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**THE REGISTRATION PROCESS OF
NON-GOVERNMENTAL, COMMUNITY-BASED
AND CIVIL SOCIETY ORGANISATIONS**

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*The registration process of
non-governmental, community-based and
civil society organisations in Ethiopia*

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Executive summary

The right of association is a beneficial part of the political process. It is this recognition, that prompted this particular study with a view to contribute to the necessary elaboration of democratic Laws and rules regulating the formation, the registration and the overall administration of non governmental organisations in this country. There are, today, 241 NGOs registered under the CDDP. Still over a hundred others are on pipeline for registration. There are also over a 199,000 civil society organisations that are not registered under the Ethiopian Civil Code but represent the rich associational life one can see in Ethiopian society.

Analysis of the legal instruments governing the registration process of non - governmental civil associations in Ethiopia shows that the 35 years old Ethiopian civil code of 1960 is still the basic text of law governing the formation and registration of civil associations in the country. The then Ministry of "Internal Affairs" was designated as the registering organ of the government, which in turn, issued Registration regulations No. 321/1966. This regulation lays the registration procedure which among other things sets rules and standards for application for registration, contents of the memoranda and articles of association, verification and review of application, supervision of the NGOs after registration and dissolution of the NGOs. The Government has ratified the "National Policy on Disaster Prevention and Management" which in its article #10 designates the CDPP to be the registering body concerning all NGOs operating within the country.

While the state has various instruments to influence the NGO sector; viz. **governance: encouraging public debate, consultation and right to association, NGO regulations on registration and reporting, auditing and accounting requirements and incentives, including taxation policies on income or local fund-raising, duties on imports, subsidies for NGOs, etc.), NGO policy in project implementation and involvement in policy-making, improved access to information; co-ordination requirements within the NGO sector, including official support research benefiting the NGO sector;** the absence of a comprehensive NGO policy, codes of practice, clear registration regulations, excessive documentation required, inadequacy of personnel, delay and denial of registration, and lack of administrative appeal have made it difficult for both Government and NGOs to relate more meaningfully.

The report recommends the following four sub-programmes that would address and alleviate the problems analysed in much detail in the report.

1. **institutional development of governmental agencies supporting and backstopping NGO work**
2. **developing a code of practice governing the government and NGO relations in Ethiopia that is agreed upon by all stakeholders.**
3. **developing a more simpler self-monitoring mechanism and criteria**
4. **a comprehensive needs assessment in civic duty and interface with official and non-official organisations of the region-based indigenous civil society sector, in particular the region-based and locality-based groups.**

I. Introduction:

The necessity and the relevance of this study was grasped following the recognition, that sustainable development can only be achieved through a free and democratic society and a genuine empowerment of the people, allowing their participation in all kinds of civic activities. The improvement of the human condition, be it the promotion of human rights issues or the alleviation of its economic problems, can only be achieved with the involvement of the people who join together to pursue common interest through non governmental organisations, special interest groups, pressure groups etc. as a necessary component of government decision making, development, providing important information on public opinion and on the impact of policy decisions.

In asserting the idea that participatory development is an end in development, we refer to a sort of ideal objective whereby sustainable development results from the responsible action of politically mature and organised citizens, acting through elected institutions, associations or private organisations or bodies, in the framework of a democratic and free society.

The right of association should therefore be viewed as a beneficial part of the political process that should be encouraged since it has been legitimised in the constitution even if this has not been followed and translated by subsequent laws. It is this recognition, that prompted this particular study with a view to contribute to the necessary elaboration of democratic Laws and rules regulating the formation, the registration and the overall administration of non governmental organisations in this country. The study is divided into three related parts.

- √ **Part one presents the conceptual framework for the NGO phenomena in Ethiopia and deals briefly, on the emergence and development of NGOs and civic associations in the Ethiopian context ;**
- √ **Part two tries to present the findings and analyse the relevant laws, past and present, which have direct bearing on the registration process of Civil Societies in Ethiopia.**
- √ **Part three identifies the short comings of the existing legal set up and discusses the administrative problems practically encountered during processes of registration. based on factual information gathered through interviews and questioners filled by relevant organisations and associations.**
- √ **Part four, gives recommendations on necessary legal and administrative reforms to be made on the regulations of the registration process of Civil Associations in Ethiopia.**

III. Methodology

The main sources of information leading to the conclusions in this paper have been the use of both structured and semi-structured research work including

- literature review
- semi-structured interviews with the NGO community
- structured questionnaire survey

Literature is used in its broadest sense and really means survey of sources available in the contemporary knowledge system. It is supplemented by selected key informant interviews. It is strongly recommended that the literature review be done in three phases:

- A "Quick" overview, to determine the big picture of what we know and what we don't in relation to this project, and the communities selected for study. This first overview should inventory the key categories of sources: legal /sociological studies; published sources; project documents; NGO reports. An initial rapid review was undertaken to establish key questions for field research, available knowledge on key indicators, and major patterns of change. This review produced a list of key questions for field research team and other essential information for the field team, and list of key issues.
- A *Substantive review*, was done by two lawyers. With close communication, each determined key questions for the other. The key object here is to analyse, synthesise and demystify the aura that hangs regarding the topic.
- *Backfilling* was to be done at the end as gaps are identified during report writing. Backfilling also has to be done in the field if logistics and time permit.

The literature review has identified key presumptive policy matters affecting the registration of NGOs and concepts of sustainable livelihoods developed with **key informants interview. This was** accompanied by the initial rapid literature review of major issues and questions for field investigation. Following the literature review and key informants interview, the team met to identify key impediments to the development of NGOs in Ethiopian society as represented by the registration process and continuous surveillance NGOs are subjected too.

IV. Findings

4.1. Emergence and development of NGOs.

There are, today, 241 NGOs (106 international and 135 local) registered under the Commission for Disaster Prevention and Preparedness. Still over a hundred others are on pipeline for registration. There are also over a 199,000 people's organisations¹ that are not registered under the Ethiopian Civil Code but represent the rich associational life one can see in Ethiopian society.²

NGOs will be classified in this study based on their objectives, on their origin, and on their status origin. NGOs could have single or multiple objectives depending on the scope of its activity. Three types of NGOs will be distinguished: The Welfare and

¹ Costantinos, B.T. "Mapping and relating to civil society organisations in Ethiopia". A study commissioned by the centre for human Environment and the European Commission. CHE/IDDS. Brussels, Addis Abeba. 1996

² POs are under a different recognition status than formal NGOs engaged in the relief development work.

Development NGO and advocacy NGOs. This last category is increasingly attempting to form participative and sustainable way of alleviation of social problems.

Relief NGOs are engaged in providing relief services such as nutrition, clothing, shelter, primarily health care, education, transportation and water supply. Most of these NGOs have been functioning since the 1974 - 84/85 famine. The major areas of emphasis have been the drought affected and war devastated areas of Ethiopia. Moreover, relief NGOs also provide spiritual services and reunification of dismembered families. There are also NGOs that are involved in rehabilitating war and drought victims. They for instance, provide farmers with draught oxen, seeds, fertilisers and other farming tools.

Unlike relief NGOs, rehabilitation NGOs focus mainly on soil conservation and afforestation activities. They plan intermediary role between relief NGOs and development NGOs. There are also NGOs involved in Development and Environment; NGOs engaged in a variety of development services that would enable to develop self-help capabilities. A few number of NGOs functions in development activities. They account about 22% of the whole NGOs. Development NGOs are involved in agriculture and reconstruction, and advocacy and literacy campaigns.

Development NGOs operating in the agricultural activities cover all such areas as irrigation, fisheries, dairy farming, bee-keeping and horticulture. In the construction sectors, they are involved in dam-construction handicrafts, electricity, tracing and water resource developments. These NGOs usually concentrate on building community's self-help capability and enable them to decide on their own development priorities and generate their own income. Advocacy services are provided by some developmental NGOs. They concentrate on issues like environmental protection and observance of the rights of people for various services. Vocational training and adult education could also be included. Status categorisation is based on the NGO degree of intervention at the field level.

- Operational NGOs: Those NGOs that are operating at the field level. They usually participate in distributing relief supplies and engage themselves in the actual development works. Operational NGOs constitute about 60% of the total NGOs. 80% out of them are international NGOs.
- Non-operational NGOs: Those NGOs that do not directly operate at the field-level. These NGOs mainly focus on co-ordinating activities.
- National NGOs are established by the indigenous non-government organisations and they constitute about 20% out of the total 'NGO-population'. Out of 50% of these indigenous NGOs are engaged in operational works and 33% of them are functioning at the status of non-operative levels.
- International NGOs are NGOs based at the north but operating at the south. 62% are working at the operational level and 34% are engaged at operational and non-operational status.³
- CBOs and CSOs. A special study on CSOs and CBOs in Ethiopia has revealed the richness of the Ethiopian civil society sector by coming up with a stunning figure of over an estimated 199, 000 community groups actively involved in regulating life in the country. CBOs and CSOs. The study has been undertaken in a sample ethno-geographic divides of the country; viz. The Oromo, Amhara, Kembata, Guraghe, Tigray, Gedeo, Wolayta and Gamo. Findings deduced from the sample study indicate to the rich associational life of rural

³ Costantinos, *Participation*, 1994, pp. 20-21

Ethiopia. The number of civil society institutions comprising of Senbete, Mahber, Edir, Council of Senecha, Peasant Association, Service Co-operative, Debo, Jigie, women's networks, Women's Association, Youth Association, Ye Joka, Bayto, and a lot more variations of the above in form and function amount to almost 199,000 community based organisations. For many millennia, these organisations have regulated civil life long before Governments interfered in the family life and the concept of NGOs and Donors existed.

Today, with less than 20 per cent of the population having access to what we call the benefits modern civilisations, these organisations still lead families through a tumultuous century that we are just leaving behind. While these CSOs are quite assertive and account for the much resistance against repression and colonial aggression in Ethiopian history, the study has clearly identified the following strength, opportunities and threats as far as their democratising role is concerned:

1. individual CSOs have the structure and function characterised by autonomy, capacity, cohesion and complexity to represent the collective awareness, vision and ideology of their members and manage the affairs of the socio-entities they represent. The fact that these civil associations are capacious, autonomous, complex and cohesive means that they display strong individuality that makes it difficult to promote common political culture and inter and intra-cultural ideological unity across communities, ethnic divides and language barriers.
2. such ideological and socio-political unity of purpose has usually been forged by national leaders who have very often rallied the populace against external and internal aggression. With some exceptions of the 16th century Oromo insurrection to the North, Woyane rebellion of 1943 in Tigray and the 1991 victorious entry of victorious people's liberation fronts and forces to Addis Abeba; popular insurrection against central government has always been led by war lords, the army and generals.

The growth of the Ethiopian NGO sector has however not been without its infirmities. Where regulations and reporting is most lax, the door is also open for unhealthy and even corrupt NGO activities which may taint the sector as a whole. Where the expansion of the sector has been most rapid there is considerable concern about the rapid ascension of "bogus" NGOs; serving their own interest rather than those of vulnerable groups. To add insult to injury most of the NGOs that are founded in the past three years in Ethiopia are characterised by the following infirmities characterised by

1. over-dependence on external finance and assistance. The competition among POs for external funds erodes their capacity and commitment to mobilise collaborative action and achieve consensus around issues of common interest for their autonomous development.
2. Questions have been raised as to whether Ethiopia's local groups have so far been effective in promoting and institutionalising empowerment among grassroots populations. Commitment to democratic principles and practices is not discernible in the internal affairs of many local organisations.

3. Although they have a lot to contribute in their advocacy roles, NGOs have been unable to establish a clear and coherent voice nationally on issues which are crucial to their work, or to the interest of the local communities they serve. While many people's organisations' proposals for remedial action have been formulated, real commitment to collaborative processes at the inter-organisational level has till now been limited.
4. The absence of effective networks, which speaks for them, co-ordinate their relations, represent their interests and advocate their positions on important national issues, has hindered their ability to make collective demands on some important issues. Individually many NGOs grapple with similar issues of institutional development and operational efficiency. But because of lack of information sharing, they cannot learn from each other's experiences or be motivated and encouraged by the work of others in similar circumstances.
5. Reflective capacity: One of the problems which characterises indigenous POs is the lack of system programmatic focus and the tendency to go from one sectoral project to another depending on available funding. Also, once the external support for any project is exhausted the POs take up whatever activities the donors are funding. The inability to specialise in a particular area of competence renders organisational learning irrelevant and makes continuity of a particular agenda and goals impossible.
6. A lot of NGOs invariably lack institutional memories and, hence, the reflective capacity and absence of professionalism in their work and the ability to take stock of where they are going, what they have learned and what lessons can be passed on to others. Therefore, although some projects accumulate a large body of data, the information has often been used for informing funding agencies or to be presented in a report rather than to critically and systematically appraise the work of the organisations.

An assessment is required as to which regulations merely hamper the contribution of the NGO sector and which are necessary to ensure that incentives provided are used for the intended purpose. A conducive policy environment can help make the whole greater than the sum of the parts, through judicious use of policy instruments. Best practice lessons appear to indicate that good governance - social policies encourage a healthy civil society and public accountability of state institutions. Regulations must be designed to help, not hinder NGO growth, but also to root out corruption and to foster sound management discipline; eliminate restrictive laws and procedures.

4.2.State influence on NGOs.

The state has various instruments it can use for good or ill to influence the NGO sector. The level of response can be non-interventionist, active encouragement, partnership, co-option or control. And the policy instruments used can be:

- good governance that encourages public debate and consultation; and the right to organise interest groups;
- NGO regulations (for example, regarding registration and reporting, auditing and accounting requirements);

- NGO incentives, including taxation policies on income or local fund-raising, duties on imports, subsidies for NGOs, etc.);
- Use of NGOs in policy/project implementation;
- Involvement in policy-making (serving on committees);
- Improved access to information (NGOs serving as a conduit to inform the public about development schemes which effect them);
- Co-ordination requirements within the NGO sector; and
- Direct expenditure, including official support (grants, contracts) and research benefiting the NGO sector.

For individual NGOs the most favourable policy setting is when legal restrictions are minimised, when they have complete freedom to receive funds from whomsoever they choose, to speak out as they wish and to associate freely with whoever they select. In such a setting, the NGO sector is likely to grow most rapidly. But "bigger" does not necessarily mean "better." Growth of the sector can be a mixed blessing.

Where regulations and reporting is most lax, the door is open for unhealthy and even corrupt NGO activities which may taint the sector as a whole. Where the expansion of the sector has been most rapid there is considerable concern about the rapid ascension of "bogus" NGOs; serving their own interest rather than those of vulnerable groups. An assessment is required as to which regulations merely hamper the contribution of the NGO sector and which are necessary to ensure that incentives provided are used for the intended purpose. A conducive policy environment can help make the whole greater than the sum of the parts, through judicious use of policy instruments. Best practice lessons appear to indicate the following ingredients of an enabling policy environment:

- a) Good Governance - social policies which encourage a healthy civil society and public accountability of state institutions.
- b) Regulations- designed to help, not hinder NGO growth, but also to root out corruption and to foster sound management discipline; eliminate restrictive laws and procedures.
- c) Taxation policies - to provide incentives for activities which conform with state development priorities and encourage indigenous philanthropy and income generation.
- e) Policy formulation - provide information to NGOs for dissemination to their constituencies; offer a role to NGOs in public consultations; invite NGO leaders to serve on official commissions etc. Public access to information is the key to success in this area.
- f) foster co-ordination through having NGO Units in relevant line ministries or NGO consultative committees; encourage NGOs to attend the geographic or sectoral gaps and encourage improved attention to management skills, strategic planning and sharing of experience within the sector.
- g) provide funds, contracts and training opportunities so as to give special encouragement to NGO activities in priority areas without undermining NGOs' autonomy and independence; ensure broad agreement with NGOs on such priorities by establishing formal consultation with NGO leaders.

4.3. Analysis of the legal instruments governing NGO registration

- a. The 35 years old Ethiopian civil code of 1960 is still the basic text of Law that governing the formation and registration of civil associations in the country. It designated the Ministry of Internal Affairs as the registering organ of the government, which in turn, issued Registration regulations No. 321/1966.

- b. Regulation No. 321/1966 lays the registration procedure which among other things sets rules and standards for the :
- Application form for registration
 - Contents of the memorandum and Articles of association
 - Verification and review of application
 - Supervision of the organisations/associations after registration
 - Dissolution of the associations/organisations
- c. On the other hand, the Transitional Government had ratified the "National Policy on Disaster Prevention and Management" on December 1993. This policy in its article 10 had designated CDPP to be the registering body concerning all NGOs operating within the country.
- d. In addition, Proclamation No. 41/1993, which Defines the Powers and Duties of the Central and Regional Executive Organs of the Transitional Government of Ethiopia", had made CDPP the sole supervisor and co-ordinator of all NGOs activities. In light of the Civil code provision which in clear terms designates the Ministry of Internal Affairs to be the registrar of Associations, CDPP's mandate appears to be doubtful. This is because :
- i. The National Policy on Disaster Prevention and Management issued in December 1993 does not by any standard amount to a law to override the provisions of the Civil Code. It being only a government policy and directives regarding nation wide disaster prevention and management. It is not therefore empowered to regulate as a Law the activities of private citizens and or organisations. Therefore, the intention of the registration requirement with CDPP envisaged in Art. No. 10 appears to be only for the co-ordination of the activities of NGOs and not to confer legal personality on them as such. This is buttressed by the fact that under proclamation N0. 41/1993 issued to define the powers and duties of the Central and Regional Executive organs of the Transitional Government, CDPP is mandated only to supervise and co-ordinate the relief activities of all non- governmental aid organisations. While the power of supervision and co-ordination of CDPP was limited to relief activities of NGOs under the proclamation. The fact that the policy issued by the Transitional Government in Article 10 of the Disaster Prevention and Management Policy requires all Non- Governmental Organisations to register with it, without any distinction, appears to be superfluous. This is mainly due to the fact that the rationale for the policy being disaster management, there appears to be no valid reason for non- governmental organisations which are not associated in any manner with relief or disaster prevention and be registered with CDPP. In general, there seems to be a state of confusion in the interpretation and application of the law as regards the registration of NGOs in the country. Proclamation No. 4/1995, which is issued to define the powers and duties of the executive organs of the Federal Democratic Republic of Ethiopia, designating the Ministry of Justice to be the registering Authority of NGOs appears to resolve the confusion.
 - ii. However, the problem with this proclamation is that it only relates to foreign non - governmental organisations and trans-regional

associations. The question here is which organ is empowered to registers associations intending to operate only in one region. Assuming that under the Federal arrangement, the power to regulate the activities of NGOs in their respective region is left for the regional governments, to date, no region has yet issued a legal instrument to this effect.

- iii. Despite the fact that the Ministry of Justice has been designated to effect the registration of the NGOs under its jurisdiction, it can only do so in co-operation with other concerned organs of the government. Here again the extent of the co-operation of the so called concerned organs of the government is not clear and there is no indication, as to which government organ is concerned for one type of activity. Therefore, there will always be a problem associated with the determination of which government organ is relevant to one activity and the extent of their co-operation and delimitation of competence, which is time consuming and making the registration process very cumbersome.

One could say in this connection that the above problems could be solved under a regulation to be issued by the Ministry. However, under article 10(a) of proclamation No. 4/1995, no Ministry has the power to issue regulations, their powers have been limited to that of initiating policies and laws. It is again very doubtful whether the regulation issued by the Ministry of Internal affairs, regulation No. 321/1966, is still in force or not since the Ministry has lost its existence as a result of the above proclamation.

4.4. Administrative and practical problems of the registration process

- a. **Absence of clear registration regulations:** The absence of a transparent text of law regulating the process of registration and lack of clearly designated government organ to register, has greatly contributed in creating administrative confusion, arbitrariness, and abuse of power.
- b. **Excessive documentation required:** The requirement to produce a letter from a government organisation supporting any application for registration is very unfair and discriminatory. The registering body has even gone to the extent of requiring from each founding members a certificate of good conduct from Quebbele authorities, curriculum vitae and credentials. This is in clear violation of one's constitutional right to organise and is also contrary to the principle of the presumption of innocence.
- c. **Inadequacy and Inefficiency of the Personnel:** It is noted that the office of registration is inadequately staffed. There is lack of orientation on the registration procedure and lack of trained staff who can relate with NGOs and non-profit making Civil Associations. registration personnel's should be accountable to the public if behaved improperly.
- d. **Delay and denial of registration:**
 - Delay in getting decision after submission of application for registration is one of -the biggest problem in the Ethiopian registration process.
 - lack of an allocated time limit
 - lack of sufficient and efficient personnel.

The registration office denies registration if application is not accompanied by letter of support from government body. This act is not imposed by law. it is contrary to one's right of forming an association. Registration should only be denied if the purpose of an association is contrary to the law and moral of the land; and if an association has applied basing itself on false and misleading facts.

- e. **Lack of administrative appeal:** Organisations should be able to appeal on administrative decisions that affect negatively their applications. This would have been an important protection against precipitated, possibly erroneous governmental action and would grant the affected organisation an opportunity to be heard at a meaningful time and in a meaningful manner.

Although the judicial review of administrative decisions which is provisioned in the Civil Code is to vindicate the rule of law and to ensure that the executing organ pursues its mandate with a proper respect for the rights of these organisations, the delay factor involved in a judiciary appeal makes it totally ineffective.

- f. **Non accountability of the executive staff.** A fundamental principle of administrative ethics prohibits the delegation of legislative power to administrative agencies without providing statutory directives and standards to guide the exercise of the delegated powers in order to ensure that important public policy issues are decide, at least in broad outline, in legislative forums less homogenous by nature because, it is assumed that they reflect more closely the heterogeneous society. Otherwise individuals entrusted to review application files may unconsciously or consciously be preoccupied with serving some section of the society of interest to them and thus lead the public to a loss of confidence and respect for the law in general and for the registering body in particular.

Part V

Conclusions and recommendations

NGO registration is of critical importance because it delineates the Government NGO relations very clearly. In this sense the discussions we had so far have concentrated on this aspect of relations that are the key elements that enhance or inhibit NGO work. The following recommendations are therefore targeted at precisely bringing the State-NGO relations to some degree of interface that they could actually be mutually supportive in their efforts to strengthen civil society. The recommendation are therefore presented in three sections -- commitment and shared responsibility, practical steps to be taken by Governments, NGOs and Donors and follow-up work to be done to complete this study in to an operational guideline developing a code of practice that would create transparency, predictability and accountability among all concerned.

5.1. Commitment and shared responsibility

Government policy makers must express their humility, optimism, ethics and recognition of shared responsibility -- that justice is worth striving for and, therefore, the understanding of NGO and civil society participation must embody the right to citizenship; a recognition for people to participate in national and

community development with passion. Government and legitimate structures of civil society must build on those ideals, deploy them to address the need for management of a more equitable system that would allow the continents vulnerable groups to take control their own future.

All of a sudden, the concept of a benevolent dictatorship has become an illusion. No one can be fooled. Dictatorships disrupt the foundations of social accord and the very social fabric that make people the direct agents, goals and means of development. The essence of participation cannot be reflected adequately unless people develop themselves, their communities, their societies and their nations. Let the conviction to build a robust civil society stand as an open invitation of Government to the new era that will certainly emerge in any case; with or without our knowledge and consensus. Government must marshal resources ensuring policy coherence that all initiatives are made to have a sense of direction.

It is a fundamental premise of people-centred development that people have certain basic and universal human rights as defined in the Universal Declaration of Human Rights of the United Nations. Half a century ago, the human community proclaimed a bold and revolutionary vision of the future: **The Universal Declaration of Human Rights** asserted that every person on the face of the planet has certain fundamental rights. Furthermore it is a fundamental responsibility of every government to respect and protect these rights.⁴

5.2. Ethical standards in the State / NGO co-operation

In fact this is the only acceptable basis in a democracy, for governments to relate to civil institutions. On the basis of this assertion, the following guide-lines are offered as the basis for drawing up as appropriate in each country, mechanisms and modalities for people's organisations -government relations. The relationships must be based on the following generic notions:

- A. **Voluntary action as a human Right:** Voluntary action is an expression of both a basic human right and a civic responsibility to participate actively in the life of the community. Indeed, voluntary action is one of the highest

⁴**first generation human rights:** those that people must have to protect their right to security and well-being against the misuse of government's coercive powers, such as: the right to freedom of expression and association, the right of redress of grievances, and due process. Both sets of rights are fundamental to people-centred development. It is the second set of rights that is of most fundamental concern when dealing with the rights and responsibilities of people and people's organisations. **Second generation human rights** as they relate to basic human well-being, such as the rights to: food, shelter, livelihood and security of family and person, and freedom of movement, religion, and thought; **and the right to development and radical advocacy:** People's organisations must go beyond protest in their efforts to uphold these international covenants. They must take practical, but non-adversarial steps to ensure that citizens rights to all generations of human rights are respected. Governments must accept as a universal right that the rights and obligations of citizenship are not gifts from the state or party. These rights are clearly spelt out in The Universal Declaration of Human Rights of the United Nations. It is the assertion of this study that these articles form the legal basis for relations between government and people's organisations. **Article one:** Based on the Universal Declaration of Human Rights of the United Nations, adopted and proclaimed by the General Assembly by resolution 217 A (III) of 10 Dec. 1948 individual human rights shall be respected fully and without any limitation whatsoever. Particularly every individual shall have: the freedom of conscience, expression, association and peaceful assembly; the right to engage in unrestricted political activity and to organise political parties, provided the exercise of such right does not infringe upon the rights of others. **Article Two:** The right of nations, nationalities and peoples to self-determination is affirmed. To this end, each nation, nationality and people is guaranteed the right to: preserve its identity and have it respected, promote its culture and history and use and develop its language; Administer its own affairs within its own defined territory and effectively participate in the central government on the basis of freedom and fair and proper representation; exercise its right to self-determination of independence, when the concerned, nation nationality and people is convinced that the above rights are denied, abridged or abrogated.

forms of citizenship as it represents action in the service of the community without expectation or pursuit of personal economic or political gain. Voluntary action may be either individual or collective. Collective action may range from purely informal temporary forms of co-operation involving no defined organisational structure to large corporate organisations with professional staff and significant assets. People's organisations as legal organisational entities are one vehicle for the expression of voluntary action. Our immediate concern is primarily with organised action, but the same basic principles relate to individual voluntary action as well.

- B. The exercise of a basic right that resides with the individual requires no permission from any government. Nor does the intention or act of exercising such a right require public notification. The formation of an people's and community based organisations represent an exercise of such a basic right and therefore is not legitimately subject to government review, approval, or registration-so long as no grant of special privilege is requested from and granted by government. Nor is there any obligation to make any public announcement or notification of the formation of such an organisation.
- C. **Governance:** The authority of government derives from the will of the people and may be exercised only in accordance with that will. It follows therefore that it is the right and responsibility of the people, not the government, to determine what constitutes the public good. This is fundamental to the principle that the authority of government derives from the will of the people. Government is an instrument of the people, created by the people to serve their will. Those government officials whose actions reveal an underlying belief that their positions confer on them a superior wisdom and a right to regulate the behaviour of others by their personal definition of the public interest engage in a misuse of government's coercive power, violate the public trust that has been vested in them, and demonstrate that they are unfit for government service.
- D. Governance, routinely considered a political issue, is basically economic. Participation in resource management and governance is likely to increase efficiency of resource use; multi-partyism, electoral democracy and basic human rights are necessary but not adequate conditions for participatory development. The new African nations should, therefore, be committed to
- a) legislate the political rights of individuals, citizen's groups - protecting, restoring and sustaining lives and cultures.
 - b) develop laws and systems to monitor and ensure the observance of human rights.
 - c) legitimise developmental aspirations of people and peoples organisations through major changes in macro policies to ensure sound development.
 - d) work towards equitable redistribution and appropriate use of land is a key measure for introducing equity into development programmes and an important prerequisite for moving towards sustainable land use systems; to integrate ecological considerations into economic planning and management of natural resources,

- E. **Elimination of Coercion:** The best governments are those that maintain the public order essential to the exercise of the full range of basic human rights with the least use of their coercive power. The protection of the free and full exercise by the people of their basic human rights is the first and primary responsibility of any government. A government properly exercises its coercive power only in situations where an exercise of rights by one individual or group infringes on the free exercise of the rights of others; and it does so by due process in accordance with established laws freely instituted by the people and their elected representatives through an open democratic process.
- F. **The Law:** The responsibility to respect and observe the law rightfully and necessarily falls first and foremost on the individual citizen; and, indeed, the Government's responsibility is limited to teaching, prosecuting and punishing illegal actions in accordance with the law. In too many cases, however, the necessary and appropriate social contributions of people and people's organisations are being constrained by laws and regulations that attempt to pre-empt imaginary threats by subjecting people's organisations activities to prior review and approval procedures that are inappropriate, unnecessary, and represent a violation of basic human right. It is not legitimate for government to restrict the exercise of a basic human right on the ground that the exercise of such right might lead to a violation of the law.
- G. **Regulatory concerns not specific to people's organisations:** The use of government authority to restrict NGOs and people's organisations or other voluntary sector activity should be limited to very specific and clearly identified public concerns relating to the infringement of the rights of others. These would include, for example, protecting the public against fraudulent fund raising practices, dangers to public health and safety, and infringements of the people's sovereignty by foreign economic and political interests. These concerns are not specific to People's organisations and the laws relating to such practices, in general, should apply equally to NGOs and people's organisations as to other organisations. Consequently, as a matter of principle there should be few if any instances in which there is need for regulations specific to NGOs and people's organisations. Their functions should be covered by the normal laws of the land such as the civil code, the criminal code, and the tax code, the laws that apply to individual citizens and other forms of corporations.
- H. **International support:** With specific regard to the concern many governments have about foreign funding, people's organisations should have the same right as any individual or organisation to receive and use funds from abroad subject to established foreign exchange and related regulations relating to the receipt of foreign funds. Governments have no basis for subjecting such receipts by NGOs and people's organisations to special oversight or procedures not generally applied to exchange transactions by other parties or organisations. Some officials are understandably concerned that such funds may find their way to support of groups engaged in illegal activities, such as armed insurgency. If a given activity or its funding are illegal under established law, then government has both the right and the responsibility to prosecute and punish any individual or group engaged in such infractions based on evidence of actual wrongdoing.

- I. If there is concern that foreign money may be used to influence political campaigns or legislation to the advantage of foreign over national interests, a government may choose to place legal limits or prohibitions on the provision and/or acceptance by any individual or group of political contributions originating from foreign sources. Here again, violations should be prosecuted and punished according to the law. There is no particular reason to single out people's organisations. They are by nature among the groups least likely to engage in such practices.
- J. Nor is it appropriate for government to single out people's organisations as potentially subject to inappropriate influence by foreign donors so long as government itself allows foreign governments and international agencies to dictate its economic and political policies as a condition of receiving international funding. While People's organisations should be seeking to reduce their dependence on foreign funding in the interests of increasing their own independence, this dependence presents threats primarily to the individual People's organisations, not to the national sovereignty.
- K. Some government officials feel a sense of responsibility to foreign donors to assure that funds made available to people's organisations are properly used. So with any private financial transaction, the primary responsibility for the proper use of funds is that of the parties to the agreement. Presumably each continent has legal remedies in place relating to breach of contract or fraud that can be applied as appropriate in such instances.
- L. **Rights and Privileges:** In determining what areas are appropriate regulatory concerns of government it is important to clearly distinguish between rights and privileges. Many governments treat the formation of an people's and community based organisations as a privilege granted by government. This represents a confusion of the basic distinction between rights and privileges. As noted above, the formation of an people's and community based organisations is in itself a right, not a privilege, and therefore not legitimately subject to government regulation. However, when special privileges are requested and granted such as a corporate charter giving the organisation an independent legal identity, or an exemption from taxes which are not inherent individual rights, certain corresponding legal obligations directly related to the nature of the privilege are appropriately incurred and it becomes a duty of the people's and community based organisations to fulfil these in accordance with the relevant laws.
- M. Generally these obligations should relate directly to the privilege, as for example, the requirement that: a corporation must have a board of directors that assumes legal responsibility for its affairs, and that a specified number of these directors must be outsiders (not employees of the organisation); or that a tax exempt organisation must confine its activities to its approved tax exempt purposes as defined by law, file periodic financial reports with tax authorities, and make its financial statements publicly available.
- N. **Transparency and Accountability:** The formal accountability of a legally incorporated people's and community based organisations is to its board of directors or trustees. Irrespective of their title, the members of this board act in a position of public trust. If the people's and community based organisations is a membership organisation, its directors or trustees

administer this trust on behalf of the members by whom they are elected and to whom they are accountable. If it is not a membership organisation, the board is generally self-perpetuating. It is fully appropriate, particularly in the case of non-profit or tax exempt organisations for government to specify that a majority of the directors or trustees be without a personal financial stake in the organisation. Directors or trustees may also incur certain legal liabilities with regard to their oversight responsibilities. In any event, the directors or trustees of an people's and community based organisations assume three primary obligations relating to the public interest.

- a) **To supporters.** An ethical obligation, which may also be legally enforceable under civil or criminal statutes, to assure that the organisation's purposes are fully and accurately disclosed to the people who provide it with financial or other support, that this support is used for the purposes for which the contributors provided it, and that these uses are fully disclosed to them.
- b) **To beneficiaries.** An ethical obligation, which may also have legally enforceable elements under civil or criminal statutes, to any people to whom the people's and community based organisations provide services to assure that the people's and community based organisations presents itself fairly and accurately to them and meets appropriate standards of service quality.
- c) **To the law.** A legal obligation to oversee the NGOs observance of applicable laws. These include:
 - (1) those laws that apply generally to all individuals and organisations , such as, laws regarding fraud and embezzlement, foreign contributions to political organisations , standards for medical practice, foreign exchange transactions, and zoning regulations; and
 - (2) legal obligations incurred as a consequence of special privileges requested from and granted to the organisation by government, such as corporate legal status, or exemption from certain taxes. There are people's and community based organisations that engage in illegal actions, just as there are such organisations and individuals in every sector. Where there is specific evidence of illegal activity, offending people's and community based organisations and the responsible individuals should be prosecuted under the law as would be any other individual or organisation.
 - (3) People's organisations are assuming increasingly important roles as agents of democratic expression and citizen innovation contributing to the search of more just, sustainable, and inclusive approaches to national development. It is important and timely that legal policies and regulations relating to their formation and function be re-examined and revised within the framework of universally accepted human rights principles.

- O. The above should be applied in the relations of the Government and those civil institutions involved in service delivery, community development, advocacy and civic education. It is clear from these guide lines that people's and community based organisations should be expected to exercise self-regulation and that the freedoms and rights of People's organisations go with the responsibilities of good behaviour and proper conduct of their business within the law. National NGO councils, would be the formal point of contact between the government and the people's and community based organisations community in each continent. Alternatively, a representative council of elected people's and community based organisations' leaders and government officials representing different ministries could be constituted as the formal point of contact and interface between the government and the sector.
- P. It should be carefully stressed that each NGO must have the right before the law, to represent its interest and defend itself or seek redress in a court of law. A formal point of contact between government and people's organisations can, however, serve also as forum for information exchange (especially important for people's organisations and community based organisations to access technical information more readily available to government). Both the Government and NGOs must realise that they are two sides of the same coin and that to the extent that they are able to maintain healthy relationships, they will be better set to cope with the changing priorities of donors - the one dominant external force that is shaping the future of Ethiopian nation-states.
- Q. Ethiopian NGOs must play an active part in the resolution of national and ethnic conflicts rather than become neutral observers in the process of democratisation which is on course in Ethiopia. The premises for people-centred development, however, may have to be seen within the framework of far reaching grassroots empowerment objectives and hence the role of Ethiopian indigenous people's organisations in
1. develop an indigenous institutional presence and work to attain increased institutional efficiency and clarity in designing managing their operations. In this sense they should work towards closer regional and sub-regional rapprochement to evolve oneness and unity of purpose among themselves that will bear the bond of their common position in national and regional issues of peace and security. There is a legitimate role for Ethiopian People's organisations in creating a national and regional genuine dialogue for peace and security;
 2. give their public support to participatory democracy by supporting emerging democratic and peace movements and support scholars and institutions engaged in economic development policy research, humanitarian law and military affairs; sensitise their constituencies and the Government on the need for a free media that would compete for delivering accurate and reliable information to the public upon which its credibility and survival as a peddler of information is guaranteed; actively work and raise resources towards the promotion of research in public policy; public education in participatory democracy to endure majority rule, seasoned with consideration for indigenous peoples' minority survival rights.

3. voice firm commitment to full constitutional guarantee to ascertain the rights of women to property and opportunities for education leading to cessation of abuse, manipulation and anonymity of their contribution. This will not only give appropriate credentials to more than half of Ethiopia's internal development resources but ensure inter- generational transfer of skills and coping mechanism; since women as mothers are the prime carriers of the civilisation and survival, especially in Ethiopia where formal education is not designed to include such vital information in its curriculum.
4. in connection with this Ethiopian People's organisations have a decisive role in initiating mass action towards stabilising the rapid population growth to national carrying capacities of the economy.
5. this includes the strengthening of local capacities of already existing indigenous grassroots groups, assist in the formation of new ones through people's and community based organisations capital funds that will be managed by a body formed among all concerned parties.
6. in relevant operational and background documents, Ethiopian groups must state precisely their commitment to empowerment at the grassroots or community-level, taking trouble to mention some of the areas in which their intended work would increase self-reliance at that level, including how it could be done. In their internal operations, Ethiopian People's organisations must endeavour to promote participation and, as much as possible, must establish a democratic process for in-house decision-making on programmes and projects⁵.
7. Ethiopian groups must actively support the Government to mobilise all collaborative efforts for the establishment of a People's Capital Fund: as a first step in promoting self-assertion and upholding their own development vision and objectives, every Ethiopian group must decide on a number of institutional goals and values which must be upheld as non-negotiable in any financial or programme partnership.
8. When entering into long-term relationships with government, people's organisations must discuss and agree with their prospective external partners an appropriate mechanism for mutual assessment to monitor the effectiveness, orientation and long-term objective of the collaboration. Such mutual assessments can be undertaken once every two years, or in accordance with any other time-scale agreed between the two parties.
9. In their requirements for technical assistance or other input of a specialised nature, Ethiopian voluntary groups must prioritise the use of locally available expert resources from Government and other groups,

⁵ Costantinos, B.T. 1992 "Code of Practice for African NGO", African Self-reliant Development and Advocacy Group. ECA, Addis Abeba.

- R. In addition to their other important functions, national people's and community based organisations consortia must carry out regular advocacy activities on behalf of their members. National consortia must undertake the task of promoting the people's and community based organisations sector as a channel for supplementing official development efforts, and not as an antagonist or competitor with government. To do that, they must engage in advocacy and dialogue with relevant national authorities to secure people's and community based organisations access to the national media. Such access will be vital for publicising the sector's contribution to national development and promoting its image as a useful development partner of government.
- S. National networks must work to establish a functional link between the technical assistance needs of their members and the technical expertise available within their countries. In addition, they must develop their own technical assistance capacity, or otherwise be able to assist in locally mobilising needed technical input on behalf of their members as and when required.
- T. Government must pro-actively reinforce people's organisations ' contribution to the region's development process by creating an enabling environment for voluntary sector initiatives to thrive, so that they can effectively supplement official development programmes. NGOs should assure the Government of their sincerity of purpose as contributors to national development. That they will not work against the interest of their people and of their countries. They should be committed to supplementing the development efforts through socio-political empowerment of grassroots populations. The common goal should be reiterated over and again - improved quality of life for the most vulnerable and deprived people and communities in our country.

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