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An Assessment Of The Room For Non-state Actors In Initiating Legislations In The Ethiopian Federal Law-Making System: The Case Of Professional Associations Of Lawyers

Tesfaye, Helen

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ASSOCIATIONS OF LAWYERS**

HELEN TESFAYE TSEGAYE

Bahirdar University School of Law

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LAWYERS**

**A Thesis Submitted In Partial Fulfillment of the Requirements
For The Degree of Master of Laws in Legislative Studies And
Legal Drafting**

By

Helen Tesfaye Tsegaye

Advisor

Wubihet Shiferaw (Dr.)

**Bahirdar University, School Of Law in Collaboration With
Faculty of Law, Vrije Universiteit Amsterdam**

July 2023

Thesis approval page

The Thesis Titled “An Assessment of the Room for Non-State Actors in Initiating Legislations In The Ethiopian Federal Law-Making System: The Case of Professional Associations of Lawyers” by Mrs. Helen Tesfaye Tsegaye is approved for the degree of Master of Laws (LLM).

Board of Examiners

	Name	Signature
Advisor	_____	_____
Internal Examiner	_____	_____
External Examiner	_____	_____

Date: _____

Declaration page

I, the undersigned, declare that the thesis comprises my work. In compliance with widely accepted practices, I have duly acknowledged and referenced all materials used in this work. I understand that non-adherence to the principles of academic honesty and integrity, misrepresentation/fabrication of any idea/data/fact/source will constitute sufficient grounds for disciplinary action by the University and can also evoke criminal sanction from the State and civil action from the sources which have not been properly cited or acknowledged.

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Name of Student

University Id. Number

Date

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Contents

Operational Definitions	vi
Abstract.....	vii
INTRODUCTION.....	1
Statement of the problem	5
Objectives of the study.....	8
Research questions.....	9
Significance of the study.....	9
Scope of the study	10
Methodology of the Study	10
Organization of the paper.....	13
CHAPTER ONE	15
LITERATURE REVIEW	15
1.1. Conceptual framework.....	15
Initiation of Legislation.....	15
Meaning and types of Non-state actors (NSAs).....	17
Professional Associations	19
The Rationale to Engage NSAs in Initiating Legislation.....	23
1.2. International and Regional Legal Frameworks on Non-state Actors' Right to Engage in Initiating and Drafting Legislation.....	26
1.3. Country's Experience on the Role of Non-state Actors in Initiating Legislation.....	30
1.3.1. Bodies with the power of initiating legislation	31
1.3.2. The Methods of initiating legislation open for NSAs	33
1.3.3. Areas Limited for a legislative initiation by NSAs	33
CHAPTER TWO	36
ETHIOPIAN FEDERAL LAW-MAKING SYSTEM ON INITIATION OF LEGISLATIONS	36

2.1. The law on Initiation of Legislation in General	36
What is the meaning of initiating legislation in the Ethiopian legal system?	37
Which organs have the right to initiate legislation?.....	39
2.2. A Review of the Law in the Initiation of Legislation by Non- state actors	41
2.2.1. Specific legislations on initiation of legislations by Non- state actors	43
CHAPTER THREE.....	46
THE PRACTICE OF INITIATING LEGISLATION BY NSAs IN THE ETHIOPIAN FEDERAL LAW-MAKING SYSTEM.....	46
3.1. The understanding of the initiation of legislation	48
3.2. Methods of initiating legislation	50
3.3. Practical cases and challenges.....	51
CHAPTER FOUR.....	56
SUMMARY, CONCLUSION, AND RECOMMENDATION	56
Summary	56
Conclusion	63
Recommendation	65
BIBLIOGRAPHY	i
APPENDIXES	xii
Appendix 1: Interview Guide Questions.....	xii
Appendix 2 Table: Summery Profile of Research Participants	xvi

Operational Definitions

- **Enacting legislation** - the process of ratifying laws by a legislative body through its law-making process (scrutiny, discussion, debate, and voting within parliament).
- **Independent initiation (Independent legislative initiative)** - an initiation of legislation by non-state actors, individual citizens, and the public in general.
- **Initiation of Legislation (Legislative initiative)** - the process of submitting or proposing, in a written way, an *issue or ideas* for new legislation or to make submissions or proposals for legislative amendment, enactment, or repeal.
- **Non-state actors (NSAs)** - legally established civil society actors; which are defined as Non-Governmental, Non-partisan, Not for profit entities established at least by two or more persons voluntarily and registered to carry out any lawful purpose, and include Non-Government Organizations (NGOs), Professional Associations, Mass-based Societies, and Consortiums.¹ (the terms Non-state actors (NSAs) and Civil Society Organizations(CSOs) are used interchangeably in this paper)
- **Professional Associations of Lawyers** - are defined as an organization formed based on the law profession, with the objectives of protecting the rights and interests of its members; promoting professional conduct, building the capacities of members, or mobilizing professional contributions of its membership to the community and the country.
- **The law-making process** – a process during which an idea of a law is transformed into a law.² It includes considering, developing, investigating, approving, or revising proposed or existing legislation.³

¹ Organizations of Civil Societies Proclamation, 2019. Art. 2(1) Proc. No.1113, Neg. Gaz. Year 25, No.33 [Hereinafter Proclamation no. 1113/2019]

² Sihako, B. (n.d.). Bogdanovskaia - Lecture notes 4, *THE LEGISLATIVE BODIES IN THE LAW - MAKING PROCESS I*. University of Namibia. Retrieved from: <https://www.studocu.com/row/document/university-of-namibia/law-of-persons/bogdanovskaia-lecture-notes-4/9620247>. Retrieved on September 16,2021 [Hereinafter Sihako, B. *The legislative bodies in the law - making process*]

³ Nheu, Natalina, *By the people, for the people?: community participation in law reform* /1st ed. ISBN: 978 0 909136 93 2 (pbk.) Series: Access to justice and legal needs; v. 6.,P. 3,Available on [http://www.lawfoundation.net.au/ljf/site/articleIDs/CC42E4B3179ECC48CA2577EB000460AF/\\$file/ByThePeopleForThePeople_web.pdf](http://www.lawfoundation.net.au/ljf/site/articleIDs/CC42E4B3179ECC48CA2577EB000460AF/$file/ByThePeopleForThePeople_web.pdf) retrieved on September 23,2022

Abstract

The legislative initiative is a crucial stage of law-making since it signifies the start of legislation development. At the legislative process's outset, the citizens' initiative is pivotal, granting individuals the chance to participate. NSAs' active involvement in law-making helps governments make informed decisions and uphold democratic values. While countries may differ in approaches or techniques, nations utilize the citizens' initiative as a means of engaging with constituents directly in law-making. This model of the citizens' initiative is extensively adopted in most European countries and European Union levels in addition to a few in Africa. In Ethiopia, citizens' right to participate in the decision-making process is guaranteed by constitutional principles, but there is no clear law regulating its implementation in the initiation and pre-initiation process. Existing domestic research on the topic is limited and mainly focuses on general concepts of public participation in other stages of the law-making process. To fill this gap, this study aims to analyze the legal and practical settings for NSAs' involvement in initiating legislation in Ethiopia, with a particular focus on professional associations of Lawyers. These associations, in addition to protecting the rights and interests of their members, are expected to contribute to the community and the legal system. The research utilizes a qualitative approach and purposive sampling method for collecting data from selected experts from both state and NSAs, to triangulate the case from different perspectives and appraise both legal and practical situations of legislative initiations by NSAs. It also aims to identify potential challenges and suggest possible approaches for legal intervention to benefit both state and NSAs.

The study began by pointing out the absence of a defined legal framework outlining the role of NSAs in the legislative initiation process of the federal lawmaking system. It then brings attention to the fact that, although the law on the law-making process restricts direct initiation of legislation by NSAs, it offers alternative mechanisms to participate indirectly; as well as recent proclamations created room for NSAs' participation in legislative initiation. Nonetheless, there still exist discrepancies that need to be addressed in the legislation too. And the definition of initiating legislation in the law is narrow which only includes the right to present final draft legislation to the enacting body. This definition, however, falls short in promoting citizen democratic participation since it disregards other methods of involvement, which leads to a gap in practice, where other indirect forms of participation in initiating legislation are not fully understood or utilized both by the state and NSAs. Recommendations include expanding the definition of legislation initiation in the law-making process, amending legal provisions to align with constitutional principles, establishing a legal framework for sustained NSA participation, encouraging proactive involvement of professional associations, and conducting further research on regional laws and other forms of CSO engagement on the initiation of legislation stage of law-making. Generally, there is a need to explore other avenues for NSAs to partake in the legislative process and use any possible legal opportunities and lead-ins. Ultimately it should be noted that citizens should not have to resort to finding loopholes and gaps to exercise their constitutional right to express their sovereignty through direct or indirect democracy.

INTRODUCTION

The genesis of the process of making law is the stage of initiation.⁴ It is the first stage of drafting legislation. Legislation is developed, debated, and passed by a parliament. Legislation is generally known as a parliament-made law or statutory law.⁵ Legislation starts its life from a proposed idea of law. All legislation starts its life as a bill and a bill is a proposed law that is introduced into the parliament, where it is subject to scrutiny, discussion, debate, and voting.⁶

The dictionary meaning of initiation is to start or cause something to happen.⁷ Different sources use different terms to refer to the process of initiating legislation such as Popular Initiatives,⁸ initiative power⁹ Petition for law-making,¹⁰ Proposal for law-making or amending,¹¹ Citizens' initiative, or right of initiative¹², etc. Generally, as a common concept, initiating legislation denotes the process of submitting or proposing, in a written way, for an issue or idea to become a law.

⁴ Shiferaw W.M., *The Law Making process in Ethiopia. Post 1974, Part Two, Law Making under the Provisional Military government of Ethiopia*. Journal of Ethiopian Law, 1989, at p.128 available at: https://journals.co.za/doi/pdf/10.10520/AJA00220914_114 [Hereinafter Shiferaw W.M., *The Law Making process in Ethiopia*]

⁵ Retrieved from: [Initiate legislation definition and meaning | Collins English Dictionary \(collinsdictionary.com\)](https://www.collinsdictionary.com/en/english-grammar/definition/initiate-legislation). on September 28,2022

⁶ *ibid*

⁷ *ibid*

⁸ Austrian parliament website:

<https://www.parlament.gv.at/ENGL/PERK/GES/WEG/INITIATIVE/index.shtml>. Retrieved September 19,2022

⁹ Initiative Power. CaliforniaInitiative636 (1994).http://repository.uchastings.edu/ca_ballot_inits/799brought to you by CORE View metadata, citation and similar papers at core.ac.uk., Provided by UC Hastings Scholarship Repository (University of California, Hastings College of the Law). Retrieved on September 18,2022

¹⁰ Rosenberger, S., Seisl, B., Stadlmair, J., & Dalpra, E., *What Are Petitions Good for?* Institutional Design and Democratic Functions Department of Political Science, Faculty of Social Sciences, University of Vienna, Vienna, Austria, Parliamentary Affairs (2020) 00,1–21 Retrieved <https://academic.oup.com/pa/advancearticle/doi/10.1093/pa/gsaa058/6010644> by guest on 09 September 2022. [Hereinafter Rosenberger, S. et al, *What Are Petitions good for?*]

¹¹ Wood, C. M., *Initiative and Referendum*. A Publication of Research Division of the National Association of Counties(NACo) County Services Department of America. August 2009. Retrieved from <https://naco.org/sites/default/files/documents/Initiative%20and%20Referendum.pdf> on October 1, 2022.

¹² Regulation (EU) No 211/2011 of the European Parliament and of the Council of 16 February 2011 on the *citizens' initiative* (OJ L 65/1, 11.03.2011) [Hereinafter Regulation (EU) No 211/2011. on the *citizens' initiative*]

Although polities' legislation-making systems differ, according to Seidman, Seidman & Abeyesekera, states must provide an answer to six basic questions in their law-making system.¹³ The first and basic question accordingly is identifying how ideas for new legislation enters the system and from whom. For a legal drafter, the process of drafting legislation begins with the receipt of drafting instructions and ends with the completion of an agreed draft.¹⁴ However, for the general law-making process, the root of drafting legislation starts with an idea. Law-making is a process during which an idea of a law is transformed into law.¹⁵ This stage includes preparing the first version of a project (bill) in which an idea on law is realized.¹⁶

The traditional approach to law-making or passing legislation is the command and control legislation method, which is to impose and create legal obligations and sanctions for violation.¹⁷ However, one of the basic problems and focus in a democratic government is how to design political institutions that facilitate the representation of citizen interests.¹⁸ If development in a country or globally needs to become a people-centric and people-driven process, the active engagement or involvement of individual citizens or groups of individuals is fundamental. There is a growing consensus that it is essential to involve people in the design and implementation of public policies and programs if desired outcomes are to be achieved.¹⁹

¹³ “All states must provide answer to six basic questions in their law making system. (1) How do ideas for new legislation enter the system - and from whom? (2) Who preliminarily explicates these ideas - and how? (3) Who decides, and by what criteria and procedures, to spend scarce drafting resources on some bills – and not others? (4) Who employs what procedures to ensure that bills meet formal standards, and do not contradict other laws? (5) Who does what kinds of research to determine the bills' details? (6) How do input and feedback institutions grant to some people, and not others, the power to supply information to those preparing bills - about facts, various theories, and various groups' claims and demands?”. Ann Seidman, Robert Seidman and Nail Abeyesekere, *Legislative Drafting for Democratic Social Change (A Manual for Drafters)*, Kluwer law International, Hague, 2001, P. 22

¹⁴ Helen Xanthaki. *Thornton's Legislative Drafting*. 5th ed., Bloomsbury Professional, London 2013.[Hereinafter G.C. Thornton, *Legislative Drafting*, 2013 (by H. Xanthaki)]

¹⁵ Sihako, B. *The legislative bodies in the law - making process*

¹⁶ *ibid*

¹⁷ Mark Segal. *Legislative Drafting: Principles and Materials*. Retrieved from <https://marksegaldotnet.files.wordpress.com/2011/07/legislativedrafting-marksegal.pdf> on September 18,2022

¹⁸ Gerber, Elisabeth R.. *Are Legislators Afraid of Initiatives? Anticipation and Reaction in the Policy Process*. (1993). Page 1

¹⁹ Centre for Good Governance (CGG). *The Right to Information Act: A Guide for Civil Society Organizations*. Capacity Building for Access to Information Project. Road No. 25, Jubilee Hills, Hyderabad - 500033, Andhra Pradesh (India), July 2006. Retrieved from <https://www.cgg.gov.in/core/uploads/2017/07/16.CSO-Guide.pdf>

The attitude of good governance demands that the Government, the Private Sector, and Civil Society work together in cross-sectorial partnerships to advance social progress and equity. There also is a silent revolution taking place within the development processes and the single most important feature of this revolution is the growing involvement of Civil Society in developing long-term and replicable social and economic development initiatives through public-private partnerships.²⁰ Therefore, modern systems, as a vehicle to promote active citizenship and more responsive legislation, are following the approach to democratic Civic engagement; which is concentrating on involving citizen and civil society organizations in the development of policy and legislation to address matters of public concern.²¹ In this respect, governments consciously seek the views of citizens and social groups and have a genuine interest in achieving outcomes that incorporate their perspectives.

The legislative initiative is the starting point in the development of legislation and it is, therefore, an indicator of real democracy.²² Thus, the active involvement of NSAs in the law-making process helps the government make effective informed decisions and improve the actual realization of the democratic principles of freedom of expression, participation, and the right to give the opinion of the citizen.

In consideration of the role of citizens' initiative right as an important democratic tool to represent an opportunity for citizens to be actively involved in the legislative process, starting from the first phase, the citizens' initiative right is regulated in most European States, as well as at the European Union level.²³ Though the methodology and procedures differ, in European countries, the citizens' initiative mechanism as an instrument of direct democracy is practiced in most countries like Switzerland, Austria, Italy, Macedonia, Poland, Romania, Finland, Slovenia,

Retrieved on September 19, 2022, Page 24 [Hereinafter Indian Centre for Good Governance (CGG).*The Right to Information Act, A Guide for Civil Society Organizations*]

²⁰ *ibid*

²¹ Forrester, Leila Patel., *Toward meaningful civic engagement*

²² Stoica, C., & Safta, M., *Legislative initiative of citizens in Romania and at the European level*, Journal: Acta Juridica Hungarica, 01 Jun, 2014, ISSN: 1588-2616. P. 163. [Hereinafter Stoica, C., & Safta, M., *Legislative initiative of citizens in Romania and at the European level*]

²³ *ibid*, Page 163

Lithuania, and Spain.²⁴The constitutions of Kenya and South Africa are also an evident example of the inclusion of the right of initiating legislation of citizens through a petition in their legal system.

In Ethiopia, despite the constitutional principles of the right to participate in the decision-making process, there is no clear law on the way this right could be implemented or exercised in the initiation and drafting process.²⁵ Prior domestic researches on the area²⁶ are very few and tend to focus on the general concept of public participation with an emphasis on the other stages of the law-making process without a detailed review of the subject matter initiation of legislation by actors other than the state. And other research²⁷ on the area are dated back in time and focused on the general concept of public participation, not specifically the initiation of legislation, based on previous laws and limited only to examining the legal framework without touching practical aspects and solutions specifically on the issue of initiation of legislation.

Owing this, this study is designed to specifically assess and identify the legal and practical settings for NSAs' involvement in the initiation of legislation in Ethiopia with a particular concern on Professional Associations of Lawyers. Professional associations are one form of NSAs/ CSOs formed based on a profession and their objectives in addition to protecting the rights and interests of their members and promoting professional conduct including mobilizing professional contributions of their membership to the community and the country.²⁸ Thus, among these associations, this study emphasizes those professional associations formed by lawyers.

²⁴ Banasiuk, J., & Zych, T. Joanna Banasiuk and Tymoteusz Zych. *State of Democracy Human Rights and the Rule of Law in Poland Recent Developments*. ISBN 978-83-940214-3-6. September 2016. Available at: [file:///C:/Users/user/Downloads/Citizens legislative initiative instrume.pdf](file:///C:/Users/user/Downloads/Citizens_legislative_initiative_instrume.pdf). Retrieved on October 25, 2022.

[Hereinafter, Banasiuk J. et al, *State of Democracy Human Rights and the Rule of Law in Poland Recent Developments*]

²⁵ Demoz Aman Hamda., *The Role of Public and Civil Society in the Enactment of Ethiopian Federal Laws*. A Thesis submitted in partial fulfillment of the requirements for the degree of master of law in Legislative Studies and Legal Drafting to, Mekelle University School of Law in Collaboration with the Faculty of Law of Amsterdam University. May 2016. P. 47[Herinafter Demoz, A., *The Role of Public and Civil Society in the Enactment of Ethiopian Federal Laws*]

²⁶ Kahsay Mehari, the *Legislative Process in Ethiopia*. A Thesis Submitted to the School of Graduate Studies of Addis Ababa University in Partial Fulfillment of the Requirements for the Award of Masters Degree in Public Management and Policy Specialization Public Policy Studies, to Addis Ababa University, 2013

²⁷ *ibid* and *supra* note 25

²⁸ Proclamation no. 1113/2019

Because they are expected to be closer to the law-making and the legal system both in their members' awareness and the contribution they have to provide to the country.

The research takes a qualitative method. Data collection focuses on selected expertise from both state and non-state actors, to help triangulate the case from different perspectives. The study is not only targeted at assessing the law but also trying to evaluate the practical situations and practical responses given to legislative initiations made by non-state actors. It also tried to take a look at the legislative initiation experience of some countries which have good practices and experience in opening their system to NSAs. And therefore finally identify the problems and recommend possible approaches to legal intervention for both state and non-state actors.

Statement of the problem

Laws are made by a state intended to create legal norms in a society. For legitimacy and effective enforcement, legislation needs to reflect the values, needs, and interests of the citizen. A state may regulate the law-making process, plan it and thus influence the development of the law; but its activity must be legal and not arbitrary.²⁹ A political system through which elites control power at the center may tend to make the legitimacy of regimes questionable.³⁰ In the law-making process, the interest of society and the interest of the state must meet.³¹ As a result, the law-making process must adopt a system that satisfies the desires of society.

In the face of rapid globalization and growing liberalization countries in Africa as well as other developing countries are obliged to promote governance that assures more effective utilization of potential and available resources in the State, the private profit-making sector, civil society, and also international cooperation for meeting socio-economic development ends. In other words, assuring sustainable human development requires the active participation of all economic actors in a broad-based social partnership framework, where each is enabled to contribute in areas of its

²⁹Tamirat Cheru Hailu. *Regional Autonomy of Policy-Making and Implementations in the Ethiopian Federation: A Comparative Study on the Formulation and Implementations of Urban Policy in the Amhara and SNNPR States since 199*. A Dissertation Presented for the Requirement of Doctoral Degree of Philosophy in Federalism and Governance Studies to Addis Ababa University, April 2018, p. 26

³⁰ *ibid*

³¹ Sihako, B. *The legislative bodies in the law - making process*. page 4

comparative advantage.³² The significant element of achieving this end comes through strengthening the law-making process coined with one of the foundational principles of democracy i.e. designing an appropriate framework of public participation in decision-making. It implies that citizens are equally entitled to have a say in decisions affecting their lives; since the sources of state authority are the people.

Public participation in the law-making process in most cases starts from or deems to focus starting from, the process of involving citizens in consultation and discussion of a bill or draft legislation made by the concerned governmental body. However, it is supposed to include or must start from the initial stage of bringing an idea for the making of legislation. It is now generally accepted that modes of participation may include not only indirect participation through elected representatives but also forms of direct participation.³³

In recent decades, courts, legislatures, administrative agencies, and other institutions all have used a participatory governance approach which is, engaging people who are affected by a problem in the process of solving it, to tackle complex problems of law and public policy.³⁴

For that purpose, an individual must have enough information, be able to analyze it, and express opinion. Individuals (or groups of individuals) need to pass a long way for the defense of their bills. As a rule, they have to appeal to the governmental body with a suggestion to adopt an act.³⁵

In a democratic society, people may use mass media, hold meetings, and use other forms of expressing and communicating their ideas. However, practically, these approaches are indirect and take a long way for the results to be achieved. Such actions may only affect the level of the local government. On the level of the state, people's initiative may have resulted if a group of people have the right of the legislative initiative and thus a prepared act may be introduced into the parliament.³⁶

³² Cerritelli, W.E., *Updated Mapping Study Of Non State Actors In Ethiopia. 2008*. Vol. 1, page 8

³³ Ronald Odhiambo Bwana. *Public Participation in Kenya. Dead Letter Law?* July10, 2012. Available at: <https://ssrn.com/abstract=3879859>. Retrieved on October 14,2022 [hereinafter Ronald B., *Public Participation in Kenya*]

³⁴ Lee, Jaime, '*Can You Hear Me Now?*': Making Participatory Governance Work for the Poor. *Harvard Law & Policy Review*, Vol. 7, No. 2, Summer 2013, pp. 405-441., Available at SSRN: <https://ssrn.com/abstract=2485325> or <http://dx.doi.org/10.2139/ssrn.2485325> Retrieved on September 16,2022

³⁵ Sihako, B. *The legislative bodies in the law - making process*. Page 12

³⁶ *ibid*, page 12

Therefore, the law-making process must offer citizens, civil society organizations or NSAs, experts, and other interested parties to make submissions or proposals for legislative initiation or reform and an opportunity to have their legislative initiatives considered by the parliament to promote direct democracy and free civic activity.

In Ethiopia, the FDRE Constitution contains key principles of government administration like accountability, transparency, and public participation. And article 8 of the constitution states that the sovereignty of the people shall be expressed through their representatives elected as per the constitution and through their direct democratic participation. It also guarantees the freedom of association to all citizens under Article 31. In addition, Article 29 of the Constitution also provides the right to freedom of thought, opinion, and expression. Accordingly, this right includes “freedom to seek, receive, and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or print, in the form of art, or through any other medium of choice”. Article 43(2), reinforces the Right to Development, expressing that Ethiopian nationals possess the freedom to actively engage in national development initiatives while emphasizing their right to provide input and feedback about policies and projects that may directly impact their community.

Chapter 10 of the constitution, which pertains to National Policy Principles and Objectives, introduces supplementary rights that support citizens’ active involvement. For example, concerning the economic objective, Article 89(6) specifies that the government must constantly foster public participation when formulating national development policies and programs. Additionally, it is the government’s responsibility to offer support for citizens’ initiatives concerning their developmental endeavors. Similarly, Article 92(3), addressing the environmental objective, asserts that people have an inherent right to meaningful consultation and voice their viewpoints during the planning and implementation of environmental policies and initiatives that have a direct impact on them.

Affirming these constitutional principles, recent enactments in the law-making process are opening opportunities for the active engagement of the people in law-making and initiating the process. However, the law which regulates the law-making process i.e. the House of Peoples Representative of the FDRE Rules of Procedure and Members’ Code of Conduct Regulation No.

6/2016 seems to reserve initiating of laws only to the government.³⁷ It in addition provides a list of actors with the power to initiate laws as members, committees, parliamentary groups, and other bodies authorized by law.³⁸ Here, one might argue that NSAs can be included under the list of other bodies authorized by law. However, the regulation did not provide any definition for who this list could include. The only requirement put regarding this is, an initiation made by the ‘other bodies authorized by law’ should be in an approved signature by the head of the initiating organization. And on the other hand the FDRE House of Peoples’ Representatives Working Procedure and Members’ Code of Conduct (Amendment) Proclamation number 470/2005 has a different list of actors who can initiate legislation.³⁹

Hence, the inconsistency between the constitutional principles of sovereignty of the people to direct democratic participation and the above upholding enactments and the lack of clarity or reservation made on the right to initiate laws by the proclamation as well as the regulation needs precision. And a clear view needs to be created concerning the approach of the law-making system in legislative initiations made by NSAs.

Therefore the aim of this paper is twofold; First, to examine the laws governing the involvement of NSAs, with a focus on lawyers’ associations, in the initiation of legislation in the Ethiopian federal law-making system. And second, to investigate real-world examples of NSA participation and provide suggestions for potential solutions. By accomplishing this, the research will assist both NSAs and policymakers in comprehending the role of NSAs in legislation initiation, and offer a proper legal strategy for involvement.

Objectives of the study

General objective

The main goal of this research is to evaluate the extent of opportunities that NSAs have in initiating legislation within the Ethiopian federal law-making system by examining the legal

³⁷ Art. 51

³⁸ Art. 51(2)

³⁹ Art. 6(2) – “Whereas the principal body of draft law initiator is the government, the following bodies shall have the power to initiate draft laws: (a) Government (b) the House of the Federation (c) the Speaker (d) Federal Supreme Court (e) Committees of the House (f) Members of the House (g) other governmental institutions directly accountable to the House”

framework and practical insights from experts in the field. Additionally, this research aims to suggest intervention approaches that both state and NSAs can take based on the findings.

Specific objectives

- To assess the legal framework on NSAs' right to initiate legislation;
- To assess the practical experience of initiating legislation by NSAs and the response by state actors or concerned governmental bodies;
- To recommend a possible approach of intervention for the gaps identified.

Research questions

General questions

The research generally focuses on seeking answers for the legal and practical settings for NSAs' involvement in the initiation of legislation in Ethiopia with a particular concern on Professional Associations of Lawyers. And what possible solutions can be identified for the gaps.

Specific questions

1. Do the legal frameworks on initiation of legislation give the right or have room for NSAs?
2. What practical experiences are there regarding legislation initiations made by NSAs, particularly by professional associations of Lawyers, and what results were achieved?
3. What should be the possible way of filling the gaps either in the law or practice?

Significance of the study

This study generally examines the legal and practical arenas regarding the issue of initiation legislations by NSAs and identifies and clarifies any solving mechanism and will show the state actors to properly entertain cases of initiating legislation brought before them and on the other hand to show NSAs play their role in the initiation of legislation properly.

Therefore, this study might specifically have the following significance:

1. To create a clear understanding of the Ethiopian legal framework on the room it has for NSAs' right to initiate legislation.

2. To show what the practice and experience of initiation of legislation were by NSAs and the response for the initiations by state actors.
3. Identify potential resolutions for the gaps discovered, thereby grabbing the attention of state actors towards the best approach for considering independent legislative initiations and by doing so, help NSAs to fully exercise their right of initiating legislation.

Scope of the study

The objective of this study is to find an answer to the room that citizens and NSAs have on the initiation of legislation in the Ethiopian Federal law-making system. And it focuses only on the legislation and assessment of law-making processes of the federal government. As far as the hierarchy of laws is concerned, this study is limited to the power or right of initiation in creating other laws, excluding the Constitution's enactment or amendment. The initiation of constitution-making or amendments is a broad topic that requires separate and individual research.

Regarding the scope of what activities can be included in the concept of initiation of legislation, it goes as far as assessing the process of submitting or proposing, only in a written way, for an issue or idea to become a law or for an existing law to be amended. And time-wise, particular attention is given to the current practices of NSAs considering those laws that either partially or fully provide room for the involvement of NSAs in the process of creating legislation based on the overarching constitutional principles that have been enacted merely within the last four years.

Among the NSAs, this study focused on those CSOs which base their establishment based on the Law profession (professional associations of Lawyers) selected for accelerated data collection. And they are selected on the purpose that their objective in addition to protecting the rights and interests of their members is expected to include mobilizing professional contributions of their membership to the community and the legal system of the country.

Methodology of the Study

The research follows a qualitative research methodology. Since it sought to understand how respondents perceive the legal framework and experienced the process of participation in initiating legislation in the law-making process.

In addition to both primary and secondary sources of data, the researchers' observation is employed. Due to the nature of my work as a public prosecutor experienced over a decade, of which a four-year tenure at the Legal Studies, Drafting and Dissemination Directorate General of the FDRE Ministry of Justice, the researcher was able to witness both the legal and practical surfaces of the matter at hand, allowing to gain valuable experience while also identifying areas of weakness.

As secondary sources, different legislations, journals, published articles, books, internet sources, and other relevant unpublished materials which deal with the issue of initiation of legislation in general and initiation of legislation by NSAs, in particular, are used. It is tried to take the legislative initiation experience of some countries which have good practices and experience in opening their system to NSAs. It also tried to look legislative initiation experience of some countries which have good practices and experience in opening their system to NSAs. Accordingly, a review of the system of Spain from Europe, South Africa, Kenya from Africa, and the United States from America is observed with an emphasis in addition to a glimpse view of other systems. These countries are chosen as an example since they have a similarity in population number and diversity with Ethiopia and also follow a federalist system of governance.

Regarding the primary data sources, experts from both NSAs and concerned governmental organizations were selected. The research employs a purposive sampling technique to select primary data sources. The purpose of purposeful sampling is to select information-rich cases whose study will illuminate the questions under study.⁴⁰ Among the NSAs or civil societies, it focuses on professional associations of Lawyers. They are one form of CSOs formed based on a profession, and their objectives in addition to protecting the rights and interests of their members and promoting professional conduct include mobilizing professional contributions of their membership to the community and the country.⁴¹ And since the study is specifically focusing on the issue of initiation of legislation, it is necessary to choose a professional association that is more prone to the law-making and the legal system both in the level of members' awareness and expected contribution to the area to the community and the legal system.

⁴⁰ Patton, M. , *Qualitative evaluation and research methods*. Beverly Hills, CA: 1990. Page.169-186

⁴¹ Proclamation no. 1113/2019, Art. 2(5)

And from the state actors, Concerned expertise from the House of People Representatives, since it is the highest legislative organ or has the power of legislation in all matters assigned by the Constitution to Federal jurisdiction;⁴² and expertise working in FDRE Ministry of Justice, since the organization has the duty and power to works as principal advisor and representative of the federal government regarding the law, were selected.⁴³

Regarding the procedure of selecting primary data sources, the participants first are selected using secondary data sources. Meaning, they are selected from the web page of the Agency for Civil Society Organizations, since it is the concerned office particularly established to register, support and follow up on every activity of CSOs that are working in Ethiopia.⁴⁴ Accordingly, the list indicates:-

- Ethiopian Bar Association,
- Ethiopian Lawyers Association (ELA),
- Ethiopian Lawyers with Disability Association, and
- Ethiopian Young Lawyers Association, under Professional Associations.

And the other three lawyers base CSOs which are, Ethiopian Women Lawyers Association, Lawyers on Human Rights, and Ethiopian Law Society for Development as Charitable Associations.

Therefore, since the scope of the study is limited to NSAs which are professional associations, the first group was taken.

After securing their consent, an in-depth interview is conducted to get the desired information relevant to the study since the participants' observations and experiences are sought to be examined. And it assists in determining what respondents understood about the extent of the power given to the law-making process in initiating legislation for NSAs. And help interpret the engagement in the process from both perspectives of the civil society organizations as well as

⁴² The Constitution of the Federal Democratic Republic of Ethiopia Proclamation No. 1/1995, *Federal Negarit Gazeta*, 1st Year, No.1, Addis Ababa, Art. 55(1)

⁴³ Federal Attorney General Establishment proclamation number 943/2016, Art. 6(2) [Hereinafter proclamation no. 943/2016]

⁴⁴ Agency for Civil Society Organizations, List of registered local CSOs, 2021, ACSO. Available at: [FDRE Agency for Civil Society Organizations - ACSO /Local.pdf \(acso.gov.et\)](https://www.acso.gov.et/Local.pdf). Retrieved on September 26, 2023

from expertise in government organizations. The interviews were conducted in Amharic with each of the research participants. At the beginning of each interview, the purpose of the interview was explained. Probing and follow-up questions were utilized to gain further insights since it was a qualitative interview. The order of the questions was not strictly adhered to when necessary, allowing for freedom to probe when interesting points arose. The interviewer guided the interview based on the participant's interests and concerns. The interviews took place at a convenient time and location for the participants, and their discussions were recorded for analysis.

Organization of the paper

This research paper is organized into an introduction part and four chapters. The introduction section includes a contextual background that provides an overview of the topic being researched. The main and subsidiary research questions are clearly stated, along with the research objectives. The research method used is also described in detail in addition to the significance, scope, and limitations of the research. Finally, the contents of the chapters included are outlined.

The first part of chapter one discusses the conceptual frameworks of legislation initiation, the meaning and types of Non-State Actors (NSAs), and the reasons for engaging NSAs in initiating legislation, specifically focusing on professional association types of NSAs. The second part provides a review of countries with good practices and experience in opening their legislative systems to NSAs.

Chapter two it was tried to discuss the general law which deals with the initiation of legislation. And after an explanation of what initiation of legislation in the Ethiopian federal law-making system is, the specific laws which have room for law-making by NSAs were explained. Then chapter three assesses the practice of initiating legislation by NSAs with a brief starting from the conceptual understanding of both the state actors and professional association of lawyers in the initiation of legislation, the methods followed until now, and the practical and legal challenges. And finally, a summary of all the chapters, concluding remarks, and recommendations are provided in chapter three of the research paper.

Limitations of this study

The major limitation of this paper is that there is limited updated literature available on the specific area of initiating legislation by NSAs in Ethiopia. This shortage of literature may have affected the depth of analysis in this study, which relied heavily on the personal experience and observations of the researcher as well as interviews with representatives and experts. During the data collection phase, a particular professional lawyers association was unable to provide an interview despite numerous attempts to establish communication due to several personal reasons that were cited by their representative. As a result, electronic sources were utilized in an attempt to bridge the aforementioned gap; however, they proved to be not as sufficiently helpful and useful for the study as anticipated.

CHAPTER ONE

LITERATURE REVIEW

This Chapter is devoted to the exploration of conceptual frameworks related to the introduction of legislation while defining and categorizing Non-State Actors (NSAs). It delves into why NSAs participate in initiating legislation, with a specific focus on the role professional associations play among NSAs. Additionally, the latter portion of the chapter conducts a review of nations that have successfully incorporated NSAs and citizens into their legislative systems, serving as excellent illustrations and models for best practices. Furthermore, it includes a thorough examination of global and regional legal instruments about this issue.

1.1. Conceptual framework

Initiation of Legislation

Initiation is the first step in making legislation. However, before defining initiation, it is important to see what legislation is. The word legislation is derived from the Latin words ‘legis’ which means law and ‘latum’ to make, and gives the meaning ‘making of law’. The Merriam-Webster dictionary also defines legislation as the exercise of the power and function of making rules (such as laws) that have the force of authority under their promulgation by an official organ of a state or other organization. And according to the Black’s Law Dictionary, it is the act of giving or enacting laws. The concept of drafting legislation refers to the process of enactment of laws by a legislative body through its law-making process. The legislative process includes evaluating, amending, and voting on proposed laws and is concerned with the words used in the bill to communicate the values, judgments, and purpose of the proposal.

According to G.C. Thronton, legislation is a very special form or way of communication. The framework of society depends in large measure on it and much that is dear to the heart is frequently affected - liberty, perhaps even life, commercial and industrial relations between persons, property, marriage, taxes, and indeed all aspects of human conduct within society. He further explains that legislation has as its purpose the establishment in written form of rules for the regulation and control of future social conduct. In particular, restraints are imposed on

individuals and groups of persons and the exercise of various freedoms is regulated and on the other hand, important rights and benefits are conferred or protected.⁴⁵ Therefore, according to him, the principal purposes of the legislation are two; one to establish and delimit the law and second, to communicate the law from the lawmaking authority to society and in particular to the persons affected by it.⁴⁶

The literal meaning of initiation is the act of starting something for the first time; introducing something new.⁴⁷ Initiation of legislation is, therefore, the beginning of the legislation-making process. It also includes the act of initiation for an amendment of an existing law. It is a basic element in terms of the participation of the people in the democratic decision-making process. The right to initiate legislation enables citizens to directly participate in the law-making process.⁴⁸

When the legislative initiative power is given to people, it is the starting point in the development of legislation and it is, therefore, an indicator of real democracy. Various sources use different terms to refer to the process of initiating legislation such as Popular Initiatives, initiative power⁴⁹ Petition for law-making,⁵⁰ Proposal for law-making or amending,⁵¹ Citizens' initiative, or right of initiative⁵², etc.

As a general principle on the understanding of the right of citizens or CSOs to initiate or propose legislation, it is important to distinguish between the role and responsibility of the government and these actors towards the legislative process. An initiation for legislation does not have to follow or fulfill the formal requirements for written legislation. It is an expression of ideas and opinions of the citizen and a mechanism to ensure the rights and needs of all are met. The state,

⁴⁵ G.C. Thornton, *Legislative Drafting*, 2013 (by H. Xanthaki). Page 141

⁴⁶ *ibid*

⁴⁷ "initiation". Definitions.net. STANDS4 LLC, 2021. Retrieved from the Web. <https://www.definitions.net/definition/initiation>. Retrieved on September 29, 2022

⁴⁸ Stoica, C., & Safta, M., *Legislative initiative of citizens in Romania and at the European level*. Page 163

⁴⁹ University of California, *Initiative Power: California Initiative 636*. Hastings College of the Law. 1994. An Article on Initiative Power. Available at: http://repository.uchastings.edu/ca_ballot_inits/799. Retrieved on September 18, 2022.

⁵⁰ Rosenberger, S. et al, *What Are Petitions Good for?*

⁵¹ Wood, C. M. *Initiative and Referendum: A Publication of the Research Division of the National Association of Counties (NACo) County Services Department of America*. August 2009. Retrieved from <https://naco.org/sites/default/files/documents/Initiative%20and%20Referendum.pdf> on September 18, 2022

⁵² Regulation (EU) No 211/2011. on the *citizens' initiative*

through government departments and Parliament, is responsible for developing laws, while citizen and civil society organizations contribute to the content of the legislation being developed.⁵³ And in the same manner, the state actors are not obliged to adopt all initiations into law. A bill is a proposed law that is introduced into the parliament, where it is subject to scrutiny, discussion, debate, and voting.⁵⁴ And finally, it is important to note that it does not suspend constitutional and legal competencies possessed by representatives of the executive and legislative powers in the procedure of passing and implementing laws and other instruments of public policies, but it rather enables authorities to carry out these competencies more efficiently.⁵⁵

Meaning and types of Non-state actors (NSAs)

There is no universally accepted definition of NSAs. Some literatures define it in various ways based on the role and functions of the organizations they want to describe. And the expression NSAs, NGOs, and civil societies are used interchangeably in most sources⁵⁶ and some make CSOs or NGOs as one form or sub-set of NSAs and vice versa. Any people's association or organization can be referred to as a Civil Society Organization (CSO).⁵⁷

In the context of the UN Guiding Principles Reporting Framework, CSOs are Non-State, not-for-profit, voluntary entities formed by people in the social sphere that are separate from the State and the market and they represent a wide range of interests and ties except business or for-profit associations. The definition of NSAs generally is understood as entities that are not part of the state and not for profit established at least by two or more persons voluntarily. A non-state actor (NSA) is an individual or organization that has significant political influence but is not allied to any particular country or state. However, some definitions go as far as including armed groups, terrorists, and religious associations.⁵⁸

⁵³ Forrester, Leila Patel., *Toward meaningful civic engagement*

⁵⁴ From [http://Initiating legislation \(lawgovpol.com\)](http://Initiating legislation (lawgovpol.com)). Retrived on September 28,2022)

⁵⁵ Eszter Hartay, *Citizen Participation. Best Practices in the Western Balkans and the European Union*, KCSF, October 2011, p.5.

⁵⁶ Clapham, A., *Non-State Actors in Post conflict Peace-building*. In V. Chetail (Ed.), *POSTCONFLICT PEACE-BUILDING: A LEXICON* (pp. 200-212). Oxford University Press. Available at SSRN: <https://ssrn.com/abstract=1339810>. Retrieved on October 1, 2022. [Hereinafter Clapham, A., *Non-State Actors in Post conflict Peace-building*]

⁵⁷ Indian Centre for Good Governance (CGG).*The Right to Information Act, A Guide for Civil Society Organizations*

⁵⁸ Clapham, A., *Non-State Actors in Post conflict Peace-building*. Page 24

According to Amnesty International, the definition refers to the sum of individuals, groups, organizations, and institutions that express and work on behalf of a variety of interests and initiate various activities and debates in society in support of those interests. It includes journalists, academics, community-based groups, trade unions, charities, human rights organizations, collectives, think tanks, religious groups, academic institutions, and political parties.⁵⁹ And it commonly refers to them as the “third sector”, which is separate from the state and businesses. However, according to the definition, it is elaborated that, not all of this sector defends human rights: some may simply provide services; some protect the interests of specific groups; and some may even be involved in activities and discourse that deny human rights and promote a hateful agenda.

According to the authors of Updated Mapping Study of NSAs in Ethiopia, the definition includes entities that include economic and social partners, including NGOs, trade union organizations, cooperatives, and civil society entities outside the government structure.⁶⁰

Generally, NSAs in the sense of this study take the definition given in the Organization of Civil Societies Proclamation number 1113/2019. Accordingly, they are individuals and a group of individuals who are legally established civil society NSAs; defined as Non-Governmental, Non-partisan, Not for profit entities established at least by two or more persons voluntarily and registered to carry out any lawful purpose, and includes Non-Government Organizations, Professional Associations, Mass-based Societies, and Consortiums.⁶¹ And use the term interchangeably with CSOs.

Similarly, NSAs or CSOs have taken many forms based on their goals and purpose of involvement. Their involvement could range from a simple community development civic engagement to participation in elections, public policy/legislative processes, public consultations, advocacy, and participation in local community-level decision-making structures.⁶²

⁵⁹ Amnesty International. *Laws Designed to Silence: The Global Crackdown to Civil Society*. 21 February, 2019. Index number: ACT 30/9647/2019. P.4. Available at <https://www.amnesty.org/.../ACT3096472019ENGLISH.pdf> ([ACT3096472019ENGLISH.pdf](https://www.amnesty.org/.../ACT3096472019ENGLISH.pdf) (amnesty.org)). Retrieved on September 16, 2022 [Hereinafter Amnesty International. *Laws Designed to Silence: The Global Crackdown to Civil Society*.]

⁶⁰ Cerritelli, William Emilio. *Updated mapping study of non state actors in ethiopia*. 2008. Volume 1, Page 1

⁶¹ Proclamation no. 1113/ 2019., Art. 2(1)

⁶² Forrester, Leila Patel., *Toward meaningful civic engagement*

According to the Indian Right to information act, CSOs based on the level of involvement in society and functions are divided into four.

- At the base level are grassroots or community-based organizations which are generally informal groupings that develop coping strategies to address immediate problems affecting the community.
 - Formal or structured civil society organizations operating at the local, state, or national levels compose the next level. Such organizations usually support community-based organizations in service delivery, research, and advocacy.
 - Umbrella organizations and thematic networks such as national associations and federations exist at the next level. Such networks are often mandated to defend common interests, share information, enable strategic planning, etc.
- Finally, the fourth level is constituted by platforms or common dialogue for various umbrella networks and formal organizations.⁶³

In Ethiopia, according to the Organizations of Civil Societies Proclamation No. 1113/2019 civil society organizations are generally categorized as Non-Government Organizations, Professional Associations, Mass-based Societies, and Consortiums.⁶⁴ Hence, the professional associations are discussed below since the area of concern of this study revolves around the practical experience of this form of NSAs on initiation of legislation.

Professional Associations

The dictionary meaning of professional association, according to the Collins English Dictionary, is “a body of persons engaged in the same profession, usually founded to govern entrance into the profession, maintain standards, and represent the profession in conversations with other bodies”.⁶⁵ Professional associations and organizations are groups of people from the same industry or profession gathered together to represent the industry or profession in some way. They are often the source of standards within a profession, and can also be key advocates for or against legislation that impacts the profession or overall industry.⁶⁶

Professional associations are defined in Ethiopian law as one form of NSAs or CSOs created based on a certain group of professionals. They are defined as an Organization formed based on a profession, and their objectives may include protecting the rights and interests of its members;

⁶³ Indian Centre for Good Governance (CGG). *The Right to Information Act, A Guide for Civil Society Organizations*.

⁶⁴ Proclamation no. 1113/2019

⁶⁵ Collins Dictionary. (n.d.). professional association. Collins English Dictionary. Retrieved on July 8, 2023 from <https://www.collinsdictionary.com/dictionary/english/professional-association#:~:text=professional%20association%20in%20British%20English,Collins%20English%20Dictionary.>

⁶⁶ University of Massachusetts Global. (n.d.). Professional Associations. Retrieved July 8, 2023 from https://www.umassglobal.edu/-/media/documents/careerservices/resource-page/professional_associations.pdf

promoting professional conduct, building the capacities of members, or mobilizing professional contributions of their membership to the community and the country in our context.⁶⁷

Professional associations play a crucial role that extends beyond the professionals and sectors they represent. Their impact is far-reaching, benefiting various aspects of society such as the economy, social welfare, legal matters, politics, and the environment. The advantages they bring to each sector are immense and significant and these benefits are tied to the lives of many people who rely on the sector, including the general public. As a result, effective professional groups have a huge responsibility to society.⁶⁸

The experience of developed nations confirms that one of the ideal local partners for the government in identifying and solving problems is Professional Associations and their systematic involvement in at least major government projects starting from policy inception and formulation to implementation is central.⁶⁹ Professional associations are the best forums to nurture a democratic political culture, engendering a culture of discussions on policy issues and research findings. They also organize periodic conferences, workshops, seminars, and similar professional gatherings, which bring together like-minded professionals, academicians, and policymakers for civilized discussions and debates.⁷⁰ The establishment of strong PAs and their solid affiliation with their members, government institutions, and other partners is also an important factor to cement their effective and sustainable contribution. Government institutions should support Professional associations in various ways for the realization of their complementary purposes and roles and to have a concerted impact on the healthy operation of the political economy.⁷¹

⁶⁷ Proclamation no. 1113/2019, Art. 2(5)

⁶⁸ Teressa, H. T. *Determinants of Professional Associations' Performance in Ethiopia (Master's thesis)*. Addis Ababa University, College of Business and Economics, Masters of Business Administration Program. 2022. Page 1[Hereinafter Teressa, H. T. *Determinants of Professional Associations' Performance in Ethiopia*]

⁶⁹ Asamere, A. Professional Associations in Development: A Neglected Issue. *Ethiopian Business Review*, 5th Year, No. 48, February 16-March 15, 2017. Retrieved from <https://ethiopianbusinessreview.net/professional-associations-in-development-a-neglected-issue/>. On July 7, 2023[Hereinafter Asamere, A. *Professional Associations in Development*]

⁷⁰ *ibid*

⁷¹ *ibid*

The right to freedom of association is guaranteed at the international level under Article 23 of the Universal Declaration of Human Rights, Article 22 of the International Covenant on Civil and Political Rights, and Article 8 of the International Covenant on Economic, Social, and Cultural Rights. Additionally, at the regional level, Article 10 of the African Charter on Human and People's Rights also guarantees the right to freedom of association.⁷² Likewise, under article 12(3) of the African Charter on Democracy Election and Governance, state parties are obliged to take all appropriate measures to create a conducive environment for the operation of Civil Society Organizations, an umbrella under which professional associations are found at the lower hierarchy.⁷³

The professional association of Lawyers is among the prominent professional associations formed based on the law profession. Lawyers are agents of legal liberalization; they build specific legal institutions and culture of the Rule of Law and they are agents of political liberalization, by defending the basic frameworks of rights to speech, press, assembly, petition, free elections, and political party organization, protection against arbitrary arrest and imprisonment; and the protection of minorities from persecution and discrimination.⁷⁴

According to the United Nations Basic Principles on the Role of Lawyers, Professional associations of lawyers have a vital role to play in upholding professional standards and ethics, protecting their members from persecution and improper restrictions and infringements, providing legal services to all in need of them, and cooperating with governmental and other institutions in furthering the ends of justice and public interest.⁷⁵ Hence, professional associations of lawyers play a significant role in protecting the legal profession and upholding the principles of justice and human rights in society. To discharge this responsibility effectively, these associations are expected to adopt various mechanisms that help promote justice and uphold human rights. The Basic Principles on the Role of Lawyers, which have been formulated

⁷² Kabtiyemer, Y. A. *Freedom of Association under Ethiopian Laws: A Case in Professionals' Association*. International Journal of Social Science and Humanities Research, 6(3), 911-921. Retrieved July 7, 2023, from www.researchpublish.com. [Hereinafter Kabtiyemer, Y. A. *Freedom of Association under Ethiopian Laws*]

⁷³ *ibid*

⁷⁴ Gordon, Robert W. *The Role of Lawyers in Producing the Rule of Law: Some Critical Reflections*. Theoretical Inquiries in Law, vol. 11, no. 1, 2010, pp. 441-468. <https://doi.org/10.2202/1565-3404.1247>Page 499

⁷⁵ United Nations, Basic Principles on the Role of Lawyers, 7 September 1990, available at: <https://www.refworld.org/docid/3ddb9f034.html>. Retrieved on 26 May 2023 [Hereinafter UN basic principles on the role of Lawyers]

to assist Member States in their task of promoting and ensuring the proper role of lawyers, should be respected and taken into account by Governments within the framework of their national legislation and practice and should be brought to the attention of lawyers as well as other persons, such as judges, prosecutors, members of the executive and the legislature, and the public in general.⁷⁶

Historically, in Ethiopia, the establishment of a well-known professional association has resulted in significant changes at both the individual member level and for the overall benefit of the public. This association has had a far-reaching impact on various aspects of society, including the economy, social welfare, legal matters, politics, and the environment. The advantages it has brought to each sector are immense and remarkable. As an example, the Ethiopian Teachers Association (ETA) was among the prominent actors who significantly contributed to the end of monarchial and dictatorial regimes that existed in Ethiopia until the year 1991.⁷⁷

The participation of some professional associations including the Ethiopian Lawyers Association and Association of Certified Auditors in drafting the new tax laws was immense.⁷⁸ For Professional associations to effectively discharge these roles there has to be a defined policy endorsement given for Professional associations in terms of their participation in the public policy formulation and implementation process with the genuine belief and commitment by the government that Professional associations have a meaningful role to play in regulatory processes.⁷⁹ The Human Rights Commission had projects supporting the ELA and EWLA on legal aid and this kind of collaboration and support should continue and flourish.⁸⁰

In Ethiopia, the legal frameworks regarding professional associations can be overviewed starting from the FDRE constitution which contains key principles of government administration like accountability, transparency, and public participation. And article 8 of the constitution states that the sovereignty of the people shall be expressed through their representatives elected as per the constitution and through their direct democratic participation. It also guarantees the freedom of association to all citizens under Article 31. In addition, Article 29 of the Constitution also

⁷⁶ *ibid*

⁷⁷ Kabtiyemer, Y. A. *Freedom of Association under Ethiopian Laws*, page 911-921

⁷⁸ Asamere, A. *Professional Associations in Development*

⁷⁹ *ibid*

⁸⁰ *ibid*

provides the right to freedom of thought, opinion, and expression. Accordingly, this right includes “freedom to seek, receive, and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or print, in the form of art, or through any other medium of choice”.

And currently, according to the web page of the Agency for Civil Society Organizations, there are around 163 professional associations registered as a subsection of registered civil society organizations.⁸¹ The Agency for Civil Society Organizations, which is the office responsible for registering, supporting, and monitoring the activities of civil society organizations (CSOs) in Ethiopia, accordingly has a list of the following professional associations of lawyers: Ethiopian Bar Association, Ethiopian Lawyers Association (ELA), Ethiopian Lawyers with Disability Association, and Ethiopian Young Lawyers Association. These associations fall under the category of Professional Associations. Additionally, there are three CSOs related to lawyers that are categorized as Charitable Associations namely, the Ethiopian Women Lawyers Association, Lawyers on Human Rights, and Ethiopian Law Society for Development. And these listed are lawyers-based associations but are Charitable Associations.

The Rationale to Engage NSAs in Initiating Legislation

According to G.C. Thornton, the request for legislation may in any instance come from one or more of many sources. Perhaps a commission of inquiry, a political party's manifesto, a parliamentary committee, perhaps a branch of the public service or a public body, a law reform body, a trade or professional group, or some other pressure group representing a sector of the public, frequently a demand from the public as a whole, and a judicial decision may have revealed an error or loophole in existing law.⁸² This indicates that individuals, groups of individuals, associations but usually a governmental body⁸³ may initiate legislation.

⁸¹ Agency for Civil Society Organizations, List of registered local CSOs, 2021, ACSO. Available at: [FDRE Agency for Civil Society Organizations - ACSO /Local.pdf \(acso.gov.et\)](https://www.fdre.gov.et/ACSO/Local.pdf). Retrieved on July 7, 2023

⁸² G.C. Thornton, Legislative Drafting, 2013 (by H. Xanthaki) page 141

⁸³ *ibid*, page 12

Civil society is often referred to as the ‘fourth power’ within a state, indicating that there is a strong belief in the power of CSOs to effect legislative reform.⁸⁴ They assess local community needs and communicate them to decision-makers so that they are taken into account when defining priorities and designing policy. It could also go a long way toward deepening democracy through fostering active citizenship as opposed to having passive citizens, who do not exercise their rights to social participation.⁸⁵

Meaningful participation of CSOs in public policy-making has been widely considered an important indicator of the maturity of modern democracies, but also a valuable tool for improving the quality of design and implementation of policies, as well as a pre-condition for building and maintaining the trust of citizens in the work of public institutions.⁸⁶

Involving citizens and civil society organizations in the development of policy and legislation to address matters of public concern is one vehicle to promote active citizenship and more responsive legislation.⁸⁷ NSAs are important actors in the governance process and serve as a bridge between the community and public agencies. CSOs aid the process of good governance in several ways such as citizenship development, policy formulation and advocacy, watchdog role, welfare service delivery, and reform and social change.⁸⁸ They bring the needs of the people to the attention of political decision-makers, who would otherwise not have access to the knowledge of those closely associated with the needs of a particular target population.⁸⁹ Specifically, according to the finding of a comparative overview and assessment of the situation in Macedonia, their participation can help towards:

- creating fair policies/laws reflective of real needs enriched with additional experience and expertise;
- facilitating cross-sector dialogue and reaching consensus;
- adopting more forward and outward-looking solutions;

⁸⁴ West Asia-North Africa Institute. *The Role of Civil Society Organizations in Legislative Reform: Summary*. August 2018. Retrieved from: http://wanainstitute.org/sites/default/files/publications/Publication_LegislativeReform_EnglishSummary_0.pdf. Retrieved on September 28, 2022

⁸⁵ Forrester, Leila Patel., TOWARD MEANINGFUL CIVIC ENGAGEMENT

⁸⁶ Vidačak, Igor. *Tools and Methods of CSO Participation in Public Policy Making: Overview of Good Practices in Croatia, Estonia and France*. 2020. Page 11[Hereinafter Igor, V., *Tools and Methods of CSO Participation in Public Policy Making*]

⁸⁷ *ibid*

⁸⁸ Indian Centre for Good Governance (CGG).*The Right to Information Act, A Guide for Civil Society Organizations*. page 24

⁸⁹ Forrester, Leila Patel., TOWARD MEANINGFUL CIVIC ENGAGEMENT

- ensuring the legitimacy of proposed regulation and compliance;
- Decreases costs, as parties can contribute with their resources;
- Increasing partnership, ownership, and responsibility in implementation;
- Increasing confidence in public institutions⁹⁰

In addition, they contribute by raising awareness of different groups of society, and they have a big role in supporting people, especially the poor and marginalized (whose rights have been deprived), to claim for and fulfill their economic, social, cultural, and political rights.⁹¹

Generally, the rationale for engaging NSAs can be looked at from two dimensions; one from the perspective of the government and the second from the perspective of the citizen. From the citizen's part, they promote the active engagement of the people in matters that could affect their lives and help them have a chance to participate in every decision made by the government which keeps their sovereignty alive. They engage in creating awareness, motivating the demand for rights, providing skills, and improving capacities, which are the major functions that can be attributed to the working of many CSOs.⁹²

CSOs can act as important collective platforms for demanding better services and ensuring that the Government responds to people's needs.⁹³ And from the government's part, it keeps legitimacy (consent of the governed); creates accountability (ensuring transparency, being answerable for actions and media freedom); competence (effective policymaking, implementation, and service delivery); and respect for law and protection of human rights.⁹⁴

⁹⁰ OSCE, MCIC, & ECNL., *Transparency and Public Participation in Law Making Processes: Comparative Overview and Assessment of the Situation in Macedonia*. 2010. Retrieved from http://www.ecnl.org/dindocuments/381_Transparency%20in%20Law%20Making%20Eng.pdf. Retrieved on October 6, 2022. Page 13

⁹¹ Lee, Jaime., 'Can You Hear Me Now?': *Making Participatory Governance Work for the Poor*. Harvard Law & Policy Review, Vol. 7, No. 2, Summer 2013. Available at SSRN: <https://ssrn.com/abstract=2485325> or <http://dx.doi.org/10.2139/ssrn.2485325>

⁹² Igor, V., *Tools and Methods of CSO Participation in Public Policy Making*

⁹³ Centre for Good Governance (CGG). *The Right to Information Act, A Guide for Civil Society Organizations*. page. 18-20

⁹⁴ Elia Armstrong. *The Role of Active Participation and Citizen Engagement in Good Governance*. Division for Public Administration and Development Management (DPADM/DESA). New York, 10 September 2013. Available at: [Microsoft PowerPoint - Elia Armstrong presentation \(un.org\)](#). Retrieved on October 6, 2022

1.2. International and Regional Legal Frameworks on Non-state Actors' Right to Engage in Initiating and Drafting Legislation

There is a growing interest in inclusive civic engagement by United Nations agencies, national governments, and NGOs to counteract social exclusion and promote inclusive societies.⁹⁵ However, there are many barriers to effective participation based on social class, age, gender, educational attainment, language, religion, ethnicity, national origin, or location. Other reasons why civic engagement is not widely embraced and implemented by governments may be due to (a) a lack of knowledge, awareness, skills, or the tools to promote engagement; (b) the complexity of managing, resourcing, and implementing engagement processes; (c) obstacles in the operating environment and unfavorable political settings; and (d) the people who lead, control and inhibit participation (United Nations Department of Economic and Social Affairs and United Nations Volunteers Program, 2007).⁹⁶

Different international documents stipulate the importance of public participation in decision-making processes and law-making. Related aspects of public participation are regulated in international law: first, public participation is recognized as a human right, second the highly important aspect of it, i.e. the right of the public to hold expressions, i.e. the right of access to appropriate, comprehensible, and timely information held by governments and commerce, and third the access to justice as an important element for the full realization of the public participation.⁹⁷ Such aspects are also highlighted in the New Delhi Declaration of Principles of International Law Relating to Sustainable Development of the International Law Association.⁹⁸

Universal Declaration of Human Rights: Starting with the Universal Declaration of Human Rights, which is adopted by the United Nations General Assembly in 1948, it does not directly mention the right to initiate legislation by NSAs. However, it does declare that everyone has the

⁹⁵ United Nations Department of Economic and Social Affairs. Youth and Civic Engagement: A Guide to Leading and Participating in Change. 2018. Retrieved from https://www.un.org/development/desa/youth/wp-content/uploads/sites/21/2018/12/un_world_youth_report_youth_civic_engagement.pdf Retrieved on October 6, 2022

⁹⁶ Forrester, Leila Patel., *Toward meaningful civic engagement*

⁹⁷ Eralda (Met-Hasani) Çani, Klesta Hysi, Erind Merkuri. A comparative analysis: parliament lawmaking process in different countries and the national approach of the legal framework. Law Faculty of Tirana University., 2013. Pages 66-67

⁹⁸ *ibid*

right to take part in the government of their country, directly or through freely chosen representatives, and that everyone has the right to equal access to public service in their country.

⁹⁹ These provisions could be interpreted as recognizing the rights of NSAs to participate in law-making processes and advocate for legislative change.

The Declaration on human rights defenders: The Declaration on human rights defenders gives special recognition to the importance of people working individually or collectively towards the realization of human rights and the right of all to form, join and participate in civil society organizations, associations, or groups to promote or defend human rights as a fundamental pillar of the international human rights system.¹⁰⁰ When the Declaration was adopted in 1998, it shifted “the understanding of the human rights project: from a task accomplished mainly through the international community and States to one that belongs to every person and group within society.”¹⁰¹ The Declaration recognizes that equal justice, equal opportunity, and equal dignity without discrimination long sought and deserved by every person can be realized only by empowering individuals and groups to advocate, agitate and take action for human rights.¹⁰²

In the preamble of the Declaration of Human Rights Defenders, it is stated that individuals and civil society organizations play an essential role in the promotion and protection of human rights; they are a tool enabling individuals to work towards the elimination of human rights violations and hold those responsible to account.¹⁰³

The International Convention Civil and Political Rights (ICCPR): Article 25(a) of the ICCPR grants individuals and every citizen the right to take part in the conduct of public affairs, not only through their representatives but also directly.¹⁰⁴ Furthermore, Article 2(1) of the ICCPR requires states to respect and ensure the rights recognized in the convention, including the right to participate in the conduct of public affairs. Therefore, parties can use these provisions

⁹⁹ Universal Declaration of Human Rights, G.A. res. 217A (III), U.N. Doc A/810 at 71 (1948).

¹⁰⁰ Universal Declaration on Human Rights Defenders. (1998). Art. 13. Retrieved September 21, 2023 from <https://www.ohchr.org/en/special-procedures/sr-human-rights-defenders/declaration-human-rights-defenders>

¹⁰¹ Amnesty International, *Laws Designed to Silence: The Global Crackdown to Civil Society*. Page 5

¹⁰² *ibid*

¹⁰³ UN General Assembly, Human rights defenders in the context of 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 : resolution / adopted by the General Assembly, 10 February 2016, A/RES/70/161, available at: <https://www.refworld.org/docid/56dd31954.html> Retrieved on September 16, 2022

¹⁰⁴ International Covenant on Civil and Political Rights, 19 December 1966, 999 U.N.T.S. 171. Available at: <https://treaties.un.org/doc/Publication/UNTS/Volume%20999/volume-999-I-14668-English.pdf>

to advocate for legislative reform through various means, such as submitting proposals to relevant government bodies or engaging in public participation processes mandated under domestic law.

The International Covenant on Economic, Social, and Cultural Rights: This Covenant states that education shall enable all persons to participate effectively in a free society.¹⁰⁵

Regional instruments

In Europe, the Lisbon and Aarhus Conventions are among the prominent documents that can be mentioned regarding citizens' participation in law-making.

The Lisbon Treaty has introduced a new Article 11 of the Treaty on European Union (TUE) that creates a European Citizens' Initiative (ECI) allowing one million citizens from a significant number of member states to invite the European Commission to submit a proposal within the framework of its powers.¹⁰⁶ The role of European citizens in the legislative process within the EU is strengthened through European Citizen Initiative. It further stipulates that every citizen shall have the right to participate in the democratic life of the Union and decisions shall be taken as openly and as closely as possible to the citizen.¹⁰⁷

The United Nations Economic Commission for Europe (UNECE) Aarhus Convention on Access to Information, Public Participation in Decision-making, and Access to Justice in Environmental Matters¹⁰⁸ is a pioneering international agreement that recognizes that procedural and

¹⁰⁵International Covenant on Economic, Social and Cultural Rights, 19 December 1966, 999 U.N.T.S.3. Available at: https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-3&chapter=4&lang=en

¹⁰⁶ Smith, G., *The European Citizens' Initiative (ECI): a new institution for empowering Europe's citizens?*. In Dougan, M., Shuibhne, N. N., & Spaventa, E. (Eds.), *Empowerment and disempowerment of the European citizen*. Oxford, Hart. 2012

¹⁰⁷ European Union, *Treaty of Lisbon Amending the Treaty on European Union and the Treaty Establishing the European Community*, 13 December 2007, 2007/C 306/01, Art 10 available at: <https://www.refworld.org/docid/476258d32.html>. Retrieved on September 21, 2022

¹⁰⁸ United Nations Economic Commission for Europe (UNECE). Aarhus convention on access to information, public participation in decision-making and access to justice in environmental matters. 1998. Retrieved from <https://unece.org/DAM/env/pp/documents/cep43e.pdf>. Retrieved on September 21, 2022 [Hereinafter Aarhus convention on access to information, public participation in decision-making and access to justice in environmental matters. 1998]

participatory rights are an integral component of human rights.¹⁰⁹ This Convention imposes extensive duties on governments to ensure openness, public engagement accountability, and responsiveness in the environmental sphere.¹¹⁰ The Convention and its Protocol on Pollutant Release and Transfer Registers (PRTRs) empower people with the right to access information, participate in decision-making in environmental matters, and seek justice.¹¹¹ It can help us respond to many challenges facing our world: from climate change and the loss of biodiversity, air and water pollution to poverty eradication and security in addition to providing a solid framework for governments to engage the public effectively in implementing the 2030 Agenda for Sustainable Development and its SDGs.¹¹²

In Africa, the Banjul Charter on Human and People's Rights (a treaty adopted by the member states of the African Union in 1981) and SADC (Southern African Development Community) are the instruments that can be mentioned regarding public participation in the legislative process.

The Banjul Charter on Human and People's Rights, which is the applicable regional human rights instrument, recognizes the right of individuals to participate freely in the government of their country, either directly or through representatives, and protects the right to freedom of expression, and assembly, association, and peaceful demonstration is one among the regional instruments affirmed that the obligation of state parties to ensure that people are well informed of their political rights. Article 9 on freedom of expression and information, Article 13 on the freedom to participate in the government of the country either directly or through freely chosen representatives, and Article 25 on the obligation of the state to promote and ensure, through

¹⁰⁹ Pro Bono Publico, University of Oxford. Comparative Survey of Procedures for Public Participation in the Law Making Process-Report for National Campaign for People's Right to Information (NCRPRI). April 2011. Available at: <https://ohrh.law.ox.ac.uk/public-participation-in-the-lawmaking-process/>. Retrieved on September 21, 2022

¹¹⁰ *ibid*

¹¹¹ UN Commission on Human Rights. *Human rights and the Environment*, 24 February 1995, E/CN.4/RES/1995/14, Art. 3 and following available at: <https://www.refworld.org/docid/3b00f0cc14.html>

¹¹² Aarhus convention on access to information, public participation in decision-making and access to justice in environmental matters. 1998

teaching, education, and publication, respect of the rights and freedoms are the most relevant provisions of the charter.¹¹³

More specific than the Banjul charter, the SADC (Southern African Development Community) Treaty, a regional intergovernmental organization consisting of 16 Southern African countries, recognizes key stakeholders as important partners in the implementation of the SADC Programs of Action.¹¹⁴ Article 23 provides for stakeholder participation in decision-making processes and it lays the foundation for key stakeholder participation and defines them as the private sectors, civil society, NGOs, and workers' and employers' organizations. It further provides for organized structures for the participation of civil society and other stakeholders through the SADC national committees (SNCs), which were assembled to provide inputs at the national level in the formulation of regional policies and strategies, as well as to coordinate and oversee the implementation of programs at the national level.¹¹⁵

The SADC Treaty Amendment Article 1(5.2) (b) stipulates that SADC will: “encourage the people of the region and their institutions to take initiatives to develop economic, social and cultural ties across the region and to participate fully in the implementation of the programs and projects of the SADC”.¹¹⁶

1.3. Country's Experience on the Role of Non-state Actors in Initiating Legislation

This section, it is tried to take the legislative initiation experience of some countries which have good practices and experience in opening their system to NSAs. A review of the system of Spain from Europe, South Africa, Kenya from Africa, and the United States from America is observed with an emphasis in addition to a glimpse view of other systems. These countries are chosen as

¹¹³ African (Banjul) Charter on Human and Peoples' Rights (adopted 27 June 1981. entered into force 21 October 1986) (1982) 21 ILM 58

¹¹⁴ Declaration and Treaty of SADC (1992) Available at: <https://www.sadc.int/document/declaration-treaty-sadc-1992-0>

¹¹⁵ *ibid*

¹¹⁶ Qhubani Moyo., PHD thesis on Civil-society participation in the Southern African development community (SADC) policy formulation and implementation processes..1st January 2018. Available at: oai:wiredspace.wits.ac.za:10539/26048

an example since they have a similarity in population number and diversity with Ethiopia and also follow a federalist system of governance.

1.3.1. Bodies with the power of initiating legislation

The Constitution of Kenya¹¹⁷ has been hailed as one of the most progressive and transformative constitutions in the world.¹¹⁸ The Kenyan constitution gives the power to initiate legislation to the people in the form of protecting their right to directly make petitions to the parliament. Every person in Kenya has the right to petition parliament to consider any matter within its authority, including enacting, amending, or repealing any legislation.¹¹⁹ This petition right is specifically given to the people in addition to the general right of making petitions in other matters.¹²⁰ This therefore means that any person including a company, association, or other body of persons whether incorporated or unincorporated may present a petition to the parliament.¹²¹ In the same manner, the parliament is also mandated to facilitate public involvement in the legislative and other business of the parliament and its committees. In addition in Article 174(c) and (d) of the constitution, it is stipulated that the objects of devolution of government are to give powers of self-governance to the people and enhance the participation of the people in the exercise of the powers of the State and in making decisions affecting them and recognize the right of communities to manage their affairs and to further their development.¹²²

Like that of Kenya, the South African constitution also opens a door for the people in the legislation-making process through petitions. The legislative authorities, i.e. the National Assembly and the National Council of Provinces, have to receive petitions, representations, or submissions from any interested persons or institutions.¹²³

Public participation in law-making, oversight, and other processes of Parliament is an important constitutional provision of our democracy. Parliament has developed several ways to promote

¹¹⁷ The Constitution of The Republic of Kenya, Revised Edition 2012 [2010]. Available at: [ConstitutionofKenya-2010.pdf \(museums.or.ke\)](#). Retrieved on October 14, 2022 [Hereinafter Constitution of The Republic of Kenya, Revised Edition 2012 [2010].]

¹¹⁸ Ronald B., *Public Participation in Kenya*.

¹¹⁹ The Constitution of The Republic of Kenya, Revised Edition 2012 [2010]. Article 119

¹²⁰ *ibid*, Article 23

¹²¹ National Assembly of Kenya. Factsheet 4, *Petitions to parliament*. 2017. Page 3. Available at: [www.parliament.go.ke/sites/default/files/2018-04/4_Petitions_to_Parliament.pdf](#). Retrieved on October 14, 2022. [Hereinafter National Assembly of Kenya, Factsheet 4]

¹²² *ibid*, Art. 174(c), (d).

¹²³ Constitution of the Republic of South Africa [South Africa], Section 56 (d) and 69 (d) 10 December 1996, available at: <https://www.refworld.org/docid/3ae6b5de4.html> [Retrieved 6 October 2022]

public involvement in the work of the institution. One way the public can exercise their right to participate in Parliament is by submitting a petition.¹²⁴

Accordingly, any person who acts in his or her interests; In the interest of another person who is not in a position to submit a petition in his or her name or its name; a member of or in the interest of a group or class of persons; or in the public interest has the power to submit petitions.¹²⁵

Citizens' initiative is used in 24 of the 50 states of the United States of America, with twenty states introducing the process between 1898 and 1918.¹²⁶ Some states only allow for constitutional initiatives, some only allow for statutory initiatives, and some allow for both. Some states operate a direct initiative, where the proposed law goes directly to the ballot. Others operate an indirect initiative, where the state permits the legislature to consider and possibly adopt the proposed law or constitutional amendment; while Constitutional initiatives can be changed only by a subsequent vote of the people; statutory initiatives can often be changed by votes of the legislature.¹²⁷ Many of the states that have the initiative process also have a Referendum Process whereby citizens can reject laws or amendments proposed by the state legislature. The initiative process is used much more frequently than the Referendum process and is considered by many to be the more important of the two.¹²⁸

In Spain, the citizens' initiative was introduced as a part of the 1978 Constitution. The citizens' initiative is based on Article 87(3) stating that "An organic act shall lay down the manner and the requirements of the popular initiative for submission of nongovernmental bills. In any case, no less than 500,000 authenticated signatures shall be required. This initiative shall not be allowed on matters concerning organic acts, taxation, international affairs, or the prerogative of pardon." The procedure of the citizens' initiative starts with the initiators forming a promotion committee.¹²⁹

¹²⁴ Parliament of the republic of South Africa, How to Petition the Parliament of South Africa: at <https://www.parliament.gov.za/how-to-petition-parliament>. Retrieved on October 11, 2022

¹²⁵ *ibid*

¹²⁶ Maer L., *Citizens' Initiatives*. Parliament and Constitution Centre.SN/PC/04483 last updated: 1 May 2008. page 9 [Hereinafter Maer L. *Citizens' Initiatives*]

¹²⁷ *ibid* , page 10

¹²⁸ *ibid*

¹²⁹ Krunke, Helle and J. Dalsgaard., *Towards Increased Citizen Participation in Europe: Impact of Current Developments on Political Decision Making and Democracy*. 2016. P .138. [Hereinafter, Krunke, H., & Dalsgaard, J. *Towards Increased Citizen Participation in Europe*]

1.3.2. The Methods of initiating legislation open for NSAs

The Kenyan constitution obliges parliament to enact legislation that provides for participation by residents in the governance and management of urban areas and cities.¹³⁰ Accordingly, the national assembly standing orders and the Petition to parliament procedure act 2012 were adopted. The act includes procedures and the manner of preparing a petition to parliament within the parameters set out in articles 37 and 119 of the Kenyan constitution.¹³¹ The act defines “petition” as a written prayer to Parliament under Article 37 or 119 of the Constitution made per this Act.

In South Africa, the Procedures for dealing with petitions are set out in the rules of the National Assembly and the National Council of Provinces. And anyone can also submit an online petition (e-petition) to the National Assembly and the National Council of Provinces on the official website of the Parliament of the Republic of South Africa.¹³²

In the USA, the number of signatures required for a measure to be placed on the ballot differs from state to state and is often higher for constitutional initiatives than for statute initiatives. Thirteen states have a geographic distribution requirement for signatures on direct legislation petitions.¹³³ Initiative petitions typically may circulate for up to 120 days, but the time limit can be as short as 50 days or as long as 360 days. Other procedural issues include who is tasked with providing a title and summary of the question, and whether there are limits on the subject matter of questions.¹³⁴

1.3.3. Areas Limited for a legislative initiation by NSAs

Not all legislative initiation is subject to or qualified to vote. Limitations might be imposed concerning some subjects because it is assumed that they are too important to be restricted by any measures that might be supported by the electorate; for example, it might be difficult for an

¹³⁰ The revised Constitution of Kenya [Kenya 2010 [2012]], Art.184

¹³¹ [Petition to Parliament \(procedure\) Act - No. 22 of 2012 \(revised Edition 2012\)](#). Parliamentary Session.11th Parliament (2013-2017). Available at: [Microsoft Word - Paged Petitions to Parliament Procedure Act No. 22 of 2012 .doc](#)

¹³² *ibid*

¹³³ Maer L. *Citizens' Initiatives*. page 10

¹³⁴ *ibid*

administration to balance its budget if an initiative measure restricts the ability of the administration to raise taxes.¹³⁵ However, if restrictions are to be imposed, there should be justifiable reasons for them.

According to the Kenya national assembly standing orders and the Petition to parliament procedure act 2012, A Petition to the National Assembly may be rejected or is inadmissible where it does not comply with any or all of the requirements on the form of a Petition as set out in the Standing Orders or the Act. For instance, a Petition may be rejected if

- (i) It purports to be presented by a Member on his or her behalf;
- (ii) It contains prayers that are not within the mandate and functions of the National Assembly under Article 94 or Article 95 of the Constitution;
- (iii) It contains offensive or impolite expressions;
- (iv) It is clear that a relevant body, court, or other constitutional or other statutory body is dealing with or has irrefutably dealt with the prayers; or, it lacks the signature or thumb impression of the petitioner.¹³⁶

On the official website of the Parliament of the Republic of South Africa, a matter may not be the subject of the petition if it has already been dealt with by parliament or before a court of law or tribunal.¹³⁷

In the USA, major issues such as tax reduction, education policy, healthcare reform, and, more recently, environmental issues have been put on the ballot.¹³⁸ Thirteen states have a geographic distribution requirement for signatures on direct legislation petitions. Initiative petitions typically may circulate for up to 120 days, but the time limit can be as short as 50 days or as long as 360 days. Other procedural issues include who is tasked with providing a title and summary of the question, and whether there are limits on the subject matter of questions. The vote needed for the

¹³⁵ Ellis, Andrew. *The use and design of referendums an international idea working paper: An international idea working paper. Revista de Derecho Electoral* (2007): 1-16.

¹³⁶ National Assembly of Kenya, Factsheet 4

¹³⁷ Parliament of the republic of South Africa, How to Petition the Parliament of South Africa: at <https://www.parliament.gov.za/how-to-petition-parliament>. Retrieved on October 11, 2022

¹³⁸ David B. Magleby, 'Direct legislation in the United States', in Butler and Ranney eds, *Referendums around the World*, 1994

enactment of legislation also differs from state to state, some requiring a majority of voters in the election, rather than just responding to the referendum question.¹³⁹

In Spain, the legislative initiative shall not be allowed on matters concerning organic acts, taxation, international affairs, or the prerogative of pardon.” The procedure of the citizens’ initiative starts with the initiators forming a promotion committee.¹⁴⁰

As a general principle, CSOs need to be realistic in their submissions, which needed to be solution focused rather than presenting mere descriptions of the problem. Civil society should advocate for issues that can be implemented in practice, that are practical and can be enforced, bearing in mind the available financial and human resources.¹⁴¹

In other countries like Romania a citizens’ legislative initiative may not touch on matters concerning taxation, international affairs, amnesty, or pardons; as concerns constitutional laws, the limits applicable to any initiative for revision, as regulated by Article 152 of the Constitution, include the national, independent, unitary and indivisible character of the Romanian State, the Republican form of government, or territorial integrity, independence of the judiciary, political pluralism, or the official language, any revision that leads to the suppression of any of the citizens’ fundamental rights and freedoms, or their safeguards.¹⁴²

¹³⁹Maer L. *Citizens’ Initiatives*. page 10

¹⁴⁰ Krunke, H., & Dalsgaard, J. *Towards Increased Citizen Participation in Europe*. P .138

¹⁴¹ Forrester, Leila Patel. *TOWARD MEANINGFUL CIVIC ENGAGEMENT*

¹⁴² Stoica, C., & Safta, M., *Legislative initiative of citizens in Romania and at the European level*. Page 163

CHAPTER TWO

ETHIOPIAN FEDERAL LAW-MAKING SYSTEM ON INITIATION OF LEGISLATIONS

This chapter aims to provide an overview of Ethiopian federal laws regarding the initiation of legislation. Specifically, it focuses on the involvement of Non-State Actors (NSAs) in the legislative process. The chapter also includes a general overview of the laws governing the initiation of legislation, with the intent of elucidating the legal provisions on the subject. By examining the relevant laws, this chapter offers an understanding of the role of NSAs in the Ethiopian law-making system. To achieve this goal, the chapter begins with an exploration of the Constitution's general principles, followed by an examination of other laws related to this topic, with separate themes presented for clarity.

2.1. The law on Initiation of Legislation in General

Before discussing the Ethiopian detailed legislation, it is essential to first examine the fundamental principles of the constitution that recognize and encourage citizen participation in the legislative process before delving into the specifics of the legislation. Hence, in Ethiopia, the fundamental principles of government administration such as accountability, transparency, and public participation are embodied in the Constitution of the Federal Democratic Republic of Ethiopia. Article 8 of the Constitution emphasizes that the sovereignty of the people must be expressed through the election of their representatives under the Constitution and their direct participation in democratic processes. The constitution also guarantees the freedom of association to all citizens. This is stated under Article 31 of the Constitution which gives everyone to have the right to freedom of association regardless of the underlying cause or purpose. However, any organizations that are created to violate laws, or undermine the constitutional order are strictly prohibited. This means that every Ethiopian citizen has the right to form and join any associations or groups they wish, as long as the purpose of that association is peaceful and does not violate other laws or the Constitution itself.

In addition, Article 29 of the Constitution also provides the right to freedom of thought, opinion, and expression. Accordingly, this right includes “freedom to seek, receive, and impart

information and ideas of all kinds, regardless of frontiers, either orally, in writing or print, in the form of art, or through any other medium of choice”. Article 43(2) of the Constitution also upholds the Right to Development by acknowledging that Ethiopian citizens have the liberty to participate in national development programs actively and have a say in policies and projects that can directly affect their community. This provision emphasizes the importance of engaging people in the development process and respectful consideration of their inputs and feedback.

Chapter 10 of the constitution, which pertains to National Policy Principles and Objectives, introduces supplementary rights that support citizens’ active involvement in the development of policies and programs. For example, regarding the economic objective, Article 89(6) specifies that the government must constantly foster public participation when formulating national development policies and programs. Moreover, it is the government’s responsibility to offer support for citizens’ initiatives concerning their developmental endeavors as can be inferred from the article. Similarly, Article 92(3), addressing the environmental objective, asserts that people have an inherent right to meaningful consultation and voice their viewpoints during the planning and implementation of environmental policies and initiatives that have a direct impact on them.

In general, the principles of the constitution emphasize the government’s responsibility to create opportunities for active citizen participation in the lawmaking process. This principle affirms the importance of including diverse perspectives and ensuring that policies and programs reflect the needs and interests of the people. By involving citizens in the lawmaking process, the government can promote transparency, accountability, and democratic values.

Having these general principles of the constitution, the following sections will delve into the particulars of the laws on the initiation of legislation.

What is the meaning of initiating legislation in the Ethiopian legal system?

Here the first question that should be answered is what activities according to our law are considered as an activity of initiating legislation. Accordingly, the appropriate law on the making of law will be the House of People's Representatives Working Procedure and Members’ Code of Conduct Regulation Number 6/2016. According to this regulation article 50, the process of initiating legislation in Ethiopia involves activities of

- Enacting new laws,

- Amending or repealing an existing law,
- Ratification of international treaties and
- Passing decisions.

Similar to the list above, the FDRE House of Peoples' Representatives Working Procedure and Members' Code of Conduct (Amendment) Proclamation number 470/2005 also has the same list of activities except for the inclusion of ratification of international treaties as an act of initiating legislations.¹⁴³

The regulation also outlines the formality and requirements for initiating a draft law. Accordingly, the draft law must be presented in written form. And with the draft law of detailed contents an explanatory note explaining the importance of the law and its purpose, a policy source for the issue of initiation, and participation and comments of concerned bodies during the drafting process must be provided. Additionally, both Amharic and English copies of the draft law must be presented.¹⁴⁴ The draft law then must follow the procedure laid out in Article 32 of the regulation for drawing an agenda. This ensures that the draft law is properly considered and discussed by the House.¹⁴⁵

The above guidelines for initiating and handling a draft law support and ensures that the initiation of legislation is well-prepared and given proper attention by the House. Article 51 and the following of the same in addition outline the process for readings of a draft law, which involves three stages: first reading, second reading, and third reading. This ensures that the draft law is thoroughly reviewed, debated, and discussed before being passed into law.

In addition to this regulation, the Council of Ministers has released a circular that outlines guidelines for government organizations to follow when preparing and submitting draft laws to the council. The circular states that the process of drafting a law should begin with conducting research that demonstrates the need for enacting the law, followed by consulting and gathering feedback. In terms of formal submission, the draft must be provided in written form. For the

¹⁴³ Art. 6

¹⁴⁴ Art. 51(9) &(10)

¹⁴⁵ *ibid*

Amharic version, a visual geez Unicode font with a 12-point font size is required, while the English version must be in Times New Roman font and a 12-point size.¹⁴⁶

In general, the aforementioned laws and circulars related to legislation drafting emphasize the importance of submitting a well-drafted, near-final version of legal provisions when initiating legislation by the government organs and authorities given the right to initiate laws. These organs are hence discussed below.

Which organs have the right to initiate legislation?

The next issue to be raised is which organizations or bodies have a clear authority to initiate legislation. As per the constitution, Law making is the power of the House of Peoples Representatives in all matters assigned to the federal jurisdiction.¹⁴⁷ Within the competence of the federal government’s jurisdictions, the HPR has broad legislative powers, including passing laws on land use, trade, transportation, labor and commercial codes, electoral procedures, and socio-economic and fiscal policies.¹⁴⁸ And the House gives this primary responsibility for initiating legislation, to other bodies such as the Members of the House, Committees, Parliament Groups, and other authorized bodies that can also initiate legislation; except for financial laws, which can only be initiated by the government.¹⁴⁹

Regarding this list of authorized organs to initiate legislation, the House of Peoples Representative of the FDRE Rules of Procedure and Members’ Code of Conduct Regulation No. 6/2016 on Article 51 authorizes the government as the only organ with the right to initiate legislation. It then added the parliament members, committees, parliamentary groups, and other bodies authorized by law to the list of bodies with the power to initiate legislation. And initiating financial laws is an exclusive power of the government.

Though the regulation includes the mentioned list of actors who are empowered to initiate laws, one could argue that NSAs would fall under this list of “other bodies are authorized by law”; since the regulation does not offer a clear definition of which entities qualify as “other bodies

¹⁴⁶ The Council of Ministers Circular on the Procedure of Preparation and Submission of draft laws by government organs to the Council of Ministers. Issued on November 6, 2018. Art. 8(2)

¹⁴⁷ Art. 55 (1)

¹⁴⁸ Art. 55(2)

¹⁴⁹ The House of Peoples Representative of the FDRE Rules of Procedure and Members’ Code of Conduct Regulation No. 6/2016, Art. 51 [Hereinafter HPR Regulation No. 6/2016]

authorized by law”. The sole requirement for such bodies stated is, that any initiated legislation by these organs must bear the signature of the initiating organization’s head as an approval. Therefore, this issue needs to be cleared out.

The House of Peoples Representative of the FDRE Rules of Procedure and Members’ Code of Conduct Regulation No. 6/2016 and Federal Democratic Republic of Ethiopia House of Peoples’ Representatives Working Procedure and Members’ Code of Conduct (Amendment) Proclamation No. 470/2005 article 6 have also a disparity. According to the proclamation, the principal draft law initiating bodies are the government, The Federal Supreme Court, Committees of the House, Members of the House, The House of Federation, The Speaker, and Other governmental institutions directly accountable to the House shall have powers to initiate draft law.¹⁵⁰ In addition, it seems like there is a contradiction regarding the number of members needed to initiate a bill between the proclamation and the regulation. According to Article 6(5) of the Proclamation, any bill initiated by members of parliament must be supported by at least 20 members. While on the other hand, the regulation simply gives a single member to initiate a bill. It is important to note that both the proclamation and the regulation carry the force of law and are still applicable. If there is a conflict between the two, then it may need to interpret which one takes precedence. This discrepancy might be managed by the rule of interpretation that the proclamation prevails over the regulation in the principle of the hierarchy of law.¹⁵¹

In addition, the Council of Ministers which is the highest executive body in the government structure is authorized, not by the Constitution but by the power vested in it by the legislative organ, to enact regulations.¹⁵² This means that the council of ministers can only initiate or is authorized to make legislation when it is delegated by the legislative to make laws and the legislation should be within the sphere of its power.¹⁵³ In addition, article 77 of the Constitution outlines the duties of the Council of Ministers, including implementing laws and decisions adopted by the House of People’s Representatives, formulating and implementing economic, social, and development policies and strategies, ensuring law and order, and submitting draft

¹⁵⁰ Federal Democratic Republic of Ethiopia House of Peoples’ Representatives Working Procedure and Members’ Code of Conduct (Amendment) Proclamation No. 470/2005. Art. 6(2)

¹⁵¹ Demoz, A., *The Role of Public and Civil Society in the Enactment of Ethiopian Federal Laws*. page 42

¹⁵² Art. 77(13)

¹⁵³ Ethiopian Federal Democratic Republic Definition of Power and Duties of the Executive Organs proclamation No. 1263/2021. Addis Ababa. Gazette, 28(4). 2022, January 25. Art. 19(3)

laws to the House of Peoples' Representatives on any matter falling within its competence. In addition, according to the Definition of Power and Duties of the Federal Executive Organs proclamation number 1263/2021, Article 19(3) and 19(4) each ministry of the federal government has the power and duty to initiate Federal laws, and implement; and to adopt Directives to fulfill their duties and responsibilities given by law.

2.2. A Review of the Law in the Initiation of Legislation by Non- state actors

Through the discussion above on the meaning and actors of legislative initiative, it can be settled that, according to the House of Peoples' Representatives Rules and Members Code of Conduct Regulation Number 6/2016 and the Council of Ministers circular on drafting legislation for government organs, the right to initiate legislation or the act of initiation legislation is not just the act of proposing an idea for legislation. Rather it requires an actual designed and written provision to directly get presented and debated on. Therefore we might conclude that NSAs and the public are not given the right to directly participate or give ideas for the initiation of legislation.

However, as discussed in previous chapters, the methodology and procedures of making a legislative initiation differ in other countries and the room they open for of NSAs' participation in the initiation of legislation. In European countries, the citizens' initiative mechanism which is also referred to as an indirect initiative is used as an instrument of democratic participation. It is practiced in most countries like Switzerland, Austria, Italy, Macedonia, Poland, Romania, Finland, Slovenia, Lithuania, and Spain.¹⁵⁴ The constitution of Kenya and South Africa from our continent¹⁵⁵, are also evident examples of the inclusion of the right of initiating legislation of citizens through a petition in their legal system.

Therefore, the next point to be cleared out should be to figure out whether our law has room for at least indirect participation in the initiation of legislation or allow the practice of submitting an idea or a proposal or just a petition, like that of other systems, confirming a gap to be filled with the making or amending of legislation.

¹⁵⁴ Banasiuk J. et al, *State of Democracy Human Rights and the Rule of Law in Poland Recent Developments*. Pages 155-162.

¹⁵⁵ The revised Constitution of Kenya [Kenya 2010 [2012]] and the Constitution of the Republic of South Africa [South Africa]

Here, the appropriate law that needs to be addressed again is the House of Peoples' Representatives Members Code of Conduct and Rules of Procedure Regulation Number 6/2016, since it is the law that regulates the making of a law. In Chapter Eleven of the regulation, the Houses' mechanism of supervision and follow-up are listed in detail with an explanation of the aim and ways of Oversight and Monitoring.

The House is responsible for overseeing and monitoring the implementation and direction of national policies, strategies, plans, laws, and operations related to the development of the country, the protection of fundamental rights and freedoms of citizens, and the proper use of the federal government's budget and resources. It shall exercise oversight and monitoring over federal government organs and regional states that are unable to prevent or control human rights violations following Article 55 (16) of the Constitution.¹⁵⁶

The oversight and monitoring aim to ensure that government resources and property are used appropriately, tasks are carried out in compliance with laws and regulations, development is fair and efficient, democracy and good governance are prevalent, citizens' rights are respected, and peace and security are maintained.¹⁵⁷

To carry out its responsibilities, the House has a list of mechanisms for oversight and monitoring. One among these lists is to conduct oversight and monitoring based on reports and information submitted by government organs, committees, *the public, and non-governmental organizations*.¹⁵⁸ (Emphasis added). And if problems arise during the oversight and monitoring process of government bodies, the House may take remedial measures such as providing for a legal enactment or amending the law to address any loopholes related to the law.¹⁵⁹

In essence, this mechanism of reporting to the House enables NSAs to have a say in the legislative process through indirect means. It allows for the identification and resolution of gaps in the law through the creation of new legislation or amending of an existing one. While this approach may not be direct, it at least provides a valuable opportunity for NSAs to participate in the legislative initiative process.

¹⁵⁶ Art. 78

¹⁵⁷ Art. 77

¹⁵⁸ Art. 79(2)

¹⁵⁹ Art. 80(1)

2.2.1. Specific legislations on initiation of legislations by Non- state actors

Since 2018, various legal reforms have been taken, And to advise the Ethiopian Government in its pursuit of a comprehensive reform of the legal and justice system, a Legal and Justice Affairs Advisory Council was established by a directive.¹⁶⁰ The council comprises 13 legal experts who possess a vast amount of experience. The Council has been granted a significant degree of autonomy in its operations and was able to conduct numerous studies and initiated the revision of 16 pieces of legislation that were deemed unconstitutional and detrimental to human rights and democracy. The next two legislations are among those legislations which created a significant opportunity for NSAs and the public, in general, the participation in the law-making system and specifically in the initiation of legislation by these actors.

A. The Federal Administrative Procedure Proclamation No. 1183/2020

The Federal Administrative Procedure Proclamation is significant and groundbreaking legislation as it enables citizens to directly participate in the initiation of legislation through a petition for the initiation of directives. It allows any person to ask an agency through a written application to adopt a directive when the administrative agency fails to adopt a directive that it was mandated to adopt within a reasonable time.

Article 6(1) of this directive allows individuals to request an agency to adopt a directive through a written application if the agency has failed to do so within a reasonable period. This empowers citizens and NSAs to take action when they believe that administrative agencies are not fulfilling their responsibilities on time. For instance, investors who have invested in less developed regions and believe they are entitled to incentives under a proclamation may promote or petition for the issuance of such a directive.¹⁶¹

According to this proclamation, if an administrative agency receives a petition for the adoption of a directive, it must either commence the process of adopting the rule within 30 days or deny the petition and provide reasons for the decision, as stated in Article 6(2).

¹⁶⁰ Office of the Federal Attorney General. Directive No.5/2018 of the Office of the Federal Attorney General, on the establishment of The Justice and Legal Affairs Advisory Council. 2018

¹⁶¹ The Legal and Justice Affairs Advisory Council of the Federal Democratic Republic of Ethiopia Attorney General. *Explanatory Note for the Provisions of Federal Administrative Procedure Law*. June 2021.

If the agency believes that the petition is unnecessary because the proclamation in question is self-executed or existing legal frameworks address the petitioner's concerns, they may deny the petition. If the agency decides to deny, the interested person or an agent can file a petition for the review up to the judicial organ of the government.¹⁶² However, if the agency determines that the petition is valid, it must begin the process of issuing the directive within 30 working days, following the procedure set out in the proclamation.¹⁶³

B. The Organizations of Civil Societies Proclamation No. 1113/2019

The Civil Societies Proclamation empowers civil society organizations to actively participate in the development of policies and laws by the government. It also gives them the right to propose recommendations for change or amendment of existing laws, policies, or practices or issuance of new laws and policies that have a relationship with the activities they are performing (in their area of concern).¹⁶⁴

To be more specific, article 6 (8) of the proclamation empowers the Civil Society Organizations agency to encourage organizations to participate in the development of policies and laws by the government. In addition, when discussing the operational freedom of the organizations, the proclamation on Article 62(4) grants civil society organizations the authority to propose recommendations for modifying or updating existing laws, policies, or practices, or for renewing any laws or policies that relate to their activities (area of concern). Though the procedure and mechanism of these activities granted on the proclamation are not clear, it can be recalled that the law has room for civil society organizations to be part of the law-making process in general and the legislation initiation in particular.

Generally, starting from the point that there is a lack of clear legal framework defining the role of CSOs for their involvement in the legislative initiation process of the federal lawmaking system, the research found out that, NSAs have room for participating in the legislative initiating process through indirect means recognized under the House of Peoples Representative of the FDRE

¹⁶² Art. 20& the following and *ibid* page 24 and the following

¹⁶³ Art. 6(2)

¹⁶⁴ Organizations of Civil Societies Proclamation no. 2019, Art. 2(1) Proc. No.1113, Neg. Gaz. Year 25, No.33. Art. 6(8) and Art. 62(4)

Rules of Procedure and Members' Code of Conduct Regulation and the through the two proclamations discussed. However, it needs to be underlined that, there still are issues that need to be cleared out in these legislations also.

The first problem arises from the point of disparity between those legislations (the HPR members' code of conduct and working procedure proclamation no.6/2016 and the two legislations discussed above) that while the regulation, a specific law on the law-making, follows an indirect approach of public participation, the new proclamations allow for the direct participation. And second, except for the Federal Administrative Procedure Proclamation number 1183/2020; there is no clear procedure and follow-up mechanism provided on the two legislations of how the rights could be practiced. The law needs clarity since citizens are not supposed to find loopholes and gaps to exercise their constitutional right of expressing their sovereignty through direct or indirect democracy.

Having this in mind, what the actual practice by CSOs looks like will be discussed in the next part with a special focus on the assessment of the practice and experience of legislative initiation by the professional association of Lawyers.

CHAPTER THREE

THE PRACTICE OF INITIATING LEGISLATION BY NSAs IN THE ETHIOPIAN FEDERAL LAW-MAKING SYSTEM

Meaningful participation of CSOs in law-making is valuable for improving policy design and implementation, as well as maintaining citizens' trust in public institutions.¹⁶⁵ NSAs are important actors in the governance process and serve as a bridge between the community and public agencies.¹⁶⁶ CSOs aid the process of good governance in various ways, including citizenship development, policy formulation and advocacy, watchdog role, welfare service delivery, and reform and social change.¹⁶⁷

Professional associations of Lawyers are one form of CSOs who are a group of lawyers that share a common area of practice or interest and advocate for their members and the public. They shape policies and regulations that affect their profession and offer legal services and information on legal rights and responsibilities to the public.¹⁶⁸ Professional Associations of Lawyers according to the United Nations Basic Principles on the Role of Lawyers, have a significant responsibility to uphold professional standards and ethics, safeguard their members from persecution or unjust restrictions and infringements, provide legal services to those in need, and collaborate with governmental and other institutions to advance justice and public interest.¹⁶⁹ These principles are designed to aid Member States in promoting and ensuring the proper role of lawyers, and governments should observe and consider them within the framework of their national legislation and practice.¹⁷⁰

Under the Organizations of Civil Societies Proclamation No.1113/2019, an association, which includes professional associations, in the Ethiopian context is defined as an Organization formed by five or more members and governed by a General Assembly as the supreme decision-making

¹⁶⁵Igor, V., *Tools and Methods of CSO Participation in Public Policy Making* . Page 11

¹⁶⁶ *ibid*

¹⁶⁷ Indian Centre for Good Governance (CGG). *The Right to Information Act, A Guide for Civil Society organizations*. page 24

¹⁶⁸ *ibid*

¹⁶⁹ UN basic principles on the role of Lawyers

¹⁷⁰ *ibid*

body.¹⁷¹ The professional associations of lawyers registered in Ethiopia according to the list from the web page of the Agency for Civil Society Organizations are the Ethiopian Bar Association, Ethiopian Lawyers Association (ELA), Ethiopian Lawyers with Disability Association, and Ethiopian Young Lawyers Association.¹⁷²

And the information for the study on the activity they are performing regarding the legislative initiation was collected using a semi-structured interview with key informants from these associations as a demonstration of the issue under discussion. However, since the information from the NSAs only cannot make the issue at hand be cleared out and triangulated, experienced senior experts from the House of People's Representatives, since it is the highest legislative organ or has the power of legislation in all matters assigned by the Constitution to Federal jurisdiction;¹⁷³ and expertise working in FDRE Ministry of Justice, since the organization has the duty and power to work as principal advisor and representative of the federal government regarding the law, has been being selected.¹⁷⁴ Accordingly, the full name and the position of the research participants are attached as an annex to this paper.

In the previous part of this paper, it was tried to discuss the general law which deals with the initiation of legislation. And after an explanation of what initiation of legislation in the Ethiopian federal law-making system is, the specific laws which have room for law-making by NSAs were explained. Since professional associations are one part of the NSAs or the CSOs the above discussion on the legislation which allows for the participation of the general NSAs will also apply to the professional association of lawyers. Therefore, having the understanding that there exist rooms for these actors to participate in the initiation of the legislation stage of law-making indirectly, as discussed, we will try to assess the practice and understanding of both the state actors and the professional association of lawyers in the initiation of legislation.

¹⁷¹ Proclamation No.1113/2019, Art. 19 (1)

¹⁷² *Supra note* 44, ([FDRE Agency for Civil Society Organizations - ACSO /Local.pdf \(acso.gov.et\)](https://www.acso.gov.et/Local.pdf))

¹⁷³ The Constitution of the Federal Democratic Republic of Ethiopia Proclamation No. 1/1995, *Federal Negarit Gazeta*, 1st Year, No.1, Addis Ababa, Art. 55(1)

¹⁷⁴ Proclamation Number 943/2016, Art. 6(2)

3.1. The understanding of the initiation of legislation

According to some writers, law or policy-initiating actors are divided into official and unofficial policymakers. While official policymakers are those who possess the legal authority to engage in the formulation of public policy, and unofficial policymakers do not occupy formal public positions or political offices.¹⁷⁵ They are not in government but they derive their relevance and policy-making roles from the government and the official policymakers; so they mainly harness their interests and demands, harmonize them and influence official policymakers to factor them into the policy-making process.¹⁷⁶

On the other hand, according to Shiferaw Woldemichale, in the Journal of Ethiopian Law, about law-making under the provisional military government of Ethiopia, the right to initiate legislation is defined as not just the right to propose legislation, but rather is the right to present the draft legislation to the enacting organ.¹⁷⁷ He further explained that a concerned individual may, for example, propose draft legislation on protecting the environment. Yet he can submit his proposal to any one of the organs that have the power to initiate and should be endorsed by any of the organs.¹⁷⁸

A similar understanding was reflected by most of the study participants that initiation of legislation is the act that involves an actual presentation of a well-designed legal document to the parliament and being able to make a discussion or a debate for its enactment. For that reason, a participant expresses the view that initiation of law can include the process from which research is being conducted on the specific area of law and preparing a preliminary legal document for presentation to the enacting body.¹⁷⁹ Similarly, another participant also reflects the idea that:-

Initiation of law according to our law is an authority only limited to the government as it is clearly stated under the HPR regulation number 6. Therefore, it requires presenting the actual draft laws to the appropriate enacting body for discussion and enactment.¹⁸⁰

¹⁷⁵ Popoola, Olufemi O. *Actors in Decision Making and Policy Process*. 2016. Page.47 Available at : <https://www.walshmedicalmedia.com/open-access/actors-in-decision-making-and-policy-process.pdf> . Retrieved 26 May 2023

¹⁷⁶ *ibid*

¹⁷⁷ Shiferaw W.M., *The Law Making process in Ethiopia. Post 1974*, page.128

¹⁷⁸ *ibid*

¹⁷⁹ Interview with Ato Abat Gebretsadik, Assistant to the Attorney General, legal studies, drafting, and Dissemination Directorate General, Ministry of Justice. Interviewed on April 6, 2023. [Hereinafter Interview with Ato Abat]

¹⁸⁰ From an interview with Ato Belayhun Yirga, Former Director General of the legal studies, drafting, and dissemination Directorate General, Ministry of Justice, conducted on, On May 20,2023.[Hereinafter from an interview with Ato Belayhun]

This understanding that initiation of legislation is only limited to the actual submission of a designed legal document was also reflected by a participant from the professional association of Lawyers part with an explanation as follows

We are not directly involved in the initiation of legislation. Firstly, the law does not permit us to do so, and secondly, the process of initiating legislation requires proper drafting skills. Our role primarily involves supporting the process through lobbying and advocacy efforts.¹⁸¹

This definition or understanding of most participants about the initiation of legislation falls under the direct form of participation in the legislative initiative according to this study as discussed in the previous part. It can be seen from their explanation that this understanding emanates from the HPR members' code of conduct and rules of procedure regulation. And the Council of Ministers circular on the procedure of preparation and submission of draft laws to the council as detailed is described above about the legal part.

However, contrary to the general perception, even the Administrative Procedure Proclamation, which allows for an individual's initiation in the directive-making process, does not put such restriction on participation or submission of a petition for the request of a directive initiation, except for the application or the petition to be in a written format.¹⁸² This understanding therefore of initiation can only be made through formal ways limits the motivation as well as the participation of NSAs in the law-making process.

And the experience of other countries in the literature review shows that recent or modern systems of laws are claiming that they have opened their door for citizen participation in the legislation initiative through the citizens' initiative mechanism. It is widely utilized as a means of democratic participation, commonly known as an indirect initiative. This practice is prevalent in most European countries and notably, the constitutions of African nations such as Kenya and South Africa also provide examples of citizen participation in initiating legislation through indirect forms like petitioning.

¹⁸¹ Form an interview with Ato Nigus Tizazu, Vice president of the Ethiopian Young Lawyers Association, on April 3, 2023. [Hereinafter from an interview with Ato Nigus]

¹⁸² Art. 6

3.2. Methods of initiating legislation

Having the understanding, from the above discussion, that initiation of legislation is only limited to the actual submission of a designed legal document, most of the professional associations assessed under this study have limited their participation in the law-making process customarily to the consultation stage of the law-making process.

While we do not have experience in drafting bills, we believe that presenting the components of the draft is similar to participating in the actual drafting process; we then discuss the draft after it is open for consultation and provide further input at that time.¹⁸³

This view that the law regarding the initiation of legislation does not permit CSOs to directly propose laws or to make a petition is also mirrored by participants of the research from the government part. Therefore, the recommendation from the participants given to the CSOs is to actively participate in lobbying efforts and support the initiation of legislation by the government organs.¹⁸⁴

Another participant also claims the lack of specific laws allowing CSOs to initiate legislation, making it difficult to assert their right to do so; however, CSOs can still indirectly influence lawmakers by advocating for issues that require legislation and raising public awareness through media channels according to the study participant.¹⁸⁵

No clear or specific law stipulates CSOs are given the right to initiate or propose issues for legislation. Unless stipulated by law it will be difficult to say that CSOs have the right to initiate laws. But they can indirectly influence parliamentary members and authorities with the power to legislate by advocating an issue that needs legislation and bringing the issue to public attention using the media.¹⁸⁶

Having the understanding that initiation of legislation is only limited to the actual submission of a designed structured legal document, both the professional associations and participants from the government part participated in this study have limited the participation of CSOs in the law initiating process commonly to the lobbying and advocating from the outside kind of strategies. Therefore, it shows that the professional associations of lawyers are not currently taking advantage of the indirect approach to participate in the initiation of legislation, which is given by

¹⁸³ from an interview with Ato Nigus

¹⁸⁴ From an interview with Ato Belayhun

¹⁸⁵ From the Interview with W/ro Tsedey Tesfaye, Senior Legal Expert, at the Office of the House of Peoples' Representatives Legal Affairs Research Directorate, on May 9, 2023. [Hereinafter from an interview with W/ro Tsedey]

¹⁸⁶ *ibid*

the law as discussed, such as making petitions and submitting reports and information to the House of People's Representatives. And the recommendation given by the participants from the state part is also limited in praising for them to engage in lobbying and making an influence through other advocacy methods.

3.3. Practical cases and challenges

The rationale for delegating the law-making power of the House of People's Representatives to the Council of Ministers is to make use of the professional expertise in the executive branch and facilitate efficient rule-making, particularly concerning advanced details.¹⁸⁷ Likewise, it is crucial for CSOs, particularly professional associations, to engage in the law-making process, even in the initiation stage. Incorporating them in the initiation stage of the law-making process is imperative because these organizations work extensively on societal issues and possess unparalleled experience and knowledge in their specialized areas. With their deep understanding of societal issues, they have the potential to significantly contribute to the development of effective and operational laws. By leveraging the knowledge and expertise of these professionals, laws can be better tailored to address the root causes of societal issues and, as a result, become more effective in addressing such concerns. In this regard, a study participant noted that,

CSOs especially professional associations need to be engaged in the law-making system even in the initiation stage since they specifically work in an area and know the root of societal issues since they work at a deep societal level. They also have a high experience in an area in which they are specialized and have experienced professionals. So, their contribution is essential for the making of effective and operational law. By involving CSOs from the initiation stage, laws can be more effective and better address societal issues.¹⁸⁸

Proper and effective administration of justice is the backbone for good societal and economic development. Lawyers Association have a somewhat hybrid function between public administration and civil society; they can serve as models for both good regulation of the lawyer profession in the public interest, while also supporting access to justice in wider civil society.¹⁸⁹

¹⁸⁷ From an interview with Ato Bamlaku Andarge, a Senior Public Prosecutor at the legal studies, drafting, and dissemination Directorate General, Ministry of Justice, on April 5, 2023.[Hereinafter From an interview with Ato Bamlaku] And form an interview with Ato Abat

¹⁸⁸ From an interview with Ato Bamlaku

¹⁸⁹ IBA Bar Issues Commission. (2020). *Independence of the Lawyer Profession in Ethiopia: An International Bar Association Bar Issues Commissions Report on Missions to Ethiopia*. Report authored by IBA BIC regional consultant Dr Cord Brüggman, in consultation with IBA BIC Chair Dr Péter Köves. April 2020. Page 3. Available at: [Independence of the Lawyer Profession in Ethiopia \(ibanet.org\)](https://www.ibanet.org/Independence-of-the-Lawyer-Profession-in-Ethiopia) on June 2, 2023.

However, their engagement has mainly focused on promoting public awareness and participation, and as a result, their contribution to the development of a democratic political culture in the country has been limited.¹⁹⁰

Supporting the above idea, most of the participants¹⁹¹ have missioned their participation in the law-making includes mainly strategies of advocacy to influence the legislative process by lobbying, providing legal awareness to the public, giving pro-bono services; trying making problem-solving research, advocacy campaigns, and public consultations. Though their involvement in the legislative initiative process is still limited, there are significant contributions that were made by CSOs as mentioned as an example by the study participants.

Especially with more than 50 years of experience in advocating for the right and interests of the members and the public in general, the contribution of the Ethiopian Lawyers Association in the general law-making system cannot be easily taken.¹⁹²

There have been several initiatives taken by CSOs to actively participate in law-making. Notably, Lawyer professional associations have played a role in the drafting of significant laws such as the criminal code and the revised family code by contributing ideas and comments during the making of the draft. But, we can currently say that their involvement in the actual making initiation of the law is less and is limited to conducting research, providing feedback on draft laws, and engaging in other related activities.¹⁹³

And this association has been actively engaged in the recent government initiative for the reform of laws through preparing draft laws voluntarily which, following discussion, public consultation, submitting possible amendments in collaboration with the working group to be submitted to the Federal Parliament to go through the legislative process.¹⁹⁴

The participation of professional associations of lawyers is also appraised by the participants representing one of the associations, which is the Ethiopian Young Lawyers Association by noting that;

The Ethiopian Young lawyers association in collaboration with the Ethiopian Lawyers Association has been involved in advocating for the amendment of the Charities and Societies Proclamation

¹⁹⁰ *ibid*

¹⁹¹ Form an interview with Ato Nigus, From an interview with W/ro Fekir Mulugeta, General Secretary of the Ethiopian Lawyers Association and Lawyer and consultant at law, on June 2, 2023[Hereinafter interview with W/ro Fekir], and From an interview with Ato Tewodros Getachew former president of the Ethiopian Lawyers Association and current vice and acting president of the Ethiopian Bar Association, on May 31, 2023[Hereinafter interview with Ato Tewodros].

¹⁹² From an interview with W/ro Fekir

¹⁹³ From an interview with Ato Abat

¹⁹⁴ From an interview with Ato Tewodros Getachew former president of the Ethiopian Lawyers Association and current vice and acting president of the Ethiopian Bar Association, on May 31, 2023.

621/2009, which restricted the activities of CSOs, and for the amendment of Federal Advocates Law with the fund gained from the European Union.¹⁹⁵

Additionally, another experience was raised by a participant that, other forms of CSOs not from the professional association of lawyers, have made an attempt at legislative initiation and presented it to the Ministry of Justice for a piece of advice on its enactment.

One organization has made research on the capital market and wants to initiate the making of the law. However since the issue needs to be known by the National Bank and the Ministry of Economy and Finance, they were recommended to go to these organizations which have the power to initiate laws regarding the matter. And since initiating financial laws exclusively the power of the government according to the House of Peoples of the FDRE Rules of Procedure and Members' Code of Conduct Regulation No. 6/2016, Article 50.¹⁹⁶

It can be reserved and taken care of from the above experience that, while clarifying the law for an independent initiation by NSAs are open, caution should be taken on the scope and area of agendas of the initiation. And initiation of legislation not only should be limited to certain agendas but also thoroughly reviewed, discussed, and debated by the enacting body.

Another successful experience by a CSO which can serve as a good example of their continuous and active interest in being involved in the initiation process was raised by a participant. The CSO is not however among the professional associations of lawyers. However, it is worth mentioning as it shows how far an active involvement can open the room for participating in the initiation stage. Accordingly, the participant explains that a draft was presented regarding an Arbitration and conciliation law to the Ministry of Justice by The Ethiopian Arbitration and Conciliation Center, and the draft was endorsed by the Ministry of Justice and then a proclamation was drafted and presented to the parliament. The proclamation is now enacted.¹⁹⁷

Generally, though the dedication and effort to contribute are appreciated, except for the participation in the drafting of the criminal law and the revised family codes which were decades ago, it is apparent that almost all the activities mentioned above by the participants from the NSAs (associations) as well the government were carried out during the time of the legal reform initiative, which was prompted by the call of the government through the Justice and Legal

¹⁹⁵from an interview with Ato Nigus

¹⁹⁶ From an interview with Ato Bamlaku

¹⁹⁷ From an interview with Ato Abat

Affairs Advisory Council (JLAC).¹⁹⁸ Yet it was a government initiative to make reform the institutional and legal system and according to an assessment, was successful due in large part to the excellent work of the Advisory Council and the experts they selected to discuss and prepare draft legislation.¹⁹⁹ This early stakeholder involvement has also gained international acclaim as a model for public participatory processes of legislative drafting.²⁰⁰

So we cannot consider their involvement in the reform as if the CSOs have made an effort to be part of the law initiation independently through their effort. Instead, a gap was seen in the afterward inactive determination of using the opportunity of applying the enabling laws enacted and amended at the time of reform. It has been more than four years since some significant laws were enacted, as described earlier, which granted these actors the opportunity to participate in lawmaking. Despite being expected to take advantage of the opening provided by the government and propose valuable legislation for the general public and legal system, none of them have provided any indication of progress after participating in the government's legal reform initiative, especially in the process of initiation of legislation.

One participant raised a concern that CSOs especially lawyers associations may not be fully engaging in civic activity not only for the benefit of the general public but for their interests also; that they are not even using the recent legislative opportunities to advance their duties and contribute to the legal system.

The Charities and Societies Regulation No.168/2009 and its accompanying Directives were only intended to be effective for one year after the promulgation of the 1113 Proclamation in the Federal Negarit Gazette as stated under article 80 of the proclamation (1113). However, even though this proclamation was enacted, the regulation and its accompanying directives are not still amended yet making it more than four years overdue. This will affect the participation of the organizations themselves in effect.²⁰¹

¹⁹⁸ Office of the Federal Attorney General. Directive No.5/2018 of the Office of the Federal Attorney General, on the establishment of The Justice and Legal Affairs Advisory Council. 2018

¹⁹⁹ IBA Bar Issues Commission. (2020). Independence of the Lawyer Profession in Ethiopia: An International Bar Association Bar Issues Commissions Report on Missions to Ethiopia. Report authored by IBA BIC regional consultant Dr. Cord Brüggman, in consultation with IBA BIC Chair Dr. Péter Köves. April 2020. Page 3. Available at: [Independence of the Lawyer Profession in Ethiopia \(ibanet.org\)](https://www.ibanet.org/Independence-of-the-Lawyer-Profession-in-Ethiopia) on June 2, 2023.)

²⁰⁰ United Nations Special Rapporteur on the right to freedom of opinion and expression, End of mission statement (2019), [www.ohchr.org/EN/NewsEvents/Pages/ Display News. aspx? News ID=25402&LangID=E](http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=25402&LangID=E): (last Retrieved: on June 2, 2023)

²⁰¹ From an interview with Ato Abat

In general, it is not only the CSOs, but the government is also responsible for the limited participation of NSAs in the law-making process. While the government has taken some initiative to involve stakeholders in the participatory processes of legislative drafting during the reform period, it is essential to recognize that a participatory law-making process is not a one-time activity or a temporary engagement. Instead, it requires a clear legal framework, system, and procedure to enable effective and sustained participation by NSAs in the law-making process. Therefore, it is crucial to establish a robust legal and institutional framework that facilitates the meaningful and continuous involvement of NSAs in the law-making process. Before that time comes, it is important to establish uncomplicated mechanisms that confirm the constitutional principles, to facilitate effective participation.

The government specifically, the House of Peoples' Representatives (HPR) and the Ministry of Justice have a duty in a manner that, the house is responsible for collecting reports and information on issues that arise during the oversight and monitoring of public and NGOs. However, the house must make public announcements for citizens to submit issues of concern, and it is unclear if this is being done as there is no evidence to support it from observation and the information gained from a participant explaining that the house has not received and do not receive a request made for law-making from an individual citizen or non-state actor and do not request for NSAs to be part of drafting legislation except at the stage of the public hearing.²⁰²

Likewise, the FDRE Ministry of Justice also has to provide or cause to provide, where necessary, training on matters of law, to officials, appointees, elected officials, and employees of the federal government and actors of the non-government sector with the view to ensure observance of the rule of law.²⁰³

To sum up, contrary to the understanding of the concept of initiation and its legal frameworks, the discussed cases and practical experiences show that there are significant movements to get engaged in the process of law-making and some successful results of participation have been encountered even though it was made based on the call from the state. Therefore shows a change can be archived in the system with an interrupted focused effort to contribute to the legal system.

²⁰² from an interview with W/ro Tsedey

²⁰³ Proclamation No. 943/2016. Art. 6(7)

CHAPTER FOUR

SUMMARY, CONCLUSION, AND RECOMMENDATION

Summary

The first step in drafting legislation is known as initiation. Initiation refers to starting or causing something to happen, and different terms are used to refer to the process of initiating legislation, such as popular initiatives, initiative Power, petition for Law-Making, proposal for Law-Making or amending, citizens' initiative, or right of initiative. Regardless of the specific term, initiating legislation generally involves submitting or proposing an issue or idea to the law-enacting body in written form to be considered for becoming law. The proposal always begins life as an idea or draft, subject to scrutiny, discussion, debate, and voting within parliament or the law-enacting body.

The traditional approach of passing legislation through command and control imposes legal obligations and penalties for non-compliance. In democratic governance, one of the most important considerations is establishing political institutions that effectively represent citizens' interests. To develop a people-centered and citizen-driven development approach, it is crucial to involve individuals or groups in active engagement at the national and international levels. It is increasingly recognized that involving people in the design and implementation of public policies and programs is fundamental to achieving the desired outcomes. The meaningful participation of citizens and NSAs in law-making is widely recognized as a crucial aspect of mature democracies. It not only enhances the quality of law and policy design and implementation but also plays a vital role in building and maintaining trust between citizens and public institutions. Engaging citizens and CSOs in the development of policies and legislation related to public concerns is an effective means of promoting active citizenship and ensuring more responsive legislation. NSAs play a significant role in the governance process by acting as intermediaries between the community and public agencies and contributing to good governance in various ways of providing welfare services and contributing to reform and social change efforts. One of the key contributions of NSAs is their ability to bring the needs of the people to the attention of political decision-makers. These decision-makers may not have direct access to

the knowledge and insights of those closely associated with the needs of specific target populations. Therefore, they bridge this gap, ensuring that the voices and concerns of marginalized communities are considered in the law-making processes.

The common belief is that public participation in the law-making process begins with citizen consultation and discussion on draft legislation presented by the government. However, it is essential to recognize that public participation should commence from presenting an idea for legislation. Public participation can take various forms, including indirect participation through elected representatives and direct involvement.

In Ethiopia despite the constitutional principles regarding the right to participate in decision-making, there is currently no clear regulation on how this right should be exercised in the initiation and drafting procedure. Therefore, this paper is prepared with a twofold aim that first, to examine existing laws regarding NSAs' involvement in legislation initiation and determine the extent of involvement allowed to NSAs in the Ethiopian federal law-making process. And second, to analyze practical instances and propose potential solutions for the gaps identified or suggest a suitable legal intervention approach.

NSAs according to this study denote civil society associations and the general public. And to accelerate data collection and get combined and representative information, those CSOs of professional associations established by Lawyers and based on the Law practice are selected. This is because, in principle, their objective in addition to protecting the rights and interests of their members includes mobilizing professional contributions of their membership to the community and the legal system of the country. And since the study is specifically focusing on the issue of initiation of legislation, it is necessary to choose a professional association that is more prone to the law-making and the legal system both in the level of members' awareness and expected contribution to the area to the community and the legal system. However, to ensure the credibility and triangulation of the information, from both, experienced senior experts from the House of People's Representatives, the highest legislative organ in the country, and experts from the FDRE Ministry of Justice, as the principal advisor and representative of the federal government on legal matters, were also consulted.

In the first part of chapter one, a detailed review of the conceptual frameworks of initiation of legislation, the meaning and types of NSAs, the rationale to engage NSAs in initiating legislation, and a discussion on the professional association type of NSAs were presented. And in the second part, it is tried to take the legislative initiation experience of some countries which have good practices and experience in opening their system to NSAs. Accordingly, a review of the system of Spain from Europe, South Africa, Kenya from Africa, and the United States from America is observed in addition to a glimpse view of other systems. Regarding the methods of allowing for citizen legislative initiation, the Kenyan constitution mandates the enactment of legislation that facilitates resident participation in urban area governance. As a result, the national assembly standing orders and the Petition to parliament procedure act 2012 were created, defining the petition as a written request to Parliament under Article 37 or 119 of the Constitution and outlining associated procedures. In South Africa, the rules for petitions are on the Parliament of the Republic of South Africa website, where e-petitions can also be submitted. For the US, the number of signatures required for direct legislation petitions varies by state.

However, not all legislative initiation is subject to or qualified to vote and there are limitations on the right to exercise the legislative initiation by citizens. For example, in the countries discussed, it is not allowed on matters concerning organic acts, taxation, international affairs, the prerogative of pardon, initiation on the form of government, territorial integrity, independence of the judiciary, political pluralism, or the official language, and any revision that leads to the suppression of any of the citizens' fundamental rights and freedoms, or their safeguards and other countries have various criteria. Conversely, they have put justifications for the restrictions to be imposed.

Several international documents emphasize the significance of the NSA's involvement in decision-making procedures and legislative processes. Hence, the chapter also includes a discussion on selected global and regional instruments which recognizes the importance of public participation in decision-making processes and law-making.

Chapters two and three the overview of the Ethiopian Federal law-making system on the initiation of legislation in general and the initiation of legislation by NSAs in particular, with a special focus on the practical experience of professional associations of lawyers, in this process

was discussed. It explains what the law says about initiating legislation and explores the extent to which associations in particular and non-state organs, in general, have the opportunity to participate in the law-making process of initiating legislation in Ethiopia.

In chapter two, the laws which regulate the federal law-making system are discussed according to the themes of what amounts to the act of initiation or what activates according to our law are considered as an activity of initiating legislation, which organs are given the right to initiate legislation and a specific explanation of the laws on the initiation of legislations by NSAs is included. Accordingly, initiating legislation in Ethiopia involves activities of enacting a new law, amending or repealing an existing law, ratification of international treaties, and passing decisions. The formality and requirements for initiating a draft law must be presented in written form. And with the draft law of detailed contents an explanatory note explaining the importance of the law and its purpose, a policy source for the issue of initiation, and participation and comments of concerned bodies during the drafting process must be provided with both the Amharic and English versions of the draft. This requirement is however only for the bodies which are indicated that they can initiate legislation. Regarding the organs which are given the authority to initiate legislation, the House of Peoples Representatives holds the primary responsibility for initiating legislation, with the power to pass laws in various areas. Other authorized bodies like Members of the House, Committees, and Parliament Groups also are allowed to initiate legislation, except for financial laws which can only be initiated by the government. However, there is a discrepancy in the list of authorized organs to initiate legislation between the FDRE Rules of Procedure and Members' Code of Conduct Regulation and the Federal Democratic Republic of Ethiopia House of Peoples' Representatives Working Procedure and Members' Code of Conduct (Amendment) Proclamation as discussed in detail. The Council of Ministers also is authorized by the Constitution, to enact regulations when delegated to do so by the legislative organ and within the scope of its power.

Regarding the participation or the right to exercise legislative initiatives by NSAs in general and the professional association of lawyers in particular, the law which regulates the law making (The House of Peoples Representative of the FDRE Rules of Procedure and Members' Code of Conduct Regulation No. 6/2016) and two recent proclamations which created a significant

opportunity for NSAs and the public in general for participating in the law-making system are discussed in detail.

The House of Peoples' Representatives has the authority to legislate laws within the federal government's jurisdiction. And delegate the authority to make a direct initiation of legislation to the parties discussed. Direct Initiation of legislation by NSAs is, therefore, an unfamiliar concept in our law. Therefore, to address this problem, it was important to review the details of the regulation and figure out whether it allows for indirect participation in the initiation of legislation like that of other countries. It is elaborated in chapter one of the study that, countries claim that they have an open room for legislative initiation by NSAs through various means. Those methods include the act of submitting an idea or a proposal, or just a petition, to fill gaps in the law. Therefore, the issue was thoroughly discussed in this paper to enable a clear understanding of the law on the room it has for an indirect mechanism of participation in the legislative initiative taking the experience of some selected countries. Accordingly, starting from the point that there is a lack of a clear legal framework defining the role of CSOs for their involvement in the legislative initiation process of the federal lawmaking system, the study reached the point that, CSOs or NSAs have room for participating through indirect means recognized under the House of Peoples Representative of the FDRE Rules of Procedure and Members' Code of Conduct Regulation and through the two recent proclamations discussed. However, the study underlined that there still are discrepancies that need to be cleared out in these legislations also and the detail is discussed in the chapter.

The additional two proclamations discussed are the Federal Administrative Procedure Proclamation No. 1183/2020 and the Organizations of Civil Societies Proclamation No. 1113/2019. The Federal Administrative Procedure Proclamation is a major and innovative law as it enables citizens to directly engage in the initiation of legislation through directives. And The Civil Societies Proclamation authorizes civil society organizations to participate in government policy and law development, allowing them to suggest modifications to current laws and policies or propose new ones about their respective fields of concern.

Chapter three evaluated the practical experiences and understanding of both state actors and professional lawyer associations in initiating legislation, considering the legal aspects discussed

earlier and recognizing opportunities for these actors to indirectly participate in the law-making stage. As a result, having the thought that initiation of legislation is only limited to the actual submission of a well-designed legal document (directly presenting the initiated legislation), most of the professional associations assessed under this study have limited their participation in the law-making process customarily to the consultation stage and to other advocacy methods of lobbying efforts through conducting research to indicate and support for the initiation of legislations by the government organs and raising public legal awareness. This view that the law regarding the initiation of legislation does not permit CSOs to directly or indirectly propose laws or to make a petition is also mirrored by participants of the research from the government part. Generally, the study found out that, although their efforts to contribute to the growth of the legal system are appreciated, the state and non-state actors' lack of motivation to explore alternative methods beyond the limited ways of engaging in the law-making system is a cause for concern.

The Ethiopian constitution grants the House of Peoples' Representatives the power of legislation initiation within the federal government's jurisdiction. Despite this provision, there has been little to no independent initiative from either independent or opposition members of the HPRs or the standing committees to propose legislation.²⁰⁴ This lack of interest and motivation from state actors with clear legislative powers is mirrored by NSAs, particularly professional associations of lawyers, who are expected to be pioneers of change but, wait for others to push them to become involved in the legal system. Instead of fighting for their participation, they tend to use simplistic and obvious methods of advocacy, failing to take advantage of opportunities to contribute to the legislative process. NSAs could even request that the law on legislative initiation be amended, presenting reasoned arguments for change and democratic participation. However, they continue to follow traditional methods of advocacy.

Recently, professional associations of Lawyers have been actively engaged in the recent government initiative for the reform of laws through various means of legislative initiatives. Nevertheless, the dedication and effort to contribute to the initiation of legislation are

²⁰⁴ Kaysay Mehari, *The Legislative Process in Ethiopia*. A Thesis Submitted to the School of Graduate Studies of Addis Ababa University in Partial Fulfillment of the Requirements for the Award of Masters Degree in Public Management and Policy Specialization Public Policy Studies, to Addis Ababa University, 2013. Page 58

appreciated, it is apparent that almost all the activities mentioned by the participants were carried out during the time of the legal reform initiative, which was prompted by the call of the government through the Justice and Legal Affairs Advisory Council. However, it was a government initiative to make reform the institutional and legal system.

As well gap was seen in the afterward that, despite being expected to take advantage of the opening provided by the government and propose the enactment or amendment of valuable legislation for the general public and legal system, none have provided any indication of progress after participating in the government's legal reform initiative and it has been more than four years since some significant laws were enacted, which granted these actors the opportunity to participate in lawmaking and legislative initiatives. Though, it is not only the NSAs, but the government is also responsible for the limited participation of NSAs in the law-making process. While the government has taken some initiative to involve stakeholders in the participatory processes of legislative drafting during the reform period, it is essential to recognize that a participatory law-making process is not a one-time activity or a temporary engagement. Instead, it requires a clear legal framework, system, and procedure to enable effective and sustained participation by NSAs in the law-making process.

Citizens are not supposed to find loopholes and gaps to exercise their constitutional right of expressing their sovereignty through direct or indirect democracy. Therefore, it is crucial to establish a full-bodied legal and institutional framework that facilitates the meaningful and continuous involvement of NSAs in the law-making process. However, as evidenced by the experience of other countries, while it is important to provide clarity around the ability for independent initiation of legislation, caution must be exercised around the scope and extent of legislative agendas. Furthermore, any legislative efforts by NSAs should not be confined to a particular agenda and must undergo thorough review, discussion, and debate by the enacting body.

Conclusion

To achieve effective law-making and decision-making processes, all participants in the legislative process must recognize their roles in creating legislation that benefits society as a whole. It is also crucial to ensure that laws are implemented in a manner that serves the best interests of the general population. The FDRE Constitution of Ethiopia upholds key principles of government administration, including accountability, transparency, and public participation; and it recognizes the sovereignty of the people, which is expressed through their representatives elected as per the constitution and through their direct democratic participation.

Affirming this constitutional principle, recent enactments in the law-making process are opening opportunities for the active engagement of the people in law-making and initiating the process. However, the law which regulates the law-making process i.e. the House of Peoples Representative of the FDRE Rules of Procedure and Members' Code of Conduct Regulation No. 6/2016 seems to reserve initiating of laws only to the government. And Initiation of legislation in the Ethiopian law-making system is defined in a strict way that it only allows presenting of the draft legislation to the enacting organ directly, restricting the scope of citizen democratic participation at least in an indirect way.

To address this gap, this research finds it essential to determine whether the law allows for indirect participation in the initiation of legislation, such as through submitting an idea, a report or proposal, or a petition to fill gaps in the law like that of other countries which allow these activities as a way of citizens' participation in the initiation of legislation. Accordingly, the law which limits the act of initiation to the government organs also provides mechanisms for oversight and monitoring, which include receiving reports and information from government organs, committees, and the public and NGOs. This mechanism of reporting to the House enables NSAs (the public and NGOs) to have a say in the legislative process through indirect means. It allows for the identification and resolution of gaps in the law through the creation of new legislation or amending an existing one. While this approach may not be direct, it opens a valuable opportunity for NSAs to participate in the legislative initiative process.

The practice shows that rather than assessing any possible ways of participation in law-making, both the state and non-state parties according to this study are limited to outmoded methods of participation in law-making and advocacy. There is, therefore, a gap in the motivation for the need to explore other avenues for NSAs to participate in the legislative process. And from the government's part, it should be noted that Citizens are not supposed to find loopholes and gaps to exercise their constitutional right of expressing their sovereignty through direct or indirect democracy.

Generally, the major legal and practical gaps identified in this paper in short includes,

- Initiation of legislation in the Ethiopian law-making system is currently defined quite narrowly as the right to present draft legislation to the enacting organ. However, this definition limits the scope of citizen democratic participation, as it does not include other indirect activities.
- The legal provisions outlined in the HPR Members' Code of Conduct and Working Procedure Proclamation No.6/2016 are inconsistent with the constitutional principle and the recent proclamations, such as the Organization of Civil Societies Proclamation number 1113/2019 and the Federal Administrative Procedure Proclamation Number 1183/2020, which the latter especially grants citizens the right to participate or request the initiation of directives by making a petition directly; which reflects a progressive development in the law-making process.
- Though the government has a significant role to play in ensuring that NSAs are meaningfully and continuously involved in all stages of law-making, there is limited involvement of NSAs in the law-making process.
- To contribute to legislation development, it is important for CSOs, particularly professional associations of Lawyers need to proactively seek opportunities to collaborate with government organizations and provide their expertise to draft initial proposals and initiate independent legislation. However, despite their potential to contribute, CSOs are often limited in their involvement and rely on external invitations and calls, neglecting other possible means of involving themselves in legislative initiations.

Recommendation

- To promote democratic participation and inclusivity, the definition of initiation of legislation should be reconsidered to include a wider range of activities such as citizens' right to propose or suggest ideas for the legislative process. This would enable citizens to have a greater say in shaping their country's laws, improving the overall democratic process. Therefore, taking cues from other countries' experiences, it is recommended that the Ethiopian law-making system broaden the scope of legislative initiation activities to incorporate indirect activities such as citizens proposing or suggesting ideas for the legislative process. This would serve as a vital step towards enhancing democratic participation, ensuring inclusivity, and promoting citizen involvement in shaping their country's laws.
- The provisions regulating the initiation of laws should be revised to clearly define how NSAs can participate in the initiation or pre-initiation processes of laws. Rather than limiting and just closing that law initiation as an exclusive right of the government. This will help create transparency regarding participation procedures for the general public and ensure a robust, effective legal system. Since public participation in the law-making process benefits both the public and the legal system as a whole, clarifying these procedures is highly recommended.

In other words, the legal provisions outlined in the HPR members' code of conduct and working procedure proclamation no.6/2016 need to be amended to align with the constitutional principles of sovereignty of the people, which includes individual participation in the law-making process. And be consistent with the constitutional principles and recent proclamations, such as the Federal Administrative Procedure Proclamation number 1183/2020 which has affirmed this principle by granting citizens the right to participate or request initiation of directives from the government. This represents a progressive development in the law-making process.

- The responsibility for the limited involvement of NSAs in the law-making process does not solely lie with CSOs, but also with the government. Although there have been some efforts by the government to engage stakeholders in the legislative drafting process, it is important to realize that the participatory law-making process should not be a one-time or

temporary activity. It should be supported by a clear legal framework, system, and procedure to ensure sustained and effective participation by NSAs. Therefore, it is crucial to establish a strong legal and institutional framework that enables meaningful and continuous involvement of NSAs in all stages of the law-making process to uphold constitutional principles and support effective participation.

- It is a beneficial principle and practice for the government to delegate law-making power to other bodies with professional expertise to efficiently create laws that address specific details. Thus, NSAs specifically professional associations of lawyers should also be allowed to participate and contribute their in-depth understanding of societal issues and high level of expertise in their respective fields. Their contributions are crucial for creating effective and practical laws that provide better solutions to these societal issues.
- Though the process of participation is not clearly defined, CSOs should actively seek opportunities to contribute to the development of legislation and collaborate with government organizations to provide their expertise in drafting initial proposals and take opportunities for an independent initiation. They can utilize the rights granted by the constitution and the recent proclamations to have their voices heard in the legislative system and also drive beneficial practices from CSOs in other countries who are actively contributing and effectively taking legal doors. According to the UN Basic Principles on the Role of Lawyers, the constitution, recent proclamations, and experience of other countries show that professional associations of lawyers have to cooperate with governmental and other institutions to promote justice and the public interest. Therefore, they should not wait for invitations or requests from the government to participate in all stages of the law-making process. It is their responsibility to advocate for their involvement and strive to effect change in the public and legal system as a priority.
- Future research in this area could broaden its scope to include a more comprehensive evaluation of the room of regional laws on the initiation of legislation by NSAs. Moreover, an assessment of other CSOs actively engaged in various activities in Ethiopia could be incorporated, along with the participation of government entities focused on the issue.

BIBLIOGRAPHY

I. Books, Encyclopaedia, and Dictionaries

1. Banasiuk, J., & Zych, T. Joanna Banasiuk and Tymoteusz Zych. *State of Democracy Human Rights and the Rule of Law in Poland Recent Developments*. ISBN 978-83-940214-3-6. September 2016. Available at: file:///C:/Users/user/Downloads/Citizens_legislative_initiative_instrume.pdf. accessed on October 25, 2022
2. Centre for Good Governance (CGG). *The Right to Information Act: A Guide for Civil Society Organizations*. Capacity Building for Access to Information Project. Road No. 25, Jubilee Hills, Hyderabad - 500033, Andhra Pradesh (India), July 2006. Retrieved from <https://www.cgg.gov.in/core/uploads/2017/07/16.CSO-Guide.pdf> Accessed on September 19, 2022
3. Cerritelli, William Emilio. *UPDATED MAPPING STUDY OF NON-STATE ACTORS IN ETHIOPIA*. (2008). Volume 1
4. Clapham, A. *Non-State Actors (in Post-conflict Peace-building)*. In V. Chetail (Ed.), *POSTCONFLICT PEACE-BUILDING: A LEXICON* (pp. 200-212). Oxford University Press. Available at SSRN: <https://ssrn.com/abstract=1339810>. Accessed on October 1, 2022.
5. Eralda (Met-Hasani) Çani, Klesta Hysi, Erind Merkuri. *A comparative analysis: parliament lawmaking process in different countries and the national approach of the legal framework*. Law Faculty, Tirana University. 2013
6. Gordon, Robert W. *The Role of Lawyers in Producing the Rule of Law: Some Critical Reflections*. *Theoretical Inquiries in Law*, vol. 11, no. 1, 2010, pp. 441-468. <https://doi.org/10.2202/1565-3404.1247>
7. Helen Xanthaki. *Thornton's Legislative Drafting*, 5th ed., Bloomsbury Professional, London 2013. http://wanainstitute.org/sites/default/files/publications/Publication_LegislativeReform_EnglishSummary_0.pdf. Accessed on September 28, 2022
8. Krunke, Helle and J. Dalsgaard. *Towards Increased Citizen Participation in Europe: Impact of Current Developments on Political Decision Making and Democracy*. 2016.

9. OSCE, MCIC, & ECNL. *Transparency and Public Participation in Law Making Processes: Comparative Overview and Assessment of the Situation in Macedonia*. 2010. Retrieved from http://www.ecnl.org/dindocuments/381_Transparency%20in%20Law%20Making%20Eng.pdf. Accessed on October 6, 2022
10. Patton, M. *Qualitative evaluation and research methods*. Beverly Hills, 1990. CA
11. Popoola, Olufemi O., *Actors in Decision Making and Policy Process*. (2016). Available at : <https://www.walshmedicalmedia.com/open-access/actors-in-decision-making-and-policy-process.pdf> , accessed 26 May 2023
12. Seidman, A., Seidman, R., & Abeysekere, N., *Legislative Drafting for Democratic Social Change (A Manual for Drafters)*, Kluwer Law International, Hague, 2001
13. Smith, G. *The European Citizens' Initiative (ECI): a new institution for empowering Europe's citizens?* In Dougan, M., Shuibhne, N. N., & Spaventa, E. (Eds.), *Empowerment and disempowerment of the European citizen*. Oxford, Hart. 2012
14. Vidačak, Igor. *Tools and Methods of CSO Participation in Public Policy Making: Overview of Good Practices in Croatia, Estonia, and France*. 2020

Dictionaries

1. Black's Law online dictionary. Definition of LEGISLATION (Black's Law Dictionary) (alegaldictionary.com). "What is LEGISLATION?"
2. Collins Dictionary. (n.d.). professional association. Collins English Dictionary. Retrieved on July 8, 2023, from <https://www.collinsdictionary.com/dictionary/english/professional-association#:~:text=professional%20association%20in%20British%20English,Collins%20English%20Dictionary>.
3. Definitions.net. STANDS4 LLC, 2021. "initiation". Retrieved from the Web. <https://www.definitions.net/definition/initiation>. Accessed on September 29, 2022
4. Initiate legislation definition and meaning | Collins English Dictionary (collinsdictionary.com). on September 28, 2022. Retrieved from [http://Initiating legislation \(lawgovpol.com\)](http://Initiating legislation (lawgovpol.com)). on September 28, 2022
5. Merriam-Webster. (n.d.). Merriam-Webster.com/ dictionary. "Legislation". Retrieved September 19, 2022, from <https://www.merriam-webster.com/dictionary/legislation>

II. Periodicals

a. Journal articles and Law reviews

1. Amnesty International, *Laws Designed to Silence: The Global Crackdown to Civil Society*, 21 February 2019. Index number: ACT 30/9647/2019. P.4. Available at [https://www.amnesty.org/.../ACT3096472019ENGLISH.pdf\(ACT3096472019ENGLISH.pdf \(amnesty.org\)\)](https://www.amnesty.org/.../ACT3096472019ENGLISH.pdf(ACT3096472019ENGLISH.pdf (amnesty.org))). Accessed on September 16, 2022
2. Asamere, A. *Professional Associations in Development: A Neglected Issue*. Ethiopian Business Review, 5th Year, No. 48, February 16-March 15, 2017. Retrieved from: <https://ethiopianbusinessreview.net/professional-associations-in-development-a-neglected-issue/>. On July 7, 2023
3. Debebe, H. and Ghetnet, M. W., Professional Associations and Think-Tanks under the Charities and Societies Legal Regime. Avalebile on https://www.academia.edu/29410328/Professional_Associations_and_Think_Tanks_under_the_Charities_and_Societies_Legal_Regime_September_2016_Professional_Associations_and_Think_Tanks_under_the_Charities_and_Societies_Legal_Regime . Retrived on July 7, 2023
4. Forrester, Leila Patel. *TOWARD MEANINGFUL CIVIC ENGAGEMENT: A CASE STUDY OF CIVIL SOCIETY PARTICIPATION IN LEGISLATIVE REFORM*, Journal: Social Work/Maatskaplike Werk, 2014, ISSN: 0037-8054.
5. Hartay, E., *Citizen Participation: Best Practices in the Western Balkans and the European Union*. KCSF. Fazli Grajcevci 4/a 10000. Prishtina, Kosovo. October 2011. http://wanainstitute.org/sites/default/files/publications/Publication_LegislativeReform_EnglishSummary_0.pdf. Accessed on September 28, 2022
6. Kabtiyemer, Y. A. *Freedom of Association under Ethiopian Laws: A Case in Professionals' Association*. International Journal of Social Science and Humanities Research, 6(3), 911-921. Retrieved July 7, 2023, from www.researchpublish.com
7. Lee, Jaime., *'Can You Hear Me Now?': Making Participatory Governance Work for the Poor*. Harvard Law & Policy Review, Vol. 7, No. 2, Summer 2013. Available at SSRN: <https://ssrn.com/abstract=2485325> or <http://dx.doi.org/10.2139/ssrn.2485325>

8. Nheu, Natalina. *By the people, for the people? : Community participation in law reform* /1st ed. ISBN: 978 0 909136 93 2 (pbk.) Series: Access to justice and legal needs; v. 6., Available on [http://www.lawfoundation.net.au/ljf/site/articleIDs/CC42E4B3179ECC48CA2577EB000460AF/\\$file/ByThePeopleForThePeople_web.pdf](http://www.lawfoundation.net.au/ljf/site/articleIDs/CC42E4B3179ECC48CA2577EB000460AF/$file/ByThePeopleForThePeople_web.pdf) retrieved on September 23,2021
9. Ronald Odhiambo Bwana. *Public Participation in Kenya. Dead Letter Law? July 10, 2012*. Available at: <https://ssrn.com/abstract=3879859>. accessed on October 14, 2022
10. Rosenberger, S., Seisl, B., Stadlmair, J., & Dalpra, E., *What Are Petitions Good for? Institutional Design and Democratic Functions* Department of Political Science, Faculty of Social Sciences, University of Vienna, Vienna, Austria, Parliamentary Affairs (2020) 00,1–21 accessed <https://academic.oup.com/pa/advancearticle/doi/10.1093/pa/gsaa058/6010644> by guest on 09 September 2022
11. Shiferaw W.M., *The Law Making process in Ethiopia. Post 1974, Part Two, Law Making under the Provisional Military Government of Ethiopia*, *Journal of Ethiopian Law*. 1989, at p.128 available at https://journals.co.za/doi/pdf/10.10520/AJA00220914_114
12. Stoica, C., & Safta, M., *Legislative initiative of citizens in Romania and at the European level*, *Journal: Acta Juridica Hungarica*: 01 Jun 2014, ISSN: 1588-2616.
13. The Legal and Justice Affairs Advisory Council of the Federal Democratic Republic of Ethiopia Attorney General. *Explanatory Note for the Provisions of Federal Administrative Procedure Law*. June 2021.
14. University of California, *Initiative Power: California Initiative 636*. Hastings College of the Law. 1994. An Article on Initiative Power. Available at: http://repository.uhastings.edu/ca_ballot_inits/799. Retrieved on September 18, 2022.
15. West Asia-North Africa Institute. *The Role of Civil Society Organizations in Legislative Reform: Summary*. August 2018. Retrieved from:
16. Wood, C. M., *Initiative and Referendum*. A Publication of Research Division of the National Association of Counties (NACo) County Services Department of America. August 2009 accessed from

<https://naco.org/sites/default/files/documents/Initiative%20and%20Referendum.pdf> on October 1, 2022.

Statements, interviews, and lectures (seminars)

1. Sihako, B. (n.d.). Bogdanovskaia - Lecture notes 4, *THE LEGISLATIVE BODIES IN THE LAW - MAKING PROCESS I*. The University of Namibia. Retrieved from: <https://www.studocu.com/row/document/university-of-namibia/law-of-persons/bogdanovskaia-lecture-notes-4/9620247>. Retrieved on September 16,2021

III.Series

Doctoral dissertation, master’s thesis, senior essay, and other unpublished materials

1. Demoz Aman Hamda., *The Role of Public and Civil Society in the Enactment of Ethiopian Federal Laws*. A Thesis submitted in partial fulfillment of the requirements for the degree of master of law in Legislative Studies and Legal Drafting to, Mekelle University School of Law in Collaboration with the Faculty of Law of Amsterdam University. May 2016.
2. Elia Armstrong. *The Role of Active Participation and Citizen Engagement in Good Governance*. Division for Public Administration and Development Management (DPADM/DESA). New York, 10 September 2013. Available at: [Microsoft PowerPoint - Elia Armstrong presentation \(un.org\)](#). Retrieved on October 6, 2022
3. Gebre-Egziabher, S., *The role of civil society organizations in the democratization process in Ethiopia*. Paper presented at the Fifth International Conference of the International Society for the Third-Sector Research (ISTR), “Transforming Civil Society, Citizenship and Governance: The Third Sector in an Era of Global (Dis)Order,” July 7-10, 2002, University of Cape Town, Cape Town, South Africa.
4. Gerber, Elisabeth R. (1993) *Are Legislators Afraid of Initiatives? Anticipation and Reaction in the Policy Process*. Social Science Working Paper, 853. California Institute of Technology, Pasadena, CA. Available at: <https://resolver.caltech.edu/CaltechAUTHORS:20170824-151040280>

5. Kahsay Mehari. *The Legislative Process in Ethiopia*. A Thesis Submitted to the School of Graduate Studies of Addis Ababa University in Partial Fulfillment of the Requirements for the Award of Masters Degree in Public Management and Policy Specialization Public Policy Studies, to Addis Ababa University, 2013
6. Pro Bono Publico, University of Oxford. Comparative Survey of Procedures for Public Participation in the Law Making Process-Report for National Campaign for People's Right to Information (NCRPRI). April 2011. Available at: <https://ohrh.law.ox.ac.uk/public-participation-in-the-lawmaking-process/> Retrieved on September 21, 2023
7. Tamirat Cheru Hailu, *Regional Autonomy of Policy-Making and Implementations in the Ethiopian Federation: A Comparative Study on the Formulation and Implementations of Urban Policy in the Amhara and SNNPR States since 199*. A Dissertation Presented for the Requirement of Doctoral Degree of Philosophy in Federalism and Governance Studies to Addis Ababa University, April 2018.
8. Teressa, H. T. Determinants of Professional Associations' Performance in Ethiopia (Master's thesis). Addis Ababa University, College of Business and Economics, Masters of Business Administration Program. 2022
9. Qhubani Moyo., Ph.D. thesis on Civil-society participation in the Southern African development community (SADC) policy formulation and implementation processes..1st January 2018. Available at: oai: wired space.wits.ac.za:10539/26048

IV. Legal Instruments

a. Treaties, Declarations, and Resolutions

1. African (Banjul) Charter on Human and Peoples' Rights (adopted 27 June 1981. entered into force 21 October 1986) (1982) 21 ILM 58
2. Declaration and Treaty of SADC (1992) Available at: <https://www.sadc.int/document/declaration-treaty-sadc-1992-0>

3. European Union, *Treaty of Lisbon Amending the Treaty on European Union and the Treaty Establishing the European Community*, 13 December 2007, 2007/C 306/01. Art 10 is available at: <https://www.refworld.org/docid/476258d32.html>
4. International Covenant on Civil and Political Rights, 19 December 1966, 999U.N.T.S. 171. Available at: <https://treaties.un.org/doc/Publication/UNTS/Volume%20999/volume-999-I-14668-English.pdf>
5. International Covenant on Economic, Social and Cultural Rights, 19 December 1966, 999 U.N.T.S.3. Available at: https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-3&chapter=4&lang=en
6. Regulation (EU) No 211/2011 of the European Parliament and of the Council of 16 February 2011 on the citizens' initiative (OJ L 65/1, 11.03.2011)
7. United Nations Economic Commission for Europe (UNECE). Aarhus Convention on access to information, public participation in decision-making, and access to justice in environmental matters. 1998. Retrieved from: <https://unece.org/DAM/env/pp/documents/cep43e.pdf>. Retrieved on September 21, 2022, UN Commission on Human Rights, Human rights and the environment., 24 February 1995, E/CN.4/RES/1995/14, Art. 3 and ff available at: <https://www.refworld.org/docid/3b00f0cc14.html>
8. UN General Assembly, Human rights defenders in the context of 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: resolution / adopted by the General Assembly, 10 February 2016, A/RES/70/161, available at: <https://www.refworld.org/docid/56dd31954.html> accessed on September 16, 2022
9. United Nations, Basic Principles on the Role of Lawyers, 7 September 1990, available at: <https://www.refworld.org/docid/3ddb9f034.html> [accessed 26 May 2023]

10. Universal Declaration of Human Rights, G.A. res. 217A (III), U.N. Doc A/810 at 71 (1948).
11. Universal Declaration on Human Rights Defenders. (1998). Art. 13. Retrieved September 21, 2023, from <https://www.ohchr.org/en/special-procedures/sr-human-rights-defenders/declaration-human-rights-defenders>

National Legislations

Ethiopia

1. Ethiopian Federal Democratic Republic Definition of Power and Duties of the Executive Organs Proclamation No. 1263/2021. Addis Ababa. Gazette, 28(4). 2022, January 25
2. Federal Attorney General Establishment Proclamation number 943/2016
3. Federal Democratic Republic of Ethiopia House of Peoples Representative of the FDRE Rules of Procedure and Members' Code of Conduct Regulation No. 6/2016
4. Organizations of Civil Societies Proclamation, 2019, Art. 2(5) Proc. No.1113, Neg. Gaz. Year 25, No.33
5. The Constitution of the Federal Democratic Republic of Ethiopia Proclamation No. 1/1995, *Federal Negarit Gazeta*, 1st Year, No.1, Addis Ababa
6. The Council of Ministers circular on the procedure of preparation and submission of draft laws by government organs to the Council of Ministers. Issued on November 6, 2018
7. Office of the Federal Attorney General. Directive No.5/2018 of the Office of the Federal Attorney General, on the establishment of The Justice and Legal Affairs Advisory Council. 2018

Kenya

1. National Assembly of Kenya. Factsheet 4, *Petitions to parliament*. 2017. Page 3. Available at: www.parliament.go.ke/sites/default/files/2018-04/4_Petitions_to_Parliament.pdf

2. The Constitution of The Republic of Kenya, Article 119. Revised Edition 2012 [2010]. Available at: [ConstitutionofKenya-2010.pdf](#) (museums.or.ke). accessed on October 14, 2022

South Africa

1. Constitution of the Republic of South Africa [South Africa], 10 December 1996, available at: <https://www.refworld.org/docid/3ae6b5de4.html> [accessed 14 October 2022]

III. Web Results and Others

1. Agency for Civil Society Organizations, List of registered local CSOs, 2021, ACSO. Available at: [FDRE Agency for Civil Society Organizations - ACSO /Local.pdf](#) (acso.gov.et). accessed on September 26, 2023
2. Austrian parliament website: <https://www.parlament.gv.at/ENGL/PERK/GES/WEG/INITIATIVE/index.shtml>.
3. [How to Petition Parliament - Parliament of South Africa](#) (<https://www.parliament.gov.za/submissions>)
4. IBA Bar Issues Commission. (2020). *Independence of the Lawyer Profession in Ethiopia: An International Bar Association Bar Issues Commissions Report on Missions to Ethiopia*. The report was authored by IBA BIC regional consultant Dr. Cord Brüggman, in consultation with IBA BIC Chair Dr. Péter Köves. April 2020. Page 3. Available at: [Independence of the Lawyer Profession in Ethiopia \(ibanet.org\)](#) on June 2, 2023.
5. Maer, Lucinda. *Citizens' Initiatives*. House of Commons Library, Parliament and Constitution Centre Note, SN/PC/04483. 2008
6. Mark Segal. *Legislative Drafting: Principles and Materials*. accessed from <https://marksegaldotnet.files.wordpress.com/2011/07/legislativedrafting-marksegal.pdf> on September 18, 2022
7. [NON-STATE ACTOR / Definition of NON-STATE ACTOR by Oxford Dictionary on Lexico.com also meaning of NON-STATE ACTOR](#). Oxford Dictionaries/ English. Retrieved on October 1, 2022

8. Parliament of the Republic of South Africa, How to Petition the Parliament of South Africa: <https://www.parliament.gov.za/how-to-petition-parliament>. Accessed on October 11, 2022
9. Petition to Parliament (procedure) Act - No. 22 of 2012 (revised Edition 2012). Parliamentary Session.11th Parliament (2013-2017). Available at: [Microsoft Word - Paged Petitions to Parliament Procedure Act No. 22 of 2012 .doc](#)
10. The University of Massachusetts Global. (n.d.). Professional Associations. Retrieved July 8, 2023, from https://www.umassglobal.edu/-/media/documents/careerservices/resource-page/professional_associations.pdf
11. United Nations Department of Economic and Social Affairs. Youth and Civic Engagement: A Guide to Leading and Participating in Change. 2018. Retrieved from https://www.un.org/development/desa/youth/wp-content/uploads/sites/21/2018/12/un_world_youth_report_youth_civic_engagement.pdf
12. United Nations Special Rapporteur on the right to freedom of opinion and expression, End of mission statement (2019). Available at: www.ohchr.org/EN/NewsEvents/Pages/Display.aspx?NewsID=25402&LangID=E:. accessed: on June 2, 2023

Interviews

1. Interview with Ato Belayhun Yirga, Former Director General of the legal studies, drafting, and Dissemination Directorate General, Ministry of Justice. Interviewed on May 20, 2023
2. Interview with Ato Abat Gebretsadik, Assistant to the Attorney General, legal studies, drafting, and Dissemination Directorate General, Ministry of Justice. Interviewed on April 6, 2023
3. Interview with Ato Bamlaku Andarge, Senior Public Prosecutor at the legal studies, drafting, and Dissemination Directorate General, Ministry of Justice. Interviewed on April 5, 2023
4. Interview with W/ro Tsedey Tesfaye, Senior legal officer at the HPR legal department. Interviewed on May 9, 2023

5. Interview with Ato Nigus Tizazu, Vice President of the Ethiopian Young Lawyers Association. Interviewed on April 3, 2023
6. Interview with Ato Tewodros Getachew, Vice president and acting president of the Ethiopian Bar Association and former president of the Ethiopian Lawyers Association. Interviewed on May 31, 2023
7. Interview with W/ro Fekir Mulugeta, General Secretary of the Ethiopian Lawyers Association and A Lawyer and consultant at law. Interviewed on June 2, 2023

APPENDIXES

Appendix 1: Interview Guide Questions

Appendix A: Introduction and Consent Statements for Interview Participants

Code

Date of Interview

Introduction and Consent Statements

I am Helen Tesfaye, a student of Master of Law in Legislative Studies and Legal Drafting in Bahirdar University in collaboration with the University of Amsterdam School of Law. I am conducting research in partial fulfillment of the degree of Masters in law with the title “*An Assessment on the Room for Non-State Actors in Initiating Legislations in the Ethiopian Federal Law Making System: The Case of Professional associations established by Lawyers*”.

For this study, I propose you as a source of information and it is your cooperation that helps the researcher to accomplish the research objectives. So, I am kindly requesting you to share your experience and perception.

In the course of your participation, I want to assure you that, the information you will share, will be kept confidential and will be used only for educational purposes. Nothing has an objective beyond this and the data is fully confidential for this thesis only.

You have also the right to refuse or not to answer any question, and also quit; if you feel discomfort with the questions. If you are willing to participate in this research, the information you will provide will be recorded by code. And the finding of this study will be presented and reported to the University.

Thank you very much for your participation!!

Interview guide Questions for participants in the HPR and legislative drafting professionals from the Ministry of Justice

1. How do you explain the level of CSOs' (especially those of professional associations) participation in the law-making process in the Ethiopian law-making system? / In what ways and at which stages do they make participations? (በኢትዮጵያ የህግ አወጣጥ ስርዓት ውስጥ የሲቪል ማ/ድርጅቶችን ተሳትፎ እንዴት ያዩታል? የትኛው ሂደት ላይ ተሳትፎ ያደርጋሉ

2. What about participation in initiating legislation? In what sort of activities do they try to be part of initiating legislation? (ህግ ማመንጨት ላይ ያላቸው ተሳትፎ ምን ይመስላል; -- በምን አይነት እንቅስቃሴዎች / ስራዎች ህግ የማመንጨት ተግባራትን ያከናውናሉ/ይሳተፋሉ; (ህግ ማመንጨትን በምን አይነት ስራዎች ይተገብራሉ))
3. Do CSOs have the right to initiate or propose issues for legislation making in the Ethiopian law-making system? Why? / How?
4. Which laws or enactments are relevant concerning the issue? (የሲቪል ማ/ድርጅቶች በኢትዮጵያ ህግ ውስጥ ህጎችን ማመንጨት እንዲችሉ ሙብት ተሰጥቷቸዋል ወይ;
 - በህግ ማመንጨት ዙሪያ ያሉት ህጎች ምንድናቸው)
5. Have you received or heard of a request made for law-making from an individual citizen or non-state actor? (other than a directive)
 - 5.1 In what way or form (petition, draft legislation, or simple concept note?)
 - 5.2 What was the response given?
 - 5.3 If did not receive it, does your organization try or requested at least for NSAs to be part of drafting legislation? – If yes, examples?
 - 5.4. If did not receive, what response would you give if you receive a legislative initiation from NSAs? (ከሲ/ማ/ድርጅቶች ህግ ይረቀቅልኝ ማለት የቀረበ ፕሮፖዛል ወይም ሰነድ ቀርቦላችሁ ያውቃል;
 - ጥያቄው በምን መልኩ ቀረበ (ረቂቅ ሰነድ አዘጋጅቶ በመላክ፤ በደብዳቤ፤ በቃል፤)
 - ምን ማለሽ ተሰጠ
 - የህግ ማመንጨት ጥያቄው ቀርቦ የማያውቅ ከሆነ ተቋማችሁ እንዲህን አካላት በህግ ማመንጨት ሂደት ውስጥ እንዲሳተፉ ጥሪ ይቀርባል ወይ)
6. What do you recommend about the law or practice of initiating legislation by CSOs in our law-making system? What should be done by both the CSOs part and the government? (በህግ አወጣጥ ስርዓታችን ውስጥ በተለይ በህግ ማመንጨት ሂደት ላይ የሲ/ማ/ድርጅቶች ተሳትፎ ምን መሆን አለበት ብለው ያስባሉ; የሲ/ማ/ድርጅቶች ሀላፊነት እስከምን ድረስ መሆን አለበት ? የመንግስት አካላትስ)
7. Do you have anything to add to the system or practice of CSOs' participation in initiating legislation in the law-making process in Ethiopia? (Generally በህግ ማመንጨት የህግ ስርዓቱ ላይ ወይም ደግሞ በሰነድ ስርዓቱ ላይ ምን ቢደረግ ይላሉ?)

Interview guide Questions for representatives of CSOs (the associations)

1. How do you define /understand the idea of initiating legislation? What sort of activities do you think are part of initiating legislation? (ሕግ ማመንጨት የሚለውን ሀሳብ እንዴት ይረዱታል; ህግ ማመንጨት በምን አይነት መንገዶች ሊከናወን ይችላል)
2. Do you think that Ethiopian law gives CSOs the right to initiate/ propose legislation? How/ why? (በህጎቻችን ውስጥ ለሲ/ማ/ድርጅቶች ህግ የማመንጨት መብት ወይም ስልጣን ተሰጥቷል; የትኖቹ ህጎች እንደሆኑ ቢያብራሩልኝ;)
3. What is the situation of your associations’ participation in the law-making process in the Ethiopian law-making system? / In what stages of participation do you engage? Through what kind of methods?
 - 3.1. What about initiating legislation?
 - 3.2. Please explain in what way or form your association made the request (petition, draft legislation, or simple concept note?)
 - 3.3. To which governmental organization was the request sent and what was the response given? (ማህበራችሁ በህግ አወጣጥ ሂደት ውስጥ እንዴት እየተሳተፈ ይገኛል?
 - ህግ ማመንጨት ላይስ; - በምን መልኩ ተሳትፎ ቀረበ (ረቂቅ ሰነድ አዘጋጅቶ በመላክ፤ በደብዳቤ፤ በቃል፤)
 - ለየትኞቹ የመንግስት ተቋማት ጥያቄ አቅርባችዋል; ምን ምላሽ ተሰጣችሁ?)
4. If not, have they tried or requested to at least be part of the drafting of legislation? – If yes, examples? (ህግ እንዲጻፍ ሀሳቡን ወይም ረቂቁን በማመንጨት ልካችሁ የማታውቁ ከሆነ ሌሎች ተቋማት በተለይም የመንግስት ተቋማት ህጎችን ሲያወጡ ለመሳተፍ ጥያቄ አቅርባችሁ ታውቃላችሁ ወይ?)
5. What do you recommend about the law or practice of initiating legislation by NSAs (citizens and CSOs) in the law-making process? What should be done by both the CSOs part and the government? (በህግ አወጣጥ ስርዓታችን ውስጥ በተለይ በህግ ማመንጨት ሂደት ላይ

የሲ/ማ/ድርጅቶች ተሳትፎ ምን መሆን አለበት ብለው ያስባሉ; የሲ/ማ/ድርጅቶች ሀላፊነት እስከምን ድረስ መሆን አለበት? የመንግስት አካላትስ?

6. Do you have anything to add to the system or practice of CSOs' participation in initiating legislation in the law-making process in Ethiopia? (በህግ ማመንጨት የህግ ስርዓቱ ላይ ወይም ደግሞ በሰአራር ስርዓቱ ላይ ምን አይነት ማስተካከያዎች ቢደረግ ይላሉ?)

Appendix 2 Table: Summery Profile of Research Participants

	Name	Organization & position	Remark
1.	Ato Belayhun Yirga	Former Director General of the legal studies, drafting, and Dissemination Directorate General, Ministry of Justice	Interviewed on May 20, 2023
2.	Ato Abat Gebretsadik	Assistant to the Attorney General, legal studies, drafting, and Dissemination Directorate General, Ministry of Justice	Interviewed on April 6, 2023 (served as a legal drafter in the Ministry for more than 20 years)
3.	Ato Bamlaku Andarge	Senior Public Prosecutor at the legal studies, drafting, and Dissemination Directorate General, Ministry of Justice	Interviewed on April 5, 2023(served as a legal drafter in the Ministry for more than 12 years)
4.	W/ro Tsedey Tesfaye	Senior legal officer at the HPR legal department	Interviewed on May 9, 2023
5.	Ato Nigus Tizazu	Vice president of the Ethiopian Young Lawyers Association	Interviewed on April 3, 2023
6.	Ato Tewodros Getachew	Vice president and acting president of the Ethiopian Bar Association and former president of the Ethiopian Lawyers Association	Interviewed on May 31, 2023
7.	W/ro Fekir Mulugeta	General Secretary of the Ethiopian Lawyers Association and A Lawyer and consultant at law	Interviewed on June 2, 2023
8.	Ato Musse --	Ethiopian Lawyers with Disability Association	Repeatedly contacted them but was unable to get an interview