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# **SOUNDING THE HORN: ETHIOPIA'S CIVIL SOCIETY LAW THREATENS HUMAN RIGHTS DEFENDERS**

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# **SOUNDING THE HORN: ETHIOPIA'S CIVIL SOCIETY LAW THREATENS HUMAN RIGHTS DEFENDERS**

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## **I. Introduction**

On January 6, 2009, the Charities and Societies Proclamation No. 621/2009 of Ethiopia (Civil Society Law or CSO law) was enacted.<sup>1</sup> Unless the law is rescinded by the government, the CSO law will be implemented one year after its enactment, on January 6, 2010. Although its preamble states that the CSO law is aimed at ensuring “the realization of citizens’ rights to association enshrined in the constitution... as well as ...to aid and facilitate the role of [civil society] in the overall development of the Ethiopian people,”<sup>2</sup> key provisions of the proclamation will severely weaken the work of independent civil society organizations, particularly human rights defenders and advocates of democratic governance.

One particularly damaging provision of the CSO law prohibits foreign non-governmental organizations (NGOs) from engaging in activities pertaining to human rights, women’s rights, children’s rights, disability rights, citizenship rights, conflict resolution or democratic governance.<sup>3</sup> Even local NGOs that receive more than ten percent of their funding from foreign sources<sup>4</sup> are considered “foreign” for the purposes of the proclamation.<sup>5</sup> Since the vast majority of domestic human rights NGOs in Ethiopia receive the bulk of their funds from foreign sources,<sup>6</sup> the new CSO law will force them to either close their doors or drastically alter the scope of their work.

This report provides an overview of the political climate in Ethiopia that gave rise to the CSO law as well as an analysis of the more restrictive provisions of the law. It then analyzes the CSO law under Ethiopia’s human rights obligations and compares it to NGO laws in other Sub-Saharan African countries as well as particularly repressive NGO laws in non-African countries. Our research indicates that the CSO law is the most restrictive of its kind in Sub-Saharan Africa. Indeed, it appears to be one of the most restrictive NGO laws in the world. We have great concerns about the impact the law will have on the viability of organizations that have provided critical services to Ethiopia’s most vulnerable citizens as well as its impact on the citizens themselves. We call on the Ethiopian government to rescind the CSO law as soon as

possible. We also call upon the international community to object to the implementation of this repressive law and to use all possible measures to persuade Ethiopia to rescind it before it destroys the nascent community of human rights defenders in the country.

## **II. Overview of the CSO Law**

### **A. The CSO law is the product of the Ethiopian government’s deep suspicion of civil society.**

The Ethiopian government has long been hostile to independent NGOs, but in recent years its attitude has hardened. The Ethiopian government appears to equate NGO activity with intelligence work,<sup>7</sup> viewing NGOs as subversives rather than allies in the struggle to improve the lives of all Ethiopians.

With the passage of the CSO law, the government’s relations with civil society have reached a new low. In a report released October 13, 2008, Human Rights Watch noted:

The climate for independent civil society organizations in Ethiopia has long been inhospitable and the likely impact of this law is still more ominous when understood in a broader context. Ethiopia’s limited political space has already been narrowed through patterns of government repression, harassment, and human rights abuse since the controversy that followed the country’s 2005 elections.<sup>8</sup>

For many years, Ethiopian human rights NGOs have endured government harassment. The government has frequently used its registration laws to effectively ban the work of human rights defenders. For example, the Ethiopian Human Rights Council (EHRCO), a prominent human rights group that participates in civic education, human rights advocacy and human rights monitoring, was denied registration for approximately seven years.<sup>9</sup> EHRCO was formed in 1991, but it was not until 1998 when the organization sued the government that its registration was approved.<sup>10</sup> Similarly, the Ethiopian Free Press Journalists Association, which was formed in 1993, was denied registration until 2001 when it too filed suit against the government.<sup>11</sup>

In 2001, the Ethiopian Women Lawyers’ Association (EWLA) also found itself the subject of government harassment.<sup>12</sup> EWLA advocates for reproductive rights, the

elimination of discrimination against women and discontinuation of female genital cutting. In addition, it assists women through a variety of services, including the provision of medical treatment, shelter and legal aid to victims of domestic violence.<sup>13</sup> In September 2001, the Ministry of Justice accused EWLA of partaking in activities beyond its mandate when the organization publicly criticized the Ministry for failing to take measures against persons charged with violations of women's rights.<sup>14</sup> EWLA also criticized the Ministry for the absence of an independent court system in Ethiopia.<sup>15</sup> Following these vocal critiques, the Ministry closed EWLA's office and banned its work.<sup>16</sup>

In 2005, the government issued a directive aimed at prohibiting local independent human rights and civic organizations from observing the 2005 elections.<sup>17</sup> Issued only six weeks before the May 15<sup>th</sup> elections, the directive required Ethiopian civil society organizations to produce evidence that election monitoring was considered part of their mission on the day they were formed and registered.<sup>18</sup> On April 20, 2005, the Organization for Social Justice in Ethiopia (OSJE) filed suit against the National Election Board of Ethiopia (NEBE) on behalf of 35 local NGOs before the Federal High Court.<sup>19</sup> The suit challenged the legality of the directive, alleging it violated the Ethiopian Constitution and several domestic laws.<sup>20</sup> The court ruled in favor of the NGOs on May 3, 2005.<sup>21</sup>

The government's hostility toward NGOs extends to foreign NGOs and is exacerbated by their foreign status. The Ethiopian Ministry of Foreign Affairs ("MOFA")<sup>22</sup> has stated that the primary objective of foreign NGOs that come to work in Ethiopia is "the promotion of the agenda of their country."<sup>23</sup> According to the MOFA, foreign NGOs work at their countries' bidding to provide "every kind of information ranging from political to economic and others."<sup>24</sup> And only by default do foreign NGOs provide aid to Ethiopia, which they "[will] sometimes try to use . . . for political influence."<sup>25</sup> According to the government's paranoid and cynical view, foreign NGOs may occasionally provide assistance to Ethiopians in need, but their true agenda is political manipulation.

The above examples demonstrate the hostility, suspicion and distrust that the Ethiopian government harbors towards NGOs. The Chief of Cabinet for Prime Minister Berhanu Adelo recently dismissed criticism of the CSO law, stating that "[p]rotecting the rights of citizens is the role of the government and...not the role of the NGOs."<sup>26</sup> Yosef Mulugeta, Director of EHRCO, pointed out in response that "[i]n many countries the government is the biggest violator of human rights and thus there needs to be independent watchers."<sup>27</sup>

## **B. The CSO law contains restrictive provisions that will effectively silence Ethiopia's human rights advocates.**

### **I. NGOs funded by foreign sources may no longer engage in human rights advocacy.**

The CSO law imposes limitations on the activities of all civil society organizations that do not fit the CSO law's definition of "Ethiopian" Charities/Societies. Under the CSO law, "Ethiopian" Charities/Societies are NGOs formed under Ethiopian law that consist exclusively of Ethiopians and receive no more than ten percent of their income from foreign sources.<sup>28</sup> "Ethiopian Resident" Charities/Societies are NGOs formed under Ethiopian law that receive more than ten percent of their funds from foreign sources.<sup>29</sup> "Ethiopian Resident" NGOs, though formed under Ethiopian law and by Ethiopians, are regarded by the CSO law as foreign merely because they obtain more than ten percent of their income from foreign sources, which encompasses Ethiopians who reside outside of Ethiopia.<sup>30</sup> "Foreign" Charities, a third category of NGOs, encompass NGOs whose members include foreign nationals, NGOs formed under foreign laws or NGOs that receive funds from foreign sources.<sup>31</sup> Once an NGO is labeled "foreign" or "Ethiopian Resident" under the above definitions—a label that will be ascribed to the majority of NGOs in Ethiopia under the CSO law—it is prohibited from participating in a plethora of essential activities reserved exclusively for "Ethiopian" Charities/Societies, including:

- j) the advancement of human and democratic rights;
- k) the promotion of equality of nations, nationalities and peoples and that of gender and religion;
- l) the promotion of the rights of the disabled and children's rights;
- m) the promotion of conflict resolution or reconciliation;
- n) the promotion of the efficiency of the justice and law enforcement services.<sup>32</sup>

The CSO law's distinctions between "Ethiopian," "Ethiopian Resident" and "Foreign" NGOs have far-reaching consequences. Article 2(2)-(3) of the CSO law, when read in conjunction with article 14(2)(j)-(n), effectively muzzles the activities of independent civil society organizations and human rights defenders. For instance, EHRCO has several members and support committees in the major cities of Europe, the United States and Canada.<sup>33</sup> Under the CSO law, it cannot

continue operating under its current structure and will be forced to choose between two alternatives, both of which would effectively require EHRCO to disengage from human rights monitoring and investigation. If EHRCO wants to retain its current members and receive their financial support, it will be required to register under the new law as a Foreign Charity/Society and abandon its work in the fields of human rights promotion and the rule of law. In the alternative, EHRCO could revoke its foreign memberships, stop accepting membership fees from those individuals and attempt to continue its core activities, i.e. monitoring and investigating human rights abuses in the country, after losing the source of up to 99 percent of its funds.<sup>34</sup> Under either scenario, the CSO law would effectively force EHRCO to cease its human rights activities.

In addition, international human rights organizations such as Human Rights Watch (HRW) and Amnesty International (AI) are now effectively barred from working in Ethiopia because the CSO law requires mandatory registration<sup>35</sup> and the acquisition of legal personality and license from the Charities and Society Agency (CSA) before any NGO can operate.<sup>36</sup> Article 68(3) of the CSO law requires NGOs to submit their constitutive documents showing their stated objectives with their application when they request registration and licensing. Since HRW and AI's objectives and activities fall within the ambit of activities clearly prohibited for foreign NGOs, they will be denied registration.<sup>37</sup>

The CSO law's restrictions on "Ethiopian Resident" and "Foreign" NGOs will deprive Ethiopians of vital services. For example, EWLA provides pro bono legal services to many Ethiopian women who do not have the resources to retain a lawyer.<sup>38</sup> Without EWLA's assistance, these women will be denied effective access to justice if no other organization is able to provide them adequate representation free of charge.<sup>39</sup>

It is clear that the government intends to use the CSO law as a means of rendering independent NGOs ineffective.<sup>40</sup> As Temesgen Zewde, an opposition MP, put it:

[T]his is really a domination agenda, a single party agenda, all the other stuff is simply window dressing. The agenda is to stifle these voluntary public movements that are known to assist the democratic process, the situation of human rights, and all other advocacies [that] are vital and necessary.<sup>41</sup>

## **2. Foreign and Ethiopian Resident NGOs are unjustly denied the right to appeal administrative decisions.**

The administrative body established to oversee the implementation of this law, the Charities and Societies Agency (CSA), makes final decisions to approve, deny or revoke registration of associations.<sup>42</sup> Under article 104(3), only "Ethiopian" Charities/Societies can appeal decisions of the CSA.<sup>43</sup>

As an initial matter, this provision arbitrarily deprives "Ethiopian Resident" and foreign NGOs of recourse to judicial remedies simply because they obtain more than ten percent of their funding from foreign sources. Access to justice is a right guaranteed to everyone under article 37 of the Ethiopian Constitution and is a fundamental human right guaranteed to every person irrespective of nationality under the International Covenant on Civil and Political Rights (ICCPR), to which Ethiopia is a party.<sup>44</sup>

## **3. The CSO law imposes vague and arbitrary criminal sanctions on those who violate its provisions.**

The CSO law makes clear that those who violate its provisions are punishable under the criminal code as well as by administrative sanctions.<sup>45</sup> The law provides that "any person" who violates its provisions is subject to punishment.<sup>46</sup> Thus, punishment is not limited to officers and could potentially extend to members, volunteers and recipients of services. The law is vague with respect to which provisions of the penal code will be applied to determine the level of culpability and punishment individuals could face. In addition to imprisonment and fines, criminal charges can lead to the cancellation of an NGO's license. Article 92(2)(e) states that the license of any Charity or Society shall be canceled where "it commits a crime by violating the provisions of the criminal code or that of this proclamation." Based upon this language, it is very difficult for NGOs to ascertain the potential grounds for cancellation and the specific penal code violations that may lead to such a measure.

Thus, the CSO law fails to provide adequate notice regarding, first, the actions that could result in imprisonment, and, second, the extent of criminal liability for offenses. The vagueness of these provisions opens the door to arbitrary criminal prosecutions.

### **III. Analysis of the CSO law in light of Ethiopia's human rights obligations**

The CSO law directly inhibits rights to association, assembly and free expression. This section examines relevant provisions of international and regional human rights instruments ratified by Ethiopia as applied to the provisions of the CSO law. We conclude that the law violates Ethiopia's obligations under the ICCPR, the Universal Declaration of Human Rights (UDHR), the African Charter on Human and People's Rights (ACHPR) and the Vienna Declaration of Human Rights Defenders (DHRD).

#### **A. The Status of International Law in Ethiopia**

As described below, a number of international and regional human rights instruments adopted by Ethiopia guarantee the right of NGOs to exist and function.<sup>47</sup>

Article 13(2) of the Ethiopian Constitution stipulates that "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, International Covenants on Human Rights and International instruments adopted by Ethiopia." The UDHR and other international human rights instruments have therefore been recognized by the Constitution as legal standards against which the Constitution's guarantees of human and fundamental rights must be measured. Moreover, article 9(4) of the Constitution states that "all international agreements ratified by Ethiopia are an integral part of the law of the land." This includes the ICCPR, the International Covenant on Economic, Social and Cultural Rights (ICESCR), the 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.<sup>48</sup>

#### **B. The CSO law violates Ethiopia's obligation to protect and promote human rights and fundamental freedoms.**

In 1948, the U.N. General Assembly adopted the Universal Declaration of Human Rights (UDHR), which recognized inalienable rights for all members of humanity.<sup>49</sup> The declaration sets forth "as a common standard of achievement for all peoples and all nations . . . to promote respect for these rights and freedoms and by progressive measures, national and international, to secure their universal and effective recognition and observance."<sup>50</sup> Through this

declaration, member states pledged to promote "respect for and observance of human rights and fundamental freedoms."<sup>51</sup> Under the UDHR, Ethiopia is obligated not only to prevent violations of human rights of individuals in its territory, but also to adopt proactive measures to promote their realization. The obligation to promote the observance and implementation of human rights is recognized in a number of other human rights instruments as well, including the CRC and CEDAW.<sup>52</sup>

In 1999, the U.N. General Assembly recognized the crucial role of NGOs in fulfilling the UDHR's mandate when it adopted the "Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms," commonly known as the "Declaration of Human Rights Defenders."<sup>53</sup> Article 2 states that "each State has a prime responsibility to protect, promote and implement all human rights and fundamental freedoms."<sup>54</sup> This includes creating economic, social, political and legal conditions that enable people to enjoy these rights and freedoms.<sup>55</sup> NGOs, as organs of the society, share in the responsibility of promoting and protecting universally recognized human rights and fundamental freedoms.<sup>56</sup> Pursuant to these principles, Ethiopia has an affirmative obligation to enable NGOs to function and carry out work that promotes human rights.

Ethiopia's obligations to work collaboratively with NGOs to promote human rights are also outlined in article 13 of the Vienna Declaration and Program of Action, endorsed by the U.N. General Assembly in 1993,<sup>57</sup> which states that:

There is a need for States and international organizations, *in cooperation with non-governmental organizations*, to create favorable conditions at the national, regional and international levels to ensure the full and effective enjoyment of human rights. States should eliminate all violations of human rights and their causes, as well as obstacles to the enjoyment of these rights.<sup>58</sup>

Experts in the field of human rights recognize that restrictions of the kind found in the CSO law pose significant challenges to the work of human rights defenders. In a recent round-table discussion in March 2009 organized by the Office of the High Commissioner on Human Rights of the Council of Europe, conferees adopted a resolution<sup>59</sup> observing that NGOs faced increased obstacles in accessing funds, a problem that threatened the independence of human rights defenders.<sup>60</sup> The resolution concluded that states have the primary responsibility to protect and create an environment conducive to human rights defenders.<sup>61</sup>

NGOs play a vital role in monitoring and reporting Ethiopia's compliance with human rights. They participate in the work of U.N. bodies as well as regional bodies such as the African Commission on Human and People's Rights (the Commission). In addition, they file reports regarding Ethiopia's compliance with human rights commitments. For instance, part III of the ACHPR sets forth measures for safeguarding the rights enshrined in the Charter, including the establishment of the Commission. One of the Commission's mandates includes receiving communications and investigating alleged violations of the rights guaranteed under the Charter.<sup>62</sup> Accordingly, the Charter allows the Commission to receive communications from, among others, NGOs, which it recognizes as having a role in protecting and promoting human rights.<sup>63</sup> NGOs clearly cannot fulfill this function if they are not permitted to operate in the human rights field.

Under the instruments discussed above, the Ethiopian government has an international obligation to create an enabling environment for the promotion and protection of human rights that facilitates, rather than hinders, the participation of human rights NGOs.

### **C. The CSO law violates Ethiopians' right to freedom of association.**

The rights of NGOs/CSOs to exist and function are inextricably linked to freedom of association. Article 31 of the Ethiopian Constitution provides that "[e]very person has the right to freedom of association for any cause or purpose." This fundamental human right is also guaranteed under article 20 of the UDHR, article 22 of the ICCPR and article 10 of the ACHPR.

The CSO law severely limits this right. If NGOs are not permitted to function, their members cannot freely assemble. Each of the above listed instruments identifies the limited circumstances under which this fundamental right can be legally limited. For example, article 31 of the Ethiopian Constitution does not permit the formation of organizations that serve to "illegally subvert the constitutional order." Similarly, article 22 of the ICCPR permits only limited infringements on the right to freedom of association.<sup>64</sup> But the unnecessarily restrictive provisions of the CSO law could under no circumstances be justified under the limited exceptions enumerated in article 22 of the ICCPR, nor are they limited to organizations that "illegally subvert the constitutional order."

Other countries' attempts at implementing such provisions have been met with criticism from the international

community. Egypt's NGO law, for example, contains a restrictive provision limiting NGO funding sources.<sup>65</sup> In response to this restrictive provision, the U.N. Committee on Economic, Social and Cultural Rights concluded that Egypt's NGO law violated article 8 of the Covenant on Economic, Social and Cultural Rights as well as the Egyptian Constitution, both of which guarantee citizens the right to form associations of their choosing.<sup>66</sup> Similarly, the U.N. Special Representative on Human Rights Defenders, Hina Jilani, expressed her concern that such laws "could restrict access to resources for the promotion and protection of human rights and could . . . penaliz[e] human rights defenders for soliciting, receiving and utilizing funds for this human rights activity."<sup>67</sup>

For the right of association to have real meaning, mere permission to form an NGO is not enough; rather, the Constitution requires that NGOs, once formed, be permitted to exist and properly function. And the source of an NGO's income, as long as it is lawful, should not serve as a basis to unreasonably deprive citizens of their right to form an association.

### **D. The CSO law violates citizens' rights to freedom of expression.**

Freedom of expression is necessary for the effective and proper functioning of NGOs. The Ethiopian Constitution guarantees this right under article 29(2), which reads: "Everyone has the right to freedom of expression without any interference. This right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any media of his choice."

This right is also guaranteed under article 19 of the ICCPR and article 9 of the ACHPR. NGOs promote human rights through education, monitoring and advocacy, all of which require the ability to express thoughts and information.<sup>68</sup> Many human rights organizations perform their core activities by disseminating information through means such as publications, audio recordings and video recordings. But if NGOs are prohibited from carrying out their work, their staff and volunteers can no longer engage in these forms of expression without risking civil or criminal penalties.

## **IV. Ethiopia's law is more restrictive of human rights activities than comparative laws in other democracies in Sub-Saharan Africa.**

In assessing the impact of Ethiopia's CSO law, it is helpful to compare it with other laws regulating NGOs in Sub-Saharan Africa. Although a comprehensive survey of NGO laws is beyond the scope of this paper, our research indicates that Ethiopia's CSO law is among the most restrictive in the world.

We looked first to other Sub-Saharan African countries. None of the countries we examined has imposed such severe restrictions on the activities of NGOs. We reviewed NGO laws in South Africa, Kenya and Uganda, and relied on a Human Rights Watch report that assessed similar laws in Malawi, Mozambique and Tanzania.

### **A. South Africa**

Of the countries we analyzed, South Africa has the least restrictive NGO law. The Nonprofit Organization Act aims to create an environment in which nonprofits can flourish in a spirit of cooperation and shared responsibility with the government;<sup>69</sup> it also states that provisions of the law should be construed *liberally* in accordance with its objectives.<sup>70</sup> Registration is voluntary in South Africa<sup>71</sup> and cancellation is permitted only upon notice to the organization, after a finding that the organization is not in compliance with the Act or has made a material misrepresentation in any document or a narrative, financial or other report submitted to the Director of Nonprofit Organisations.<sup>72</sup> Decisions to deny or cancel registration can be appealed and, unlike in Ethiopia, are not conditioned on the organization's status as foreign or domestic.<sup>73</sup> Appeals in South Africa are handled by a tribunal appointed by the Minister of Welfare and Population Development.<sup>74</sup> The organizations must submit reports of their activities and financial statements<sup>75</sup> and may be required to submit other types of information, but the government's requests for information must be reasonable and intended to determine if the organization is in compliance with its constitution, the act or conferred benefits prescribed by the Minister.<sup>76</sup> Though the act does impose criminal penalties,<sup>77</sup> those penalties are related to acts of fraud and offenses are specifically listed, thereby putting officers and members on notice as to what acts could send them to jail.<sup>78</sup> The act does not place limitations on which organizations can partake in human rights activities or an organization's ability to receive foreign funds.<sup>79</sup>

### **B. Kenya**

Kenya's NGO law is somewhat more restrictive than South Africa's, but far more permissive than Ethiopia's. Kenya's law does not restrict an organization's ability to engage in human rights work, nor does it limit an organization's ability to receive foreign funds.<sup>80</sup> As in Ethiopia, NGOs operating in Kenya are required to register.<sup>81</sup> However, organizations in Kenya can request exemption from the registration requirement, although this exemption can be rescinded, effectively requiring an organization to register.<sup>82</sup> The law also provides for appeal if an organization's registration is canceled.<sup>83</sup> Appeals are made to the Minister of State for National Heritage and Culture and, therefore, take place within the Executive Branch.<sup>84</sup> Organizations are permitted to continue operating until the outcome of the appeal is determined.<sup>85</sup> As in Ethiopia, violations of Kenya's NGO law may result in criminal penalties, and the act is vague as to which acts will give rise to criminal sanctions.<sup>86</sup> However, unlike Ethiopia's law, Kenya's law limits criminal penalties to an organization's officers.<sup>87</sup>

### **C. Uganda**

Uganda's NGO law is also considerably less restrictive than Ethiopia's CSO Law. First, it does not place limitations on an organization's ability to receive funds from foreign sources.<sup>88</sup> Second, it does not specifically restrict human rights activities.<sup>89</sup> NGOs operating in Uganda are required to register,<sup>90</sup> and an oversight agency known as the National Board on Nongovernmental Organisations<sup>91</sup> has the power to approve, reject and revoke registration and to engage in activities conducive to carrying out those powers.<sup>92</sup> But unlike Ethiopia's CSO law, Uganda's act does not explicitly grant the Board the power to request any information it wants from the organization or to make decisions regarding the organization's leadership.

However, in exercising its express powers the Board has a great deal of leeway. It can reject an application for registration if its objectives are in contravention of the law.<sup>93</sup> Also, it can revoke an organization's registration if the board believes it is in the public interest to do so.<sup>94</sup> Organizations can appeal to the Minister of Internal Affairs regarding the Board's decisions.<sup>95</sup> An officer of an organization that aids in the contravention of the act can be imprisoned for up to one year,<sup>96</sup> but only officers can be subject to criminal sanctions. Also, the Minister may exempt an organization from any of the act's provisions in emergency situations.<sup>97</sup>

## **V. Ethiopia’s CSO law draws inspiration from similarly repressive laws in Zimbabwe, Singapore and Russia.**

We also analyzed NGO laws in Zimbabwe, Russia and Singapore, three countries known for their oppression of human rights defenders, in an effort to identify the inspiration for Ethiopia’s crackdown. Ethiopia’s law most closely resembles Zimbabwe’s draft NGO bill, which was never signed into law. Zimbabwe, like Ethiopia, attempted to restrict human rights work based on funding sources. Neither Russia nor Singapore ban foreign or foreign funded NGOs from working in the field of human rights.

### **A. Zimbabwe’s Draft Law**

The Zimbabwean government drafted an NGO bill after four years of deteriorating relations between NGOs and the government.<sup>98</sup> Though many NGOs consider themselves nonpartisan, the government accused many NGOs of using western donor funds to support the opposing political party.<sup>99</sup> The international community criticized the draft bill and expressed concern that it would effectively eliminate NGOs dedicated to defending human rights.<sup>100</sup> Though the bill was passed by Parliament, the President chose not to sign it, which prevented it from becoming law.<sup>101</sup>

Both the Ethiopian CSO law and Zimbabwean draft bill introduce definitions for local and foreign NGOs.<sup>102</sup> Zimbabwe’s draft bill defined local NGOs as those with membership comprised exclusively of “permanent residents or citizens of Zimbabwe who are domiciled in Zimbabwe.”<sup>103</sup> Clause 17 of Zimbabwe’s draft bill banned local NGOs from receiving foreign funds if they wished to partake in issues of governance, which included political governance issues and promotion and protection of human rights.<sup>104</sup> Additionally, foreign NGOs were denied registration if their sole or principal purpose was to address issues of governance.<sup>105</sup>

While the draft bill contained other restrictive measures, it appears the most restrictive measure and cause for the most concern was the prohibition of human rights activity by foreign NGOs or local NGOs that receive foreign funds.<sup>106</sup> A Human Rights Watch analysis of Zimbabwe’s draft bill compared it to the NGO laws of Malawi, Mozambique, South Africa and Tanzania, most of whom had extensive consultation with civil society prior to enacting their NGO laws.<sup>107</sup> The report found that Zimbabwe’s draft bill was far more restrictive.<sup>108</sup>

## **B. Singapore**

Though Singapore has several laws that affect NGOs, this report focuses on the Societies Act because it pertains to societies that deal with civil and political rights.<sup>109</sup> One commentator has suggested that Ethiopia looked to Singapore as inspiration for its CSO law.<sup>110</sup> NGOs in Singapore must register,<sup>111</sup> and virtually any association with an unregistered NGO is illegal. Prohibited association includes attending meetings of an unregistered NGO,<sup>112</sup> allowing an unregistered NGO to hold its meetings on your property,<sup>113</sup> or transmitting propaganda or information in the interests of an unlawful NGO.<sup>114</sup> The Registrar has broad leeway to deny registration; for example, if the organization is likely to be used for unlawful purposes or its rules are insufficient to provide for proper management.<sup>115</sup> The Registrar can also dissolve an NGO.<sup>116</sup> However, Singapore does not ban foreign NGOs, or those funded by foreign sources, from engaging in human rights work.

Like Ethiopia’s law, Singapore’s NGO law provides for broad oversight. The Registrar or Assistant Registrar can demand that any information related to the organization be turned over.<sup>117</sup> The Registrar, Assistant Registrar, Magistrate or an officer they authorize can attend any organization meeting.<sup>118</sup> They can also search, or authorize the police to search, organization premises if they believe its purposes are prejudicial to public peace or the welfare or good order of Singapore.<sup>119</sup> Most criminal penalties are tied to specific provisions and range from six months to five years imprisonment.<sup>120</sup> However, no maximum term limit was given for those who fail to respond to a summons.<sup>121</sup> The Minister may exempt a registered society from any of the provisions.<sup>122</sup>

## **C. Russia**

Russia’s NGO law caused great concern in the international community, in part because the law was passed in a time of growing authoritarianism.<sup>123</sup> The Russian government expressed suspicion that foreign funded NGOs were trying to undermine its sovereignty and sought to “manage” civil society through amendments to existing laws regarding the regulation of NGOs.<sup>124</sup>

Some of the more repressive aspects of the Russian law were repealed as a result of pressure from the international community, including diplomatic pressure from the United States.<sup>125</sup> And Russia has recently indicated it will further loosen these restrictions in the near future.<sup>126</sup> As it currently stands, the law is highly restrictive and has had a negative impact on Russia’s civil society.<sup>127</sup>

Russia's law places restrictions on an organization's activities based on its foreign ties; however, it does not go as far as Ethiopia's CSO law. Restrictions pertain to where foreign NGOs can operate and not to the nature of the activities. Organizations founded by foreign nationals, foreign entities, stateless persons, branches of foreign NGOs or international organizations are prohibited from operating in closed administrative territories.<sup>128</sup> Foreign nationals and stateless people domiciled in the Russian Federation can be founders, members or participants in NGOs, however, some can be denied this right if they fall within certain categories, some of which are vague.<sup>129</sup> For example, this right does not apply to a foreign national or stateless person considered to be an undesirable person.<sup>130</sup> However, the amendments do not severely restrict the ability of NGOs to obtain foreign funds, nor do they expressly limit who can partake in human rights activities.

As in Ethiopia, Russian NGOs must register.<sup>131</sup> Registration can be denied for arbitrary reasons such as the name of the organization or if there is a mistake in the submission of the application.<sup>132</sup> Organizations are permitted to apply again if registration is denied due to problems with paperwork and they can appeal a denial of registration.<sup>133</sup> As with Ethiopia's CSO law, Russia has established an oversight authority with sweeping powers. The law expanded organizations' reporting burdens and created opportunities for invasive measures by the government,<sup>134</sup> such as the ability to send representatives to the organizations' events.<sup>135</sup>

The law has had a negative impact on NGOs, though hardships are not limited to human rights organizations. Rainbow House, an organization that seeks to protect the rights of those with non-traditional sexual orientation,<sup>136</sup> submitted an application that was rejected because the oversight agency concluded it would undermine the sovereignty and territorial integrity of the federation by reducing the population and would pose a threat to security by undermining public spiritual values.<sup>137</sup> Even if an organization is registered, it can still be vulnerable to abuse. Organizations that work on controversial issues are targeted for inspection.<sup>138</sup> Inspections result in organizations being given numerous warnings which are time consuming and expensive to appeal.<sup>139</sup> By 2009, over 5,000 organizations were dissolved, sometimes for something as minor as failing to file reports.<sup>140</sup>

## VI. Recommendations

Based on the restrictive nature of Ethiopia's current CSO Law, we recommend that the Ethiopian government:

- Repeal the existing CSO Law;

- Actively engage with NGOs and civil society leaders for input before drafting any future NGO laws;
- Allow NGOs to obtain as much foreign funding as necessary to perform their legitimate activities;
- Permit any legitimate NGO, whether local or foreign, to participate in human rights advocacy;
- Provide the oversight agency with limited, well-defined powers, including but not limited to restricting information it may seek from NGOs and providing for judicial appeals of agency decisions;
- Only impose criminal penalties for fraud and limit liability to officers;
- Deliver proper notification of what actions constitute criminal or civil offenses and specify the punishments for each offense.

## VII. Conclusion

The effects of Russia's law illustrate the damage caused by NGO laws that impose cumbersome reporting requirements, grant oversight agencies sweeping powers and contain vague and ambiguous provisions. In Ethiopia now, as in Russia, the government is free to arbitrarily restrict the activities of human rights defenders, to criminalize their good-faith efforts to serve impoverished Ethiopian citizens and to effectively shut down their work.<sup>141</sup> And the Ethiopian CSO law has the potential to do even greater damage due to its wholesale proscription of human rights activity by organizations that receive more than ten percent of their funding from foreign donors. When it comes to "Ethiopian Resident" or foreign organizations that engage in even minimal human rights activity, the Ethiopian government will not need red tape or contrived measures to deny them registration or shut them down. Rather, the government may directly and "legally" suppress the activities of these organizations and effectively abandon the protection and promotion of human rights for the foreseeable future.

It is crucial that the international community support Ethiopian citizens by speaking out until this law is repealed. While we recognize that the Ethiopian government has the right to enact reasonable regulations governing the activity of NGOs, those laws must be both fair and consistent with Ethiopia's human rights obligations. The CSO law is neither.

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<sup>1</sup> Proclamation to Provide for the Regulation and Registration of Charities and Societies, No. 621/2009, art. 112 (2009) (Eth.) (stating “this proclamation shall enter into force up on the date of publication in the Federal Negarit Gazeta”), *available at* [http://www.crdaethiopia.org/Documents/Charities%20and%20Socities%20Legislation%20\(Final%20Version\)-Negarit%20Newspaper.pdf](http://www.crdaethiopia.org/Documents/Charities%20and%20Socities%20Legislation%20(Final%20Version)-Negarit%20Newspaper.pdf) [hereinafter CSO Law].

<sup>2</sup> *Id.* at Preamble.

<sup>3</sup> *Id.* at art.14(5) (stating “[t]hose who can take part in activities that fall under sub-article 2 (j), (k), (l), (m) and (n) of this article shall be only Ethiopian Charities and societies”).

<sup>4</sup> For the purposes of the CSO law, Ethiopians residing abroad are considered “foreign sources.”

<sup>5</sup> CSO Law, *supra* note 1, at art. 2(2).

<sup>6</sup> World Organisation Against Torture, Law on Charities and Societies: Freedom of Association in Jeopardy!, <http://www.omct.org/index.php?id=&lang=eng&articleId=8283> (last visited Jun. 24, 2009) (stating 95 percent of Ethiopian NGOs receive more than 10 percent of their funds from foreign sources).

<sup>7</sup> See Ministry of Foreign Affairs of Ethiopia, Ethiopia’s Relations with Non Governmental Organizations, [http://www.mfa.gov.et/Foreign\\_Policy\\_And\\_Relation/Multilateral.php?Page=Multilateral\\_11.htm](http://www.mfa.gov.et/Foreign_Policy_And_Relation/Multilateral.php?Page=Multilateral_11.htm) (last visited Jun. 24, 2009) (noting that the agenda of foreign NGOs is to promote the agenda of their countries and to provide information required by their countries).

<sup>8</sup> Human Rights Watch, *Human Rights Watch’s Analysis of Ethiopia’s Draft CSO Law* (Oct. 13, 2008), *available at* [www.hrw.org/legacy/pub/2008/africa/HRW.NGO.Law.Analysis.pdf](http://www.hrw.org/legacy/pub/2008/africa/HRW.NGO.Law.Analysis.pdf).

<sup>9</sup> Human Rights Watch, *Human Rights Curtailed in Ethiopia* (Dec. 9, 1997), *available at* <http://www.hrw.org/en/news/1997/12/08/human-rights-curtailed-ethiopia> (stating that “[n]ewly founded organizations have found it difficult to register; some already existing organizations have been deregistered” and reporting that “[t]he [Ethiopian] government continued to deny the veteran Ethiopian Human Rights Council legal status, contending that it was a political organization”).

<sup>10</sup> Sisay Gebre-Egziabhe, *The Role of Civil Society Organisation in Democratisation Process in Ethiopia* (Jul. 7, 2002), *available at* <http://www.istr.org/conferences/capetown/volume/gebre.pdf>.

<sup>11</sup> U.S. Department of State, *Ethiopia, Country Reports on Human Rights Practices*, § 2(b), *available at* <http://www.state.gov/g/drl/rls/hrrpt/2000/af/789.htm> (stating that “[o]n March 13, after a 7-year wait, EFPJA, which consists of about 80 members from the private press, was registered as a professional association with the Ministry of Justice”).

<sup>12</sup> Women’s Learning Partnership, Ethiopian Women Lawyers Association Abruptly Closed by Government, Sept. 26, 2001, <http://learningpartnership.org/en/advocacy/alerts/ethiopia0901> (last visited Jun. 24, 2009).

<sup>13</sup> Hailu T., *EWLA in Dilemma*, THE REPORTER, Jan. 24, 2009, *available at* <http://en.ethiopianreporter.com/content/view/607/1/> [hereinafter Hailu T.].

<sup>14</sup> U.N. Econ. & Soc. Council [ECOSOC], Special Representative of Secretary-General on Human Rights Defenders, *Promotion and Protection of Human Rights: Human Rights Defenders*, 69-70 ¶ 165 U.N. Doc. E/CN.4/2002/106 (Feb. 27, 2002) (*submitted by* Hina Jilani), *available at* [http://www.unhcr.ch/Huridocda/Huridoca.nsf/0/e816b20139e397e6c1256b9e00477e18/\\$FILE/G0211122.pdf](http://www.unhcr.ch/Huridocda/Huridoca.nsf/0/e816b20139e397e6c1256b9e00477e18/$FILE/G0211122.pdf) [hereinafter ESOSOC Report].

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<sup>15</sup> *Id.*

<sup>16</sup> *Id.* EWLA was eventually permitted to resume its work in October of 2001 after “EWLA, civic organizations, national and international non-profit organizations, businesses, scholars, and citizens successfully lobbied for the suspension to be lifted.” Tasnim Fidali, *Ethiopian Women of Substance: Africa Prize Laureate Meaza Ashenafi & EWLA*, TADIAS ONLINE, 2003, available at [http://www.tadias.com/v1n5/GRS\\_2\\_2003-1.html](http://www.tadias.com/v1n5/GRS_2_2003-1.html). Recently, however, the director of EWLA fled the country after the government became enraged at EWLA’s description of its human rights record. *Ethiopia: EWLA Director in Hiding?*, Ethiopian Current Affairs Discussion Forum, Aug. 1, 2009, available at <http://ecadforum.com/blog/2009/08/01/ethiopia-ewla-director-in-hiding/>.

<sup>17</sup> Ethiopia Legislative Elections 2005: European Union Election Observation Mission at 15, [http://ec.europa.eu/external\\_relations/human\\_rights/election\\_observation/ethiopia/final\\_report\\_en.pdf](http://ec.europa.eu/external_relations/human_rights/election_observation/ethiopia/final_report_en.pdf) (last visited Jun. 25, 2009) [hereinafter Ethiopia Legislative Elections 2005]. Ironically, the Directive on the Accreditation Procedures of Domestic Observers permitted observation by foreigners but barred Ethiopians from monitoring the elections. Amnesty Int’l, *Ethiopia: Human Rights Should be on the Election Agenda*, AI Index: AFR 25/006/2005, Apr. 29, 2005, available at <http://www.amnesty.org/en/library/info/AFR25/006/2005/en> (stating “The government has allowed election observation by invited or accredited election observers. In addition to the diplomatic community, there will be international election observers from the European Union, the African Union and the Carter Centre in the USA. However, not all those who want to observe, assist or study the elections have been accepted by the government. It is still unclear whether Ethiopian NGOs and human rights groups, who are currently engaged in voter education, will be accredited as election observers”).

<sup>18</sup> *Id.* This directive violated article 38 of the Ethiopian Constitution, which establishes the right of Ethiopians to participate in the conduct of public affairs. CONSTITUTION OF THE FEDERAL DEMOCRATIC REPUBLIC OF ETHIOPIA art. 38(1)(a).

<sup>19</sup> *Id.* at 16 (stating “This affected an informal network of 35 Ethiopian civil society organizations planning to undertake election observation, represented by the Organization for Social Justice (OSJE)”).

<sup>20</sup> *Id.* at 16 (stating “this restriction was, however, not foreseen in law and by being more restrictive than the election law, the NEBE appears to have overstepped its mandate and constitutional provisions.”); see generally Election Law of Ethiopia 2005, Proclamation No. 438/2005 (2005), available at [http://www.electionsethiopia.org/PDF/Pro%20No%20438%202005%20\(LF8\).pdf](http://www.electionsethiopia.org/PDF/Pro%20No%20438%202005%20(LF8).pdf).

<sup>21</sup> *Id.* at 16 (noting that the “NEBE decision [was] eventually overturned by [the] Federal High Court and the Supreme Court, but these judicial decisions[were issued] so late that banned organizations were not able to organize effective observation”).

<sup>22</sup> Ministry of Foreign Affairs of Ethiopia, *supra* n. 7.

<sup>23</sup> *Id.*

<sup>24</sup> *Id.*

<sup>25</sup> *Id.*

<sup>26</sup> Jason McLure, *Ethiopian Law Curbs Promotion of Rights, Critics Say*, BLOOMBERG, Jan. 06, 2009, available at <http://www.bloomberg.com/apps/news?pid=20601116&sid=aylmLqrcJpck&refer=africa/> [hereinafter McLure].

<sup>27</sup> *Id.*

<sup>28</sup> CSO Law, *supra* note 1, art. 2(2), 2(15) (defining “income from foreign source” as a donation or delivery or transfer made from foreign source of any article, currency or security. Foreign sources include the

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government, agency or company of any foreign country; international agency or any person in a foreign country).

<sup>29</sup> *Id.* at art. 2(3).

<sup>30</sup> *Id.* at art. 2(4).

<sup>31</sup> *Id.*

<sup>32</sup> *Id.* at art. 2(3)-(4), 14(5).

<sup>33</sup> Library of Congress, Organizations: Ethiopia, <http://www.loc.gov/rr/international/amed/ethiopia/resources/ethiopia-organizations.html> (last visited on Jun. 24, 2009).

<sup>34</sup> McLure, *supra* note 26.

<sup>35</sup> CSO Law, *supra* note 1, art. 15(2) (stating “it shall be necessary to form and acquire a registration and license certificate in order to carry out charitable acts”).

<sup>36</sup> *Id.* at 68(1).

<sup>37</sup> *Id.* at Article 69(1).

<sup>38</sup> Hailu T., *supra* note 12, (reporting that EWLA’s Director, Mahdere Paulos, said “Many of the women who come through EWLA’s doors have barely a cent to their name. If they are hurt they get medical treatment, if they don’t have anywhere to go, they are put at EWLA’s temporary shelter”).

<sup>39</sup> Ethiopian NGOs have objected to their characterization as “foreign” simply because they receive more than ten percent of their budget from other countries.<sup>39</sup> Taddelle Derse, head of the local NGO Vision Ethiopian Congress for Democracy, points out that under the CSO law’s definitions, “the government [of Ethiopia] itself is foreign” as it receives substantial monetary support from foreign sources. Peter Heinlein, Ethiopian Parliament Approves Law Criminalizing Many NGO Activities, <http://www.voanews.com/english/archive/2009-01/2009-01-06-voa45.cfm?CFID=242087658&CFTOKEN=52964519&jsessionid=883045ddea28de7c8da624162a553b604f66> (last visited Jun. 26, 2009).

<sup>40</sup> This bias against independent NGOs is exemplified by article 57 of the CSO law, which restricts certain *types* of NGOs from participating in important aspects of public activities and provides preferential treatment to others. Charities and Societies, No. 621/2009, at art.2 (5). Article 57(7) provides that:

Ethiopian mass-based organizations may actively participate in the process of strengthening democratization and election, particularly in the process of conducting educational seminars on current affairs, understanding the platforms of candidates, observing the electoral process and cooperating with electoral organs.

These “mass-based organizations” are dismissed by critics as “impostors of democracy” because they are essentially ruling party or government-run organizations. Mark Tran, *Ethiopia Curb on Charities Alarms Human Rights Activities*, THE GUARDIAN, Jan. 26, 2009, *available at* <http://www.guardian.co.uk/world/2009/jan/26/ethiopia-charities-human-rights>; *see also* Carl Gershman and Michael Allen, *New Threats to Freedom: The Assault on Democracy Assistance*, 7 No.2 Journal of Democracy 36, 44 (2006), *available at* [http://muse.jhu.edu/journals/journal\\_of\\_democracy/v017/17.2gershman.pdf](http://muse.jhu.edu/journals/journal_of_democracy/v017/17.2gershman.pdf) (stating “Repressive governments have sought to undermine the NGO sector by establishing ersatz or captive groups, or Government-Organized NGOs (GONGOs). Governments use these organizations to appear to be supportive of civil society, to channel funding to preferred causes and away from opposition groups, and to discredit independent NGOs”).

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<sup>41</sup> Peter Heinlein, Ethiopian Parliament Approves Law Criminalizing Many NGO Activities, <http://www.voanews.com/english/archive/2009-01/2009-01-06-voa45.cfm?CFID=242087658&CFTOKEN=52964519&jsessionid=883045ddea28de7c8da624162a553b604f66> (last visited Jun. 26, 2009).

<sup>42</sup> CSO Law, *supra* note 1, at art. 104(2) (stating “any person aggrieved by any decision of the Director General may appeal to the Board within fifteen days from the date of the decision. The decision of the Board shall be final”).

<sup>43</sup> Per the definition provided under article 2(2), Ethiopian Charities or Ethiopian Societies includes only those charities or societies formed by Ethiopians, under Ethiopian law, who receive not more than ten percent of their funding from foreign sources.

<sup>44</sup> International Covenant on Civil and Political Rights, art. 14, Dec. 19, 1966, 999 U.N.T.S. 171, *available at* [http://www.unhchr.ch/html/menu3/b/a\\_ccpr.htm](http://www.unhchr.ch/html/menu3/b/a_ccpr.htm) [hereinafter ICCPR].

<sup>45</sup> CSO Law, *supra* note 1, at art. 102(1), 102(2)(a)-(d).

<sup>46</sup> *Id.* at art. 101(1).

<sup>47</sup> The Universal Declaration of Human Rights, G.A. Res. 217A, U.N. GAOR, 3d Sess., 1st plen. mtg., U.N. Doc. A/810 (Dec. 12, 1948) [hereinafter UDHR]; see Office the United Nations High Commissioner on Human Rights, Status by Country, Ethiopia <http://www.unhchr.ch/tbs/doc.nsf/newhvstatusbycountry?OpenView&Start=1&Count=250&Expand=59#59> (last visited Jun. 24, 2009) [hereinafter UNHCHR Status by Country].

<sup>48</sup> See UNHCHR Status by Country, *supra* n. 47.

<sup>49</sup> UDHR, Preamble. Despite the fact that it is a non-binding resolution, many view the UDHR as having reached the status of customary international law since many of its provisions have been codified in major multilateral human rights treaties such as the ICCPR and the International Covenant on Economic Social and Cultural Rights (ICESR). See Richard Lillich, *Invoking International Human Rights Law in Domestic Courts*, 54 U. Cin. L. Rev. 367, 394, nn.133-38 (discussing the evolution of the status of the Universal Declaration of Human Rights as part of customary law through scholarly opinion, resolutions at international conferences, and in court decisions); Louis B. Sohn, *The New International Law: Protection of the Rights of Individuals Rather than States*, 32 Am. U. L. Rev. 1, 16-17 (1982) (declaring that article 23 of the Universal Declaration of Human Rights, which includes the right to organize, has become a “basic component of international customary law, binding on all states”). Additionally, many of its fundamental human and democratic principles have also made their way into the national constitutions of many countries. *Id.* Finally, regional human rights instruments, such as the ACHPR have adopted language similar to that found in the UDHR. African Charter on Human and Peoples’ Rights, art. 4, OAU Doc. CAB/LEG/67/3 rev. 5, 4 EHRR 417, 21 I.L.M. 58, at Preamble ¶ 1, *available at* <http://www1.umn.edu/humanrts/instrree/z1afchar.htm> [hereinafter African Charter on Human and People’s Rights] (stating “to promote international co-operation having due regard to the Charter of the United Nations and the Universal Declaration of Human Rights”).

<sup>50</sup> *Id.*

<sup>51</sup> *Id.*

<sup>52</sup> See Convention on the Elimination of Discrimination Against Women, art. 3, G.A. res. 34/180, 34 U.N. GAOR Supp. (No. 46) at 193, U.N. Doc. A/34/46, *entered into force* Sept. 3, 1981 (“States Parties shall take in all fields, in particular in the political, social, economic and cultural fields, *all appropriate measures*. . . to ensure the full development and advancement of women, for the purpose of guaranteeing them the exercise and enjoyment of human rights and fundamental freedoms. . . .”); Convention on the Rights of the Child, art. 31(2), GA res. 44/25, annex, 44 U.N. GAOR Supp. (No. 49) at

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167, U.N. Doc. A/44/49 (1989), *entered into force* Sept. 2 1990 (“States Parties shall respect and *promote* the right of the child to participate fully in cultural and artistic life. . .”).

<sup>53</sup> G.A. Res. 53/144, U.N. Doc. A/Res/53/144 (Mar. 8, 1999), *available at* <http://www2.ohchr.org/english/issues/defenders/docs/declaration/declaration.pdf> (last visited Apr. 18, 2009).

<sup>54</sup> *Id.* at art. 2.

<sup>55</sup> *Id.*

<sup>56</sup> *Id.* at preamble, ¶ 2.

<sup>57</sup> Vienna Declaration and Program of Action, art. 13, U.N. Doc. A/CONF.157/2312 (Jul. 12, 1993), *available at* [http://www.unhchr.ch/huridocda/huridoca.nsf/\(Symbol\)/A.CONF.157.23.En?OpenDocument](http://www.unhchr.ch/huridocda/huridoca.nsf/(Symbol)/A.CONF.157.23.En?OpenDocument).

<sup>58</sup> *Id.*

<sup>59</sup> Council of Europe, Commissioner for Human Rights, Report of the Round-Table on the Situation of Human Rights Defenders in the Member States of the Council of Europe, Organized by the Office of the Commissioner for Human Rights, <https://wcd.coe.int/ViewDoc.jsp?id=1427087&Site=CM&BackColorInternet=9999CC&BackColorIntranet=FFBB55&BackColorLogged=FFAC75> (last visited Jun. 25, 2009) [hereinafter Council of Europe].

<sup>60</sup> *Id.* at ¶ 18.

<sup>61</sup> *Id.* at ¶ 7.

<sup>62</sup> African Charter on Human and Peoples Rights, *supra* note 49, arts. 55-56.

<sup>63</sup> *See id.* at arts. 45(3), 55-56.

<sup>64</sup> ICCPR, *supra* n. 43, art. 22(2).

<sup>65</sup> ESOSOC Report, *supra* n. 14.

<sup>66</sup> U.N. Econ. & Soc. Council [ECOSOC], Committee on Economic, Social and Cultural Rights, *Concluding Observations of the Committee on Economic, Social and Cultural Rights: Egypt*, ¶ 19, U.N. Doc. E/C.12/1/Add.44 (May 23, 2000), *available at* [http://www.unhchr.ch/tbs/doc.nsf/\(Symbol\)/E.C.12.1.Add.44.En?Opendocument](http://www.unhchr.ch/tbs/doc.nsf/(Symbol)/E.C.12.1.Add.44.En?Opendocument).

<sup>67</sup> ECOSOC Report, *supra* n. 14.

<sup>68</sup> Council of Europe, *supra* note 58, at ¶ 28.

<sup>69</sup> Nonprofit Organisations Act 71 of 1997 s. 1(2)(a) (S. Afr.).

<sup>70</sup> *Id.* at s. 2(a), 2(e).

<sup>71</sup> *Id.* at s. 12(1).

<sup>72</sup> *Id.* at s. 21(1)(a).

<sup>73</sup> *Id.* at s. 14, s. 22.

<sup>74</sup> *Id.* at s. 9.

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<sup>75</sup> *Id.* at s. 18(2).

<sup>76</sup> *Id.*

<sup>77</sup> *Id.* at s. 30.

<sup>78</sup> *Id.* at s. 29(1)-(2).

<sup>79</sup> See generally Act 71 of 1997, *supra* n. 68.

<sup>80</sup> See Non-Governmental Organizations Co-Ordination Regulations (1992) (Kenya).

<sup>81</sup> *Id.* at § 8.

<sup>82</sup> *Id.* at § 18(1), (3).

<sup>83</sup> See *id.* at § 17.

<sup>84</sup> *Id.* at § 27.

<sup>85</sup> *Id.* at § 17(6).

<sup>86</sup> See *id.* at § 32. With the exception of § 22(2), which makes it an offence not to notify the board of a change in officers or the title of an officer, the 1992 NGO law is vague as to which actions will lead to criminal sanctions.

<sup>87</sup> *Id.* at § 32.

<sup>88</sup> See Non-Governmental Organisations Registration (Amendment) Act, (2006) Cap. 113 (Uganda).

<sup>89</sup> See *id.*

<sup>90</sup> *Id.* at § 2(1).

<sup>91</sup> *Id.* at See Non-Governmental Organisations Registration Act, (1989) Cap. 113 § 4, 7, 8 (Uganda); see also Act, (2006) Cap. 113 § 7.

<sup>92</sup> Act, (1989) Cap. 113 § 8.

<sup>93</sup> Act, (2006) Cap. 113 § 2(4).

<sup>94</sup> Act, (1989) Cap. 113 § 10(c).

<sup>95</sup> *Id.* at § 9.

<sup>96</sup> Act, (2006) Cap. 113 § 2(5).

<sup>97</sup> *Id.* at § 3(3).

<sup>98</sup> Human Rights Watch, *Zimbabwe's Non-Governmental Organization's Bill: Out of Sync with SADC Standards and a Threat to Civil Society Groups*, available at <http://www.hrw.org/en/reports/2004/12/02/zimbabwe-s-non-governmental-organizations-bill> [hereinafter *Out of Sync with SADC*].

<sup>99</sup> *Id.*

<sup>100</sup> See *id.* at 3.

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<sup>101</sup> See Caiphas Chimhete, *Mugabe refuses to sign NGOs Bill*, International Center for Not-For-Profit Law (Apr. 15, 2005) <http://www.icnl.org/KNOWLEDGE/news/2005/04-15.htm> (last visited Apr. 28, 2009).

<sup>102</sup> See *Out of Sync with SADC*, *supra* note 97, at 5.

<sup>103</sup> *Id.* Ethiopia goes further, however, in distinguishing between Ethiopian NGOs and Ethiopian Resident NGOs. CSO Law, *supra* note 1, art. 2(2)-(3); see *supra* Sec. II B (1) entitled “Funding sources are used as a means of restricting human rights advocacy.”

<sup>104</sup> See *Out of Sync with SADC*, *supra* note 97, at 5.

<sup>105</sup> *Id.* Moreover, the Zimbabwean draft bill prohibited local NGOs engaged in the above-mentioned areas from receiving any amount of foreign funding.

<sup>106</sup> *Id.* at 8-9.

<sup>107</sup> *Id.* at 12,17.

<sup>108</sup> *Id.* at 8. Since Ethiopia’s law shares the Zimbabwe draft bill’s most restrictive provisions, it is logical to conclude that Ethiopia’s law is far more restrictive than the NGO laws of these countries as well.

<sup>109</sup> Societies Act, (1985) Cap. 311 § 4(1), Schedule 4. (Sing.)

<sup>110</sup> See *The New Draft Proclamation on Charities and Societies: A Final Blow to the Fledgling Ethiopian Civil Society?*, Ethiopolitics.com (Feb. 22, 2009) [http://ethiopolitics.com/news\\_1/20080222275.html](http://ethiopolitics.com/news_1/20080222275.html) (last visited Jun. 25, 2009).

<sup>111</sup> Act, (1985) Cap. 311 § 14(1).

<sup>112</sup> *Id.* § 14.3.

<sup>113</sup> *Id.* at § 15.

<sup>114</sup> *Id.* at § 18.

<sup>115</sup> *Id.* at § 4(2)(a)-(b).

<sup>116</sup> *Id.* at § 24.

<sup>117</sup> *Id.* at § 10(1).

<sup>118</sup> *Id.* at § 26.

<sup>119</sup> *Id.* at § 27.

<sup>120</sup> *Id.* at § 12(2), 13(3).

<sup>121</sup> *Id.* at § 29(5).

<sup>122</sup> *Id.* at § 37.

<sup>123</sup> Human Rights Watch, *Choking on Bureaucracy: State Curbs on Independent Civil Society Activism*, Vol. 20 No. 1(D), at 10, Feb. 2008, available at <http://www.hrw.org/en/reports/2008/02/19/choking-bureaucracy> [hereinafter *Choking on Bureaucracy*].

<sup>124</sup> *Id.* Russia’s law on Introducing Amendments to Certain Legislative Acts of the Russian Federation amends four laws: The Civil Code of 1994, the Federal Law of the Russian Federation # 82- FZ on Public

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Associations, the Federal Law of the Russian Federation #7-FZ on Non-commercial Organizations and the Federal Law of the Russian Federation #327-1 on Closed Administrative Territorial Formation.

<sup>125</sup> Adong Florence Odora, *Rising from the Ashes: The Rebirth of Civil Society in an Authoritarian Political Environment*, 10 Int'l J. Not-for-Profit L. 79, 84 (2008).

<sup>126</sup> Michael Schwartz, *Civic Groups Wary as Russia May Ease Curbs*, N.Y. TIMES, June 18, 2009, available at <http://www.nytimes.com/2009/06/19/world/europe/19russia.html> (reporting that "President Dmitri A. Medvedev introduced legislation this week that he said would partly relax restrictions on civic organizations. The new measures were tentatively welcomed by human rights groups, which have long criticized the government for hampering civic development").

<sup>127</sup> The review primarily focuses on changes to the Public Associations law and the Non-Commercial Organizations law, which are similar.

<sup>128</sup> Federal Law on Introducing Amendments to Certain Legislative Acts of the Russian Federation, Art. 1(1) (amending Art. 3, cl. 2 of Russian Federation #3297-1 On Closed Administrative Territorial Formation), available at [http://www.icnl.org/knowledge/news/2006/01-19\\_RussianNGOLawEng.doc](http://www.icnl.org/knowledge/news/2006/01-19_RussianNGOLawEng.doc) [hereinafter Russia NGO Law].

<sup>129</sup> *Id.* at Art. 2(3) (amending Art. 19 of Federal Law # 82- FZ On Public Associations), Art. 3(5) (amending Art. 15 of the Federal Law #7-FZ On Non-commercial Organizations).

<sup>130</sup> *Id.*

<sup>131</sup> *Id.* at Art. 2(3) (amending art. 21 of Federal Law # 82- FZ On Public Associations), Art. 3 (amending art. 13 of the Federal Law #7-FZ On Non-commercial Organizations).

<sup>132</sup> *Id.* at Art. 2 (amending art. 23 of Federal Law # 82- FZ On Public Associations), Art. 3 (amending art. 23 of the Federal Law #7-FZ On Non-commercial Organizations).

<sup>133</sup> *Id.* at Art. 2 (amending art. 23 of Federal Law # 82- FZ On Public Associations), Art. 3 (amending art. 13 of the Federal Law #7-FZ On Non-commercial Organizations).

<sup>134</sup> International Center for Not-for-Profit Law, *Analysis of the Impact of Recent Regulatory Reforms on Non-commercial Organizations and Public Associations in Russia*, at 2, Dec. 2007.

<sup>135</sup> Russia NGO Law, *supra* note 127 at Art. 2 (amending art. 38 of Federal Law # 82- FZ On Public Associations), Art. 3 (art. 32 of the Federal Law #7-FZ On Non-commercial Organizations).

<sup>136</sup> Choking on Bureaucracy, *supra* note 121.

<sup>137</sup> *Id.* at 34.

<sup>138</sup> *Id.* at 42.

<sup>139</sup> *Id.*

<sup>140</sup> *Id.* at 46.

<sup>141</sup> *Id.*