also as a tool for human rights advocacy as allowed under the 2019 CSO Proclamation. There was also no confusion on the right to freely operate in human rights advocacy including using peaceful assemblies as provided in the CSO proclamation and under the regulator ACSO. There was however a difference of answers regarding the knowledge of the existence and operation of Proclamation No. 3/1991 for Peaceful Demonstration and Political Meeting which governs the implementation of the right including the notification requirement.

While some interviewees knew of this law and criticized the same for being “*not well defined, old having been passed before the current Constitution and needing an update and other supporting regulations and directives*”, others did not know this proclamation existed but mainly referred to the right as protected under the Constitution.

Further, while most interviewees understood the existence and protection of the substantive right, every interviewee flagged “inconsistent, little or no understanding of the practical procedural implementation procedures and frameworks in the exercise of this right”. This includes not knowing which government office to notify and which government office makes the final decision, who to make appeals to in case of a rejection of an application. The same confusion also exists within government offices themselves, with one office telling CSOs to go to another office and then another office telling applicants to go to another office. Not only do CSOs not know the proper application procedure but the decision-making authorities themselves are also not clear on their respective mandates and pass off decisions to other offices which end up creating a long chain of bureaucracy.

Because procedures and organizational mandates are not clear, the exercise of the right to peaceful assembly by CSOs is non-uniform, when the researcher asked two organizations who

have successfully held peaceful assemblies the experience was different for each organization, the practice, procedure, and chain of bureaucracy each one followed was different.

#### **4.2.2 Assessing the practice of using peaceful assemblies as tools for human rights advocacy by CSOs**

When asked if there was a widespread practice of using peaceful assemblies as human rights advocacy tools by CSOs in Addis Ababa, the answer from interviewees was a resounding “no”. But not for lack of trying on the part of the CSOs, some experiences shared by interviewees include:

##### **Ethiopian Human Rights Defenders Council (EHRDC)**

*“In collaboration with other local CSOs EHRDC planned to conduct a peaceful assembly regarding CRSV a year ago. We communicated with the AA city administration and told us to communicate exhibition center since we were planning to organize the peaceful demonstration at Meskel Square. The exhibition center asked us to pay for using the place and there was a long back and forth which we eventually forced to cancel the event. We don’t have a paper trace or evidence to show they did not allow us to conduct the peaceful demonstration since they only communicated with us verbally”*

*The other occasion that can be mentioned here is the online press release we organized. Last year EHRDC in collaboration with other local CSOs wanted to call for peace and organized a peace release. Yet, the security forces hindered us and the journalists from entering the hotel to conduct the peace call press release. As a result, we managed the online peace call press release in which CSOs, journalists, and HRDs participated and the call widely circulated in the media afterward.”*

*“There was an attempt to organize a peaceful demonstration to advocate for the release of kidnapped students from Dembi Dollo University but frequent attempts were denied by the government.”*

## **Ethiopian Human Rights Council (EHRCO)**

*“EHRCO in partnership with other CSOs had attempted to set up a peaceful assembly and call for peace during the Tigray conflict but the attempt was shut down by the government including backlash and threats to close down CSOs.”*

*“The relevant administration including the security force has to permit such peaceful assembly to take place. Usually, the government body justifies they do not have adequate security force for such type of event or the timing does not allow them to permit the peaceful demonstration since the ongoing conflict tension in the country. Yet, some of the demonstrations we planned were to call for peace. In view of that, human rights advocacy CSOs in Addis Ababa do not utilize the peaceful demonstration as a tool of advocacy since the practice of government bodies treat even the requests as illegal”*

## **TIMRAN**

Out of the organizations interviewed, TIMRAN was the only organization that was able to secure approval and hold successful peaceful assemblies in Addis Ababa, Bahir Dar, Afar, and Benishangul-Gumuz regions. In sharing their experience the interviewee from TIMRAN states

*“Timarn has held peaceful walks for women in Benishangul-Gumuz, Afar, Addis Ababa, and Bahir Dar. The march in Benishangul-Gumuz was able to bring together two groups of women who had a long history of conflict and advocated for the same cause and received a letter of recognition from the regional government. The walk in Addis Ababa was held during the Tigary conflict under the motto ‘setwa selamin timra’ asking for a peaceful resolution to the conflict, protection of women’s rights during the conflict, and promoting women’s participation in the peace-building process including decision-making levels. For the march in Addis Ababa getting the licenses was a major challenge including not knowing who to go ask, and lengthy back and forth from different offices which ended up causing repeated delays the event was finally successful because TIMRAN was able to partner with the Ministry of Peace which helped ease some of the bureaucratic hurdles.”<sup>78</sup>*

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<sup>78</sup> Pictures and videos from these assemblies held by TIMRAN can be accessed via the links below <https://www.facebook.com/share/p/YM1qmkEJDCUfMNqu/?mibextid=WC7FNe>

## **Chapter Five: Analyzing the Legal Gaps and Implementation Challenges in the Use of Peaceful Assemblies as Tools for Human Rights Advocacy by CSOs**

As discussed in Chapter Three and also supported by data collected and presented by leaders of Ethiopian CSOs in Chapter Four, Proclamation no 3/ 1991, the proclamation that governs the exercise of peaceful assemblies in Ethiopia has many gaps which has contributed to the frustrations shared by CSOs interviewed for this study as well as frequent failed attempts at engaging in peaceful assemblies by CSOs.

This section will briefly analyze these legal gaps vis a vis the lived experiences of CSOs and how it has contributed to the poor use of peaceful assemblies as advocacy tools by CSOs.

### **5.1 The Notification System**

Proclamation No 3/1991 in line with the principles set out under the ICCPR and General Comment 37 sets up a notification system for the conduct of peaceful assemblies in Ethiopia. Article 4 of the Proclamation stipulates that organizers of assemblies have the obligation to give written notice in the 48 hours before the assembly takes place. A notice submission is expected to include the objective of the assembly, the place of conducting it routes it goes through, date, time, estimation of possible attendees, and finally, the kind of assistance expected from the city administration in the course of undertaking the assembly. Upon receipt of this notice, the Proclamation provides: that the relevant “municipal” or “*awraja* administration” has the responsibility to make preparations to maintain peace and security during the assembly or if the office is “of the opinion” that the assemblies should be held at another time and place should notify the applicant in writing within 12 hours of getting the submission including its reasons for such.<sup>79</sup>

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[https://m.facebook.com/story.php?story\\_fbid=pfbid02TE6BzHYh2QTUDwEmG41guPRs2oo46oVrVCdhRWJcqS6ysmLEuBWinXU5BWhYfGAcl&id=102413091293296&mibextid=WC7FNe](https://m.facebook.com/story.php?story_fbid=pfbid02TE6BzHYh2QTUDwEmG41guPRs2oo46oVrVCdhRWJcqS6ysmLEuBWinXU5BWhYfGAcl&id=102413091293296&mibextid=WC7FNe)

[https://www.facebook.com/story.php?story\\_fbid=775383377072724&id=102413091293296&mibextid=WC7FNe](https://www.facebook.com/story.php?story_fbid=775383377072724&id=102413091293296&mibextid=WC7FNe)

<https://www.facebook.com/share/p/ThiWP1R4gaxFZqnp/?mibextid=WC7FNe>

<https://www.facebook.com/share/p/6ytY5XpEDs7pErXj/?mibextid=WC7FNe>

<sup>79</sup> ID Article 6

There are a few legislative and practical implementation issues with this notification system as provided in the Proclamation:

(1) The first is the outdated reference to government bodies relevant to the submission of notification of assemblies. The Proclamation was adopted in 1991 before the coming into power of the current Constitution and hasn't been amended afterward to reflect the current governmental institutions and structures. This has led to practical issues when applicants submit notices the Proclamation provides it should be made to "*municipal*" or "*awarja administrative offices*" It is unclear what these offices would be in the current government structure both at Addis Ababa and in regional state levels and thus create the confusion interviewees often sighted as not knowing who to go submit the notice to and the same confusion on the part of government offices who accept this notice on who makes the final call on the application.

As one interviewee points out "There is a multi-layered, complex, and unclear bureaucracy that has resulted from such unclear institutional mandates." This lack of clarity on which government office to submit the notice to and who has the final say on the notice submitted is also the reason why notice of assemblies are passed from one office to another as cited by interviewees and decision-making often takes time and bureaucratic back and forth.

Not only has the Proclamation not been amended in the 33 years since its passing there have also not been any other supplementary legislations such as a regulation or a directive that further set down clear institutional mandates and substantive guidelines for its implementation. This lack of procedural clarity on how the notification system for peaceful assemblies is implemented is in clear contrast to General Comment 37 which provides notification procedures should be transparent, not unduly bureaucratic, and Guidelines on Freedom of Association and Assembly in Africa which likewise provides the need for simple, transparent procedures relating to the governance of associations and assemblies.

(2) Another gap in Ethiopia's notification system is that it operates as a de facto authorization system. A notification system is understood to mean one where "those who intend to organize a peaceful assembly must inform the authorities in advance and provide certain salient details as permissible to the extent necessary to assist the authorities in facilitating the smooth conduct of

peaceful assemblies and protecting the rights of others”<sup>80</sup> In a notification system failure to notify the authorities of an upcoming assembly, where required, does not render the act of participation in the assembly unlawful, and must not in itself be used as a basis for dispersing the assembly or arresting the participants or organizers, as opposed to an “authorization regime” which requires explicit permission from authorities and as such “undercuts the idea that peaceful assembly is a basic right.”<sup>81</sup> The way the notification system operates in Ethiopia is like an authorization regime where applicants ask for “permits” to hold such assemblies and can’t hold assemblies without such “permits” or face arrest and detention, which again contracts the principle set forth under General Comment 37 that provides that notification regimes, for their part, must not in practice function as authorization systems.

Lastly, there are also practical issues with how notices are received and responded to. While the proclamation provides authorities ought to provide a decision on the notice submitted within 12 hours, the reality as gathered from interviewees is that often authorities refuse to accept notices, redirect notices to other government offices, and even if notices are accepted authorities will take months to respond, not respond in writing or not respond at all in some cases. The data collected from interviewees and analyzed within the framework of international standards shows that Ethiopia’s notification regime lacks procedural clarity and is implemented in contrast to international standards and the intent of the Proclamation itself.

## **5.2 Wide Discretion Given to Authorities to Restrict Peaceful Assemblies**

The second gap in the Proclamation is that it gives wide discretion to the decision maker to cancel or postpone assemblies “where it is of the opinion”. This is in stark contrast to General Comment 37 which states “States should allow such assemblies to take place without unwarranted interference and to facilitate the exercise of the right and to protect the participants. And grounds for potential restrictions must be narrowly drawn.”<sup>82</sup> The proclamation doesn’t provide a list of grounds for prohibition but leaves the same for the “opinion” of the decision maker.

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<sup>80</sup> Paragraph 70, General Comment No. 37 on Article 21 of the International Covenant on Civil and Political Rights – Right of peaceful assembly

<sup>81</sup> Id at 66

<sup>82</sup> Paragraph 8. General Comment No. 37 on Article 21 of the International Covenant on Civil and Political Rights – Right of peaceful assembly

This wide discretion can be cited as why so many applications for assemblies are rejected as provided in the experience of the interviewees for this study. The Proclamation violates the Siracusa Principles which provides that limitations on human rights are only justified when they support a legitimate aim and are provided for by law, strictly necessary, proportionate, of limited duration, and subject to review against abusive applications.<sup>83</sup> Further, against the principles set out under Guidelines on Freedom of Association and Assembly in Africa which provides the law authorizing the registration authorities to reject applications, it must do so on the basis of a limited number of clear legal grounds, in compliance with regional and international human rights law.<sup>84</sup>

Such wide legal discretion given to authorities to restrict assemblies and its blanket application impairs the very essence of the right as shared from the experience of interviewees and it's used to discourage participation in assemblies. As one interviewee points out *“Because most requests are denied CSOs are discouraged and have shied away from it on to other much simpler advocacy tools.”*

The wide discretion to restrict public assemblies as provided under the proclamation is also contrary case laws including cases of Ibragimova v. Russia (2022), Kabilis v. Russia (2019) and Lashmankin v. Russia (2017) where the European Court of Human Rights has provided the actions of the Russian government in limiting prohibiting assemblies based on location, time or manner of protests as undue and contrary to the ICCPR.<sup>85</sup>

### **5.3 Lack of Due Processes for Judicial and/or Administrative Review**

The Third gap in this Proclamation is the apparent lack of an appeal system where the decision of the authority prohibiting assemblies can be appealed and/or reviewed leaving an unchecked broad set of powers on the part of the authority and in clear contract to paragraph 69 of General Comment 37 which provides “Recourse to courts or other tribunals to seek a remedy concerning

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<sup>83</sup> United Nations, Economic and Social Council, Siracusa Principles on the Limitation and Derogation Provisions in the International Covenant on Civil and Political Rights, U.N. Doc. E/CN.4/1985/4, Annex (1985).

<sup>84</sup> The Guidelines on Freedom of Association and Assembly of the African Commission on Human and Peoples' Rights, May 2017

<sup>85</sup> SPECIAL COLLECTION OF THE CASE LAW ON FREEDOM OF EXPRESSION, Global Freedom of Expression, Columbia University June 2023, Page 22 and 23

restrictions must be readily available, including the possibility of appeal or review. The timeliness and duration of such proceedings against restrictions on an assembly must not jeopardize the exercise of the right.”<sup>86</sup>

#### **5.4 Lack of Sufficient Human Rights Protections during Peaceful Assemblies and Policing Peaceful Assemblies**

The Fourth gap in this Proclamation is the scarce reference to the protection of fundamental human rights during peaceful assemblies and police use of force. Aside from a brief mention of the responsibilities of police officers to maintain peace during assemblies the Proclamation doesn’t provide details on the protection against arbitrary arrest, torture, etc. of participants. Paragraphs 74 and 78 of General Comment 37 provide that law enforcement agencies must respect and ensure the exercise of the fundamental rights of organizers and participants. They are obliged to exhaust non-violent means and to give prior warning if it becomes necessary to use force unless doing either would be manifestly ineffective. Any use of force must comply with the fundamental principles of legality, necessity, proportionality, precaution, and non-discrimination applicable to articles 6 and 7 of the ICCPR.<sup>87</sup>

These safeguards for human rights and guidelines on police conduct during assemblies are missing in the Proclamation as well as the FRDE Constitution itself as crucial to the protection of the right to peaceful assemblies. Hence, resulting in fear for their safety as well as fear of arrest and detention shared by interviewees. The state obligation to protect human rights during assemblies also includes the obligation on the part of police to only use the minimum force necessary where it is required for a legitimate law enforcement purpose. In the absence of legal safeguards, CSOs interviewed report facing threats of arrest and actual arrest and detention as well as brutal use of force by the police during assemblies.

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<sup>86</sup> ID 70 Paragraph 69

<sup>87</sup> ID 70 Paragraph 74 and 78

### **5.3 Lack of Regulation for Spontaneous Assemblies, One-man Assemblies, Counter-assemblies and Online Assemblies**

The current legal regime on peaceful assemblies in Ethiopia also leaves spontaneous assemblies, one-man assemblies, counter-assemblies, and assemblies taking place online unregulated. While the same are recognized as legitimate forms of peaceful assemblies and protected as such under international frameworks. Such a legal gap leaves the fate of these types of assemblies in the hands of authorities with the discretion to deem them illegal, ban them, or punish participants for taking part in them.

With online assemblies in particular, there is a current trend within CSOs interviewed to shy away from physical assemblies given the complexity of organizing and holding them as discussed above and moving assemblies to online platforms including online calls by a coalition of CSOs to end ongoing conflicts in Ethiopia, online calls asking for the release of abducted students and online calls against gender-based violence during conflicts by CSOs mentioned by interviewees under Chapter Four. However such online assemblies, without recognition and protection within the current legal framework that governs peaceful assemblies means CSOs, are met with hostility from the CSO regulator including threats of license revocation.

### **5.4 State Duty to Facilitate Peaceful Assemblies**

The current legal framework on the regulation of peaceful assemblies including the FDRE Constitution and Proclamation no 3/ 1991 is limited in terms of the positive obligation of the state to facilitate and promote the exercises of peaceful assemblies. Such positive obligations as provided under General Comment 37 and international guidelines include the obligation of states to create an overall enabling legal and institutional environment for exercises of the right to peaceful assemblies which includes adequate training and resources for officials making decisions on peaceful assemblies and police forces, state responsibility to provide basic services, including traffic management, medical assistance, and clean-up services without cost to the organizers, etc. This requirement on the part of governments to create an enabling framework is also included in the Guidelines on Freedom of Association and Assembly in Africa, which provides legal frameworks, put in place or other steps taken relative to the rights to freedom of

association and assembly shall have the primary purpose of enabling the exercise of the rights.<sup>88</sup> However, a close look at the FDRE Constitution and Proclamation no 3/ 1991 shows that these laws do not sufficiently incorporate such positive state obligations.

## 5.5 Broader Issues

In addition to the above-discussed legal gaps that have deterred human rights CSOs interviewed from using public assemblies as tools for advocacy, it is worthwhile to mention that the data collected for this research also found broader advocacy challenges within human rights CSOs in Addis Ababa which also contribute in part to the poor use of peaceful assemblies as tools for human rights advocacy.

These issues include limitations in the internal capacity of CSOs themselves including gaps in advocacy skills such as learning how to hold assemblies online as emerging platforms for peaceful assemblies, limited experience in planning and implementing in-person assemblies' and budgetary limitations. CSOs interviewed also flagged a recently growing hostile "human rights advocacy space" in general. CSOs now face stricter regulation in their advocacy activities from the government and the regulator ACSO which also contributes to the hesitation and fear of using peaceful assemblies as advocacy tools.

In conclusion, all the above gaps within Proclamation No./1991 itself and gaps in how authorities implement the proclamation as well as broader issues and limitations within the CSO advocacy space have collectively resulted in peaceful assemblies in Ethiopia being exercised contrary to the essence of the right as provided under the FRDE Constitution and international frameworks and standards. These gaps have contributed to the practical challenges interviewees provided in the previous chapter and the overall poor practice of using peaceful assemblies as advocacy tools by CSOs. As one interviewee put it *"The practice of using peaceful assemblies by CSOs in Ethiopia is a long, frustrating, and confusing process for both CSOs and the government officials."*

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<sup>88</sup> The Guidelines on Freedom of Association and Assembly of the African Commission on Human and Peoples' Rights, May 2017;

## **Chapter Six: Conclusion and Recommendation**

This research set out to explore the use of peaceful assemblies as an internationally, regionally, and nationally protected fundamental human right, as tools for human rights advocacy by civil society organizations in Addis Ababa. In doing so it combined doctrinal and empirical methodology to assess the existence of a widespread practice of using peaceful demonstrations as a tool for human rights advocacy within civil society organizations in Addis Ababa and further assesses the legal/institutional challenges civil societies organizations in Addis Ababa have faced in utilizing peaceful demonstrations as tools for human rights advocacy.

The study found while there is a general awareness among the participants of peaceful assemblies as a human rights advocacy tool, the practice is little to none and such was based on a culmination of factors including lack of legal clarity and confusion over institutional mandates, legal gaps in Proclamation no 3/1991 and an overall hostile human right advocacy environment.

The researcher concludes while the right to peaceful assembly is a constitutionally protected right under Ethiopian law and the legal framework for the operation of civil society organizations post-2019 has created an open space for human rights advocacy including advocacy via peaceful assemblies, Proclamation no 3/1991 has major gaps in its formulation and implementation that has stifled the exercise of the right and pushed CSOs working on human rights away from a wide-spread use of public assemblies in human rights advocacy.

Based on the findings of this research, the researcher makes the following recommendations that would allow for a more conducive legal and institutional environment for the widespread exercise of the right to peaceful assemblies by CSOs.

- A long overdue amendment to Proclamation no 3/1991 to include more clarity on grounds of denial, appeal, and review system of decisions, protection of fundamental human rights during peaceful assemblies, and clear institutional mandates.
- Put in place adequate guidelines and training of law enforcement officials on the use of force when policing public assemblies.
- Adopt best practices on freedom of peaceful assembly, as put forward by the 2012 report of the UN Special Rapporteur on the Rights to Freedom of Peaceful Assembly and of

Association, which calls for simple processes for the notification of assemblies being held rather than permission being required, and by General Comment No. 37 on the right to peaceful assembly adopted by the UN Human Rights Committee in 2020, and in line with the African Commission on Human and Peoples' Rights Guidelines on Freedom of Association and Assembly in Africa.

- And lastly, the introduction of regulations, directives, guidelines, and other supplementary legislations that set out clear practical implementation procedures including an easier notification regime, quicker response time, and overall clear guidelines and structures for both applicants and relevant government authorities in the exercises and protection of the right to peaceful assemblies.

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## **Annexes**

### **Annex 1: Interview Questions**

#### **Introduction and Ethical Disclosure**

First of all, thank you for agreeing to do this interview. Today's interview is going to be used as input for a research study that aims to investigate the practice of using peaceful demonstrations as advocacy tools by human rights advocacy civil society organizations (CSOs) in Addis Ababa, Ethiopia. This research is conducted in partial fulfillment of the requirements of Master of Laws (LLM) in Human Rights at Addis Ababa University School of Law. Your answers to the below questions will be recorded and used for the purposes of this research objective only and will be kept confidential.

#### **1. Introduction**

- 1.1 Please introduce your full name and your organization. Please indicate if you would like your organization and/or your name to remain anonymous in the discussion of findings.
- 1.2 How long have you worked at this organization?
- 1.3 How long has the organization been in operation for?
- 1.4 What is the area of human rights engagement your organization engages in and has engaged in the past?

#### **2. Human Rights Advocacy**

- 2.1 How does your organization broadly engage in human rights advocacy? Can you give us a practical example of successful advocacy engagements you have done?
- 2.2 What are the limitations and challenges you face when conducting human rights advocacy?

#### **3. Using Peaceful Assemblies as Tools for Human Rights Advocacy**

- 3.1 Are you aware that you can use peaceful assemblies as constitutionally protected rights as tools for human rights advocacy?
- 3.2 How well do you understand the legal and procedural frameworks that govern peaceful assemblies in Ethiopia?

- 3.3 Has your organization ever organized (online or in-person) peaceful assemblies to advocate for human rights? If so what was the experience like? How did it go? What challenges did you face?
- 3.4 Is there an existing and widespread practice of using peaceful demonstrations as a tool for human rights advocacy within civil society organizations in Addis Ababa? If the answer is no why do you think that is the case?
- 3.5 What are some legal/institutional challenges civil society organizations face in peaceful demonstrations as tools for human rights advocacy? And what can be done to improve the practice?

## **Annex 2: List of Codes and Themes Used for Data Analysis**

<p><b>Theme 1: Interviewee Details</b></p> <p>Code 1.1 Personal Details</p> <p>Code 1.2 Organizational Details</p>
<p><b>Theme 2: Human Rights Advocacy Engagement</b></p> <p>Code 2.1 Human rights advocacy activities</p> <p>Code 2.2 Human rights advocacy challenges</p>
<p><b>Theme 3: Peaceful Assemblies as Tools</b></p> <p>Code 3.1 Understanding Peaceful assemblies as tools for human rights advocacy</p> <p>Code 3.2 Practice of using peaceful assemblies as tools for human rights advocacy</p> <p>Code 3.3 Legal and institutional challenges to the use of peaceful assemblies as tools for human rights advocacy</p>
<p><b>Theme 4: Conclusion and Recommendation</b></p> <p>4.1 what can be done to improve the use of peaceful assemblies as tools for human rights advocacy by civil society organizations</p>