

Ethiopia: The 2009 Charities and Societies Proclamation as a serious obstacle to the promotion and protection of human rights in Ethiopia

Amnesty International's written statement to the 20th Session of the UN Human Rights Council (18 June – 6 July 2012)

Summary

The 2009 Ethiopian Charities and Societies Proclamation places excessive restrictions on the work of human rights organisations. The law has had a devastating impact on human rights work, both in terms of the practical obstacles it creates for human rights defenders, and in exacerbating the climate of fear in which they operate. The proclamation jeopardises the observance and protection of the rights of every person in Ethiopia.

The Charities and Societies Proclamation and its implementing directives

In February 2009 the Ethiopian parliament passed into law the Charities and Societies Proclamation (No.621/2009) (CSP or “the law”). The law places severe administrative restrictions on the work of human rights non-governmental organisations (NGOs) in Ethiopia. It requires organisations to register in one of three categories: Ethiopian Charities or Societies, Ethiopian Resident Charities or Societies, or Foreign Charities. Only Ethiopian Charities and Societies may work on human rights issues in Ethiopia. International NGOs are prohibited from working on them. Infringements of the law can lead to heavy fines or terms of imprisonment for NGO staff.

Human rights work restricted in the law comprises “the advancement of human and democratic rights; the promotion of equality of nations, nationalities ... peoples ... gender and religion; the promotion of the rights of the disabled and children’s rights; the promotion of conflict resolution or reconciliation; the promotion of the efficiency of the justice and law enforcement services.”

The CSP explicitly prohibits ‘Ethiopian Charities or Societies’ - who may work on human rights – from receiving more than ten percent of their funding from foreign sources.

Organisations are not permitted to spend more than 30 per cent of their budget on ‘administrative costs’. The lack of definition of ‘administrative costs’ means the provision could be interpreted to include, *inter alia*, the costs of investigating and documenting human rights abuses, the provision of free legal aid, advocacy, and other essential activities in the promotion and protection of rights and freedoms. In some human rights organisations all budgeted expenses could be interpreted as ‘administrative costs.’

The CSP established a Charities and Societies Agency with broad discretionary powers over non-governmental organisations, including government surveillance and direct involvement in the running of organisations, and the power to suspend licences and confiscate and transfer the assets of any organisation. Amnesty International is particularly concerned by the power of the Agency to demand any document in an organisation's possession. This could include the testimonies of victims of violations, contravening the essential principle of confidentiality and potentially further endangering victims of human rights violations.

The Charities and Societies Agency has issued eight implementing directives on the law, which make the operating environment for NGOs even more difficult. For example, Directive 7-2003

(2011), places a bewildering number of complex and time and resource-consuming requirements on the income generating activities of NGOs. These include the need for a separate license for a profit making entity, start-up capital funded by the non-profit NGO, and a full-time accountant and manager separate from those of the non-profit NGO. Non-compliance or engaging in 'unethical income generating activities' can result in the revocation of the license and criminal charges.

Impact of the law on human rights organisations

The CSP has had a devastating impact on human rights NGOs in Ethiopia. There is no potential in Ethiopia for significant domestic funding of human rights NGOs. As a result of the funding restrictions in the law, at least 17 organisations, including some of Ethiopia's leading human rights organisations, have changed their mandate to no longer work on human rights. Those organisations that continue to work on human rights have significantly scaled back their operations. These include two of the country's leading organisations - the Ethiopian Human Rights Council, (now the Human Rights Council) and the Ethiopian Women Lawyers Association.

Before the CSP, the Ethiopian Human Rights Council (HRCO) carried out high quality monitoring and documentation of violations through twelve offices across the country. Since the law was passed HRCO has closed nine of its offices and has cut at least 75 percent (more than 40 people) from its staff.

The Ethiopian Women Lawyers Association (EWLA) was the only major NGO focussing on women's rights advocacy at the national level. EWLA conducted vital work in the field of women and justice, advancing draft legislation to improve protection of women's rights, providing free legal aid for women, and researching and publishing on issues of law and gender. Before the CSP, EWLA's activities reached thousands of beneficiaries. For example, in 2008 EWLA provided free legal aid to 17,357 women. Since the CSP became law, EWLA has cut 70 per cent of its staff and in 2010-2011 it had effectively ceased to function, with the exception of volunteers providing a small amount of free legal aid to women.

The CSP restrictions on receipt of foreign funds were applied retroactively in late 2009 to freeze the bank accounts of HRCO and EWLA. This cost the organisations over half a million US dollars each in frozen funds. Both organisations have expended significant time and resources in challenging the asset freeze through the Agency and subsequently through the courts.

Organisations have also reported that CSP's prohibition of anonymous donations has acted as a significant deterrent to donors in a climate where the authorities have shown clear hostility to human rights organisations.

During re-registration under the CSP some organisations were forced to remove areas of work from their mandates, such as election monitoring. Some organisations were also forced to change their names as a condition of re-registration.

The lack of definition of 'administrative costs' has been particularly problematic for NGOs. This term has reportedly been interpreted inconsistently by Agency staff members. NGOs reported that they were forced to significantly self-censor when writing re-registration documents and organisational plans.

The CSP has significantly hampered the ability of Ethiopian NGOs to engage with the UN human rights mechanisms. A coalition formed to submit parallel reports to the Universal Periodic Review (UPR) process and four treaty bodies disbanded after only preparing one report to the UPR in 2009. Following the submission of that report the organisations were subjected to serious harassment to the extent that the Director of EWLA and the Secretary General and three other staff members of HRCO fled Ethiopia.

The CSP has entrenched further, and even institutionalised, the climate of fear pervading human rights work in Ethiopia. Many human rights defenders fled the country when the law was passed, and organisations now have trouble recruiting staff. Self-censorship is widespread out of fear of repercussions. Most human rights defenders are too scared to speak out, or even to have the experiences of their organisation discussed or publicised.

Ethiopia also promulgated the Anti-Terrorism Proclamation in 2009, which also restricts Ethiopians' ability to criticise their government, and limits the level of scrutiny and oversight to which the government is subjected.

International and regional reaction to the human rights situation

The UN Human Rights Committee, the Committee on the Elimination of Discrimination against Women, the Committee against Torture, and the Committee on the Elimination of Racial Discrimination have all recommended that the CSP be amended or repealed. Similar recommendations were made in the UPR.

The African Commission on Human and Peoples' Rights, at its 51st Ordinary Session held in The Gambia in April - May 2012, passed a resolution on Ethiopia¹ "condemning" and expressing "grave concern" at a number of serious human rights concerns in the country. The resolution condemned "the excessive restrictions placed on human rights work by the Charities and Societies Proclamation" and called on the Government of Ethiopia to amend the legislation to make it consistent with the UN Declaration on Human Rights Defenders.

Civil society organisations, particularly NGOs working on human rights issues, are essential to upholding human rights, equality and justice at all levels of society. The CSP places restrictions on essential human rights work including the collection and dissemination of human rights information and the monitoring and documenting of human rights violations perpetrated by state and non-state actors in order to pursue accountability and adherence to national and international human rights commitments. In these and other ways the law jeopardises the promotion and protection of all rights of Ethiopians.

Amnesty International urges the Human Rights Council, its member and observer states to:

- call on the Government of Ethiopia to amend the Charities and Societies Proclamation to remove provisions that restrict human rights activities carried out by local and international NGOs, that prohibit and criminalize much work of human rights defenders, and that thereby undermine the promotion and protection of the human rights of Ethiopians;
- encourage the Government of Ethiopia to enable the crucial work of HRCO and EWLA by immediately unfreezing their bank accounts and releasing the frozen funds, which were collected consistent with the UN Declaration on Human Rights Defenders and Ethiopian law in force at the time; and
- encourage the Government of Ethiopia to respond positively to requests for invitations from the Special Procedures and notably from the Special Rapporteur on the rights to freedom of peaceful assembly and association.

¹ Resolution on the Human Rights Situation in the Democratic Republic of Ethiopia, 2 May 2012: <http://www.achpr.org/sessions/51st/resolutions/218/>