

## Update on NGO/CSO Draft Legislation

### Background

Following the submission of the report outlining [NGO Observations and Recommendations on the 3<sup>rd</sup> draft NGO Proclamation](#) to the Ministry in December, 2003, the Task-Group (TG) delegated to follow-up the process (Ato Kifle Wedajo- IAG, Ato Kebede Asrat/Ato Beruke Herouy - CRDA, and Ato Fikre Zewde – AAE) got an audience with the Minister of Justice, H.E. Ato Harka Haroye on January 27, 2004.

The discussion highlighted the need for further collaborative work between the TG and the drafting team within the Ministry so as to finalize the Draft Legislation. In this regard, the Minister affirmed that his Ministry is still ready and willing to listen to and consider the observations and recommendations forwarded by the NGO/CSO Community. He also noted that his ministry would welcome efforts aiming at developing a comprehensive legislation with broader scope of application, beyond the conventional NGO domain. Accordingly, he invited the TG to work with the drafting team and produce a final document as soon as possible. The TG, appreciating the Minister for the additional opportunity, accepted the invitation to work with the drafting-team.

Since then, the TG has been working on the documents with the drafting team during its regular Tuesday afternoon sessions.

### Methodology

The methodology the TG opted for was to **first lay-down to the Ministry of Justice team the basic principles on which the legislation should be predicated.**

Briefly stated, the basic principles are the following:

- a. It should create an enabling environment for citizens to exercise their constitutional rights of freedom of association; and to that end,
- b. It should be predicated on those constitutional rights and existing laws that relate to the exercise in particular of the freedom of association; and
- c. It should reflect policy guidelines and widely accepted legal principles that constitute a conducive environment for the exercise of freedom of association.

The TG opted for this approach as it is essential **to have an understanding of and appreciation for these basic principles**, which are the litmus test of the legislation.

After undertaking this necessary step, the task force started treating the draft legislation article-by-article starting with the title of the legislation in line with and on the basis of the observations and recommendations made by the NGO community.

## Developments

To date, key provision dealing with the preamble, definition and scope of application have been treated. From the outset, the TG has been able to convince the Ministry of Justice team of the wisdom of taking into consideration the observations and recommendations contained therein.

Accordingly, it has been agreed that:

- The **title** of the legislation will be reformulated to read as “**Proclamation to Regulate the Registration and Operation of Associations**”.
- The **preamble** will contain the spirit and letter of Article 31 of the constitution dealing with freedom of association.
- The **definition** of NGO/CSO will be broadened to accommodate all relevant entities and will focus mainly on the **attributes** of NGO/CSO and those attributes will be spelt out and stated in the definition.
- **The scope of application** will clearly state that the legislation shall apply to NGO/CSO that state in their **memorandum of association** that they intend to operate in more than one regional state and that the federal legislation includes Addis Ababa and Dire Dawa.

We have also deliberated on the provisions dealing with the establishment of NGO (**Article 14**), memorandum of association (**Article 5**), Registration (**Article 6**), application (**Article 7**) and recommendation (**Article 8**). Once again, also with regards to these provisions, the TG has been able to bring on-board its observations and recommendations on these provisions.

This exercise of going article by article will continue in a similar vein

### **Preliminary fundamental difference noted**

It should be noted that there seems to be a fundamental difference with regards to the issue of **judicial review** regarding the **suspension and dissolution of NGOs**. The TG holds that it is **only** a court of law that can and should decide on the issue of suspending and dissolving NGOs and that all the administrative decisions of the Ministry should be appealable.

This could possibly be one of those issues that cannot be decided upon and resolved by the Ministry of Justice team and may require a policy decision from a higher competent authority. In this regard it has been agreed that both sides will present in writing their view points on the subject matter in a way that will assist the decision making process.

Next meeting of the drafting team shall be on March 2, 2004

**To date, these are the major developments. We will try to keep you posted and updated on the progress of the task as promised in our membership meeting.**

**If you have any queries, including proposals/suggestions for the TG, we encourage you to contact us via; [crda@telecom.net.et](mailto:crda@telecom.net.et) or Tel: 403331/403133.**