To: Prime Minister-, Dr. Abiy Ahmed
Cc: Tagesse Chafo, Speaker of the House of Peoples’ Representative

Joint civil society letter

Ethiopia: Address restrictions in draft CSO Proclamation and protect freedom of association

 29 November 2018

Your Excellency,

The undersigned international, regional and national human rights and development organisations write to urge your government to ensure that the draft Charities and Societies (CSO) Proclamation complies with regional and international human rights norms and standards relating to freedom of association. The tabling of the draft law represents a pivotal moment to address long standing deficits in existing legislation, create a robust and resilient civil society and an enabling environment for human rights defenders in Ethiopia. Authorities should ensure that the new text is in line with the African Commission’s Guidelines on Freedom of Association and Assembly in Africa, the African Charter on Human and Peoples’ Rights and international law.

We understand that the draft law developed by the Legal Advisory Council, and currently under consideration by the Office of the Attorney General, is expected to be tabled in Parliament in the coming weeks. The draft addresses long standing concerns over funding constraints, the intrusive powers of the CSO Agency, and the lack of an appeal process over registration; while it is a marked improvement on the current legal framework governing the operations of CSOs, we remain concerned that it includes a number of unwarranted restrictions on the activities and independence of international and national civil society organisations.

Of critical concern are vague and unduly cumbersome limitations on the independence and operating environment for national civil society. In particular, the law imposes an authorisation regime compelling all CSOs in Ethiopia to register with the CSO Agency, potentially allowing for organizations to be criminally liable should they be operating informally. CSOs already registered under the previous law would have to re-register. This proposed process, which can take up to four months, is primarily overseen by government-appointed CSO Agency that is endowed with broad discretion to order closures and asset freezes of CSOs.

Moreover, requirements capping the administrative costs of CSOs at 20 percent of their income would subvert their ability to independently determine the range of legitimate activities they support and prioritise. Given the diversity of initiatives assumed by CSOs in Ethiopia, such inflexible limitations will unreasonably hamper the work of many CSOs.

We are further concerned that overly broad provisions would curtail the extent to which international CSOs can engage in advocacy and lobbying, and that burdensome registration requirements may be invoked to suppress the activities of international CSOs and threaten essential rights-based initiatives.

Such measures erode Ethiopia’s commitment to protect, promote and fulfil the right to freedom of association. On repeated occasions, independent international and regional experts have called on the Ethiopian authorities to amend or repeal the CSO Proclamation by addressing unwarranted restrictions on freedom of association.

The announcement to revise laws that have in the past been used to stifle dissent was one of a series of planned reforms announced by your office that has rightly earned praise from Ethiopians and international actors alike. As such, we the undersigned, have watched closely to see whether the revision of the first of those laws, the CSO Proclamation, would reflect the long-standing concerns that many domestic and international actors have had. Despite the above reservations, we are encouraged by the Legal Advisory Council’s draft and watch with keen interest how the draft proclamation will move through the Attorney General’s office to the Council of Ministers for eventual approval by the House of Representatives. The process by which the CSO Proclamation was revised by the Legal Advisory Council and will eventually be considered for approval by the House of Representatives, the first of the three laws to go through such a process, is an important harbinger of how different organs of the government will show their commitment to revising laws in line with international human rights norms ahead of the 2020 elections.

During this time of critical reform, we urge the government of Ethiopia to consider these recommendations and take the following measures:

a. Ensure that the majority of CSO Board members are sourced from civil society through a transparent appointment process;

b. Replace provisions requiring an authorisation regime for registration with one requiring simple notification;

c. Where applicable, reduce the time frame for decisions on CSO registration applications and appeals and ensure that the CSO Agency and the Board provide detailed written grounds for rejecting registration applications;

d. Include precise and limited justification for under what conditions the CSO Agency can investigate and freeze the assets of CSOs and ensure that they are subject to judicial oversight;

e. Revise the mandatory cap on administrative costs at 20% of income and replace it with a non-mandatory best practice standard;

f. Ensure that all foreign and domestic CSOs operating in Ethiopia, are able to choose the areas they will work in and permit them to engage in lobbying and advocacy initiatives.

Thank you for your consideration.

Sincerely,

* ARTICLE 19 Eastern Africa
* Association for Human Rights in Ethiopia (AHRE)
* CIVICUS
* Civil Rights Defenders
* Consortium of Ethiopian Rights Organizations (CERO)
* DefendDefenders (EHAHRDP)
* FIDH, within the framework of the Observatory for the Protection of Human Rights Defenders
* Front Line Defenders
* Human Rights Watch (HRW)
* PEN International
* Robert F. Kennedy Human Rights (RFKHR)
* World Organisation Against Torture (OMCT), within the framework of the Observatory for the Protection of Human Rights Defenders