

The Reporter



Rights issue and development have become inseparable

SATURDAY, 17 JANUARY 2009



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Ato Eshetu Bekele is executive director of the Poverty Action Network of Civil Society Organizations in Ethiopia (PANE), and chairperson of the National Taskforce on Enabling Environment for Civil Society Organizations in Ethiopia.

The taskforce had been lobbying for the past eight months to make improvements to the draft CSO law. To their dismay, the law, dubbed the Charities and Societies Proclamation, was voted into law last week.

Bruck Shewareged interviewed Eshetu on the impact that the new law is going to have on civil society organizations. Excerpts:

Despite lobbying to change or improve the Charities and Societies Proclamation, it was voted into law last week. Where do you think you failed in your effort? What were the factors?

We didn't lack effort on our part. The taskforce, which had been lobbying to make improvements on the draft CSO law, was established a year before the draft proclamation was first introduced in May 2008.

Since then, we have made utmost effort to convince the government to improve the law. We were pro-active. Unfortunately, the government hasn't changed its stance. The prime minister also told us that this was the position of the government. Some changes were introduced, of course, due to our effort.

But were these changes substantive enough?

No, they were not. Nevertheless, there were changes. In the original draft, for instance, there was provision which allowed the presence of a police force during NGO meetings. The police were even allowed to dismiss or close down the meetings or the NGOs themselves without any due legal procedure. Administrative decision was all that was required to do that. This was later amended. At least, it is now allowed to appeal to

courts to reverse such measures. The fines or punitive measures to be taken against NGOs will now be according to the Criminal Code. These are some of the amendments introduced to the original draft.

For example, there was no supervising or governing board for NGOs. The supervising agency could all by itself pass decisions against NGOs. Now, there is a board consisting of seven members, of which two will come from NGOS. This board has the power to recommend to the Minister of Justice measures to be taken, which the later can either accept or reject.

We are still questioning that aspect because we believe that the board should be independent. At least, the representation must be equal in that board. If possible we prefer four representatives from civil societies and three from government. If not, three representatives from both sides, chaired by a neutral body. We have tried to do our best, everything that we could.

Can you tell us specific efforts you made?

We held three to four meetings with representatives of relevant government organizations and the Ministry of Justice. There were two meetings with the prime minister. We submitted our concerns in writing four or five times.

We forwarded our concerns and recommendations in writing. We have asked for solutions to the problems facing the sector. We acknowledge that there are problems in the sector. But it doesn't mean that all the actors in the sector have problems. There could be some in the minority that are engaged in endeavors detrimental to the national interest. How come the government lacks the ability to identify those that have problems and take corrective measures within the existing capacity or legal framework? We believe that it is not beneficial to the country to put all in one basket and crush them. That's our concern. We still feel that our basic concerns have not been addressed.

Then what are your basic concerns?

First, it is the 10-90 percent ratio (which makes it mandatory for NGOs to raise at least 90 percent of their funding from local sources). This is very controversial. In the first place, the country is poor. Beside that, the culture of charity and voluntarism has not developed in the country. There is no tradition, even amongst the rich, to donate to social services

Even those societies with millions of members like women and farmers associations can raise little amount of money from membership fee. The amount may not even cover the rental fee for office use for two months, let alone cover all the expenses of the associations' operations. The capacity is not simply there.

Even if you reverse the ratio and make 10 percent the minimum amount of funding from local sources instead of 90 percent, it would still be difficult. We tried to make an

assessment in this regard. And most organizations told us that they can only raise one or two percent of their budget from membership dues. There is no organization which has reached five percent even if it has millions of members. That's why we say this raito in the law is a concern to us.

We are not saying that we should be totally dependent on foreign funding. Rather, raising fund from local sources should be incremental. The civil society here doesn't simply have the capacity to generate locally 90 percent of its income. That's what we are saying.

Nowadays, we shouldn't overlook the fact that international donors consider civil society as the third major sector other than the government and the private sector. The belief is that the work of capacity building, empowerment, cultural and economic development in developing countries ought to be mainly carried out by the civil society sector. That's why they channel their funding through such organizations. So the amount of donation coming to the country could be affected as a result of this law. Since we are poor, we could be seriously affected.

If you cannot raise 90 percent of your income locally, you'll be considered as a foreign NGO. If you are registered as a foreign NGO, you will be barred from working on advocacy, good governance, human rights, children's rights, women's rights, the rights of people with disabilities, democracy and so on. If the civil society cannot work on these, then what will it be doing?

Nowadays, rights issue has become inseparable from development issue. When you talk about education or health, you talk about the right of a child to basic education and health services. Rights are fundamental to development.

You cannot disengage yourself from working on advocacy if you are talking about providing such basic services

Many argue that the new supervising agency has sweeping powers which supersede legal limitations. Do you see it that way?

Yes, the agency has sweeping powers. The power given to the agency sometimes contradicts with international conventions that entitle people the rights to organize. For instance, the agency can decide to arrest an NGO manager if it deems that he is trespassing the law. Why give the agency such power while one can follow legal procedures and take measures against the manager?. The agency can hand down heavy fines against NGOs or the managers. This puts serious restrictions against civil society organizations, which ultimately could render the sector out of existence. Why put such pressure on the civil society while we can develop the country in partnership?

If you look at countries in East Africa, there is an enabling environment for civil society to operate. The number of civil society organizations is large in Kenya, Uganda or Southern Africa countries.

The Charities and Societies Proclamation is drawn from Singapore. The law, we believe, should be based on the existing reality in the country. If we have to adopt the law from other countries, we can look at neighboring countries' experience to adopt appropriate laws. Some countries not only create enabling environment, but also finance the civil society to carry out some tasks. Of course, the financing and operation must be accounted for. The financial statement must be audited.

The agency is given excessive power unnecessarily. The power, if abused, can kill many useful organizations. The power given to the agency is scary enough even looking at it on paper. Why the need to put all these restrictions? Shouldn't the government encourage organizations that carry out useful tasks to the country?

You talked to government officials a number of times. Have they give you any reason for giving the agency such a sweeping power?

There is no clear explanation as such for bestowing too much power on the agency. By the way, we welcome the fact that an agency to register and supervise the civil society is established. What we question is the sweeping power that it is given. The powers given to it are more to do with stringent controls and fines.

The government says that the agency is there to regulate and implement the law in an orderly way because the current environment doesn't allow the government to control and regulate NGOs.

Some argue that the law comes as a reprisal against some civil society organizations that were in a row with the government during the 2005 national elections. Do you share that view?

No, I don't. For the past seven years, we have been asking the government to come up with a law regulating the sector. When this government came to power, the number of NGOs operating in the country was not more than 1,000. Over the past 15 years, it grew to more than 7,000. The Ministry of Justice alone has registered around 4,700 NGOs. Regional justice bureaus have registered others. The former Disaster Prevention and Preparedness Commission (DPPC) also has registered many NGOs. All in all, their number is more than 7,000.

We have prepared a code of conduct by ourselves in order to control those NGOs with unethical practices. That's why we were asking for a regulatory mechanism. Otherwise, I don't think the government's motive is revenge. After all, it is a government, and has the responsibility to regulate things. Our concern is that the law is not conducive for us to operate. It is rather restrictive.

There are, by the way, positive sides to the law, too. For instance, formerly, income generation by NGOs was not allowed. Now, at least it is allowed. Now we can create coalitions or networks under the new law. The fact that a law is provided to regulate civil society organizations and there is a supervisory agency is positive by itself. It is

particular provisions that we are not comfortable with like the 10-90 percent ratio.

The law stipulates that 70 percent of NGOs' budget must be spent on operational costs, and that administrative costs should not exceed 30 percent. But there are certain organizations that, by the nature of their work, spend more on administrative cost rather than operational cost. For instance, organizations which conduct researches mainly are forced to spend on administrative costs more.

Such organizations are forced to have high overhead cost. We don't, in principle, totally oppose this provision. We aim to reduce overhead cost.

All NGOs have been given a one year transition period to re-orient themselves and re-register by the relevant government body. How tough is the transition going to be? What kind of challenges do you anticipate?

This is an important question. One of the challenges we face is the short transition period. One year is too short to make a smooth transition. There are NGOs that have already been engaged in multi-years projects in different sectors. Their plan was to carry out their projects in three or five years. What are they going to do? How can they change their work in one year? They have also entered a multi-years agreement with donors. The short transition period will affect their agreement with the donors, too.

You need time to think thoroughly, re-design your goal and re-register. You have to do this while maintaining your daily operations. Even to dissolve your organization, you need time. You have to suspend your operation and dismiss your employees properly. For this, you need time. On top of that, the supervisory agency has not been established. There are no regulations to effect the dissolution within the legal framework.

There is also another challenge. Will one year be enough for the agency to be established, fully organized and start re-registration of NGOs? How many of the 4,700 organizations already registered by the justice ministry can be re-registered by this agency, which has yet to have procedures written down to carry out its task? This is a clear challenge.

What will be the consequences of this challenge? How many of the NGOs could be dissolved?

The civil society sector is relatively new in this country. It is not well developed to adjust itself to challenges. Many of the NGOs could frustrate and easily dissolve.

In other countries, you find networks of NGOs specializing in sectors like education, gender, children and so on. Here, that is not the case, as the civil society sector is in its infancy. Some NGOs here are fragile.

Some of the organizations depend on contributions on yearly basis to sustain themselves. They may not have the budget to deliver severance pay. There are those which are trying hard to have a well-organized structure. They are likely to dissolve.

There are NGOs which have national names and are registered to operate at national level but work in one or two regions. The new law says that they need to operate at least in five regions. These will automatically cease to exist.

In one of the panel discussions, the Minister of Justice predicted that around 148 organizations could be immediately affected. I say that others will also be immediately affected.

Donors could also refrain from funding many projects as they used to before. They used to channel their fund through the NGOs

There are millions of beneficiaries that could be hurt if many NGOs cease to exist. The civil society sector brings in a significant amount of money to the country for projects on health, education, environment, gender, agriculture, HIV-AIDS, potable water, etc. The civil society has done a lot in creating an empowered society.

Government officials said at one time that only NGOs working on rights issue will be effected. Those working on aid or charity won't be facing problems. And they believe that only small amount of people or organizations will be seriously effected. But you have it otherwise?

Even the so-called "small amount" will be damaging. While we should increase the number of civil society groups, why should we reduce them? Why should there be more poverty as a result?

Nowadays, there is no pure charity or aid. Every type of aid is associated with rights issue. When you build a health post, you have to teach people to take ownership of the project, that it is their right to do so.

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Now that the law has already been passed, what can you do about it?

Yes, the law has been adopted. Even though the law is already written, we shouldn't be sitting down with folded arms. We shouldn't keep quite about it. Any law is subject to amendment. We will maintain our effort to reform the law.