

The Ethiopian Civil Society Organizations Law and its Role for Social Movement in Ethiopia

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Abstract

Civil society organizations (hereinafter called CSOs) are separate entities from the government organizational structure, and they are formed by people who have common needs, interests and values. They are important for organizing social movements at the local and/or international levels. CSOs in Ethiopia have existed as informal community-based organizations and self-help associations. However, formal civil society organization has started to exist with a legal personality recently. In Ethiopia, for a decade and more, as a result of the adoption of the 2009 repressive CSO law, civil society organizations did not entirely take part in their role in the country's social movements and in the promotion and protection of human rights. However, the said law on several occasions has faced strong criticism from national and international CSOs. Accordingly, recently, in January 2019 the Ethiopian Government amended the preexisting law and enacted a new proclamation, Proclamation 1113/2019. Thus, this paper focuses on the newly promulgated CSO legislation and its role for social movements in Ethiopia, as there are changes made in the system of the CSOs and their activities. Therefore, the paper basically examines the peculiarities of the new Ethiopian CSO law in relation with its role for social movement in Ethiopia. By assessing the positive and the down sides of the new CSO legislation, it investigates the possible contribution of the new Proclamation. It also critically scrutinizes the role of the new CSO law in accelerating and promoting the social movements in Ethiopia.

Keywords: Civil Society, CSO, Social Movement, New Proclamation, Ethiopia, NGO.



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I. INTRODUCTION

There are several theoretical and pragmatic explanations on social movements. These explanations are emerging in a variety of disciplines including law, peace and conflict study, criminology, sociology, political science, history, economics and communications. However, there is no agreed definition for social movement and there probably will never be such a definition because definitions inevitably reflect the theoretical assumptions of the theorists. Different theoretical approaches and scholars conceptualize social movements differently.

It is true that Ethiopia is one of the oldest and independent nations that have been ruled by a continuous Kingdom that administered until 1974. Following a strong popular revolution spearheaded by a vibrant student movement and peasant revolution, a committee (Derg) took over power from the Emperor and replaced the centuries old Feudal system with a socialist and military style of government. Derg was deposed from power in 1991 by ethnic based insurrections in the northern part of the country which led to the ascendance of the current ruling power of the country, EPRDF, to the throne and the secession of Eritrea. The new government adopted a Constitution that established a Federal Democratic Republic form of government with extensive human rights provisions including freedom of association and expression.

As noted above, the 1995 FDRE Constitution under Article 31 guaranteed the right to organize independent associations. In addition, the Definition of the Powers and Duties of the Executive Organs of the FDRE Proclamation No. 4/ 1995 mandated the Ministry of Justice to register and supervise CSOs in Ethiopia. Also the amended law, Proclamation No.471/2006, authorized the ministry in the same manner. However, these laws were obsolete and inadequate enough to control and administer the CSOs.¹ Accordingly, by mentioning the inadequacy of the law and for effective realization of the right to association of the citizen the government enacted the Charities and Societies Proclamation No.621/2009. However, the adoption of this Proclamation has faced several strong criticisms from local and international CSOs and human rights monitoring bodies.² Because the law was restricting the source of funds, the scope of charities' activities and it was denying the appeal right of CSOs to courts. These and other restrictions made by the Proclamation threw their own negative impact on the role of CSOs in Social movements in Ethiopia. Accordingly, the Abyi Administration, as a part of the country's reform process, repealed the 2009 CSO law and introduced a new one³ on February 5, 2019.

Therefore, the general objective of the paper is, hence, to thoroughly study the possible role of the new Charities and Societies Proclamation on the social movements in Ethiopia. Thus, this paper investigates the issue under investigation under its four

¹ Mizane Abata Tadesse, 'The Implications of 2009 Ethiopian CSOs Law on the Right to Freedom of Association', *Journal of Ethiopian Law* 27 (2015): 62.

² Human Rights Watch, 'Analysis of Ethiopia's Draft Civil Society Law', 13 October 2008.

³ Federal Democratic Republic of Ethiopia, 'Proclamation to Provide for the Registration and Regulation of Charities and Societies. Proclamation No. 1113/2019' (Negarit Gazeta, Addis Ababa, 2019), art 2(1).

parts. Part one introduces the reader to the meaning and significance of CSOs in general. It tries to get a clear definition of the current situation of CSOs and their expected operations in social movements in Ethiopia. Part two highlights the dimensions of the civil society sector. In part three, the writer turns its attention to the crux of the matter. In this part, principally answer the question; how the newly promulgated CSO law undermines or enhances the social movements in Ethiopia? Therefore, it provides a quick answer on the challenges and the potential opportunities of the new CSO law for social movements in Ethiopia. This part will help the readers to have a clear understanding on the changes that happen on the new CSO legislation in Ethiopia. Thus the writer makes a comparison between the existing CSO legislation and the repealed one in relation with their roles for facilitating social movements in Ethiopia. Finally, the writer concludes the discussion in section four of the paper.

II. DISCUSSION

A. Meaning and Types of the Civil Society Organizations

Civil society is a space in which individuals associate with each other independently of the state, creating a network of links and organizations to promote their collective identities and serve and represent their group interests. CSOs are very diverse and can take various types, including faith-based groups, trade unions, professional associations, internationally affiliated organizations with branches in many different countries etc. 'NGO' is sometimes used interchangeably with 'CSO', but NGOs should be properly understood as a subset of CSOs involved in development cooperation, albeit often one with no clear boundaries. Constituency based organizations, such as trade unions or professional associations, for example, often do not self-identify as NGOs, but rather as CSOs. In this regard, we can identify at least five main types of CSOs (religious, community based, philanthropic, expert groups and trade unions), plus two types of hybrid organizations (business CSOs and government oriented CSOs).

As far as concerned the types of CSOs in Ethiopia, the 2009 CSOs Proclamation categorized CSOs into three groups' i.e. Ethiopian charities or societies, Ethiopian resident's charities or societies and foreign charities. This classification basically relied on the nationality or residency of their members and source of funds. With regard to the source of funding, Ethiopian CSOs, which are charities or societies established under Ethiopian law and consist of exclusively Ethiopian nationals, are not allowed to obtain more than 10 percent of their funds from foreign sources. In addition, Ethiopian resident charities and societies and foreign charities were allowed to receive funds from foreign sources, but prohibited from carrying out advocacy activities which may facilitate social movements in Ethiopia.⁴ These restrictions were defended by the State as necessary to ensure that activities of a political nature were carried out by the government and not by

⁴ Federal Democratic Republic of Ethiopia, 'Proclamation No. 621/2009 of 2009, Proclamation to Provide for the Registration and Regulation of Charities and Societies', February 2009.

‘foreign agents’. However, the new Proclamation narrows down the classification of CSOs into two categories, Ethiopian and foreign.⁵

According to FDRE Organizations of Civil Society Proclamation No. 1113/2019, art 2(1), Civil Society Organization” means a nongovernmental, non-partisan entity established at least by two or more persons on voluntary basis and registered to carry out any lawful purpose, ... [including] mass-based societies, professional associations and consortiums. However, it is important to know that this definition excludes informal traditional institutions and religious institutions.

A. The Development of CSOs and their Regulatory Framework in Ethiopia

There are different explanations for the concept of Civil Society. For instance, Kumar defined the concept as something “found in the economy and in the polity; in the area between the family and the state, or the individual and the state; in non-state institutions which organize and educate citizens for political participation; even as an expression of the whole civilizing mission of modern society.”⁶ On the other hand, Kamstra understood civil society “as the space between government, the market and private life where citizens can organize themselves to pursue goals unrelated to personal or financial gain, which concern a wider group of people and are not necessarily taken care of by government.”⁷ As we have seen above, the term civil society can refer to formal non-governmental organizations and to informal community based organizations or movements. It includes labor unions, church organizations, professional associations and many others.⁸

Indeed, Civil society, as an idea, has a long history of different usage. However, the modern concept of civil society originated with the period of enlightenment in the 18th century when civil society began to be referred to as a domain parallel to but separate from the state.⁹ The traditional distinction among state and civil society is important to understand the role of the latter in social movements. Civil society organizations (CSOs) play many critical roles in social movements and social changes. The different roles of CSOs in ensuring social movements and changes are widely recognised in international human rights laws and national policies. Despite this, CSOs working on social movements and changes, and especially those asserting rights to labor, land, environment and advancing the interests of minorities, face increased political pressure and existential threats. For the last 15 years, the Ethiopian CSO law has been

⁵ Dessalegn Rahmato, ‘Civil Society Organizations in Ethiopia’, in *Ethiopia: The Challenge of Democracy from Below*, ed. Bahru Zewde and Siegfried Pausewang (Nordiska Afrikainstitute and Forum for Social Studies, 2002), 103–19.

⁶ Krishan Kumar, ‘Civil Society: An Inquiry into the Usefulness of an Historical Term’, *The British Journal of Sociology* 44, no. 3 (1993): 375–95.

⁷ Jelmer Kamstra, “Dialogue and Dissent Theory of Change 2.0 – Supporting Civil Society’s Political Role”, *Ministry of Foreign Affairs of the Netherlands Social Development Department*, 2017.

⁸ Thomas Carothers and William Barndt, ‘Civil Society’, *Foreign Policy*, no. 117 (1999): 18–29, <https://doi.org/10.2307/1149558>.

⁹ Inter Africa Group, citing Carothers and Barndt.

used to limit the autonomy and freedoms of CSOs. The Ethiopian government has been intentionally used anti-terrorism and other legislations for propaganda and stigmatization and to directly obstruct the rights and freedoms of CSOs and their members. The restrictions have affected CSOs of every kind, organizations working on social movements are uniquely affected in several ways. Recently, the Ethiopian government in 2019 outlawed the repressive civil society legislation, Proclamation 621/2009 and introduced new legislation.

Prior to the coming into effect of the 1960 Ethiopian Civil Code, the concept of Civil Society in Ethiopia could only be associated with a form of informal or traditional community based institutions like Idir, Equib, Mahiber, Juigge, Debo, Seddaka, and so on.¹⁰ However, the modern concept of CSO was introduced to the country at the time when the Civil Code of Ethiopia was enacted. The introduction of modern civil society was also attributable to the fact that the prominent traditional institutions could no longer suffice to support the needs of the society as well as the social movements.¹¹ Therefore, the 1960 Ethiopian Civil Code recognized civil, non-profit associations and provided provisions for their registration, control and administration.¹² Thus, some pioneer organizations were registered and have started their activities. The first modern NGOs in Ethiopia were faith-based organizations which appeared in the 1930s. In the period between 1950s and 1960s, there was continuing expansion of NGOs in Ethiopia.¹³ The outbreak of recurring famine in the 1970s and 80s contributed for the rise in the establishment of local as well as international CSOs in the country.¹⁴ These CSOs principally engaged in humanitarian and relief services though, but few of them were involved in policy and advocacy activities.

After the downfall of the Derg regime, the EPRDF Government explicitly recognized Freedom of association by the 1995 FDRE Constitution and guaranteed it as a democratic right of citizens. Thus, due to the then favorable environment, several CSOs were established compared to the past. As per the statistics from the Ministry of Justice (currently, this Ministry is named as Attorney General), the number of CSOs registered in Ethiopia prior to 1991 was 3737.¹⁵ Up until the 2005 national election, more than seventy percent of the CSOs operating in Ethiopia were concentrated in provisions of basic needs to the community and their contribution for democratic values has been insignificant. Therefore, in the time being, there was a call for the NGOs to shift their activities from provisions of basic goods and services to participation in social movements and the democratic transformation of the country.

¹⁰ Wondwosen Teshome-Bahiru, 'Civil Society and Democratization in Africa: The Role of the Civil Society in the 2005 Election in Ethiopia', *International Journal of Social Sciences* 4, no. 2 (23 March 2009).

¹¹ Teshome-Bahiru.

¹² Human Rights Watch, 'Analysis of Ethiopia's Draft Civil Society Law'.

¹³ Teshome-Bahiru, 'Civil Society and Democratization in Africa: The Role of the Civil Society in the 2005 Election in Ethiopia'.

¹⁴ Teshome-Bahiru.

¹⁵ Tadesse, 'The Implications of 2009 Ethiopian CSOs Law on the Right to Freedom of Association'.

Accordingly, the CSOs have been engaged and played a crucial role in the country's social movement specifically by actively engaging in the 2005 national election. Accordingly, successive national elections were held, however, the 2005 election being the most contested.¹⁶ In this election, opposition candidates won 170 of 547 seats but alleged that the election was rigged resulting in widespread violence. Ethiopian security forces responded with deadly measures resulting in the death of more than 200 people. Hence, scores of opposition leaders, journalists and human rights advocates were arrested, and tens of thousands of civilians were put to jail.¹⁷ Opposition leaders, journalists and human rights activists were charged with serious offenses such as Outrage against constitutional order and were sentenced with life imprisonment, which the majority were later released with pardon. The opposition boycotted local elections in 2008 and national election in 2010 resulting in the victory for the incumbent winning more than 99% of the seats.¹⁸

As a reaction to the 2005 election, the ruling party took successive measures that narrowed down political space. Accordingly, in 2009 the government issued a restrictive and punitive CSO legislation that prohibits foreign CSOs from working on the area of human rights and political advocacy.¹⁹ The law blocked the channeling of funds from foreign donors and CSOs to local NGOs seriously undermining their existence. Many argue that the law was the direct response to the hostile relationship created with CSOs as a result of their engagement in political advocacy and their disapproval of the measures taken by the government during the election turmoil. The government blamed foreign actors including the opposition Diaspora for using CSOs to interfere in the internal affairs of the country.²⁰ Attempts made by the diplomatic community and some states to influence the government to change the law were not successful. The government blamed NGOs as Trojan horses carrying foreign politics.

Accordingly, many CSOs were either closed down or were forced to change their mandate away from human rights, good governance and democratization. The remaining local CSOs are being highly regulated and interfered with by an agency established by the law. The effect of this measure was felt in the 2010 election where there was no virtually any involvement of CSOs in election monitoring, voters' education or other social movements. Moreover, the participation of the civil society in influencing political decisions was utterly undermined.

The 2009 Charities and Societies Proclamation contains various provisions that made both the formation and effective working of CSOs highly difficult, if not impossible. This clearly contravenes the human rights guarantees stipulated under the Constitution as well as the regional and international human rights frameworks the country has

¹⁶ Teshome-Bahiru, 'Civil Society and Democratization in Africa: The Role of the Civil Society in the 2005 Election in Ethiopia'.

¹⁷ Human Rights Watch, 'Analysis of Ethiopia's Draft Civil Society Law'.

¹⁸ Human Rights Watch.

¹⁹ Federal Democratic Republic of Ethiopia, 'Proclamation No. 621/2009 of 2009, Proclamation to Provide for the Registration and Regulation of Charities and Societies', Art 2 and 14.

²⁰ Ministry of Justice, 'Commentary on Charities and Societies Proclamation', September 2008, 1-8.

ratified. In this regard, in their recommendations, international and regional human rights monitoring bodies in several occasions urged Ethiopia to revise its legislation on CSOs to ensure that any limitations on the right to freedom of association and assembly, reconsider the funding restrictions, to authorize all CSOs to work in the field of human rights and social movements and not to discriminate against CSOs that have some members who reside outside of its borders.

As a result of several criticisms, the Abyi Administration, as a part of the country's reform process, by establishing an expert working group and by preparing extensive consultation with academics, civil societies, activists and other stakeholders, repealed the 2009 CSO law and introduced a new one.²¹ On February 5, 2019. This reformative measure undertaken by the new administration so far, undoubtedly, has established high expectations on the new law. Thus, the new Proclamation is hoped to create a conducive environment for CSOs to carry out their vital role in social movements. Accordingly, as to the writer of the paper, the new CSOs legislation has its own direct and indirect role on the activities of CSOs and thus, having apparent potential in affecting social movements in Ethiopia. It hence appears significant to examine the role of the new law and identify its implications on social movements in Ethiopia.

B. Role of CSOs for Social Movements in Ethiopia

CSOs are important actors and motors for social movements at the national and global level. Therefore, if they are organized and well-structured they can be agents of changes. But their role is highly dependent on adequate sources of funds and legal frameworks that allow them to solicit financial and material sources. Accordingly, CSOs will have their own significant roles in different forms of social movements. Social movements have a variety of forms. Some of the social movements may concentrate to resist change. In this regard, a conservative movement has the goal of maintaining things the way they are. For instance, the movement to prevent same-sex marriage can be taken as a resistance for the change of heterogeneous marriage. Some others focus on innovative (liberal) movements intended to introduce something new with regard to culture, patterns of behavior, policies, or institutions.

In this regard, Weber²² argued that the charismatic social movement is an agent for a social change force. Furthermore, "in a revolutionary and sovereign manner, charismatic domination transforms all values and breaks all traditional and rational norms..." For Weber, the struggle for power and change are the main objectives of charismatic social movements. Sometimes, the reform movement calls for change in patterns of behavior, culture, and/or policy, but does not try to replace entire social institutions. In this regard, individuals may appeal to policymakers, attempt to elect candidates, and sometimes bring cases before courts to achieve their goals. Some other

²¹ Federal Democratic Republic of Ethiopia, 'Proclamation to Provide for the Registration and Regulation of Charities and Societies. Proclamation No. 1113/2019'.

²² Max Weber, *The Theory Of Social And Economic Organization* (New York: Free Press, 1947), 1968.

movements are also focused on the reform movements because they call for changes in government policy rather than comprehensive institutional change. For instance, collective behavior theorists view social movements as social change efforts other than institutional changes.²³

Thus, scholars like Blumer²⁴ defined "social movements as collective enterprises to create a new order of life "and maintained that in the beginning," a social movement is unstructured, poorly organized and without form." Lang and Lang²⁵ defined the social movement as "a large-scale, widespread, and continuing, elementary action in pursuit of an objective that affects and shapes the social order in some fundamental aspect." The revolutionary theory of social movement also aims to bring about great structural change by replacing one or more major social institutions. In this respect, Marxist theory of social movement argues that social movements grow out of basic social and economic relations which establish the bases of power in a society. He regarded revolutionary social movements as normal as well as inevitable in capitalism.

Indeed civil societies play significant roles both in terms of raising awareness about societal problems in Ethiopia and also helping the Ethiopian government, donors and international organizations plan for societal problem constrained future. Increasingly, non-government organizations and other stakeholders have been coming together at the national level to form civil society networks in some of the countries that are in need of social change. Civil society plays key roles in pushing for new laws, programs, policies or strategies on different issues, in holding governments to account on their commitments; in identifying the lack of joined-up government responses to societal problems; and in ensuring that national policy making does not forget the poor and vulnerable. Generally, the significant role of CSOs and their immense contributions towards the betterment of human rights situations and social movement is very high. These institutions help in fostering the human rights culture and social movements through: training, education, and dissemination of information; through counseling and legal aid services to victims; through conducting policy research and lobbying and through Public Interest Litigation. In addition, CSOs play a significant role in the overall social, economic and political changes of the country specifically by organizing social movements.

Social movement has several definitions and there is no universally agreed definition. In this respect, scholars provide different definitions for the term social movement. A social movement is the mobilization of large numbers of people to work together to deal with a social problem. It is a persistent and organized effort to either bring about what participants believe to be beneficial social change or in some cases resist or reverse change viewed as harmful. An innovative (liberal) movement intends to introduce something new with regard to culture, patterns of behavior, policies, or

²³ J. Craig Jenkins, 'Resource Mobilization Theory and the Study of Social Movements', *Annual Review of Sociology* 9, no. 1 (1983): 529.

²⁴ Herbert Blumer, 'Social Movements', in *Social Movements: Critiques, Concepts, Case Studies. Main Trends of the Modern World.*, ed. Stanford M. Lyman (New York: NYU Press, 1995), 199.

²⁵ Gladys Engel Lang and Kurt Lang, *Collective Dynamics* (New York: Crowell, 1961), 490.

institutions. A conservative movement aims to maintain things the way they are. Reactionary movements seek to resurrect cultural elements, patterns of behavior, or institutions of the past. Rudolf Heberle in his classic statement defines a social movement as an organization that “aims to bring about fundamental changes in the social order, especially in the basic institutions of property and labor relationships.”²⁶ Indeed social changes and social movements are highly interrelated concepts because social movements are a broad set of sustained organizational efforts to change the structure of society or the distribution of society's resources.

However, for having a successful and strong social movement in a country which leads to social change there has to be strong CSOs. Since social change is the purpose of a social movement, law reform generally is taken to provide a means of realizing that goal. In fact, one significant area of progress over the past decade has been the growing influence of local, national and global CSOs and networks in driving policy change, as with debt relief and trading arrangements. However, for a decade CSO has faced several challenges in Ethiopia including political and legal restrictions imposed on them by the governments and the fragmentation and general lack of cross-sector coordination of civil society efforts. In spite of these various constraints, there is considerable potential for impact by civil society on social movements and social change in Ethiopia. Within social movements, law reformers typically view law as a resource or strategy to achieve desired social change.

Ethiopian CSOs have been contributing to the socio-economic, political and cultural development of the country. One of their areas of contribution is resource mobilization. According to the annual report of the National Bank of Ethiopia, the cash transfer of NGOs only, prior the enactment of the oppressive legislation, in the 2006/2007 budget year was 537.4 million USD, exceeding the earning from the country's largest export, coffee, by 113.2 million USD. This huge resource mobilization by CSOs reveals that they have been making significant contributions for the country's economy and the overall development process.

The other major achievement of Ethiopian CSOs is their contribution in positively affecting the country's national policy and program directions. To achieve this, the CSOs have been engaging in several activities such as strengthening the capacity of government bodies, strengthening partnership and collaboration with government bodies, providing alternative or complementary strategies (e.g. alternative basic education, community approaches to health services etc.), engaging in new operational areas, promoting the activity of non-state actors such as community institutions, promoting the efficiency and accountability of public institutions, providing emergency responses and promotion of the country's benefit at the international level. Looking at their sectoral contributions, Ethiopian CSOs have been supporting agriculture and rural development, human development (such as the health, food, education, child protection, and empowerment sectors), good governance and democracy, human rights etc. CSOs

²⁶ Rudolf Heberle, 'Observations on the Sociology of Social Movements', *American Sociological Review* 14, no. 3 (1949): 346-57.

support governments in developing different policies, laws and programmes that advance social movements and social changes. They provide expertise and experience, learnt from best practices around the world. As contributors in law-making processes, CSOs advocate for greater focus on issues of social changes in its multidimensional facets and for an awareness of regional and global changes and challenges that may impact social movements.

CSOs through social movements can play a significant role in ensuring that the voices of remote and disregarded peoples are heard, providing a link between the state and communities who are affected by state policies, laws and decisions. CSOs may play a crucial role in ensuring communities rights to be informed and consulted about decisions that affect them, not only by creating lines of communication between the state and communities, but also by providing training, building people's capacity and knowledge to ensure proper and informed engagement. This is a crucial role in respect of all sorts of social movements and social changes that might affect communities. CSOs may also represent the certain groups at all levels of law-making and implementation. Representing individuals is not just a matter of ensuring these communities are heard, but also ensuring that they have all the necessary information about decisions that affect them and about changes to their environments.

C. The Role of the New CSOs Legislation for Social Movement in Ethiopia

As noted above, social movement is a wide set of continued organizational efforts to transform the structure of society or the distribution of society's resources.²⁷ Accordingly, social change lies at the heart of the definition of a social movement. Within social movements, law reformers typically view law as a resource or strategy to achieve desired social change. Since social change is the purpose of a social movement, law reform generally is taken to provide an instrument of realizing that goal.²⁷ According to this conventional view, social movements, law reform, and society interact in a simple, unidirectional fashion. Social movement organizations seek to secure law reform; in turn, changes in the law bring about changes in society. While this conventional conception dominates much research and can be helpful for the purpose of analyzing the direct effects of law on social movement.²⁸ First, law seeks to effect social change by allowing individuals and groups to alter public opinion, mobilizing voters, or creating new, non-legal norms of behavior. These shifts in public values and non-legal norms can sometimes directly bring about social change. Secondly, changes in society's values and public opinion can feed back into the legal system and affect the prospects for law reform and enhance the effective implementation of legislation. Thirdly and finally, law reform efforts themselves may have an effect on public opinion, with action by courts and other

²⁷ Joel F. Handler, *Social Movements and the Legal System: A Theory of Law Reform and Social Change* (New York: Academic Press, 1978).

²⁸ Gerald N. Rosenberg, *The Hollow Hope: Can Courts Bring About Social Change?* (University of Chicago Press, 1998).

legal institutions sometimes lending legitimacy to the claims advanced by social movements.²⁹ In these ways, social movements, law, and society interact with one another in a more dynamic, bidirectional fashion than is generally recognized.

Even if law reform is not only a tool for changing society, it is an essential tool for social movements. However, to be successful, social movement reformers need not only seek changes in the law but changes in public values too. In the absence of direct changes to society's values, law reform efforts could prove at worst vacuous or at best vulnerable to counterattack or atrophy overtime. As pointed above, the 2009 CSO law was undermining the role of CSOs on social movements because the law has been blocking the channeling of funds from foreign donors and CSOs to local NGOs seriously undermining their existence. The government blamed foreign actors including the opposition Diaspora for using CSOs to interfere in the internal affairs of the country³⁰ Attempts made by the diplomatic community and some states to influence the government to change the law were not successful. The government blamed NGOs as Trojan horses carrying foreign politics.

A wave of protests in 2017, followed by the surprise resignation of the then Prime Minister, Hailemariam Desalegn, in February 2018, opened the way for a new political era in Ethiopia.³¹ As part of a more democratic, transparent and accountable government, the new Prime Minister, Abiy Ahmed, committed to repealing and revising a series of repressive laws, including the Charities and Societies Proclamation of 2009. Although the 2009 Proclamation states that its purpose is to ensure the right to freedom of association, in reality it restricts and controls the activities and funding of CSOs and it undermines the social movement in Ethiopia. Over the past few months, a drafting committee has prepared a new CSOs law, which has been adopted by Parliament and repealed the 2009 CSO law.³² On February 5, 2019. This reformative measure undertaken by the new administration so far, undoubtedly, has established high expectations on the new law. Thus, the new Proclamation is hoped to create a conducive environment for CSOs to carry out their vital role in social movements. Accordingly, the writer in the following subtopics make comparison between the existing CSO legislation and the repealed one in relation with their roles for facilitating social movements in Ethiopia.

1. The Positive Role of the Ethiopian CSOs Proclamation for Social Movements in Ethiopia

Social movements are very important in terms of changing society in both intended and unintended ways, some widely recognized, and others not as clearly understood. Because of the need for democratic political reforms, social movements in Ethiopia have primarily

²⁹ Joseph Stewart and James F. Sheffield, 'Does Interest Group Litigation Matter? The Case of Black Political Mobilization in Mississippi', *The Journal of Politics* 49, no. 3 (1987): 780–98.

³⁰ Ministry of Justice, 'Commentary on Charities and Societies Proclamation'.

³¹ Human Rights Watch, 'World Report 2008 - Ethiopia', in *Events of 2007* (New York: Human Rights Watch, 2008).

³² Federal Democratic Republic of Ethiopia, 'Proclamation to Provide for the Registration and Regulation of Charities and Societies. Proclamation No. 1113/2019'.

been reform movements aimed at changing aspects of the political system. Legal measures and political changes may reduce certain forms of inequality among individuals, but it is clear that much more needs to be accomplished in the legal reforms. Even if the economic and political inequalities have increased, due to the restrictive legal instruments, the upward social mobility and social change have been decreased and the government has been characterized as less democratic.

As noted somewhere above, under the repealed Proclamation 621/2009, there were several problems which were observed regarding registration, control and administration of CSOs. As a response to these problems, the Federal Attorney General has prepared a draft legislation concerning the registration and regulation of CSOs and presented it for discussion and adopted by the House of People Representative in February 2019. According to political opportunities theory of social movement, political context is important to talk about social movements and social movements arise at times when political circumstances are favorable.³³ Accordingly, people are only motivated for a social movement when they understand that the political and legal situation is allowing them to organize effectively and achieve their goals. Besides, a social movement that is already underway will often attempt to use its influence to make the political environment more favorable. This theory focuses on how the external political and legal environment enables or interferes with initiating a social movement, recruiting and mobilizing participants, and getting access to resources. Moreover, the theory explores how a social movement impacted political campaigns and government policies and how a movement can alter the political context in which it operates. In this regard, the human rights defenders will be benefited from increased support and favorable actions by the legal instruments.³⁴ Indeed, for a social movement to be effective, the availability of favorable legal instruments must exist.³⁵

In this respect, the new CSO legislation has its own positive aspects in terms of supporting the social movements of the country because the Proclamation provides the legal recognition for the realization of the right to freedom of association and social movements in Ethiopia. The new proclamation also has positive aspects for social movements in terms of lifting Prohibition from working on human rights, democratization, rule of law and good governance issues. Unlike the new legislation the amended Proclamation explicitly prohibited foreigners and foreign charity associations

³³ Doug McAdam, *Political Process and the Development of Black Insurgency, 1930-1970* (University of Chicago Press, 1982); Doug McAdam, John D. McCarthy, and Mayer N. Zald, eds., *Comparative Perspectives on Social Movements: Political Opportunities, Mobilizing Structures, and Cultural Framings* (Cambridge Studies in Comparative Politics) (Cambridge: Cambridge University Press, 1996); Sidney Tarrow, 'National Politics and Collective Action: Recent Theory and Research in Western Europe and the United States', *Annual Review of Sociology* 14 (1988): 421-40.

³⁴ Philip Bump, 'Obama Is the Most Polarizing President on Record, but It's Not Entirely His Fault', *Washington Post*, 6 February 2015.

³⁵ McAdam, *Political Process and the Development of Black Insurgency, 1930-1970*; Charles Tilly, *From Mobilization to Revolution* (Reading, Mass: Addison-Wesley Pub. Co., 1978).

to engage in the activities.³⁶ However, the prohibition of non-human rights CSOs from carrying out human rights activities is both disproportional and discriminatory. In a manner it is inconsistent with human rights conventions and the FDRE Constitution which guarantees the right to freedom of association to everyone.³⁷ Compared to the 2009 Charities and Societies Proclamation, the new Proclamation³⁸ has made major progress in terms of lifting restrictions. The new legislation removes some restrictions on the rights to freedom of association and expression.

Mostly, social movements are designed to address social problems through a series of stages, including incipience, coalescence, institutionalization, fragmentation, demise, and possibly revival. These stages are in one way or another way influenced by the availability of an adequate legal framework and sufficient funding sources. According to the resource mobilization theory of social movement, people motivated to create a social movement need to have access to sufficient resources to be successful.³⁹ In this regard, relevant resources include material, funding, leadership skill, and access to social capital through which new participants can be recruited. Other beneficial resources can be the support of powerful persons, aid from previously established social movement organizations, and assistance from important moral figures who can bestow legitimacy on the movement and its goals. For example, the civil rights movement benefited from the support of many African American churches.⁴⁰ and their leaders, including Martin Luther King Jr. Their congregations provided meeting places, participants, and financial contributions, and their preexisting intercity and interstate connections served as avenues for geographic expansion and long-distance coordination of efforts.

The Ethiopian social movements are dependent for funding on Western agencies, governments and international NGOs, think-tanks and civil society organizations. In certain circumstances, Western powers and the international financial institutions (IFIs) regard limited forms of social movement mobilization or protest as a way to undermine particularly 'intransigent' governments that have failed to successfully implement programmes of liberal reform. This should not be reduced to or interpreted as an argument that sees all 'protest movements' as manipulated by Western powers, but rather as a call for the critical analysis of the influences upon movements engaged in processes of political change. The new Proclamation narrows down the classification of CSOs into two categories, Ethiopian and foreign, merging the previously separate Ethiopian and Ethiopian resident CSOs under one category.⁴¹ This eliminates the nationality requirement. The new law also abolishes the 10% rule on funding, which

³⁶ Federal Democratic Republic of Ethiopia, 'Proclamation No. 621/2009 of 2009, Proclamation to Provide for the Registration and Regulation of Charities and Societies', Art.3 (2)(b).

³⁷ Federal Democratic Republic of Ethiopia, 'FDRE Constitution Article 31: Freedom of Association', 1994.

³⁸ Federal Democratic Republic of Ethiopia, 'Proclamation to Provide for the Registration and Regulation of Charities and Societies.Proclamation No. 1113/2019'.

³⁹ Jenkins, 'Resource Mobilization Theory and the Study of Social Movements'.

⁴⁰ Aldon D. Morris, *The Origins of the Civil Rights Movement: Black Communities Organizing For Change* (New York: The Free Press, 1986).

⁴¹ Federal Democratic Republic of Ethiopia, 'Proclamation to Provide for the Registration and Regulation of Charities and Societies.Proclamation No. 1113/2019'.

allows domestic organizations to freely determine where their funds come from.⁴² The law clearly entitles CSOs a right to solicit funding from any lawful source.

Important changes in the new CSO Proclamation include the absence of funding restrictions on CSOs that promote human rights, good governance, and related themes such as anti-corruption and conflict resolution. The new legislation also removes the restriction on individual CSO membership based on nationality and residence, which could help broaden the funding base for human rights organizations in the country.⁴³ In this regard, the CSOs will have strong financial capacity to mobilize financial and human resources. Therefore, the new legislation is playing a significant role for social movements and social changes in the country.

Under the amended legislation, the CSOs Agency was mandated to oversee and administer the registration, reporting and other activities of CSOs and had wide discretion over their closure, as well as a range of decisions affecting their day-to-day operations.⁴⁴ CSOs complained of extraordinary bureaucratic delays, high staff turnover and corruption, resulting in them having to wait weeks to open bank accounts, finalize contracts, purchase vehicles and so forth.⁴⁵ In this regard, the new Proclamation plays an important role for social movements since it removes many of the intrusive powers of the Charities and Societies Agency that violate the privacy and independence of civil society.⁴⁶ Equally important is the provision of the draft CSO Proclamation that guarantees the right of CSOs, including foreign CSOs, to challenge the CSOs Agency's decisions on registration applications, including in courts of law. Therefore, the new legislation has the potential contribution for supporting social movements in Ethiopia.

2. The Adverse Impact of the New CSOs Proclamation on Social Movements in Ethiopia

Even if the new legislation has made some admirable changes, it still struggles with certain limitations that can potentially impact the social movements in the country. One of these restrictions is related to the rule on budget allocation, which is actually worsened in the revised law. The previous law obliges CSOs to allocate at least 70% of their budget for operational purposes and not more than 30% for administrative matters. However, the law required CSOs to allocate 80% of their budget to operational costs and 20% to administrative activities. The '80/20 rule' was meant to ensure that the bulk of CSO funding benefited those in need. However, the Proclamation defined administrative activities so broadly that it included a wide range of costs that would normally have been

⁴² Federal Democratic Republic of Ethiopia.

⁴³ Federal Democratic Republic of Ethiopia.

⁴⁴ Federal Democratic Republic of Ethiopia, 'Proclamation No. 621/2009 of 2009, Proclamation to Provide for the Registration and Regulation of Charities and Societies'.

⁴⁵ Taye Assefa and Bahru Zewde, eds., *Civil Society at the Crossroads: Challenges and Prospects in Ethiopia* (Addis Ababa: Forum for Social Studies, 2008).

⁴⁶ Federal Democratic Republic of Ethiopia, 'Proclamation to Provide for the Registration and Regulation of Charities and Societies. Proclamation No. 1113/2019'.

considered part of the cost of implementing a program. In this regard, the nature of work of some CSOs which are working in social movements might rightly necessitate the allocation of more budgets for administrative activities that are indispensable for their operational purposes. This is particularly true for service providing or advocacy organizations. Hence, the rule falls short of providing certainty and flexibility to accommodate the peculiarity of different CSOs. As a result, organizations which are working in social movements are unable to train staff, commission studies, network, or participate in workshops.

III. CONCLUSION

There are explanations for the question why social movements appear in the contemporary world. In this regard, there are theoretical justifications including Marxist theory, deprivation theory, resource mobilization theory, revolutionary's theory, and multifactor theory. However, the most convincing explanation to understand social movements may be to use a comprehensive and diverse approach that shows how a combination of different elements affects the emergence and outcomes of social movements. In this respect, under this paper, the author critically examines the relevance of legal frameworks including Proclamation No. 1113/2019 for social movements in Ethiopia. In the meantime, the writer has seen the symbiotic relationship between legal frameworks, social movement and social changes.

In the first months of 2009, the Ethiopian Government enacted the Proclamation to Provide for the Registration and Regulation of Charities and Societies (CSP). It was the first comprehensive law governing the registration and regulation of NGOs in Ethiopia. The Proclamation has been highly criticized for violating international human rights standards relating to the freedom of association. Specifically, the repealed legislation and its directives restricted CSOs that receive more than 10% of their financing from foreign sources from engaging in essentially all human rights and advocacy activities. Accordingly, the law has had a chilling effect on individuals' ability to form and operate associations effectively. Accordingly, after the coming into power of the Abiy Administration, the oppressive law has been repealed and the New CSOs Proclamation, Proclamation No. 1113/2019 has been promulgated.

As discussed under this paper, social movements have the potential for law reforms and social changes. In this regard, under this paper, the author principally identified the role of the laws on the social movements and social changes. Accordingly, the paper identified the positive and negative impacts of the new CSOs legislation, Proclamation No. 1113/2019 on the social movements in the country. Therefore, as to the analysis of the paper, the new CSO legislation has its own positive aspects in terms of supporting the social movements of the country. Firstly, it provides the legal recognition for the realization of the right to freedom of association and social movements in Ethiopia. Secondly, it removes some restrictions on the rights to freedom of association and expression. Thirdly, it plays an important role for social movements since it removes many of the intrusive powers of the Charities and Societies Agency that violate the

privacy and independence of civil society organizations. More importantly, Proclamation No. 1113/2019 entitles the CSOs a right to solicit funding from any lawful source and to promote human rights, good governance, and related themes such as anti-corruption and conflict resolution. However, it still struggles with certain limitations that can potentially impact the social movements in the country. One of these restrictions is related to the rule on budget allocation, which is worsened in the revised law.

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