

ETHIOPIA

Philanthropy Law Report



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ETHIOPIA

PHILANTHROPY LAW REPORT

KEY INDICATORS ¹	
POPULATION	102,374,044 (2016 estimate)
CAPITAL	Addis Ababa
TYPE OF GOVERNMENT	Federal Parliamentary Republic
GDP (PURCHASING POWER PARITY)	\$174.7 billion (2016 estimate)
GDP PER CAPITA	\$1,900 (2016 estimate)
GDP – REAL GROWTH RATE	6.5% (2016 estimate)

Introduction

The earliest forms of civil society in Ethiopia were traditional community-based organizations including *idir*, *iqub*, and other informal self-help organizations (Forum for Social Studies, 2008). When the Civil Code, which contains articles governing “associations,” was issued in 1960 during the imperial regime, hardly any active organizations could be described as non-profit organizations (NPOs) in the proper sense of the word. By the latter part of the 1960s, a small number of professional associations had been registered with the Ministry of Interior, the regulating body at the time, but these were mainly concerned with serving the interests of their professions and did not play a significant role in development or other public issues. There were also government-supported women’s associations, patriotic groups, and others, but these played a marginal role and had only a muted voice (Dessalegn Rahmato, 2010).

Philanthropy grew in both importance and visibility during the Ethiopian famines in 1973-74 and 1984-85, both of which caused mass migration and huge loss of lives and property. However, during these periods, the work of NPOs—including international organizations—was confined to relief activities. Since the famine of 1973-74, NPOs and government partners have made notable achievements in the country in various sectors, including food security, health, education, infrastructure development, microfinance, and capacity building programs. Most of the programs that NPOs have been involved in for the last four decades have directly or indirectly contributed to food security.

Since the fall of the socialist regime in May 1991, the country has been known as the Federal Democratic Republic of Ethiopia (FDRE), which has a parliamentary form of government and ethnic-based federal system, with nine regional entities based on homogenous ethnic groups. The

¹ Central Intelligence Agency, *The World Factbook* (Washington, DC: Central Intelligence Agency, 2016), <https://www.cia.gov/library/publications/the-world-factbook/geos/et.html>.

FDRE constitution provides for the essential conditions that promote the realization of human and democratic rights (Article 10), rights of thought, opinion and expression (Article 29), and conduct and accountability of Government (Article 12). Article 31 of the constitution also states that “every person has the right to freedom of association for any cause or purpose...”

On January 6, 2009, the Ethiopian Parliament introduced the Charities and Societies Proclamation (CSP) No. 621/2009. The CSP established the Charities and Societies Agency (CSA) as a central body register and supervise charities and societies. The CSP outlines the high-level rules governing the regulation of charities and societies, and envisages the development of more detailed directives in a number of regulatory areas. Eight directives (“Guidelines”) were developed and approved by the CSA Board in 2010 and 2011. As discussed in more detail in the NPO Activities section below, these directives provide guidance on issues including the establishment of consortiums, allowable administrative costs, income generating activities, and public collections, as well as other areas. On January 6, 2010, the Council of Ministers enacted Regulation No. 168/2010, known as the Charities and Societies Regulation (CSR).

The CSP and its implementing directives have been harshly criticized for violating international standards relating to the freedom of association, including by placing excessive restrictions on the work of human rights organizations. Notably, the CSP restricts NPOs that receive more than 10 percent of their funding from foreign sources from engaging in essentially all human rights and advocacy activities. The Analysis section below details other legal barriers posed by the law.

The 2009 Ethiopian Anti-Terrorism Proclamation provides the government legal cover to impair the protection and promotion of human rights, including the rights to freedom of expression, association, demonstration, petition, and assembly, by empowering police with unlimited powers of arrest, search and seizure. The Anti-Terrorism Proclamation grants the police the right to make an arrest without a warrant, as long as there is reasonable suspicion that a person is committing or has committed a terrorist act. The Anti-Terrorism Proclamation also provides the government with tools to justify its intimidation of opposition political parties, CSOs, media, and individual activists critical of the government. The definition of “terrorist acts” in Article 3 of the proclamation is broad and vague, thereby allowing the criminalization of peaceful political dissent, such as demonstrations, non-violent dissent, and minor acts of violence in the context of political activism. This accentuates the government’s legacy and practice of making terrorist allegations against members of opposition parties, CSOs, and media, which has significantly narrowed the space for political pluralism and human rights defenders in the country by cultivating a climate of fear and repression.

In 2008, the Ethiopian government enacted the Freedom of the Mass Media and Access to Information Proclamation 590/2008. Among other issues, this proclamation aims to “promote and consolidate the values of transparency and accountability in the conduct of public affairs...and to impose a legal obligation on public officials to facilitate access of individuals and the mass media to information so that matters of public interest may be disclosed and discussed publicly” and to create a “viable freedom of information system that facilitates the free flow of information and ideas among citizens by enabling them to exercise their right to seek, receive and impart

information and opinions freely.” It also affirms “the right of individuals to access information held by public bodies.”

Recent Developments

The legal environment governing charities and societies has been largely stable for the past year. The environment continues to be hostile and repressive, particularly for organizations working in the areas of human rights, rule of law, and democracy promotion.

On July 26, 2016, the federal legislature of Ethiopia, the House of Peoples’ Representatives (HPR), enacted a new income tax law.² The law is expected to have a negative impact on fundraising for many NPOs because its language excludes tax deductions for donations to organizations not “established solely to provide relief to those suffering ill-health or for the advancement of education”—conditions which likely exclude human rights, democracy promotion, and conflict resolution organizations.

Following peaceful demonstrations and public disobedience across the country, the Ethiopian government declared a State of Emergency on October 9, 2016. The Council of Ministers issued a directive detailing the restrictions imposed under the State of Emergency, including the suspension of constitutionally guaranteed rights and the establishment of a Command Post to oversee the implementation of the State of Emergency.³ On October 16, 2016, the Command Post issued the Directive for the Execution of the State of Emergency, setting forth a six-month State of Emergency, subject to possible extension.⁴ On March 23, 2017, the Ethiopian government announced the extension of the State of Emergency for four months. It was finally lifted on August 4, 2017 following a parliamentary vote.

The State of Emergency had a direct impact on the day-to-day activities of NPOs, further tightening the civic space for public dialogue and engagement as it gave security forces expanded authority to clamp down on legitimate activities. On October 23, 2016, for example, security forces interrupted a fundraising dinner for the Human Rights Council (HRCO), the country’s oldest and most prominent human rights organization, and briefly detained its leaders.⁵ The nationwide Internet blackout, travel restrictions, and curfew resulting from the State of Emergency also made the work of NPOs very difficult. Guaranteeing the personal safety and security of international aid organizations was extremely challenging because of the severe restrictions on the Internet, breaking down channels of communication and making it difficult for aid workers to coordinate their activities.⁶ Due to the restriction on gatherings, organizational meetings and trainings also

² Mamo Gebrehiwot, “House approves newly revised income tax proclamation,” *Ethiosports*, July 26, 2016, <http://www.ethiosports.com/2016/07/26/house-approves-newly-revised-income-tax-proclamation/>.

³ Daniel Berhane, “Ethiopia: State of Emergency grants PM sweeping powers,” *Horn Affairs English*, October 9, 2016, <http://hornaffairs.com/en/2016/10/09/ethiopia-state-emergency-sweeping-powers/>.

⁴ የአስቸኳይ ጊዜ አዋጅ እርምጃ አፈፃፀም መመሪያ ይፋ ሆነ, (Ethiopian Emergency Proclamation), October 16, 2016, <http://www.aigaforum.com/documents/Ethio-emergency-proclamation-details-101516.pdf>.

⁵ Dawit Hailu, “Fundraising organized by Ethiopian human rights council interrupted,” *Abbay Media*, October 24, 2016, <http://abbaymedia.com/fundraising-organized-by-ethiopian-human-rights-council-interrupted/>.

⁶ “Interview with international aid workers,” Nov. 15, 2016.

could not be conducted. Thus, logistics, coordination, and strategic decisions of organizations were severely affected.⁷

In the middle of 2016, the CSA started grading organizations on their progress in meeting the requirements of the CSP and its subsidiary regulations. The CSA awarded 286 charities and societies a grade of “A,” while 925 and 1,531 charities and societies were given “B” and “C” grades, respectively. The grades were presented in a workshop organized by the CSA and then later reported in newspapers.⁸

According to a news report in the state-owned *Ethiopia Herald*, the CSA is also proposing a new directive that aims to make charities and societies “operate legally and serve the people they stand for properly.” According to a statement made by CSA officials, in addition to administrative action against noncompliant charities and societies,⁹ individuals and organizations that commit crimes in the name of charities and societies will also be taken to court.¹⁰ The directive will be issued under Proclamation No. 621/2001, which gives the CSA authority to develop new directives.

Despite the lifting of the State of Emergency, widespread violence and political instability have created a difficult environment for civil society organizations’ staff. Consecutive travel alerts from embassies have made it challenging for members of civil society organizations to travel outside of Ethiopia. Local human rights organizations also refrain from traveling outside of Addis Ababa to the rest of the country’s regions to undertake human rights monitoring and investigation.¹¹

On November 12, 2017, the government of Ethiopia announced the establishment of a National Security Council that creates a joint command post/joint committee to strengthen the security apparatus at every level of government. Critics charge that this action essentially institutionalizes the state of emergency without renewing it. According to a leaked document, the joint committee enjoys a broad mandate to secure borders and to conduct 24-hour monitoring and securing of major roads throughout the country. It also has the authority to take legal action against those involved in recent conflicts, to prohibit “illegal rallies,” and to exercise control over “anti-public armed forces,” among other powers.¹²

⁷ Helene Cardona, “The State of Emergency in Ethiopia and Aid Worker Security,” *Relief Web*, Oct. 31, 2016, <http://reliefweb.int/report/ethiopia/state-emergency-ethiopia-and-aid-worker-security>.

⁸ Worku Belachew, “Ethiopia: Legal Instrument - Enabling Environment for Chs,” *All Africa*, August 21, 2016, <http://allafrica.com/stories/201608230683.html>.

⁹ In 2016, CSA issued first to final warning letters to 206 charities and societies. Worku Belachew, “Ethiopia: Legal Instrument - Enabling Environment for Chs,” *All Africa*, August 21, 2016, <http://allafrica.com/stories/201608230683.html>.

¹⁰ Desta Gebrehiwt, “Ethiopia: Agency Set to Tighten Illegal Charities, Societies Control,” *All Africa*, June 10, 2016, <http://allafrica.com/stories/201606131015.html>.

¹¹ Anonymous interview with prominent human rights activist, Addis Ababa, Ethiopia November 21, 2017.

¹² “As exclusive: Document presented at the national security council meeting reveals Ethiopia facing alarming multi-front crisis,” *Addis Standard*, November 12, 2017, <http://addisstandard.com/as-exclusive-document-presented-at-the-national-security-council-meeting-reveals-ethiopia-facing-alarming-multi-front-crisis/>.

INTERNATIONAL RANKINGS		
RANKING BODY	RANK	RANKING SCALE (BEST – WORST)
UN HUMAN DEVELOPMENT INDEX	174	1-188
FOREIGN POLICY: FRAGILE STATES INDEX	24	178-1
CAF WORLD GIVING INDEX	84	1-145
• HELPING A STRANGER	97	
• DONATING MONEY	64	
• VOLUNTEERING TIME	78	
HUDSON PHILANTHROPIC FREEDOM INDEX	56	1-64

Relevant Laws

The Ethiopian legal system generally adheres to the civil law (also known as continental law) tradition, although some areas are influenced by common law. Ethiopia’s legal framework includes as binding sources of law the Constitution, proclamations, regulations, directives, decrees, and orders, as well as decisions by the cassation court and the Federal Supreme Court’s cassation division. Supreme Court decisions regarding fundamental errors of law are binding on federal as well as regional courts at all levels. There are no known decisions by the Supreme Court’s cassation division on NPOs.

Constitutional Framework

The Constitution guarantees freedom of expression, association, and assembly. Relevant constitutional provisions include Article 29 (Right to Hold Opinions, Thoughts and Free Expression); Article 30 (Freedom of Assembly, Public Demonstration and the Right to Petition); and Article 31 (Right to Association).

Article 31 of the Constitution provides that “[E]very person has the right to freedom of association for any cause or purpose.” Freedom of association is guaranteed for “every person” regardless of nationality, race, color, etc. In addition, the Constitution guarantees freedom of association irrespective of the cause or purpose for which the association is established. It should also be noted that Article 31 of the Constitution enjoins only the positive freedom to associate, without explicitly stating the negative freedom not to associate. In other words, the Constitution does not give explicit protection to individuals not to be forced to join a certain association. The Constitution prescribes two permissible grounds for state interference and limitation of freedom of association, including the formation of an association in violation of the “appropriate law” and establishment with the intent of illegally subverting the constitutional order. The first ground of limitation—“in violation of the appropriate law”—is vague and open to subjective interpretation.

Article 13(2) of the Constitution stipulates, “the fundamental rights and freedoms specified in this Chapter shall be interpreted in a manner conforming to the principles of the Universal Declaration of Human Rights [UDHR], International Covenants on Human Rights, and international instruments

adopted by Ethiopia.” The Constitution therefore recognizes the UDHR and other international human rights instruments as legal standards against which its guarantees of human and fundamental rights must be measured. Moreover, Article 9(4) of the Constitution states, “all international agreements ratified by Ethiopia are an integral part of the law of the land.” These include the International Covenant on Civil and Political Rights (ICCPR), the International Covenant on Economic, Social and Cultural Rights (ICESCR), the African Charter on Human and Peoples' Rights (ACHPR), the Convention on the Elimination of all Forms of Discrimination against Women (CEDAW), and the Convention on the Rights of the Child (CRC), among other major human rights instruments ratified by Ethiopia and expressly recognized by the Constitution.

In Ethiopia, the power to interpret the Constitution is vested in a government body called the House of Federation. Courts often refer cases that require constitutional interpretations to this body. This House is professionally supported by the Council of Constitutional Inquiry, which is empowered to receive applications “where any Federal State law is contested as being unconstitutional and such a dispute is submitted to it by any court or interested party. In such cases, the Council shall consider the matter and submit it to the House of Federation for a final decision.” There are no known constitutional interpretations or court cases related to the freedom of association.

National Laws and Regulations Affecting Philanthropic Giving

Table 1 shows the national laws and regulations affecting philanthropic giving in Ethiopia.

Table 1. National Laws and Regulations Affecting Philanthropic Giving in Ethiopia

TITLE OF LAW OR REGULATION	YEAR ENACTED	DESCRIPTION	LINKS TO LAW OR REGULATION
FEDERAL DEMOCRATIC REPUBLIC OF ETHIOPIA CONSTITUTION	1995		<u>Bilingual</u>
FRAMEWORK LAWS			
CHARITIES AND SOCIETIES PROCLAMATION (CSP) No. 621/2009	2009	Ensures the realization of citizens' right to associate and facilitates the role of charities and societies in the overall development of the Ethiopian people	<u>Bilingual</u>
CHARITIES AND SOCIETIES COUNCIL OF MINISTERS REGULATION (CSR) No. 168/2009	2009	Provides for the registration and administration of charities and societies	<u>Bilingual</u>

CONSORTIUM OF CHARITIES AND SOCIETIES DIRECTIVE No. 1/2010	2010	Regulates consortiums of charities and societies	<u>Bilingual</u>
DIRECTIVE TO DETERMINE THE OPERATIONAL AND ADMINISTRATIVE COSTS OF CHARITIES AND SOCIETIES No. 2/2011	2011	Regulates the operational and administrative costs of charities and societies	<u>Bilingual</u>
DIRECTIVE TO PROVIDE FOR THE ESTABLISHMENT AND ADMINISTRATION OF CHARITABLE COMMITTEE No. 3/2011	2011	Regulates the establishment and administration of the Charitable Committee	<u>Bilingual</u>
DIRECTIVE TO PROVIDE FOR THE ESTABLISHMENT OF A CHARITABLE ENDOWMENT, CHARITABLE TRUST AND CHARITABLE INSTITUTION No. 4/2011	2011	Regulates the establishment of charitable endowments, charitable trusts and charitable institutions	<u>Bilingual</u>
DIRECTIVE TO PROVIDE FOR PUBLIC COLLECTION BY CHARITIES AND SOCIETIES No. 5/2011	2011	Regulates public collections by charities and societies	<u>Bilingual</u>
DIRECTIVE TO PROVIDE FOR THE LIQUIDATION, TRANSFER AND DISSOLUTION OF PROPERTIES OF CHARITIES AND SOCIETIES No. 6/2011	2011	Regulates the liquidation, transfer and dissolution of properties of charities and societies	<u>Bilingual</u>
DIRECTIVE TO PROVIDE FOR INCOME GENERATING ACTIVITIES BY CHARITIES AND SOCIETIES No. 7/2011	2011	Regulates income generating activities by charities and societies	<u>Bilingual</u>
DIRECTIVE TO DETERMINE THE PARTICULARS OF THE AUDIT AND ACTIVITY REPORTS OF CHARITIES AND SOCIETIES No. 8/2011	2011	Regulates and determines the particulars of audits and activity reports of charities and societies	<u>Bilingual</u>

DIRECTIVE TO DETERMINE COST SHARING No. 9/2013	2013	Regulates cost sharing principles	<u>Bilingual</u>
CHAMBERS OF COMMERCE AND SECTORAL ASSOCIATION ESTABLISHMENT PROCLAMATION No. 341/2003	2003	Regulates the establishment of chambers of commerce and sectoral associations	<u>Bilingual</u>
TAX LAWS			
INCOME TAX PROCLAMATION No. 286/2002	2002	Establishes income tax regulations	<u>Bilingual</u>
INCOME TAX REGULATION No. 78/2002	2002	Regulates issues related to the income tax proclamation	<u>Bilingual</u>
LABOR LAWS			
LABOR PROCLAMATION No. 377/2003	2003	Regulates labor relationships	<u>Bilingual</u>
LAWS OF GENERAL APPLICATION			
ANTI-TERRORISM PROCLAMATION No. 652/2009	2009	Establishes anti-terrorism procedures	<u>Bilingual</u>
FREEDOM OF THE MASS MEDIA AND ACCESS TO INFORMATION PROCLAMATION No. 590/2008	2008	Regulates access to information and mass media	<u>Bilingual</u>
CIVIL CODE AND INTERNAL SECURITY ACT	1960 and 1966	Since the CSP and CSR has not expressly repealed these laws, it can be assumed that some of these laws' provisions that are not expressly covered by the new CSP/CSR will continue to	<u>Bilingual</u>

Analysis

Organizational Forms for NPOs

The CSP defines two types of registered, not-for-profit organizations in Ethiopia: charities and societies.

Charities are defined as institutions that are “established exclusively for charitable purposes and give benefit to the public.” There are five types of charities recognized by Ethiopian law:

1. Charitable endowment: an organization through which certain property is perpetually and irrevocably designated by donation, will, or the order of the agency for a purpose that is solely charitable (Article 16 of the CSP).
2. Charitable institution: a charity formed by at least three persons exclusively for charitable purposes; a charitable institution is similar to an endowment, except that its members are required to provide guarantees for the debts of the institution to third parties (Article 27 of the CSP).
3. Charitable trust: an organization by virtue of which specific property is constituted solely for a charitable purpose to be administered by three to five trustees, in accordance with the instructions given by the instrument constituting the charitable trust. Like a charitable endowment, a trust is established by donation or will or by the order of the CSA (Article 30 of the CSP).
4. Charitable society: a society that is established for charitable purposes (Article 46 of the CSP). While similar to a society in terms of structure and organization, unlike a society, it is established to serve the interests of the public or third parties rather than that of its own members. Most NPOs in Ethiopia have been re-registered as charitable societies.
5. Charity Committee: a body composed of five or more natural persons who have come together with the intent of soliciting money or other property from the public for purposes that are charitable. Such committees may, for instance, be established to mobilize funds to help people in emergency situations, such as natural calamities. A committee that has raised a lot of money can be converted into a charitable endowment. Charity committees may not collect funds or perform any other activities without acquiring approval from the CSA. Charity committees must also submit detailed statements of accounts to the CSA about the funds they have collected, and their members will be jointly and separately liable for obligations and debts arising from the activities of the committee, such as embezzlement of funds. In other words, a member of the committee could be held liable to pay the debts of the Committee and later recover from the other members their share in the debts.

Societies are associations or persons organized on a voluntary, non-profit making basis to pursue the rights and interests of their members and to undertake other similar lawful purposes, as well as to coordinate with institutions with similar objectives (Article 55 of CSP).

Charities and societies are given one of three legal designations: Ethiopian charities or societies, Ethiopian resident charities or societies, or foreign charities. This designation is based on where the organization was established, its source of income, composition of membership, and members’ residential status.

1. Ethiopian charities or societies: charities or societies formed under the laws of Ethiopia, whose members are all Ethiopians, which generate income from Ethiopia, and are wholly controlled by Ethiopians. These organizations may not receive more than 10 percent of their resources from foreign sources (Article 2 of CSP).
2. Ethiopian resident charities or societies: Ethiopian charities or societies, the members of which are Ethiopian and that receive more than 10 percent of their resources from foreign sources (Article 2 of CSP).
3. Foreign charities: charities formed under the laws of foreign countries, with membership including foreigners, that are controlled by foreigners, and that receive funds from foreign sources (Article 2 of CSP). “Income from foreign sources” is broadly defined as “a donation or delivery or transfer made from foreign source of any article, currency or security. Foreign sources include a government agency or company of any foreign country, international agency, or any person in a foreign country” (CSP Article 2(15)).

Articles 14(2 j-n) and 14(5) of the CSP list activities that are reserved for Ethiopian charities and societies, and may not be carried out by foreign charities or any organization that receives more than 10 percent of its resources from foreign sources (i.e., an Ethiopian resident charity or society):

1. The advancement of human and democratic rights;
2. The promotion of equality of nations, nationalities, and peoples, and that of gender and religion;
3. The promotion of the rights of the disabled and children’s rights;
4. The promotion of conflict resolution and reconciliation; and
5. The promotion of the efficiency of justice and law enforcement services.

The CSP also introduces a legal framework for the formation of consortiums (also known as networks), which enable CSOs to share human and financial resources, reduce operational and administrative costs, avoid duplication of efforts, and exchange information and experience.

According to the most recently available figures, as of September 2014, there were 3,057 NPOs registered in Ethiopia.

NO.	TYPE OF CSOs :	REGISTERED
1	Ethiopian charities	114
2	Ethiopian societies	356
3	Ethiopian resident charities	2019
4	Ethiopian resident societies	105
5	Foreign charities	352

6	Consortia	53
7	Adoption Agencies	58
Total		3057

There are also an estimated 199,000 informal self-help groups operating in both rural and urban areas. These groups perform various roles, but primarily exist to encourage self-reliance among individuals, households, and the larger local community, as illustrated below. Many are ethnic-specific. The CSP does not apply to these informal (customary or traditional) organizations.

Detailed information on these groups and an understanding of exactly how they operate is hard to uncover and thus to describe, but their basic profiles are known.

Debo is a self-help organization that provides mutual aid to member farmers. *Ekub* is similar to a savings and credit association, with a lottery component providing periodic rewards to participants. Some *ekub* are established to benefit particular groups of individuals, such as women and merchants. An *ezen* is a self-help group that assists families after the death of a member. *Idir* is a larger group that serves as a local neighborhood association, taking on various functions depending on the community. For example, an *idir* may provide emergency insurance assistance to its members. There are believed to be in excess of 3,000 such groups in Addis Ababa alone.

Some observers see these self-help groups as a logical starting point for various development interventions and as counterparts for international NGOs (INGOs) and donor organizations. Others, however, fear that association with INGOs and donors will eventually corrupt and destroy these important social units; they emphasize that the focus of such groups is not poverty alleviation, but social interaction, and believe that the self-help groups should basically be left alone.

Registration of Domestic Nonprofit Organizations

Article 68 of the CSP requires all charities and societies to register, specifying that “any Charity or Society shall apply for registration within three month of its formation. Failure to register within the prescribed period shall be grounds for cessation of the formed Charity or Society.” However, the CSA may also allow a charity or society to apply for registration after the three month time limit has elapsed if good cause can be shown (CSA Article 64/1(3)). The CSP does not list the grounds that amount to good cause.

The CSP establishes a central body called the Charities and Societies Agency (CSA) that administers and confers legal identity on charities and societies through registration. The CSA has the power to license, register (or refuse registration), and supervise NPOs, both national and international. Section five of the CSP governs the formation, licensing, and registration of charities and societies. Article 71 of the CSP requires the CSA to keep a Register of charities and societies. The CSA is a separate legal entity, but accountable to the Ministry of Justice, which is in turn accountable to the Council of Ministers. Therefore, the administration of NPOs falls under the executive branch.

The steps to register an Ethiopian or Ethiopian resident charity or society with the CSA include:

- Complete the application form provided by the CSA. The form must indicate the name of the charity, its objective and intended activities, regions where it plans to operate, its sources of financing, as well as personal details of its members and director.
- Submit the memorandum of association of the charity/society, and the charity's logo, if any.
- Pay a registration fee of 500 Ethiopian Birr (approximately \$23) for Ethiopian charities and Ethiopian resident charities and 1,000 Ethiopian Birr (approximately \$46) for societies. Other fees include 100 Ethiopian Birr (approximately \$5) for registration of the logo/symbol, and an additional 100 Ethiopian Birr (approximately \$5) for the publication of registration in the government newspaper. To use a memorandum of association different from the model document provided by the CSA requires an additional vetting fee of 200 Ethiopian Birr (approximately \$9).

In addition to these requirements, Article 3(1) of the CSR additionally requires that an applicant submit:

- List of regions or city administrations in which it intends to operate;
- Decision made by the founders of the organization to register;
- The Model Rules prepared by the CSA;
- Statement about percentage of sources of income from local and foreign sources;
- Names, ages, educational status, residential address, and nationalities of the founding members, officers, and members of the organization;
- The legal nature of the organization: Ethiopian or Ethiopian resident, society or charity;
- Symbol, if any; and
- Declaration Statement by founders that the documents and information therein are true.

The CSP is silent about restrictions on who can serve as a founder of a charity or society.

The CSP calls for the CSA to register an applicant NPO after ensuring that the legal requirements are met. Once legally registered, CSOs have legal personality and thus enjoy the general rights and powers of juridical entities, such as the ability to own property and to enter into contracts (Article 22(2)).

All charities and societies are required to renew their registration license every three years. This allows the CSA to monitor and control NPOs' activities according to their constitutive acts and the country's national interest as may be provided in new legislation.

The following are significant constraints on the registration/incorporation process for domestic NPOs, including both Ethiopian and Ethiopian resident charities and societies:

- CSOs with a federal character or nomenclature must have members from or a work place in at least five regions; and
- CSOs in the formation stage are not permitted to raise funds of more than 50,000 Ethiopian Birr (approximately \$2,300).

Registration may be denied on one of the following specific grounds:

- The rules of the proposed charity or society do not comply with the necessary conditions set by the CSP;
- The proposed charity or society is likely to be used for unlawful purposes or for purposes prejudicial to public peace, welfare, or good order in Ethiopia; however, the legislation fails to provide a precise definition or criteria as to what activities can be perceived as detrimental to public peace, welfare, or security;
- The application for registration does not comply with the provisions of the CSP;
- The name under which the proposed charity or society is to be registered resembles the name of another charity, society, or any other institution; is contrary to public morality; or is illegal; and
- The nomenclature of the charity or society is countrywide and the composition of its members or its work place does not show the representation of at least five regional states.

The law does not obligate the CSA to provide a written explanation for why registration was refused.

In practice, organizations working on development, service delivery, and health-related issues have an easier time registering than those working on more controversial issues, such as peace and conflict resolution, democracy and governance, and rule of law.

Consortiums: Article 9 of the Consortium of Charities and Societies Directive No. 1/2010 stipulates that charities cannot form consortiums with societies. Similarly, Ethiopian charities/societies are not allowed to form consortiums with Ethiopian resident charities/societies or foreign charities. Hence, an Ethiopian charity can only establish a consortium with other Ethiopian charities. An Ethiopian society is likewise allowed to form a consortium only with other Ethiopian societies. However, foreign charities may form consortiums with Ethiopian resident charities.

To register, a consortium must submit:

- A memorandum of association signed by member organizations;
- Minutes in which the supreme organ of each organization (the general assembly or the board as the case might be) has decided to form the consortium; and
- The certificate of incorporation of each member organization.

Registration of Foreign Nonprofit Organizations

A charity is deemed “foreign” if it is based in another country, has non-Ethiopian members, is controlled by non-Ethiopians, and receives more than 10 percent of its funding from international sources. The CSA is also responsible for licensing, registering, and supervising foreign charities.

To register a foreign charity, the first step is to submit an application to the Ethiopian Embassy at the country of incorporation. The application should be accompanied by copies of the following documents:

- A certificate of registration/incorporation showing that the organization is established or registered as an NGO or NPO;
- The founding document (constitution, articles of association, or by-laws) of the organization;
- A copy of the minutes/decision by the executive board to open a branch office in Ethiopia;
- A power of attorney/letter of appointment signed by the board of directors indicating the name of and full authority entrusted to the country representative in Ethiopia;
- The resume or CV of the country representative;
- Registration fee; and
- A project proposal containing:
 - Background and justification for the project the charity plans to undertake in Ethiopia;
 - The objectives of the project;
 - The beneficiaries/target groups and location of the operation;
 - Project implementation strategy;
 - Planned activities and expected results;
 - Information on the organization's planned office for Ethiopia, including staffing and management structure (listing the positions and number of employees);
 - Project sustainability assessment;
 - Description of mechanisms for monitoring and evaluation; and
 - Budget breakdown (showing administrative and operational costs) and indication of sources of funding.

The above-listed documents must be notarized and authenticated by the Ethiopian Embassy in the country of the applicant; the Embassy then forwards the documents to the Ethiopian Ministry of Foreign Affairs.

Once it reviews the documents, the Ministry of Foreign Affairs will write a letter of recommendation in support of the charity's registration, which the charity must submit to the CSA along with its application for registration and the documents outlined above.

The charity will also be required to pay a registration fee of \$300, a document authentication fee of 5 Ethiopian Birr (approximately \$.25) per page per copy, and a statute vetting fee of 100 Ethiopian Birr (approximately \$5).

Though not provided by the CSP, the Civil Code requires foreigners to have special permission from the government to own immovable property in Ethiopia.

NPO Activities

In 2010 and 2011, the Charities and Societies Agency (CSA) issued eight directives to operationalize the Charities and Societies Proclamation (CSP). These include:

- Consortium of Charities and Societies Directive No. 1/2010
- Directive to Determine the Operational and Administrative Costs of Charities and Societies No. 2/2011 (also known as the 70/30 Directive)
- Directive to Provide for the Establishment and Administration of Charitable Committee No. 3/2011
- Directive to Provide for the Establishment of a Charitable Endowment, Charitable Trust and Charitable Institution No. 4/2011
- Directive to Provide for Public Collection by Charities and Societies No. 5/2011
- Directive to Provide for the Liquidation, Transfer and Dissolution of Properties of Charities and Societies No. 6/2011
- Directive to Provide for Income Generating Activities by Charities and Societies No. 7/2011
- Directive to Determine the Particulars of the Audit and Activity Reports of Charities and Societies No. 8/2011.

Operational and Administrative Costs. The Directive to Determine the Operational and Administrative Costs of Charities and Societies No. 2/2011 (also known as the 70/30 Directive) determines the operational and administrative costs of charities and societies. It requires all charities and societies to keep their administrative costs to no more than 30 percent of overall costs, while operational costs should constitute 70 percent or more of their expenses, in order to achieve the best “value for money” ratio for their activities.

All charities and societies, as well as consortiums thereof, are required to comply strictly with the 70/30 Directive. Failure to abide by this rule can lead to steep fines for both the organization and its employees, or even incarceration. In light of this ambiguity, organizations are forced to take an expansive view of what may constitute an administrative cost. Amnesty International notes that a broad swath of expenses could theoretically be classified as “administrative” under the statutory definition, and that organizations have engaged in “self-censorship” to avoid falling afoul of it.

There are considerable concerns over the 70/30 Directive’s categorization of expenditures, which goes against international charity operational practices and charity accounting standards. In particular, costs related to the salaries of program and project staff, research and consultancy, training, monitoring and evaluation, transportation and per diem for program activities are all considered administrative costs in Ethiopia, and therefore strictly limited.

In 2014, the CSA issued an amendment to the 70/30 Directive that applies to organizations working on HIV/AIDS, persons with disabilities, clean water, environmental protection, climate change, agricultural and construction activities, and capacity-building activities. This amendment re-categorizes some expenses, including project staff salaries, vehicles, and trainings, as project costs rather than administrative costs. This amendment does not address costs related to baseline and needs assessments or monitoring and evaluation.

Political Activities and Lobbying. Advocacy activities are considered “political activities,” which are allowed only for Ethiopians and Ethiopian organizations that mobilize more than 90 percent of their income from local sources. Article 14(5) of the CSP provides that the following activities may only be carried out by Ethiopian charities and societies:

- The advancement of human and democratic rights;
- The promotion of equality of nations, nationalities, and peoples, and that of gender and religion;
- The promotion of the rights of the disabled and children’s rights;
- The promotion of conflict resolution and reconciliation; and
- The promotion of the efficiency of justice and law enforcement services.

Only Ethiopian charities and societies can lobby members of parliament and encourage their members or the public to communicate with legislators about proposed legislation. However, the CSP limits the amount of their total funding that can come from foreign sources to 10 percent.

Economic Activities. The Directive to Provide for Income Generating Activities by Charities and Societies No. 7/2011 states “CSOs, particularly those which generate their financial sources from local sources in addition to donor support and other sources, should take part in income generating activities to broaden their income sources base.”

Article 103 of the CSP introduces certain limitations on NPOs’ abilities to engage in economic activities:

- Charities and societies that want to engage in economic activities are required to secure written approval from the CSA.
- Economic activities must be “directly related to the core objectives of registration of the Charities or Societies” (Article 5 of CSA Income Generating Activities Guideline, No. 7/2011). For example, a CSO that is established to provide education to the poor could be allowed to open a private school and generate income. It cannot, however, run a clinic or a shop for the purpose of income generation. Likewise, a charity working on environmental protection might be allowed to sell seedlings to generate income, but it cannot generate money by running a bakery or a restaurant business, even if the money would be used to finance its charitable activities.
- Charities and societies are permitted to engage in economic activities provided that no profit or earnings are distributed to the founders, members, officers, board members, or employees of the entities under consideration.
- A charity or society that undertakes economic activity is required to keep separate books of accounts with respect to such activity.

In addition, organizations that run income-generating businesses must comply with all registration, licensing, and tax requirements stipulated under the relevant laws, such as the commercial code, investment law, business licensing and registration laws, etc. Permission from

the CSA is insufficient to satisfy the requirements of these laws. They also need to get business licenses from the Ministry of Trade and Industry or similar offices at the regional, zonal, or woreda levels. In addition, they will be required to register as taxpayers and obtain taxpayer IDs (TIN No.), and obtain VAT registration as appropriate.

Consortiums. According to Article 10 of the Consortium of Charities and Societies Directive No. 1/2010, a union or consortiums should be established only when it is absolutely necessary and there is no other alternative. A consortium is required to have an auditor, an executive board, and a general assembly in which all the member organizations are represented. The Consortium Directive prohibits consortiums from engaging in direct project implementation, and confines them to activities related to networking, capacity building, and coordination of member organizations.

Government Supervision. The CSP mandates the following supervisory organs to oversee the administration and operation of charities and societies:

- Charities and Societies Agency (CSA), a special organ established to administer the registration, operation, and dissolution of charities and societies;
- Charities and Societies Board, established under the CSA, consisting of seven members nominated by the government, including two from civil society. Its role is to support CSOs and monitor their activities; and
- Sector Administrators, which have a supervisory and advisory role in the administration of NPOs (CSP Article 66 cum 67 (1 & 2)). Their role is to assist the CSA in the registration, licensing, and supervision of charities and societies, particularly in areas which require the special expertise of a given government executive office. For example, the Ministry of Health is the sector administrator for charities and societies working on health issues.

The powers granted to the CSA include:

- The right to demand the production of any documents in the possession of a charity or society at any time without legal process;
- The authority to remove and replace officers of charities and societies if they have been convicted of a crime or have moved out of the country; and
- The power to apply to a court seeking dissolution of an organization that has been used “for purposes prejudicial to public peace, welfare or security.” The court has the sole power to dissolve an organization.

The CSA also may, upon the request of one or more members or officers of a society, convene a meeting of the general assembly through the chairperson or on its own. The CSA may nominate a chairperson of the general assembly, although the circumstances in which this may be done are not elaborated. The CSA may also suspend an officer responsible for misconduct or mismanagement of the administration of a charity or society and order the appropriate organ of the charity or society to assign another person. The CSO does not provide any penalties for a founder’s misconduct.

In addition to the specific powers of intervention and interference explicitly granted it in the law, Article 6(1(l)) grants the CSA the power to “carry out such other activities necessary for the attainment of its objectives.” The broadness of this provision enables the CSA to adopt the widest possible interpretation of its powers – that it is legally sanctioned to take any measure it devises or chooses. According to Amnesty International, the provision is therefore open to significant misuse, including targeting, silencing, or punishing organizations.

In August 2016, it was reported that the CSA would grade organizations on their progress in meeting the requirements of the CSP and its subsidiary regulations.¹³ Grades were reportedly determined based on criteria including review of the organization’s annual report, bank statements, efforts to meet the 70/30 Directive, and adherence to the CSP and other regulations.¹⁴ The CSA has not made the full grading system, criteria, or procedures publicly available. Civil society leaders interviewed for this report were not aware of how the process functions and did not receive any official communications regarding the grading system. The CSA has stated that the grading system is based on how well charities and societies comply with CSA guidelines and how effectively they work within their communities.¹⁵ Ultimately, however, the lack of clearly set standards and procedures for this grading system opens the door for arbitrary application and disparate treatment.

Prohibition on Distribution of Income or Assets/Private Inurement. According to the CSP, a charity is defined as an institution established only for the purpose of charity and that gives benefit to the public. Article 14(3) states that any private benefit of individuals and organizations can be acquired only incidentally and as a secondary consequence of the organization’s activities. The CSP is silent on the issue of distribution of assets for societies.

There are no explicit rules in Ethiopia governing financial transactions or “self-dealing” between NPOs and their directors, officers, employees, or family members of these individuals. As all societies and charities are subject to the 70/30 Directive, they are limited in the salaries they can pay their employees.

Internal Management. In principle, the law recognizes the rights of charities and societies to determine their own structures. Nevertheless, there are some provisions that require certain charities and societies to adopt certain forms and structure. For example:

- Charitable endowments and charitable institutions must have a management board, manager, and auditor within their structure;

¹³ Worku Belachew, “Ethiopia: Legal Instrument - Enabling Environment for Chs,” *All Africa*, August 21, 2016, <http://allafrica.com/stories/201608230683.html>.

¹⁴ Desta Gebrehiwt, “Ethiopia: Agency Set to Tighten Illegal Charities, Societies Control,” *All Africa*, June 10, 2016, <http://allafrica.com/stories/201606131015.html>.

¹⁵ Worku Belachew, “Ethiopia: Legal Instrument - Enabling Environment for Chs,” *All Africa*, August 21, 2016, <http://allafrica.com/stories/201608230683.html>; Desta Gebrehiwt, “Ethiopia: Agency Set to Tighten Illegal Charities, Societies Control,” *All Africa*, June 10, 2016, <http://allafrica.com/stories/201606131015.html>.

- Charitable trusts should have a trustee manager, a trustee treasurer, and a trustee auditor;
- A society or charitable society must have a general assembly, executive committee, internal auditor, and a manager/director.

The law further provides the power and responsibilities of the different organs in the administration of the organization and allows or calls for the interference of the CSA in the internal affairs of NPOs. Charities and societies must notify the CSA in writing of the time and place of any meeting of their general assembly at least seven working days prior to such a meeting. No charity or society may employ expatriates unless a work permit is granted in accordance with the relevant law. In addition, Article 70 identifies several categories of individuals who cannot be assigned as officers of charities or societies, including:

- Convicts of a crime that involves fraud or other dishonest acts;
- Convicts of any crime whose punishment results in the deprivation of her/his civil rights, which have not yet been restored;
- Individuals unable to act as a result of incapacity as defined by law;
- Individuals interdicted by a court; or
- Individuals outside Ethiopia whose absence impedes the proper administration of the charity or society.

The CSA may order a charity or society to remove an officer who falls short of these requirements and to assign another person as an officer.

Reporting. Under the CSP, NPOs are obligated to keep records showing all revenues and expenditures; donations must be tracked, and anonymous donations are not permitted. Each charity and society with annual revenues of over 50,000 Ethiopian Birr (approximately \$2,300) must prepare a public annual statement of accounts, which must also be examined by a certified internal auditor or an external auditor designated by the CSA if the organization's revenues are over 100,000 Ethiopian Birr (approximately \$4,600). The CSA is also entitled to reports about an organization's bank account, including identifying information about the account itself, as well as all transactions, annually and upon request.

The CSA also has broad discretion to investigate and impose extraordinary reporting and audit requirements on NPOs. No information is available as to whether or to what extent the CSA has exercised this power.

Termination, Dissolution and Sanctions

Suspension. Article 92 of the CSP provides the following grounds for suspension of an organization:

- Failure to comply with the CSA's orders to amend a rule of the organization or correct another fault;
- Submitting falsified accounts or reports to the CSA;

- Contravening the provisions of the CSP, regulations and directives issued thereunder, orders of the CSA, or its own rules; or
- Failing to provide the CSA with information required by the CSP.

Dissolution. According to Article 96 of the CSP, a charity or society can be dissolved on the following three grounds:

1. The appropriate organ of the charity or society decides to dissolve it in accordance with its rules;
2. The CSA cancels the license of the charity or society in accordance with Article 92 of the CSP for one of the following reasons:
 - The registration of the organization has been procured by fraud or misrepresentation;
 - The organization has been used for unlawful purposes or for purposes prejudicial to public peace, welfare, or security;
 - The organization fails to rectify the causes for suspension within the time limit set by the CSA;
 - The organization fails to renew its license; or
 - The organization commits a crime by violating the provisions of the criminal code or of the CSP.
3. The charity or society has become insolvent.

The dissolution of Ethiopian charities and societies may be affected by a decision of the Federal High Court, whereas the dissolution of Ethiopian resident charities or societies or foreign charities must be affected by the decision of the CSA, with no judicial recourse.

Dissolution has the following effects:

- The property of the organization will be liquidated;
- After settling all debts and liabilities of the organization, the remaining property will be given to a charity or society with a similar purpose as determined by the members of the association at or before the time of dissolution or by the decision of the court ordering the dissolution, or distributed among charities or societies in need by the order of the CSA;
- A charity or society that is being dissolved may not perform activities other than those necessary for its liquidation without the authorization of the CSA.

In addition to maintaining a registry that contains this information, the CSA publishes lists of societies and charities whose registration has been suspended or cancelled, along with those registered, in the Negaret Gazeta.

Conversion, Merger, Division. Conversion occurs when a CSO changes its legal form, for instance, from charity to society or vice versa, or from an Ethiopian resident to Ethiopian charity/society, etc. The law does not restrict such conversions, providing that charities/societies may convert themselves as long as they comply with the procedures set by the CSA for this purpose. However, a foreign or Ethiopian resident charity must give up all of its assets if it decides

to change to an Ethiopian charity/society, as assets obtained from foreign sources cannot be transferred to the new Ethiopian charity/society.

Merger is an act by which “two or more Charities or Societies merge into one under a new name or under the name of one of the former Charities or Societies.” An application for merger should be accompanied by a list of the CSOs merging, decisions of the supreme organs of the merging CSOs, and an agreement regarding the transfer of rights and duties of the merging CSOs to the new CSO.

Division is an act whereby a charity or society is divided into two or more organizations. Applications for division should also be accompanied by decisions of the management board or the general assembly regarding the division of the NPO and how the rights, obligations, assets, and liabilities of the NPO are going to be allocated/apportioned between the new entities, as well as a list of the organizations resulting from the division. (Article 17 of the Regulation).

Sanctions. The penalties for non-compliance with the CSP are set out in Article 102 thereof. Violation of the CSP, unless otherwise provided for, is deemed a criminal offense, and “punishable in accordance with the provisions of the criminal code.” Specific sanctions provided for in the CSP include fines of:

- 20,000 – 50,000 Ethiopian Birr (approximately \$920 – 2,300) for failure to keep proper books and accounts regarding donations;
- 10,000 – 20,000 (approximately \$460 – 920) Ethiopian Birr for failure to submit to the CSA an annual statement of financial records;
- 50,000 – 100,000 Ethiopian Birr (approximately \$2,300 – 4,600) for failure to report, on request, details about its bank accounts; and
- 5,000 – 10,000 Ethiopian Birr (approximately \$230 – 460) for allocating more than 30 percent of expenditures to administration.

The CSA also provides that, for individuals who participate in violations of the CSP, in addition to incarceration as provided for by the Criminal Code, supplementary fines of 10,000 – 20,000 Ethiopian Birr (approximately \$460 – 920) may be assessed under the CSP. Note that all of these penalties must be assessed by a court. Generally, Ethiopian charities or societies can appeal sanctions imposed by the CSA to the Director General of the CSA and then to either the Board of the Agency or to a Federal High Court. Ethiopian resident and foreign charities, on the other hand, may appeal decisions only to the Director General and the Board of the CSA.

Charitable or Public Benefit Status

Article 14 of the CSP stipulates that a charity must be established for charitable purposes and provide public benefit. According to Article 14(3) of the CSP, to qualify for public benefit status, the following criteria must be met:

- The activity/objective should result in identifiable/concrete benefit to the public, for example, construction, education, training and research;

- The activity/objective should not discriminate among potential beneficiaries, for example, provision of free medical, educational, or food services to the vulnerable must be provided without prejudice of tribal group or kinship;
- Individual benefits arising from the activity are only secondary and incidental to the implementation of the objective (i.e., the primary objective of the NPO is to serve the public and not to benefit its founders, managers, or employees).
- To meet the criteria for public benefit status, the administrative cost should be proportional to the project of the NPO.

Ethiopian law does not provide any specific benefits to organizations with public benefit status.

Local and Cross-border Funding

The CSP recognizes the right of charities and societies to raise money or collect property through public collections. Public collections are defined as appeals made to the public for money or other property in which the collected money is used for charitable purposes as defined by the CSP (CSP Article 2(10) and 98). Before engaging in public collection activities, however, the organization must have a permit from the CSA that specifies the purpose, place, and duration of the collection. It is not clear whether this requirement applies to public collection activities that are relatively permanent, such as putting donation boxes in offices of international organizations, hotels, and malls, as well as permanent exhibitions/bazaars. Any money or property collected by a charity or society prior to securing permission is subject to confiscation by the CSA and will be transferred to a charity or society with a similar purpose.

NPOs opting to register as Ethiopian charities or societies are not allowed to receive more than 10 percent of their funds from foreign sources (Article 2 of CSP). While Ethiopian resident charities and societies can receive more than 10 percent of their funds from foreign sources, they are prohibited from engaging in essentially all human rights and advocacy activities. These restrictions are concerning, as local sources of financing in Ethiopia are limited and NPOs are often dependent on foreign funding. Alternatively, NPOs may abandon disfavored missions or activities if they cannot raise funds locally to sustain them. NPOs do not need any additional permission or approval to receive foreign funding beyond the restrictions noted above.

The foreign funding restrictions have forced the closure of many organizations, especially human rights organizations. According to Amnesty International, at least seventeen organizations in Ethiopia, including two of the four “most prominent” domestic human rights organizations, changed their focus from human rights to development work after the CSP entered into force due to financial concerns. To maintain their focus on human rights, the two remaining organizations were forced to cut staff by 85 percent and 70 percent, and also had their assets frozen or seized because they were deemed to have come from foreign sources. HRCO, Ethiopia’s oldest human rights organization, saw its annual budget decrease by 92.5 percent, and had 90 percent of its assets frozen by the CSA.

Ethiopian charities and societies are not allowed to work in partnership or affiliation with foreign organizations, but Ethiopian resident charities and societies and foreign charities are not subject to this restriction.

There are several restrictions related to domestic funding:

- Charities and societies are restricted from soliciting money and property that exceeds 50,000 Ethiopian Birr (approximately \$2,300) before registration.
- Public collections are not allowed without permission from the CSA.
- Charities or societies can only engage in economic activities that are incidental to the achievement of their purposes.

Tax Law

Income from grants, donations, and membership fees are not subject to tax for any form of NPO. NPOs working on service delivery and philanthropic activities may also be exempt from some other taxes, such as customs duties on imported items.

According to Income Tax Proclamation No. 286/2002, the principal legislation on income tax in Ethiopia, every person with income as defined in the proclamation is required to pay income tax in accordance with the law. The Proclamation proceeds to provide a long illustrative list of activities that entail income tax liability. The list of these activities includes:

- Income from employment;
- Income from business activities;
- Income derived by an entertainer, musician, or sports person from his personal activities;
- Income from entrepreneurial activities carried on by a non-resident through a permanent establishment in Ethiopia;
- Income from movable property attributable to a permanent establishment in Ethiopia;
- Income from immovable property and appurtenances thereto, income from livestock and inventory in agriculture and forestry, and income from usufruct (the right to use or rent immovable property), and other rights deriving from immovable property if such property is situated in Ethiopia;
- Income from the alienation of movable property attributable to a permanent establishment in Ethiopia;
- Dividends distributed by a resident company;
- Profit shares paid by a resident registered partnership;
- Interest paid by the national, a regional or local government or a resident of Ethiopia, or paid by a non-resident through a permanent establishment maintained in Ethiopia; and
- License fees, including lease payments, and royalties paid by a resident or paid by a non-resident through a permanent establishment that he maintains in Ethiopia.

Taking into account the fact that some organizations in the non-profit sector engage in economic activities, some of which are found in the list above, it can be inferred that such organizations will

be expected to pay income tax for the income they secure from such activities just like private individuals or businesses.

According to the VAT Proclamation, most NPOs are expected to pay value-added tax (VAT) when they buy goods and services from VAT-registered providers of goods and services. However, the following transactions and activities are exempted from VAT:

- The rendering by religious organizations of religious or church-related services;
- The rendering of educational services provided by educational institutions, as well as child care services for children at pre-school institutions;
- The import or supply of prescription drugs specified in directives issued by the Minister of Health, and the rendering of medical services;
- The supply of goods and rendering of services in the form of humanitarian aid, as well as the import of goods transferred to state agencies of Ethiopia and public organizations for the purpose of rehabilitation after natural disasters, industrial accidents, and catastrophes;
- The supply of goods or services by a workshop employing disabled individuals if more than 60 percent of the employees are disabled.

CSOs working with the financial support of international organizations like USAID may also be exempt from VAT upon applying to the CSA and Tax Authority, in accordance with agreements between foreign and Ethiopian governments.

According to Income Tax Regulation 78/2002, donations may be tax-deductible for both individuals and business organizations if all of the following criteria are met:

- The charitable organization is a registered organization;
- The organization has a support letter (certificate) from CSA indicating that it has a record of outstanding achievement and its utilization of resources and accounting system operates with transparency and accountability;
- The contribution is made in response to an emergency call issued by the government to, among other objectives, prevent man-made or natural catastrophes, epidemics, or for any other similar cause;
- The donation is made to non-commercial education or health facilities; and
- The amount of the donation or grant does not exceed 10 percent of the taxable income of the taxpayer.

On July 26, 2016, the federal legislature of Ethiopia enacted a new income tax law.¹⁶ The law is expected to have a negative impact on fundraising for many NPOs because its language excludes tax deductions for donations to organizations not “established solely to provide relief to those suffering ill-health or for the advancement of education”—conditions which likely exclude human rights, democracy promotion, and conflict resolution organizations.

¹⁶ Mamo Gebrehiwot, “House approves newly revised income tax proclamation,” *Ethiosports*, July 26, 2016. <http://www.ethiosports.com/2016/07/26/house-approves-newly-revised-income-tax-proclamation/>.

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