



Africa Philanthropy Network

Voice and Action for African Philanthropy



**Synthesis of the Existing
Assessments of the Legal
Environment for Civil Society
Organizations including
Philanthropic Support
Organizations in Ethiopia**

APN 2021.



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ABOUT US

Africa Philanthropy Network (APN) is the continent-wide network of African owned and African-led organization which promote the culture of individual and community philanthropy and acts as a space for indigenous institutions in Africa to interrogate and intervene in the power dynamics that shape how resources mobilization, distribution and spending impact the possibilities of transformation change. APN envision a strong and effective philanthropic community, striving to build equitable and just societies in Africa. Its Mission seeks to reclaim the power and elevate practices of African philanthropy. In achieving this mission, APN is working in collaboration with its members and other philanthropy support organizations to promote voice and action of African philanthropy through building of solidarity and coordinated response in African philanthropy landscape; rethinking and build the case for the potential for African (individual and community) philanthropy to drive social and systems change.

ABOUT THE REPORT

APN in collaboration with the Development Expertise Center (DEC) in 2021 engaged the services of Adequate Trading Training and Consultancy Service a consulting firm in Ethiopia to conduct a study on Synthesis of the Existing Assessments of the Legal Environment for Civil Society Organizations including Philanthropic Support Organizations in Ethiopia to thrive.

The report forms part of the body of work of the Giving for Change (GfC) program. This synthesis provides a baseline data for influencing in-country national state and societal actors to support the development of community philanthropy by creating favorable conditions to promote the power of domestic philanthropic giving as a form and driver of social and systems change.



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LIST OF ACRONYMS AND ABBREVIATIONS

ACHPR	African Charter on Human and Peoples' Rights
ACSO	Agency for Civil Society Organizations (Also 'The Agency')
CSA	Charities and Societies Agency
CSC	Civil Society Council
CSO	Civil Society Organization
CSOF	Civil Society Organisations Forum
CSP	Charities and Societies Proclamation (2009)
DRM	Domestic Resource Mobilization
EPRDF	Ethiopian People's Revolutionary Democratic Front
FDRE	Federal Democratic Republic of Ethiopia
ICNL	International Center for Not-for-Profit Law
NGO	Non-Governmental Organization
PSO	Philanthropy Support Organization
USAID	United States Agency for International Development
VAT	Value Added Tax

ONE: CHAPTER ONE

1.1 BACKGROUND AND CONTEXT

CSOs, including International Organizations, began to emerge in the 1960s during the imperial regime with the enactment of the law governing civil society associations (1960 civil code of Ethiopia). Apart from traditional associations, such as iqubs and idirs, other associations are of recent origin.

The traditional forms of civil society in Ethiopia primarily served the interests of their members, rather than those of the general public. Such organizations included traditional community-based organizations like idir and iqub and other informal self-help organizations. Other associations, registered under the 1960 Civil Code, were mainly professional associations such as trade groups and unions which did not play a significant role in development or public issues. Groups, such as government-supported women's associations and patriotic groups played a marginal role in their communities.

During the Derg regime (1974-1991) CSOs considerably increased in number as a result of the catastrophic famines of 1973-1974 and in particular 1984-1985. Philanthropy grew in importance and visibility during these famines, both of which caused mass migration and a huge loss of lives and property. This resulted in an exponential growth of organizations and faith-based institutions engaging in humanitarian aid. Since the famines, organizations began to engage in development work as well.

The EPRDF government (1991-2019) perceived CSOs as organizations that should be both economic and political partners. The current constitution of Ethiopia provides for freedom of association and the government introduced a Charities and Societies Proclamation No.621/2009 on January 6, 2009. This Proclamation was, however, perceived as a disabling and excessively restrictive legislation, although its preamble promised that it aimed to enable and encourage CSOs.

The 2009 Proclamation especially affected CSOs working on human rights and governance as well as advocates for rights-based development. The law was very restrictive for foreign NGOs and again particularly for those involved in human rights and governance work.

The 2009 law classified all charitable organizations by the nationality of their staff and the source of their funding. It classified CSOs into three types:

- Type 1. Ethiopian charities and societies which have Ethiopian citizen members and administrators, as well as budgets that are at least 90% locally sourced.
- Type 2. Ethiopian resident charities and societies which have foreign members residing in Ethiopia and budgets composed of over 10% in foreign-sourced money.
- Type 3. Foreign charities and societies, formed under foreign laws, employing foreign staff and controlled by foreign nationals, receiving substantial overseas funds.

'The new Civil Society Organizations Agency Proclamation No. 1113/2019 was approved on March 7, 2019 in the House of Peoples' Representatives with the main objective of creating an enabling environment to enhance the role of civil society organizations in the development and democratization of the country. Areas that were off-limits for resident as well as foreign CSOs, such as promotion of human and democratic rights, conflict resolution, promotion of efficiency of the justice system and advocacy for equality among nations and nationalities, are expected to be open for CSOs to undertake.

Civil society organizations apart from their new re-registration might have to wait for the Federal Charities and Societies Agency, currently renamed as the Agency for Civil Society Organizations (ACSO) to undertake its restructure. The directives that are implicitly repealed by the new Proclamation will also have to be revised by the Agency. It has been observed that the Agency is facing some strain to fit the existing directives with the expectation of the new Proclamation during the provisional period.' [1]

The ongoing national, legal, political and economic reform of the recent years resulted in the Ethiopian government adopting this new Proclamation which repealed and replaced Proclamation No. 621/2009. This more liberal law allows CSOs more scope and space for activities, accepting voter education and political lobbying as activities, as well as the option to obtain funding from abroad. Registration is still mandatory, and the regulating Agency (ACSO) still has powers of investigation. The 2009 Charities and Societies Proclamation (CSP) will remain in effect for a year for transition purposes.

The 2019 law defines a civil society organization as 'a local organization formed under the laws of Ethiopia by Ethiopians, foreigners residing in Ethiopia, or both, or it can be a foreign organization formed under the laws of a foreign country and registered to operate in Ethiopia'.

The 2019 law appears more liberal with respect to some aspects of funding and spending. With the new law both foreign and local CSOs are allowed to raise funds from any legitimate source.

The new law also abolishes the 10% maximum rule on foreign funding for local CSOs, which allows domestic organizations to freely determine where their funds come from. Article 63(1/c) of proclamation No. 1113/2019 reads as: 'Any organization shall have the right to solicit, receive and utilize funds from any legal source to attain its objective.'

Given the relative newness of the CSOs Proclamation, some of its provisions have not yet been fully implemented.

1.2 OBJECTIVES OF THE ASSESSMENT

The main objective of this study is to assess and synthesize the existing legal environment for CSOs and Philanthropy Support Organizations (PSOs) and to analyze options for engagement in Ethiopia.

[1] Spotlight on Ethiopia: The New Charities and Societies Law and Trends | NGOsource

1.2.1 Specific Objectives

The specific objectives of this assessment are:

- To assess five key issues: (i) Civil Society Proclamation, (ii) Taxation, (iii) Fundraising, (iv) Oversight and (v) Policy engagement;
- To gather information needed to understand issues with the legal environment, how these affect civil society (including philanthropy organizations), and factors to consider when deciding whether to engage;
- To map issues civil society faces and prioritise the need to address these and indicate how long it may take to resolve the issues based on the complexity of the required solution;
- To identify which allies could support and enhance civil society engagement with key decision makers.

1.3 SIGNIFICANCE OF THE ASSESSMENT

This assessment will provide qualitative baseline data for national actors (government, emerging philanthropists, individual donors etc.) to support the development of community philanthropy by creating favorable conditions to promote giving as a driver of social and systems change.

Additionally, this assessment will provide relevant evidence for several regulatory requirements for CSO formation and work in Ethiopia. In many other surveyed countries, laws have made it mandatory, or more difficult, to register CSOs, and more stringent reporting requirements have been imposed. In Ethiopia, however, moves have been made to ease restrictions on CSOs, but they have yet to be fully implemented.

The study identifies the improvements and implications of the new CSO law for domestic resource mobilization as well as the challenges and prospects of this legislation. It will serve on the one hand as input to Civil Society Organizations, the Agency for Civil Society Organizations and other concerned authorities, while on the other hand the report will be of relevance for further research in the area.

1.4 SCOPE OF THE ASSESSMENT

The scope of this assessment is limited to the critical study and synthesis of the existing legal environment for CSOs and PSOs and offers an analysis of options for engagement in Ethiopia. The pragmatic aspects of the Proclamation (2019) and still existing issues relating to the Proclamation (2009) will be out of the scope of this study. The researchers, however, occasionally refer to the old legislation to provide a historical and legal foundation for the study.

The questions asked are how these issues affect CSOs and PSOs, who are key players, and which factors are to be considered in the decision whether, when, with who and on what to engage. The report provides an overview of issues facing civil society and prioritizes the need to address these. It also provides an estimate of the time required based on the complexity of the required solution. The report also identifies allies who could support civil society engagement and potential openings to reach decision makers.

1.5 STRUCTURE OF THE ASSESSMENT DOCUMENT

This assessment is organized into five major chapters.

The first chapter contains general background and introductory matters and serves as a gateway to the subsequent chapters. It gives the background and covers general and specific objectives of the study as well as its significance, scope and structure.

The second chapter gives an overview of the basic features of the new CSOs Proclamation (No. 1113/2019).

The third Chapter deals with research methodology, source of data, sample size and target population, sampling technique, procedures and limitations of the study.

Chapter four presents and discusses the major findings regarding Proclamation number 1113/2019 in relation to the five dimensions mentioned earlier (Proclamation, Taxation, Fundraising, Oversight and Policy Engagement).

Chapter five finalizes the assessment and provides conclusions and recommendations.

TWO: CHAPTER TWO- OVERVIEW OF LEGAL ENVIRONMENT

2.1 OVERVIEW OF THE NEW CSO PROCLAMATION NO.1113/2019

2.1.1. Introduction

Under the Proclamation of 2009 the source of funding was one of the major factors for categorizing CSOs into local, residential and foreign. With the new law both foreign and local CSOs are anticipated to raise funds from any legitimate source. The administrative cost percentage will be brought down to 20% from its former 30% while operational costs have been raised to 80%. The new law, through its following detailed directives, is projected to lift the restriction on ownership and disposition rights of CSOs. However, the law seems to be on hold as the Council of Ministers did not yet issue a detailed guide through regulations.

As vividly stipulated in the preamble, the purpose of the 2019 Proclamation is to ensure the realization of the right of association enshrined in the constitution of the Federal Democratic Republic of Ethiopia and in the international bill of human rights, as well as to enhance democratic governance, accountability and transparency. The further purpose is to enhance the roles of CSOs in the overall socio-economic development and democratization of the country. The pre-ambble additionally confirms that the Proclamation aims to nurture the culture of philanthropy and voluntarism in Ethiopian society. It wishes to do away with the repressive provisions of previous legislation in order to have robust and enabling legal tools to ensure that CSOs and philanthropy flourish in the country.

2.2 TYPE AND DEFINITION OF CIVIL SOCIETY ORGANISATIONS

2.2.1. Definition of CSOs

According to the CSOs Proclamation, a civil society organization is defined as any non-governmental, nonpartisan, not-for-profit entity established by two or more persons on a voluntary basis and registered to carry out any lawful purpose (Article 2/1). Under the CSO Proclamation, directives and regulations issued in relation to the 2009 Proclamation will remain in effect for one year, to the extent that they do not conflict with the provisions of the new CSO Proclamation.

2.2.2. Classification of CSOs

The Proclamation classifies CSOs as follows:

1. **“Local Organization”** means a civil society organization formed under the laws of Ethiopia by Ethiopians, foreigners resident in Ethiopia or both;
2. **“Foreign Organization”** means a non-governmental organization formed under the laws of a foreign country and registered to operate in Ethiopia;
3. **“Charitable Organization”** means an organization established with the aim of working for the interest of the general public or a third party;
4. **“Professional Association”** means an organization formed on the basis of a profession, and its objectives

may include protecting the rights and interests of its members, promoting professional conduct, building the capacities of members or mobilize professional contributions of its membership to the community and the country;

5. **“Consortium”** means a grouping formed by two or more civil society organizations, and includes consortium of consortiums;

2.3 APPLICABLE LAWS

- Federal Laws, Directives, and Regulations applicable with the new CSO proclamation:
- Constitution of the Federal Democratic Republic of Ethiopia (1994)
- Civil Code Proclamation No. 165/1960, Articles 404-482
- Civil Society Organizations Proclamation No. 1113/2019
- Charities and Societies Council of Ministers Regulation No. 168/2009
- A Directive to Provide for the Establishment of Consortiums of Charities and Societies No. 1/2010
- A Directive to Determine the Operational and Administrative Costs of Charities and Societies No. 2/2011
- A Directive to Provide for the Establishment and Administration of Charity Committees No. 3/2011
- A Directive to Provide for the Establishment of a Charitable Endowment, Charitable Trust and Charitable Institution No. 4/2011
- A Directive to Provide for Public Collection by Charities and Societies No. 5/2011
- A Directive Issued to provide for the Liquidation, Transfer and Disposal of the Properties of Charities and Societies No. 6/2011
- A Directive to Provide for Income Generating Activities by Charities and Societies No. 7/2011
- A Directive to Provide for the Submission of Audit and Activity Reports of Charity and Society or Charity Committee No. 8/2011
- Directive to provide for the Provision of Charitable Services through Cost Sharing No. 9/2011
- Income Tax Proclamation No. 979/2016
- Income Tax Regulation No. 410/2017
- Customs Proclamation No. 622/2009
- Value Added Tax Proclamation No. 285/2002
- Turnover Tax Proclamation No. 308/2002
- Chamber of Commerce and Sectorial Association Proclamation No. 341/2003
- Labor Proclamation No. 377/2003

2.4 GENERAL LEGAL FORMS

The CSOs Proclamation governs CSOs that work in more than one region in Ethiopia. An organization operating in only one region is governed by the laws of that region if the region has adopted its own CSO laws or by the relevant provisions in the 1960 Civil Code, if the region has not adopted its own CSO laws. Currently, only the Amhara Regional State has enacted a CSOs law. This report will not discuss the relevant provisions of the 1960 Civil Code, as most formally registered CSOs operate at the multi-regional level and are thus governed by the CSO Proclamation.

2.5 SPECIFIC ISSUES REGARDING LOCAL LAWS

2.5.1. Remuneration

All CSOs are prohibited to distribute profits obtained from business or investment activities to members or employees of the organization (CSO Proclamation Articles 61/4, 63/1/b, and 64/4). Additionally, members of the Board or Executive Committee of an organization may not be employed in that organization as an officer or ordinary employee (CSO Proclamation Article 65/2) and persons who are relatives to officers of an organization may not be Board members (CSO Proclamation Article 23/4). These two provisions aim to prevent conflicts of interest and self-dealing by decision-makers in the organization.

The CSO Proclamation does not explicitly prohibit the distribution of organizational income or assets to any person as compensation for services or goods provided to the organization. The Proclamation mandates, however, that income from income-generating activities be used to cover administrative and program costs of the organization (CSO Proclamation Articles 64/4).

The Proclamation prohibits an organization established for the benefit of the general public or third parties from expending more than 20% of its total income on administrative expenses (CSO Proclamation 63/2). Special provisions relate to charitable endowments in this regard. According to the Proclamation, members of a charitable endowment's Board may not be remunerated unless the charitable endowment's rules or a different law provide for this (CSO Proclamation Article 28/1). Payments for costs incurred by Board members to attend Board meetings are not considered as remuneration and are permitted (Proclamation Article 28/2).

2.5.2. Proprietary Interest

The CSOs Proclamation does not explicitly restrict the ability of founders, members, or donors to retain ownership over assets contributed to an organization. There is an exception to this rule for charitable committees. In general, if a charitable committee has insufficient funds to attain the object for which it was formed, or the object becomes impossible to achieve, the money or property will be returned to the persons who donated the money or property, unless the charitable committee's founding documents designate a different recipient (Proclamation Article 53). However, money or property collected by the charitable committee amounting to more than what is necessary for the attainment of the proposed purpose will not be returned to the donors, but rather donated to another charitable purpose (in accordance with the founding documents) or disposed by the Agency to CSOs with a similar charitable purpose, in the absence of such a provision in the founding documents (Proclamation Article 54).

2.5.3. Dissolution

A CSO may be voluntarily dissolved by its competent organ in accordance with its governing rules (CSO Proclamation Article 83/1). A CSO may be involuntarily dissolved by: (1) the Board of Directors of ACSO or (2) the Federal High Court (CSO Proclamation Article 83/1). In the first case, the Board of Directors of ACSO may order the dissolution of a CSO if the CSO fails to rectify a violation of the Proclamation or other laws after being issued two warnings and after being suspended by the Director General of ACSO for failing to rectify the

violations (CSO Proclamation Article 78/4). The Board of Directors of ACSO may also order the dissolution of a CSO if it fails to turn in its annual report as required under the Proclamation, and subsequently fails to explain its failure to turn in the annual report to ACSO (CSO Proclamation Article 70).

A CSO may appeal the Board's order for dissolution to the Federal High Court within 30 days following the dissolution decision (CSO Proclamation Article 78/5). The Federal High Court may dissolve a CSO if:

- The CSO is convicted of a serious criminal offense or is repeatedly found guilty of a minor criminal offence, or
- The organization is insolvent (CSO Proclamation Article 83/2).

Upon both voluntary and involuntary dissolution ACSO will appoint a liquidator (CSO Proclamation 84/1). The liquidator will use the CSO's money and property to pay the debts of the organization and costs associated with dissolution. The liquidator will transfer any remaining money or property to another CSO in accordance with the CSO's rules or a prior decision of the governing body of the CSO (CSO Proclamation 84/3).

If neither the CSO's rules nor the CSO's governing body have provided for a recipient organization, ACSO will choose a recipient organization (CSO Proclamation 84/4). In the case a consortium of CSOs is dissolved, the remaining properties after the settlement of debt and costs associated with dissolution may be transferred to the member organizations of the consortium (CSO Proclamation 84/6).

2.5.4. Activities

A. General Activities

CSOs enjoy legal personality once they have registered with the CSO Agency. As such, they can engage in all activities of legal persons, such as entering into contracts, suing and being sued, and owning, administering, and transferring movable and immovable property in their own name (CSO Proclamation Article 61). In general, a CSO may engage in "any lawful activity to accomplish its objectives" (CSO Proclamation Article 62/1). CSOs seeking to engage in sectors that require an additional permit by law must obtain the necessary permit from the government body overseeing that sector (CSO Article 62/10).

The Proclamation does limit the permissible objectives of an organization by mandating that a CSO established to benefit the public or third parties must ensure that its activities consider the interests of marginalized groups such as women, children, people with disabilities, and the elderly (CSO Proclamation Article 62/9).

In addition, a CSO must make necessary efforts to ensure that its activities help to bring about sustainable development, contribute to the democratization process, promote the rights and interests of its members or enhance the profession they are engaged in" (CSO Proclamation Article 62/8). Charitable committees are more constrained than other CSOs according to the Proclamation, since they shall obtain approval from the CSO Agency before they may undertake activities that are not carried out for a charitable purpose (CSO Proclamation Article 49/1).

B. Economic Activities

As a general rule, CSOs may solicit, receive, and utilize funds from any legal source including foreign sources to fulfill their objectives (CSO Proclamation Article 63/1/c). This includes the right to engage in any lawful business or investment activities in accordance with relevant trade and investment laws or to raise funds to fulfill the organization's objectives (CSO Proclamation Article 63/1/b). Income generated from such activities must be used to cover administrative and program costs of the organization, and may not be distributed to members or workers of the organization (CSO Proclamation Article 64/4 and 64/5).

Additionally, as noted above, a CSO shall not spend more than 20% of its total income on administrative expenses (CSO Proclamation Article 63/2). CSOs engaging in income-generating activities may do so by establishing a separate business organization (a company), acquiring shares in an existing company, collecting public donations, or operating their business as a sole proprietorship (CSO Proclamation Article 64/1). CSOs engaged in income-generating activities must keep a separate bank account and track their business expenses separately in compliance with relevant commercial and tax laws (CSO Proclamation Article 64/2). Income-generating activities will be subject to the relevant tax, commercial registration, business licensing and investment laws (CSO Proclamation Article 64/3). Charitable committees are subject to limitations that do not apply to other CSOs, and may not solicit funds without the approval of the CSO Agency for each fundraising effort (CSO Proclamation Article 49/1).

C. Political Activities

The Proclamation does not prohibit CSOs from engaging in political activities, including legislative lobbying. However, the Proclamation defines CSOs as "non-partisan" (CSO Proclamation Article 2/1). It remains to be seen what types of activities the government will view as "partisan" and "non-partisan," and how this interpretation will impact organizations that engage in "partisan" activities. By contrast, foreign organizations and local organizations established by foreign citizens residing in Ethiopia "may not engage in lobbying political parties, engage in voters education or election observations" (CSO Proclamation Article 62/5).

2.5.5 Tax Laws

A. Income Tax

All CSOs are exempted from income tax on grants and membership fees (Income Tax Proclamation Article 65/1). CSOs' income from economic activities is subject to the same taxes as income generated by business entities (CSO Proclamation Article 64).

B. Deductibility of Charitable Contributions

Both individuals and business entities can deduct up to 10 percent of their taxable income for donations to Ethiopian charities and societies (Income Tax Proclamation Article 24). Because the "charities and societies" terminology differs from the terminology for CSOs in the new CSO Proclamation, it is as yet unclear whether and how Ethiopian tax authorities will apply this provision. It may require amendment of the 2016 Income Tax Proclamation to reflect the change in terminology. It is an open question whether new rules will be adopted regarding the taxation of activities related to CSOs.

C. Custom Duties, Value-Added Tax and Turnover Tax

Under Article 65/1/g of the Income Tax Proclamation, CSOs may obtain an exemption from customs duty on imports if the following three conditions are met: (1) the organization has signed an agreement in writing with the government regarding the organization's provision of financial, humanitarian, or administrative assistance; (2) the above agreement contains a provision exempting the organization from paying the customs duty on imports; and (3) the Ministry of Finance approves the organization's exemption from customs duties in writing.

CSOs which enjoy customs duty exemptions may not transfer items, imported under a duty-free scheme, to other persons who do not have similar privileges, without the approval of the Customs Authority. The organization or individual buying the items must pay the customs duty unless they also have duty-free privileges (Customs Proclamation Article 68/1).

The VAT rate is 15 percent (VAT Proclamation Article 7). Foreign grants are not subject to VAT or similar taxes. A business organization that makes transactions over 500,000 Ethiopian Birr within one financial year must register for the VAT and collect the VAT from its partners, which may include CSOs (Value Added Tax Proclamation Article 16/1).

Certain supplies of goods and services are exempted from VAT, including the rendering of educational and medical services, among others (VAT Proclamation Article 8(2)(a)-(p)).

Turnover tax is an indirect tax that applies to business organizations whose annual transactions fall below the 500,000 Birr threshold of the VAT Proclamation. The turnover tax rate is 2 percent on goods sold locally, 2 percent on services rendered by contractors, grain mills, tractors and combine-harvesters and 10 percent on other services (Turnover Tax Proclamation Article 4). A CSO may have to pay the turnover tax if they secure goods or specific services from business whose annual transactions fall below the threshold for the VAT.

D. Double Tax Treaties

The United States, some other countries and the Federal Democratic Republic of Ethiopia have not signed any double tax treaties. Double tax, is a tax principle referring to income taxes paid twice on the same source of income. It can occur when income is taxed at both the corporate level abroad and personal level in Ethiopia.

2.6 SCOPE OF APPLICATION

Article 3 of the Proclamation states that it shall be applicable to organizations operating in two or more regional states, foreign organizations, organizations established in Ethiopia to work on international, regional or sub regional issues and which do not operate abroad, organizations operating in two chartered cities (Addis Ababa and Dire Dawa), charitable organizations established by religious organizations.

Sub article 3 of the Proclamation provides activities which are beyond the scope of application of the Proclamation. Accordingly, religious institutions, traditional institutions (iqub, idir and others), organizations formed under other laws are not governed by CSO Proclamation 2019.

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2.7 ESTABLISHMENT AND REGISTRATION OF CSOS

With regard to formation and registration of CSOs the proclamation under article 16 provides general principles for the formation of organizations. Accordingly, the CSOs may be formed either for definite or indefinite period to serve the interest of the public at large or of third parties or to solidify professional rules and standards.

The joining or disjoining of membership shall be voluntary and a member may withdraw from membership at will. The formation and internal governance of organizations shall be based on democratic principles, non-discriminatory rule, independent and neutral principles. Organizations shall acquire legal personality and be legalized to operate upon registration given that legal requirements provided under article 57(1) of the Proclamation are satisfied.

2.7.1. Documents Required for Registration

Article 58 stipulates that an application for registration by Local Organizations shall be signed by the founders and contain the following particulars:

- The minutes of the formative meeting indicating the names, addresses and citizenship of the founders;
- Copy of the identity card or passport of the founders;
- The name of the organization and its logo, if it has one;
- The objectives of the organization and its intended sector(s) of operation;
- The Region(s) where it intends to operate;
- The Rules of the organization approved by the founders;
- The Organization's address.

An application for registration of a foreign Non-Governmental Organization shall, in addition to the conditions required under sub-article 1, will be accompanied by the following documents:

- Duly authenticated certificate of registration showing its legal establishment in its country of origin;
- Duly authenticated resolution of its competent organ to operate in Ethiopia;
- Duly authenticated power of delegation of the country representative, letter of recommendation from the Ethiopian embassy in the country in which the charity is incorporated or in the absence of such by a competent authority in the country of origin from the Ministry of Foreign affairs of the Federal Democratic Republic of Ethiopia and;
- A Work Plan for a minimum period of two years.

The application by a Consortium for registration shall be signed and submitted by the heads of the founding organizations and shall contain the following particulars:

- Rules of the Consortium signed by the representatives of founders;
- The minutes of the decision among members to form the consortium;
- A certificate of registration issued by ACSO or the Authorized Regional Government body for each of the members of the Consortium.
- The applicant shall pay a registration fee to be determined by the relevant Regulation.

2.7.2. Time Limits for Registration

Upon confirmation that all necessary conditions of this Proclamation are fulfilled, ACSO shall register and issue a certificate within 30 days commencing from the date of submission of application by domestic CSOs and within 45 days commencing from the date of submission of application by foreign organizations. If ACSO fails to register and issue a certificate within the period specified or announces the rejection of the application for registration, it shall be presumed that there is no justification for ACSO to reject the registration. The applicant can appeal to the Board (of ACSO) within 30 days of the date of rejection. The Board shall evaluate and decide on the complaint within 60 days. If the Board determines that there is no sufficient justification for non-registration of the CSO, it shall order the immediate issuance of the certificate of registration.

2.7.3. Refusal of Application for Registration

ACSO shall refuse to register an organization where it finds that:

- The application does not comply with the necessary conditions set out under Article 58 of the Proclamation and the applicant's representative fails to meet such conditions after being requested to do so;
- The aim of the organization or the activities description under the organization's rules are contrary to law or public moral;
- The name or symbol under which the proposed organization is to be registered resembles the name of another organization or any other institution or is contrary to public moral or is illegal;
- The document furnished for registration by the organization is fraudulently obtained or forged.

ACSO may not refuse applications for reasons other than those specified above or on the basis of practice or directive.

If the applicant is unwilling to amend and resubmit its application, ACSO shall reject the application for registration and state the legal grounds for rejecting the application.

2.8 INSPECTION AND FREEZING OF ASSETS

Based on complaints from government institutions, donor organizations and/or the public, ACSO can investigate whether a CSO is conducting its operations according to the law. Notwithstanding the provision above, ACSO shall determine whether there is 'sufficient reason' before starting to conduct the investigation. ACSO shall take necessary measures to expedite the investigations and complete within a short time, without causing inconvenience to the routine operations of the CSO.

Should there be a need to freeze the assets and finance of the CSO to conduct the investigations, the ACSO Director General can give such an order for a period that does not exceed one month. The CSO can appeal the decision to freeze the assets in Court. The law also allows the ACSO Director General to order asset freezes during investigations.

2.9 REPORTING REQUIREMENTS AND BUDGET UTILISATION

The 2019 Proclamation is more liberal with respect to some aspects of funding and spending compared to the previous legislation. Both foreign and local CSOs are allowed to raise funds from any legitimate source. The 2019 law states that CSOs must keep accounts of all day-to-day income and expenditure, including the name and identity of donors, and keep the records for five years. The accounts must be submitted to ACSO each year. They must be certified by an external auditor, unless the CSO has an income of less than Birr 200,000 Section 4, 71, 2 Proclamation - No. 1113/2019).

CSOs must also prepare and submit yearly 'major activity reports' to ACSO, which 'may require additional information or explanation' (Section 4, 73 Proclamation - No. 1113/2019). CSOs must also make their documents available to the public if requested (Section 4, 74 of Proclamation - No. 1113/2019).

2.10 INSTITUTIONAL ARRANGEMENT

2.10.1. Agency for Civil Societies Organizations/ACSO

ACSO is established by this Proclamation with its own legal personality, as an institution of the Federal Government and is accountable to the Federal Attorney General.

2.10.2. Objectives of the Agency (ACSO)

ACSO has the following objectives:

- Create a conducive environment for the full exercise of freedom of association in accordance with the stipulations of the FDRE Constitution and International Agreements ratified by Ethiopia;
- Ensure maximum public benefit by supervising whether organizations carry on their activities in accordance with their registered objectives;
- Build the capacity of organizations to enable them to accomplish their objectives effectively;
- Foster the culture of philanthropy and volunteerism in society;
- Encourage and support organizations to make sure that they have internal governance systems which ensure transparency, accountability and participation;
- Put in place mechanisms to strengthen positive working relations between organizations and the government;
- Support CSO self-Regulation and self-Administration.

2.10.3. Powers and Functions of the Agency

ACSO shall have the following Powers and Functions:

- Register organizations and support, facilitate and coordinate their activities in accordance with the 2019 Proclamation;
- Monitor and supervise organizations to ensure that they undertake their activities in compliance with the law;

- Examine the annual activity and financial reports of organizations and conduct the necessary follow up in accordance with the stipulations under the 2019 Proclamation;
- Provide necessary support to organizations to enable them to have systems of internal governance and self-regulation that ensure transparency and accountability and to work together towards implementation of the same;
- Collaboration with concerned regional government bodies, establish an information center that contains data on the number of organizations operating in the country, including sectors and regions in which they operate, the number of their beneficiaries and members, analyze and disseminate the same through newspapers and websites;
- Organize regular fora for consultation between Federal and Regional Government bodies and CSOs;
- Encourage CSOs to actively participate in the development of policies and laws by the Government;
- Conduct research and advise the Government on the role of CSOs in the protection of Human Rights, democratization and development activities of the country;
- Develop policy guidelines to ensure that the development activities undertaken by CSOs are to the extent possible aligned with development plans issued by the government;
- Without prejudice to the provisions of relevant laws, to exercise the powers of registration and authentication of documents with regard to CSOs;
- Collect fees for the services it renders in accordance with the rate to be approved by the Government;
- Own property, enter into contract, sue and be sued in its own name; and,
- Delegate, when it deems necessary, the powers and functions given to it by this Proclamation;
- Open branch offices in any part of the country as it deems necessary;
- Work in close cooperation with the relevant Government Agencies to prevent money laundering and the financing of terrorism;
- Prepare a list of liquidators and monitor their performance in the dissolution of CSOs;
- Administer the Civil Society Fund established by this Proclamation;
- Promote a culture of volunteerism and voluntary activities and disseminating the same; and,
- Undertake other activities necessary for the achievement of its objectives.

The Agency shall have a Board, a Director General and as may be necessary Deputy Director Generals to be appointed by the Government and the necessary staff. The Agency gets its budget from the government.

THREE: RESEARCH APPROACH AND METHODOLOGY

3.1 OVERALL APPROACH

In order to assess the new CSO law of Ethiopia the choice was made to employ a qualitative research method. Such method helps to reveal feelings, values and perceptions that influence certain actions (Hennink et al 2011: 10) [2]. Qualitative research methods are essential to deeply investigate the experience of people, social reality, concepts, and opinions. It can be used to gather in-depth insights into a problem or generate new ideas for research.

The qualitative method was applied for above reasons, in particular by using the in-depth interview. Data were obtained through open-ended and conversational communication. This method reveals not only “what” people think or opine but also “why” they do so.

In this study, the research team utilized a combination of primary (Key Informant Interviews) and secondary (desk reviews of documents) data collection.

3.1.1. Key Informant Interviews (KIIs)

In order to better understand the new Proclamation 1113/2019, primary data (Proclamation(s) and regulation) were collected using an in-depth key informant interview with semi-structured questions.

The in-depth key informant interviews method helped the research team to deeply engage in a discussion with (civil society) practitioners, officials from ACSO and CSC (Civil Society Council), which provided a rich understanding of the matter at hand. The research method helped to engage deeply with interviewees, which was instrumental to probe feelings and attitudes.

Additionally the research team organized a validation workshop involving key national stakeholders where they presented the draft findings and incorporated their comments to further develop this assessment document.

3.1.2. Desk Review

To supplement the in-depth interviews, relevant secondary data were collected as well. Legal documents such as the old and new CSOs proclamations (2009 and 2019 respectively); previous studies, review literature, journal articles, thesis paper, and internet searches were thoroughly reviewed or conducted.

3.2 SELECTING THE SAMPLE

In order to attain the objective of this assessment, identifying the relevant actors was an essential step. The relevant target populations identified for this assessment are the Civil Society Council (CSC) and the Agency of Civil Society Organizations (ACSO) because the two bodies are the respective representative and governing bodies for more than 3,500 CSOs. Taking into consideration time and limitations caused by the COVID-19 pandemic, interviews were conducted with 5 representatives (directors and officers) from ACSO and 1 from

[2] Monique Hennink, I Hutter, Ajay Bailey, Qualitative Research Methods, pg 10, January 2011, Sage UK, ISBN 9781412922265

3.3 LIMITATIONS OF THE STUDY

The following represents limitations to this assessment:

- Some informants from ACSO were not available to attend interviews due to work load
- Both ACSO and the CSC did not authorize video recording of the interview process, although taking of photographs was allowed.

FOUR: FINDINGS AND DISCUSSIONS

In this section issues related to the implementation of the new CSOs Proclamation, the registration, taxation, fundraising, government oversight, and policy engagement are analyzed and assessed.

4.1 THE PROCLAMATION

All respondents strongly opine that the CSOs Proclamation (no.1113/2019) gives sufficient freedom and guarantees for CSOs to enjoy the right of association without preconditions. According to respondents, the adoption of this Proclamation shows the commitment of the Ethiopian government to effectuate the freedom of association in line with the constitution and international human rights instruments ratified by the state.

Additionally respondents are of the view that it will be instrumental to create an enabling environment essential to enhance the role of CSOs in the development and democratization of the country and nurture the culture of philanthropy and voluntarism in society. The new Proclamation, respondents confirmed, allows CSOs more scope for activities, including voter education and political lobbying. It also opens options to obtain funding from any legal sources from within as well as from outside the country.

Registration remains to be still mandatory and the regulating agency, ACSO, still has powers of investigation. The terminology used in the Proclamation gives ACSO the option to define itself if 'sufficient reason' exists for investigation or freezing of assets. It is up to the Director General of the Agency to decide what constitutes 'sufficient reason'.

Asset freezes prevent organizations from accessing resources, effectively halting their work. This is an extraordinary measure which should only be imposed by a court. The law allows ACSO to investigate, including conducting searches, if it finds "sufficient reason", an overly broad term which could lead to arbitrary interference. While the Agency may need to access some information to ensure accountability, this needs to be weighed against the right of individuals and organizations to privacy.

ACSO also manages the registration, inspection and auditing of CSOs. It has the power to refuse registration of CSOs whose aims or activities are not in line with the national laws and public morals. In particular the latter may be open to different interpretations and the risk exists that 'public morals' is more defined by political economy actors in power than by the public.

If a CSO is unhappy with the registration decision or rejection, it can appeal to the ACSO Board a body consisting of appointees by the Attorney General and representatives of civil society. In other words, the executive of the Agency is not the ultimate decision maker and any CSO has the right to be heard and present its arguments, before the Agency imposes any administrative measure.

Permission from ACSO is needed to open a bank account, which appears a needless bureaucratic complication of CSO life after it has been duly and legally registered.

Key informants agreed that the Proclamation broadened options for fundraising of both national and foreign CSOs. The right to solicit, receive and utilize funds from any legal sources, within or outside Ethiopia, appears a positive contribution to enhance the capacity of civil society.

Registered CSOs can receive cash, in-kind donations, transfers from aid agencies of another country, a multilateral agency or an institutional or individual donor located in any country.

The Proclamation also entitles CSOs to engage in any lawful business and investment activities in accordance with the relevant trade and investment laws in order to raise funds for the fulfillment of their objectives. Respondents also were of the view that the Proclamation clearly defined the administrative and operational costs and provides autonomy for CSOs to manage in a responsible manner and within an environment of reasonable political, financial and legal freedom. They confirmed the view that the government believes that CSOs are a key developmental actors and partners.

The Proclamation allows CSOs to propose recommendations for the change or amendment of existing laws, policies or practices, or for the issuance of new laws and policies which are relevant for the activities those CSOs. The new mandate for ACSO implies their responsibility to stimulate and facilitate CSO contribution in this regard. This is a role that ACSO itself may have to get accustomed to.

The Proclamation states that, unless permitted by another law, foreign organizations and local organizations established by foreign citizens which are residents of Ethiopia may not engage in lobbying political parties, engage in voters' education or act as election observers. This may represent an area for discussion in the period to come.

Although the respondents agreed that the new CSO Proclamation clearly attempts to provide for an enabling working environment for CSOs, several of its provisions have not yet been (fully) implemented. This is partly due to a lack of awareness raising activities to key players for the sector like ACSO itself and its regional officers, line Ministries, other (regional) government bodies and CSOs. A complicating factor at the time of executing this assessment was that the directives and regulations for the Proclamation were not yet approved. In other words, the law provides the prospect of a more liberal operating environment for CSOs.

Possibly still a bit too much power and a too broad mandate has been assigned to ACSO. This, however, is to a degree controlled by offering avenues for CSOs to appeal ACSO decisions. It needs to be recognized that the law, until the writing of this report, mainly exists on paper only and has as only been brought in practice in a limited manner.

Respondents recognized that CSOs still face difficulties with line ministries and regional administrations to properly implement their planned activities. ACSO under the new Proclamation has assigned the role to facilitate, improve and enhance the quality of cooperation between these government bodies and CSOs. And although ACSO representatives in the key informer interviews readily committed to take action to improve the situation it remains to be seen how this will work out.

This is a long existing problem in Ethiopia that has negatively impacted the effectiveness of CSO functioning. The solution is more complicated than a few sentences in a Proclamation can address. It has to deal with giving up long existing vested interests of government representatives at all levels, attitudinal change, sharing of power and allowing CSO empowerment. These are all extremely difficult to address since they represent a clear deviation from a governance model and culture that has been in place for many decades.

A start may be made toward creating an enabling legal, financial, administrative, programmatic and political environment for CSOs by in depth and repeated orientation of key players, like technical personnel in the Agency, line Ministries, the regional bureaus and CSOs themselves about the new legislation and about the win-win situation that can be achieved by effective collaboration. This, as in particular ACSO respondents believe could be addressed relatively quickly and with limited complications.

4.2 REGISTRATION

Respondents believe registration is mandatory for CSOs to be considered as a legal entity. This does not differ from the practice in some other countries. The minimum requirement to establish CSOs is two legal or/and natural persons who agree to carry out any lawful, legitimate, moral and socially as well as culturally acceptable activities (there is no maximum limit for the number of {founding} members). The requirements for registration are clearly defined and no ambiguity or complaint has been reported to ACSO so far.

The problem with the terminology in the Proclamation is that moral, socially and culturally acceptable activities have not been unambiguously defined. This could propose a risk for CSOs working in e.g. areas like human rights and health care.

Respondents discussed that according to the 2019 Proclamation the maximum time limit for registration by ACSO for local and foreign CSOs is 30 and 45 days respectively. This is because the registration request will be officially published in newspapers to avoid double naming and logo duplication, while the registration requirements for foreign CSOs are more complex and require more administrative follow up and checks. Once a CSO is registered, there is no need for renewing or re-licensing its certificate.

If an applicant CSO fails to fulfill the necessary requirements, ACSO will reject the registration. However, if the Agency fails to issue the certificate of registration within the period of 30 days, the applicant may submit its complaint to the Board within 30 days from the expiry of such period. The Board shall examine the complaint and decide a resolution on the matter within a period of 60 days. When the Board finds that the ACSO executive failed to register the CSO without a good cause, it shall direct the Agency to issue the certificate of registration. If the Board decides there was good cause for non-registration, the decision of the executive stands. An applicant dissatisfied with the decision of the Board may lodge an appeal before the Federal High Court within 30 days from receiving the Board's decision. This is a very long process.

Respondents from both ACSO and the Civil Society Council agreed that the main aim of registering a CSO is to protect the rights and interests of individuals, other organizations and the public in general in their interactions with CSOs, including contractual interactions.

Existing Major Challenges

- The respondents stated that the time frame for decisions on CSO registration and for appeals to the Board on the decision of the Agency and beyond to the Federal High Court is too long.
- ACSO has a central office in Addis Ababa. The existing centralized registration process may discourage new applicants from the regional states and requires considerable time, travel and accommodation costs for region based applicants, for which finances may not be available.

- Many restrictions and disabling articles of the previous law have been removed and replaced by less restrictive legislation. However, the same officers in charge of CSO registration before are still there to implement the new law. The attitude of those officers is still unchanged and sometimes they delay the registration process or refuse registration without ‘sufficient cause’.

A. Prioritizing the challenges

- The above drawbacks on CSO registration may require the change of some text of the law in order not to give room to government officers to delay up to the maximum time limit. This may be complex and time consuming if at all possible. In depth orientation of government officers on the purpose of the new legislation may be an easier and possibly more effective way toward improvement. These problems should not significantly or negatively impact the operations of CSOs. Both CSOs and the registration authority should be oriented on (re-)registration requirements and how to deal with the process. Better understanding may lead to more predictable outcomes and shorter time spans.
- During the validation workshop ACSO representatives confirmed that the Agency currently prepares a simple registration form and directive and decided to provide the registration certificate within two weeks. They also work towards online registration to encourage new applicants get access from where they are. Additionally, ACSO plans to open 2 branch offices in selected cities within the coming year. When implemented this may contribute to easier, more transparent, more accessible and faster (re-)registrations.

B. Allies to solve the challenges

- The Agency (ACSO), the CSC, the registration teams and CSOs themselves can support other CSOs to reach the decision-making bodies.

4.3 GOVERNMENT INSIGHT

The Agency supervises and monitors CSOs to ensure that they undertake activities in compliance with the law and their objectives. It also examines the annual activity and financial reports and conducts the necessary follow up. Respondents stated that the government is having a more supportive and collaborative role than strictly controlling CSOs. This, according to them, considerably improved the relationship between ACSO and CSOs.

CSOs need to submit to ACSO, within 3 months after the end of each financial year, an annual report summarizing major activities including an audited annual statement of accounts. All CSOs must keep books of account containing entries for receipt of funds and day to day expenditures, the names and identities of donors, sources of donations, and a record of assets and liabilities.

ACSO respondents stated that the government’s intention is not to put excessive audit requirements or penalties. It is a way to stimulate good business practices among CSOs and to support implementation in accordance with their set objectives and to meet government priorities.

Due to the relative financial, political and legal freedom the Proclamation allows to CSOs, their numbers are increasing with high rate in Ethiopia. Currently, there are more than 3,500 legally registered organizations

under the Agency. ACSO considers it is within its mandate and responsibility to ensure that these CSOs are legitimate, accountable, transparent and effective in their mission.

ACSO respondents informed that it shall not investigate the work of CSOs without 'sufficient reason' and do so within a short period of time and not in a way that hampers the day to day activities and continued existence of the organization.

A. Existing Major Challenges

- It is not clearly stated in the law how the powers to investigate, when an assumed 'sufficient reason' is declared, will be used in practice.
- The Agency can investigate CSOs without a Court order and this violates the national law and constitution.
- CSOs may face interruptions in their program implementation because of misunderstanding with line ministries and regional bureaus (mainly due to high reshuffling and turnover).
- Regional CSOs are not part of the consultation.

B. Prioritizing the challenges

- The degree to which the above will impact CSOs is uncertain. The formulation of workable and practical directives and regulations to the Proclamation may help to resolve matters to a good degree and timely CSO lobbying and involvement in the formulation process is therefore crucially important even when this not represents a robust guarantee about the outcome. The in-depth orientation of all key actors as earlier mentioned remains another and necessary part of a comprehensive approach. To submit proposals for the government to amend the law in accordance with the national and other laws is (too?) complex and, if at all effective, a more long term approach.

C. Allies to solve the challenges

- The Agency, CSC, Attorney General (regional and federal), Human Rights Commission, State Council and Prime Minister's Office can support CSOs to reach decision makers.

4.4 FUNDRAISING

According to the European Center for Not-for-profit Law (ECNL)[3], access to resources is a cornerstone for CSOs to achieve their mission and serve communities. Nevertheless, financial sustainability is the primary challenge for CSOs worldwide. Sustainability can only be achieved if CSOs have access to diverse resources. There are four main sources of revenue:

1. **government funding** from central and local level;
2. **income generating activities:** fees for services, sales, membership fees, rents, investments, business ventures;
3. **domestic philanthropy** like financial donations and in-kind support from volunteers; and
4. **funding from abroad** foreign funding, or cross-border funding.

The relative importance of the four sources varies among countries and regions. An approach to strengthen one source only will not alleviate the sustainability problem. A comprehensive approach is required including all sources of funding.

[3] www.ecnl.org

4.4.1. Domestic Resource Mobilization

According to the 2019 Proclamation CSOs are permitted to engage in all legally acceptable and culturally appropriate fundraising activities including door-to-door, telephone, direct mail, television, go-fund-me campaigns, lotteries, raffles, and other fundraising events. But any public collection by CSOs shall be informed to the Agency for approval not later than 15 days before the event or activity.

The government sometimes provides financial and in-kind support for CSOs. For instance, it supported financially and availed land for Abebech Gobena Children's Care and Development Association and Mekedonia Home for the Elderly and Mentally Disabled Organization. This type of support is provided at federal, regional and provincial government levels. Additionally, the culture of domestic philanthropy, financial donations and in-kind support from volunteers also exists, however it is weak towards formally recognized CSOs.

Any CSO has the right to engage in any lawful business and investment activities in accordance with the relevant trade and investment laws in order to raise funds for the fulfillment of its objectives, which maybe done through establishing a separate business organization (company) or acquiring shares in an existing company or collect public collections or operating its business as a sole proprietorship. But it will be subjected to the relevant government tax and commercial registration and business licensing requirements under investment laws.

4.4.2. Foreign Funding

The new Proclamation states that CSOs have the right to solicit, receive and utilize funds from any legal sources including foreign funding, or cross-border funding to attain its objectives. Respondents confirmed that a CSOs that is properly registered or incorporated should generally be allowed to receive cash or in-kind donations or transfers from aid agencies of another country, a multilateral agency, or an institutional or individual donor located in another country, as long as all generally applicable foreign exchange and customs laws are satisfied.

Civil society representatives, individually and through their organizations, have the right to contact and seek cooperation with other representatives of civil society in the country or outside and the business community in and outside the country.

However, the Proclamation puts restrictions on CSOs to receive any kind of financial or in-kind supports from illegal sources, such as organizations and groups involved in money laundering, terrorist groups, LGBTQ groups, etc. The Proclamation is not clear what consequences or sanctions are in case a CSO obtains willingly or unknowingly funding or other resources from, according to the law, illegal sources.

A. Existing Major Challenges

- Local fundraising requires permits from ACSO. There are set standards for public solicitation activities and providing information to the public, while inappropriate fundraising activities may result in sanctions.
- The national revenue law does not have a special treatment for CSOs to engage in income generating activities for their set objectives
- There is lack of trust and ownership from the community towards contributions to CSOs.
- And, even when contributions are made, it is disorganized and insignificant giving. Communities know, with exception of traditional informal mechanisms, no culture of voluntarism and philanthropy that meaningfully supports the objectives of formal CSOs.

B. Prioritizing the challenges

- The mentioned challenges may be addressed through awareness raising and dialogue.
- For local fundraising ACSO is preparing a separate directive and plans to discuss with the Revenue Bureau to deal with issues related to tax exemption for CSOs.

C. Allies to solve the challenges

- ACSO, CSC, Revenue and Trade Bureaus can all play a pivotal role in addressing challenges that CSOs face with local fundraising. A workable directive and regulation that helps CSOs to mobilize resources for institutional and financial sustainability would be a step in the right direction.

4.5 TAXATION

In the new Proclamation the registration, tax and licensing system for CSOs engaged in income generating activities is subject to the same tax laws, investment laws, licensing, registration process and procedures as business organizations established to carry out commercial activities for profit.

As secondary data and respondents reveal, every person with income is required to pay income tax. The Proclamation proceeds to provide a long illustrative list of activities that entail income tax liability, including income from employment, business activities, and moveable and immovable properties, among others.

Many CSOs are expected to pay value-added tax (VAT) when buying goods and services from VAT-registered providers of goods and services. However, the following transactions and activities are exempted from VAT:

- The rendering by religious organizations of religious or church-related services;
- The rendering of educational services provided by educational institutions, as well as child care services for children at pre-school institutions;
- The import or supply of prescription drugs specified in directives issued by the Minister of Health, and the rendering of medical services;
- The supply of goods and rendering of services in the form of humanitarian aid, as well as the import of goods transferred to state agencies of Ethiopia and public organizations for the purpose of rehabilitation after natural disasters, industrial accidents, and catastrophes;
- The supply of goods or services by a workshop employing disabled individuals if more than 60 percent of the employees are disabled
- CSOs working with the financial support of international organizations (e.g. USAID) may also be exempted from VAT upon applying to ACSO and the Tax Authority, in accordance with agreements between foreign and Ethiopian governments.

Donations may be tax-deductible for both individuals and business organizations if all of the following criteria are met:

- The charitable organization is a registered organization;
- The contribution is made in response to an emergency call issued by the government to, among other objectives, prevent man-made or natural catastrophes, epidemics, or for any other similar cause;
- The donation is made in support of education, health, environmental protection or provided in the form of humanitarian aid other than for the tax-payer's own employees; and
- The amount of the donation or grant does not exceed 10 percent of the taxable income of the taxpayer.

A. Existing Major Challenges

- CSOs who are implementing income generating activities are repeatedly requesting about tax exception because they are being treated as business organizations established for the purpose of carrying out commercial activities for profit.
- Ethiopia has concluded tax treaties with a number of countries and is ready to conclude similar treaties with other countries with the purpose to avoid double taxation on income of individuals or other legal entities, but this is as yet not fully implemented.
- There is lack of good governance, cooperation and understanding among the staff of the Revenue Bureau.

B. Prioritizing the challenges

- The above mentioned problems may require a relatively long time to address as they are complex, and it may require amendment of diverse legal documents.
- Addressing tax problems for CSOs requires continuous, consistent and persistent effort. ACSO and the CSC are to create understanding within government bodies and convince the Revenue and Trade Bureau.
- A start could be made by thorough orientation of tax officials at all levels on the purpose and activities of CSOs.

C. Allies to solve the challenges

- ACSO, CSC, the Revenue Bureau and other CSOs can support new organizations to understand issues about tax law in Ethiopia and lobby for change of existing drawbacks.

4.6 GOVERNMENT POLICY ENGAGEMENT

According to respondents CSOs have autonomy to engage in any sector and area of operation without restrictions and limitations, on condition that activities and objectives are legal, moral, pro-culture and accommodate social values and norms. The Proclamation states that CSOs are to be treated like any other legal entity and are permitted to engage in activities for the benefit of their members, for public benefit or in charitable work.

The Proclamation 2019, as representatives of ACSO and the CSC report, promotes enhanced collaboration between national and foreign organizations. The latter may work in partnership with local organizations by providing financial and technical support to build capacity of local organizations. Both foreign and national organizations shall make efforts to ensure that their activities help to foster sustainable development, contribute to the democratization process, promote the rights and interests of its members, the general public or enhance the profession they are engaged in.

The government may occasionally assist with financial and in-kind support for those organizations established for the benefit of the general public or third parties to assist women, children, persons with disabilities, the elderly and other vulnerable groups.

A. Existing Major Challenges

- More than 100 CSOs got permission to observe the election process of June 2021. Still these CSOs required permission from the National Electoral Board of Ethiopia to engage in lobbying political parties, in voter education or election observation and election monitoring.

B. Prioritizing the challenges

- This rather complex and sensitive issue cannot be simply addressed by ACSO. It implies that parts of the text of the Proclamation may have to be amended. And this requires political will and preparedness to be accountable and transparent in the election process.

C. Allies to solve the challenges

- The Centre for Strategic and International Studies (CSIS), the Attorney General and concerned Ministries may support CSOs in clarifying issues related to policy engagement. This requires a coordinated CSO evidence based advocacy effort that highlights the benefits the government can gain with an open and transparent approach toward elections and other policy matters.
- ACSO in collaboration with the Electoral Board, the Human Rights Commission and policy practitioners could initiate substantive dialogue to resolve existing problems and create a more enabling environment.

FIVE: CONCLUSION AND RECOMMENDATIONS

5.1 CONCLUSION

It has long been acknowledged that a strong and vibrant civil society is a key component of sustainable and legitimate development. Without it, development plans are less likely to achieve their objectives and people are more likely to suffer inequitable growth and policies that fail to address their needs.

The Proclamation promotes the realization of the right to associate and acknowledges the role of civil society organizations in the overall development of the country. It recognizes that CSOs can have an important contribution to the development of the nation and to human rights protection and promotion in particular. Civil Society can provide more flexibility, financial autonomy, willingness and commitment than state institutions and state authorities.

The presence of a strong and free civil society is essential in order to provide and equally distribute incentives for social and democratic change. Through its provision of aid and engagement with development activities, the international community affirms that civil society organizations are independent development actors in their own right, playing a vital role in advocating respect for human rights, in shaping development policies and in executing and overseeing their implementation.

Despite the above, CSOs and human rights defenders worldwide face considerable risks and restrictions, particularly when they promote democracy, human rights and social justice. Governments adopt policies, institute funding modalities and enact legislation that in many cases is not conducive to forwarding the interests of civil society organizations. There are many cases in which civil society activists have been criminalized for their advocacy roles in sensitive areas, such as extractives, natural resources and human rights.

The new Proclamation (No. 1113/2019) introduced many important improvements by decreasing the multitude of restrictions that hampered CSOs and by increasing operational freedom, and access to sources of funding, and income generating activities. The legislation contributed to new hopes and actual better prospects for CSOs in Ethiopia.

Compared to the previous law, it is more liberal with respect to funding and spending. Both foreign and local CSOs are allowed to raise funds from any legitimate source. There are no prohibitions on foreign and foreign-funded CSOs to engage in advocacy and human rights work. A limitation that still exists is that foreign and indigenous organizations established by foreign citizens who are resident in Ethiopia may neither lobby or influence political parties, nor may they engage in voter education or electoral observation.

The Agency for Civil Society Organizations is established to oversee the registration and reporting of CSOs, yet its further prudence has been significantly limited. The Board representatives of CSOs are selected by a Council of CSOs (CSC), not the government. The CSC is a new entity established by CSOs, but convened by and through ACSO. The law appears to envision a CSO-led entity, established and operated with assistance of the State.

Perhaps one of the most important aspects of the law is that it tries to promote and enhance self-regulation of CSOs. The Proclamation defines this as 'a regulatory system led by a voluntary code of conduct adopted by Organizations through the Council to govern itself.' The Council's primary tasks are to: enact a code of conduct and devise enforcement mechanisms in consultation with ACSO, donors and other stakeholders.

The CSC advises the Agency on matters of registration and administration of CSOs and represents and

coordinates the sector. This move to self-regulation marks a significant shift. The challenge of making this work and thus earn further respect and appreciation from the government as well as the public in general, lies on the plate of CSOs themselves.

A number of questions remain, such as whether the Council can effectively represent a sector as large and diverse as the Ethiopian CSO sector. Questions also arise as to whether a relationship of trust and good-will can be maintained between the Council and the Agency and whether close collaboration between these entities will jeopardize the Council's independence.

In conclusion, and in appreciation of its still present setbacks and lack of clarity, the new Ethiopia CSOs Proclamation No. 1113/2019 is to a decent degree in line with the national constitution as well as with ACHPR guidelines on freedom of association and assembly in Africa. It significantly improved and is more liberal as compared to its predecessor Proclamation No. 621/2009. Many national and international observers and CSO representatives in Ethiopia have experienced the new law as a breath of fresh air for civil society.

The powers and mandate of ACSO have been limited as compared to its predecessor Charities and Societies Agency (CSA). The new law sets time limits on the administrative duties of ACSO and CSOs are presently allowed to challenge decisions made by the Agency by appealing to the ACSO Board, the Attorney General or to the Federal High Court, which was not possible under the previous law.

However, the proclamation has some drawbacks when compared with global standards. For instance, registration is mandatory for CSOs to be considered as a legal entity under ACSO. In addition, directives and regulations are not yet prepared to properly apply the Proclamation.

Furthermore, the Proclamation prevents CSOs operating in Ethiopia to engage in lobbying and advocacy activities without prior government permit. CSOs are allowed to engage in income generating activities to ensure the sustainability of their objectives and activities, but are subject to the same tax laws, investment laws, licensing and registration process and procedure as business organizations established for carrying out commercial activities.

5.2 RECOMMENDATIONS

To better strengthen and secure an enabling environment for CSOs the following recommendations may be instrumental:

- It remains important that (other) laws and regulations restricting civil society activity are amended to ensure the independence, participation and freedoms to which civil society actors are entitled. It is recommended that policy makers remain committed to advancing and improving the existing laws and make sure that the still present limitations will be brought to their attention for continuous legislative improvement.
- It is essential to involve civil society organizations in the design and implementation of development plans at all levels. An active role and contribution of ACSO is, according to its assigned mandate, expected in this regard.

- Excessive state oversight should be replaced by more and substantial cooperation between the state and civil society, involving CSOs in the drafting, implementation and assessment of legislation that affects them, at the same time encouraging them to self-regulate. Such approaches may be more apt to lead to the desired results and will constitute a better use of capacities and resources, both within the government and civil society. According to its mandate, its available resources and its preparedness ACSO has a crucially important role to play in this regard.
- ACSO, in consultation with the government, the civil society council, policy practitioners, and advisors should continuously and critically assess the relevance of global standards for civil society regulation for the Ethiopian context, with the same openness of mind that inspired the composition of the present CSO Proclamation. It should regularly report the results of such assessment. This in the medium term may contribute to strengthening and creating a more enabling environment for CSOs in Ethiopia.
- Sustainable development and democracy are hard, if at all possible, to achieve in the absence of a robust and independent civil society and respect for human rights and human dignity. Hence, a more supportive role of the government will be more conducive to development than emphasizing an overly strong auditing, supervisory and controlling approach.
- ACSO should consider to adopt a more favorable disposition to ensure respect for the principal freedom of association as delineated in the ACHPR Guidelines
- A more conducive environment for independent CSOs to conduct civic and voters' education, lobby and advocate to political parties, monitor elections and organize election debates by lifting undue restrictions on activities, will contribute to a further democratization of the Ethiopian society.
- CSOs who are willing to engage in income generating activities could be encouraged by lifting taxes on the income they generate on condition this is used for their administrative and programmatic purposes and contributes to the sustainability of the organisation.
- CSOs in Ethiopia need to understand the need and be prepared to acquire the capacity to run their organizations according to generally accepted business practices. They need to be transparent and accountable to their sources of income, as well as the government.
- Additionally it may be considered whether philanthropy in society could be stimulated by increasing the 10% rule of the taxable income for gifts by individuals and likely more conditionally by organizations. Tax measures that make it also attractive for lower and mid-income groups to give for public benefit may have surprisingly positive effects.
- License or permit requirements must not be used to restrict CSOs' ability to seek or receive resources or to control CSOs.
- The Proclamation of 2019 is good in many ways, yet ACSO urgently needs to orient line Ministries and regional government representatives for its proper application and implementation in order to create a conducive working environment for CSOs and for itself to be able to implement its mandate.
- In general, legislation needs to be formulated with sufficient precision and predictability. It may not be formulated in a vague, open ended manner that renders it difficult or impossible for CSOs and their members to know how to interpret and follow the law properly.

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ANNEX A: INTERVIEW QUESTIONS

“Synthesizing the existing National Assessments of the Legal Environment for Civil Society Actors including Philanthropic Support Organization in Ethiopia”

Key Informant Interview Guide

Dear respondent, My name is _____. I am collecting data on behalf of Development Expertise center (DEC) for the consultant firm has been contacted by Adequate Trading DEC Consultancy Service to conduct the Assessments of the Legal Environment for Civil Society Actors including Philanthropic Support Organization in Ethiopia. The information we collect will help Adequate Trading Consultancy Service to assess the existing legal environment of CSOs in Ethiopia.

The questions take 30-40 minutes. Participation is entirely voluntary and you are free to withdraw from the interview any time you feel uncomfortable or unwilling to participate, and you do not have to specify a reason.

Your participation will be anonymous and confidential. My notes will not be seen by anyone other than research team. I plan to record as much of what you say as possible. Is that OK with you? (Record answer: Yes/No). I hope that you will agree to answer the questions since your views are important. If I ask you any question you do not want to answer, just let me know and I will proceed to the next question or you can quit the interview at any time.

We are exploring five different dimensions of civil society's environment, 1. Civil Society Proclamation, 2. Taxation, 3. Fundraising, 4. Oversight, and 5. Policy engagement.

Now, I need to ask you whether you agree to participate in the study. Would you like to give your consent to participate in the interview? If yes, continue with the interview if no; thank the respondent for his/her time and STOP.

Signature of interviewer _____

The purpose of this interview guide is to gather relevant information for the assessment "Synthesizing the existing National Assessments of the Legal Environment for Civil Society Actors including Philanthropic Support Organization in Ethiopia"

Name of the Interviewee

Address/city.....

Organization.....

I. Civil Society proclamation:

1. What are the enabling environment and barriers for CSO legal environment at country level and key changes over the past five years within Ethiopia, and how could they be addressed?
2. What are the legal, political and financial freedoms of CSOs and how they have changed over the last five years?
3. What do you view as the main strength, opportunities and weakness of Ethiopian CSO proclamation?
4. What are the key legislations, policies and guidelines and institutions that influence CSO administrative and operational environment in Ethiopia?
5. How was the relationship between Government and CSOs in practice in Ethiopia– including the power dynamics at play and how this has changed over the last five years?
6. Is there full transparency and accountability for development priorities, strategies, plans and actions by government?
7. Are civil society organizations allowed to engage in the political (electoral) process? e.g., are they able to nominate candidates for public office? Support or oppose political parties? Fundraise for political parties/candidates? If so, under which conditions? What are the strategies CSOs apply?
8. How do CSOs obtain legitimacy to speak for the people they claim to serve or represent? To what extent are CSOs' political demands supported by "numbers" (size of constituencies)?
9. What looks like the "Existing practices and experiences of CSOs with the proclamation, Major shortcomings/bottlenecks of the proclamation, Positive and negative impacts of the proclamation
10. Recommendation/ways forward/alternative solutions to resolve the current bottlenecks of the proclamation.

III. Registration:

1. Is Registration mandatory for CSOs to operate?
2. How about the minimum member requirement to register?
3. Are the requirements for Registration clearly defined?
4. Is there timeline for government responses for registration on applications?
5. Do CSOs have decentralized access for registration? Centralized registration processes require travel to the capital city?
6. What major challenges CSOs are facing to get registered?

III. GOVERNMENT OVERSIGHT:

1. government oversight may become intrusive 1. How much does a civil society organization's financial sustainability depend on government oversight and approval?
2. Are the views of civil society organizations taken into account when drafting legislation, or in other ways? (Representation issue of CSOs)
3. Are there draft laws or regulations that, if adopted, would restrict – or, alternatively, make it easier to access—the right to peacefully assemble and freely express their opinions? If so, can you please summarize what you understand the law will do? Are groups with certain agendas or orientations forbidden from assembling?
4. What other administrative requirements affect the operation of civil society organizations in Ethiopia?
5. What laws and/or regulations in Ethiopia determine what we can say? What restrictions are placed on what we can say? (I.e. restrictions for national security, defamation, provocation/incitement, obscenity, speaking against the king, etc)?
6. Have you or anyone you know been subjected to government audits or inspections? Please explain what happened. (For example, when did it occur, who was involved, was there any follow up, what exactly was inspected?)
7. Are you aware of any instances in which the government legally terminated or dissolved a CSO? Why? What happened? What opportunities for appeal were available? Are there non-legal grounds that, in practice, the government use to terminate or dissolve civil society organizations? In practice, how have such terminations happened: according to the law or otherwise

IV. Fund raising:

1. FOREIGN FUNDING

1. Are there bilateral or multilateral agreements in place that affect foreign donors' ability to donate and establish partnerships with civil society organizations? If yes, what kind of agreements are they? (E.g. statement of medium to long-term commitment to a relationship; funding framework, etc.)

2. Domestic resource mobilization/ philanthropy

- What are the laws and/or regulations specifically addressing Philanthropy/domestic resource mobilization?
- Are civil society organizations allowed to receive gifts and donations from corporations and individuals?
- How is the Gov't collaboration on CSOs domestic resource mobilization?
- Does the legal and regulatory framework encourage philanthropy? If so, how? If not, how?
- Are tax exemptions available to those who engage in philanthropy and domestic resource mobilization?
- Is there a philanthropic tradition? What encourage philanthropy? What discourages it?
- In your view, what encourages philanthropy in Ethiopia? What discourages it?
- Which financial resources do CSOs have legal access to: state funds? Earn income? Donations? Foreign donor funding? Other? What legal barriers hinder access to each of these potential sources of funding?
- How effectively does the legal and policy framework in Ethiopia support the mobilization of fund raising and local resources?
- What source of funding is most reliable for civil society organizations in Ethiopia? What legal barriers get in the way of accessing potential sources of funding for CSOs?
- Have you seen any recent changes in the national funding environment for civil society in Ethiopia? If so, what are the impacts of these changes on civil society organizations?
- To your knowledge, in what form and at what level is government funding available? E.g. grants, subsidies/financial support? At national or sub national level? Do you know any examples of contracting with the government by civil society organizations?
- How reliable is your or other (civil society) organizations' access to legally permissible/allowable funds? And how freely available are these funds?

V. TAX:

1. What taxes are imposed on income of CSOs? Do they affect their earned income, grants, investment, or purchased goods and services?
 2. Are CSOs subject to local taxes, fees or charges, in addition to federal taxes? Are any other levels of taxes imposed (regional or state taxes, for example)?
 3. Are tax exemptions granted to all CSOs? Are only certain categories of CSOs granted tax exemptions?
 4. Have taxes has been used by the state as a form of repression of CSOs practices? If yes, how?
 5. Is CSOs financial sustainability affected by taxes, duties and/ or fees? Does a tax be regularly paid? What is the capacity of the government to enforce tax payment?
 6. How tax benefits and tax deductibility of donations to organizations shall be determined in Ethiopia?
-

VI. RESTRICTIONS ON POLICY ENGAGEMENT ISSUES:

1. What are the main enabling and disabling factors in civil society proclamations of Ethiopia that affect CSOs in general and in relation to CSOs own goals and objectives? (E.g. what role does aspects of the enabling environment, CSO capacity, resource constraints and degree of networking play?)
2. Are CSOs legally permitted to participate in public policy or political activities? To what extent? Are they allowed to advocate campaign and lobby for legislation? If so, under which conditions?
3. In general, how would you describe the relationship between the government and civil society? Contentious/arguable? Harmonious? Somewhere in the middle? Have there been any significant changes in relations between civil society and the government in Ethiopia in the last five years? If so, please describe these.
4. Does the government view civil society organizations as partners and allies in their own work, or as potential threats? Or in another way altogether?
5. When the government sets priorities and makes strategies, plans etc, is this generally transparent and accountable?
6. Does civil society have a way to disagree or appeal certain government decisions at the national or regional/provincial level? Is this a reliable, genuine and effective way for civil society organizations to explain their concerns? In practice, do civil society organizations actually disagree or appeal successfully to government to get fairer results?
7. What conditions do you feel need to be in place to allow for good and effective relationship between state and civil society?