

## **ETHIOPIAN HUMAN RIGHTS COUNCIL (EHRCO)**

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### **Ethiopia's draft CSO bill: A serious threat to human rights activism**

#### **Introduction**

The Ethiopian government introduced a new draft NGO bill in May 2008. This draft bill came amid expectations that a new law was being prepared in response to the long standing demands of stakeholders to have a law that replaces the old provisions of the 1960 Civil Code and the Associations regulations that govern the activities of NGOs in Ethiopia. There were persistent demands by NGOs and other groups to have a comprehensive legislation that could facilitate the effective implementation of the right to associate recognized by the 1994 Constitution of the Federal Democratic Republic of Ethiopia and the various international and regional human rights instruments ratified by Ethiopia.

There have been a few forums for consultations between NGOs and the government on the draft once it was put forward but these consultations do not seem to bring about changes on the very critical provisions of the draft that threaten the continued existence of civil society in Ethiopia in general and human rights defenders in particular. Although there have been some improvements made on the original draft in some aspects, the subsequent drafts got even tighter in other respects. The third draft which has been released recently is now expected to be submitted to parliament for endorsement when the parliament reconvenes from recess in October.

As noted above, the draft contains many provisions that can have the effect of seriously impairing the activities of independent NGOs in Ethiopia particularly those that are engaged in promoting human rights, democracy, good governance, conflict resolution and peace building. The following are some of the very critical issues.

1. The draft makes a distinction between 'foreign' and 'Ethiopian' Charities and Societies. According to the draft an NGO established according to Ethiopian laws and managed by Ethiopians, having its seat in Ethiopia is a 'foreign' NGO if it gets more than 10% of its income from foreign sources. For the purpose of the draft "foreign sources" include anyone living abroad. In a situation where almost all NGOs in Ethiopia get a significant amount of their funding from foreign donors, this provision of the draft would mean that they will either cease operation or drastically curtail their activities. For example, my organization has 12 branch offices in the country and has 60 staff members. It runs its activities with a budget close to four hundred thousand USD annually. A very negligible amount of this budget (less than two thousand USD) is raised locally from membership fees.

2. The effect of becoming a ‘foreign’ NGO just by virtue of receiving more than 10% of income from foreign sources is primarily not being able to work on areas that are related to human rights, democracy, conflict resolution, and the rights of women, children and persons with disabilities. Therefore, human rights NGOs that are currently operating in these areas will be forced to look for domestic sources of income, which is very unlikely, or abandon their activities and close down.
3. A ‘foreign’ NGO does not also have the right to challenge executive decisions in court. This means that if the board of the Charities and Societies Agency, the government body entrusted with the supervision of CSOs passes an order to close down a ‘foreign’ NGO this action would not be challenged in court and is final. Even for “Ethiopian” NGOs the right of judicial review is not fully guaranteed. NGOs can appeal against an unfavorable decision of the Board only on questions of law and not on questions of fact within **fifteen** days from the decision. This Board is a seven person body all of whose members including two members from civil society are appointed by the government.
4. The draft also imposes a number of cumbersome and bureaucratic requirements non compliance with them could result in sanctions including the imprisonment and fine of NGO officers and suspension as well as closing down of the NGOs. NGOs are required to notify the Charities and Societies Agency (Agency) seven days in advance of their general assembly meetings, they also are required to notify the opening of a new branch office otherwise the branch will be deemed to be an illegal NGO.
5. There is also a mandatory requirement which directs NGOs to use 70% of their budget for program activities and 30% for administrative purposes. Failing to meet this requirement is a criminal act punishable with imprisonment and or fines. The draft also requires NGOs to have at least five branch offices in the different regions and members from at least five regions if they wish to operate at the federal level. The draft also requires all existing NGOs to register anew within one year after the coming into effect of the law.
6. The Agency also has extensive powers of registering and deregistering NGOs on grounds the interpretation of which is largely left to it. In addition to these it can launch inquiries into one or several NGOs at any time without the need for the existence of suspicion on the operations of the NGOs. During the inquiry, the Agency can order any leader or staff of an NGO to furnish it with any kind of documents.
7. The restrictions on local fund raising are also extensive. Apart from restrictions on foreign funding for human rights NGOs the draft prohibits receiving anonymous donations and puts limits on public collection operations. The Agency should give permission before an NGO is engaged in a public collection activity to raise funds locally. In this case, the Agency could refuse to grant permission for virtually any reason. The Agency can also direct alteration of provisions in the memorandum of association of NGOs. It can also direct the removal of NGO leaders and suspend them from office.

8. The overall effect of all these restrictions is obviously the extinction of NGOs particularly those that are engaged in rights advocacy and the promotion of peace, democracy and the rule of law. This state of affairs seen in relation to the increasing closing down of the political space particularly with the introduction of restrictive legislation such as the media law and the political parties registration law, makes the situation very worrying.

## **Conclusion**

- Ethiopia has a constitution that gives due recognition to various fundamental rights and freedoms including freedom of association. Many of the provisions of the draft NGO bill are in clear contradiction with the very tenets of this constitution particularly article 31 which stipulates in the widest of terms the right of everyone to associate for whatever purpose.
- Ethiopia is also party to a number of international and regional human rights instruments including the ICCPR, IESCR and the African Charter on Human and Peoples Rights. These instruments invariably recognize the rights of individuals and groups to free association. Most of the provisions of the draft will have the effect of reversing the positive steps that the country has taken by providing a constitutional guarantee for human rights protection. They also stand in clear contradiction with the country's commitment for human rights in the international arena.
- There have been other international as well as bilateral commitments that the country has undertaken to uphold principles of human rights and ensure the unfettered participation civil society in its development programs. If the current draft becomes a law in its present form it will entirely extinguish the already limited participation of civil society in influencing government policy and action.
- Consultations with the government have not been producing the desired positive outcome in terms of making the draft human rights friendly and on par with international standards and Ethiopia's obligations in that regard. Indeed some provisions of the draft became tighter following consultations with civil society. Therefore, there is a need for an enhanced involvement on the international arena that could effectively complement the efforts that are being exerted by Ethiopian civil society and other actors within Ethiopia.