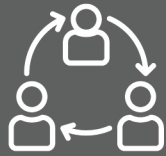


USERS' MANUAL ON ETHIOPIA'S CSO LAW



OCTOBER 2019



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FDRE AGENCY FOR CIVIL SOCIETY ORGANIZATIONS

Message from the Director General

Ethiopia has embarked upon a nationwide and ground-breaking reform that has positively affected the socio-economic and political status of the country in general and the Civil Society Sector in particular. As a manifestation of this commitment, the Government wasted no time to amend the Charities and Societies Law (No. 621/2019), which was considered by many as one of the repressive laws that Ethiopia had issued in the past decade.

Unlike its predecessor, the new Civil Society Organization Proclamation No. 1113/2019 was drafted by an independent experts' team of the newly established LJAAC (Legal and Justice Affairs Advisory Council) and had passed through various consultative workshops, which involved CSOs and other important stakeholders, before finally being enacted by the Ethiopian parliament in February 2019. The purpose of the law is primarily to provide protection to the freedom of association as enshrined under the FDRE Constitution and International Bill of Human Rights, open spaces for the CSO community to play a role in the nation's overall effort of bringing sustainable development, democratization and peace, and guarantee the Public is benefited by the activities of CSOs.

Following the enactment of the new CSO law, The Agency for Civil Society Organizations / ACSO/ has been making efforts to reform the sector by building constructive engagements with the CSO community while rendering efficient and effective services for the full realization of the new law. Furthermore, the Agency is working extensively on capacity building, system designing, directives and manual development as well as awareness creation. To this end the Agency has been working with many partners including the African Civil Leadership Program (ACLP). The Agency has signed a Memorandum of Understanding with ACLP to help implement the Agency's powers and functions. As part of this MoU, ACSO and ACLP have been working together to prepare this User Manual with the aim of guiding citizens, CSOs or other interested parties on the formation and running of a Civil Society organization in Ethiopia. In an effort to capture a larger and professionally diverse audience, the User Manual has been prepared in a simplified and user-friendly manner.

It is my strong belief that this Manual will supplement the efforts of creating a conducive environment for civil society organizations to engage in the development, democratization and peace building efforts of Ethiopia. I would like to take this opportunity to express my gratitude to ACLP for the technical and financial support made in developing this Manual.

Jima Dilbo
Director General, ACSO.

Disclaimer

The opinions expressed herein are those of the author and do not necessarily reflect the views of ACLP.

Acronyms

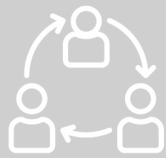
ACSO-Agency for Civil Society Organization

CSO- Civil Society Organizations

CSOP- Civil Society Organizations Proclamation No. 1113/2019

CSP- Charities and Societies Proclamation no. 621/2009

LJAAC-Legal and Justice Affairs Advisory Council



CHAPTER 1

INTRODUCTION

Chapter 1: Introduction

1.1. Why a New Legislative Framework?

Freedom of Association is one of the fundamental human rights guaranteed in the FDRE Constitution and international human rights instruments adopted by Ethiopia. Article 31 of the Constitution provides that citizens shall have the right to organize for any lawful cause, and the same is enshrined in international and regional conventions to which Ethiopia is a party. Civil Society Organizations (CSOs) are the principal manifestations of the exercise of freedom of Association. They are also useful vehicles for the protection and advancement of other human rights. The main purpose of any legislation designed to regulate this sector should therefore be creating an enabling environment for the establishment and operation of CSOs. This is also imperative given the role of civil society organizations as one of the main actors in bringing about sustainable development and democratization in Ethiopia.

In this regard, international standards and best practices require that laws designed to regulate CSOs shall aim at supporting and creating conducive environment for Civil Society organizations, rather than focusing on restrictions and penalties. The standards also require that the registration of CSOs shall be easy, expedient and transparent. The function of the regulatory agency shall be building capacity of CSOs and ensuring compliance with the law without too much intrusion in the internal affairs of the organizations. CSOs shall always have the right to appeal to court from decisions of the regulatory body. Moreover, CSOs shall be entitled to seek, access and utilize funding from any lawful source, and their founders/members shall be free to decide on the objectives the CSOs seek to accomplish.

However, the Charities and Societies Proclamation no. 621/2009 which was regulating the sector for the past 9 years significantly departed from the constitutional and international standards mentioned above both in letter and in spirit. In the first place, the law was premised on an artificial dichotomy between non-governmental organizations and civil society organizations. As stated repeatedly in the literature of the ruling party, CSOs were equated with mass based organizations such as women and youth associations, while all non-governmental organizations which received foreign funding were characterized as agents of foreign actors who have no local constituency and should therefore have no say on issues related to human rights, gender equality and governance. This ideological premise led to classification of CSOs into Ethiopian charities/societies and resident charities/societies, and the discriminatory treatment of the latter in terms of areas of operation, reporting requirements and the right of appeal to courts.

As a result, the law failed to meet international and constitutional standards in the following aspects. First, the law limited the freedom of persons to choose the objectives of CSOs they form by stipulating that CSOs can only be established to implement objectives enumerated under Article 14 of the Proclamation (although the constitution provides for freedom of association for any lawful cause).

Second, the law discriminated among CSOs by stipulating that CSOs working on development and service delivery can access foreign funding, while those working on human rights, gender equality, rights of disabled persons, rights of children, justice sector support as well as promotion of religious and ethnic tolerance were required to raise 90% or more of their funds from local sources. In addition to discriminating and curtailing freedom of association, this requirement also inhibited CSO work on human rights issues, and hence had an adverse effect on the protection of human rights in general and the rights of vulnerable groups in particular.

Third, in practice, the law forced development CSOs to abandon the rights based approach and limit themselves to service delivery, thereby impeding numerous initiatives by these CSOs to empower citizens by educating them about their rights. Due to the difficulty of raising funds from local sources (because of abject poverty and lack of culture of contributing for a cause, as well as fear of reprisal if one is found supporting human rights CSOs), the few human rights CSOs in the country either changed their mandates or had to operate at a very reduced scale.

Fourth, the CSP discriminated between CSOs by stipulating that only Ethiopian Charities and Societies have the right to appeal to court from the decisions of the Agency not to register, suspend or dissolve them. In effect, these meant that, although their freedom of association is violated, citizens can't appeal to court simply because their source of funding is foreign.

Fifth, the Directives issued by the Agency prohibited charities from networking with other like societies. Foreign and resident charities were not allowed to set up consortiums with Ethiopian charities. CSOs were also discouraged from forming networks because their contributions to networks are counted as administrative cost.

Sixth, the 70/30 directive, classified most program expenses as admin cost, and provided that the administrative costs of CSOs cannot exceed 30% of their budget. This restriction made it difficult for CSOs to retain staff, work in remote areas, commission research or organize training and research as expenses for these activities were classified as administrative and would make them unable to meet the restrictions in the Directive.

Seventh, the law stipulated that CSOs can engage in income generation only in areas which are related to their activities, thereby putting human rights CSOs at a disadvantage as their activities cannot be commercialized.

Finally, the law gave broad powers to the Charities and Societies Agency to suspend, dissolve and take other administrative actions on CSOs without sufficient safeguards against abuse.

For the above reasons, the law was decried as repressive by the international community, affecting Ethiopia's image globally.

Following the coming to power of a reformist leadership in Ethiopia in April 2018, the Government of Ethiopia announced its intentions to revise repressive laws, and establish the LJAAC-Legal and Justice Affairs Advisory Council to advise on revisions and changes in this regard. The CSO Law Reform Working Group was established by LJAAC, which conducted detailed diagnostic study of the CSP. The findings of the study found that the CSP fell below constitutional and international standards for the reasons mentioned above and others. It advised LJAAC that the CSP shall be replaced by a new law that facilitates the exercise of freedom of association by removing the restrictions on CSOs. Based on the advice, a new draft CSO Law was drafted using international standards and best practices as benchmark. Both the findings of the diagnostic study and the draft was discussed in detail with different stakeholders, including CSOs, sector administrators, the Charities and Societies Agency, political parties and the media. Consultation forums were organized in all the 9 regions and Addis Ababa and Dire Dawa Administration in collaboration with the Ethiopian Charities and Societies Forum, and separate discussions were held with foreign charities and CSOs working on disabilities. Amendments were made to the draft on the basis of these consultations, following which the draft was approved by the Council of Ministers and enacted by the Parliament into a law with some changes.

1.2. Major Changes Introduced by the CSO Proclamation No. 1113/2019

As stated above, the CSO Proclamation (hereinafter referred as CSOP) is a result of a rigorous analysis of the defects and shortcomings of the Charities and Societies Proclamation in terms of ensuring the constitutional right to freedom of association in Ethiopia. Based on international standard and best practices, as well as the findings of the diagnostic study of the CSP, the new law seeks to create an enabling environment for civil society organizations in Ethiopia. The law recognizes the right of citizens to organize for any lawful purpose; removes the classification of CSOs on the basis of their source of income; guarantees the right of CSOs to seek and access funds from any lawful sources and to engage in business activities to generate income for their activities; redefines administrative cost to exclude program related costs and limit it to expenses which are purely administrative; provides for broader representation of CSOs in the Board of the CSO Agency; provides for easy and expedient registration process, ensures the right of all CSOs to appeal to court from the decisions of the Agency (including refusal to register, suspension of registration, and dissolution by the Board of the Agency); emphasizing on the primary duty of the CSO Agency to support and build the capacity of CSOs, while punitive measures come only as a last resort and only after giving the CSOs opportunity to rectify their mistakes and have a fair hearing. Measures taken by the Agency are therefore subject to administrative review by the Board and judicial review by courts. It removes the restrictions on forming networks/consortiums, and provides for the establishment of network of networks as well. The law has also introduced the concept of self-regulation, with the belief that the primary actors in terms of ensuring compliance are the CSOs themselves, and provides for a statutory CSO Council which will issue code of conduct for CSOs and gives it legal backing to enforce it. The following table summarizes the changes introduced by the CSOP.

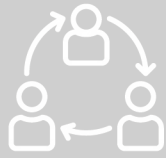
Table 1: Summary of Major Changes introduced by the CSO Law

Section	CSP/Old Law	CSOP (What is new)
Preamble	<ul style="list-style-type: none"> Ensure exercise of citizen's freedom of association Facilitate role of charities and societies in development 	<p>Recognizes</p> <ul style="list-style-type: none"> Instrumental role of freedom of association for protection of other rights; Role of CSOs in making government transparent, accountable and participatory Need for enabling environment for CSO to support development and democratization Balancing freedom and accountability in the sector Nurturing voluntarism and charity culture in the society Addressing shortcomings of CSP
Scope of Application	<p>Law Applies to</p> <ul style="list-style-type: none"> CSOs working in more than one region, or in Addis Ababa and Dire Dawa Foreign charities CSOs working in one region only if they get foreign funding 	<p>The Law</p> <ul style="list-style-type: none"> Applies to foreign CSOs and local CSOs operating in Addis Ababa, Dire Dawa, or in more than one region does not apply to CSOs working in one region only, regardless of source of income.

Composition of CSA Board	CSOs underrepresented, only 2 of the 7 Board members come from CSOs	Equitable and inclusive representation of CSOs in the Board: 3 members from Government, 3 from CSOs, 2 from Federation of Persons with Disabilities, 2 from Youth and Women Associations, one independent expert
Powers of Regulatory Agency/CSA	<ul style="list-style-type: none"> ▪ Focused on sanction and control ▪ Gave too much discretion to the Agency without a possibility of judicial review in the majority of cases ▪ Were too broad and intrusive, making it difficult for the Agency to exercise them 	<ul style="list-style-type: none"> ▪ Facilitate and coordinate activities of CSOs ▪ Support CSOs to have systems internal self-regulation and governance ▪ Encourage and support Volunteerism and charity ▪ Establish CSO Support Fund ▪ Prepare list of liquidators and monitor their performance ▪ Develop guidelines to ensure that development activities of CSOs are to the extent possible aligned with government plans; ▪ Research and advise government on the role of CSOs in development, human rights protection and democratization
Powers of the Board	Were generic in nature and did not empower the Board to hold the Agency accountable.	<ul style="list-style-type: none"> ▪ Set directions to ensure full exercise of freedom of association and public benefit from the sector ▪ Review appeals from decisions of the Agency Director ▪ Evaluate performance of the Agency Director and his deputies ▪ Issue Rules of procedure for the Complaint Review Committee and follow up its implementation; ▪ Issue Directives to enable organizations to carry out their activities in accordance with this Proclamation; ▪ Examine and approve annual activity plans and reports submitted to it by the Director;
Types of CSOs	(Classification made on the basis of structure and source of income) <ul style="list-style-type: none"> ▪ Ethiopian charities ▪ Ethiopian societies ▪ Resident Charities ▪ Foreign Charities ▪ Resident societies ▪ Charitable Institutions ▪ Charitable Committees 	Classification based on structure and not source of income. <ul style="list-style-type: none"> ▪ Foreign Organizations ▪ Local Organizations ▪ Associations (Membership led) ▪ Board Led Organizations (suitable for think tanks) ▪ Charitable Endowments ▪ Charitable Trust ▪ Charitable Committee
Consortiums	<ul style="list-style-type: none"> ▪ Societies cannot form consortiums with charities ▪ Ethiopian charities cannot form consortium with resident and foreign charities ▪ No direct implementation of projects 	<ul style="list-style-type: none"> ▪ No restrictions on forming consortiums. ▪ Additional mandates for consortiums: ▪ Articulate the voice of members and advocate for their rights ▪ Build capacity of members and support resource mobilization ▪ Conduct research and advocacy activities in areas of member engagement ▪ No Competition with members! ▪ Consortium of Consortiums allowed.
Objectives of CSOs/Area of operation	Only objectives under Article 14 of the CSP allowed <ul style="list-style-type: none"> ▪ Only Ethiopian Charities and societies allowed to work on human rights, gender equality, child rights, disabled persons rights, legal aid, promotion of tolerance 	<ul style="list-style-type: none"> ▪ No restriction on objectives as long as they are lawful; ▪ Organizations can be established to work in Ethiopia and abroad, or at regional or global level; ▪ No restriction on access to funding from lawful sources

Registration of Local CSOs	Article 68 of 621/2009	<ul style="list-style-type: none"> ▪ Maximum registration period for local organizations is 30 days; ▪ Requirements: ▪ Founding Minutes, photo and IDs of founders, name and logo (if any), bylaws of the organization, objectives and regions of operation, filling out the form provided by the Agency
Registration of Foreign CSOs	Article 68 of 621/2009	<ul style="list-style-type: none"> ▪ Maximum time -45 days ▪ Requirements: Authenticated certificate of incorporation, bylaws, resolution to open a branch in Ethiopia, PoA for Country representative, recommendation letter from Ethiopian Embassy in home country/MoFA, 2 year action plan
Licensing	Registration was confused with licensing.	ACSO does only registration. No requirement for licensing unless prescribed by other laws
Renewal	Renewal of registration every three years	No renewal requirement. Registration is permanent
Accounts and Reporting	Article 79 of 621/2009	<p>Organizations with an income of less than 200,000 allowed to submit statement of account instead of audit report</p> <p>Agency may appoint external auditor if a CSO fails to audit its account within 5 months, or upon the request of 1/3 of the members of the organization, donors or government signatories of project agreement.</p> <p>Agency to keep public records of a CSO, including annual reports CSOs to make their activity and audit reports accessible to members and beneficiaries. Any CSO required to get Agency permission to open bank account, and banks obliged to send details of accounts when requested by ACSO</p>
Supervision of CSOs and Administrative Sanctions		<ul style="list-style-type: none"> ▪ ACSO authorized to conduct investigation upon receiving information from the public, donors, or government organs. As well as information obtained by the agency during the performance of its work ▪ Investigation only when there is good cause, must be expedient, and not impede CSO activities
Suspension and Dissolution	Dissolution by the Director of the Director of the Agency	<ul style="list-style-type: none"> ▪ ACSO Director may suspend CSO for maximum of 3 months in the event of serious violation, ▪ Suspension subject to Board approval to continue, and appealable to court ▪ Administrative measures: <ul style="list-style-type: none"> * Warning * Grave warning * Suspension * Dissolution on Board decision, appealable to court <p>Fair hearing guaranteed</p>
Right of Appeal	Right of appeal to court allowed only for Ethiopian Charities and Societies	Every ACSO has right to appeal to court from the decision of the Agency from the decisions of the Board

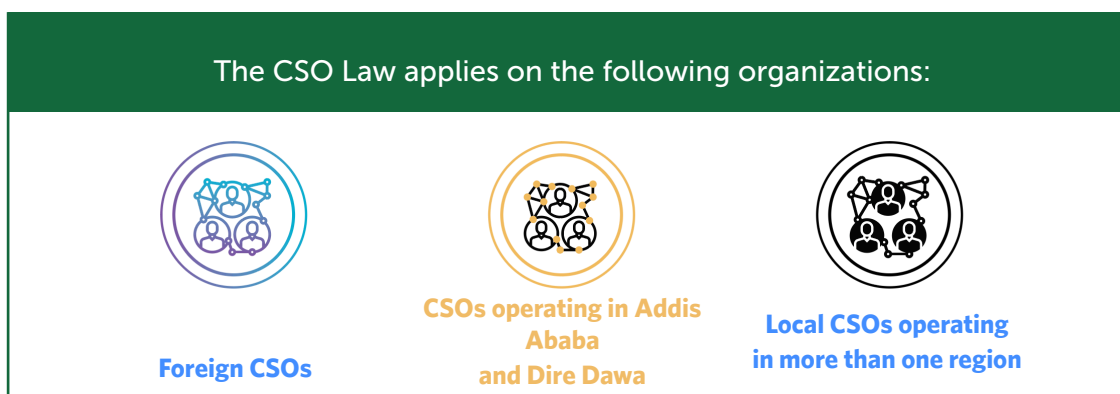
Income Generation and utilization	<p>Income Generation allowed only in areas related to the objectives of the CSO, and could not to cover admin cost.</p> <p>Admin cost cannot exceed 30% , but administrative cost defined to include expenses which are in reality program cost, such as consultancy fees, fees for trainers, project staff salary etc</p>	<p>CSO allowed to engage in any lawful business activity to generate income, but needs to keep its account separate</p> <p>Administrative cost of a CSO established for public benefit or third parties cannot exceed 20%, but Admin cost defined narrowly, and expressly excludes project costs.</p>
Self-Regulation		<p>ACSO required to support CSOs to put in place systems of self-regulation and accountability.</p> <p>CSOs Council to be established, with a power to issue code of conduct to CSOs and enforcement mechanisms, and represent the sector in the Board, and advise Agency on registration and regulatory issues.</p>
Financial Support to CSOs	<p>CSOs not allowed to get more than 10% of their budget from foreign sources if they work on human rights, democracy, gender equality, child rights, disabled rights, tolerance and justice sector support, including legal aid</p>	<p>No restriction on accessing funds for any lawful activities, as long as the source of funds is lawful.</p> <p>Foreign organizations encouraged to give technical and financial support to local CSOs</p> <p>CSO Fund established by law to encourage volunteerism, support CSOs working on vulnerable groups.</p>



CHAPTER 2

SCOPE OF APPLICATION

Chapter 2: Scope of Application



Hence, if the CSO you work with has offices in Addis Ababa or Dire Dawa, or operates in more than one region, it needs to get registered by, and report to the Agency for Civil Society Organizations (ACSO).

If your Organization works only in one region, it will have to be registered by the regional authority in charge of registration of CSOs. In most regions, this is done by the regional Bureau of Finance and Economic Development (BOFEDs), or by the Attorney General's Office of the Region. The Constitutions of regional states provide that laws issued by regional parliaments shall not go against federal law. Accordingly, regions are expected to issue laws which are consistent with the CSO Law and give full effect to the constitutional right to freedom of association.

There are two caveats regarding the [non] applicability of the law to religious organizations. First, the law doesn't apply to ministerial (worship) activities of religious organizations. If a religious organization plans to engage in a charitable activity, it should establish an independent CSO for that purpose. The charity 'wing' needs to be registered and be regulated by the CSO Law. Religious organizations are currently registered by the Ministry of Peace until a law is enacted regarding their registration and operation.

2.1. Objectives of the Agency

The Proclamation established the Agency for Civil Society Organization (ACSO) with the principal objective of ensuring the exercise of the constitutional right to freedom of association while ensuring accountability and maximum public benefit. ACSO's objectives are therefore supportive and regulatory. Its supportive/enabling objectives include: creating a conducive environment for the registration and operation of CSOs in Ethiopia; building the capacity of CSOs; nurturing the culture of volunteerism and facilitating smooth working relationship between CSOs and government entities. The regulatory objectives of the Agency primarily focus on ensuring that CSOs have internal governance systems that ensure transparency, accountability and participation, promoting self-regulation in the CSO community and supervising the work of CSOs to ensure maximum public benefit. The focus on support and regulation is a significant departure from the old law, which emphasized control and punishment.

Remember - The Law will not apply to the following organizations:

Religious organizations,

CBOs such as the Idir (burial societies), Equb (traditional saving societies) and other traditional, or religious entities,

Chambers of commerce and sectoral associations, trade unions, political parties and associations covered by other laws.

In essence, therefore, the Agency aims to facilitate the exercise of freedom of association by making registration of CSOs easy and swift; helping CSOs to have the necessary capacity for self-regulation both internally and as a community; and promoting good working relationships with federal and regional government bodies. The regulatory objectives of the Agency will be accomplished through monitoring the activities of CSOs by examining their activity and financial reports, conducting investigations and taking the necessary administrative action in the event of alleged malpractices and supporting the enforcement of the code of conduct to be issued by the CSO council. In all these activities, ACSO is expected to ensure that CSOs have fair opportunity to defend themselves, including the right to appeal from its decisions.

2.2. Powers and responsibilities of the Agency

The powers and duties of the Agency are outlined under Article 6 of the Proclamation, and include mandates relating to registration of CSOs, monitoring and follow up, research and documentation, coordination and support, and other administrative activities. Of these, registration and monitoring are explained under 3.1. above.

The research and documentation mandate requires the Agency to establish a comprehensive database that contains information on the number of CSOs in the country, including those registered by the Agency and regional governments, their areas of operation, types of beneficiaries and the like, and publish the information offline and online. This database shall be accessible to the public, including researchers, academicians, the media and policy think-tanks. In addition, the Agency shall also conduct research and analysis regarding the role of CSOs in development and democratic governance, highlighting the trends, challenges and opportunities in their work, and advising the government on further supporting CSOs in this regard.

ACS0's coordination role involves developing guidelines and directives to ensure that development activities of CSOs are aligned with government development plans. However, this simply is intended to ensure complementarity between the activities of CSOs and Government in the area of development, and by no means allows the Agency to dictate what each CSO does when it comes to development issues. The directives are bound to be general and advisory in nature, and cannot restrict the freedom of CSOs to determine their objectives and mandate, priority areas or modalities and approaches.

The other area of coordination is facilitating collaboration between CSOs and government institution at federal and regional levels, including sector administrators. This is mainly done through administrative support as the need arises, and through the establishment of joint forums. Beyond resolving operational problems, these forums are intended to be avenues for joint planning and monitoring of development activities, as well as sharing knowledge and feedback on the activities, best practices and policy and practical lessons on both sides. CSOs should therefore use these forums to influence government policies and operations in a manner that advances public interest, including the rights and benefits of those social sections they work with or represent.

ACS0 also has the responsibility to prepare a list of liquidators and monitor their performance in the dissolution of Organizations. It also has a mandate to administer the Civil Society Fund. These mandates mark clear departure from the past, where the old Charities and Societies Agency had the power to dissolve CSOs, liquidate them and administer their property with no clear guidelines or institutional capacity. This led to corruption and misuse of resources. The new CSO law rightly gives the mandate to dissolve CSOs to the courts, and in some cases to the Board of the Agency. The law also envisages that following dissolution, the assets of a

CSO shall be in the custody of professional liquidators just like commercial entities. The Agency's mandate is limited to drawing a list of competent liquidators and supervising them.

Another welcome development is the establishment of the Civil Society Fund which will be administered by the Agency. As stated under Article 86, the main sources of the Fund are properties of CSOs dissolved (both under the old and the new CSO laws), as well as subsidies from the Government. It is hoped that the Agency will allocate this fund to those CSOs which are doing highly valuable community work with limited resources. Detailed Directives on the administration of the Fund will be issued by the Agency.

In addition to the above responsibilities, the Agency has mandates to work closely with Government Agencies to fight money laundering and financing of terrorism, promote the culture of volunteerism and notarize the constitutive documents of CSOs. Although the Agency principally operates in Addis Ababa, it is expected to ensure accessibility to CSOs by opening branches in the regions or delegating regional authorities to provide some of its services in the regions.

2.3. Structure of the Agency

The Agency has a Board composed of CSO and government representatives, and a management headed by a Director General and his deputies.

2.3.1. The Board

The Board is composed of three representatives from Government bodies, seven CSO representatives and one expert. The expert and the three Government representatives are appointed by the Attorney General. Of the seven civil society representatives, three are elected by the CSO Council while the National Federation of Disability Associations, Women and youth associations will designate two members each. The Chairperson of the Board is appointed by the Attorney General. The term of the Board members is three years, subject to re-election. However, the terms of the two of the representatives from the Government and CSOs shall be four years to ensure continuity and institutional memory. However, these representatives cannot be re-elected (Article 10(3) of the Proclamation).

The Board has powers to set policy directions for the Agency in line with its objectives; examine and approve plans and reports of the Agency; monitor and follow up the implementation of the law by the Agency; hear appeals from the decisions of the Director of the Agency including refusal to register or suspend a CSO; dissolve CSOs in cases of grave breach of the law or failure to rectify grave violations of the law; and issue directives for the implementation of the Proclamation.

2.3.2. The Director and Deputy Director

The Director-general is accountable to the Attorney General, and is expected to manage the operations of the Agency in line with the general directions of the Board. Specifically, the Director will represent the Agency in relations with third parties, prepare annual work plan, budget, financial and activity reports of the Agency, hire and administer employees and give final decisions at the level of the Agency on matters related to registration and operations of CSOs. Internally, therefore, decisions given by a registration or monitoring and supervision officer at the Agency can be appealed to the concerned team leader, the head of the Registration/Monitoring Directorate and eventually to the Director General.

The deputy Director/s will assist the Director in planning, coordinating and directing the activities of the Agency and act in the absence of the Director.



CHAPTER 3

THE AGENCY FOR CIVIL SOCIETY ORGANIZATIONS

Chapter 3: The Agency for Civil Society Organizations

3.1. Objectives of the Agency

The Proclamation established the Agency for Civil Society Organization (ACSO) with the principal objective of ensuring the exercise of the constitutional right to freedom of association while ensuring accountability and maximum public benefit. ACSO's objectives are therefore supportive and regulatory. Its supportive/enabling objectives include: creating a conducive environment for the registration and operation of CSOs in Ethiopia; building the capacity of CSOs; nurturing the culture of volunteerism and facilitating smooth working relationship between CSOs and government entities. The regulatory objectives of the Agency primarily focus on ensuring that CSOs have internal governance systems that ensure transparency, accountability and participation, promoting self-regulation in the CSO community and supervising the work of CSOs to ensure maximum public benefit. The focus on support and regulation is a significant departure from the old law, which emphasized control and punishment.

In essence, therefore, the Agency aims to facilitate the exercise of freedom of association by making registration of CSOs easy and swift; helping CSOs to have the necessary capacity for self-regulation both internally and as a community; and promoting good working relationships with federal and regional government bodies. The regulatory objectives of the Agency will be accomplished through monitoring the activities of CSOs by examining their activity and financial reports, conducting investigations and taking the necessary administrative action in the event of alleged malpractices and supporting the enforcement of the code of conduct to be issued by the CSO council. In all these activities, ACSO is expected to ensure that CSOs have fair opportunity to defend themselves, including the right to appeal from its decisions.

3.2. Powers and responsibilities of the Agency

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ACSO's coordination role involves developing guidelines and directives to ensure that development activities of CSOs are aligned with government development plans. However, this simply is intended to ensure complementarity between the activities of CSOs and

Government in the area of development, and by no means allows the Agency to dictate what each CSO does when it comes to development issues. The directives are bound to be general and advisory in nature, and cannot restrict the freedom of CSOs to determine their objectives and mandate, priority areas or modalities and approaches.

The other area of coordination is facilitating collaboration between CSOs and government institution at federal and regional levels, including sector administrators. This is mainly done through administrative support as the need arises, and through the establishment of joint forums. Beyond resolving operational problems, these forums are intended to be avenues for joint planning and monitoring of development activities, as well as sharing knowledge and feedback on the activities, best practices and policy and practical lessons on both sides. CSOs should therefore use these forums to influence government policies and operations in a manner that advances public interest, including the rights and benefits of those social sections they work with or represent.

ACSO also has the responsibility to prepare a list of liquidators and monitor their performance in the dissolution of Organizations. It also has a mandate to administer the Civil Society Fund. These mandates mark clear departure from the past, where the old Charities and Societies Agency had the power to dissolve CSOs, liquidate them and administer their property with no clear guidelines or institutional capacity. This led to corruption and misuse of resources. The new CSO law rightly gives the mandate to dissolve CSOs to the courts, and in some cases to the Board of the Agency. The law also envisages that following dissolution, the assets of a CSO shall be in the custody of professional liquidators just like commercial entities. The Agency's mandate is limited to drawing a list of competent liquidators and supervising them.

Another welcome development is the establishment of the Civil Society Fund which will be administered by the Agency. As stated under Article 86, the main sources of the Fund are properties of CSOs dissolved (both under the old and the new CSO laws), as well as subsidies from the Government. It is hoped that the Agency will allocate this fund to those CSOs which are doing highly valuable community work with limited resources. Detailed Directives on the administration of the Fund will be issued by the Agency.

In addition to the above responsibilities, the Agency has mandates to work closely with Government Agencies to fight money laundering and financing of terrorism, promote the culture of volunteerism and notarize the constitutive documents of CSOs. Although the Agency principally operates in Addis Ababa, it is expected to ensure accessibility to CSOs by opening branches in the regions or delegating regional authorities to provide some of its services in the regions.

3.3. Structure of the Agency

The Agency has a Board composed of CSO and government representatives, and a management headed by a Director General and his deputies.

3.3.1. The Board

The Board is composed of three representatives from Government bodies, seven CSO representatives and one expert. The expert and the three Government representatives are appointed by the Attorney General. Of the seven civil society representatives, three are elected by the CSO Council while the National Federation of Disability Associations, Women and youth associations will designate two members each. The Chairperson of the Board is appointed by the Attorney General. The term of the Board members is three years, subject

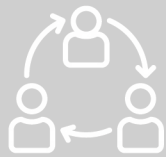
to re-election. However, the terms of the two of the representatives from the Government and CSOs shall be four years to ensure continuity and institutional memory. However, these representatives cannot be re-elected (Article 10(3) of the Proclamation).

The Board has powers to set policy directions for the Agency in line with its objectives; examine and approve plans and reports of the Agency; monitor and follow up the implementation of the law by the Agency; hear appeals from the decisions of the Director of the Agency including refusal to register or suspend a CSO; dissolve CSOs in cases of grave breach of the law or failure to rectify grave violations of the law; and issue directives for the implementation of the Proclamation.

3.3.2. The Director and Deputy Director

The Director-general is accountable to the Attorney General, and is expected to manage the operations of the Agency in line with the general directions of the Board. Specifically, the Director will represent the Agency in relations with third parties, prepare annual work plan, budget, financial and activity reports of the Agency, hire and administer employees and give final decisions at the level of the Agency on matters related to registration and operations of CSOs. Internally, therefore, decisions given by a registration or monitoring and supervision officer at the Agency can be appealed to the concerned team leader, the head of the Registration/Monitoring Directorate and eventually to the Director General.

The deputy Director/s will assist the Director in planning, coordinating and directing the activities of the Agency and act in the absence of the Director.



CHAPTER 4

GUIDING PRINCIPLES FOR ESTABLISHING CSOS AND THE REGISTRATION PROCESS

Chapter 4: Guiding Principles for Establishing CSOs and the Registration Process

4.1 Guiding Principles for Establishing CSOs

Civil Society Organizations are voluntary associations of persons for non-profit purposes which the members found useful. The core principles guiding the formation of CSOs are set out under Article 16 of the Proclamation, and underscore the voluntary and non-profit nature of CSOs.

In this regard, Article 16(2) of the Proclamation stipulates that membership in any association shall be voluntary, meaning both entry into and exit from a CSO is a matter of choice for any person. Accordingly, a member cannot be forced to continue membership in an organization against his/will.

The second principle set out in the law is non-discrimination. While an organization has the right to set admissibility criteria for new members, these criteria need to be lawful and relevant to the objectives of the organization rather than being arbitrary. Accordingly, a CSO may not set membership criteria that discriminate on the basis of age, sex, ethnicity, disability, political outlook, religion, social, economic or other status. However, this does not mean that professional associations or associations of particular groups such as youth, women or the elderly may not set different levels of participation/membership. For instance, a women's association can have men as associate members although men cannot be full members. The same is true of associations of persons with disabilities, youth or the elderly. Such associations are established to protect the interests of a particular section of the society or that of their members, and the membership criteria should align with their objectives.

Third, CSOs are essentially non-profit organizations. This does not however mean that a CSO cannot engage in income generating/business activities to advance its objectives. The law allows a CSO to engage in any lawful income generation activity, so long as the profit generated therefrom is not distributed among its members but is used to cover the operational or administrative expenses of the CSO. In such cases, the business run by the CSO shall have a separate account and will be subject to the relevant tax and commercial laws.

Fourth, the internal governance of CSOs shall be based on democratic principles. Members will have equal right to deliberate on any relevant matter affecting the organization using the meeting procedures set in the memorandum of association and by laws of the CSO. Each member will have equal vote during decision making and any provision in the memorandum of association or the charter which contravenes this will be of no effect. Members have the right to elect and be elected to positions of leadership within the CSO (including the Board, the General Assembly or other committees). Members also have the right to make informed decision by accessing the relevant documents of the CSO, including its audit reports, minutes, activity and financial reports and work plans. In other words, decision making processes within a CSO should be transparent, accountable and deliberative/participatory.

The memorandum of association and bylaws of a CSO are expected to incorporate and abide by the abovementioned principles.

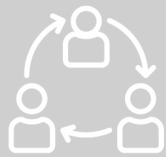
4.2 The Registration Process

Under the CSOP and as per the workings of the ACSO there are three distinctive phases in the registration process of a CSO. These phases are the initiation phase, the documentation phase and the approval/registration phase. It is crucial to point out at this juncture that this registration process doesn't apply to charitable committees, which are capable of operating as a CSO without registration. Furthermore, the activities or tasks to be performed in each phase may vary depending on the type of CSO (Local/Foreign or Association/Board-led/Endowment/Trust/Consortium) applying for registration.

In the initiation phase, as the name implies, a single individual, an organization or a group of like-minded individuals/organizations will decide to form a CSO under Ethiopian law or have an already existing foreign CSO registered in Ethiopia. For local CSOs, the founders should outline the objectives of the CSO and choose the type of organizational set-up to be adopted by the CSO. The founders should also take preparatory steps for the formation of the CSO, such as informing potential members (i.e., for Associations), scouting potential board members (i.e., for Board-led CSOs) or vetting potential partnering CSOs (i.e., for Consortia). Once the founders have done the preparatory works, they then proceed to calling the founding assembly or board meeting.

During the documentation phase, the founding members must draw up, record and submit to the agency several documents deemed necessary for registration under the CSOP and subsequent directives of the ACSO. Regardless of the type of organization being registered, all CSOs undergoing registration in Ethiopia must hold either a founding general assembly or a founding board meeting. During this process the founders must present a draft Memorandum of Association for the assembly or board's approval. Furthermore, the founders must record minutes of the assembly or meeting which include a decision on the name of the CSO, area of operation, work plan, location of headquarters, list of board members, appointment of director and logo (optional). In addition to the CSO's approved MoA and founding assembly/meeting minutes, the agency requires the physical presence of all board members and the director of the CSO (or their duly authorized agent) when receiving an application for registration. The applications for registration must also include ID-size photos and a copy of each of the board members' and director's ID. Apart from the generally required documents, the agency requires additional documents based on the organizational set-up of the CSO. Founders of professional associations seeking registration as a CSO in Ethiopia must present a document proving their educational or professional competence. Similarly, the founding organizations of a consortium or consortia must present each organization's ACSO registration certificate with the application for registration.

Finally, once all these documents are submitted, the agency will make the necessary investigations to ensure the applicant CSO's compliance with the law. This investigation, which can lead to an approval or denial of the CSO's registration, may take a maximum of 30 days for local CSOs and 45 days for foreign CSOs. By virtue of article 57(3), when the agency fails to grant a certificate of registration within the above prescribed period the applicant may file a complaint before the agency's board up to 30 days after that deadline lapses. The board shall examine the complaint and make a determination on the matter within a period of 60 days. If the applicant is still dissatisfied with the decision of the board, the applicant may lodge an appeal before the Federal High Court up to 30 days after the board's decision is received. Once an organization is registered it will have full legal personality.

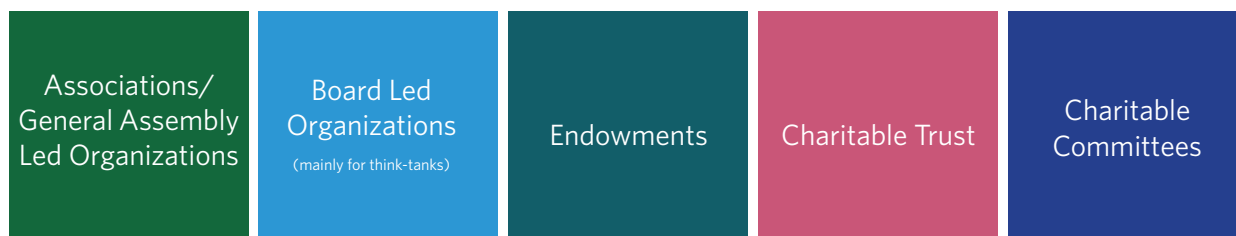


CHAPTER 5

TYPES OF CIVIL SOCIETY ORGANIZATIONS

Chapter 5: Types of Civil Society Organizations

Types of Charities and Societies



As you might recall, the old law classified organizations by source of income (Ethiopian resident charities and Ethiopian charities), cause/beneficiaries (whether they work for members or third parties), structure (charities, societies, endowments, trusts, charitable institutions and committees) and country of establishment (foreign charities vs Ethiopian/resident charities). The new law has dealt away with the first two classifications because they unduly limit freedom of association. The classification on the basis of income in effect contravenes the constitutional right to freedom of association by putting undue financial restrictions on CSOs working on human rights, gender equality, disabilities, child rights, democracy and conflict resolution issues. The false dichotomy between charities and societies overlooks the fact that a CSO might work for the benefit of its members and for the public at large or a certain section of society, which is typical of professional associations that aim to enhance contribution of their members to the society while at the same time building the capacity of their members and ensuring their integrity.

The new law therefore classifies CSOs in terms of structure and country of formation as discussed below.

5.1. Foreign Vs Local CSOs

5.1.1. Foreign CSOs

Foreign CSOs are those which are established abroad and operate in Ethiopia through a branch office which is registered by the Agency. The new CSO law has lifted the barriers set by the old Charities and Societies Agency on foreign CSOs that seek to establish a branch in Ethiopia for purposes of providing financial or technical support to local CSOs or other entities. Accordingly, foreign CSOs are free to set up branch offices in Ethiopia to engage in direct project implementation or provision of technical and financial support to local CSOs, or both. The law also encourages foreign CSOs to work in partnership with local CSOs and build the capacity of the latter. They are also allowed to work on issues related to human rights and democracy. However, they are not permitted to directly lobby political parties. They also need to get permission of the National Electoral Board of Ethiopia to engage in election monitoring or voter education.

5.1.2. Local CSOs

Local CSOs are organizations established in Ethiopia by two or more persons who may be Ethiopians or foreigners residing in Ethiopia. But CSOs established by foreigner residents are not permitted to lobby political parties. Such organizations have full freedom to pursue any lawful cause which is non-profit and does not aim to hold political power. Also, according

to article 62 sub 5, unless it is permitted with another law, Foreign Organizations and Local Organizations which are established by foreign citizens which are residents of Ethiopia may not engage in lobbying political parties, engage in voters education or election observations. Local CSOs do not include religious organizations and non-profit entities established by other laws, such as trade unions, chambers of commerce and sectoral associations, political parties or traditional self-help associations such as eddir, senbete and equb.

There are different types of local CSOs. These include associations, board-led organizations, charitable endowments, charitable trusts and charitable committees (see Art. 18 of the CSO Law). Please note that this classification is based on the structure and governance of CSOs.

Associations: The CSO law defines an association as an organization formed by five or more members and governed by a General Assembly as its supreme decision-making organ. In contrast with the societies under the old law, associations may be established to promote the rights and interests of their members, to work for the benefit of the public at large or sections of the society (such as women, pastoralists or persons with disabilities) or to advance any objective which the members deem useful (e.g. bird watching or reading books).

Article 2.1. of the law defines CSOs as ‘non-partisan, non-governmental, not for profit entities established by two or more persons’, and the term person is defined under Article 2 (17) to include natural and juridical persons such as companies and CSOs. Associations and other types of CSOs could therefore be established by juristic persons or natural persons or both. Please note that the characteristic feature of an association is that it is membership led, which means that its general assembly is the highest decision-making organ. In terms of structure, some associations have management board and an executive director (and his/her staff) in addition to the General Assembly. Others might have executive committee led by a president/ chairperson, vice president/vice chairperson, secretary, treasurer and finance head without having a separate management or secretariat. The latter is usually adopted by youth, women and professional associations, while most CSOs adopt the former. The law does not prescribe a particular form of structure but requires that the memorandum of association shall define the structure of a CSO.

Board-Led CSOs: are CSOs in which the Board is the supreme/ultimate decision-making organ. Board-led CSOs may be established by two or more founders who might be natural or juristic persons. The founders will designate the first Board members whose number is between five and thirteen in the Memorandum of Association. The appointment and term of Board members is determined by the Memorandum of Association. A Board led CSO shall in addition to the Board have a management body which is composed of the executive director/ manager and his team. Members of the Board or their relatives by consanguinity or affinity are not allowed to work in the management team. This structure is typically used by think tanks and other CSOs which have a thematic, rather than constituency based, focus of work.

Charitable Endowment; is an organization by which a certain property is perpetually and irrevocably designated/given by donation or will or the order of the Agency for a purpose that is solely charitable. A Charitable Endowment shall have a manager, an auditor and the necessary staff. The Board is the supreme organ of the endowment, and it shall have at least three members.

Charitable Trust; is an organization by virtue of which specific property is constituted solely for a charitable purpose to be administered by three to five persons, called trustees, in

accordance with the instructions given by the instrument constituting the charitable trust. Like a charitable endowment, a trust is established by donation or will or by the order of the Charities and Societies Agency. It's different from an endowment in that it is administered by trustees rather than a manager and a board. And, it may be established for a definite or indefinite period. (Art. 33 /1/)

Charitable Committee; is a body composed of 5 or more natural persons who have come together with the intent of soliciting money or other property from the public for purposes that are charitable. Such committees may, for instance, be established to mobilize funds to help people in situations of emergency such as natural calamities. A committee which has raised a lot of money could be converted into a charitable endowment. The committee shall have a president, a treasurer and an auditor. Charity Committees may not collect funds or perform any other activities without acquiring an approval from the Agency. The committee shall also submit a detailed statement of accounts to the Agency about the funds it has collected, and its members will be jointly and severally liable for obligations and debts arising from the activities of the committee, such as embezzlement of funds. In other words, a member of the committee could be held liable to pay the debts of the Committee and later recover from the other members their share in the debts.

Consortia and Consortium of Consortiums: one of the areas where the new CSO law has changed relate to the formation and mandates of consortiums. The old law placed different restrictions on the formation and mandates of consortiums. For instance, Ethiopian charities were not allowed to form consortiums with foreign or Ethiopian resident charities, and charities were not allowed to network with societies. Furthermore, contributions of members to consortiums were treated as administrative expenses. This made the formation and operation of consortiums extremely difficult. The law did not also provide clear rules on the establishment of consortium of consortiums, thereby making the legality of such consortiums precarious.

The CSOP had introduced positive changes that eliminate these restrictions. Accordingly, the restrictions on forming consortiums are effectively removed; as the income-based classifications (Ethiopian vs resident etc.) were dealt away with. Accordingly, local CSOs can form consortiums with foreign CSOs and vice versa with no restriction on the basis of source of income or mandate. Similarly, associations can form consortiums with board led organizations or other types of CSOs.

The law has also lifted the restrictions on the mandates of consortiums. Accordingly, the law has outlined illustrative list of objectives of consortiums, which include support and coordinate efforts of CSOs for the achievement of common objectives; facilitate sharing of ideas, information and experience; build the capacity of member CSOs and support their resource mobilization initiatives; enhance the ethical and professional standards of member organizations; articulate the voices of members and advocate for a better enabling environment for their work; conduct research and policy advocacy activities in the sectors in which members operate; and implement projects in collaboration with members. However, consortiums are not allowed to engage in activities that directly compete with their members as this will impede genuine collaboration and networking. That is, according to Art 56 sub 3, consortiums are not allowed to directly implement projects.

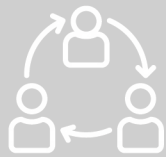
Special emphasis needs to be placed on the provision of the law which allows sectoral consortiums to engage in research and policy advocacy. In this regard, consortiums should

play a key role in terms of policy engagement given the specialized knowledge, experience and research capacity of their members. The contribution of consortiums in this regard is far-reaching as it combines both advocacy and advisory services to government in specific areas such as health, education, human rights, disabilities, women's rights, pastoralists' issues and the like.

Finally, the law expressly recognizes the right of consortiums to form their own network/consortium, which is called consortium of consortiums. This could be done at various levels, whether geographic (regional, national) or thematic. The ultimate consortium of consortiums of course is the CSO Council established under the Proclamation to enhance self-regulation and represent the sector in dealings with Government and other stakeholders.

Remember:

All types of CSOs except Charity Committees are required to register to operate



CHAPTER 6

OPERATIONAL ISSUES UNDER THE CSO LAW

Chapter 6: Operational issues under the New CSO Law

6.1. Freedom of Operation

This is one of the fundamental rights protected by the new CSO Proclamation and as such CSOs are free to determine their purposes and activities. CSOs are allowed to work in the political, economic, social and cultural life of the societies, and particularly to be involved in all matters pertaining to public policy and public affairs. In this regard Article 62(1) of the Proclamation states; “an organization shall have [full] right to engage in any lawful activity to accomplish its objectives”. The law recognized freedom of operation in its fullest sense and is in line with the FDRE Constitution and international human rights instruments. Accordingly, a CSO can work on objectives having local, national, global, regional or sub regional nature. The law specifically mentioned that CSO can provide “recommendations for change or amendment of existing laws, policies or practices, or issuance of new laws and Opolicies”. (Article 62(4))

CSOs are protected in their ability to speak critically about government law or policy, and to advocate for the promotion and protection of human rights and fundamental freedoms.

In fact, there are few exceptions to this general rule. First, CSOs cannot engage in unlawful activities; activities that are not incorporated in their organization’s bylaw; activities which are prohibited by other laws or considered to be criminal act. Second, foreign organizations or organizations established in Ethiopia by foreigners may not engage in lobbying political parties, engage in voters’ education or election observations unless it is permitted by other laws. Third, organizations working for the benefit of the general public or third parties shall ensure that their activities take into account the interests of women, children, persons with disabilities, the elderly and marginalized group of the society. Fourth, organizations have to make sure whether their activities require special permission by other laws.

Exceptions: Please note that the following activities are not allowed:

- *unlawful activities,*
- *political party lobbying and voter education by foreign CSOs without permission,*
- *exclusion of vulnerable and marginalized part of the society and*
- *working in areas which necessitate special license by other laws*

6.2. Freedom to Seek, Receive and Use Resources

CSOs need resources to continue their existence and implement their objectives, and hence access to resource is one of the basic components of freedom of association.

Accordingly, CSOs should have the right to seek and receive funding from legal sources which may include:

- Financial resources (grants, donations, personal funds, membership fees, public collection, income generation activities)
- In-kind donations (goods, services, properties)
- Materials (office supplies, IT equipment)
- Human resources (staff)
- Access to international assistances (solidarity)
- Opportunities (training, advocacy meetings, partnership building)

Under the Paris Declaration on Aids Effectiveness (2005) and Accra Agenda for Action (2008) governments and donors committed to create enabling conditions to maximize CSOs' contributions to development through extending financial supports. The UN Human Rights Council, a body charged with authoritative interpretation of the International Covenant on Civil and Political Rights (ICCPR), provided several interpretations through declarations, resolutions, communication and report in defense of CSOs access to resources. Similarly, the Guidelines on Freedom of Association and Assembly of the African Commission on Human and Peoples' Rights calls upon states to adopt law that provides recognition to the rights of associations to seek, receive and use funds freely in compliance with not-for-profit aims.

In line with this, the new Ethiopian CSO law recognizes the right of CSOs to seek and secure funding from any lawful sources. As stated under Article 61(4) of the CSO law, CSOs have the right to own, administer and transfer movable and immovable property. In addition, they have the right to solicit, receive and utilize funds from any legal source to attain their objectives. The law further recognizes the rights of CSOs to engage in any lawful business and investment activities as well as fund raising activities.

CSOs can establish business organizations, acquire shares in an existing business entity, conduct fund raising and seek grants and donations from donors, private organizations and individuals

While recognizing the rights of CSOs to access to resources, the law also put safeguards to ensure their accountability. The law prohibits CSOs from providing special personal benefits, directly or indirectly, to any person connected with the organization. As stated under Article 62(11) of the Proclamation, as a rule, "all members, officers and employees of the Organization have the responsibility to give primacy to the organization's interest and take the necessary precaution to avoid conflict of interest" while performing their duties. The law clearly prohibits distribution of profit or asset of the organization to individual benefit. Governing rules or statute of CSOs are legally required to include a "stipulation indicating that the organization's income and resources may not be distributed to members or employees except for payment of legally permitted service fees" (Article 60(1)(d)). In addition, CSOs are required to clearly declare in their rules (bylaws or statute) members or employees of the organization do not have any right over the organization's resource only by the mere fact of their membership or being employee.

6.3. Internal financial control system

Internal financial controls guard CSO's assets by regulating the handling of funds. It promotes both integrity and efficiency, while reassuring donors and constituents that the CSO's resources are used wisely for the objectives it stands for.



- CSOs cannot be established for the purpose of distributing profit to members. Except for consortium members
- The profit to be obtained from business and investment activities may not be transferred for the benefit of members.
- The income and resources that are acquired from income generating activities shall not be transferred or shared for the benefit of members or workers of the organization.
- The proceeds from the disposal of a property may not be transferred for the benefit of members or for activity outside the objectives of the organization
- When the organization is dissolved, its property shall be transferred to a similar organization or to the state
- Take the necessary measures to avoid conflict of interest

6.4. Management of CSOs

An organization exercises good governance when it has an internal system of checks and balances that ensures the public interest is served. The CSO law recognizes the rights of CSOs to determine their organizational structure and administration stipulating certain mandatory requirements. Accordingly, CSOs are free to determine their internal management structures, rules for selecting governing officials, internal accountability mechanisms and other internal governance matters that suit their particular needs. In membership CSOs, the highest governing body is always the general assembly, whose decisions and instructions always outweigh those of other organs of the association. As calling general assembly for a very decision is impractical, the organization may establish an intermediary body commonly called as board or executive committee to oversee the day-to-day activities of the association (Article 19). On the other hand, in a board-led organization (whose members are between 5 and 13, the board is the highest body that wields constant and consistent oversight and decision-making authority (Article 20) CSOs are entitled to choose their managing officers observing the requirements stated under Article 65.

In the CSO sector, Good Governance can be defined as “a transparent decision-making process in which the leadership of a nonprofit organization, in an effective and accountable way, directs resources and exercises power on the basis of shared values”

However, there are certain limitations or principles which CSO founders or members are expected to observe;

- Membership in any organization shall be voluntary, and any person has the right to become a member in as long as he fulfills the criteria for membership set by the organization;
- In making decision, every member have equal vote;
- The formation and internal governance of organizations shall be based on democratic principles, free from discrimination, independent and impartial;
- An organization shall be managed by persons elected by the full participation of the organs authorized by its rules;
- A member of the Board or Executive Committee of an organization shall not be employed in the same Organization as an officer or ordinary employee

6.5. Reporting and Supervision

6.5.1. Types of Reports and Period of submission

It is appropriate to require that CSOs provide information on their finances and activities, both to relevant agencies of the state and to the public. As part of ensuring their accountability and transparency, CSOs might be required to submit financial reports to concerned government authorities and donors, and beneficiaries. In addition, it is generally appropriate to require tax filings for all CSOs that engage in economic activities, subject to the rules applicable to all other taxpayers. The standard for reporting between small and large organizations may not be the same. Large CSOs with adequate resources should be expected to comply with the full panoply of reporting requirements while small CSOs might be exempt from some reporting requirements and to allow simplified reporting.

The current legal system encourage CSOs to ensure their own accountability and transparency. Article 71 of the new CSO law requires every organization to keep books of account that show its financial transactions and these reports should be prepared in accordance with acceptable accounting standards. However, organizations with small budgets not more than 200,000 Birr

can submit a report showing only their statement of accounts prepared by the organization itself. In addition, the law requires officers of the organization to preserve any accounting records at least for a period of five years. Based on the financial report or requests from donors or government authorities, the Agency for CSOs may initiate further inquiries and external audit investigation.

6.5.2. Reporting

The law requires CSOs to submit annual activity report (Article 73) and this report should also be open to the public and beneficiaries (Article 74). If a civic organization fails to submit the annual report within three month of end of the budget year, the Agency may commence proceedings to terminate the organization with adequate provision for notice and administrative and judicial appeals. The Agency may make a public announcement on a newspaper calling the organization to appear within 30 days and justify its failure to submit the report. However, if the organization fails to do so, the Agency may initiate dissolution and cancellation of the organization. This sanction helps remove entities that are no longer functional from the register of civil organizations.



The Agency has the right to examine the books, records, and activities of a civic organization during ordinary business hours, with adequate advance notice if it has a valid reason to conduct investigation. While conducting such investigation the Agency has to take the necessary precaution not to jeopardize the daily activities and existence of the organization.

6.6. Compliance Measures

One of the mandates of the Agency is to monitor and supervise CSOs to ensure that they undertake their activities in compliance with the law. The Agency may initiate investigation against any CSO based on complaints coming from the public, donor or government institutions or based on its own review of the reports of the CSO (Article 77). Following the findings of the investigation, the Agency may take various measures including recommendations, reprimand, suspension and dissolution of the organization. Generally, the law put in place various mechanisms to ensure the accountability and transparency of CSOs and this includes;

- *Obligation to inform changes;*
- *Obligation to display certificate of registration;*
- *Obligation to prove existence when required;*
- *Obligation to keep accounting records;*
- *Obligation to submit annual statements of accounts;*
- *Obligation to submit annual activity report to the Agency for CSOs;*
- *Obligation to disclose annual activity report to the public;*
- *Obligation to open bank account; Inform change of bank account or signatory*
- *An organization should also get a written approval of the agency to open a bank account*

In parallel to the supervisory mandate of the Agency, the law recognizes the rights of CSOs to judicial recourse and fair hearing (Articles 77, 78 and 79).

6.7. Merger, Division and Conversion

For various reasons CSOs may opt to merge with one another, or divide or convert themselves into different form of entity. Merger refers to the combination of two or more CSOs in which

the assets and liabilities of the organizations transferred to the new entity created as result of the combination. In other words, in a merger one of the two existing CSO merges its identity into another existing CSO or one or more existing CSOs may form a new CSO and merge their identities into a new CSO by transferring their resources and undertakings including all other assets and liabilities to the new CSO.

A CSO can also be divided in to two or more CSOs that have their own legal personality, and may or may not conduct the same kind of activities. The divided CSOs not only can perform an entirely different operation from that of their parent CSO but also can assume a different form of establishment. For example a membership based organization may divide itself into membership and board-led CSO. Similarly, a CSO established in a form of board-led can be converted to membership based association through the process of conversion. Please note that the liabilities, rights and duties of the previous organization will transfer to the divided or converted organizations.

The new CSO law allows CSOs to merge, divide, or convert themselves to another form of CSO. This decision should be made by the highest governing body of the CSO with no interference or undue influence by other bodies including the government.



Though not expressly stated in the law that CSOs may not be able to merge, divide or convert to a business organization.

6.8. Administrative Measures

Section five of the new CSO law deals with mechanisms established to ensure the accountability of CSOs. Government has to take measures to protect the public from fraud, abuse, and infringement of the rights of others. As we shall see latter on, the law encourages CSOs to ensure their own accountability and transparency both individually and collectively. The Agency may take appropriate administrative measures against CSOs who failed to comply with the requirements of the law or its own rule; for instance, failure to submit annual reports, late submission of reports, or filing a false report, or failure to notify changes as required by the law, receiving funds from unlawful sources, operate illegal activities, etc. Therefore, depending on the nature and gravity of the violation the Agency or its Board, or the court may take various forms of measures against a non-complying CSOs. The various measures indicated in the law are crafted to be graduated and their imposition is subject to appeal. This section discusses the major forms of measures and safeguards stipulated by the new CSO law.

6.8.1. Warning

The law stipulates two kinds of warnings; recommendations and strict warning. If the acts committed by the organization are minor in nature and the Agency believes that the violations can be redressed through corrective measures, it will provide recommendations as to the kind of corrective measures the organization should take. In this letter, the Agency is expected to “specify the violation, the measures to be taken and the time frame to rectify the violation” (Article 78(1)). Strict warning would be given by the Agency to organizations who failed to observe the recommendations provided by the Agency or whose acts of violation found to be grave (Article 78(2)). Generally, the Agency, once it has concluded that an association is violating the law or its statutes, may demand a correction or give a strict written warning.

6.8.2. Suspension

The new CSO law provides for the grounds and authorities for the suspension, dissolution and cancellation of CSOs. As part of the administrative measures stated in the law, the Director of the Agency may order the suspension of an organization “if it finds that a grave violation of the law has been committed and such violation makes it necessary to suspend the activities of the organization” (Article 77(4)). This is a temporary measure the Director may take to protect further damage by the organization. During the suspension period, the organization has two options; taking corrective measures as recommended by the Agency within three months or lodge an appeal to the Board. However, failure to take either of these actions may lead to the next higher level of measure which is dissolution. The organization has the right to appeal to the Board of the Agency if aggrieved by the decision of the Director, and then to the Federal High Court if not satisfied with the decision of the Board.

6.8.3. Dissolution and Cancellation

CSOs may cease to exist and operate for various reasons including lack of fund, achieving its objectives, the time period for which the CSO was established ends, or become subject to administrative and judicial measures. The new CSO law provides the ground and the manner in which CSOs may face dissolution and cancellation. As stipulated by the law, CSOs can usually be dissolved voluntarily or involuntarily. The highest authority of the organization (general assembly or board) may decide the dissolution of the CSO, and this clearly has been recognized by the law. The statute of the organization may provide the procedures and the grounds for voluntary dissolution of the organization. Therefore, the general assembly or the board or any other authorized organ may decide on the voluntary dissolution of the organization.

The life of a CSO may also be terminated involuntarily by the decision of the Agency or court of law as a last resort of measure. The Board of the Agency may decide the dissolution of an organization where the organization is not willing to take corrective measures as instructed by the Agency (78(4)) or is failed to proof its existence when called by the Agency (Article 70). In addition, the Federal High Court may also decide the dissolution of a CSO if the organization “is convicted of a serious criminal offence or is repeatedly found guilty of a minor criminal offences or it is declared insolvent” (Article 83(2)). Generally, involuntary dissolution has been stipulated as last resort, and it would be taken only after the organization has been given an opportunity to correct its behavior and only for the most serious and blatant violations. Moreover, the law puts two safeguards which are critical to safeguard the rights of the organization and these are the right to be heard and judicial recourse.

6.9. The Right to Be Heard

Article 79 of the new CSO law recognizes the right of CSOs to be heard before taking any measure against them (Article 79). Sufficient time (notice period) should be given to CSOs to prepare its defense for the case (allegation) against them. The authority should provide them with sufficient and clear information as to the specific law their act contravenes or the allegation initiated against them so they can properly defend themselves. Above all, the Agency should review impartially the defense evidence brought to it by the organization.

6.10. Effects of Dissolution

The dissolution of a CSO may lead to two consequences; liquidation and cancellation. Liquidation is the process of disposing of the assets and satisfying the liabilities of a civic organization that has been dissolved. This procedure is designed also to protect creditors and

other stakeholders of the organization. Upon dissolution, the CSO is expected to notify the Agency (if it is dissolved voluntarily or by the decision of the court) within 15 days so that the Agency will take control of the assets and appoint a liquidator. The Agency may review the decision of the organization against its statute to ensure appropriate transfer of the assets of the CSO is made in accordance with the organization's governing documents or the requirements of the law.



No CSO have the right to distribute assets to its founders, officers, board members, employees, donors, or members upon its liquidation. Except for consortium (Art.84/6)

Once a liquidator is appointed, the powers of the normal governing bodies to represent the CSO cease, and a liquidator is appointed to exercise these powers. The liquidator will carry out inventory of the property including financial statements and will make a public call through official newspaper or other means for any creditors to come and submit their request. After the debts of the organization are paid and the costs of dissolution are settled, the liquidator will transfer the remaining asset in accordance with the statute or the requirements of the law.

Cancellation is the other consequence of dissolution of a CSO. After liquidation is complete, the liquidator reports to the Agency, which deletes the organization from the register.



6.11. Self- Regulatory Framework

CSOs are encouraged to establish independent self-governance standards, which should aim for openness, transparency and democratic structures. The new CSO law encourages CSOs to set higher standards of conduct and performance through voluntary self-regulation. With this objective, the new CSO law established the council;

- To enact a Code of Conduct for the sector, and devise enforcement mechanisms in consultation with the Agency, donors and other stakeholders,
- To advise the Agency on the registration and administration of CSOs,
- To represent and coordinate the civil society sector,
- Issue its own internal rules

All registered CSOs are expected to be a member of the Council which will be governed by their full participation. The establishment of the Council will assist to strengthen the self-regulatory system.

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