

# **ETHIOPIA**

## **BRIEFING TO THE UN COMMITTEE ON THE ELIMINATION OF DISCRIMINATION AGAINST WOMEN**

49<sup>th</sup> session, July 2011

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**Amnesty International Publications**

First published in 2011 by  
Amnesty International Publications  
International Secretariat  
Peter Benenson House  
1 Easton Street  
London WC1X 0DW  
United Kingdom  
[www.amnesty.org](http://www.amnesty.org)

© Amnesty International Publications 2011

Index: AFR 25/004/2011  
Original Language: English  
Printed by Amnesty International, International Secretariat, United Kingdom

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Amnesty International submits the following information to the Committee on the Elimination of Discrimination against Women (the Committee) in advance of its consideration of Ethiopia's sixth and seventh periodic report, under article 18 of the Convention on the Elimination of All Forms of Discrimination against Women (the Convention). This briefing outlines concerns regarding the impact of a 2009 law, the Charities and Societies Proclamation, on the ability of individuals and organizations to work to eliminate discrimination against women, raising concerns under articles 2, 3 and 7 of the Convention.

## RESTRICTIONS IN LAW ON HUMAN RIGHTS WORK - ARTICLES 2(C), 3, 7; GENERAL RECOMMENDATION 23

In February 2009 the Ethiopian parliament passed into law the Charities and Societies Proclamation (No.621/2009). The law places excessive bureaucratic restrictions on the work of human rights non-governmental organisations (NGOs) in Ethiopia, including an explicit restriction on work on gender equality. The law states that organisations which receive more than 10 per cent of their funding from foreign sources are prohibited from working on a number of human rights issues, including "the promotion of equality...of gender."<sup>1</sup> Infringements of the law's provisions could lead to heavy fines or terms of imprisonment for NGO staff. The law thus places a direct legislative impediment on all appropriate measures being taken to achieve gender equality in accordance with Ethiopia's obligations under article 3.

Further, organisations are not permitted to spend more than 30 per cent of their budget on 'administrative costs.'<sup>2</sup> A lack of clarity on the definition of 'administrative costs' means the provision could be read to include *inter alia*, the associated costs of investigating and documenting human rights abuses, the provision of free legal aid, advocacy activities, and other essential activities of human rights organisations in the promotion and protection of the rights of women, children and other vulnerable groups. In some human rights organisations all budgeted expenses could be interpreted as 'administrative costs' under the definition contained in the law.<sup>3</sup>

These restrictions are having a direct impact on the ability of women to access justice, as at least one of the organizations affected by this law previously provided a significant amount of assistance to women seeking to access the legal system. It also indicates that the state party

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<sup>1</sup> Article 14 (2(k)). Areas of human rights work restricted under this section of the law include, *inter alia*, "(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." Article 14 (2)

<sup>2</sup> Article 88(1), Charities and Societies Proclamation, (No. 621/2009)

<sup>3</sup> Article 2 (14), "Administrative costs" shall mean those costs incurred for emoluments, allowances, benefits, purchasing goods and services, travelling and entertainments necessary for the administrative activities of a Charity or Ethiopian society;

is not adhering to obligations under article 7, by discouraging NGOs from supporting equality for women (General Recommendation 23).<sup>4</sup>

#### 1. IMPACT OF RESTRICTIONS ON MONITORING AND DOCUMENTING HUMAN RIGHTS VIOLATIONS AGAINST WOMEN AND GIRLS – ARTICLES 3 AND 7; GENERAL RECOMMENDATION 23

As a consequence of the Charities and Societies Proclamation, national organisations are inhibited from working on the rights of women and girls. This includes monitoring and documenting violations of those rights by state and non-state actors, and holding the government to account for their performance and adherence to commitments on the rights of women and girls. International organisations are completely prohibited from working on these issues.<sup>5</sup>

Civil society organisations, particularly non-governmental organisations working on women's rights, are essential to the realisation of article 3's goal of full gender equality, in the promotion and protection of women's and girls' rights at all levels of society. This participation is also essential for the realisation of the right to engage in the public life of the country, as outlined in General Recommendation 23 (para 47(b)). Taking all appropriate measures to achieve gender equality and facilitate full participation includes creating an enabling environment for women's rights NGOs. Instead, in legislatively placing significant restrictions on the activities of organisations working to this end, the Ethiopian government has actively taken a measure to inhibit women's ability to develop and advance, to achieve equality with men.

#### 2. CASE STUDY: ACCESS TO JUSTICE AND THE ETHIOPIAN WOMEN LAWYERS ASSOCIATION (EWLA) – ARTICLE 2(C)

In practice, the law has had a devastating impact on all human rights organisations in Ethiopia, including notably the Ethiopian Women Lawyers Association (EWLA), which was – before the passing of the law – a leading women's rights organisation in the country, and the only major organisation focussing exclusively on women's rights at the national level. The stated mission of the organisation was to promote the economic, political, social and legal rights of women and to that end to assist them to secure full protection of their rights under the Ethiopian Constitution and the relevant human rights conventions. Further, the declared objectives included the elimination of all forms of legally and traditionally sanctioned discrimination against women, and working towards the equal treatment of women with men in education, employment, access to justice and all benefits, both of which objectives are in

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<sup>4</sup> “Encourage non-governmental organizations and public and political associations to adopt strategies that encourage women's representation and participation in their work.” General Recommendation 23, para 47(b)

<sup>5</sup> Article 2(4), Charities and Societies Proclamation, (No. 621/2009), “‘Foreign Charities’ shall mean those Charities that are formed under the laws of foreign countries or which consist of members who are foreign nationals or are controlled by foreign nationals or receive funds from foreign sources”, in conjunction with Article 14(5) “Those 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.”

line with the obligations of the Ethiopian government under several articles of the Convention.

Prior to the passing of the legislation EWLA had 65 full-time staff members and conducted vital work in the field of women and justice, particularly in advocating the full and equitable inclusion of gender issues in national legislation – as required of state parties under the Convention. The organisation also provided legal aid to women, including victims of gender violence, advocated on cases involving gender issues, conducted awareness-raising activities, conducted research and published on issues concerning law and gender. In 2004 EWLA submitted a parallel report to the Committee on the advent of Ethiopia's last consideration before the Committee. In 2011 EWLA barely continues to exist.

During the re-registration procedure demanded by the new legislation, EWLA was permitted to re-register. However, the organisation subsequently learned that their bank account had been frozen, along with the account of the Ethiopian Human Rights Council ((E)HRCO)<sup>6</sup>, another leading human rights organisation. The restrictions on foreign funds under the law have been applied retroactively, to funds that had been received prior to the passing of the bill, costing (E)HRCO 9.5 million Birr (approximately US\$566,000) and EWLA 10 million Birr (almost US\$600,000) in frozen funds. As a result of the freezing of their account, in conjunction with the excessive restrictions on receiving new funding contained in the law, the organisation has been forced to lay off almost 75 per cent of their staff and to significantly curtail their activities.

Before the passing of the law, EWLA's substantial activities were reaching thousands of beneficiaries. For example, in 2008 EWLA provided free legal aid to 17,357 women; 43 cases were taken up for legal representation, 28 clients were referred for protective shelter, 776 clients were provided with financial assistance for court fees, transportation costs and medical expenses for victims of violence. In the same year, public education activities involved over 10,000 participants; trainings were conducted for police and prison personnel on various rights issues; 70,000 booklets were produced and disseminated on revised family laws of four regional states and on the revised federal family law; a hotline was established which received 7,332 calls in its first eight months; and research was undertaken to inform the revision of the Criminal Procedure Code. This list represents just some of the significant and diverse work EWLA undertook in a single year. Much of this work was funded by financial support from foreign governments, UN agencies and other sources.

Effectively, the organisation has now ceased to function, with the exception of a small amount of free legal aid being provided to women by volunteers. In EWLA's absence, no organisation is conducting advocacy work for women in the justice system at the national and regional levels, as well as other vital areas of work formerly undertaken by the organisation.

The impact of such a significant reduction in the activities of this organisation has negative implications for women's rights in Ethiopia, particularly on women's access to justice, the inclusion of gender equality and other considerations in new legislation, and wider advocacy

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<sup>6</sup> The Ethiopian Human Rights Council was compelled to re-name itself the Human Rights Council during the re-registration process under the law

of all rights of women and girls.

### 3. IMPACT ON HUMAN RIGHTS DEFENDERS WORKING TO DEFEND WOMEN'S RIGHTS – ARTICLE 3

The underlying impact of the Charities and Societies Proclamation has been to entrench still further, and even to institutionalise, the climate of fear pervading the work of human rights defenders in Ethiopia, including women's rights activists. The significant majority of human rights defenders are too scared to speak out, or even to have the experiences of their organisation discussed or publicised. In 2009 a coalition of human rights NGOs including EWLA and EHRCO submitted a parallel report to the UN Universal Periodic Review process. Further, the US State Department report of that year was highly critical of the impact the draft Charities and Societies Proclamation would have on EWLA and EHRCO. In response to these two occurrences the organisations concerned were subjected to serious harassment to the extent that the Director of EWLA, and other staff members of the coalition NGOs, fled the country.

The impact of the law has therefore been to substantially undermine and weaken national and local observance, promotion and protection of the rights of women and girls in Ethiopia, and therefore the achievement of gender equality envisaged in article 3. Further, in inhibiting measures to ensure the achievement of gender equality, the Charities and Societies Proclamation indirectly undermines all rights of women enshrined in the Convention.

## RECOMMENDATIONS

- Immediately amend the Charities and Societies Proclamation to omit provisions which restrict human rights activities carried out by non-governmental organizations, both local and international, and which in effect prohibit and criminalize much of the work of human rights defenders and severely restrict humanitarian organizations, including work on women's rights and gender equality, in violation of several of the articles of the Convention, and which undermines the promotion and protection of all rights enshrined therein;
- Provide guarantees that all international and national non-governmental organizations in Ethiopia can operate freely and without fear of harassment, intimidation or arbitrary arrest in accordance with the UN Declaration on Human Rights Defenders;
- Explicitly recognize, respect, protect and promote the rights of human rights defenders as set out in international and regional standards as well as the Constitution of Ethiopia.

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