



THE HISTORICAL TRENDS AND LEGAL FRAMEWORKS OF CSOs IN ETHIOPIA

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Abstract

The historical trends and legal frameworks of CSOs are not identical across countries. Hence, this study gave attention on investigating the historical trends and legal frameworks of Civil Society Organizations (CSOs) in Ethiopia. The result uncovered that the movements of both domestic and foreign CSOs have a recent history which firstly began during the reign of Emperor Haile Selassie-I in 1930s. Beginning from that period, the number of CSOs is increasing from time to time. The development of CSOs as well as their legal framework to govern them lacks consistent features. This was especially true both in Derg and EPRDF regime. At the regime of Derg, until the 1973/74 famine, the numbers of CSOs were not grown as expected since the military-socialist regime of Ethiopia was against with the establishment of independent CSOs. By overthrowing the Derg regime when the incumbent government comes to power, it recognized and valued the role CSOs had to play and gradually, by assuming that the imperial legislation (Regulation No. 321/1966) had failed to support the substantial roles of CSOs, the government formulated Proclamation No.621/2009. Recently, the EPRDF amend the Proclamation No.621/2009 with Proclamation No.1113/2019 for the main reason that the former one is more of restrictive and discouraging.

Key words: Proclamation, Civil Society Organizations (CSOs), Legal Frameworks

Introduction

The term 'civil society' has no a commonly agreed single definition, but its various form of expression seems to overlap among its core conceptual components. Its idea goes back to ancient political thinking

of the Western tradition. Although its origin is associated with the work of ancient Greek philosophers, its traditional understanding was not different from the state. The modern conception of 'civil society' firstly appeared in 18th century with the Scottish and Continental Enlightenment of Adam Ferguson, Adam Smith, Georg Hegel, and Charles Montesquieu (Nisar, 2013).

Since the various forms of expression for civil society by different people at different time are not consistent, scholars (Matanga, 2000; Ncube, 2010) clarify the conception of 'civil society' in historical phases. For instance, in the pre-modern (classical age), it was considered synonymously with political society (Vinod, 2006); in the modern history, it was viewed as a middle ground between private property and the state; and finally, in the contemporary epoch, it has been defining as a voluntary association that contrasted from both the market and state to defend individuals' interest from the aggressive powers (Matanga, 2000). Scholars argue that CSOs are necessary to serve and empower the vulnerable group of the society in different aspects (Miheret, 2010). Hence, they are an important ingredient to the entire development of hosting countries. However, the natures, forms and roles of CSOs play significantly depend on the socio-economic, political and legal realities of hosting states and communities. Accordingly, their contributions may vary from state to state or community to community.

In Africa, CSOs have not been played their role fully in the continent's democratization process due to several factors including the repressive regulations imposed on them by governing parties (Wondwosen, 2009b). Since 1950s, many countries are working to backlash CSOs that has valuable efforts in the process of democratization using restrictive legislation (Wondwosen, 2009b).

In Ethiopia, many CSOs are playing an important role in different areas. Unlike the domestic CSOs, the movement of foreign CSOs was firstly begun during the period of Emperor Haile Selassie-I in 1930s (Fisher, 1999). The Ethiopian Red Cross (1935), the Ethiopian Evangelical Church Mekane Yesus (1960), and the Chesire foundation (1969) were some of the well-known CSOs which engaged in providing relief aid. However, the concern of CSOs (both domestic and foreign CSOs), during the then time, was confined only in relief activities. The 1960's Civil Code of Ethiopia was the first legislation passed to govern the task of CSOs (Kassahun, 2015). This legislation was 'widely believed to have caused bureaucratic delays and hurdles in the course of seeking legal recognition/registration as a prerequisite for embarking on operations' (*ibid.*).

During the regime of *Derg*, due to the occurrence of the great famine crises of the 1984-1985, CSOs like, Oxfam, UK, Care etc. were given recognition after their request to the Ethiopian Relief and Rehabilitation Commission and Children's Commission (Clark, 2000). The current government, through FDRE constitution, appreciates the establishment of CSOs in both areas of socio-economic and political spheres. The FDRE constitution in article 31 provides freedom of association. Accordingly, the number of CSOs increased from few hundreds in 1990s to 2,305 in 2007 (Mihret, 2010) and in 2009 there were 3,800 CSOs in Addis, with a total budget of \$1.5 billion a year, when the annual government budget was \$4 billion (Barder, 2009). 'The two decades from 1991 to 2009 are known as a period when a remarkable progress in the numbers and activities of NGOs/CSOs was seen in the history of the country' (Kiya, 2017).

But government has not continued with its initial commitment, the EPRDF government has most likely attempted to control and monitor their activities by any possible means from 2011-2018 (Sandberg, n.d; Cakmak, 2004). The Proclamation No.621/2009, passed by Parliament, is one of the major instruments the government has used to control CSOs. It has significant and adverse effects on CSOs that work on the sphere of politics though the government has advocated that the proclamation enables CSOs to play their active role for holistic development and 'democratic system' via registering, licensing, monitoring and supporting them.¹ However, the incumbent government recently replaced the Proclamation No.621/2009 via Proclamation No.1113/2019. Accordingly, the researchers in this study give attention to study the historical trends and legal frameworks of CSOs in Ethiopia. Accordingly, this study tries to address the following specific objectives include:

1. To assess the historical trends of CSOs in Ethiopia
2. To assess the legal frameworks of CSOs in Ethiopia
3. To explore the justification of governments to enact legal frameworks of CSOs

Methodology and Methods

Research Design and Data Sources

This study employed a case study research design with qualitative research approach. This is because, as Crowe, Cresswell, Robertson,

1 See the FDRE Proclamation No.621/2009, Article 6.

Huby, Avery and Sheikh (2011) stated, case study helps to generate an in-depth, multi-faceted understanding of a complex issue in its real-life context. Moreover, a case study is an exploration of a bounded system or a case (multiple cases) over time through a detailed, in-depth data collection involving multiple sources of information rich in context (Creswell, 2007). The reason to choose qualitative research approach, it seeks to make the most innumerable specific information that can be derived from and about that context, by purposely selecting settings and informants that differ from one another (Babbie and Mouton, 2003).

The required data to the study were collected from both primary and secondary sources. Primary data were gathered from key informants. Furthermore, policy papers, government and non-governmental body minutes, statistical data, audio and video sources of Mass Media were taken as primary sources. Secondary sources were the which were gathered from available and relevant books, regional and international treaties, domestic laws, journal articles, magazines, governmental and non-governmental organization reports, and other publications have been reviewed.

Samples

The researchers used non-probability, particularly purposive sampling technique to gather appropriate data from concerned participants. Using few key informants, it allows the researcher to produce data which deal about the topic in-depth and in-detail (Denscombe, 2003). Hence, these key informants were selected from Charities and Societies Agency, Federal Attorney, Lawyers (who were participated in drafting the proclamation), individuals who were participated at different discussion regarding to the drafted proclamation, representatives of political parties, the existing CSOs that work on promoting democratic values, Ethiopian National Election Board, and scholars from the field of International Human Rights Law, Political Sciences and Human Rights.

Data Analysis

In qualitative research approach, theme analysis is one major and useful means of analyzing the collected data through a method of categorizing, analyzing, and reporting themes within data (Braun and Clarke, 2006). Accordingly, since thematic analysis technique minimally organizes and describes the data set in detail, the data gathered from all sources to this study were organized and analyzed thematically.

Result and Discussion

Historical Overview of CSOs in Ethiopia

Despite the existence of the traditional self-help associations for a long period of time, the historical development of the modern or non-traditional CSOs has begun since the reign of Emperor Haile Selassie I. So, the movements of both domestic and foreign CSOs have a recent history and it firstly began during the reign of Emperor Haile Selassie-I.

In the country, missionaries or Faith-Based Organizations were the first groups of NGOs. In 1960s, the other parts of CSOs, professional associations, had operated but their attentions were mainly confined to serve for the interests of their professions and members (Eman, 2012). There were also government-supported parts of CSOs including women's associations, patriotic groups and others, though these played a marginal role and had only a muted voice (Dessalegn, 2010). According to Feleke (2015), his Majesty Emperor Haile Selassie I was committed to the formation of CSOs to address the community problems in collaboration with the government. He had a special interest to encourage people of the country in the form of association. In 1963, the Emperor expresses his blessed interest by making a historic speech that (Alemayehu, 1968 cited in Fekade, 2015:72):

Although great effort is being exerted by our government by way of planning and formulating ways and means of eradicating community problems, it is not sufficient for the people to rely on government support alone... the people themselves must ... try to solve their problems through participation and collective actions.

This historical speech reveals that the Emperor was committed to authorize CSOs to work in promoting public interests. The development of foreign CSOs in the country also firstly started during the reign of Emperor Haile Selassie-I.

The replacement of Emperor Haile Selassie I, the king who had dominated Ethiopian history for almost half a century, by the Provisional Military Administrative Council (*Derg*) in 1974, had an adverse impact on the growth and development of CSOs in the country (Merara, 2003). Instead of promoting the formation of independent associations, the *Derg* enforced the establishment of politically charged and less independent mass organizations (Merara, 2003; Warner, 1982). The fact presented by existing literatures is that the military-socialist regime of

Ethiopia was well known in its despotism against the establishment of independent CSOs (Feleke, 2009). In those times, the political situation was restricted for the establishment of both independent mass organizations as well as international civil society organizations. However, the period following the 1973/1974 famine that reportedly affected 7.7 million people caused the influx of 22 international independent organizations (Dessaiegn, 2010). Almost all modern international NGOs which arrived in the famine time have established permanent field offices in the country to carry out rehabilitation and development. Again, the influx of these organizations paints its own dominant picture on the landscape of the civil society sector that was controlled and directed by socialist-oriented mass organizations (CCRDA, 2013).

The replacement of the military regime by the EPRDF-led government in May 1991, changed the growth and development of CSOs. The incumbent government recognized and valued the role CSOs had to play and gradually it began reopening avenues for their involvement that had been shut down by previous regimes. The government's 'Poverty Reduction Strategy Paper (PRSP)' recognizes the strong role that NGOs play (and will continue to play) in the effort to reduce poverty and to meet the MDGs. Kumulachew and Debebe (2012) state that the promulgation of the FDRE constitution and the ratification of international and regional human rights legal frameworks were cause for optimism and positive signs for guaranteeing the rights of all citizens to freedom of association and the formation of diverse forms of CSOs. This resulted in the growth and expansion of 'modern' NGOs (*ibid.*). For instance, numerically, they increased from few hundreds in 1990s into more than two thousand in 2007 (Mihret, 2010) and 3,800 in 2009 (Barder, 2009). The fall of the *Derge* Regime in May 1991 and the political liberalization during the transitional period, saw a marked transformation in both quality and quantity of the voluntary sector.

The Legal Framework of CSOs in Ethiopia

In order to govern a various emerging civic associations, Emperor Haile Selassie I also introduced moderate policies. The 1960's Civil Code of Ethiopia and Regulation No. 321/1966 were the first legislation that had passed to govern the task of CSOs (Kassahun, 2015). But, before the 1960s, there were some legal principles that aim to establish and govern association individually. For example, there was the Legal Notice No.99/1947 to the establishment of the Ethiopian Red Cross; Order No.5/1950 on Young Men's Christian Association (YMCA)

establishment; General Notice No.169/1953 to establish Ethiopian Women's Welfare Association; and General Notice No. 235/1959 to establish the Haile Selassie I Foundation (Eman, 2012).

Title three of the 1960's Civil Code in chapter two, which contains seven sections i.e. from Article 404 to 482, with 79 Articles, briefly deals with the nature of associations. According to Article 404, association is a grouping formed between two or more persons with a view to obtaining a result other than securing or sharing of profits. Regarding to the classification of the association, the civil code says nothing, but in Article 479 (3), there is a clue that the nature of association might be foreign or domestic.

The civil code in section 7, establishes a controlling body against associations. The primary concerned body to control associations was given to the 'office of associations'. The offices of associations have a power to dissolve association if they act unlawful or contrary to morality. According to Article 470(2), dissatisfied associations with the decision of office of associations had the right appeal to the court level.

According to the Associations' Registration Regulation No.321/1966, the Ministry of Justice has authority to dissolve an organization when the Office of Associations determines that the activities of an association are unlawful, unrelated to the purposes for which it was registered, contrary to morality, and when the association has failed to comply with laws and regulations. As a form of registration, the association once got registration expected to communicate in every year to the office of associations. The Associations' Registration Regulation No.321/1966 requires registration for associations, sets forth procedures of registration, and establishes the powers of the Ministry to supervise and control associations. Like the administrative decision over them, associations have the right to appeal in registration issue. In Article 470(2), the civil code states '[t]he directors of an association may appeal to the court against a refusal of registration which is made to them by the office of associations.'

According to Article 456, associations had the right to receive donation or legacy from any sources but they expected to announce the office of association within six months unless they would be accountable by criminal code of Ethiopia. Besides, until the associations' activity is legal and/or not contradicts with morality, their operational areas were not restricted.

Regarding to the legal frameworks of CSOs during the *Derg* regime of *Derg*, Kassahun (2002) stated that the *Derg* did have neither a clear-cut civil society policy nor the good will to encourage the creation and growth of 'independent' CSOs in fear of counter-balancing its political agenda.

Like the above mentioned two regimes, the EPRDF government had used this legislation as a principal and sole instrument to govern CSOs. Until 2009, it did not have a separate and comprehensive law that governs the existence and mode of operation of CSOs. However, in 2009 the government enacts the first separate and comprehensive law i.e. the Charities and Societies Proclamation No.621/2009. To this compressive Charities and Societies law, there are also subsidiary legal frameworks. These are Council of Ministries Regulation No.168/2009 and different Directives made by the CSA.

As outlined in its preamble, the proclamation contains two basic objectives including; i) to realize citizens' constitutional right to freedom of association; and ii) to enhance and strengthen the role of charities. To this end, there are supervisory organs over CSOs. The Proclamation by making the CSA is accountable to the Ministry of Justice²; it gives a power to administer charities and societies. It has also the authority, among others, to license, register and supervise legal compliance, determine the public benefit status of CSOs, provide education and training to ensure compliance, and impose sanction in case of any violation of the law. Moreover, the federal and regional government authorities, sector offices from *Woreda* level to the federal authorities, can follow up the activities of CSOs on the basis of project agreements they conclude with them. This, however, can be done in collaboration with the CSA.

The incumbent government of Ethiopia recently adopted its separate law, civil society organization Proclamation No.1113/2019, which aimed to govern what and how the roles of civil society organizations shall be. Now, let us precede the justifications of governments to enact legal frameworks that mainly designed to govern CSOs

The Justifications of the Government to Enact ECSP

i. Justifications to enact the regulation No. 321/1966 ECSP

Emperor Haile Selassie I had introduced the 1960's Civil Code of Ethiopia and Regulation No. 321/1966 which was the first

² See Article 4(2) of the CSP.

legislation in Ethiopia that had passed to govern the task of CSOs. Therefore, the Regulation No. 321/1966 is the first legal framework in the history of Ethiopia which creates a ground to manage the activities of CSOs at that time.

ii. Justifications to Enact the Proclamation No.621/2009 ECSP

In Ethiopia, from 1991 to 2009, the numbers of CSOs had become increased than ever before. The law employed to govern them was the 1960s' imperial legislations (MOJ, 2008). Regarding this, Assefa Kesito, the former Minister of Justice, and Abadir Mohamed, one of the drafters of the new law, stated that the imperial law was 'outdated and did not correspond to the level of development, characteristics, and activities of civil society in Ethiopia' (CCDRA, 2008). This means it was obsolete and unresponsive in accommodating the current realities of the country (Markos, 2018). Simply, by considering the socio-economic and political development of the country, the 1960s' imperial legislation had failed to support the substantial roles of CSOs nowadays. Consequently, the motivating factors that have enforced the government to enact the proclamation are to fill the following gaps of the imperial legislation (MOJ, 2008:5-6; HPR Minutes, 2009). The gaps were:

Firstly, the law treats dissimilar CSOs by similar precondition: Though it is advisable to differentiate the precondition of registration and licensing of CSOs to get legal personalities based on their objectives and functions, the previous law did not consider this reality and treated diverse natures of CSOs similarly (ibid.).

Secondly, Containing Incompatible and unrepresentative meaning: The law did not create an enabling environment for their operations because it was not formulated in the way that can accommodate different forms of CSOs and their unique characteristics. For example, the civil code recognized the existence of different types of CSOs including Association in Article 404³, Endowment in Article 483⁴, Committees in Article 507⁵, and Trusts

3 Art. 404. An association is a grouping formed between two or more persons with a view to obtaining a result other than the securing or sharing of profits.

4 Art. 483. An act of endowment is an act whereby a person destines certain property irrevocably and perpetually to a specific objects of general interest other than the securing of profits.

5 Art. 507. (1) Committees having the object of collecting money or other property in aid of public collections, fairs or activities of the same nature, . . .

in Article 516⁶, but all were registered as an ‘association’⁷.

Thirdly, The problem of maintaining transparency: The imperial legislation was too cumbersome for registering the organizations, and regulating their operations properly. Accordingly, the actual activity of CSOs and their distributions across the region as well as the amount of money they mobilized were unknown. The budgetal location of CSOs for program purpose and administrative cost were not transparent to the public.

Fourthly, The problem of Ensuring Accountability: Instead of promoting public interest, when the representatives of CSOs run their personal benefits or lack a democratic culture, partnership with maintenance of peace and developmental tasks, transparency, accountability and uniformity, the law had not contain a clear standard that aims to take proportional measures against criminals. In addition, the punishment didn’t go beyond canceling their association.

Fifthly, it was insufficient Support: Even though the role of CSOs to the community was immense, there was insufficient well-designed supporting and monitoring mechanism to them. Moreover, there was no independent government body that was formed to this purpose.

Sixthly, it neither allows nor restricts income generation activities: Since the 1960s law did not clearly allow or restrict the income generation activities for CSOs; it seriously challenged the incumbent government to either give or deny permission of income generation activities for CSOs which are operating in the country.

Seventhly, it says nothing about freedom of Association: The HPR minutes (2009) noted that the previous law did not explicitly state about the right to freedom of association. Accordingly, everyone regardless of his/her nationality exercised the right to freedom of association. In this regard, the explanation note of the MOJ (2008) states that even though the FDRE constitution gives freedom of association merely for Ethiopian citizens, practically, foreigners were also exercised it by using the lacuna of the imperial civil law.

6 *Art. 516. A trust is an institution by virtue of which specific property is constituted in an autonomous entity to be administered by a person, the trustee, in accordance with the interactions given by the person constituting the trust.*

7 *Seealso Bizuayeneh at Fana Television, Part 1: discussion, May 24, 2018.*

Hence, the other motivating factor for the promulgation of the proclamation to clearly limit the rights of freedom of association for non-Ethiopian citizens.

Moreover, the 1960 Civil Code was 'widely believed to have caused bureaucratic delays and hurdles in the course of seeking legal recognition/registration as a prerequisite for embarking on operations' (Kassahun, 2015). Therefore, in order to fill the above mentioned gaps of the previous law, the charities and societies proclamation passed by the parliament is a timely response. The representatives of CSOs also agreed on the necessity of replacement of the previous old legislation with the updated one that is framed to accommodate the contemporary realities by appreciating the initiation and effort of the government. However, they did not refrain themselves from forwarding proper recommendations to the government for creating an enabling environment for the operation as well as activity of CSOs.

iii. Justifications to Enact the Proclamation No.1113/2019 ECSP

Since the Proclamation No.621/2009 was restrictive and also it limits the activity of CSOs, using the current reform the government adapts its previous legislation through the Proclamation No.1113/2019. In other words, the government underscore that for the betterment of CSOs by considering the following principles which were not included in the previous proclamations such as accredited for organization, autonomous, create an enabling environment, acknowledge the role of CSOs in political and social activities, considering the involvement of the community in the activities of CSOs, focusing on the rights of the organization, granting that the body administering the sector is free and independent, make the decisions of the administrative body to be appealed and avoid serious punishments from the proclamation are some of them. In fact, as it is proved by several researchers that has become accepted by the government, the Proclamation No.621/2009 was a serious impediment for the roles of CSOs (both foreign and domestic) especially for those which were work in promoting democratic values.

Some of the major impacts faced by CSOs (both foreign and domestic) which were work in promoting democratic values due to the precious Ethiopian Charities and Societies Proclamation No.621/2009 are summarized as follow.

The study uncovered many impacts of the proclamation on foreign and domestic CSOs which work in promoting democratic values. Notwithstanding the natures of some of such impacts have similarity; there are also some others which have dissimilarity.

The impacts which were faced by the mere foreign CSOs that work in promoting democratic values includes the complete prohibition of areas of operations, denial of court decision using their right to appeal up to the court level and discontinuing their financial and non-financial connection with domestic CSOs that work in promoting democratic values as well as other actors of democratization like political parties. These impacts of the proclamation have also observed upon Ethiopian resident charities and societies (domestic CSOs). However, other parts of domestic CSOs like Ethiopian Charities or Societies also experienced other financial and non-financial impacts. Its impacts to the mere domestic CSOs includes prohibiting foreign sources, freezing of the bank account, and challenging domestic fund raisings under financial impacts.

Moreover, under non-financial impacts, it wanes their democracy promotion roles because the proclamation is an obstacle for exposing human rights abuse, make them inaccessible and inefficient, expose for unnecessary burdens, expose for invasive supervisory oversight, expose for discrimination, and unable to subsidize democratic electoral processes. This is why the researcher argues that some impacts of the proclamation on foreign and domestic CSOs have dissimilarities.

However, there are also similar impacts both foreign and domestic CSOs have faced due to the ECSP. For instance, it forced both foreign and domestic CSOs to shift from 'rights-based' to the 'need-based' approach. There are also many organizations which entirely terminated their substantial roles in the advancement of human and democratic rights; the promotion of equality among nations, nationalities and peoples of Ethiopia, persons based on gender and their religion; the promotion of the rights of the disabled and children's rights; the promotion of conflict resolution or reconciliation; and the promotion of the efficiency of the justice and law enforcement system. In this regard, due to the explicit restriction of operational activities of the proclamation on the mentioned areas, foreign CSOs were completely wind up from their contributions. In general, from the total CSOs the vast majorities (94.7%) were enforced to exit their working areas.

Although the proclamation sets prohibitions of areas of intervention from the involvement of foreign CSOs and financial restriction for domestic CSOs which work in all areas of intervention, there are some foreign as well as domestic CSOs which are exempted. According to the key informant, Mesifen, there is a direction that came from the Prime Minister Office to direct the Agency to treat some organizations in special case. Accordingly, 'Inter African Group' and 'African Child Policy Forum' under foreign charity, and 'Peace and Development Center', and 'Justice for all and Prison Fellowship Ethiopia' under domestic charity obtained exceptional privileges. This exposed the government for strong criticism of scholars and the civil society community.⁸ The criticism is that the government has used the proclamation to attack the true CSOs which work to the development of democratic system and respect of human and democratic rights, and inversely to create conducive atmospheres for CSOs which have a close connection with it.⁹ So, the aforementioned impacts of the proclamation on CSOs which work in promoting democratic values might not be representative for CSOs which have 'hand and glove' relation with the government in power.

The government seems like used the proclamation to weaken truly CSOs that challenge its existence in power through empowering the people to actively engage in the process of democratization. Accordingly, it directly limited the involvement of foreign CSOs on the areas of promoting democratic values. Domestic CSOs also requested to be clustered in two categories. These are Ethiopian resident which are treated alike foreign CSOs, and Ethiopian charities and societies which got permission to work in promoting democratic values though they are restricted to access foreign funds. In other words, either directly or indirectly, the proclamation affects the existence of foreign and domestic CSOs which work in promoting democratic values in a committed manner. It deteriorated their previous significant roles. Similarly, without setting a distinction between foreign and domestic CSOs, there is also an argument that the proclamation has a devastating impact on the staff of human rights organizations, and for many years, they have operated in a climate of fear in Ethiopia (Amnesty International, 2016).

8 *Interview with Debebe Jul 20, 2018; Interview with Ismael Jul 09, 2018*

9 *Interview with Debebe Jul 20, 2018.*

As a result, the challenge of good governance, violate revolts and ethnic conflicts and intolerance have been the common incidences in the country. For instance, Ethiopia is one among the countries of poor governance quality in the world (Shimels, 2015); and also, its political systems are suffered from deficiency of democratic power sharing formula, check and balance, accountable and transparent institutions and procedures (Gudeta, 2013). The incumbent government also recognized the existence of the problem of poorly functioning legal and judicial system that have inconsistent with the FDRE Constitution. In order to tackle the problems of good governance, the role of CSOs which work in promoting democratic values is paramount. This is due to the fact that they serve as a channel of communication between government and public; and they help to make the state democratic by struggling for justice, respect of rights, equality and freedom, and advocating changes against repression (Miheret, 2010). However, this opportunity has been narrowing in Ethiopia; because the ECSP gives broad power to the incumbent government to have unnecessary interference on the operation and management of CSOs, especially, which work on five intervention areas which are listed at Article 14 (2) of the proclamation.

The absence of impartial discussions and forums that are organized by CSOs to make people of the country to express their views freely resulted to the recent past violent rebellions that strongly challenge the government.¹⁰ The government officials recognized that the wane of the culture of accountability, the expansion of rent seeking and lack of capacity to serve the society are the observed problems of the government resulted to the recent political unrest (Biruk, 2016). If the role of CSOs in promoting democratic values was continued as they played before the enactment of the proclamation, the aforementioned causes for revolts might not be occurred. This is due to the fact that as pluralists argue that a well-organized civil society has the capacity to resolve conflict peacefully by mediating various competing interests. This implies that when there is less or no role of CSOs in addressing conflicts, the process of democratization is easily jeopardized; social instability and disorder is aggravated; and the disintegration of the society is escalated. In this context, the existence of civil society is not a matter of option though the incumbent government, by designing the ECSP, disregards their roles. In line with this, theoreticians also

10 *Interview with Debebe Jul 20, 2018; Interview with Tadele, May 05, 2018; Interview with Kumulachew, May 24, 2018.*

argue that the role of CSOs is so significant to the development of democratic values; i.e. for example, as liberalists and neo-liberalists argue that CSOs are instruments for the respect of individuals' freedom and organizations which struggle to address common problems respectively.

In conclusion, the proclamation is a serious impediment to the role of CSOs for the development of democratic values in general and for the promotion and respect of human rights in particular. In this regard, the impacts of the proclamation on foreign CSOs and domestic CSOs particularly on Ethiopian Resident charity and society are identical; however, there are also impacts which adversely affect only domestic CSOs which are branded as Ethiopian charity and society. This is why the study has concluded the proclamation upsets the role of both foreign and domestic CSOs in promoting democratic values though the way that they are affecting is not completely identical.

Conclusion

The researchers have made an effort on this study to investigate the historical trends and legal Frameworks of CSOs in Ethiopia. Specifically, the study attempted to assess the historical trends of CSOs in Ethiopia; to assess the legal Frameworks of CSOs in Ethiopia and to explore government justification for legal Frameworks of CSOs. In order to achieve this study's objective, qualitative research approach with case study research design was employed. Accordingly, using purposive sampling, when the primary data were collected from different key informants, available credible data from published and unpublished documents were also critically analyzed. Eventually, based on specific objectives of the study, the collected data from diverse sources were analyzed thematically; and its main findings are stated as follow.

In relation to the first objective of this research, it was found that in Ethiopia the historical movements of CSOs have began during the reign of Emperor Haile Selassie-I in 1930s. At the regime of Derg the numbers of CSOs were not grown as expected because it was against with the establishment of independent CSOs. In those times, the political situation was restricted for the establishment of both independent mass organizations as well as international civil society organizations. However, the 1973/74 famine caused for the entry of some international independent organizations. The advent of the TPLF led – EPRDF government in May 1991 changed the growth and development of CSOs. The incumbent government recognized and valued the role

CSOs had to play and gradually it began reopening avenues for their involvement that had been shut down by previous regimes.

This research was also aimed to explore legal Frameworks of CSOs and the government justification. Accordingly, the 1960's Civil Code of Ethiopia and Regulation No. 321/1966 was the first legislation that had drafted to govern the task of CSOs. In 2009 the EPRDF government has replace the outdated law and formulated the Proclamation No.621/2009. The government justification to replace the outdated proclamation are it failed to support the substantial roles of CSOs nowadays; it was obsolete and unresponsive in accommodating the current realities of the country, it was problematic to maintain transparency and accountability, contains incompatible and unrepresentative meaning of CSOs, insufficient to support CSOs, say nothing about income generation activities and freedom of association and caused bureaucratic delays and hurdles in the course of seeking legal recognition/registration as a prerequisite for embarking on operations'. Still the EPRDF government substitutes the previous proclamation with the Proclamation No.1113/2019 so as to avoid the restrictive and discouragements natures and characteristics of the previous proclamation.

REFERENCES

- Amnesty International (2016): *Ethiopia: 25 years of human rights violation*. Retrieved from <https://www.amnesty.org/download/Documents/AFR2541782016ENGLISH.pdf>
- Babbie, E., and Mouton, J. (2003): *The Practice of Social Research*. Oxford: Oxford University Press.
- Barder, O. (2009). *Ethiopia's new civil society law*. Retrieved from <http://www.owen.org/blog/2086>
- Braun, V., and Clarke, V. (2006): Using Thematic Analysis in Psychology. *Qualitative Research in Psychology*, 3(2), 77-101.
- Cakmak, C. (2004): The Role of Non-Governmental Organizations (NGOs) in the Norm Creation Process in the Field of Human Rights. *Alternative Turkish Journal of International Relations*, vol. 3(1): 100-122.
- CCDRA (2008): *Comments of Ethiopian civil society organizations on the charities and societies draft proclamation presented by the FDRE Ministry of Justice*. Retrieved from <http://www.fssethiopia.org/publicationfile/cso%20bill%20-%20gen%20comts%20-%20eng.pdf>
- CCRDA, 2013).
- Clark, J. (2000): *Civil Society, NGOs, and Development in Ethiopia: A snapshot view*. The World Bank, Washington, D.C.

- Creswell, J.W. (2007): Five Qualitative Approaches to Inquiry. *Qualitative Inquiry and Research Design: Choosing Among Five Approaches*, 2, 53-80.
- Crowe, S., Cresswell, K., Robertson, A., Huby, G., Avery A., and Sheikh A., (2011): The Case Study Approach. *BMC Medical Research Methodology*. Retrieved from <http://www.biomedcentral.com/1471-2288/11/100>.
- Denscombe, M. (2003): *The Good Research Guide for Small-scale Social Research Projects (2nd ed.)*. Maidenhead, Philadelphia, Open University Press,
- Dessalegn, R. (2010): Civil Society and the State: The Challenge of Democratization in Ethiopia. In Bhekinkosi Moyo (Ed). (Dis) *Enabling the Public Sphere: Civil Society Regulation in Africa* (Vol. 1), Published by Southern Africa Trust and Trust Africa, Johannesburg.
- Eman Mohammed (2012): The Impact of the Charities and Societies Proclamation on Civil Society Organizations (CSOs) in Addis Ababa: A case study on selected women and children CSOs. Unpublished Master's Degree Thesis, Addis Ababa University: Addis Ababa.
- Feleke Tadele Kelkil (2015): Civil Society Organizations and Societal Transformation in Africa: The case of Ethiopia. Unpublished PhD. Dissertation, University of South Africa: Pretoria.
- Feleke Tadele Kelkil (2009): State and Genesis of CSOs in Ethiopia. Unpublished report Prepared for Oxfam Canada. Addis Ababa, Ethiopia.
- Fisher, 1999).
- Fisher, J, (1993): *The Road from Rio; Sustainable Development and the Non-Governmental Movement in the Third World*, West Port Press Ltd, Praeger, P.6
- Gudeta Kebede (2013): Political Corruption: Political and Economic State Capture in Ethiopia. *European Scientific Journal*, 9(35), 1857-788.
- HPR Minutes (2009): The Public Discussion Minutes on Charities and Societies Drafted Proclamation. The Discussion Headed by Law and Governance Affairs Permanent Members at HPR Room No. 53. Unpublished Binding Document, Addis Ababa.
- Kassahun Berhanu (2015): GO-NGO Principled Partnership for Enhancing Development Efforts in Ethiopia. *Journal of Ethiopian Civil Society Organizations*, Vol. 3, pp. 27-50
- Kassahun Berhanu. (2012): Rapid Assessment of the Impact of the New Ethiopian CSO Legislation on the Operation of CCRDA's Member Organizations. Unpublished report for CCRDA. Addis Ababa
- Kiya Tsegaye Lemessa (2017): *Ethiopia: A Self-defeating Charities and Societies Proclamation Hurting All*. Published in Human Rights, Public Policy and Law Blog.

- Kumulachew, D and Debebe, H.G. (2012): Assessment of the Enabling Environment for Civil Society in Ethiopia. Unpublished Report for CCRDA. Addis Ababa.
- Markos Mulat (2018): A Review of FDRE Civil Society Proclamation No.621/2009. Retrieved from <https://www.slideshare.net/mekbib-mulat/critical-review-of-civil-society-proclamation-no621>
- Matanga, F.K. (2000): Civil Society and Politics in Africa: The case of Kenya. 4th International Conference of Istr, Trinity College, Dublin.
- Merara Gudina (2003): *Ethiopia: Competing Ethnic Nationalisms and the Quest for Democracy 1960-2000*. Addis Ababa: Chambers Printing House.
- Mihret Alemayehu Zeleke (2010): Civil Society and Freedom of Association Threatened? A Critical Examination of Ethiopian Charities and Societies Law. Unpublished Master's degree Thesis, University of Oslo: Oslo.
- Ministry of Justice (MOJ). (2008): Explanatory Notes to the Charities and Societies Proclamation Draft. Unpublished paper, Addis Ababa.
- Ncube, C. (2010): Contesting Hegemony: Civil society and the struggle for social change in Zimbabwe, 2000-2008. Unpublished Ph.D. thesis, the University of Birmingham,
- Nisar, T. (2013): The Discourses on the Civil Society and the State in the Context of European and Postcolonial Narratives: Re-conceptualizing the Civil Society in Pakistan. Unpublished Master's degree Thesis, LUISS: Rome.
- Sandberg, E. (n.d). *Re-conceptualizing Non-governmental Organizations-African State Relations*. Politics Department, Oberlin College, USA.
- Shimels Kassa (2015): Democracy and Good Governance Post 1991 in Ethiopia. *International Journal of Political Science and Development*, 3(4), 174-182.
- Vinod, M.J. (2006): The Changing Dimensions of Civil Society in the Twenty-First Century: Theory versus Reality. *The Indian Journal of Political Science*, 67(4), 783-792.
- Walzer, M. (1995): *Toward A Global Civil Society*. Oxford: Berghahn Books.
- Warner, R. (1984): The Workers' Party of Ethiopia. Prepared by the Federal Research Division of the Library of Congress under an Interagency Agreement.
- Wondwosen Teshome (2009b): *Civil Society and Democratization in Africa: The role of the civil society in the 2005 election in Ethiopia*. World Academy of Science, Engineering and Technology.

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