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## Pathways of Legal Advocacy for Change: Ethiopian Women Lawyers Association

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**Abstract** Changing the legal environment can have transformative impacts on the lives of the most vulnerable. However, little is known about how legal advocacy can effectively achieve this within contexts where governments are not receptive to advocacy of this nature. This article outlines the activities of the Ethiopian Women Lawyers Association (EWLA) as it played a focal role in changing the Family Law, making important progress to removing aspects of the law that discriminated against women. We outline the ‘pathway’ of change taken by the organization, which moved from service provision to building an evidence-based, formal and informal advocacy, and finally utilizing critical junctures to encourage change to the law. This article also highlights the important role of enabling environments, as after several successful efforts of legal advocacy, the government closed down the operational space for legal advocacy, effectively stifling continued, or any new forms of, legal advocacy. This article provides insight on successful approaches to legal advocacy in challenging governance contexts as well as the limitations and opportunities that external actors can have.

**Keywords:** Ethiopia; advocacy; participation; change; development; law; policy

### Introduction

The Ethiopian Women Lawyers Association (EWLA) is a legal advocacy organization that has provided legal support to more than 100,000 women, facilitated changes to social norms and attitudes, and successfully advocated for revisions in the legal system (Billene and Earuyan Solutions, 2017; Ethiopian Herald, 2016). The impact of its legal advocacy has advanced opportunities and access to justice for women throughout the country (Hallward-Driemeier and Gajigo, 2013). The organization is considered to be one of the most important national advocacy organizations in the post-Derg period (1991-Present; Bahru, 2002, p. 12). EWLA is notable for the significant role it played in winning precedent-setting legal cases, and leading the struggle to change discriminatory components of the Family Law (Dessalegn, 2002; Olsen, 2009; Tilahun, 2002). One of Ethiopia’s most respected social scientists, Dessalegn Rahmato,

has stated that it ‘is to the credit of EWLA that the reform of the Family Law became a public issue and that the government felt compelled to revisit the legislation’ (2002, p. 112). Likewise, in an interview conducted in November 2017, Maria Munir, one of EWLA’s founders and the Director of Women’s Sanctuary and Development (AWSAD), explained that though EWLA first set out to give free legal aid to women, it soon managed to champion numerous, and grand, nation-wide legal and attitudinal changes to advance women’s rights.

While there has been some research done on EWLA, publications to-date tend to summarize key moments in the life of the organization. Drawing upon available literature and interviews with those involved, this article seeks to understand how a relatively small organization was able to contribute to transformational legal change. In doing so, we seek to understand the implicit theory of change of EWLA, and the pathways for change that its members undertook, so as to contribute to the discourse on how change happens within non-democratic countries and emerging democracies. The scope of this article is narrow in the sense that it focuses upon changes made to the Family Law and does not provide a review of all the activities engaged in by EWLA (e.g. changes to the penal code, criminal procedure code, and nationality and citizenship laws; as well as facilitating greater political participation for women). Nor does the article detail the role of rights in the Constitution or relevant international instruments (for that see Meron, 2013; Olsen, 2009; Original, 2002).

Ethiopia is often portrayed as a top-down, and centralized government. To some, it is a dictatorship in democratic clothing. Without negating the centralized power and control in Ethiopia, this portrayal neglects the important voices, actions and organizations within the country that have also re-shaped it. The work of EWLA presents a more nuanced view of power in Ethiopia. It sheds light on potential pathways for how change happens. While much of governmental decision-making has been driven by the ideas of a few elite, these are not the only means through which change has occurred. While the former has been well documented, the latter remains in the periphery. This is a part of what Burgess (2013) has referred to as the ‘hidden history’ of Ethiopia. The literature on people-driven legal and policy change in Ethiopia is scant. For example, only a handful of articles cover the work of EWLA. It is not just EWLA. There are few articles that cover the citizen movements that resulted in the restructuring of zonal authorities in the Southern Nations, Nationalities and Peoples’ regional-state. These aspects of the development of the Ethiopian state are underrepresented and not well understood. The absence of these narratives serves to reinforce the idea that change only occurs from the top, by the powerful elite. EWLA is an important counter-narrative to this perception. This article focuses upon the legal advocacy of the late 1990s that led up to the revision of the Family Law in 2000. The case of EWLA shows the potential of one organization to contribute to legal transformation in the struggle for more just laws and inclusive governance.

## **Methods**

Qualitative methods are drawn upon to support the findings of this article. We have utilized the available literature, and have conducted expert interviews with eight current and former members of EWLA. The relatively limited number of interviewees is not due to a lack of potential interviewees, the organization has supported tens of thousands of people, but instead it is to focus upon those individuals with insight into the internal workings of EWLA during the 1995–2000 years. The number of interviewees reflects the small size of the organization at its founding and during its early years of operation. The sampling of interview subjects was purposive. Interviewees were selected based on positionality (e.g. role within the organization during the time period covered), expertise (e.g. authoring works on the subject area), and recommendations in an informal snowballing method (e.g. connecting with other members active during the time period of study). Interviews were scheduled based on the availability of the interviewees, occurring between September (2017) and January (2018). Some interviews were held in-person in Ethiopia, however some former members have since left Ethiopia, and these interviews were conducted as calls or virtually. All the interviews were semi-structured in format. This approach gave room for follow-up questions and responsiveness to the direction taken by the interviewees so as to emphasize their expertise and experiences.

The methods utilized pose some limitations and the findings should be considered in light of these. First, interviewing former and current members of the organization results in a positive bias of information. Given that the period of focus in this article is historical and all interviewees have knowledge of what happened (i.e. there is no uncertainty about the outcomes), there is potential for interviewees to idealize and romanticize (e.g. underrepresenting the internal challenges and difficulties). Furthermore, there is the potential to emphasize the positive work of the organization and underrepresent the challenges faced or the negative aspects. However, we have found the interviewees to be critical in their reflections, which is also present in other recent publications about EWLA (e.g. Billene and Earuan Solutions, 2017). Second, self-reported and recalled information of this nature poses some accuracy challenges, as the time period in question occurred two decades ago. Hence, we have sought to verify information with third party sources and available literature found in academic publications, reports and the media. Third, even if we have endeavored to explore the pathways of change and reflect on theories of change, the organization did not have an explicit pathway of change or theory of change. As a result, the linkages we have drawn are based upon our assessment of the activities undertaken by the organization and relating these with theories of change. Unlike an evaluation of an explicit theory of change in relation to activities, the linkages we draw offer explanatory insight, not direct linkages between plans, assumptions and action. However, we believe that there was an implicit theory of change driving the work of the organization. It is this implicit theory of change that we seek to understand and link to relevant literature.

With regard to methodological process, we first conducted a literature review, gathering academic materials from the Web of Science and grey literature from Google Scholar. In total, 24 documents were identified as having some relevance (even if minor) to EWLA's work in relation to the revision of the Family Law. Throughout the data collection process, a few additional documents were made available by current and former EWLA members. Before any data collection, the identified documents were reviewed, and corroborated with additional media sources when the need for clarification arose (e.g. news reports to provide greater context on the closure of EWLA in 2001 or interviews held with past EWLA members). After the literature review, we sought out the founders and early members of the organization and began the interviews. Since nearly all of these individuals are no longer working at the organization, we utilized various ways to access these individuals, including reaching out via social media and utilizing personal networks to make connections. During the interviews, we drew upon the information from publications from the period as a means to bring out a diverse array of issues. In making these efforts to mitigate bias, we are cognizant that we all influence the narratives we create and thus our contribution ought to be read as one set of perspectives, of many potential perspectives regarding the described legal changes that took place in Ethiopia.

### **History of EWLA**

In 1995, a group of female lawyers established EWLA to promote and protect women's rights via freely-provided direct support (legal advice, counseling and representation), awareness raising (e.g. radio broadcasts and media) and advocacy (Burgess, 2013; Olsen, 2009). The organization was founded by Meaza Ashenafi, a former High Court Judge, who acted as its Executive Director until 2004 (Ethiopian Herald, 2016). Meaza was an advisor to the Ethiopian Constitution Commission, which drafted the 1995 Constitution, and she is credited with having played a key role in ensuring women's rights were given appropriate consideration (Olsen, 2009). In many instances, EWLA sought to ensure the implementation of the Constitution, as opposed to changing or challenging it. The Family Law (as well as the Penal Code and Nationality laws) were instances wherein there were discrepancies between the pre-existing legal codes and the new Constitution.

EWLA initially established itself in the capital city, Addis Ababa, and later expanded to other cities, including Assossa, Bahir Dar and Adama. The organizational expansion broadened access to its services. Decentralized committees were also formed to expand the organization's reach, and committee members were provided with paralegal trainings so that they could become active in their respective communities (Desalegn, 2002). During the 1990s, thousands of women received legal support from EWLA, the vast majority of cases (85 per cent) being related to marital conflict (Desalegn, 2002). By 2016, an estimated 100,000 people had benefited from the legal support services of EWLA (Ethiopian Herald, 2016).

After encountering numerous cases of discrimination in providing legal support in its early years of operation, former EWLA members recounted in interviews with the authors that they realized that the sources of legal discrimination needed to be challenged. This necessitated changing the laws. With a growing set of legal experience, precedent-setting victories, and emerging evidence of systemic discrimination, the organization advocated for legal reform. In an effort to transform the system within which women interacted with the legal system, EWLA trained its members as well as a diverse cadre of public servants within the legal system, from law enforcement officers to judges. This served as a means to build internal capacity and identify allies. It also conducted and commissioned research, so that it could provide evidence on consistent expressions of discrimination and injustice, and disseminated its findings through various channels. Amongst the commissioned research projects was a review of Ethiopian laws, which identified instances of legal discrimination against women, with reference to the new Constitution of 1995 and different international human rights instruments (Burgess, 2013; Olsen, 2009).

### **Theories of change**

Change occurs in many ways, and there are diverse theories about why and how changes happens (Stachowiack, 2009; 2013). No theory suits all situations, nor are all situations suitable for planned, intentional change. ELWA did not have an explicit theory of change, nor did it have five- or ten-year plans that gave it a strategic direction on how to transform the legal system. Rather than applying theory to ELWA, it appears more appropriate to work from the context and assess the landscape of theories of change to determine relevance and draw out insight regarding which theories help explain the work of the organization. This section presents a selection of diverse theories of change, which have application to the case study of the advocacy undertaken by EWLA for changing the Family Law. A comprehensive outline of all possible theories of change is beyond the scope of this article. Hence, we do not argue that the theories presented here encompass all relevant theories. Rather, these are theories which we have found to be analytically relevant to the case under investigation.

In assessing the diversity of theories of change, Stachowiack (2009; 2013) frames the ways through which change occurs, and summarizes ten ‘pathways’ for change. The work of Stachowiack is of particular relevance to this work as it focuses specifically on advocacy and policy. As outlined by Cochrane (2017), we utilize four general categorizations of Stachowiack’s ten pathways, namely: participatory, situational, elite, and targeted theories. We believe that all of these categories of theories have applicability to the EWLA case, which highlights the malleability of assessing pathways and the potential for imposing a narrative upon a context in order to justify a theory. As outlined in the methods section, this article draws primarily upon the narratives of founders and former members of EWLA, a process that is not without the potential for bias as retrospect may appear more purposeful and intentional than reality. While we recognize the

potential for idealization, we still believe that an assessment of the change to the Ethiopian Family Law is an important contribution to the literature on theories of change as well as democratization. In what follows, we briefly present the four categories of theories of change, which we return to, and reflect upon, later in the article.

*Participatory.* Grassroots change; citizens movements; people power; bottom-up change; citizen action; poor people's movements; and civil resistance. Participatory change goes by many names. But what unites all these ideas is that people possess power, and the collective expression of that power will create change (Alinsky, 1971; Chenoweth and Stephan, 2011; Gaventa and McGee, 2010; Piven and Cloward, 1977; Schock, 2015). Some have argued that inclusive economic and political institutions have only come about via these means (e.g. Acemoglu and Robinson, 2006; Alinsky, 1971). Within this theoretical understanding, the status quo exists because the majority cooperate with elites, who act to disempower the masses. Rooted in this theoretical grounding, actors seek to invigorate broad-based public participation through education, awareness raising, mobilization, training, and capacity building (Stachowiack, 2009; 2013). A challenge often not sufficiently addressed within the participatory theories is the diverse expressions of social differentiation, and the ways in which participatory action can entrench inequalities in new ways. Ndegwa (1996) refers to this as the 'two faces' of civil society.

*Situational.* Theories in this grouping suggest that simple additions (e.g. knowledge and evidence) do not necessarily enable or facilitate change. Building on the work by Turner (1982; Turner and Oakes, 1986), Kingdon (1984), Baumgartner and Jones (1993), and Acemoglu and Robinson (2012), it is argued that change occurs within opportune conditions, situational windows, critical junctures, or windows of opportunity. For these theorists, the situations within which change can occur is enabled by the coalescing of enabling factors, such as public and/or media attention, newfound problematizing, and coalitions or cooperation of stakeholders. Together, these factors create the enabling environment for change to occur. Based upon this explanation of how change occurs, situational theorists expect change to occur in sudden shifts. However, due to the reliance upon free media and responsive institutions, situational theories are not equally relevant in all socio-political and legal contexts.

*Elite.* Participatory and situational theories assume that people have the ability and the opportunity to gain power and affect change. However, some argue that power is not equally distributed in society, and not all people have equal access to obtain and utilize it. Based upon this inequality of power, Mills (1956) set in motion theories that positioned some people as having a much greater ability to enact or prevent change than others. Conceptualizing change in terms of power resonates with the Ethiopian context, where governments have been accused of being authoritarian, top-down and centrist. Applying elite theories requires an understanding of the distribution and

flows of formal and informal power in society, but in practice presents a number of challenges. The Swedish International Development Agency (SIDA) and the UK Department for International Development (DFID) have attempted to integrate detailed analyses of power in their programming, but these have proven costly, time consuming, issue-specific, and time-dependent (Hyden, 2005; Nash et al., 2006; OECD, 2005; SIDA, 2005). Due to limitations of resources and capacity, civil society organizations struggle to conduct in-depth research of this nature. EWLA, however, stands out as unique in this regard as it has managed to underpin its legal advocacy with the commissioning of research projects. However, none were conducted to specifically assess the distribution of power in informing its activities and engagements.

*Targeted.* Sabatier and Jenkins-Smith (Sabatier, 1988; Sabatier and Jenkins-Smith 1993; 1999) propose a different entry point when thinking about participation or elite power holders, which is strategically building coalitions of diverse, yet targeted, stakeholder groups. The coordination of these activities, identified in the participatory theories and the elite theories, can be organized as an attempt to create the enabling environment described in the situational theories. In these instances, ‘unlikely allies’ engage in facilitating change. Orchestrating this type of activity can take more of an organizational form; creating networks, brokering between stakeholders, aligning beliefs and finding mutual points of interest (Weible and Sabatier, 2006). Few individuals or organizations have the credibility and lobbying power to engage in this targeted organizing. ELWA took steps in this direction in 2003, when it helped to establish the Network of Ethiopian Women’s Associations (NEWA).

The four categories of theories of change briefly presented here highlight potential pathways for change to occur. The following sections outline how EWLA identified the Family Law as being in need of reform, and the activities it undertook to achieve that objective. Following a description of the Family Law and the activities of EWLA, we then return to the theories of change to situate the ideas within the context of the revision to the Ethiopian Family Law. A section that provides an update on what has happened to EWLA after the changes to the Family Law in 2000 follows. Last but not least, we conclude the article with some final remarks on the insights this case study offers for conceptualizing and engaging in change.

### **The family law**

EWLA was not established with the primary objective of seeing the Ethiopian Family Law, which was enacted in 1960, revised. The organization was established to provide various legal services to individual women. As the experience of the organization expanded, and as precedent-setting cases were made, EWLA identified provisions in the Family Law that legalized systemic discrimination against women, and thereafter commenced its effort to have the law revised. It commissioned research projects to thoroughly assess the law with reference to the new (1995) Constitution and other



international instruments that Ethiopia ratified such as the Convention to Eliminate all Forms of Discrimination Against Women (CEDAW) (Burgess, 2013; Olsen, 2009). It is pertinent to note that during this time period, EWLA received core funding support from external donors that did not require it to submit multi-year plans or develop annual log-frames with clearly identified activities and expected outputs. The organization was given relatively flexible core support. This gave it the ability to respond to emergent, unplanned opportunities. The role of external support was a point of criticism as EWLA was accused of advancing a foreign agenda in Ethiopia (Mulugeta, 2015). However, this criticism did not have a strong negative impact on the organization because the agenda was driven by Ethiopians working to ensure that the legal system was fair and just for all of its citizens, not the agenda set by a donor. Scandinavian nations were key financial supporters of the organization (Olsen, 2009). The type and amount of donor support shifted over time, as did the broader NGO environment within Ethiopia, particularly after the coming into effect of the 2009 Ethiopian Proclamation to Provide for the Registration and Regulation of Charities and Societies (Proclamation 621/2009; FDRE, 2009), which is commonly referred to as ‘the CSO law’ (discussed below).

The discriminating provisions within the Family Law were not a ‘mirror of society’ (Mulugeta, 2015) but rather the codification of remnants of past norms and customs (Tilahun, 2002). Since the 1970s, the discrimination and marginalization of women in society had been a key issue of contention (Bahru, 2014). And was not, as some have argued (e.g. Mulugeta, 2015), specific to the 1995 Constitution nor the revision of the Family Law in 2000. An example of a law that discriminated against women in the 1960 Family Law was inheritance, wherein the male was the implied sole owner of resources and assets, including land, to which spouses were not entitled upon death (Paulos, 2006). Typically, a widow would be evicted from her family land in the case of the death of her husband, creating high levels of vulnerability. Similarly, there were discriminatory laws and practices for divorce, and therefore the division of property, as well as for child custody (Original, 1997; 2002). An additional barrier to fair legal proceedings was that the location of the proceedings were not held in regular courts but rather within an arbitration system, within which women encountered biases of male dominance and favoritism (Olsen, 2009; Original, 1997). With a strong evidence base of injustices, EWLA challenged these practices as violations of the Constitution (see Olsen (2009) and Original (1997) for additional details on the legal and constitutional context).

After being founded, the organization started to engage in sustained advocacy to have the Family Law revised, which included the submission of a proposed amendment in 1996 (Burgess, 2013). The issues raised in the proposed amendment included revisions regarding the: (1) legal age of consent and marriage for girls, (2) management of common property, (3) ability to sell property, (4) joint ownership in ‘irregular’ unions, (5) divorce, (6) inheritance, and (7) child custody (Meron, 2013; Original, 2002). The legal system did not immediately respond to the recommendations, or the presented

evidence of discrimination. In the years that followed the 1996 submission, EWLA carried on with both formal and informal advocacy to bring about the change it envisioned. During this process, the organization managed to create strong informal networks within the political realm and expanded its public support. The commitment of the founding members, especially the then Executive Director Meaza Ashenafi, is recognized for the credibility and respect that the organization soon managed to command. This is often attributed to her positionality and status in society. In the words of Maria Munir, ‘the one thing that I can mention for EWLA’s success is the commitment of its team. As a genuine love for the cause brought us together, we were very much committed to the things that we were advancing’ (Interview, November 2017). The increase in EWLA’s profile, as it took on well known cases that gained national and international attention, put pressure on the government to revise the Family Law (see Billene and Earuyan Solutions, 2017; Original 2002). Throughout this period, there were on-going discussions about what should be changed and why. And, EWLA played a key role in ensuring these debates emphasized the discriminations experienced by women, and highlighted the sources of which in the old Family Law that was in need of revision.

In July of 2000, the revised Family Law officially entered the federal legal system (Dessalegn, 2002), which covered the federally administered city administrations. Seven of the nine regional states thereafter updated their respective legal codes (Mulugeta, 2015),<sup>1</sup> three of which worked with and/or consulted EWLA when drafting or revising their family laws (Burgess, 2013).<sup>2</sup> Not all of the recommendations made by EWLA’s proposed amendment were adopted into the federal and regional legal systems, but the advancements made were significant, which makes the revision a major victory for the organization. The changes included: raising the age of marriage of girls from 15 to 18; establishing joint ownership of common property in marriage; requiring mutual agreement before the sale of property; recognizing joint ownership in ‘irregular’ unions; establishing the equal right to divorce; removing betrothal from the law; establishing equality in marriage; reducing the role of arbitration; and, integrating the rights of minors and guardianship<sup>3</sup> (Tilahun, 2002). The revision transformed the legal system, and reduced or removed many of the discriminatory components and processes of the Family Law.

While EWLA and its supporters celebrated the revision of the Family Law in 2000, there are dissenting viewpoints that are worth considering. For instance, Mulugeta (2015) has argued that the privatization and individualization of the new Family Law

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1 As of 2015, the Afar and Somali regional states have maintained the 1960 Family Law while customary and Shariah Law are utilized in tandem (Mulugeta, 2015).

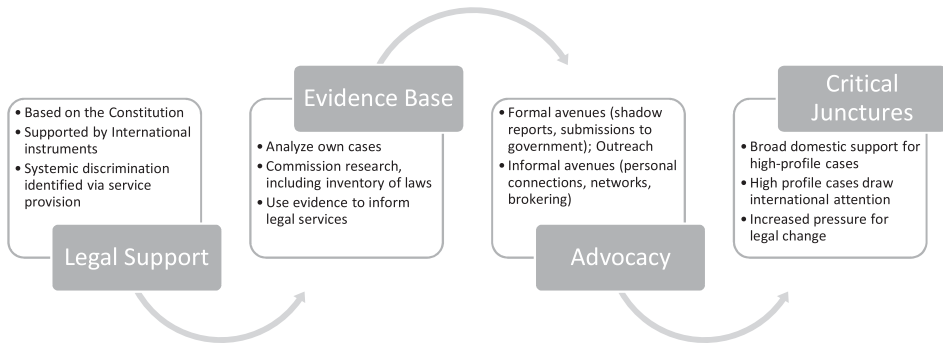
2 The three were Amhara, Oromia and Southern Nations, Nationalities and Peoples’ regional states (Burgess, 2013).

3 Previously the rules and rights relating to minor and guardianship were located within the Civil Code (Tilahun, 2002).

resulted in a mechanical system with a cost, namely the loss of traditional and communal ways of dealing with family matters. The revisions reduce the legal role of customary and traditional processes in dealing with issues of family law and specifically barred the practice of some customary and traditional practices. These include the prohibition of forced marriage, abduction, marriage to minors and domestic violence. We recognize the problematic nature of terming these customary and traditional practices, as these practices were not accepted by all peoples and within all cultures of Ethiopia, yet this is the language used by EWLA and we adopt it for the sake of consistency. However, it was not the revised Family Law that introduced this challenge for the first time. Tilahun (2002) outlined that the previous Family Law of 1960 was not an indigenous, locally-appropriate, law, either. It was developed by Rene David of the University of Paris, who opted for a ‘ready-made’ system as opposed to one uniquely devised for the state. The 2000 revision of the Family law did specifically address some traditional practices. However, in our view, the key difference between the 1960 Family Law and the revised version is less the positioning of customary or traditional practices, and more the introduction of the 1995 Constitution, and the rights therein. Moreover, the confrontation between customary or traditional practices with the state legal system has increased since the entrance of the new government (1991 onward) due to an expansion of the coverage and capacity of the legal apparatuses. Thus, this is not primarily due to new laws per se, but the greater application of them.

### **Theory of change & activities**

The EWLA activities that contributed to the revision of the Family Law were not the product of long-term, intentional planning and strategy. The ideas were not informed by studies of theories of change nor the purposeful selection of which actions were most likely to create the enabling environment for legal reform. At the outset, it set out to provide legal services to women, and protect the rights of women outlined in the Constitution and other international instruments ratified by Ethiopia. Thereafter, the organization was responsive. As the organizational experience of legal cases increased, which made systemic discrimination apparent, research was commissioned to assess the laws, and their compatibility with the Constitution and other international instruments. EWLA’s pre-existing strong networks enabled informal lobbying, while the evidence-based formal outreach facilitated public advocacy activities. It was upon this foundation that the critical junctures emerged, primarily in the form of high-profile cases (additional detail on these is discussed below). Thus, EWLA’s success is best understood as occurring in phases, each enabled by the foundation of the previous action (see [Figure 1](#)). The phases can be summarized as: (1) service provision creating experiential knowledge that resulted in precedent setting cases; (2) the identification of systemic discrimination, supported by research; (3) formal and informal advocacy, knowledge brokering and increased visibility; (4) and broad-based public support and international attention of high-profile cases opening windows of

**Figure 1: Retrospective pathway of change**

opportunity. Leveraging these opportunities contributed to the transformative change of revising the laws and processes of the legal system that were responsible for the legalized discrimination against women.

*Legal support.* EWLA set out to support individual women who were victimized by the discriminating provisions in the law. A key framing of the EWLA work was the use of the Constitution and international instruments ratified by Ethiopia, such as CEDAW as a means to win precedent-setting cases (for example, see Meaza, 2004). In terms of prioritization, the Constitution was the primary mechanism that EWLA used to promote and protect the rights of women (Billene and Earuyan Solutions, 2017), while international instruments played a supporting role (Burgess, 2011). The rooting of its legal advocacy in national documents ensured that the opponents of the organization were not able to criticize its work as being foreign. Moreover, by increasing the legal weight of its demands, this approach succeeded in pressuring the government to ensure legal and policy consistency and coherence. The authorities could not discredit EWLA's arguments on the grounds of being inconsistent with the Ethiopian context, as they do to other advocacy efforts such as those related to the rights of indigenous peoples. During the legal support phase, EWLA managed to gain legitimacy and credibility. These resonates with what participatory theories stipulate. Change requires awareness raising, which the organization primarily did on an individual basis and through engaging with the public regarding the rights of women.

*Evidence base.* Linked to the framing of the legal support services, the use of evidence-based communication was a key tactic that raised the level of importance of issues. In reflecting on how change happens and the activities of EWLA, a former member explained: 'Advocacy without enough evidence [through research] is not that effective.' (Interview, September 2017). This method of supporting communication with research was used to try and convince opponents of change about the existence and the extent of the discrimination within laws and legal processes. This aligns with

elite based theories of change, as the organization utilized informal and formal networks to target those in society who held positions of power, and therefore had the ability to change the laws. EWLA purposefully advanced this agenda by commissioning research projects, one of which was an inventory of laws and the manifestations of discrimination against women (Olsen, 2009). However, in tandem the organization continued to focus on activities that built broad public awareness, and thus advancing the potential power of the public to influence change. Evidence-based advocacy was highlighted by Billene and Earuan Solutions (2017) as one of the key lessons learned for supporting effective mass mobilization as well as legal advocacy. While this phase was important, it did not result in immediate change. The proposed revision to the Family Code, which was submitted in 1996, did not result in the revision of the laws. But rather, it acted as a means to advance the dialogue on the need for a legal reform, and it raised awareness about the legalized discrimination against women, in both elite circles of political power as well as the public.

*Advocacy.* Not welcoming strong public criticism has been a consistent feature of the ruling elite in Ethiopia for a long time. Within this context, EWLA carefully navigated its interactions with the state, and advocated for change without becoming overly confrontational (Biseswar, 2008). It has been recently argued that the political context of the mid-1990s was ‘highly favorable and conducive’ for rights advocacy (Billene and Earuan Solutions, 2017, p. 7). This is probably better justified as being relatively so in the Ethiopian context (Dessalegn, 2002). The ability to conduct advocacy work was important, but the activities of EWLA were also enabled by the positionality of its founders. Building on the personal power and networks of its founding members, the process of change could be understood as an internal one driven by a small group of highly connected, and powerful elite. Having pre-existing formal and informal networks, EWLA was able to take a collaborative approach to working with the government. The proposed revisions to the Family Law given to the government and the guidance provided to regional governments as they made revisions to their respective Family Laws can be regarded as examples of such an approach. While EWLA has been described as an activist organization and a ‘pressure group’ (Bahru, 2002; Burgess, 2013; Dessalegn, 2002; Meron, 2013; Olsen, 2009), the unique linkages the organization had with the government (formally as well as informally) were key strengths that enabled the organization to promote legal change. To an extent, therefore, the organization took a targeted approach in building a kind of coalition with individuals in the government. This approach contrasts with the confrontational, ‘name and shame’, approach that other activist organizations often undertake, wherein the implicit assumption is that elite power holders will respond to negative pressure. During this time period, ELWA seems to have viewed the government more as a partner than an opponent. This reflects both its implicit assumptions of how the political elite interacted with civil society and its assumptions about how change would most likely occur.

*Critical junctures.* As the work of the organization expanded in scope and scale, it gained greater domestic and international support. High-profile cases garnered the attention of other actors, some of which utilized ‘naming and shaming’ tactics, which fostered key moments wherein the government felt compelled to respond (Desalegn, 2002; Olsen, 2009). For the international community, many of the high-profile cases that circulated involved ‘traditional’ practices unfamiliar and strange to it, which drew widespread interest. One example of this was the case of a man who abducted and raped a woman, planning to later marry her in what is termed as ‘bride kidnapping’ or ‘marriage by abduction’. The woman then killed the attacker, and EWLA supported the case, which was won on grounds of self-defence (see Olsen, 2009, p. 1068). For the domestic audience, the high-profile cases involved extreme instances of injustice for which the public demanded action. An example of this was a case involving a woman who was physically assaulted, including being shot, but the assailant was not given any serious conviction, and was repeatedly released (see Olsen, 2009, p. 1069). While the organization did not advance a clear communication strategy in tailoring the specific cases for different audiences, when the windows of opportunity emerged, EWLA took full advantage. These high-profile cases that attracted widespread international attention and/or popular domestic support proved to open the critical junctures around which change could occur. Drawing upon the situational theories of change outlined above, this final phase was facilitated not only with the coalescing of factors, but also with the building of organizational strength (e.g. legal case experience, research, formal and informal avenues of advocacy, and broad-based public support). Thus, the critical junctures were not only external, as the theorists tend to focus upon, but also internal (e.g. experience, organizational capacity, credibility and status).

In the final stage of critical junctures, the elite driven tactics were supported by the collective power of broad-based participation. Shortly thereafter, EWLA started to coordinate a wider range of actors in society, as outlined in the targeted theories. It helped in establishing the NEWA in 2003, which brought together more than forty organizations. This next development, which had the potential to greatly strengthen the board-based public support of the organization, was effective. But, apparently, too much so. During this time, EWLA experienced restrictions of its ability to act, including being shutdown (discussed below). It appears that the power that EWLA was gaining, and its ability to utilize that power in the political space, was viewed by the political elite as a threat.

### **EWLA after 2000**

The success of EWLA did not go unnoticed by the government, which is keen to control the direction of the country as its foundational ideological roots outline that an elite vanguard ought to make decisions on behalf of the population (Dejene and Cochrane, [Forthcoming](#); Lefort, 2013). As the organization became increasingly

outspoken, and powerful, the government responded by forcing the closure of EWLA and freezing its bank accounts in 2001 (Billene and Earuyan Solutions, 2017; Human Rights Watch, 2001). Following the revision of the Family Law in 2000, EWLA began campaigning for changes to the Penal Code, which included a protest march to the Prime Minister's Office. The suspension of its activities occurred shortly thereafter. The closure was in response to EWLA's public criticism of the Ministry of Justice regarding the lack of investigation in a specific, high-profile criminal case related to continued violent assaults against a woman and her family (the second case example described above). The assaults and the assailant were reported to the authorities, for which the police took minimal action. The organization was deemed to be 'engaging in activities different from those it was mandated by law' (Human Rights Watch, 2001, p. 2) and 'accused of agitating women and encouraging violence against the government' (Billene and Earuyan Solutions, 2017, p. 13). This also reflects a change of tactics on the part of the organization. While it previously viewed the government as a potential partner, it then began adopting what seemed to be a more oppositional position towards the government. This might reflect a change in its own organizational strength, or a change of its assumptions regarding how change might occur within a shifting political environment.

The suspension of the organization was temporary, but a clear message was delivered about the types of social activism that the Government of Ethiopia would and would not allow. As one of the founders, Maria Munir explained that EWLA, during that time, was working towards raising the political consciousness of women so that they would be better equipped to exercise their civic responsibilities in making informed choices in electing their representatives as well as getting elected to public offices themselves (Interview, November 2017). This also helps to explain why the political elite viewed EWLA as a threatening force. It was not only their increased organizational strength, but also the new arenas of engagement that directly challenged the political elite.

Despite an increasingly challenging operational environment, there were positive developments along the way. Its founder and the former Executive Director, Meaza Ashenafi, was awarded the African Leadership Prize in recognition of her role as a champion for women's rights in 2003. She was a Nobel Peace Prize nominee in 2005. In 2008, Meaza was awarded the International Women of Courage Award (Ethiopian Herald, 2016). After departing from EWLA, she moved into the private sector and became one of the founders of Enat Bank – Africa's first bank to be founded and owned by women. Meaza now acts as an advisor to the United Nations Economic Commission for Africa (ECA), which is based in Addis Ababa, Ethiopia (Ethiopian Herald, 2016).

International recognition aside, the challenges faced by civil society actors in Ethiopia worsened in the years that followed the successful work of EWLA. The most notable is the Proclamation to Provide for the Registration and Regulation of Charities and Societies in 2009 (the 'CSO law'; Proclamation 621/2009; FDRE, 2009), which required civil society organizations to re-register in three categories, namely: Ethiopian



charities/societies, Ethiopian resident charities/societies and foreign charities. The legislation limited ‘Ethiopian charities/societies’ to obtain ‘not more than 10 per cent of their funds from foreign sources’ and dictated to be ‘wholly controlled’ by Ethiopians. These are the only entities allowed to work on activities related to human rights, women’s rights, children’s rights, disability rights, citizenship rights, conflict resolution or democratic governance (Article 14(5)). EWLA re-registered as an Ethiopian charity/society, hence it is bound to generate 90 per cent of its funding from within the country. Most of the other organizations that previously worked on the aforementioned activities forfeited their mandate (Sisay, 2012). Those organizations that are struggling to carry on had to reduce their functions, lay off their workforce and close offices (Amnesty International, 2012). There is, however, a potential positive change on the horizon. The new Prime Minister of Ethiopia, Abiy Ahmed, identified this proclamation for revision in 2018.

Following the implementation of the CSO law, only forty three percent of formerly registered civil society organizations re-registered, while other organizations that did register were closed, as they had their licenses revoked by the government (Sisay, 2012). The legislation effectively forced the closure of more than half of all civil society organizations in the country. Moreover, it succeeded as a means to control the international reputation of the government. No longer are parallel civil society reports submitted to human rights treaty monitoring bodies to challenge state reporting (Sisay, 2012), which played important functions that EWLA previously took advantage of (Olsen, 2009). While some exceptions to the CSO law have been granted (Sisay, 2012), EWLA was not exempted from the law, despite requests and negotiations for such (Billene and Earuyan Solutions, 2017). The Executive Director of EWLA at the time (Mahdere Paulos) was vocal in opposing the CSO law, and accusations made against her resulted in her having to leave Ethiopia in 2010.<sup>4</sup>

Since the implementation of the CSO law, activities of EWLA have been reduced and, while active, the organization is a shadow of its former self. One member of the organization stated: ‘we didn’t change our mandate because we decided to bear the financial difficulties than forfeit our advocacy work’ (Interview, September 2017). Following the CSO law, EWLA’s work became considerably restricted, and its funds were confiscated and requests for its release were denied (Burgess, 2013; Sisay, 2012). The financial difficulties due to the funding restriction have caused the loss of staff and limited its ability to provide services (Blystad et al., 2014; Simegnish, 2016). An EWLA member we interviewed said that the organization’s decision to keep its mandate resulted in it having to cut back on activities such as research and awareness creation, which affects its advocacy work. In short, the enabling environment that

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4 It was alleged that in opposition to the Registration and Regulation of Charities and Societies / CSO Law, the EWLA, and specifically its Executive Director, provided evidence to the U.S. State Department, which was suggested to have influenced the U.S. State Department’s Human Rights Report on Ethiopia (Burgess, 2013).



allowed for effective advocacy in the 1990s was altered in the mid- and late-2000s to one which heavily restricted, and even criminalized, such activity. The ability to adopt EWLA's 'pathway of change' as outlined in this article, therefore, appears to be time-specific, or enabling environment-bound. This has implications for how we engage with theories of change. The experience of EWLA suggests that theories of change should be contextually rooted, and determined based on specific operational environments, as opposed to being theoretically driven.

## **Conclusion**

EWLA shows the possibility of contributing to transformational legal change in governance contexts that appear to be resistant to such activity. The organization was not driven by pre-planned strategies, nor did it have a vision about where the activities would lead it. The activities of EWLA are better described as being responsive and iterative, which were enabled by consistent core funding (as opposed to results-based or output-driven activities that can narrow the opportunities for being responsive). Given the primacy that planning takes in current donor funding and development more broadly, it is worth reflecting on the responsive nature of the EWLA and its impact. It is now a common requirement for organizations to submit log-frames with years of advance planning of activities, outputs and outcomes. The results agenda is such that funding is accessed based on calculations of anticipated impact; value-for-money and cost-effectiveness (Cochrane and Thornton, 2016). In contrast, it was core funding provided to EWLA that enabled it to be responsive to the challenges and opportunities. In addition to restricting its ability to quickly change course, a strong donor role might have a negative effect, as the advocacy may be criticized as imposing foreign agendas. Particularly for policy and legal advocacy, the EWLA case provides insight on the opportunities for support, as well as the limits of donor involvement.

At the outset of its activity, EWLA provided legal support as its main service and objective, which enabled entry into other arenas of activity. The experience of cases, and the winning of precedent-setting rulings, provided a foundation upon which EWLA identified systemic issues of discrimination. To advance its public engagement and policy advocacy, research was commissioned on a number of subjects, including an assessment of the laws to identify discrimination. Informal advocacy built upon the pre-existing networks of members, particularly the founder who played a key role in contributing to the development of the new Constitution. The informal advocacy sought to make a case with the political elite about the importance of legal reform. In tandem, formal advocacy broadened public awareness and support for EWLA, strengthening the profile of the organization throughout the country. Finally, it was the high-profile cases that opened windows of opportunity for the Family Law to finally be revised. These changes suggest that no one single theory of change can predict, or be used to plan, change. Analyzing the EWLA experience, it drew upon participatory approaches

to build broad support and it targeted elite for their greater ability to effect change in its informal advocacy and lobbying. Situational theories help explain how the high-profile cases brought together a series of elements to create the right enabling environment for positive change. Lastly, it was the literature on targeted theories of change that offer insight into the downfall of EWLA. The coordinating, network creating and brokering activities gave the organization more power than what was tolerable by the political elite, which thereafter enacted a number of measures that effectively muted the organization and stifled its ability to operate.

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