

**ADDIS ABABA UNIVERSITY SCHOOL OF GRADUATE
STUDIES FACULTY OF LAW**

Title:

**The Scope of Religious Freedom and its Limits under the FDRE Constitution:
A Survey of Contemporary Problems and Challenges**

By: Berhane Zikarge

Advisor: Dr. Assefa Fiseha (Associate Professor)

**A Thesis Submitted to School of Graduate Studies, Faculty of Law, A.A
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Master of Laws (Degree LL.M)**

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DECLARATION

I, the undersigned, declare that this thesis is my original work, and has not been presented for a degree in any other University, and that all source of materials used for the thesis have been fully acknowledged.

Declared By:

Name: Berhane Zikarge

Signature: _____

Date: _____

Confirmed By Advisor:

Name: Dr. Assefa Fiseha (Associate Professor)

Signature: _____

Date: _____

**Place and Date of Submission: Addis Ababa University, Faculty of Law,
January 15, 2010.**

APPROVAL SHEET SIGNED BY THE BOARD OF EXAMINERS

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By: Berhane Zikarge

Approved By Board of Examiners:

Signature

1. Dr. Assefa Fiseha (Associate Professor)

Advisor

2. Dr. Girmachew Alemu

Internal Examiner

3. Ato Yared Legesse

External Examiner

_____ 2010

PREFACE

In recent years legal scholars of this country have ventured into the daunting task of undertaking a scholarly research surrounding the issues of the Ethiopian constitutional system in general, and the federal scheme in particular. To their credit they have produced a number of research works in various areas of interest. These contemporary academics have paid much attention to both the theoretical literature and the empirical track record of Ethiopia's federalism; examining the constitutional form and practice, the strength and downsides of the federal matrix, the ambivalence of ethnic federalism, the hope and breakthrough towards multicultural federalism, the need for accommodation of diversity, managing ethnic conflict, protection of minority rights, application of fiscal decentralization, jurisprudence of constitutional interpretation and some human rights issues in general.

Unfortunately, however, there is a conspicuous absence of scholarly research, and no considerable scholarship has developed yet in the areas of freedom of religion and its concomitant concept-secularism. It has been a neglected area of research at least in terms of a focused legal and empirical assessment. Thus, the purpose of this study is to begin a discussion about the emerging legal and practical challenges surrounding the issues of religious freedom vis`a vis secularism and to examine some problems that ensue in recent years.

The research was undertaken over a period of four months. Therefore, due to time and resource constraint, and the broader nature of the topic, I don't pretend to say every aspect of it is thoroughly examined and fleshed out to its minutest detail. However, I believe a significant contribution has been made by providing important illustrative indications of the legal and practical complexities involved in the topic under consideration; and it helps to articulate the pressing issues that may require in-depth analysis in the time to come.

In the course of my research, I encountered some expected and unexpected challenges. The nation wide problem of power break and its intermittent shift in the summer, the reluctance of some people to talk about religion-related issues, the lack of well documented court cases, and the lack of standard literature in the topic, were some of the frustrating experiences I have undergone through.

When I turn to the opportunities that made this research possible; first and foremost, I would like to express my deepest gratitude to Associate Professor, (Dr.) Assefa Fiseha for helping me to define, and shape my topic, research plan and proposal. I do appreciate his kindness for shouldering the added burden of going through all my manuscripts on top of his research, administrative, and teaching responsibilities. I would like to thank Ato Tizazu Desalegne, advisor of Religion and Faith Affairs Directorate (Ministry of Federal Affairs), for all his assistance in providing me significant information and for the many discussions we have made over the current trends pertaining to religion related issues and ensuing challenges.

Many more people have assisted me during the research, and I am in earnest when I say thank you to all of them. Finally, I would like to remind my readers that, the shortcomings of this paper are my responsibility alone.

Abstract

This paper strives to look into the contemporary legal and practical challenges that basically arise from the interaction between the freedom of religion and the principle of secularism under the Ethiopian constitutional system. In so doing, of course, the Ethiopian legal system is examined in light of the international human rights instruments and standards. Moreover, it examines a myriad of competing interests in order to understand the depth of the challenges they posed. Furthermore, the paper attempts to identify a number of factors and emerging trends that contribute to the religion related tensions and conflicts that ensue in recent years. The paper argues that constitutionally speaking the strict model of secularism is a viable option for Ethiopia given its religious diversity and the normative value of pluralism. Moreover, it argues in favor of the need for specific legislative frame work that offers a clear guidance by defining the precise contours of the scope and limits of the right as well as the implicit and explicit consequences of secularism. It further argues that, the inherent tension between our secular State and freedom of religious expression is natural; however, this relationship gives rise to a patchwork of competing interests that are in several occasions incommensurable or rationally incompatible, thus, it is high time to formulate a specific guideline that serves as a road map for those who are supposed to assume the responsibility of enforcement and those who seek to enjoy their legitimate religious rights. We are not under illusion, however, that all the difficult issues of religious expression and secularism will be resolved through legal mechanisms per se. Thus, other means are also worth considering; though, we can't postulate a fully mature one here, some extra legal solutions are provided in the recommendatory section. Nonetheless, both the legislative frame work and its reinforcing consensus guideline will offer a legal safe harbour for every one.

Keywords: Religion, Secularism, Public Sphere, Pluralism, Tolerance, Religious expression, Extremism

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Acronyms

CCI	Council of Constitutional Inquiry
CEDAW	Convention on the Elimination of all forms of Discrimination Against Women
CERD	Convention on the Elimination of all forms of Racial Discrimination
CRC	Convention on the Rights of the Child
ECSA	Ethiopian Central Statistics Agency
CWME	Commission of World Mission and Evangelism
ECFE	Evangelical Churches Fellowship of Ethiopia
ECHR	European Convention on Human Rights
ECtHR	European Court of Human Rights
EIASC	Ethiopian Islamic Affairs Supreme Council
EOC	Ethiopian Orthodox Church
EP	Ecumenical Patriarchate
FDRE	Federal Democratic Republic of Ethiopia
HoF	House of Federation
HoPR	House of Peoples' Representatives
ICCPR	International Convention on Civil and Political Rights
ICESCR	International Convention on Economic Social and Cultural Rights
IFLO	Islamic Front for the Liberation of Oromiya
NGO	Non Governmental Organization
OLF	Oromo Liberation Front
ONLF	Ogaden National Liberation Front
RFRA	Religious Freedom Restoration Act
SNNPR	Southern Nations, Nationalities and People's Regional State
UDHR	Universal Declaration of Human Rights
UIC	Union of Islamic Courts
WCC	World Council of Churches

Chapter One

Introduction

1.1 Background

Ethiopia has a remarkable pride of being one of the ancient civilizations in the World. Oldest scriptures and illustrative accounts reveal its historical root traced back well beyond four thousand years.¹ As far as the religious landscape of Ethiopia is concerned, the vivid memory that comes first in one's mind is the glorious episode of the ancient Orthodox Church. The Ethiopian Orthodox Church (EOC), originated in the early fourth century in the ancient kingdom of Abyssinia,² which lies today in the northern region of Ethiopia.

The Church influenced by *Athanasius* of Alexandria and became ecclesiastically dependent on the Coptic Church of Egypt, and soon aligned itself theologically with the so called Monophysite group of Eastern Churches.³ In fact, the Church exists today as self-governing, though it traditionally shares the same faith with Egypt's Coptic Church. Until 1959, its patriarch was a Coptic bishop sent from Alexandria, though since that time the EOC won the right to appoint its native Ethiopian 'Abun' or Patriarch.⁴

With the exception of this link to the Egyptian Coptic the EOC was relatively isolated from the rest of Christendom. This was due largely attributed to the geographical seclusion of Abyssinia on a mountainous plateau,⁵ which later became nearly surrounded by Muslim regimes.

¹ Paul B. Henze, "Layers of Time: A History of Ethiopia", (2000), Hurst and company, London, P.1

Ethiopia has a strong claim to be the oldest country in the world. Written and pictorial records reveal aspects of its history extending back well beyond 4,000 years. Petroglyphs take it back at least another 5,000 years. Archaeology and paleontology bring the country's history back millions of years.

See also, Teshale Tibebe, "The Making of Modern Ethiopia (1896-1974)", The Red Sea Press Inc., (1995), P. 1

How old is Ethiopian History? We might answer by starting that Ethiopian history is as old as one wants it to be. If one wanted to take an extremely long view, one could say that Ethiopian history is as old as the history of the human species itself. After all, in the beginning was *Dinkinesh*... best known to the west by the name of ... 'Lucy'. (Of course, now we have got her elder 'Ardi').

² Bahru Zewde, "A History of Modern Ethiopia (1855-1991)", (2nd ed., 2002, Eastern African Studies, P.1

To the outside world, it has long been known by the name of Abyssinia. This appellation apparently derived from *Habashat*, one of the tribes that inhabited the Ethiopian region in the Pre-Christian era.

³ Assefa Fiseha, "Federalism and the Accommodation of Diversity in Ethiopia", (2007), A Comparative Study, Revised Edition, Forum of Federations, P. 14. The Aksumite State lasted from first century AD to approximately 1150. It became a Christian State at about 335 AD making the third political entity in history, after Armenia (301 AD), and the Roman Empire (312 AD).

⁴ See, Bahru Zewde, cited above at note 2, P.8

The conversion of the Aksumite king Ezana to Christianity in the 330s ushered in a new chapter in the country's history. The creed in its orthodox form came to express the cultural identity of a large section of its highland population. Ideologically and diplomatically, the Ethiopian church and state thence forth tied up with the Alexandrian patriarchate in Egypt, who had sole authority to consecrate a bishop for the Ethiopian Church, the 'Abun'.

⁵ John Markakis, Ethiopia: "Anatomy of A Traditional Polity", (1974), Clarendon Press, Oxford, P. 27

The development and preservation of traditional Ethiopian culture obviously owes to great deal to the isolation and relative security offered by the high plateau that has been its home.

The long historical heritage and theology of the Ethiopian Orthodox Church tradition has had its own interesting features. Many practices related to ancient Judaism such as veneration for a representation of the Ark of the Covenant in every church, circumcision, and the observance of the Sabbath along with Sunday.⁶

In addition the Church has its own canon of scripture, incorporating apocryphal works into both testaments, and its own liturgical language, *Ge'ez*, (generally called 'Ethiopic' among western scholars).⁷

A number of sacred legends connected with Israel also arose, especially the belief that the biblical Queen of Sheba was the monarch of Abyssinia, and that during her visit to Jerusalem, king Solomon tricked her in to a sexual union that produced a son Menelik I.⁸ When the son come of age and visited his father, he managed to abscond with the Ark of the Covenant to Abyssinia, where it is still believed to reside in the ancient capital of Aksum. Menelik subsequently became the progenitor of Abyssinia's ruling dynasty, bequeathing to it a divine sanction that was reinforced by the country's acceptance of Christianity.⁹

Church and State were thus inexorably connected until the fall of emperor Haileselassie in 1974, and this political-religious marriage has almost always played a central role in the history of Ethiopian State formation.¹⁰

⁶ Teshale Tibebu, cited above at note 1, P. 8, he stated that, we can find three most significant presences of Judaism in Ethiopian Christianity: The *tabot*, the observation of Saturday as Sabbath, Circumcision, and the distinction between clean and un clean foods.

Teshale also quotes the observation of Prof. Ephraim Isaac in this regard saying: The Ethiopian Orthodox Church follows the teachings of 81 books of Judeo-Christian literature. These are the 39 books of the Hebrew Bible, the 27 Canonical books of the Christian New Testament, and numerous Apocryphal and Pseudo epigraphic works.

⁷ Ayele Kebede, "An African Writing System: Its History and Principles", (1997), Princess RD, PP. 8, and 9

Ethiopic writing system has having its origin in south Ababian or sabaeian inscription. It is in fact this theoretical assertion that led Hailu Habtu (1987), to conclude, "A survey of the Scholarly literature on the origins of the Ge'ez [Ethiopic], script is not any more helpful than on the origins of Ethiopian civilization.

⁸ Miguel F.Brooks, "Kebra Nagast (The Glory of Kings): The True Ark of the Covenant", (1995), The Red Sea Inc., P. 30

The legend goes like this: "With wise intent Solomon sent to her meats which would make her thirsty and drinks that were mingled with vinegar, and fish and dishes made with pepper, and he gave them to the Queen to eat. The royal meal had come to an end, and the ... the servants departed, and the king rose up and he went to the Queen, and he said unto her: "Take thine ease for love's sake until day break." And she said unto him: "swear to me by thy God, the God of Israel that thou will not take me by force. For if I, who according to the law of men am a virgin, be seduced, I would then travel on my journey back in sorrow, affliction and tribulation."

⁹ Richard Pankhurst, "The Ethiopians: A History", (2nd ed. 2001) Oxford, P.19

The Bible also provided the basis for perhaps Ethiopia's most important legend: that of the Queen of Sheba's visit to King Solomon. The Ethiopian version, which went much further than the Biblical, asserted that the Queen had a son by Solomon that this child, Menelik I, later traveled to Jerusalem to see his father, brought back the Ark of the Covenant, and founded a dynasty which reigned in Ethiopia for close on three thousand years. This legend is inextricably bound up with the ancient Ethiopian city of Aksum.

¹⁰ Eyayu Lulseged, "Why Do the Orthodox Christians in Ethiopia Identify their Faith with their Nation?" in Richard Pankhurst et al (eds.), "Proceedings of the First National Conference of Ethiopian Studies", April (11-12, 1990), A.A, P. 85. Eyayu observed that, the ubiquitous role that the Church has thus been playing since the introduction of Christianity made it difficult for the Ethiopian believer to frame their national consciousness independently of their religion.

Christianity in Ethiopia has also been represented in more recent centuries by protestant denominations. Protestantism was introduced to Ethiopia through the European and American mission societies, which, though, present in Ethiopia for much of the 19th century, did not really make inroads into Ethiopian society until the twentieth century and even then they remain a tiny minority.¹¹

Three main missions shaped the modern protestant churches in Ethiopia, the Lutherans, the Sudan Interior Mission and the Mennonite Mission. The Lutheran Missions were the earliest presence in Ethiopia and developed into Mekane Yesus (the place of Jesus) Church, formed in 1959 as a federation of three mission churches.

The Sudan Interior Mission began its work in the south of Ethiopia in the 1920s. It progressed steadily but not vigorously, baptizing only a few converts in 1932 by the time when they were driven out of Ethiopia by the invading Italians in 1938. The Mennonite Mission came to Ethiopia after World War II as a relief agency, but received permission to evangelize soon after. Two distinct churches grew out of the influence of the Mennonite Mission. The Meserete Kiristos (Christ is the foundation), Church has remained an important part of the World wide Mennonite fellowship, while the Mulu Wengel (Full Gospel), Church has insisted on maintaining its independence from Western ties. In Ethiopia there are also other religious denominations with relatively tiny number of followers, such as the Seventh - day Adventist Church, Jehovah witness, Bah`ai, Jews, animists and practitioners of traditional indigenous beliefs.

Interestingly enough Ethiopia is also one of the first places Islam gained ground. The first direct contact between Christian Abyssinia and Islam came during Mohammad's early preaching career in Mecca. As the prophet developed his mission, he fell in to trouble with the '*Quraysh*' clan who controlled Mecca's holiest Shrine the *Ka`aba*. When the prophet saw the persecution to which his followers were subjected to in Mecca around 615, he sought for them a safe heaven in northern Ethiopia until their hardship subsided. It has been believed that, it was apparently Mohammad's positive experience with individual Abyssinian Christians which led him to look across the Red Sea and send some of his followers to the king of Aksum.¹²The Muslim

¹¹ Yared Halche, PhD, "Ethiopian Evangelical Immigrant Church's Leadership", (30, 2009), ([http://www.ethiocross.com/report/Ethiopian _ Evangelical _ Churches](http://www.ethiocross.com/report/Ethiopian_Evangelical_Churches)), last visited 20/05/2009, 02:20:45

¹² See, Paul B. Henze, cited above at note 1, P.42

Mohammed, was born about 570, had favorable associations with Ethiopians from child hood. According, to some traditions, Mohammed when a child had an Ethiopian nurse. There was an Ethiopian Christian Community in Mecca consisting of traders, artisans, and soldiers with

Contingent remained in Abyssinia for several years. Most returned to Mecca, the rest according to Ethiopian tradition, settled at Negash in eastern Tigray, where a substantial Muslim community has survived ever since that time.¹³

In the years following Mohammad's death, the predominant Muslim attitude towards Abyssinia was one of conciliation and restraint. As the early Muslim armies swept across Syria, Persia, Egypt, not a single offensive was made against Abyssinia. Most scholars attribute this sparing of Abyssinia to Mohammad's legacy of appreciation for his Christian neighbor across the Red Sea.¹⁴

Muslim traders soon followed, establishing settlements around the coast of Red Sea and at other locations along the Horn's coastal line, especially the port of Zeila, which today is in the far northwest region of Somalia. From there the traders gradually penetrated inland to areas east and south of the Abyssinian plateau, and eventually many settled within the Christian kingdom itself.¹⁵

The early expansion of Muslim trading was by and large characterized as non-violent one, and a relatively peaceful coexistence. However, Aksum suffered a decline in the late 11th and early 12th centuries, primarily due to its growing isolation from its Christian allies in Egypt and Byzantine and the increasing pressure from the dominating Muslim empire in the north.¹⁶

Most notably, the Persian conquest of south Arabia weakened Aksumite's involvement there, despite the Persian hegemony was short lived and was followed by Islamic conquest in the seventh century. Thus, the expansion of Islam eventually had far-reaching consequences for

whom Mohammed is likely to have had contact. He probably gained a favorable impression of Ethiopians from knowledge of Aksumite opposition to Jews and Persians in South Arabia.

¹³ Id., P.43

Envoys sent by the Quraysh to Aksum to persuade the (king) ... to send the Muslims back to Arabia were unsuccessful. ... [I]n six years after the Hejira (1628), Mohammed himself, now in authority sent an emissary to Ethiopia to request the return of his followers. The (Aksumite king) placed two ships at their disposal but only sixteen chose to return.

¹⁴ Ibid.,

When the (Aksumite king) died in 630, the prophet is reported to have prayed for the repose of his soul. "Leave the Abyssinians in peace", he is reported to have said, "as long as they don't take offense." No Jihad was ever declared against the Aksumite Empire by the early Muslims.

¹⁵ Id., P.45

Trade with Egypt and the Mediterranean World continued, but Aksum lost control of Red Sea navigation after the middle of the 8th century. Aksumite products continued to be in demand, nevertheless ... there is some evidence that Adulis suffered a destructive attack in the middle of the seventh century, but Massawa, the Dahlak Islands and Zeila, were active as trading ports during the succeeding centuries.

¹⁶ Ibid.

Though, the exact course of developments remains obscure, many factors have been adduced as contributing to the decline of Aksum. Emperor Kaleb's south Arabian campaigns must have been costly in man and resources and frustrating because of the lack of lasting political success.

Ethiopia. The Christian kingdom experienced two major dynasty changes whose kings progressively relocated south along the Abyssinian plateau.¹⁷

Beja pressures from the north combined with other factors forced the Aksumite kingdom to shrink further inwards. It was in these circumstances that the Agaw seized State power and established the Zagwe dynasty. The exact genesis of this dynasty is clouded in obscurity; however, the duration that some documentation suggests lasts from about 1150 to 1270. Most importantly the Zagwe dynasty left a notable imprint on Ethiopian history through the construction of eleven monolithic Churches in Lalibella, named after one of the most prominent of their kings.¹⁸

In 1270, the Zagwe dynasty was toppled by Yekuno-Amlak who belongs to the Amhara from the Wallo region, this dynasty claim to be a Solomonic descent to reinforce its legitimacy as distinguished from the Zagwe; who were alleged to be usurpers.¹⁹ Yekuno Amlak and his successors, notably Amde-Tseyon (1314-1344), and Zar'a Yaeqob (1434-1468), managed to build the Shawan Empire.

This regime instability allowed the Muslims to establish themselves into several sultanates along the southeastern rim of Abyssinia. Among these was the City State of Harar, destined to be one of the most influential cultural, trade and political centers of Islam in the region.²⁰

As noted above the Christian kingdom re-established their claim to Solomonic heritage in the late 13th century taking the title of 'Emperor'. The Christian dynasty of Shawa was managed to establish ties with Muslim Egypt and to *Ifat* and *Adal* Muslim Sultanates through trade.²¹

But, later Abyssinia again went on a collision course with the Muslim States on its borders. The constant skirmishes that ensued were stemmed from each region's desire for political and economic control, but religion inevitably played a role.²² The lack of unity among the Muslim

¹⁷ Bahru Zwede, cited above at note 2, P.8

The rise of Islam and the subsequent disruption of the Red Sea trade sapped Aksum's source of life.

¹⁸ Ibid

¹⁹ Ibid

²⁰ Ibid

This period also witness a further expansion of Christianity to the south, as well as to the Lake Tana region and Gojjam. But, Islam posed a serious challenge in the south east. The bid to control the vital trade route linking the Gulf of Aden port of Zeila to the southern interior, even more than religious divergence pitted the Christian State against a string of Muslim principalities that had emerged since the turn of the 19th century.

²¹ Ibid

²² Richard Pankhurst, cited above at note 9, PP. 72, 82

The Shawa-based Christian state at the time of its inception, enjoyed close relations with the Islamic rulers of both Yemen, and Egypt. The first important Shawan ruler, Emperor Yekuno-Amlak, on coming to the throne in 1270, was much concerned that his country had been for two decades with out an '*abun*'. (Because of the refusal of Egypt sultanate to send one for they were not happy on religious grounds)

sultanates generally allowed Abyssinian rulers to gain upper hand, especially in the mid 15th century Abyssinian domination was reached at its peaks.²³

The subsequent decades, however, witnessed a gradual decline in control by the Christian kingdom as the regional governors sought to exert their own local influence at the expense of loyalty to the emperor. Meanwhile, in the Muslim sultanate of east of Abyssinia, a powerful resistance arose which combined strict Islamic rule with a call for Jihad against the Christian kingdom. One of these rulers was Imam Ahmed Ibn Ibrahim al Ghazi nick named by most Christians as Ahmed Grag (left-handed).²⁴

After killing one of the prominent Sultans, Abu Bakar in the early 1520s and consolidating his power in the City of Harar, Imam Ahmed embarked on his conquest of Abyssinian territory.²⁵ With the help of Ottoman Turks Imam Ahmed almost completely succeed in his task of defeating the Christian king Lebna-Dengel (1508-1540), and shrinking the Christian Empire's territories deep north. Consequently, the Emperor appealed for help to the Portuguese, who were quite happy to respond seeking a foot hold in the horn as part of their own quest for control of the region. The might of Portuguese and the tenacious resistance of the Ethiopian Christians reversed the tide of the invasion. In 1543, Ahmed was killed in a Christian counter attack in Gondar, and his army quickly disintegrated and fled to the south eastern highlands.²⁶

Abyssinia was left devastated; it's political structure fractured and its people demoralized. Yet, the monarch had not surrendered and the ruling line continued. In fact, the political center steadily retreated to the north.²⁷

The pendulum swung back and another period of relatively peaceful coexistence followed. Taking the advantage of the Portuguese intervention a mission of Jesuits was sent out to further

(*Paraphrase added*). He accordingly wrote for one, around 1273-4, in a friendly letter to Sultan Babars of Egypt.... Muntuz ruler of port of Zeila, had undertaken no less than 25 annual raids into the Christian highlands of Showa, Amhara or Fatgar (1490-1517).

²³ Paul B.Henze, cited above at note 1, P. 83

The continual hostilities between the Christian kingdom and *Ifat* during the reigns of Amde-Tseyon, and his successors led to the decisive defeat of *Ifat's* Muslim rulers.

²⁴ Eyayu Lulseged, cited above at note 10, P. 6

The north-ward expansion of the Muslims under Ahmed Grag which started from what is today the south eastern part of Ethiopia was one of the most powerful challenges the Ethiopian Christian State has ever faced. Even though, the conquest had also an economic motive, it was waged in the form of a *Jihad* to wipe out the "infidels".

See also, Paul B.Henze, cited above at note 1, P. 86

His goal was nothing less than complete conquest of the Ethiopian Christian kingdom and conversion of the population to Islam.

²⁵ Ibid

²⁶ Bahru Zewde, cited above at note 2, P. 9

A force of some 400 Portuguese, led by Christopher da Gama (son of Vasco-da Gama, discoverer of the route round south Africa to India), arrived the following year and helped to defeat Ahmed Grag at the battle of Wayna Daga to the east of Gondar, in 1543.

²⁷ Ibid

But, the damage has already been done. The Christian kingdom could not easily recover its former might.

pressure the Abyssinian king Galawdewos, who resisted any thought of joining the Roman Catholic Church.

The following century, king Suseynos (1607-32), became catholic in the hope of an advantageous military alliance with the West, but his successor son Fasiladas (1632-67) drove the Catholic mission out of Ethiopia, when they tried to assert full-blown Catholicism.²⁸

Fasiladas is also known for his legacy of founding Gondar as the Imperial seat in 1636. He made a remarkable endeavor in the construction of a number of magnificent castles and churches in and around the Gondar town.²⁹

Fasiladas' policy also created conducive environment for the spread of Islam; Sufi preachers made inroads throughout the region; they managed to integrate the traditional religious customs in the 'official' Islam. This swift Islamization in many areas of Abyssinia soon caused the local Christian population to react.³⁰ In the late 17th century Fasiladas' son, Yohannes I took measures to prevent this renewed threat of Islam and attempted to strengthened the Christian dominance. Successive emperors more or less maintained this policy right up to modern times. The reign of Tewodros II (1847-68), was characterized by his protectionist policy against the spread of Islam in his Christian empire, though; he was not as such friendly to the Church too.³¹

His successor Yohannes IV (1872-1889) policy of unification coupled with limited local autonomy had also a religious dimension. As he was passionately devout to Ethiopian Christianity, he embarked on a zealous campaign to Christianize the entire country. His intolerant Edict issued at Boru Meda in 1878 was a case in point.³²

²⁸ Id., P.10

[T]he friendship generated by the Portuguese military support of the Christian State, made continued attempts to convert the kings and their country to Catholicism. They nearly succeeded in doing so with Emperor Susneyos, who embraced the new creed in the hope of strengthening the declining power of the monarchy. The nobility, clergy and the peasantry rose against him. Appalled by the ensuing civil war, he gracefully abdicated in favor of his son, Fasiladas. The first act of the new king was to expel the Jesuits.

²⁹ John Markakis, cited above at note 5, P. 15

The reign of Fasiladas (1632-67), marked a significant departure from tradition for the Ethiopian Monarchy. The quasi-nomadic mode of life customarily led by Ethiopian Emperors was abandoned, and the royal court came to rest at a fixed site, the City of Gondar.

³⁰ Ibid

³¹ Eyayu Lulseged, cited above at note 10, P. 5-6, Tewodros in one of his decrees made it clear that all non-Christians should either accept the official faith or leave his country. *See also*, Bahru Zewde, cited above at note 2, P. 124, Tewodros, a man of wide vision in many respects was bigoted when it came to Muslims, particularly the Muslim of Wallo.

³² Bahru Zewde, cited above at note 2, PP. 48, 124, Yohannes liberal, and almost federal in his politics, was even more uncompromising on the question of Orthodoxy and Christianity. *See also*, Donald Crummey, "Land and Society in the Christian Kingdom of Ethiopia, from 13th to the 20th Century", (2000), University of Illinois Press, P. 212, Underlying all of Yohannes' foundations as emperor was a national policy concerning religious unity. Like Zar'a Yakob he pursued uniformity, favoring Christianity over other religious traditions. He was particularly concerned with Islam, which, since the sixteenth century, had become the predominant faith in large parts of Wallo.

Menelik's approach was only slightly conciliatory than that of Yohannes. It was him who expanded the kingdom's borders in the late 19th century to incorporate most of what is now Ethiopia. Large Muslim regions thus, came under his direct rule, some times in the face of fierce Muslim opposition.³³ He set up governors in each area and built churches to cater to administrative officials. He also allowed a degree of local autonomy, including the freedom for Muslims to practice their own religion. Nevertheless, their situation is some what comparable to the '*dhimmi*' status accorded to Christians and Jews under Muslim rule during the medieval period. These communities were allowed relative freedom of religious expression even as they had to submit to some social and political restrictions.³⁴

During the 20th century, three brief episodes uplifted the fortunes of Muslim aspirations in Ethiopia, but each was short lived. The first of these was the unusual reign of Lij Iyasu (1911-16), where the *defacto* emperor was perceived as excessively sympathetic in his treatment of Islam and for his favorable understanding of its adherents in dealing with the Christian Ethiopian Empire. In his reign, he attempted to raise the fortunes of the Muslims by building mosques, arming local Muslim militias, and making an alliance with Turkey. His actions naturally uproar among both church officials, the nobility and finally he was deposed and become 'fugitive'.³⁵

The Italian invasion of Ethiopia (1936-41), was the next promising episode for Ethiopian Muslims; the Italians took some measures that seem to favor Muslims, though the driving motive was to divide and rule.³⁶

³³ Harold G. Marcus, "The life and Times of MenelikII, Ethiopia, 1844-1913", (1975), The Red Sea press Inc. P. 58. Although, Menelik personally was opposed to this conversion by force (Edict of Boru Meda), *parenthesis added*, he co-operated with Yohannes IV in Wallo and directed his officials to act accordingly in newly conquered areas.

³⁴ John Markakis, cited above at note 5, P.19

In order to minimize resistance to their rule, they abandoned an initial policy of force, which had led to the persecution of non Christians, and resorted to inducements designed to persuade local chiefs to accept Christianity, rewarding the converts with gifts and recognition of their local position. In areas where Islam had deep roots, the local Muslim chiefs were allowed to retain their position as long as they acknowledged the overall supremacy of Shawa. *See also*, "Islamic Teaching on Dhimmi Status", (www.archons.org/pdf/issues/DHIMMI.pdf), last visited, 23/10/2009. In early Islam, Christians and Jews and several non-Muslim groups were known as dhimmi (literally meaning protected). While they were only protected in that they were not forced to convert, flee or be killed, unlike pagans. However, they were not given equal status with Muslims and were made to pay a special tax...

³⁵ Harold G. Marcus, cited above at note 33, PP. 251, 252, 271

From the very beginning of his defacto reign, Lij Iyasu showed that he was not the stuff from which great monarchs were made. [W]ith out regard for his advisors he made decisions that failed to take into account the social, political or religious consequences. *See also*, Bahru Zewde, cited above at note 2, P.124, Iyasu had no intention of disestablishing Orthodox Christianity in favor of Islam. Confused as it certainly was, his policy can be interpreted as one of trying to redress the injustices of the past...he represented a revolutionary departure from the past.

In Wara Hailu area he confiscated some land from an old, well established church and donated it to a Mosque as an endowment. This story found its way to the capital, causing anxiety and dissatisfaction but, as yet, no move towards rebellion.

³⁶ Harold G. Marcus, "Haileselassie I: The Formative Years, 1892-1936", (1987), The Red Sea press Inc. PP.180, 338

See also, Alberto Sbacchi, "Ethiopia under Mussolini's Fascism and the Colonial Experience", (1985), Zed Books Ltd. P.161

In contrast, the Ethiopian Muslims gave the Italians unconditional help in return for the Italian government's support of their religion and institutions. Of all the peoples of Ethiopia, they perhaps benefited from Italian rule. Although, Italian policy was not always very clear, it consistently tended to be pro-Islamic. Officially, the Italian authorities asserted that all races and religions were treated equally. The governors were reminded that for political reasons Italian policy had to favor the Muslim subjects.

Emperor Haileselassie's few concessions to the Muslims such as the establishment of Islamic courts to settle family disputes, did little to dispel Muslim feelings of resentment. Of course, Haileselassie's policy on the subject of religion was ostensibly emphasized on the statement: 'Religion is personal, the State is for all'. This maxim was invariably quoted as a guiding principle that guarantees religious equality in Ethiopia, however, because the regime had officially established religion, predominantly the merger of national and religious consciousness was much pronounced. The EOC, as one of the oldest and strongest institution in the polity, had monopoly over the various spheres of life of Ethiopian Christians, and the State affairs. Thus, Ethiopian and Christian had become almost synonymous terms, and were most often interchangeable in popular usage.³⁷ Although, the 1931 Imperial Constitution had contained some civil rights, such as freedom of movement, prohibition of arbitrary arrest or imprisonment, the right to be tried by legally established court, prohibition of arbitrary search and seizure; it did not have a single provision pertaining to freedom of religion.³⁸ The 1955 revised Constitution had also claimed to guarantee more broader civil rights than its predecessor, including freedom of religion, however, it strengthened the establishment of one religion preferred and patronized by the State subordinating other faiths.³⁹

The third brief episode of opportunity came in 1974, when the Emperor deposed through popular uprising led by the military that ruled for seventeen years with an iron fist. Muslims had formed a major contingent in the demonstrations that led to the demise of the Imperial regime, and they were initially rewarded with added rights and recognition of equality with other Ethiopian citizens.⁴⁰

The PDRE Constitution proclaims the separation of religion and State purportedly recognizes freedom of conscience and religion, including a number of other basic rights such as, freedom of speech, press, assembly, peaceful demonstration, inviolability of the person, prohibition of arbitrary arrest, search and seizure etc. However, the Derg's key ideological focus was the

³⁷ John Markakis, cited above at note 5, PP. 32, 338

Christianity is expected to overcome its rivals gradually as a result of its social and economic advantages and the political dominance of its adherents rather than through systematic evangelization.

³⁸ See, The 1931 Constitution of the Empire Ethiopia, Arts., 22-29

³⁹ See, The 1955 Revised Constitution of the Empire of Ethiopia, Art., 126 provides that:

The Ethiopian Orthodox Church, founded in the fourth century, on the doctrines of Saint Mark, is the Established Church of the Empire and is, as such, supported by the State, The Emperor shall always profess the Ethiopian Orthodox Faith. The name of the Emperor shall be mentioned in all religious services. Article 40 states that: There shall be no interference with the exercise, in accordance with the law, of the rites of any religion or creed by residents of the Empire, provided that such rites be not utilized for political purposes or be not prejudicial to public order or morality. See also, the Preamble and Arts., 16, 20-25, 38, 41, 43, 45, 46

⁴⁰ David H. Shinn, "Ethiopia: Coping with Islamic Fundamentalism Before and After September 11", (2002), P. 2, (csis.org/files/media/Csis/pubs/notes_0202.pdf), last visited, 09/11/2009

triumph of the so called ‘Scientific Socialism’, a temptation that sought to make this political ideology a substitute for religion, undoubtedly, this type of hypocrisy was meant only another form of the extension of religious repression; at best it was a kind of benign neglect to religious rights at worst it was an outright religious persecution; for that matter this regime is characterized by its worst record ever in terms of all forms of human rights and freedoms.⁴¹

With the downfall of the Derg in 1991, and the establishment of a federal republic, the State once again officially detached itself from matters of religion and religions also cease to interfere in State affairs. Ethiopian Muslims, Christians and other denominations finally achieved a sense of equality unparalleled in their previous history. The FDRE Constitution of 1995 guaranteed equal status to all citizens and to all forms of religious denominations.⁴²

Despite the country’s constitutionally guaranteed religious freedom and tolerance for officially recognized faiths, there were instances of open conflict among religious groups in the recent years, most noticeably between Ethiopian Orthodox Christians on the one hand, and Muslims on the other, and there are also continued pockets of inter religious tensions and criticisms among Orthodox Christians, Evangelicals/Pentecostals and Muslims.⁴³

⁴¹ See, The PDRE Constitution of 1987, Articles, 35, 43, 46, 47, 48, 79, and 88. See also, Bahru Zewde, cited above at note 2, P. 229, The Ethiopian edition (revolution) delivered the country to the murderous regime Mengistu Hailemariam. For much of the West, the years 1974-1991 marked one long period of unqualified disaster. For many Ethiopians, too, the blood and tears born out of the terror and the civil war that attended it have overshadowed any positive achievements the revolution might have registered.

⁴² International Religious Freedom Report, 2006, 2007, Ethiopia

⁴³ International Religious Freedom Report, 2008, Ethiopia

1.2 Statement of the Problem and Research Questions

One of the root causes of the longstanding crises of the Ethiopian State and Society was religious inequality that has been entrenched by past successive regimes. The institutionalization of one religion to assume a dominant political role in the society and using it as ideological justification for empire building, coupled with other misguided policies have triggered bloody conflicts.

The FDRE Constitution of 1995 has made a significant, if not radical departure from its predecessors in many respects. Thus, the Constitution guarantees equality of religions, proclaims freedom of religion, and declare its concomitant principle of secularism.

Given the country's bitter past it is no surprise to see a general consensus as regards the separation of religion and State among the multi-confessional society of this polity. There seems, however, some difference of opinion, if not confusion both in theory and practice as regards the nature of secularism.

Moreover, religion 'related' clashes reported in the last ten years have their own patterns and features. The clashes are more organized and in most cases incited in some way to bring the other party into confrontation.

Thus, it would be naive to take them as spontaneous or sporadic personal conflicts among followers of different religions. One thing seems clear, a new pattern of clash is emerging, however, there is a doubt whether the cause is really religion; or whether it is a symptom of the global syndrome. Of course, religion can not be regarded as the sole culprit of social tension and unrest. Nonetheless, this is a worrisome situation for all of us, since at least in the recent generations, such tensions and scale of clashes never used to happen, but they seem to be starting now.

Indeed, the scary scenarios demonstrated by the current developments of religious intolerance have become topics of discussion among people across the nation. Furthermore, in some parts of the country there were isolated incidents that some Muslim university students took to the streets protesting that public school authorities interfered with their free exercise of religion. These students complained that public school authorities ban prayer in school campus, and prohibit Muslim school girls from wearing headscarves, hijab, as well as veil.

This thesis will investigate why under the existing constitutional frame work religion ‘related’ conflicts and tension is increasingly becoming a subject of concern?

In order to evaluate and understand the actual challenges and the ensuing problems of our secular State vis `a vis religious freedom, this study focuses on three interrelated themes. The first concerns the scope and content of religious freedom as enshrined in the Federal Constitution. The second theme focuses on how the constitutional limitations on religious freedom are interpreted and implemented, and what are the guiding principles and standards that justify limitations. The third theme emphasizes on how our constitutional secularism is theoretically grounded and practically implemented.

More specifically, the study will address the following research questions:

1. How is religious freedom protected and practiced in our country?
2. What problems and challenges are we facing in the task of striking the delicate balance between the principle of secularism and religious expression?
3. What is the role of religion in the public sphere? How is it possible to reach an area of consensus? Or a sound compromise, as regards religious accommodation and the compelling interest of the State?
4. How should our secularism respond to religious diversity and the fact of pluralism? Should strict separation of State and religion be insisted upon? Or is there a possibility of permitting a degree of regulated interaction between religion and State?
5. To what extent religious expressions and activities are permitted in public schools within the constitutional limits? And, how to maintain the appropriate balance between the imperatives of State neutrality and freedom of religious expression in public school?

1.3 Objectives of the Study

1. To analyze the legal frame work pertaining to freedom of religion and to flesh out the scope and content of this right as well as to examine the nature of limitations in light of international standards.
2. To investigate the notion of our secularism and its practical impact on real life and to highlight what model of neutrality is sought to be followed.

3. To explore the contemporary legal controversies, political, and social problems and challenges that impact religious freedom and secularism.
4. To assess whether our constitutional secularism is capable to bolster up the values of pluralism and tolerance.

1.4 Significance of the Study

The practice of religion is a fundamental right and a human right. But, according to many observers this right is being exploited today for advancing dubious ends, and at times to justify claims to political power and violate the fundamental rights of others.

We should therefore, create an awareness of its scope, limits, and accepted practice, that allows us to define them for even fundamental rights need a frame work.

Given the escalation of religious intolerance by non-state actors in our country, this study makes a modest attempt to foster open and constructive discussion among academics and encourage interfaith dialogue. It also highlights the corresponding role of the State in combating intolerance.

1.5 Scope of the Study

The study comprises both legal and practical analyses with regard to religious freedom in our constitutional frame work. Indeed, more effort and time has been devoted to examine the practical implementation of the right and the challenges faced in due course. Moreover, in order to understand the concept of secularism in our system, we found it necessary to see the experience of some democratic countries.

In terms of time frame the study covers the period since 1995 until now, unless as a matter of necessity some remote events are mentioned in passing.

1.6 Methodology

The study is primarily practical one which is supported by structured and non-structured interviews, and questionnaires as well as observations and real cases. Moreover, various secondary sources are consulted, including books, journals, laws and other relevant publications.

Libraries and different websites of government institutions, religious institutions and civil society organizations have been visited for a range of published materials, official documents, foreign court rulings, international instruments and reports of international organizations.

The research focuses on relevant informants who can represent diverse interests and opinions.

NB: The next table shows the sources of data used in the paper.

1.7 Limitations

Due to time and budget constraints the study is geographically limited to the capital and its surrounding cities. Religious organizations and their followers as well as government machineries are found all over the country, nonetheless, since almost all religious institutions have visible presence in the capital, the desired information is more or less found in Addis Ababa.

1.8 Structure of the Paper

This paper contains five parts. Chapter one provides an introduction and background of the study. Chapter two offers an overview of the genesis and evolution of religious freedom. It outlines the conceptual and theoretical frame work of the concept of secularism as well as the varying practices of some constitutional democracies with respect to issues of religious freedom and secularism. Chapter three discusses the legal frame work guaranteeing and regulating the freedom in light of the domestic and international standards. It examines the overarching legal challenges that emanate from the constant tension between religion and the secular State. Chapter four highlights the existing Ethiopia's religious demography to see the ambivalence and its implications. Most importantly, it explores the possible factors that cause or contribute to inter-religious tensions and conflicts. It examines the practical temptations to manipulate religion for other objectives. The responses from interviews, questionnaires, and the case study will be integrated here to identify and articulate the major challenges and problems affecting inter-religious peace. Chapter five provides the concluding remarks along with major findings and proposed recommendations.

Chapter Two

History and Concept

This chapter starts with the over view of the major historical developments pertaining to religious freedom; it highlights the major events that led towards the achievement of a complete freedom of conscience and religion. It also discusses how the notion of separation of State and religion evolves and become one of the dominant liberal values in the history of mankind. Then it proceeds to address the issue how the concept of secularism is viewed from the main stream liberal perspective. In connection to this the issue of the place and role of religion in the public sphere will be discussed. In relation to the constant tension between secularism and the freedom to practice or manifest religion, some questions will be raised, such as what are the compelling arguments in favor of restricting religion to private life; what are the counter arguments in favor of allowing religion to play a greater role in the public arena, especially in politics; and how do these competing interests be reconciled. Finally, how other constitutional democracies adopt and implement the principle of secularism vis-à-vis freedom of religion will be examined.

2.1 Historical Over View of Freedom of Religion

The evolution of religious freedom through out history has been gradual with the most of the progress occurring in recent centuries. It was not until the 18th century that enlightenment concepts of freedom of individual religious belief and conscience gained ground in Europe and America.⁴⁴ For most of history, political orders tended to be monarchical, totalitarian, even theocratic, believing a common religion to be the foundation of a stable society.⁴⁵

⁴⁴ David L. Sills, (eds.), International Encyclopedia of the Social Sciences, Volume, 13 & 14, (1997), Complete and Unabridged, Macmillan Library Reference U.S.A, Simon and Schuster Macmillan, New York. P. 413

Although, foreshadowings of the idea of religious evolution can be traced as far back as classical times, the first extensive effort in this direction was that of ... in the eighteen century. Elaborate schemes of religious evolution with copious empirical illustration were developed in the nineteenth century by Hegel, Comte, and Spencer. In more modest and judicious form, evolutionary ideas provided the basis of the sociology of religion of Durkheim (1912), and Weber (1922).

⁴⁵ The Encyclopedia Americana, International Edition, Complete in thirty volumes, First published in 1829, Grolier Incorporated, Volume, 23, (1997), International Head Quarters: Danbury, Connecticut, 06816, P. 317. The Catholic, for example, stood squarely in the center of life and society. It owned much land; it controlled education, it exercised its own legal jurisdiction; it provided the principles that guided government and society, marriage and family. Above all, the Church, as the guardian of eternal truth, mediated humanity's salvation. *See also*, Jonathan Rowe, "Christian Legal Scholarship", Jan., 26/2008. (www.positiveliberty.com/.../christian_legalscholarship.htm), P. 2, last visited, 24/08/2009

Before Western Christendom recognized religious liberty and separated Church and State, civil governments were explicitly religious entities attempted to legislate mans' duties to God, the result of which was theocracy, laws on the books which merited execution for among other things, blasphemy, heresy, and worshipping false gods, done under the auspices of the 'Ten Commandments' into the civil laws.

In Europe the Roman Catholic Church maintained a tight reign on religious expression throughout the middle ages. However, since the fourteenth century, the long tradition of Papal authority of the Holy Roman Empire started to be challenged by emerging reformists.⁴⁶

As continuity of this movement Martin Luther (1482-1546) attempted to reform the Church from within around 1517. But his effort ended in failure as the Church excommunicated him in 1521. Despite this fact, the protestant movement has got momentum and continued to gain ground in Switzerland, France, Germany and the Netherlands.⁴⁷ The defiance of papal authority proved contagious, when the king of England Henry VIII was excommunicated by the Catholic Church for violation of marital affairs, and he promptly responded by establishing an Anglican Church of England.⁴⁸

Intolerance of dissent has escalated,⁴⁹ and led to an outright civil war between the Swiss Cantons that accepted Protestantism and the Catholics in 1531.⁵⁰ France had witnessed a horrible blood shed that caused by the civil war between the Catholics and Protestants.⁵¹

⁴⁶ Id, The Encyclopedia Americana, P. 317. The 16th century controversy over the proper interpretation of the Christian faith (was) eminently religious, but social and political as well, it began as an attempt to reform the Catholic Church. [T]he controversy began in Germany in 1517 with Martin Luther's Ninety-Five Theses and ended in the second half of the 16th century with the formal decisions by political rulers about the legal acceptance or rejection of a new protestant religion. Two developments, thus, characterize the history of the Reformation: a theological dispute about the proper understanding of the Christian religion and a political controversy about the legal status of the new Reformation Churches. The Catholic Church has had a long medieval history of attempted and effected reform. The term "Reformation" (from Latin reformare, "to renew"), was employed in the 16th century by the adherents of the movement to express the notion that theirs was an effort at returning the Church to its biblical sources. *See also*, Sydney E. Ahlstrom, A Religious History of the American People, (1972), New Haven and London, Yale University Press, PP. 72-83

⁴⁷ Id, PP. 318, 319. The Catholic Church responded to Luther's pronouncement with astounding swiftness. In February 1518 a formal complaint was lodged in Rome, and proceedings for suspicion of heresy were initiated. Luther was cited to appear in Rome for an interrogation, but with the intervention of his territorial ruler, Elector Frederick of Saxony, prompted this examination to take place in Augsburg....discussions...instead sharpened matters because of Luther's frank assertion that Popes and ecumenical councils had been in error. Early in 1520 the official ecclesiastical proceedings against Luther were brought to a conclusion. The Papal bull *Exsurge domine*, signed in June, condemned 41 of his statements as "heretical" or offensive to pious ears and gave him 60 days to recant. In response Luther led a throng of students and faculty outside the gates of Wittenberg and tossed a copy of the bull and of the canon law into a bonfire. By then he had drawn up a broad program of religious renewal. In January, 1521 the bull *Decet Romanum Pontificem* excommunicated Luther....the theme of expansion (Lutheranism) found a striking expression in the acceptance of the Reformation in the (various) cities.

⁴⁸ Id, P. 323. King Henry VIII, into his atmosphere of religious agitation burst the King's desire for an annulment of his marriage with Catherine of Aragon on the grounds that it violated canon law. Extensive efforts on his part to obtain a favorable papal decision proved to be unsuccessful and Henry choose a parliamentary statute to provide the legal justification for what he wanted. In the process the authority of the Church was fundamentally challenged. In 1533, passed the Act in restraint of appeals to Rome, which declared England an "Empire" whose sovereign could adjudge all spiritual and temporal matters in his realm. This Act kept the Judicial resolution of the "divorce" in England, and the king had broken with the (Roman Church) and form Anglican Church.

⁴⁹ Antonio Stango, The History of Religious Freedom In Europe: Italian Helsinki Committee for Human Rights, Italy, Delivered at International Coalition for Religious Freedom Conference on, "Religious Freedom and the New Millennium", Berlin, Germany, May 29-31(1998), P. 1, last visited, 18/06/2009. To speak about religious freedom is to speak about religious intolerance and persecution. Massive conversions, usually starting with conversion of land lords, some times by persuasion, more often by violence. (www.religiousfreedom.com/fonference/.../stango.htm), last visted 18/06/2009

⁵⁰ The Encyclopedia Americana, Volume, 23, (1997), P. 326. In general sense, the name 'reformed churches' designates the type of Protestantism that originated in the context of Christian humanism in Switzerland in the 16th century under the leadership of Ulrich Zwingli in Zurich and John Calvin in Geneva...both Zwingli and Calvin owed a debt to the German reformer Luther.

⁵¹ In the Name of God: the Christian Wars, (www.white.history.com/hwrf.htm), P. 5 last visited 05/07/09. Bartholomew's day massacres in Paris, 1572, Protestants were killed by Catholics. Then the French King Henry IV, himself sympathetic to the Protestants, issued the Edict of Nantes in 1598, officially tolerating Protestantism in France. This Edict was however revoked in 1685, and Protestants were either killed or driven out of the country completely.

In short, the impact of the civil wars raging in particular in France, Germany, the Netherlands, Spain, Switzerland and England was enormous. The protracted war fought between Catholics, Lutherans and Calvinists resulted unprecedented, destruction, ruin and human misery.⁵² In an attempt to end these horrible civil wars, many peace treaties have been concluded at different times between the rival parties. For example, the peace of Augsburg (1555) was made to tolerate Lutheranism in the Holy Roman Empire. The edict of Saint Germaine (1562) was an edict of 'Limited Toleration' made between Catholics and Protestants of France. The union of Utrecht (1579) was a peace treaty that unified the northern provinces of the Netherlands. The Edict of Nantes (1598), attempted to bring peace between Catholics and Protestants of France. The treaty of Westphalia (1648) was a comprehensive peace treaty that ended the protracted war among many European States.⁵³

These treaties were not meant to ensure complete freedom of religion and conscience, but rather they were designed to restore and maintain peace by guaranteeing a minimum level of reciprocal religious tolerance. As can be gathered from the nature of these treaties each State was assumed to take the religion of its prince, but with in those States there will be a limited degree of tolerance for other faiths, or people of other beliefs.⁵⁴

Similarly, the religious groups that first settled in America had no intention of changing their practice of religious uniformity upon those with in their colonies.⁵⁵ However, given the unique

⁵² Id., P.6, The greatest Christian war of all was the Thirty Year's war which ran from 1618 until 1648. Starting in Bohemia with a localized conflict between Catholics and Protestants, it provided an opportunity for a number of major European countries to attack each other, based mainly on religious affiliation, and using Germany as a convenient battleground.

⁵³ The Columbia Encyclopedia, Sixth Edition, (2008), available at,

(www.encyclopedia.com/topic/edict_of_nantes.aspx) last visited, 24/06/09. the religious wars resulted in a number of important Treaties the Union of Utrecht (1579), which marked the emergence of a Protestant, united, and effectively independent Netherlands; the Edict of Nantes (1598), which granted civil and religious rights to Protestants in France; and finally, the Treaty of Westphalia (1648), which ended Thirty Years' war included important provisions for religious toleration between and with in States.

⁵⁴ While it granted certain privileges to Protestants, the Edict of Nantes reaffirmed Catholicism as the established religion in France. The edict dealt only with Protestant and Catholic coexistence, it made no mention of Jews, or of Muslims, who were offered temporary asylum in France when the Moriscos (converts to Christianity) were being expelled from Spain. Jews In 1492 and Muslims in 1609 were expelled from Spain. ([http://www.christianhistorytimeline.com/daily/04\(2003\).shtml](http://www.christianhistorytimeline.com/daily/04(2003).shtml)), last visited, 24/06/2009

⁵⁵ Julia Mitchell, Corbett, *Religion in America*, Ball State University, New Jersey, (1990), Prentice Hall, Inc., P. 16. The American experience with established churches was influenced by the experience of European settlers who were forced to flee from establishments of religion in their home countries. It was also influenced by the experiments with pluralism and freedom of religion that had been carried out in Rhode Island and Pennsylvania. Many people concluded that the civil power and privilege for churches led to problems; while toleration and equality under the law was good for both the churches and society at large. In addition, no single religious group had enough support throughout the original thirteen States to make its belief and practice the law of the land. See also, Corey Keating, "The Factors that Allowed the Development of Religious Freedom and Pluralism in Colonial America", June 8, 2001, PP.4-5, American Church History, Fuller Theological Seminary, Phoenix Extension. (www.ntgreek.org/.../factors.../) last visited, 16/09/09. This intention to keep the practice of religious uniformity is seen clearly in the Second Charter of Virginia made in 1609. In his Chapter on "The Colonial Period in America," Leo Pfeiffer opens by saying that "The old World patterns of Church-State union and religious oppression were transplanted to the new World with all their rigor." The Massachusetts Bay Colony issued a Court order in 1637 denying admission to those who did not practice their form of Protestantism. Indeed, Massachusetts maintained its established Church until the 1830s.

practical and environmental convenience for dissent and pluralism, it was difficult for the established colonies to force conformity on those who pursue different belief systems.⁵⁶

The availability of vast unoccupied land, the open policy of immigration largely driven by economic opportunity, the blooming ideology of intellectual ‘rationalism’, that emanate from the ‘European Enlightenment’ were factors that contribute to religious pluralism and tolerance.⁵⁷

The writings of John Locke (1632-1704), on the philosophy of ‘rationalism’, particularly in matters of religious and civil government had a great influence on the founders of America.⁵⁸

Prominent figures like Thomas Jefferson and James Madison were highly influenced by the principles of the enlightenment that gave them this unique set of ideological thrust and led to the practical circumstances that necessitated the adoption of a kind of government that would allow for religious freedom, separation of State and religion and, thus, ensure liberty of conscience for its citizens.⁵⁹

The secular nature of the United States government was postulated in 1791,⁶⁰ when the Constitution was amended to limit more explicitly federal power; the first amendment prohibits the federal legislature from establishing a religion or from enacting any law that limits religious freedom. “Congress shall make no laws respecting an establishment of religion, or prohibiting the free exercise thereof”.⁶¹

⁵⁶ Id., Corey Keating, P.10, Much closer to the American scene, was the great advocate for the separation of church and State; Roger Williams (1603-1683). His most important literary contribution was called, “The Bloody Tenet of Persecution for Cause of Conscience,” written in 1644. He did his actual practice of religious toleration and the separation of Church and State in the colony of Rhode Island ... Similarly to Roger Williams another person who was leading the way to religious toleration in America was William Penn. As the founder of Pennsylvania, Penn wrote his contribution for the colony called the “Frame of Government” that allowed unprecedented freedom of religion... Pennsylvania there after became the most secure home for religious toleration in the World.

⁵⁷ Id., PP.5-9, Even if England wanted to enforce religious uniformity on these colonies the distance was so great and the modes of transportation and communication so slow, that efforts of enforcement were of little affect. *See also*, The New Encyclopedia Britannica, Volume, 22, (1997) P. 351

⁵⁸ Id., P. 11, there were also a number of very strong ideologies and new convictions that were coming to bloom during the late 17th century that took hold in America. In Locke’s first letter on ‘Toleration’ in 1685, He makes clear that government should only be involved in civil matters, leaving religious convictions and persuasions up to each individual.

⁵⁹ Mark A. Noll, A History of Christianity in the United States and Canada, William B. Eeromans Publishing Company, (1992), Grand Rapids, Michigan, PP. 144-147. *See also*, Merill D. Peterson, Thomas Jefferson and Religious Freedom, as originally published in the Atlantic Monthly, P.1, available at, (www.theatlantic.com/issues/960ct/obrien/peterson.htm), last visited, 18/06/2009. Viewed historically, the Virginia statute for religious freedom is the supreme expression of the eighteen century Enlightenment in the life and work of Thomas Jefferson. It is in fact, one of the main pillars of American democracy and a beacon of light and liberty to the World a work inspired by the spirit of Enlightenment became a vehicle of American nationalism... of American self definition. *See also* , The New Encyclopedia Britannica, Vol., 22, (1997), P. 324

⁶⁰ Id, P. 146. Jefferson also felt that debate over the famous Virginia Statute for religious freedom in 1785 formed essential background to the First Amendment and that the Virginia Statute was intentionally written to guarantee full participation in public life on equal terms....*See also*, Edward Tabash, The true Meaning of the Establishment Clause, Center for Inquiry Office of Public Policy, (2007), P. 5, The First Amendment did not just pop into the heads of the founders from no where. In the 1780’s there were vigorous debates over the scope of religious freedom, especially in Virginia. In the Virginia debates, both Thomas Jefferson and James Madison played leading roles.

⁶¹ Id, P. 144. *See also*, Conkle, Daniel O., “Religious Expression and Symbolism in the American Constitutional Tradition,”: ‘Governmental Neutrality; but not Indifference’: Indiana Journal of Global Legal Studies, (2006), Indiana University Press, P.3, The Establishment Clause was originally directed to the national government alone, but the United States Supreme Court has concluded that the Fourteenth Amendment, ratified in 1868, incorporated the Establishment Clause and there by extended its prohibition to State governments as well (including their sub divisions and public schools).

In many parts of the World, it was only in the 19th century it did become evident that the State should be the only institution endowed with public power. And, only then it became clear that the State has a limited task; it is not the task of the State to defend and guarantee a transcendent religious truth.⁶²

Full freedom of religion, not only for majority but also for the religious minorities and comprising not merely the freedom to practice one's religion in private, but also in public, was realized in the 19th and 20th centuries.⁶³ As far as recent religious views towards freedom of religion are concerned, the Holy Roman Catholic Church reiterated its firm position for the full realization of religious freedom in the "Second Vatican Council Declaration of Dignitatis Humanae" of 1965.⁶⁴ The declaration provides the Church's doctrinal development in relation to modernity and its understanding of the meaning and scope of freedom of religion and conscience.

Most of the eastern Orthodox Churches have also supported religious freedom for all, as evidenced by the position of 'Ecumenical Patriarchate'.⁶⁵ Many Protestant Christian Churches are said to have a commitment to religious freedoms.⁶⁶ A number of Islamic scholars and

⁶² See, Mark A. Noll, cited above at note 16, P. 394. The rise of a more pluralistic society in which secular values have become prominent has changed the substance but not necessarily the form of public activity. In the 20th century America the language of political reform is more likely to base on scientific expertise than on a morality derived from the Bible, and it appears more naturally to education than to conversion as the basis for social transformation. Modern political leaders also assume that the State will play more important role in bringing about the life than would have been the case in the puritan or evangelical eras. See also, Lee Boothby, International Agreements and the Protection of Religious Freedom, International Academy for Freedom of Religion and Belief, Delivered at the Coalition for Religious Freedom, Conference on "Religious Freedom in Latin America and the New Millennium." Oct, 11-12,(2008), Brazil, P.1, (www.religiousfreedom.com/conference/brazil/boothby.htm), last visited 25/05/2009

⁶³ Gloria M. Moran Garcia, "What is Religious Liberty and what should the Laws Guarantee", Journal of the International Religious Liberty Association, University of La Courna, Spain,(1998), (www.irla.org/documents/fel/.../moran.htm), last visited, 20/05/09

⁶⁴ Mary Pat Fisher and Robert Luyster, Living Religions, (1991), Prentice Hall, Eagle Wood Cliffs, N.J 07632, PP. 249, 251. As the Protestant reformers were defining their positions, so was the Roman Catholic Church. Because reform pressures were under way in Catholicism before Luther, Catholics refer to the movement as the Catholic Reformation, rather than the "counter reformation", as Protestants call it. However, the Protestant phenomena provoked the Roman Catholic Church to clarify its own position, largely through the Council of Trent (1545 to 1563), and later through (the First and Second Vatican Councils). In 1962 Pope John XXIII, known for his holiness and friendliness, convened the Church and making it serve the people better...After Vatican II thus unleashed creativity and simplicity in public worship, entirely new forms appeared, such as informal folk masses-with spiritual folk songs sung to guitar accompaniment. Another major change was the new emphasis on ecumenism, in the sense of rapprochement among all branches of Christianity. The Roman Catholic Church acknowledged that the Holy Spirit is active in all Christian churches, including Protestant denominations and the Eastern Orthodox churches. It pressed for a restoration of unity among all Christians, with each preserving its traditions intact. See also, "Declaration of Religious Freedom", "Dignitatis Humanae", Pope Paul XXIII, Dec., 7,1965, (www.vatican.va/.../vat_ii_decl_19651207dignitatishumanae_en), last visited,18/06/2009. This Vatican Council declares that the human person has a right to religious freedom. This freedom means that all men are to be immune from coercion...no one is to be forced to act in a manner contrary to his own beliefs. The right to religious freedom has its foundation in the very dignity of the human person...This right of the human person to religious freedom is to be recognized in the Constitutional law where by society is governed and thus it is to become a civil right.

⁶⁵ Frank Marangos, "Resolving the Religious Freedom Issue of the Ecumenical Patriarchate", Forum For Public Policy: A Journal of the Oxford Round Table, summer, (2002), P.1-4, The 'Ecumenical Patriarchate' (EP), is the highest see and the Holiest center of the Orthodox Christian Church throughout the World. Saint Andrew the apostle (36AD), is considered to be the first occupant of the throne of Constantinople "The Church of Byzantium". After the Great Schism in 1054 the Ep emerged as the World Center of the Orthodox and the Patriarch was recognized by the Orthodox (Bishops) as *primus inter pares*.

⁶⁶ See, Mark A. Noll, cited above at note 16, P. 394

theologians also reaffirm the consonance of Islam with religious freedom quoting the ‘Quran’ and ‘Sunna’, “there is no compulsion in religion.”⁶⁷

Of course, whether all these religious faiths understand or interpret freedom of religion in the same way that secular modernity talks about religious rights is an issue that is beyond our scope. However, since most belief systems claim their particular version is the only repository of the ultimate truth, that lead to salvation there is a risk of labeling followers of other faiths (beliefs) as infidels’ or ‘atheists’ and such trend is said to be inherently counter to religious freedom.

2.2 Separation of Religion and State

2.2.1 Ancient

For centuries, the State and religion were closely intertwined, with one buttressing the other in both spiritual and civil governance. The ancient monarchs, invoked divine justification for their wars and empires, and demonstrated religious devotion as a key ingredient of legitimacy to the State.⁶⁸ Many rulers considered themselves as Worldly representatives of the divine.⁶⁹

The major religions that survive today have also been major components of different empires and theocratic systems. Hinduism, a polytheistic religion and Buddhism fostered dynasties and kingdoms throughout south and South East Asia. Chinese emperors, such as the Han dynasty (206BC-220A.D) the Sui dynasty (581-619), entertained varieties of religions and practices.⁷⁰

Judaism, one of the World’s oldest monotheistic faiths has been closely related with the State of Israel.⁷¹ Christianity and Islam, both monotheistic religions expanded significantly through conquest or adoption and have been served as official religions of different nation States.⁷²

⁶⁷ Nielsen Jorgen S., “Contemporary Discussions on Religious Minorities in Islam”, (2009), *Brigham Young University Law Review*. (http://findarticles.com/p/articles/mi_go3736/is_200201/ai_n9063482/), last visited, 18/06/2009. Some Islamic scholars argued that the general principle espoused is to deal in a kindly and just manner with those, regardless of religion, who reciprocate such treatment. Verses in the Qur’an that detract from or contradict this principle, such as those which call for a ‘Jihad’ against non-believers or for them to be oppressed; only apply in specific circumstances. It has been argued, that religious freedom for Muslims, Jews and Pagans was declared in the ‘Constitution’ of Medina by Prophet Muhammad in the 7th C. AD.

⁶⁸ *The New Encyclopedia Britannica*, Volume, 26, (1997), P. 883

⁶⁹ *The Encyclopedia Americana*, Volume, 9, (1997), P. 199, International Head Quarters : Danbury, Connecticut, 06816

⁷⁰ Id, P. 359. *See also*, *A Brief Survey of Major Religions*, (www.democracyweb.org/religion/history.php), last visited, 05/07/09

⁷¹ Michael M. Karayanni, “The Separate Nature of the Religious Accommodations for the Palestinian –Arab Minority”, *North Western Journal of International Human Rights*, (2006), Vol. 5, Issue1, PP. 47, 53& 55, The constitutional definition of Israel as ‘Jewish and Democratic State’ has been at the fore front of legal debates...passionate arguments have been put forward claiming that the two concepts are compatible, and are in fact only one variation of the nation-State structure existing in many other countries. Yet others have claimed that the two terms are inherently at odds. A State that defines itself as a Jewish State will necessarily undermine the rights of non-Jewish and even Jews themselves if the Jewish nature of the State embodies principles that stand against their own personal ideas. The Chief ‘Rabbinat of Israel’ is a religious institution that is statutorily recognized, regulated, and also fully supported by public funds. *See also*, Waite Jason M., “Religious Freedom in Perspective:” *Brigham Young University Law Review*, (2008), P. 8, Asher Maoze explains that, although, Israel was established as a Jewish State; the country “does not fit easily in to any common category of religion-state relations. Asher Maoze discusses the difficulty of religion and culture in a democratic society dedicated to equality. He writes that, “Judaism is a national religion. National and religious components of Judaism are inseparable.”(www.law.northwestern.edu/journals/jihr/)

⁷² *A Brief Survey of Major Religions*, cited above at note 27

The relationship between religion and State during the ancient period went through a number of developments. The Roman Emperor Constantine I was converted to Christianity in 312 A.D, after wards with the edict of Milan (313 A.D), he made Christianity the major religion of the empire and began a time of amazing growth for the faith.⁷³ In the reign of Constantine the Church comes under Imperial control with the emperor as the divine Caesar.

In several instances kings and emperors clashed with popes over the extent of this authority, however, most rulers who accepted Roman Catholicism used to recognize the pope's religious supremacy. Most importantly the Church reserved the power to excommunicate disobedient princes, sanction crusades, and combat heresy through institutions like the inquisitions.⁷⁴

As far as the history of the separation of Church and State is concerned some writers kick off the discussion, with the verse from the religious scripture: "render, therefore to Caesar the things that are Caesar's; and unto God the things that are God's" Matt.22:21.⁷⁵ The Christian approach to the separation of religious and secular authority was seen as a struggle between two cities, a heavenly city of God, and an earthly city of the World.

The most famous in this respect was Saint Augustine; bishop of Hippo (354-430). In his city of God; (413-427), Augustine contrasted the city of God with the city of Man. According to him the '*city of God*' consisted of all those who were devoted to a life of Christian piety, morality, and worship and predestined to salvation.⁷⁶ The '*city of man*' consists the materialistic World with all its impurities, political and social institutions that are commanded by God to maintain the temporal peace and order.⁷⁷ Augustine believed that 'citizenship' in both cities would be inevitable, until these cities were fully and finally separated at the 'last judgment of God.'⁷⁸

Moreover, in 494 pope Gelasius I wrote a letter to Emperor Anastasias protesting the interference of the emperor in spiritual affairs. His famous letter formulated the 'doctrine of the two powers' emphasizing that this World is governed by two sovereign powers i.e., the sacred authority of the clerics and the royal power of kings and emperors.⁷⁹

⁷³ The *Encyclopedia Americana*, Volume 7, (1997), PP. 648-649

⁷⁴ A Brief Survey of Major Religions, cited above at note 27

⁷⁵ Phillip Seen, *Christianity –Christian living*, (www.biblegateway.com/passage/?search=matthew+22:21), last visited,20/70/2009

⁷⁶ *Democracy Vs Theocracy, Separation of Religion and State*, (2009), (www.iheu.org/democracy-vs-theocracy-separation-relig-and-state), last visited,05/07/2009

⁷⁷ *Ibid*, Gelasius I declared that it was Christ, the last ruler to have been both priest and king who separated the functions of the two powers, so that the Christian emperors would need assistance from the priests to attain eternal life, and the priests would depend upon the emperors for the conduct of temporal affairs.

⁷⁸ *Ibid*

⁷⁹ *Ibid*

Many religious authorities had protested against imperial intrusions upon the freedom of the Church in a tone much like that of Gelasius. But it has been suggested that he was the first bishop to state formally the dual- order relationship of the two powers had equal standing and were concurrently responsible for the administration of human society and imposed limitations upon each other.⁸⁰

Even though, Christianity became the one established religion of the Roman Empire, patronized and protected by the reigning Roman Emperors, historical accounts revealed that many religious personalities have insisted for the State power to remain separate from Church power.⁸¹

2.2.2 Medieval

In the course of the power struggles that occurred between secular emperors and the Christian popes during the eleventh to thirteenth centuries, the idea of the ‘*two separate powers*’ had been pervasive within the extended Christian empire was transformed into a model of ‘two swords’ drawn from the sacred scriptures ‘spiritual sword and temporal sword’.⁸² As result the pope and the clergy claimed exclusive personal jurisdiction over clerics, pilgrims, students, heretics. They also claimed subject matter jurisdiction over doctrine, liturgy, education, charity and moral crimes.⁸³

The late medieval system of church authority was partly characterized by the two swords theory. This theory emphasizes that the pope is the Vicar of Christ in whom Christ has vested his whole authority.⁸⁴

In the 16th century Protestant reformation begun as a call for freedom from the tyranny of the pope, freedom of the individual conscience from canon law and clerical control, freedom of State officials from church power and privilege. The Lutherans returned to the Augustine’s version of

⁸⁰ Phyllis G. Jestice, *Holy People of the World*, (2004), P. 201, (books.google.com.et/books?isbn), *See also*, Documents of the Christian Church(Henry Bettenson (eds.) (2nd ed., 1963)

⁸¹ Carl H. Esbeck, *Dissent and Disestablishment: The Church-State Settlement in the Early American Republic*, P. 9, available at, (<http://www.churchstatelaw.com/treaties/EsbeckDissent.pdf>), last visited, July, 16/2009

For example, Hosius, bishop of Cordova, wrote the Emperor Constantius around 350 about his conception of church and empire as follows: Do not interfere in matters of ecclesiastical, nor give us orders on such questions, but learn about them from us. For into your hands God has put the kingdom; the affairs of his church he has committed to us. If any man stole the empire from you, he would be resisting the ordinance of God: in the same way you on your part should be afraid lest, in taking upon yourself the government of the church, you incur the guilt of a grave offense. “Render unto Caesar the things that are Caesar’s and unto God the things that are God’s.” We are not permitted to exercise an earthly rule; and you, Sire, are not authorized to burn incense.

⁸² *Ibid*

⁸³ Corey Keating, cited above at note 12

⁸⁴ *Ibid*

the two cities theory. Martin Luther coined it as ‘two kingdoms’ theory which denotes the separation between the spiritual and temporal estates.⁸⁵

The Calvinists reformation advocates the ‘two powers model’ in which both Church and State operate in separate spheres; John Calvin (1509-1564), insisted that the ‘political kingdom’ and ‘spiritual kingdom, must always be treated separately. The Anglican tradition returned to a model of ‘two swords theory’ but now with the English Crown, not the Pope, holding the superior sword within the unitary Christian common wealth of England.⁸⁶

Many seventeenth century thinkers have made immense contribution advocating the principle of separation of religion and State. One of the most influential works produced by John Locke (1632-1704) was his famous letter concerning toleration in 1689. In this work, Locke has distilled the liberal English and Dutch learning of the early 17th century to an elegant plea for Church and State to end their corrosive alliances.⁸⁷

2.2.3 Modern

The eighteenth century American founders called on the European and colonial legacy to push forward to formalize the separation of Church and State.⁸⁸ One of the greatest architectures of the U.S Constitution, Thomas Jefferson, has made a remarkable effort in realizing freedom of religion and the separation of Church and State. This is evident when one looks at the contents of Jefferson’s ‘Virginia Statute of Religious Liberty of 1786’. The enlightened views of the nation’s founding fathers demanded to incorporate this principle of separation into the nation’s founding document.⁸⁹

Thus, the Constitution’s first amendment built these ideas into the nation’s legal foundation. “Congress shall make no law respecting an establishment of religion, or prohibiting the free

⁸⁵Luther’s Doctrine of Two Kingdoms, P.25, (www.absoluteastronomy.com/doctrine-of-the-two-kingdoms), last visited, 05/07/2009. Luther’s articulation of the parameters of civil government was a monumental step towards the principle of the separation of Church and State. He argued for a clear distinction between two powers, the civil and spiritual. This is known as the ‘Doctrine of the Two Kingdoms.’ The civil sphere deals with the physical life in society as he interacts with other human beings: In this man is subject to civil government. The spiritual sphere deals with man’s soul, which is eternal, and which is governed by God.

⁸⁶ John Witte, jr., *Facts and Fictions about the History of Separation of Church and State*, P. 2, available at, (http://ssrn.com_id=1014807)

⁸⁷ Ibid

⁸⁸ Ibid

⁸⁹ See, Mark A. Noll, cited above at note 12, PP. 147-148: The American republic is also founded on secularism. While the declaration justifies revolution by invoking “inalienable rights” given to man by a Creator or God, it is the Constitution that is the foundation of American government. No where in its text is mention of God, Jesus or even a generic creator? It is a secular document, and according to its own words is “the supreme law of the land.”

Thomas Jefferson said religion was “a matter which lies solely between man and his God.” This was a spectacular advancement for civilization, an emergence from the gloom of a ‘Dark Age’. Suddenly, a pluralist society was born that needed not fear being tortured or executed for pursuing knowledge, science, or diverse philosophies. A new age had dawned.

exercise there of...”, for the first time in history, a formal separation of Church and State guaranteed every one the right to worship as his/her conscience dictates.⁹⁰

In France, during the Revolution of 1789, the French people moved to overthrow not only the monarch and its elite, but also to change the whole social fabric, including the status of Roman Catholic Church. Although, the Church survived the revolution, according to the ideology of the new republic it could no longer remain a separate entity with its possessions.⁹¹

Therefore, the new government confiscated the land and other assets belonging to the Church and attempted to restructure the Church’s hierarchy. This dispute was only dispelled, in 1801, when Napoleon Bonaparte signed an agreement with the Pope, which officially brought the Catholic religion under the State control. However, the agreement stipulates that as long as the Church restricts its authority to religious matters and adheres to the rule of law it would be at liberty to govern itself.⁹² Consequently, Roman Catholicism was recognized as the faith of the majority French citizenry, but Napoleon’s State also extended its recognition to Judaism, Lutheranism and the Reformed Churches.⁹³ As a result, France has begun to view faith as a private matter. Another product of the revolution was the ‘Declaration of the Rights of Man and the Citizen’. Article 10 of the declaration stated that “No one should be disturbed on account of his opinions; even religious, provided their manifestation does not disrupt the public order established by law.” Although, the word ‘*laicite*’ was not mentioned in 1789, it is believed that this was the first written account of the French’s contribution to religious freedom, and indeed to secular ideology.⁹⁴

Despite this, it was not until 1905 the principle of secularism in France was fully developed and enshrined as a basic law. The law of 1905 enshrined a number of already existing principles in law, but, it also officially ended Napoleon’s ‘*concordant*’ and imposed a number of new prescriptions. The major terms of the law were: no financial or political support of the State to religion, every citizen has the freedom of religion, but no one is coerced to follow any religion or belief, religious education at public schools is strictly prohibited, and no new religious symbols could be displayed at public place.⁹⁵

⁹⁰ Id, P. 144

⁹¹ “Dominique Decherf, “French view of Religious Freedom”, [Harvard Center for International Affairs](#), July, (2008), P. 2

⁹² [Napoleon and the Enlightenment](#), (1999,2004), Dream net Studio, (www.wowessays.com/dbase/ad1/bsw42.shtml), last visited,09/07/2009

⁹³ [The New Encyclopedia Britannica](#), Volume, 19, (1997), P. 497. The Declaration of the Rights of Man and of the Citizen; was a rallying point for the future, and the declaration also stood as the death certificate of the *ancien r`egime*.

⁹⁴ [The Concept of Laicite in France](#), (www.normandyvision.org/article12030701.asp), last visited,16/07/2009

⁹⁵ *Ibid*

These days tolerance for a variety of beliefs, freedom of conscience, and separation of religion and State are well entrenched in constitutional law and practice in much of the World. The wide spread acceptance of these ideas advanced not just religious liberty but also the broader values of democracy.

2.3 The Concept of Secularism

2.3.1 Religion and the Liberal State

Liberal democracy is a form of representative democracy where elected representatives that hold the government power are constrained by Constitution that ensures individual liberties, adopts majority rule and respects the rights of minorities in society, such as freedom of speech, religion, assembly, the right to privacy, private property, as well as equality before the law and due process under the rule of law, and many more.⁹⁶

Such constitutional rights, also named liberal rights, are safe guarded by various democratic institutions and several legislative acts. Additionally the Constitution of most of the contemporary liberal democracies is designed in such a way to tame the excess of majority. In this case some would argue that liberal democracy does not respect majority rule,⁹⁷ others would say that only a liberal democracy can guarantee the individual liberties of its citizens and prevent the rise of majoritarian tyranny. According to liberals un-moderated majority rule could lead to an oppression of minorities, especially those that are known as '*discrete and insular*' minorities, who almost can't aspire to become a majority any time soon.⁹⁸

Thus, a basic liberal argument is that liberal Constitutions are necessary first and for most to enable individuals and minorities to enjoy a decent life immune from public invasion, though, of course, Constitutions also set up the institutions of government.⁹⁹

As hinted above all liberal democracies are representative democracies, conducting free and fair elections on regular basis, having an independent judiciary, pluralistic parties, transparent and accountable legislatures and executives, free press, active civil society and market oriented

⁹⁶ Patrick Dunleavy and Brendan O'leary, *Theories of the State: The Politics of Liberal Democracy*, (1987), The Macmillan Press LTD, PP. 25-26

⁹⁷ Frederick Mark Gedicks, "The Permissible Scope of Legal Limitations on the Freedom of Religion or Belief in the United States", *Emory International Law Review*, Vol.19, (2006), P.1213. In another context Professor Friedman has alleged this, behind every act of federalist Judges was seen a conspiracy to deprive the people power. "The root difficulty" observed Professor Bickel "is the judicial review is a counter majoritarian force in our system...implying that the complexities and perplexities of liberal democracy frequently frustrate popular will", (papers.ssrn.com/sol3/papers.cfm?id=934848), 02/9/09

⁹⁸ *Public Scrutiny*, Oct., 27,(2004), (Sheridan_conlaw.typepad.com/Sheridan/scrutiny_level) last visited,24/06/2009.

Democratic Constitution guarantees the rights of "discrete and insular minorities" who are unable to protect themselves politically, such as Eskimo in the South... [T]he Warren Court famed for protecting the rights of minorities and despised individuals.

⁹⁹ Eugene V. Rostow, "The Democratic Character of Judicial Review," Dec. (1952), Vol. 66, No.2, *Harvard Law Review*, P.195, The purpose of Constitution is to assure the people a free & democratic society. The final aim of that society must guarantee as much freedom as possible for the individual human being.

economy.¹⁰⁰ Some of these democracies have also additional systems of referenda to give the electorate the opportunity to overturn decisions of elected legislature or even to make decisions by plebiscite which out giving the legislature any chance of influencing that decision.¹⁰¹ Liberalism comes in many varieties, but at its core is a common doctrine based on the importance of individual choice mostly motivated by self interest. When interests of different individuals can not be reconciled to their mutual benefit in the ordinary course of things, politics comes into play.¹⁰² Liberal politics is therefore, mostly and properly about the reconciliation and aggregation of predetermined interests under the auspices of a neutral set of rule that is a Constitution.

The ideal liberal society will not have a State religion, even if all members of the community confess to one faith. Liberal society does not punish apostasy or heresy. In a liberal democracy, citizenship is not dependent on adherence of a certain religion. Religion is not a constitutive element of citizenship. This principle is today accepted universally in many democratic States.¹⁰³ Equally well accepted is that in a liberal democracy the government may not penalize citizens or persons with in the jurisdiction because they profess a faith that is not shared by a majority of their fellow citizens.¹⁰⁴ It is also settled that in a liberal democracy citizens enjoy the freedom to express their religious views, and to form institutions consistent with those views, without fear of punishment or civic disability. It is like wise widely accepted that liberal democracies can not compel the doing of religious acts or attendance at worship services. Liberal democratic theory assumes the importance of a sharp demarcation between State and the private sphere, so as to distinguish State action and private one.¹⁰⁵

This principle suggests among other things, that citizen's action in a non-governmental capacity may create communities in which religion is the constitutive element, and which are in everyway permeated by religious values while the government is barred from creating such communities.¹⁰⁶

¹⁰⁰ Patrick Dunleavy and Brendan O' Leary, cited above at note 53, P. 27-30. *See also*, [Liberal Democracy-Open Society](http://www.spiritus_temporis.com/liberal_democracy/open_society.html), (www.spiritus_temporis.com/liberal_democracy/open_society.html), last visited, 13/06/2009

¹⁰¹ Id, P. 32, *See also*, What is a Liberal Democracy? (www.wisegeek.com/what_is_liberal_democracy.htm), last visited, 13/07/09

¹⁰² Tom Atlee, *Building a Wise Democracy as Crisis Emerg.* (www.co.intelligence.org/wisedemocracyandcrisis.html), (2003), last visited, 17/06/2009

¹⁰³ Austin Cline, *Government Neutrality Towards Religion*, (atheism.about.com/od/weeklyquotes/a/fortas01.htm), last visited, 17/08/2009

¹⁰⁴ *Ibid*

¹⁰⁵ *Ibid*

¹⁰⁶ *Ibid*

Liberal democracy also assumes that citizens should not be prevented from practicing their faith for flimsy reasons and that the government ought not to interfere with the religious decisions of citizens or their institutions. Despite this fact, all liberal constitutional democracies impose restrictions on what private activity government may and should regulate, including, of course, religious practices, and what values are tolerated.¹⁰⁷

Arguably, one may conclude that in a liberal democracy religion is purely a private affair. People are and should be free to believe and practice what they please, of course, as the price of that liberty they may not make religion a public affair.

Many of the basic tenets of liberal democracy are also present in the Ethiopian constitutional system. The constitutional system is characterized by representative democracy based on regular, free and fair election.¹⁰⁸ The FDRE Constitution proclaims the sanctity of fundamental human rights;¹⁰⁹ various liberal rights are embodied, such as the right to life, liberty and security of person, freedom of expression, religion, right to privacy, assembly, private property, equality before the law, rule of law and due process of law etc.¹¹⁰ Moreover, according to the Constitution, citizenship and the right to participate in the conduct of public affairs are not dependent on adherence of any particular religion or belief.¹¹¹ It is not an accident that God or any divine authority does not appear in the FDRE Constitution. It is because the authors of the Constitution are the Nations, Nationalities and people, and ultimate power rests on them, hence, the Constitution is a manifestation of this popular sovereignty and it is supreme law of the polity. Therefore, the FDRE Constitution adopts one of the liberal principles: secularism that prescribes State and religion must operate separately and there is no State religion.¹¹² Unsurprisingly, however, the Ethiopian constitutional system has its own unique features that perhaps do not squarely fit with the ideal notion of liberal democracy. For example, the FDRE Constitution pledges equal recognition and guarantees individual liberty and group rights,¹¹³ though, there is no clear exit strategy when both rights collide. Moreover, democratic theory seems to hold paramount place in the overall constitutional configuration. For example, when one looks at the nature of the House of Federation (HoF), on top of the fact that this institution is composed of

¹⁰⁷ Rede Von Thomas Kruger, *The Limits of Religious Freedom*, (www.bpb.de/426GEU.O *The Limits of Religious Freedom*), last visited, 18/07/2009

¹⁰⁸ FDRE Constitution, Arts., 8 (3) and 38

¹⁰⁹ FDRE Constitution, Art., 10 (1)

¹¹⁰ FDRE Constitution, Arts., 14-31, and 40

¹¹¹ FDRE Constitution, Arts., 6 (1) and 38(1)

¹¹² FDRE Constitution, Preamble and Arts.8 (1&2), 9 (1), 11

¹¹³ FDRE Constitution, Art.,10 (2)

politically elected members, the method of representation tends to favor the populous nation, nationalities and this would make it a majoritarian house,¹¹⁴ which implies as regards minority rights the system tends to afford less protection.

2.3.2 Religious Pluralism in Secular Democracy

Before studying what religious pluralism is all about, we need to explain what constitutional secularism means. The term 'Secularism' was first adopted by George, Jacob-Holyoake in the early 1850s, to describe a system of morals and social action shaped exclusively by these worldly considerations, irrespective of religious beliefs. The word was derived from the secular education movement for the complete separation of religious teachings from other forms of education.¹¹⁵

Secularism is commonly defined as the idea that religion should not interfere with or be integrated into the public affairs of a society. As secularism is often used in different contexts, its precise definition can vary from place to place. Nonetheless, the general parameter lies in the belief that life can be best lived by applying ethics, and the universe best understood, by process of reasoning, without reference to god or gods or other supernatural concepts.¹¹⁶ Constitutional secularism assumes popular sovereignty as a source of power to the exclusion of religion. Popular sovereignty means that all power in the State originates from people, therefore, it can not originate from the sacred.¹¹⁷

Religious pluralism in a secular democracy depends upon well entrenched laws and practices that mandate and also set limits on the government's involvement and support in religious affairs. The government is under a duty to keep its neutral stance in matters of faith, to recognize and treat them equally where its positive action deemed necessary.¹¹⁸

¹¹⁴ Assefa Fiseha, *Federalism and the Accommodation of Diversity in Ethiopia*, A Comparative Study, (2007), Revised Edition, Forum for Federations, P.150 & 220. With respect to the nature of upper houses, Assefa concludes that, "In sum the composition of the upper chambers varies significantly, from the nearly majoritarian HoF in Ethiopia to that of minority protection in the U.S. ..." As regards the HoF, he observes that, "It was meant to be a counter majoritarian institution to balance against the HoPR, but it could hardly serve that role primarily because it is barely involved in law-making and secondly because in its composition it by and large replicates the HoPR."

¹¹⁵ *Encyclopedia Americana*, Vol., 24, (1997), By Grolier Incorporated, P. 510. Secularism is an ethical system founded on the principles of morality and independent of revealed religion or supernaturalism. Secularism was first proposed as a formal philosophical system by George J. Holyoake about 1846, in England. Its first postulate is freedom of thought, that is, the right of every man to think for himself; implied in this postulate as its necessary complement is the right to difference of opinion upon all subjects of thought. This right would be negated with out the right to assert the difference. Finally, Secularism asserts the right to discuss and debate all vital questions, such as opinions regarding the foundations of moral obligation, the existence of God, the impartiality of the soul, and the authority of conscience....*See also*, S.N Stuart, "Address to the Unitarian Church of East Melbourne", (2008), P. 1 (www.melbourneunitarian.org.all/node/75), last visited, 05/07/2009. The first avowed secularist was the English social reformer George Jacob Holyoake, who coined the term 'Secularism' and devoted his life promoting the ideal.

¹¹⁶ *The Free Encyclopedia*, (www.experiencefestival.com/secularismdefinition), last visited, 13/07/2009

¹¹⁷ Haarscher, Guv, "Freedom of Religion in Context", (2008), PP.3-8, *Brigham Young University Law Review*, (findarticles.com/p/articles/mi_qa3736/is/ai_n9063536), last visited, 18/06/2009

¹¹⁸ *Religious Values in Plural Societies*, University of California, (www.religion_online_org/showchapter.asp?title), last visited, 13/07/2009

A secular principle in democratic governance of a religiously diverse society calls on believers and non-believers finding a common denominator to live together. Secular democracy demands that people from very different backgrounds with strong and often times in compatible religious and secular beliefs learn to live in equal dignity and mutual respect.¹¹⁹

Religious pluralism is commonly used term with several distinct meanings. Depending on the context, the term could yield a wide variety of meanings. Many perspectives can be implied by religious pluralism, though; each revolves around the central idea of different religious belief systems working together. Religious pluralism is often times used as synonym for religious tolerance, although, religious pluralism includes religious tolerance, the two concepts have distinct meanings.¹²⁰

Religious pluralism is also used interchangeably with religious diversity. In this sense pluralism is no more than a simple recognition of the fact that there are many different groups active in one country; which implies a mere statistical data.¹²¹ Pluralism is more than mere tolerance of differences it requires some knowledge of differences. There is no question that tolerance is important as it helps to learn to disagree respectfully. Pluralism is more than the mere tolerance of differences; it requires some knowledge of difference. There is no question that tolerance is important as it celebrates acceptance without qualification. But at times tolerance by itself may be a deceptive virtue.¹²² Some times an attitude of tolerance may stand in the ways of engagement. Tolerance does not require people to know any thing at all about one another. As a result tolerance can let harbour all the stereotypes and half truths that people want to believe about others. Tolerance is definitely important, but it is probably too thin to be a foundation for a religiously diverse society. Obviously, the pluralism that would engage people of different faiths and cultures in the creation of a common society is not a given one, but an achievement.¹²³

Pluralism is not the sheer fact of plurality or diversity alone, but is active engagement with that diversity. Diversity can allow isolation and creation of passive cleavage of religion and subculture with little traffic between people. The dynamics of pluralism, however, is one of

¹¹⁹ Ibid

¹²⁰ Diana Eck, From Diversity To Pluralism, (2007,2009),(pluralism.org/pluralism/essays/from-diversity-to-pluralism.php), last visited,05/07/2009-

¹²¹ Ibid

¹²² See also, The Islamic Head Scarf Controversy and the Future of Freedom of Religion or Belief, Strasbourg, France, 28-30 July (2005), Article: Locke, Voltaire and other leading philosophers used the term '*tolerance*' as a reference to the virtue of managing to accept the fact that people have different conceptions of "the God" and live their lives accordingly, and that it is their right to do so.(www.faiath.edu.tr/~jesr/jesr.toprak.uslu.pdf), last visited, 17/12/2009

¹²³ Seena, Fazel, Religious Pluralism, (bahai_library.com/encyclopedia/pluralism.htm1), last visited, 08/07/2009

meeting, exchange, interaction and two ways traffic. Thus, religious pluralism calls for respecting and celebrating diverse, religious traditions and to live peaceably side by side. Such pluralism offers rich opportunities for enhanced understanding among different faith traditions and for collaboration based on mutual values and goals.¹²⁴

Religious pluralism also values religious particularity being loyal to ones own beliefs, behaviors, and symbols. Thus pluralism requires that come as you are with all your differences and angularities, pledged only to the common civic demands of citizenship.¹²⁵

Religious pluralism is neither mere coexistence nor forced consensus. It is neither a watered down set of common beliefs that requires relinquishing the distinctiveness of one's own faith, nor a sparse tolerance that allows ignorance and bias of the other. Religious pluralism is about nurturing of constructive dialogue, seeking to learn others' concerns and how they want to be understood. It is meant to reveal both common understandings and real differences.¹²⁶ Dialogue in pluralism does not mean every one at the table will agree with one another but it involves the commitment to being at the table. Thus, it encourages a climate of constructive engagement that affirms the unique identity of each particular religious tradition and community, while recognizing that the well being of each depends upon the health of the whole.¹²⁷

The notion of pluralism embraced in the FDRE Constitution is not merely an indication of political plurality;¹²⁸ it also signifies paramount interest in recognizing the diversity of the Ethiopian society. The Constitution recognizes in express terms the sovereignty of Nation, Nationalities, and People. These diverse nation, nationalities are the major building blocks of the federation.¹²⁹ Although, the basic criterion in the formation of the constituent States was by and large language,¹³⁰ this does not imply that other elements of identity are irrelevant. One important indication of the Constitution's commitment in favor of accommodating religious pluralism is that it expressly allows religious normative orders into the legal framework of the State.¹³¹ Hence, it can be said that the Constitution recognizes the fact of religious diversity. Diversity can be manifested in terms of different things; life style, religion, custom, settlement pattern etc. Having this into account the FDRE Constitution provides for the right of nation, and

¹²⁴ Ibid

¹²⁵ Diana Eck, cited above at note 77

¹²⁶ Ibid

¹²⁷ Ibid

¹²⁸ See, FDRE Constitution, Arts., 30, 31, & 38

¹²⁹ See, FDRE Constitution, Preamble, Arts., 8 (1), 39 (5), See, Assefa Fiseha, cited above at note 71, P. 236

¹³⁰ Id., P. 237

¹³¹ See, FDRE Constitution, Art., 43 (4 & 5)

nationalities to promote their culture and to preserve their history.¹³² Logically, preserving history can mean among other things the right to maintain every one's religious identity. In much the same way the Constitution promotes and protects multiculturalism, the only possible means of protecting religious pluralism is to have complete separation of religion and State. That is why in recognizing the existence of various religions in this country and in order to treat them equally the Constitution proclaims that State and religion must be separated; there is no State religion and no interference in religious matters by the State and vice versa.¹³³

Moreover, the Constitution also talks about the importance of "continuous interaction on various levels and forms of life", between different nations, nationalities of the country to work together on "common interests."¹³⁴ This has also a direct bearing on the need for respecting and celebrating diverse religious traditions, valuing religious particularity, encouraging positive relationship among religious communities and engaging in the process of building a "common political" and "economic community".¹³⁵ Therefore, beyond sheer diversity that assumes different cultures coexist without mixing with one another, the Constitution calls for mutual understanding, constructive engagement in the promotion of collective interest, in this respect religious pluralism can be a force for sustainable democracy and lasting peace.¹³⁶

2.3.3 The Role of Religion in the Public Sphere

The tension between the State and religion in its broader sense has been more or less discussed in the foregoing titles; now it would be appropriate to narrow down the scope to the role of religion in the public sphere. More specifically, how should citizens in a modern pluralist democracy debate and discuss public affairs? What kinds of reasons are appropriate in the context of legislative debate, judicial opinions, or administrative decision making? There is a wide agreement that the government should not censor public debate about politics, at least not without very good reason.¹³⁷ But when it comes to the issue of religion visa-`a-vis public discourse; to what idea should citizens aspire in political debate.

For example, some have argued that religiously motivated political debate should be allowed in the public sphere, others argue for the complete exclusion of religious voices. Still others contend that in the public debate, an ideal of political morality should mirror the freedom of

¹³² See, FDRE Constitution, Art., 39 (2)

¹³³ See, FDRE Constitution, Arts.3 & 11

¹³⁴ See, FDRE Constitution, Preamble

¹³⁵ Ibid

¹³⁶ Ibid, The Nation and Nationalities day of Nov., 29 Eth cal., seems one positive step forward in this respect.

¹³⁷ See, For example, The FDRE Constitution , Article, 29(2&3)

expression to all, provided religious reasons are subject to equal scrutiny as any other civic reason.

The interaction between religion and politics has been a subject of debate among scholars of theology, and academics. These complex relationships between religion and the State as they are regulated by law, often constitutional law are characterized by discord than agreement.¹³⁸

At the risk of much generalization, there are three views concerning the role of religion in the public sphere.¹³⁹ The first position holds that religious participation in the public political discourse is not likely to undermine the constitutional principle of separation of religion and State. On the contrary, a ban on religious speech or religious reasons would be difficult to square with the secular values of freedom of speech and rings undemocratic.¹⁴⁰

According to this view, though, secularism separates religion and State, a secular State does not have justifiable cause to bar religious arguments from the political arena and formulation of public policy.¹⁴¹ Democratic discourse allows a diversity of views based on political, ethnic and racial identities. Hence, there is no reason to close the doors to religious voices. Thus, the real question should be how to negotiate the overlapping realms of politics, State and religion, while maintaining a secular State. Advocates of this view call to acknowledge the pivotal role religion plays in politics and to understand how religious institutions, can contribute to the public discourse.¹⁴²

They further argue that religious discourse set to impart a sense of purpose and direction to public policies. This position also contends that, those who tend to exclude categorically religious reasons from the public sphere; exhibit the erroneous understanding of secular democracy, believing the best way to deal with religion is to silence it.¹⁴³ According to the

¹³⁸ Ben Vermeulen, The Historical Development of Religious Freedom, Catholic University of Nijmegen, the Netherlands, Apr., 17-19-(1998) International Coalition for Religious Freedom Conferences on Religious Freedom and the New Millennium, Washington DC, (www.religiousfreedom.com/conferences//vermeulen), last visited, 18/06/2009

¹³⁹ Religion and the State, in the United States. The Ideas Behind a Liberal Polity, (<http://science.Jrank.org/pages/11103/religion-state-united-states-ideas-behind>), last visited, 06/07/2009

¹⁴⁰ Lorenzo Zucca, The Crisis of the Secular State, Kings College, London, (<http://www.com/abstract=1343099>)

¹⁴¹ Mc Garvey, Kevin, Johnson, Terrence, Democracy and the Divine: Re Examining the Role of Religion in the American Public, Haverford, College, Department of Religion, (2008) (<http://hdl.handle.net/10066/1328>), last visited, 07/07/2009 , Rawls asks the religious to adhere to some form of reasoning that is totally divorced from their intrinsic religious beliefs, there by ignoring that which is most important to them. Religion should be allowed to openly speak to our moral consciousness and transform our view of freedom and equality in a just society.

¹⁴² Robert Schuman, European University Institute, Mediterranean Program, 10th Mediterranean Research Meeting, Florence and Montecatini, Terme, 25-28, March (2009) P. 1, Most consolidated democracies in fact entertain relation of cooperation rather than strict separation between religion and state, and religious identities can hardly be isolated from the formulation of public preferences and the process of legislation.

¹⁴³ Secularism: what it is and why it is bad? (www.cazort.net/content.php?name=Secularism), it has been argued that, in denying religion secularists often underestimate the need in human systems for meaning and purpose, community, and a sense of humility before a greater power. Many people fail to make distinction between religious freedom and secularism, erroneously believing that in order to achieve religious freedom; we must purge the public sector of anything religious. Yet many of the problems that exist in our society exist precisely because of

proponents of this view, people who advocate the most radical version of secularism hold the notion that religion is purely private affair that has no place in the larger public arena and in particular of politics, in effect prefer the non-religion to religion and the atheists to believers, which is against the liberal ideals of equality, non discrimination and fairness.¹⁴⁴

They also argue that religion can offer insightful critiques of the harmful traits of human being, such as materialism, hyper-individualism, consumerism and acquisitiveness. Religion can also serve as a means of filling the voids of secular philosophy, (especially at times when the political environment so corrupts), by injecting a number of moral ingredients, such as discipline, generosity, forgiveness, service, hope and endurance.¹⁴⁵ One of the scholars in this camp, Eboo Patel calls for active involvement of religion in public life, founded on principles of religious pluralism.¹⁴⁶ He argues, religious voices, in all their peculiarities have a legitimate and important role to play in public debate. He further contests the assumption that, when religion appears in the public politics, division and chaos ensue. In his view the solution to the problem of divisive religious voices in public life is not excluding religious at all. The answer is he said, allowing greater participation of diverse religious voices, guided by principles of religious pluralism. According to him religious pluralism creates enabling environment for democratic scrutiny of religious voices, while encouraging their expression toward the goal of a common vibrant society.¹⁴⁷

Eboo Patel, warns that when ‘liberals’ and moderates’ avoid public discussion of religion and morality, they inevitably create a vacuum to be occupied by ‘extremists’, that can take this advantage to obtain disproportionate influence and power. As a result radicals will command a moral high ground claiming that they are the sole guardians of religious truth. Patel suggests that the best way to diffuse their power and to snatch their rhetoric is to add more religious voices to the public realm. Accordingly moderate voices can effectively challenge the illiberal views of extremists, disprove their opportunistic claims and nourish to the vigor of public debate.¹⁴⁸

this purging of religion, which has systematically shut out a sense of meaning and purpose from our educational system, our legal system, and our economic system.

¹⁴⁴ Lorenzo Zucca, cited above at note 97

¹⁴⁵ Robin Lovin, Living faithfully in a Democratic Society, (www.religion.online.org/show_article.asp?title=3054), last visited, 05/07/2009. Stout thinks we can't sustain piety, hope, and charity to our neighbors. Not only are religious permissible in public debate, he says, but, public life is endangered when religion is excluded.

¹⁴⁶ Eboo Patel, "Religious Pluralism in the Public Square", in Debating the Divine: Religion in the 21st Century American Democracy, Center For American Progress, (2008), P. 17, (www.americanprogress/issues/pdf), last visited, 15/10/2009

¹⁴⁷ Id., P.19

¹⁴⁸ Id., P.18

The second position argues that, liberal democratic theory recommends the strict institutional separation of religion and State, and the confinement of religious identity to the private sphere.¹⁴⁹ Advocates of the private role for religion insist that for a liberal democracy to function there must be the possibility of shared political and social conversations. This is discussions of public policies must be accessible to all. According to them in a diverse society there is no religion that predominates to the point where it is acceptable to impose religious view on every one. In addition they argue that religious intervention in public affairs, particularly in political affairs diminish independent judgment since those who represent the religiously informed arguments are beholden to their respective spiritual dogma.¹⁵⁰ On the contrary, 'civic reason' allows for an open political debate where persons can present ideas based upon a number of concepts. John Rawls argues that religious identity should be limited to the private sphere of individual members of society. According to him the notion of religious reasoning should be completely absent from political discourse. He insists that a polity be based on reason open to all since religious reasons are not accessible to non religious people.¹⁵¹ Thus, he proposed that a society must forge a common ground where a common language can be employed and common values can be implemented. Moreover, he emphasized that, though, compromise is essential to a functional democracy, religious views often can not easily be compromised for religious arguments reflect absolute truth revealed by spiritual power himself not susceptible to evidence, and do not lend themselves to civil debate or negotiated settlement.¹⁵²

The third position maintains that religious freedom requires full and equal access to public debate for people of faith and others.¹⁵³ According to this view arguments used to justify public policy positions in the public sphere are fair game for examination. In other words if religious

¹⁴⁹ Haarscher, Guv, cited above at note 74. A person's conception of the sacred or the divine should not affect his/her position when dealing with State representatives or when acting in society...State's responsibility lies only with secular matters and not in matters of faith.

¹⁵⁰ Matthias Mahlmann, The Constitutionalization of Secularism in Germany, Freie Universidad Berlin, (histoire-sociale.univ-paris1-fr/collo/migration/Mahlmann.pdf), last visited, 11/10/2009 (June, 28, 2005), P.12, Bertrand Russel, has argued that religions through the weakening of the forces of reason limited as they are any way the fostering of dogmatism and beliefs not open to critical scrutiny and some concrete content of their doctrines have done more harm than good in human history.

¹⁵¹ Public Reason Vs. Religious Reasons, (atheism.about.com/culture.htm), last visited, 05/07/2009, See also, Catherine J. Ross: Children and Religious Expression in School: A Comparative Treatment of the Veil and other Religious Symbols in Western Democracies. The George Washington University Law School, Public Law and Legal Theory working papers No.408, available at: (<http://ssrn.com/Abstract=113366>).(Feb.2008), P.23. Proponents of accommodation generally admit that they also "seek a larger role for religion in public life," (Davis, 2003 P. 429). In the context of American politics, conservative Christians are the primary proponents of a greater role for religion in public life, and they commonly do not limit crusade to individual expression.

¹⁵² Lee Corbett, Can Liberalism Meet the Challenges of Cultural Pluralism? University of New South Wales, 21 July (2003), P. 1 (www.australianreview.net/digest/2003/07/corbett.html), last visited, 05/07/2009 Rawls distinguishes public and private reason, by differentiating reasons that specify the 'right' and those that specify the 'good'...the 'right' covers questions over which 'reasonable disagreement' is possible. Public reason deals with questions of the 'right' and should be used when discussing 'basic political' matters.

¹⁵³ Susan Jacoby, "America's Tower of Religious Babble is Already Too high", In Debating the Divine: Religion in 21st C., Center for American Progress, (2008), PP.53- 55, (www.americanprogress/issues/pdf), last visited, 21/09/2009

ideas are to enter the public sphere, they should be subject to the same rules that apply to the discussion of other ideas.¹⁵⁴

David Hollinger argues, that religious ideas offered as justifications for public policy should be open to critical debate, and no longer left unchallenged. According to him any religiously motivated public debate should face the pressure and scrutiny of democratic debate.¹⁵⁵

As Paul Horwitz observed it in the American context, the over all movement of religiously motivated debate is characterized by three dimensions.¹⁵⁶ The first is what he referred to as ‘strategy of avoidance’ demonstrated most notably by John F. Kennedy, in which though minority religion candidates are embraced in the public square, religion is relegated to a private matter for both candidates and electorates alike. The second approach is what he calls ‘a strategy of inclusion’ in which both religious candidates and religious arguments are increasingly permeate in the public sphere; as practiced by presidential candidate Senator Mitt Romney. The third dimension offers a thoughtful interaction between religion and politics, subject to a ‘rule of engagement’ in which religious voices are required to cast their terms in publicly accessible manner, and this has been manifested by the then Senator Barak Obama.¹⁵⁷

As quoted by David Hollinger Obama has made the following remark, concerning the place of religious reasoning in the public sphere.

*Democracy demands that the religiously motivated translate their concerns into universal, rather than religion specific, values. Democracy requires that their proposals are subject to argument, and amenable to reason. I may be opposed to abortion for religious reasons, but if I seek to pass a law banning that practice, I can not simply point to the teachings of my church or evoke God’s will. I have to explain why abortion violates some principle that is accessible to people of all faiths; including those with no faith at all...politics depends on our ability to persuade each other of common aims based on common reality. It involves the compromise, the art of what’s possible. At some fundamental level, religion does not allow for compromise. It is the art of impossible. If God has spoken, then followers are expected to live up to God’s edicts, regardless of consequences. To base one’s life on such uncompromising commitments may be sub line, but to base our policy-decision making on such commitments would be a dangerous thing.*¹⁵⁸

¹⁵⁴ Ibid

¹⁵⁵ Id., David Hollinger, “Civic Patriotism and the Critical Discussion of Religious Ideas”, In Debating the Divine: Center for American Progress, (2008), P. 9

¹⁵⁶ Paul Horwitz, Religion and American politics: Three Views of the Cathedral, University of Alabama School of Law, P.1, available at, (<http://ssrn.com/abstract=1267445>), (Oct., 1, 2008)

¹⁵⁷ Id., PP. 1-2

¹⁵⁸ Ibid

One can get the impression from Obama's statement that religious people like any other citizen have to convince their fellow citizens that what they propose is best for the common good, by translating their religiously driven policy stances in to commonly accessible reasons. Thus, as has been raised in his remarks, abortion raises fundamental issues of morality, of the role and place of women, the issue of privacy, and the permissible role and scope of government etc... but, even as to abortion, it would be appropriate for the common good if the arguments were to the extent possible, cast in secular terms, accessible to all, and subject to the constraint applicable to more ordinary debates.¹⁵⁹

As far as the Ethiopian situation is concerned, the country is basically driven by secular reason in its all public affairs. There is no visible presence of religiously motivated debate as regards public policy and decision making process, of course, save the religious wearing and prayer controversies in public school context.¹⁶⁰ In Ethiopia no religious organization is allowed to operate as political party and according to the Ethiopian Election Board sources the political space does not embrace faith based parties with clear religious programs.¹⁶¹ The public sphere is virtually free of religious reasons, though, parliamentarians, and civil servants who choose to wear religious attire are tolerated; religion does not play vital role in the conduct of public affairs. Of course, some times in pre legislative public debates as regards some specific issues of interest, such as the family law,¹⁶² and criminal law religiously motivated reasons have been voiced in matters of bigamy and abortion, especially in the former case there are extreme detractions in some regions where bigamous marriages are rampant.

In spite of this fact, organized religious institutions do not have direct or indirect access to politics that enables them to lobby and influence for or against any basic public policy issues. Arguably, various reasons may contribute to the absence of religion in the public square.

¹⁵⁹ Craig Calhoun, (eds.), Habermas and the Public Sphere, (1992), The MIT Press, Cambridge, Massachusetts, and London, England, P. 112. According to Habermas, the idea of a public sphere is that of a body of "private persons" assembled to discuss matters of "public concern" or "common interest". *See also*, Matthias Mahlmann, cited above at note 107, P. 13, Habermas argued, that in religious creeds cultural responses are embodied that have to and can be 'translated' into the language of values of secular societies.

¹⁶⁰ When one observes the parliamentary debates he/she can easily appreciate the prevailing trend of secular reasoning.

¹⁶¹ The Revised Political Parties Registration Proclamation, No. 537/2008, Arts., 10(1) & 11(5). According to the National Election Board authorities, a political party with underlined religious agenda would have the propensities to legitimize itself on religious credentials when it seizes State power. This will inevitably open the door to over politicization of religious matters by political actors, and it will harmfully divisive in a religiously pluralist society. Above all it will run counter to the constitutional principle of secularism that prescribes separation of religion and State, and the constitutionally guaranteed equality of religions. Interview with Ato Ermias, Deputy Head of the National Election Board Office, 25/12/2009

¹⁶² Mehari Redae, Commentary on the Revised Federal Family Law, (1997E.C), (Author's translation), Vol., 1, PP. 26-29

First, religious institutions in Ethiopia are more interested in their spiritual business distancing themselves from the day to day State politics and they opt for self restraint in cognizance of civic sphere is different from the religious sphere.

Second, since most of the parliamentarians and policy makers in the political spectrum are political party members, their primary responsibility is to pursue and promote their party agenda and in most issues they are expected to reflect their party's policy stance in deliberations and debates, thus the party discipline may not allow them to work for any other sectarian group outside their party's interest.

Third, although, the Ethiopian society is both diverse and religiously devout, the majority of citizens primarily identify themselves with their ethnic kinship rather than religious identity.¹⁶³ Consistent with this idea in Ethiopian political landscape ethnic identity does have paramount role in politics than religion does. This is perhaps partly because of the fact that the Constitution and other laws and policies give positive incentives to ethnicity in terms of self-governance, power and resource sharing in the overall federal arrangement.¹⁶⁴

Finally, the Ethiopian ethnic configuration by and large manifests heterogeneity of religion, which means most of the major ethnic groups are not characterized or identified by a single religion. This non-corresponding of religion and ethnicity does seem to serve for good, since it inhibits politicization of religion in the public discourse.

2.4 The Varying Models of Secularism in Constitutional Democracies

2.4.1 The United States

In the U.S the notion of separation of State and religion in general, and the exact meaning of the 'Establishment clause' in particular, has been the subject of much debate and controversy.¹⁶⁵ In the earlier period there were at least five perspectives as regards the notion of separation. Some have viewed the establishment clause's purpose is primarily to 'protect the Church from the State', others have argued that it is designed to 'protect the State from the Church', and some also see it as a means to protect the individual's liberty of conscience from the intrusions of either Church or State, or both buttressing one another, and others hold that, it is there, for the

¹⁶³ David H. Shinn, *The Threat of Terrorism in East Africa*, United States Institute of Peace, (2007), Ambassador David H. Shinn was a career diplomat who served as U. S. ambassador to Ethiopia, from 1996-99. He is currently adjunct professor at the George Washington University in the U.S. (www.wesafricaforum.net/.../congressional-testimony), last visited, 23/11/2009, *See also*, (pdf.usaid.gov/pdf-docs/PNADJ717.pdf.)

¹⁶⁴ *See*, FDRE Constitution, Arts., 39 & 52

¹⁶⁵ Mc Gravey, Kevin, *Democracy and the Divine: Re-examining the Role of Religion in the American Public*, Haverford College, Department of Religion, (2008), Abstract, (<http://hdl.handle.net/10066/1328>)

‘protection of individual States from interference by the federal government in governing local religious matters, still others argued it is meant to protect society and its members from unwelcome participation in and support for religion.’¹⁶⁶

Despite this background, it is only after the 1940s many issues have become clear, since cases of infringement on religious freedom and whether certain practices represent government ‘establishment’ or support of religion have become the subject of scholarly scrutiny and frequent litigation.¹⁶⁷

As a result, it has been suggested that, the philosophical impetus behind the U.S secularism has always been to ‘protect religion from the State.’¹⁶⁸ In spite of this notion, still many perspectives and interpretations have been offered in several occasions, and two contemporary views are worth noting at this juncture. The first view is that the establishment clause prescribes strict government neutrality on all religious issues, including ‘neutrality’ between religious beliefs and non religious beliefs. The second perspective holds that the establishment clause only prohibits the government from preferring one religion over others, but does not disable the government from assisting religion in general so long as it offers equal treatment for all.¹⁶⁹

Some prominent Supreme Court justices have been pursued the second understanding, however, it has been noted that, majority of the U.S justices have rejected this interpretation and have taken the position that the government must be neutral between religious and non religious.¹⁷⁰ As can be gathered from the land mark Supreme Court decision on *Everson V. Board of Education* (1947)¹⁷¹ the establishment clause is to mean, neither a State nor the Federal government may set up a Church and a government can not pass laws that aid one religion, aid all religions or prefer one religion over another.

Moreover, a government can not force a person to attend or to stay away from religion against his/her will or force him/her to profess a belief or disbelief in any religion. Furthermore, neither a

¹⁶⁶ John Witte, *Facts And Fictions About the History of Separation of Church and State*, cited above at note 43, PP. 12-17

¹⁶⁷ *Id.*, P. 1

¹⁶⁸ Sigit Ardianto, *Religious Freedom is not Without Limits*, New York, (2008), (www.thejakartapost.com/.../religious-freedom-not-without-limits.html), last visited, 18/06/2009

¹⁶⁹ Edward Tabash, *The True Meaning of the Establishment Cause*, (2007), Center for Inquiry Office of Public Policy, PP. 1-5, (www.onlinefreebooks.net/.../the-ture-meaning-of-the-establishment-clause-a--positionpaper-from-the-center-forinqiry)

¹⁷⁰ Vincent Phillip Munoz, *James Madison’s Principle of Religious Liberty*, *American Political Science Review*, Carolina State University, Vol. 97, No.1, P.18. Justice Rehnquist concluded, (Referring to *Everson* ruling, *parenthesis added*), were constructed on a “Wall of Separation”, best reflects Madison’s and the founding fathers’ original intentions.

¹⁷¹ *See, Everson V. Board of Education*, 330 U.S., (1947). Hugo Black’s majority opinion, “The First Amendment has erected a wall between Church and State. That wall must be kept high and impregnable. We could not approve the slightest breach.”

State nor the Federal government may overtly or covertly take part in the affairs of any religious organization or groups and vice versa.¹⁷²

In order to help interpret the ‘*establishment clause*’ the Supreme Court develops a three part test, some times known as the ‘*Lemon test*’. This test draws its name from the 1971 decision *Lemon V. Kurtzman*.¹⁷³ According to this test, first the governmental action at issue must have a *secular purpose*, second, its principal or *primary effect* must be one that neither advances nor inhibits religion, third, the governmental action must not exhibit an *excessive government entanglement* with religion.¹⁷⁴

When the courts apply the ‘Lemon test’, the governmental law or action must pass the three parts of the test to be consistent with the establishment clause. In applying the ‘*purpose test*’ the challenged governmental action or law must have been done for civic or secular purpose, for example to promote education, health or safety of the public.¹⁷⁵

In examining the purpose the courts use the ‘objective observer’ standard and may look at the text of the law, all surrounding circumstances, including history, context, ‘logical effect’ and manner of its implementation.¹⁷⁶ As regards the second test, even through, the challenged law or governmental action meets the purpose test, if its *primary effect* advances or restricts religion; the law is facially invalid. However, a mere secondary effect that promotes or inhibits religion can not render it void as long as the primary effect of the law is to further some legitimate governmental interest.¹⁷⁷ The third test requires that the ‘nature’ and ‘*character*’ of the governmental action at issue must not indulge excessively in religious matters or must not allow excessive religious intrusion in governmental matters.¹⁷⁸

Some justices have been dissatisfied with the ‘Lemon test’ and offered alternatives. These are known as “*Endorsement*” test and “*Coercion*” tests. The ‘Endorsement test’ used to determine the fundamental question that, whether a ‘reasonable and informed’ observer would view

¹⁷² John Witte, cited above at note 123, P. 23

¹⁷³ *The Supreme Court, Religious Liberty, and Public Education: Finding Common Ground: A Guide to Religious Liberty In Public Schools*, (1993), (www.freedomforum.org/publications/B04.supremecourt.pdf), See also, *Lemon V. Kurtzman*, 403, U.S. 602, 91 S. Ct 2105, 29 L.Ed. 2nd (1971), P. 745

¹⁷⁴ *Id.*, P. 41

¹⁷⁵ *Id.*, P. 42

¹⁷⁶ Darlene N.Snyder, *Forum on Public Policy*, University of Illinois, at Spring Field, P.O.4, (www.forum.onpublicpolicy.com/archivesum07/snyder.pdf), last visited, 15/06/2009

¹⁷⁷ *Id.*, P. 5

¹⁷⁸ See, *Sherbert V. Verner*, 374 U.S 398, 422 (1993) (Harlan J. dissenting, (www.belcherfoundation.org/lemon-test) ,last visited 24/06/2009. In order t determine whether the government entanglement with religion is excessive, we must examine the character and purposes of the institutions that are benefited, the nature of the aid that the State provides, and the resulting relationship between the government and the religious authority.

governmental action or practices amounts to ‘endorsement’ of religion.¹⁷⁹ The ‘*endorsement*’ test designed to prevent the government from conveying or attempting to convey a message that religion or a particular religious belief is preferred or promoted. Of course, some justices viewed and treat the ‘Endorsement’ test with in the purview of the first two components of ‘Lemon’ test. Others also handle it as a separate test altogether.¹⁸⁰

The ‘*coercion*’ test appears most often in the context of school prayer. Under this test the governmental action does not contravene the establishment clause unless, it provides ‘direct’ aid to religion in such a manner that create a perception favoring religion or particular religion or forces people to support or to take part in religion against their will.¹⁸¹

The ‘*Free exercise clause*’ basically protects the individual’s belief and religious expression from government interference, while the right to hold religious belief is absolute; the right to involve in religious practices is not.¹⁸² To determine an issue of whether a governmental action has imposed a ‘*burden*’ on the right of religious exercise, the U.S Supreme Court has developed a standard of interpretation known as ‘*Sherbert test*’, this test derives its name from a case, *Sherbert V. Verner* (1993).¹⁸³ This test has four components; two of them apply to any person who petitions his ‘free exercise’ right has been infringed. The other two apply to the government organ accused of violating such rights.¹⁸⁴

In order to claim protection under the free exercise clause a complainant must show that his actions are motivated by a ‘*sincere*’ religious belief and have been ‘*substantially burdened*’ by the government’s action.

In this scenario sincerity of belief does not necessarily be ‘logical’ ‘rational’, ‘sensible’, even; ‘popular’ and the petitioner needs not be a member of an organized religious denomination.¹⁸⁵

Yet, the belief must genuinely occupy a central place in the life of the possessor; some thing parallel to that of the spiritual belief hold by traditional religious persons.¹⁸⁶ In addition; the

¹⁷⁹ Charles Haynes and Oliver Thomas, *The Supreme Court, Religious Liberty, and Public Education*, P.43,(www.ASCD.org), *See also*, Aguilar v. C. Felton (1985), O’Connor (dissent), she express doubt about the use fullness of Lemon’s Entanglement Test.

¹⁸⁰ *Religious Liberty in Public Life*, First Amendment Center, P. 2, (www.firstamendmentcenter.org/religious-liberty/index.aspx), last visited, 05/07/2009

¹⁸¹ *Ibid*

¹⁸² Charles C. Haynes and Oliver Thomas, *The Supreme Court, Religious Liberty*, cited above at note 136, P. 44

¹⁸³ *See*, *Sherbert V. Verner*, cited above at note 114, (www.belcherfoundation.org/lemon-test.htm), last visited, 24/06/2009

¹⁸⁴ *Ibid*

¹⁸⁵ Charles Haynes and Oliver Thomas, *The Supreme Court, Religious Liberty*, cited above at note 136

¹⁸⁶ Robert Bellah and Phillip E. Hammond, *Varieties of Civil Religion*, University of California, available at, (www.religion-online.org/showchapter.asp?title=3041), P. 15, last visited, 18/06/200, Justice Black in dissent on *Zorach V. Clausen* decision wonders about the right of irreligious people; whether they are protected by the 1st Amendment mention of “religion”. He argued they might be, it would appear from ‘*Seeger*’ and *Welsh* case, since what is “religion” gets an even broader interpretation, to the point in *Welsh* where Black says the law may have to regard as religious to persons who themselves claim as non-religious...*Seeger* and *Welsh* set out a distinction any sincere and

petitioner must demonstrate substantial burden as remote and incidental burden will not suffice. When these components are proven, the government has a burden of showing it is acting in furtherance of a '*compelling state interest*' and it has pursued that interest in a manner *less restrictive* or least burden some to the religious right under consideration.¹⁸⁷

According to the judicial precedent a 'compelling' interest has been described as '*an interest of the highest order*' or vital interest'. And '*least restrictive*' or '*narrowly tailored*', would mean that the government action at issue must be neither '*under inclusive*' or '*overbroad*'.¹⁸⁸ A governmental law or action is 'under inclusive', when it regulates religious practice, but does not regulate (restrict) non- religious conduct that produces the same harm. If courts found the challenged law or action under inclusive, it implies the governmental interest is not compelling because it can not be regarded as protecting an interest of the highest order.¹⁸⁹ A law is also 'over broad' when ever it restricts religion or religious practice more than is necessary for the furtherance of the stated compelling governmental interest.¹⁹⁰

Since the decision of the Supreme Court on Employment Division V. Smith case in 1990s there is a significant shift as regards the 'substantial burden' test. The court ruled that as long as the law at issue does not specifically targets religion and its practices, and is generally applicable, the proof of substantial burden is irrelevant, even if the challenged law incidentally burdens religion and religious practices.¹⁹¹ The congressional law known as Religious Freedom Restoration Act (RFRA,1993), was designed to prohibit the government from 'substantially' burdening a person's expression of religion, even if the burden incidentally emanates from a generally applicable law, unless the government shows a compelling interest and is applying a means that is least restrictive.¹⁹² In 1997 when the U.S Supreme Court reviewed the Boerne V.

meaningful belief occupies a place parallel to that of orthodox belief. Justice Harlan argued in his concurring opinion in Welsh, religion for legal purpose becomes simply 'conscience' to regard it on its own terms as sacred, special, and compelling, Courts realize the attempt is futile.

¹⁸⁷ The United States Precedent Describing the Compelling Interest Test the 'Least Restrictive Means', The National Center for Home Education' (2009), (www.hsida.org/docs/nche/0000099-asp)

¹⁸⁸ Federal Register, Vol. 64, No.21, Tuesday, Feb. 2, (1999), Rules and Regulations. (ftp.resource.org/gpo.gov/register/1999/1999-5102pdf)

¹⁸⁹ Frederick Mark Gedicks, "The Permissible Scope of Legal Limitations on the Freedom of Religion or Belief in the United States," (2006), *Emory International Law Review*, Vol., 19, PP. 1218 & 1296, The compelling interest standard itself was drawn from Sherbert and Yoder ... demanding phrases to characterize the compelling interest "Interests of the Highest Order", the gravest abuses endangering "Paramount Interests" and ...the "most rigorous of Scrutiny."

¹⁹⁰ *See also*, Church of Lukumi Babalu Aye, Inc V. City Of Hialeah, 508 U.S 520,531,32,546(1993)

¹⁹¹ Religious Freedom Restoration Act of 1993 (RFRA), Public Law 103-141,103rd Congress, H.R 130. Section 2(4) in Employment Division V. Smith, 494 U.S 872 (1990), the Supreme Court virtually eliminated the requirement that the government justify burdens on religious exercise, (<http://www.ssrn.com/=567398>), last visited, 12/06/2009

¹⁹² *Id.*, RFRA, section 3

Flores Case, it has ruled out that the RFRA it self is unconstitutional stating that Congress has no competence to change ‘substantially’ the free exercise clause.¹⁹³

To sum up until recently America took pride in ‘melting pot’ model of identity as most of the migrants to USA were from Western countries. But, today when massive immigration to America has been taken place from all over the World people having Asian, African, Hispanic, and Arab roots are forming sizeable communities, and the former model has become faded and a new ‘mosaic’ model of identity has emerged.¹⁹⁴ As a result, at least in official discourse the American society is becoming more tolerant and accepting differences and diversity. The government also officially supports diversity and autonomy. It encourages an individualistic society, where citizens make choices with free will and the government intervenes as little as possible to give each person maximum freedom over his/her own life.¹⁹⁵ For this and other reasons the American system gives more emphasis to free exercise clause than to strict separation. The free exercise clause is also reinforced by other rights found under the umbrella of broader rights protections available to all citizens, like freedom of speech and non-discrimination.¹⁹⁶

Perhaps for historical reasons, religion is not strictly confined to private life, in many occasions religion is seen in the public sphere. The issues of head scarf and other religious attire have never been weighty political matters as compared to some European secular States.¹⁹⁷

Public schools have broader autonomy to adopt their own rules pertaining to accommodation of religious expressions. Applicable laws vary depending on the State, thus, interpretation of the free exercise claims against State and local laws and regulations will rely on the regime of the specific State, even though, the underlining claims rest on the federal Constitution. In this respect

¹⁹³ Travis C. Wheeler, An Economic Analysis of the Religious Freedom Restoration Act, Duke University School of Law, (2001), P. 2 available at, (<http://www.law.duke.edu/journals/63lcpwheeler>), last visited, 15/06/2009

¹⁹⁴ Vincent J. Miller, “Globalization: the End of Easy Consensus, and Beginning the Real work of Pluralism”, in Debating the Divine, (2008) PP. 65, 67... Globalization brings about diversity (living and working with people very different from our selves) which can be deeply disorienting. Now American pluralism must encompass, in addition to Christianity and Judaism, a quite different Abrahamic faith, Islam, as well as radically different religions, such as Hinduism...Buddhist traditions. *See also*, Vivek Salathia, Secularism and Indian Constitution, Rajiv Gandhi National University of Law, Punjab, India. In another context, Vivek states that, the American society is looked at in terms of a ‘Melting Pot’, India, on the other hand, is not a ‘Melting Pot’ it is a ‘Mosaic’. P. 1, ([www.ialsnet.org/meetings/constit/papers/salathiaVivek\(India\).pdf](http://www.ialsnet.org/meetings/constit/papers/salathiaVivek(India).pdf)), last visited, 06/01/2010

¹⁹⁵ Catherine J. Ross, Children and Religious Expression In School: A Comparative Treatment of the Veil and other Religious Symbols in Western Democracies, (Feb., 26/2008), The George Washington University Law School, Public Law and Legal Theory Working Paper, No. 408, P. 9, available at, (<http://ssrn.com=1136366>), last visited, 13/09/2009

¹⁹⁶ Frederick Mark Gedicks, cited above at note 146, P.1 *See Contra*, (since the U.S Supreme Court’s decision 1990, (Emp. Div.V.Smith) *parenthesis added*, freedom of religion in the U.S is less a liberty than an equality right.

¹⁹⁷ Catherine J. Ross, cited above at note 152, P.16 “Substantial discretion” is given to local school districts and individual public school regarding the regulation of school dress as long as a school don’t “single out religious attire” for prohibition.

the United States' principle of secularism is by and large characterized as '*individualized accommodation model*'.¹⁹⁸

2.4.2 The Republic of France

The history of France is embedded in the long struggle between the French kings and the Roman Catholic Church. Prior to the 1789 Revolution, the Catholic Church was heavily involved in the State affairs.¹⁹⁹

Since the 1789 Revolution, however, one of the founding principles of the republic was secularism; by and large in the sense of protecting the State from religion.²⁰⁰ This was reinforced by inclusion of secular principles in the country's founding documents such as the 'Declaration of the Rights of Man and Citizen' of 1789.²⁰¹ Article 10 of the declaration provides that "No one shall be disquieted on account of his opinions, including religious views, provided their manifestation does not disturb the public order established by law." One can understand from this provision that it basically emphasized on freedom of conscience, though, in that context the religious freedom is protected. In 1905 the principle of secularism in France was fully entrenched and articulated as a law. The 1905 Constitution formalized the pre-existing principles in law, abolished Napoleon's '*concordat*' and set a number of new measures that strengthen the secularism principle.²⁰² The preamble to the 1946 Constitution also guarantees among other things 'the provision of free, public and secular education at all levels.' The Constitution of 1958 sets forth the secular principle '*France shall be an indivisible, secular, democratic and social republic.*' This Constitution also ensures the equality of all citizens before the law, with out discrimination on grounds of origin, race or religion.²⁰³ Due to historical and philosophical reasons the French notion of '*Laicite*' (translated roughly as secularism), does give little room for religion and its expression in the public sphere.²⁰⁴

¹⁹⁸ Ibid., P.9

¹⁹⁹ Dominique Dercherf, "French Views of Religious Freedom", Harvard Center for International Affairs, July (2001), P.2, available at, (<http://www.brookings.edu/fp/cusf/analysis/relfreedom.htm>)

²⁰⁰ Deshmukh, Fiona, "Legal Secularism in France and Freedom of Religion In the United States", A Comparison and Iraq as a Cautionary Tale; Houston Journal of International Law, (2007), available at, (www.accessarylibrary.com/summary-0286-34089207-ITM)

²⁰¹ Avalan Project: Declaration of the Rights of Man – 1789, (www.law.yale.edu/18th_century/rightsof.asp), last visited, 09/07/09

²⁰² Dilwar Hussain, "France and Secularism a Comparative Over View", Houston Journal of International Law (2007), (dilwar@islamic.foundation.org.uk)

²⁰³ Ibid

²⁰⁴ Ewing Katherine Pratt, "Legislating Religious Freedom, Muslim Challenges to the Relationship between Church and State in Germany and France," (22 Sept., 2000), P. 6. American Academy of Arts and Sciences.

In general religious freedom is regarded as a human right, but never in isolation from other universal human rights. In this respect France does not allow a special status for religious freedom over freedom of conscience.²⁰⁵

That is why many commentators referred to French's version of secularism as 'fundamentalist' secularism. In an attempt to give an explanation for this strict notion of separation some writers suggest that the 'monocultural' feature of the French society, coupled with the government's policy that stresses on 'assimilation' or in the French description 'integration', discourages maintaining distinctive identity.²⁰⁶

It has been also believed that, the ideal of citizenship that is inscribed in official documents and reinforced by politicians across the political spectrum encourages every alien to be integrated in the French's main stream culture.²⁰⁷

Moreover, the role of the government in the lives of citizens is that of 'Welfare' State, which is driven by 'utilitarian' notions. As a result individual rights are seen as less important than those of society as a whole. This led to the view that religion is purely a personal choice and thus, a private affair.²⁰⁸ Therefore, one person's right to exercise his/her faith in certain public context is seen as contravening, and inferior to the rights of others that exist in a 'neutral' and 'non-proselytizing' sphere.²⁰⁹ The public school system is considered a pillar of the French society and experiment realm of democracy where republican values are nurtured, thus, education plays a central role in the concept of the citizen, since it shapes children in the republican ideal.²¹⁰ That is why in France public schools are supposed to be neutral ground, where any religious expression is strictly prohibited.

Perhaps consistent with this political drive, on March 15, 2004 the French government approved a controversial bill aimed at preventing religious expressions in public schools.²¹¹ The law states that "in public elementary schools, junior high schools, and high schools, it is forbidden to wear symbols or attire, through which students conspicuously, exhibit their religious affiliation."²¹² Though, technically, the legislation is neutral as it does mention no faith in particular, many

²⁰⁵ Concordat Watch- Separation of Church and State, (www.concordatwatch.edu/showtopic.php?org_id)

²⁰⁶ Catherine J. Ross, cited above at note 152, P. 27

²⁰⁷ Deshmukh, Fiona, " Legal Secularism in France and Freedom of Religion in the United States", cited above at note 157

²⁰⁸ Ibid

²⁰⁹ RTE News: The Hijab 'Controversy' that isn't, (www.rte.ie/news/2008/0612/hijab.html)

²¹⁰ Deshmukh, Fiona, cited above at note 157

²¹¹ Muslim Women, Human Rights And Religious Freedom: Europe under the Spot Light of National and International Law, March, (2004), Islamic Human Rights Commission, (www.ihrc.org)

²¹² Ibid

people especially from the Muslim communities in France viewed it as anti-Muslim bias. The expulsion of three Muslim girls from school who refused to comply with the law was a case in point. The issue attracted massive publicity and out cry from with in and outside of France, nonetheless, this did not prevent French courts from upholding the challenged law.²¹³

Currently, there is an on going debate in France concerning this issue; every one seems to agree on the fact of increasing cultural diversity, and its concomitant challenge to the French version of secularism.²¹⁴ However, so far there is no consensus in the French public as to the right response to that emerging challenge. Moderates argue that the strict type of secularism in general the head scarf issue in particular would only strengthen religious militants, and call for amendment of the basic laws to allow flexibility and to mandate reasonable accommodations.²¹⁵ Traditionalists insist secularism is the corner stone of French democracy and a fundamental value of the nation, so the republic must uphold this basic tenet as firmly as it did against any religiously motivated intrusion in the public sphere.²¹⁶

In June 2009, in an historic address to both houses of the French Parliament, the French president Nicolas Sarkozy has opposed the wearing of the Muslim ‘*burqa*’ in public.²¹⁷ President Sarkozy stated that “it will not be welcome on French soil, women imprisoned behind a mesh, cut off from society, deprived of all identity. That is not the French republic’s ideal of women’s dignity.” Following the president’s keynote speech, a group of cross-party law makers is already calling for a special inquiry into whether wearing the ‘*burqa*’ could undermine French secularism and seek to examine whether women who wear the veil are doing so voluntarily or are being forced to cover themselves.²¹⁸

2.4.3 The Republic of Turkey

The secularization of Turkey started in the society during the last years of the Ottoman Empire.²¹⁹ When Mustafa Kemal (Ataturk), found the Republic of Turkey in 1923, he dismantled the Caliphate, the supreme politico-religious office of Islam. Under his leadership the reformists removed religion from the sphere of public policy and restricted it exclusively to that of personal

²¹³ Catherine Ross, cited above at note 154, P. 25

²¹⁴ Islamophobia, Rekindles, Hijab Controversy in France, Controversy on French Secularism, (www.islamonline.net/english/news/2003-06/articles03-shtml)

²¹⁵ Asghar Ali Engineer, Hijab Controversy in France, (2004), (www.milgazette.com/archives//16/1631200433.htm)

²¹⁶ Defending The 1905 French Law of Separation of Religion and State, International Humanist news, (2006), (www.iheu.org/node/1970), last visited, 20/07/2009

²¹⁷ President Sarkozy’s speech was the first a French president has made to parliament since 19th century-made possible by a Constitutional amendment introduced in 2008. (www.enlishsabra.com/forum/showthread.php?), last vistied, 20/07/2009

²¹⁸ (<http://news.bbc.co.uk/90/or/fr/2/hpe/8112821htm>)

²¹⁹ Emanuel L. Paparella, Religion and the Secular State, 20/11/2007, (www.ovimagazine.com/art/2320)

moral behavior and faith.²²⁰ Some of the major measures taken by the reformists are, replacement of Sharia with European legal codes, closure of religious schools, abandonment of the Islamic calendar in favor of the Gregorian calendar, restrictions of religious wearing, replacement of Arabic daily calls to prayer by Turkish version, restricting building new mosques, abolishing religious courts setting up instead secular courts with sets of secular laws and procedures.²²¹

The principle of secularism that introduced in the inception of the republic has been also reiterated in the second article of the 1937 constitutional amendment.²²² This Constitution reaffirms that Turkey is a secular and democratic republic deriving its sovereignty from the people.

Although, religion and religious organizations were excluded from the public life, religion remains the central value at the popular level. Even at latter stage some of the harsh measures of the secular reformists became gradually moderated in an attempt to respond to the demands of the younger generation.²²³ At the political level the battle between the staunch secularists and Islamists become increasingly heated. The fact that Turkey's Constitutions insulated politics from religion did not prevent the foundation of an Islamist party in the 1970s.²²⁴

The Turkish armed forces consider themselves as the guardians of Turkey's political secularism and when they feel that the political spectrum is overwhelmed by Islamist political elements that threaten the secular values they never hesitate to intervene into politics to the extent of controlling the government power by toppling the threatening parties. Evidences are abundant to substantiate this assertion. Turkey has seen four military coups in the last half a century, with the most recent one in 1997.²²⁵

The Turkish ban on the wearing of religious clothing is even more drastic than the French. The ban on wearing of headscarves by women applies to teachers, lawyers, parliamentarians and others working in the public sector within State premises. On February 5, 2008 Turkey's

²²⁰ Jacob M.Landau, "[Turkey between secularism and Islam](#)", Jerusalem Letter/view points, No.352, 9 Adar/5757/16 Feb.1997, P. 6

²²¹ Id, P. 2

²²² Rosella Bottoni, *The Origins of Secularism in Turkey*, (abstract) Journal. Cambridge, (2007), Ecclesiastical Law Society. (Org/production/action/cjogetfulltext?)

²²³ Jacob M. Landau, "[Turkey Between Secularism and Islamism](#)", Jerusalem Letter/view Points, No. 352, 9 Adar/5757/, (February, 16, 1997), (www.jcpa.org/jl/vp352.htm), last visited, 27/09/2009

²²⁴ Nilufer Gole: *Secularism and Islamism in Turkey*, The Making of Elites and Counter Elites, Middle East Journal, Vol. 51 No.1, Winter,(1997), (www.jstor.org/stable/4329022)

²²⁵ "History Guy, *Military Coups in Turkey*, (1960-1997), (www.historyguy.com/oups_in_turkey.html). In 1960, Democratic Party rule ended by coup, in 1971 Party for National Order crushed by coup, in 1980 National Salvation Party shut down by coup, in 1997 Necemttin Erbakan's Islamist led coalition toppled by coup. *See also*, Burak Sansal, "Military Intervention in Turkey" (www.wallaboutTurkey.com/darbe.htm)

parliament approved a constitutional amendment that lifted the ban on Islamic headscarves in university campuses.²²⁶

On June 5, 2009, Turkey's Constitutional Court struck down the amendment bill that intended to lift the headscarf ban ruling that removing the ban would undermine the official stance of Turkey's secularism.²²⁷ There were also two major cases in this respect. In January 1988 the government banned the 'Refah' (welfare) party for its Islamist tendency, accusing that, the party acted in furtherance of its Islamist goals intending to establish a theocratic government with a plurality of legal systems, as well as unambiguous stance towards the use of violence to gain power.²²⁸

The second case named *Sahin v. Turkey*, where by the government restricted Leila Sahin who was a university student from wearing head scarf in the school campus.²²⁹ Both cases reached the European Court of Human Rights, in 2003, and 2005 respectively. The government argued both the alleged practices would undermine the secular value of the State and would potentially threaten the public order. Both petitioners also argued that religious practices and plurality of legal systems would not pose any threat to secularism instead they deserve protection under article 9 of the European Convention on Human Rights. The Court up held the government's action stating that, Turkey is a predominantly Muslim country and this makes it particularly susceptible to the influences over the general public of certain Islamist trends thus it has needed to take additional precautions to protect the public order.²³⁰

To sum up, secularism was one of the ideological pillars of the Turkish republic since its foundation. Of course, the roots of secularism lie further back in history, when the Ottoman ruling elite recognized the need to restructure the legislative, military and judiciary systems to cope up with their neighboring political competitors in Europe.

Officially the Turkish State continues to pursue its strict secular policy, yet the political sphere is currently polarized between the secularists and the conservatives.²³¹ Turkey aspires to join the

²²⁶ *Turkey's Parliament Votes to Lift Islamic Head Scarf Ban*, (2008), (www.highbeam.com/doc/1A1-D8UL52884.html)

²²⁷ *Turkey's Top Court Annuls Head Scarf Law*, (www.hurriyet.com.tr/english/turkey/9107525.asp&gid)

²²⁸ Ingvill Thorson Plesner, *The European Court on Human Rights between Fundamentalist and Liberal Secularism*, (2005), July 28-30, Norwegian Center for Human Rights, Paper for Seminar on, the Islamic Head Scarf and the Future of Freedom of Religion or Belief, Strasbourg, France, P. 5

²²⁹ International Religious Liberty Association, *Guiding Principles Regarding Student Rights to Wear or Display Religious Symbols*, (Nov, 15, 2005), Spain, (www.irla.org), P. 3

²³⁰ See, *Sahin V. Turkey*, APP No.44774/98, EUR, Ct. H.R (2005), available at,

(<http://cmiskp.echr.coe.int/tkp197/search.asp?skin=HUDOCREN>). A central point of the European Court reasoning was that Islam is a majority religion in Turkey, and thus could present a greater risk of pressure and proselytism, the government will justifiably take cautionary measures.

²³¹ Ewing Katherine Pratt, "Legislating Religious Freedom: Muslim Challenges to the Relationship between Church and State in

EU, the task of balancing religion and secularism will be one of the daunting hurdles the country needs to cross convincingly in order to accelerate its accession.²³²

2.4.4 The Federal Republic of India

India is one of the most religiously diverse nations in this planet with society whose culture is based on religious principles that adopted the concept of secularism blended with its unique societal reality and fairly managed to strike the balance between religious and secular interests.²³³ Freedom of religion in contemporary India is a fundamental right guaranteed by the country's Constitution. According to this Constitution, the State shall have no religion, there shall be no discrimination on the ground of religion and every person shall have the freedom to profess, practice and teach religion.²³⁴

As far as education is concerned the Indian system provides for three types of educational institutions. First, institutions that run completely by the State are strictly prohibited from delivering religious instruction, second, institutions in which the State acts a trustee, religious instruction is allowed, and third denominational institutions that receive some sort of aid from the government can provide religious instructions on a voluntary basis. These are mainly minority religious schools that are encouraged to help preserve their identities.²³⁵

In recent years several regional States in India have adopted laws to regulate religious conversion, particularly to those done through 'coercion' or 'allurement'. As suggested by some writers, the concerns of the State governments tend to rest on two considerations. The first is that people who convert in groups may not will fully chosen conversion, and second, certain

Germany and France", (2000), *American Academy of Arts and Sciences*, P. 9, ([papers.ssrn.com/sol3/Delivery.../SSRN.pdf?](http://papers.ssrn.com/sol3/Delivery.../SSRN.pdf?alev/081664411x-m7w3f3wo8))

²³² Alev Cinar, *Modernity, Islam, And Secularism In Turkey*, (2005), (www.flipkart.com/modernity-islam-secularism-turkey-alev/081664411x-m7w3f3wo8), last visited, 11/11/2009

²³³ Vivek Salathia, *Secularism and Indian Constitution-Is the Secular Character of Indian Democracy Under Threat*, Rajiv Gandhi University of Law, Punjab, India, P. 1. India, the land of bewildering diversity, is a conglomeration of people, cultures, languages and religions. India is a country which is a host to all conceivable religions and ways of life. India has followed a principle of "unity in diversity". This unity is based on democracy, federalism, tolerance and secular character of the State. The key to India's success as a federal democracy is the recognition of its diversities. Acceptance of all religions and different ways of life is the cornerstone of the Indian culture, heritage and polity. [A]t independence in 1947, India was a nation embarking on a new and challenging endeavor of building an economically independent democracy that would treat all its citizens equally. As a part of this enterprise, India made a commitment to 'secularism', which in the context of the two nation theory and the creation of Pakistan on the basis of religion, acquired even more significance. The message was that India would not construct its citizenship and nationality on the basis of religious identity. ([www.ialsnet.org/meetings/costit/papers/salathivivek\(India\).pdf](http://www.ialsnet.org/meetings/costit/papers/salathivivek(India).pdf)), last visited, 16/11/2009

²³⁴ Indian Constitution, Articles, 14 15 (1-2), 16(1-2), 25, 27 , 28 (3), 29(2), 30(1), *See also*, Assefa Fiseha "Federalism and Accommodation of Diversity in Ethiopia", (2006, 2007), P. 194, he pointed out that in India, constitutionally religious appeals were to be taken out of official politics and language of the State.

²³⁵ *Ibid*, *See*, Indian Constitution, Article, 30 (1), *See also*, Vivek, cited above at note 190. During the drafting of the Indian Constitution, despite the reluctance of the Constituent Assembly to incorporate the word 'Secular', and despite the fact that the word 'Secular' was formally inserted in the preamble to the Constitution of India by the 42nd Amendment of 1976, still a survey of the provisions of the Indian Constitution suggest that India as a State is separate from religion and would guarantee religious freedom to the citizens of all faith, while not discriminating against any citizen on the basis of religion.

communities are particularly vulnerable to being lured into changing their religion.²³⁶ These concerns seem more convincing, when conversions are facilitated by foreign funded organizations ostensibly under the cover of social service for poor and under privileged families. To conclude, Indian secularism unlike the case in France and Turkey does not assume the total expulsion of religious expression from the public sphere, unlike the case in France or Turkey. As India is multi religious and multicultural State this may drive the government to pursue more tolerant model of secularism that allows religious expressions in public sphere. Despite this fact, of course, the secular credentials of India are at times challenged by violent attacks on religious minorities in some pockets of the country. To complicate matters further the issue of Jammu and Kashmir and the fragile relationship with its Islamic neighbor-Pakistan seem to be a cause of concern for India as such issues are usually suffused with religion.²³⁷

Equally disturbing is that some Hindu fundamentalists supported by a few politicians and Muslim militants pose alarming signals to secularism and tolerance that India has proudly been preaching to the rest of the world.²³⁸

2.4.5 The Federal Republic of Nigeria

Nigeria is the most populous nation in Africa with inhabitants of nearly 144 million.²³⁹ It is also a mosaic of ethnicities home to more than 200 linguistic groups.²⁴⁰ Although, most of the ethnic groups are very tiny, three ethnic groups constitute about 60 to 70 percent of the total

²³⁶ Laura Dudley Jenkins, *Legal Limits on Religious Conversion in India*, P. 1, (www.law.duke.edu/shell/cite.pl?), last visited, 02/10/2009. *See also*, *International Humanist News*, (7, June 2005), though, India has a largely secular Constitution, in practice it is different because the vast majority of the people are religious or communal. Vast majority of people are yet ill-equipped to defend India's secular Constitution as well as their own freedom or religion or belief. P.1

²³⁷ Vivek Salathia, cited above at note 190. Though, critics might not agree, and despite India has entered the globalized era, it is indeed, India and its people still maintain the deep religious values at core. The present scenario of 'Secularism' in India is indeed a cause of concern. Today, the secular character of the Indian democracy is considered to be under threat. The razing of the Barbi Mosque in Ayodhya (Uttar Pradesh) led to riots and killings by Muslims and by Hindus. The recent massacres of innocent Hindus in Godhra (Gujarat), presumably ignited by smoldering Muslim resentments against the Hindutva proponents over Ayodhya, touched off a larger massacre of equally innocent Muslims in tit-for tat killings that undermined yet further the amity under which these religious communities had lived earlier in Gujarat State in an atmosphere of secularism. *See*, Federation of Indian Rationalist Association (FIRA), *Fighting for Separation of Religion and State in India*, 7, June (2005), *International Humanist News*. (<http://www.iheu.org/tracback/1929>), last visited, 15/10/2009, *See also*, Selig S. Harrison, "America should focus on India, not Pakistan", *News Week*, Nov., 23/2009, P. 14. Harrison noted that, the retention of a Muslim –majority Kashmir is necessary to preserve India's character as a secular State in which 160 million Muslims coexist uneasily with a Hindu majority. By the same token, Pakistan gives Kashmir top priority to vindicate its creation as an Islamic State. *See*, "Mumbai Terror attacks: India Fury at Pakistan as Bloody Siege is Crushed", Lone surviving militant reveals terror group links with Pakistan (guardian.co.uk/world.../Mumbai-terror-attacks-India3.) last visited, 03/2010,

²³⁸ Paul Marshall, *Religious Freedom and Global Conflict*, University of Kentucky, Lexington, Freedom House, Washington DC, (Feb, 4, 2004), P. 1

²³⁹ *International Religious Freedom Report*, (2008), Nigeria, P. 1

²⁴⁰ Emmy Godwin Irobi, *Ethnic Conflict Management in Africa: A comparative case study of Nigeria and South Africa*, (2005), P. 11, (www.infibeam.com/.../Emmy-Irobi?Ethnic-ConflictManagementinafrica.../1598001736.html), last visited, 22/09/09

population.²⁴¹ According to some estimates the Hausa-Fulani ethnic group counts for 30 percent of the total population; the Yorubas about 20 percent and the Igbos about 18 percent.

As regards religious demography, roughly 50 percent of the population practice Islam, around 40 percent is Christian and the rest 10 percent follows traditional indigenous religious beliefs.²⁴²

Both Islam and Christianity are not new to Nigeria. Islam penetrated to the West Africa as early as the 8th century by traders and *jihadis* as they traversed the Sahara. It steadily spread in Nigeria and managed to establish the 19th century Caliphate that ruled the vast territory in the north.²⁴³

As for Christianity by the time the British managed to unify and colonize the country in the late 19th century, Christian missionaries had already started making inroads in the country side. Since then, evangelization and the spread of Pentecostalism have increased the number of Christians in Nigeria from insignificant portion a century ago to around 40 percent now.²⁴⁴

Following the colonial deal in the Berlin Conference of 1885, Britain took control over the Northern and Southern parts of Nigeria and holding them together as its protectorate.²⁴⁵ In 1946 a colonial Constitution divided Nigeria in to three political regions: East, West and North. In the North, the Hausa-Fulani ethnic group was predominantly the largest and eventually maintained the most populous region. The Igbos dominated the East, the Yorubas the West. With the three major ethnic groups in dominance in their respective territories the minority groups lost with in the majorities as their interest for autonomy and self governance was virtually ignored.²⁴⁶

The 1954 colonial Constitution brought another change in the political structure of the country, transforming the nation in to a federation of three political entities, having a limited autonomy for self governance and for representation in the center under the auspices of their colonial master.²⁴⁷

In 1960 independent Nigeria emerged as fully fledged federal State comprising the three component units, north, west and east regions.²⁴⁸ Nigeria's is federalism built on the concept of territoriality without due regard to ethnic identity. Since then the situation in Nigeria has been

²⁴¹ Ibid

²⁴² Religious Freedom Report, cited above at note 196

²⁴³ Justine Isola, *One Nation, Under gods*, (2008), P. 2, available at, (www.theatlantic.com/doc/200802u/nigeriaSharia-Islam-Christianity), last visited, 29/08/2009

²⁴⁴ Ibid

²⁴⁵ Assefa Fiseha, *Federalism and the Accommodation of Diversity in Ethiopia*, A comparative study, Revised Edition, (2006, 2007), Forum of Federations, P. 168

²⁴⁶ Emmy Godwin Irobi, cited above at note 197

²⁴⁷ Assefa Fiseha, cited above at note 202, P. 169

²⁴⁸ Id, PP. 169, 170

fraught with ethnic politics whereby the elite from different ethnic groups fight for political power and federal resources.²⁴⁹

This period of politicized ethnicity and competition led to the military intervention and the demise of the so called 'First Republic' that reigned from 1960-1966.²⁵⁰ This military coup of Northerners precipitated the civil war that raged from 1967-1970, when the mistreated Igbos of Eastern Nigeria (Biafrans), rebelled and threatened to secede from the federation.²⁵¹ Though, this rebellion quelled through military means, fear of domination and suspicion escalated among the ethnically divided political forces, especially the southerners distrusted the military regime because they felt it was trying to maintain Hausa- Fulani hegemony of the Northerners.²⁵²

The military rulers suspended the federal system and deprived the States their constitutional authority. In 1975 the military staged another Coup that brought Olusegun Obasanjo to power and the latter gave way to the restoration of civilian rule in 1979.²⁵³

Another Constitution re-written in 1979 that gave birth to the second republic, and shifted the form of government from parliamentary to the presidential one, of course, it reaffirmed the federal arrangement.²⁵⁴ This Constitution swung the power pendulum to the inward center direction as opposed to its initial tilt outwards that used to favor the States. This Constitution was centralist and detailed in nature that touches upon a wide array of matters, including borders of local governments.²⁵⁵ As has been rightly observed by one scholar, such formulation suggests that the framers' firm intention to employ cautious approach to get rid off any risk of disintegration or divisive interpretation.²⁵⁶ This civilian rule did not last long, and was crushed by another military coup in December, 1983, that ruled up until 1998. The year 1992 saw unsuccessful attempt to restore civilian rule. On June 12, 1993 Chief Moshood Abiola a Muslim Yoruba from South-Western has been presumably won the presidential election but his presidency was annulled by the incumbent military ruler General Sani Abacha a Muslim from the North.²⁵⁷ The Southerners increasingly disappointed, angered and feared political marginalization and demanded an end to the Hausa-Fulani domination of the political spectrum.

²⁴⁹ Emmy Godwin, cited above at note 197, P. 15

²⁵⁰ Assefa Fiseha, cited above at note 202, P. 171

²⁵¹ Ibid

²⁵² Emmy Godwin, cited above at note 197, P. 17

²⁵³ Assefa Fiseha, cited above at note 202, P. 171

²⁵⁴ Id, PP. 171-172

²⁵⁵ Id, P. 172

²⁵⁶ Ibid

²⁵⁷ Ibid

After Abacha's sudden death in 1998, another Army General, Abdul Salam Abu Bakar took over, who made it possible the return of Nigeria to civilian rule in 1999.²⁵⁸

After a long period of successive military rulers, Nigeria has already seen two civilian rulers with democratic credentials, since 1999 up to the present day. From 1966 up to 1999 thirty six States were created in Nigeria, which cut a cross ethnic and religious lines. This development was meant to lessen the various ethnic groups' fears of being dominated by the three ethnic groups, the Hausa-Fulani, the Igbo and the Yoruba.²⁵⁹

In addition, it has also been observed that in the Nigerian society it was widely believed that a federation of a large number of smaller units would help strengthen the central government than having a few numbers of larger States.²⁶⁰

In spite of this fact, the federal matrix of creating more States, based on territorial concept, the apportionment of equal population size coupled with many more constitutional arrangements do not culminate the fierce fight for power and resources.

According to some scholars, the creation of new State would rather give birth to new majorities and new minorities, the latter would tend to come up with fresh demands of their own, that likely pave the way for quest of state hood.²⁶¹

This continuous mushrooming of small States also suggests fiscal dependence, and the attempt of equalizing States that assumes equivalent allocation of budget and resources would tend to stimulate the appetite for state hood so as to get a big slice from the national cake.²⁶²

In all these political wrangling in Nigeria religion has been one of the major catalysts.²⁶³ The Nigerian society is religiously pluralized and polarized as well, and this significantly influences political decisions and policies of the nation.²⁶⁴

Religious differences often exacerbated ethnic differences. Tension between Christians and Muslims remained acute in many areas and conflicts seemingly socio-economic or political nature often divided people along religious lines.²⁶⁵

²⁵⁸ Ibid

²⁵⁹ Id, P. 177

²⁶⁰ Ibid

²⁶¹ Id, P. 178

²⁶² Ibid

²⁶³ Religious Freedom Report, cited above at note 196, P. 4

²⁶⁴ Danoye Oguntola- Laguda, Religion and Politics in a Pluralistic Society, The Nigerian Experience, (2008), P. 127, (www.politicsandreligionjournal.com/pdf/broj%204/laguda.pdf), last visited, 03/10/2009

²⁶⁵ International Religious Freedom Report, cited above at note, 196, P. 4

The two major religions Islam and Christianity are most often depicted as monolithic entities that exhibit bitter animosity and fierce confrontation.²⁶⁶

The Muslim communities in Nigeria are followers of *Sunni* Islam. The *Sunni* Islam in that country has its own traditional sects, namely the *Qadriyya*, *Tijaniyya*, *Tarika*, *Malikiya*, *Ahamadiyya*, *Islamiya* and *Da`awa*, the latter some times used as synonymous to *Hisbah* (or *Sharia* enforcing authorities).²⁶⁷ The newer and most fundamentalist sects include *Izala* and *Shiite*. The former is said to attract young, bright, educated people. The latter is a variant of the Iranian sect that is said to aspire to overthrow the government if the opportunity allows.²⁶⁸

In the Christian community one finds a broad range of churches spanning the gamut from the mainstream Roman Catholics and Anglicans to several smaller Protestant groups, including Baptists, Methodists, Presbyterians, a growing number of Pentecostal Christians and Mormons.²⁶⁹

Constitutionally Nigeria claims to be a secular country. The current Constitution did not adopt any religion as a State religion, despite its explicit reference to God. It provides for freedom of religion, including freedom to change one's religion or belief, and freedom to manifest and propagate one's religion or belief through worship, teaching, practice and observance.²⁷⁰

The Constitution also provides the State may establish courts based on the common law, religious law and customary law.²⁷¹ Given Nigeria's diverse nature the plurality of legal system may be viewed positively, though, it has been alleged that, sometimes its practical implementation creates confusion.²⁷²

The Constitution allows religious instruction in public schools, but no person is obliged to receive religious instruction or attend religious ceremony or observance other than his own or religion not approved by his parent or guardian.²⁷³

²⁶⁶ Justine Isola, cited above at note 200, P. 4

²⁶⁷ Eghosa E. Osaghae and Rotimi T. Suberu, *A History of Identities, Violence, and Stability in Nigeria*, CRISE: Center for Research on Inequality, Human Security and Ethnicity, Queen Elizabeth House, University of Oxford, CRISE Working Paper No.6, (Jan., 2005), PP.10, 17-19, (crise.oxac.uk/pubs/workingpaper6.pdf), *See also*, International Religious Freedom Report, cited above at note 196, P. 4

²⁶⁸ *Nigeria Christian/ Muslim Conflict*, available at, (www.globalsecurity.org/military/world/war/nigeria-1.htm), P.1, last visited, 29/08/2009

²⁶⁹ International Religious Freedom Report, cited above at note 196, P. 1

²⁷⁰ Constitution of the Federal Republic of Nigeria, (1999), Articles 1(1, 2, 3), 38(1), the preamble states that, "...as one indivisible and indissoluble sovereign nation under God..."

²⁷¹ *Id.*, Articles, 275, 260, 277

²⁷² *Nigeria Christian/Muslim Conflict*, cited above at note 225

²⁷³ The 1999, Nigerian Constitution, Article 38(2)

The Constitution affords the freedom for religious communities or denominations to render religious instruction for students of that community or denomination in any educational institution in a place where that particular community or denomination totally inhabited.²⁷⁴

The concept of separation of State and religion (secularism) should be seen in context, there is no one size fits all approach.²⁷⁵ However, as has been discussed in the foregoing titles one can identify the general parameters, though; it is difficult to outline the exact contours. Accordingly, in a secular democratic system the State shall have no religion the political system should not presume to legitimize itself religiously. Arguably, the government must be neutral toward believers and non believers, which imply the absence of favoritism or prejudice on the basis of religion or belief, the government must concerns itself with the secular matters, and religion must deal with the religious affairs.

Since, various models for the treatment of religious freedom have been developed in different countries, at times the spheres of interest overlap depending on the unique historical or social context of a given nation State.²⁷⁶

In Germany for example the model of secularism is said to be “positive neutrality”, where by a relationship of partnership is encouraged between religion and the State.²⁷⁷ In Germany religion does not have open political role, the public sphere is by and large a secularized forum, though, religious communities may use informal channels to influence and lobby for certain matters of interest.²⁷⁸ The Constitutional regime of Germany governs the legal status of religious communities and institutions.

Religious communities can attain the status of public body, subject to some conditions; most often not to involve in activities that contravene the constitutional order. As a result the State authorities collect taxes for religious institutions that have got a status of public corporation. In general the State promotes a social role for religious communities enabling them to play positive role in State schools, health care and charity services.²⁷⁹

²⁷⁴ Id, Article 38(3)

²⁷⁵ Puja Kapai and Anne SY Cheung, Hanging in a Balance: Freedom of Expression and Religion, (2007), P. 2 (works.bepress.com/puja-kapai/1/-), last visited, 05/01/2009

²⁷⁶ Matthias Mahlmann, The Constitutionalization of Secularism in Germany Migration, Religion and Secularism, A comparative Approach (Europe and North America) Freie Universitat Berlin, Paris, June 17-18 (2005) P. 2,(historie-sociale.univ-paris1-fr/collo/migrations/Mahlmann.pdf.), last visited, 13/09/2009

²⁷⁷ Id, P.5

²⁷⁸ Ibid

²⁷⁹ Id, P.7, *See also*, Appendix to the Basic Law, Weimar Constitution of August 11, 1919, Article, 137 (5)

For that matter the preamble of the Basic Law contains explicit reference to God.²⁸⁰ The Federal Constitutional Court also plays paramount role in the interpretation of the Constitution in general and in defining the meaning, scope and limits of freedom of religion in particular.²⁸¹ Viewed in light of this discourse, the Nigerian Constitutional practice seems to transgress the accepted boundary that ought to be maintained between State and religion.

Traditionally the Northern States of Nigeria employ *Sharia* law and *Sharia* Courts to regulate civil matters of the Muslim communities. However, starting from 1999, twelve Northern States (Sokoto, Kebbi, Niger, Kano, Katsina, Kaduna, Jigawa, Yobe, Bauchi, Borno, Zamfara, and Gombe), introduced the formal implementation of the criminal aspects of *Sharia* legal code.²⁸² As a result the Christian communities in these States reacted fiercely to what they viewed it as a Muslim effort to lay the foundations for an Islamic, theocratic State.²⁸³

Consequently, in several areas violent clashes occurred, that took thousands of lives, destroyed a large number of churches and ruined several mosques.²⁸⁴

Though, most of the northern State officials claim that the application of *Sharia* legal system is confined only to Muslim communities,²⁸⁵ there are cases where the imposition of *Sharia* negatively impacts on non-Muslim minorities. For example in January 2008 in Kano State the *Hisbah* (*Sharia* law enforcement Militia), reportedly entered a predominantly non-Muslim city to confiscate alcohol and crack down on prostitution. In addition the *Hisbah* Board authorities sent a letter to the hotel owners and other licensed liquor distributors of the said city that the *Hisbah* is authorized to operate throughout the Kano State.²⁸⁶

The extension of *Sharia* legal system to criminal matters seriously violates the supremacy of the Constitution. Any law enacted in the country that conflicts with the Constitution is void to the extent of its inconsistency.²⁸⁷

²⁸⁰ Id, P.6, *See also*, Wolfgang Schauble, Federal Minister of the Interior, at the Hanns-Liije, "Religion and State" forum, in Hanover (2007), He says, The Basic Law is designed as a positive system which includes the Churches. While maintaining the neutrality required by the freedom of religion, the State works with the organized religious communities, ... based on Germany's history and tradition...References to God in our Basic Law are expressions of that, this explicit reference...also has to do with remembering our Nazi past-with experience of what enormous errors humans are capable of. It is, therefore, consciously formulated as a precaution against the omnipotence of politics.... [W]e saw in 1933 how a liberal system could be used against itself and destroyed. As a result the Basic law provides for a definitive Constitution that gives no one the right to use constitutional freedoms in order to do away with the Constitution. The constitutional system places limits on religious freedom. So no one has the right to overthrow the constitutional order in the name of religion.(www.en.bmi.bund.de/.../Reden_gtp=769692-3D1-html_nnn=true), last visited, 29/12/2009

²⁸¹ Gerhard Robbers, *The Permissible Scope of Legal Limitations on Freedom of Religion or Belief*, A German Perspective, University of Trier, P. 2, available at, (www.strasbourgconference.org/papers/legal%20limitations.pdf), last visited, 18/07/2009

²⁸² International Religious Freedom Report, cited above at note 196, P. 2

²⁸³ Nigeria Christian/Muslim Conflict, cited above at note, 225, P. 3

²⁸⁴ *Ibid*

²⁸⁵ *Religious Push Worries Critics*, P. 1.(articles.latimes.com/2000/feb/23/newster/mn-1710), last visited, 28/08/2009

²⁸⁶ International Religious Freedom Report, cited above at note 196, P. 3

²⁸⁷ *See*, Nigerian Constitution, Article, 1 (1) (3)

Though, such constitutionality issue has been presented to the Supreme Court. The Court has not delivered any ruling on the issue.²⁸⁸ It is worth noting that the Supreme Court of Nigeria is empowered to interpret the Constitution and can review any decision of courts (ordinary, religious, customary) in its appellate jurisdiction.²⁸⁹ This means the appeal from Sharia Court of appeal would be reviewed by ordinary judges of the Supreme Court, who need not have and often do not have any formal training in Sharia criminal law.²⁹⁰ The issue here is what would happen if the adjudication calls for judicial interpretation of the content, merits or doctrine of religious belief or practice is far from clear. Nonetheless, the Supreme Court of Nigeria failed to sketch the religion- State landscape in jurisdictional terms; it is unable or unwilling to address those matters properly.

The other point is that the Nigeria's attempt to accommodate religion in the public sphere seems to have gone too far, when one critically observed how far the State governments affirmatively promote religion. This is evident by the fact that the State governments are active in the construction of mosques or churches in universities and high school premises.²⁹¹ As can be observed from the actual situation on the ground, this practice creates more problems than it solves. Incident statistics suggest that universities and high schools are the most notorious hot spots of religious violence.²⁹²

The allocation of State funds for religious pilgrimages is also far beyond reasonable accommodation.²⁹³ Above all it is not compatible with the notion of secularism as it draws excessive governmental involvement in religious affairs which amounts to endorsement.

Some people have also alleged that several State politicians are hostages of their religious communities and use religious demands not for sincere principles but as a political tool to maintain power. As a result in their rush to score a political point they cause many public policies to have religious undertones, which may eventually spark violence and clash.²⁹⁴

Indeed, in democratic system the government must be responsive to guarantee and safeguard people's right to exercise their religious freedom so that the religious communities can assert

²⁸⁸ International Religious Freedom Report, cited above at note 196, P. 2

²⁸⁹ See, Nigerian Constitution, Articles, 233 (1), 233 (2) (b)

²⁹⁰ International Religious Freedom Report, cited above at note 196, P. 2

²⁹¹ Ibid

²⁹² Id., P. 4

²⁹³ Id., P. 2

²⁹⁴ Nigerian Sued for Mocking Sharia. Law Abuses, P. 1, (www.alarabiya.net/articles/2007/10/0740067.html), last visited, 28/07/2009. The northern governors argued that they were acting in the interests of public morality and that the people craved stricter Sharia compliance. Critics say they played on religious sentiment to gain popular support for their re-election bids.

their values in public. But, if religious institutions and religious communities conclude this gives them the right to impose their values on every one else, they will come against the legitimate limits on which a democracy must insist. In this respect the Nigerian experience is worrisome; under the pretext of religious freedom different religious fanatics are creating chaos time and again.²⁹⁵

The message of the very recent attacks committed in Bauchi and other States was clear. In July 26,2009 a militant group named itself “*Boko Haram*”, a Hausa expression meaning ‘Western education is sin’, allegedly sparked off the crisis, when its members launched an attack on a police stations in Bauchi that also quickly spread to Borno, Yobe, Gombe, and Kano States. It has been alleged that, this militant group opposed to Western education, which has been campaigning for the imposition of Sharia (Islamic Law), on the 36 States of the federation.²⁹⁶

In several States of Nigeria local militias have grown up, sometimes with the political support of State governors, producing extra legal enforcement of religious laws. Obviously the high degree of tension and suspicion is not confined to domestic matters; it extends beyond, to the international community. This was also demonstrated a couple of years ago by the fierce resistance in Kano State to the vaccination of polio, because of the allegations by some Muslim religious authorities that it was a ‘Western sabotage’ to sterilize the Muslim communities. This dispute has been a major stumbling block for the World Health Organization (WHO) in its final stages to eradicate polio from the planet.²⁹⁷

To conclude, Nigeria is a country suffused with faith that has become a powerful and divisive form of identity. Adding to the ethnic tension and disparities in the distribution of resources; religion serves on its part as a conduit for conflict and violence. This has been aggravated by the political establishment, for its excessive entanglement in religious matters to the detriment of the constitutional promise for secularism. The politicization of religion in the body polity is immense; religious fanaticism and favoritism have been politically employed to polarize the people and sustain unhealthy tension. In short, as far as religious freedom and secularism are concerned, Nigeria is not a success story.

2.4.6 The Federal Democratic Republic of Ethiopia

²⁹⁵ Religious Clash Looms in Nigeria as Christians Rebel against Islamic Law, (1999), P. 1 (www.independent.co.uk/.../religious-clash-looms-in-nigeria-as-christians-rebel-against-islamic-law-1131698.html), last visited, 29 July, 2009

²⁹⁶ Will Connors, Nigeria: Religious Riots Spread to Kano, Yobe, Borno, July 28, (2008). *The wall street Journal*, Page, A10, Dow Jones & company (2009). Religious conflict is still looming, BBC News, Dec., 29/2009

²⁹⁷ Princeton N. Lyman, Terrorist Threats in Africa, April 1, 2004. Testimony Before the House Committee on International Relations Sub Committee on Africa, “Hearing on Fighting Terrorism in Africa”, PP. 3- 4, (www.cfr.org)

Ethiopia is believed to be one of the oldest sites of civilization in the World.²⁹⁸ The Aksumite civilization is dated as far as the first century A.D. According to some accounts this civilization evolved from the Da`amat State that lasted from ca. 500 B.C. – 100 A.D., which was particularly located in northern Tigray and southern Eritrea.²⁹⁹

Christianity was first introduced to the Aksumite Empire approximately in the 330s A.D.³⁰⁰ The kingdom of Aksum officially adopted Christianity as a State religion during the reign of King Ezana in the year 335 A.D.³⁰¹ The EOC which dated in many respects from the early 4th century antedates the nation of Ethiopia itself.³⁰² The new Ethiopian State was built by a large succession of emperors; arguably the most powerful personalities were: emperor Tewodros II, who initiated the modernization project, Yohannes IV, who elaborated the empire building process, Menelik II, who consolidated the empire by bringing together numerous smaller kingdoms, the last emperor HaileSELLASSIE I, who culminated the process of centralization.³⁰³

Since the founding of the Ethiopian nation, the country has by and large seen itself as a Christian nation;³⁰⁴ its monarchs have affirmed allegiance to Orthodox Christianity.³⁰⁵ Religion was a major preoccupation of the emperors and a main function for the throne was the support for the Church.³⁰⁶ No emperor, however, powerful, has succeeded in keeping his throne while being in conflict with the EOC. Recall the abdication of Susenyos after his conversion to Catholicism.³⁰⁷

²⁹⁸ Richard Pankhurst, *The Ethiopians: A History*, (1998, 2001), Black Well, Oxford, P. 19

²⁹⁹ Fasil Nahum, *Constitution For A Nation of Nations: The Ethiopian Prospect*, (1997), The Red Sea Press, Inc, P. 5

³⁰⁰ Bahru Zewde, *A History of Modern Ethiopia, (1855-1991)*, (2nd ed., 2002), Eastern African Studies, P. 8

The conversion of the Aksumite king Ezana to Christianity in the 330s ushered a new chapter in the country's history.

³⁰¹ Assefa Fiseha, *Federalism and the Accommodation of Diversity in Ethiopia*, (2006, 2007), A Comparative Study, Revised Edition, Forum of Federations, P. 14. The Aksumite State lasted from first century A.D. to approximately 1150. It became a Christian State at about 335 A.D. making the third political entity in history, after Armenia (301 A.D.), and the Roman Empire (312 A.D.)

³⁰² Gebru Tareke, *Ethiopia, Power and Protest: Peasant Revolts in the Twentieth Century*, (1996), 11-D Princes Road , Lawrence Ville, NJ 08648, The Red Sea Press, Inc, Publishers and Distributors of Third World Books, PP. 37-38. The new State (Ethiopia) was formed by the last quarter of the 19th century through a dual process of centralization and territorial expansion.... Only since the second half of the 19th century did the successive emperors, Tewodros II, (1855-68), Yohannes IV, (1872-89), and Menelik II, (1889-1913), reconstruct the Abyssinian kingdom and considerably expand the material base of a revived monarchical power.

³⁰³ Teshale Tibebe, *The Making of Modern Ethiopia, 1896-1974*, (1995), The Red Sea Press, Inc., Lawrence Ville, NJ 08646, P. 31 Compared to Yohannes's imagined boundaries of Ethiopia, Menelik's accomplishment was rather limited. Yohannes IV was a key architect in the making of modern Ethiopia. Emperors Tewodros II initiated, Yohannes IV elaborated, Menelik II consolidated, and HaileSELLASSIE I completed the process of transformation from parcellized sovereignties to centralized sovereignty.

³⁰⁴ John Markakis, *Ethiopia: Anatomy of A Traditional Polity*, (1974), Clarendon Press, Oxford, P. 13. Christianity was introduced in the 4th century A.D. The new religion was to take root and grow to become the dominant cultural phenomenon in the Ethiopian highlands, the only place on the African continent where Christianity managed to survive as a truly indigenous creed.

³⁰⁵ Id, P. 37

Tradition perceives the authority of the throne in terms that are profoundly religious. The source of authority in this system is located at the top of the hierarchy, and the direction of its flow is downwards. The ultimate source of authority, is God, while its terrestrial exercise is entrusted to the emperor. Ethiopian rulers freely invoke God's name on their own behalf and not in vain.

³⁰⁶ Id, P. 33

Interdependent and mutually reinforcing, throne and church have been the twin foci of the forces of societal unity, and its symbols of continuity and uninterrupted autonomy.

³⁰⁷ Id, P. 15

Emperor Za Dengel (1603-4), secretly converted by the Catholic Jesuit missionaries, and consequently killed. His successor

For similar reasons Lij Eyasu lost the throne because of his alleged sympathy for Islam.³⁰⁸ Many scholars partly attribute the isolation of Tewodros and his defeat by the British to his conflict with the Church following his decision to confiscate its land properties.³⁰⁹

The custom of inalienable Imperial land grants to the Church further substantiates the view of the Ethiopian State as the instrument of the Ethiopian Church,³¹⁰ so too does the decisive role of anointment; far from being a mere formality or a recognition of a right it was believed to be the real instance of consecration, the moment the emperor was invested with actual power.³¹¹ Thus, the emperors at their coronations were expected to declare their utmost allegiance to the EOC.³¹² Moreover, Ethiopia's religious tradition is reflected in the day to day life style of the people, and no where this spiritual energy echo more than in the Ethiopian Orthodox Church.³¹³ Hence, the EOC was very much part of the Ethiopians national life. Observing this fact Eyayu Lulseged wrote the following; "The strong identification of faith and nation reached its apex in medieval Ethiopia when kings invariably adopted a policy of religious uniformity to effect political unity in the country".³¹⁴ He further went on to say: "The close unity of the theme of national defense

Susneyos (1607-32), conversion to Catholicism sparked rebellion against him and eventually abdicated and replaced by his son Fasiladas (1632-67).

³⁰⁸ Bahru Zewde, cited above at note 257, PP. 121, 124

Iyyasu was also a challenge to the long established hegemony of Orthodox Christianity in Ethiopia. His marriages to the daughters of the Muslim chiefs were prominence; marriages into the ruling families of the Christian regions, for example, Wallaga, Gojjam, Yajju were played down. His construction of mosques was highlighted, his founding of churches like Quachane Medhane Alem, in the northern outskirts of Addis Ababa, and his endowments to monasteries like the famous Debra Libanos, in northern Shawa, were conveniently ignored. The main charge levelled against him in the coup of 1916 became apostasy. His Muslim ancestry (his father Ras Mikael was after all Muhammad Ali, before 1878), lent credibility to the charge.

³⁰⁹ Id, P. 35

Like all modernizing rulers Tewedros realized that introducing far reaching reforms was impossible with out a secured financial base. It was in an effort to solve this problem that he came into collision with the Ethiopian Orthodox Church, that ultimately proved his undoing. It was the vital question of land... which made the Church a sworn enemy of the emperor. In a question of striking directness, Tewedros enquired of the clergy in 1856: 'what shall I eat and with what shall I feed my troops? You have taken half the land as *masqal maret* and the other half as *rim* and *gadam*', (Tewedros was here referring to the three of the various categories of church land). The response of the clergy was a medieval as the emperor's question was modern. He was told to roam from one province to another and live off the land; as in the past. Tewedros found the suggestion not at all attractive. After four years of procrastination in view of strong clerical opposition, he appropriated what he deemed was land in excess of the clergy's requirements and distributed it among tribute paying peasants.

See also, Fasil Nahum, cited above at note 256, P. 11. The need to raise funds for his central administration brought Tewedros into conflict with the interests of both church and nobility. To solve his financial difficulties, Tewedros looked to the vast properties of the church and nobility. His relationship with both deteriorated progressively. He was forced to quash one rebellion after another. At one point, he had to imprison the *Abun*. His dreams were shattered as he alienated both church and nobility.

³¹⁰ See, Bahru Zewde, cited above at note 257, P. 193

³¹¹ See, Fasil Nahum, cited above at note 256, PP. 5-6

The history of the Aksumite Empire is largely the story of the growth of the monarchy and its relationship with the church. Once the church was introduced; it lost no time in acquiring strength and authority. ...the church's monopolistic influence in the court (governance) and through its myriad of churches and monasteries, holidays and feasts, priests, monks and nuns, the church had become securely fixed in the Ethiopian psyche. See also, Articles 20-25 of the 1955 Constitution, it is constitutionally mandated that each coronation must be administered, by the Archbishop of the EOC. The Crown Prince, members of the crown prince, and members of the Imperial parliament are required to take an oath in the name of the "Almighty God" as professed by the EOC, when they conferred the Imperial status or assuming the office.

³¹² Ibid

³¹³ Eyayu Lulseged, "Why Do the Orthodox Christians in Ethiopia Identify their Faith with their Nation?", in Richard Pankhrust et al (eds.), *Proceedings of the First National Conference of Ethiopian Studies*, April, (11-12, 1990), Addis Ababa, P. 4

³¹⁴ Id, P. 5

and Christian identity could also be inferred from the traditional practice of Ethiopian emperors who went to battle fields accompanied with the *tabot* and cross.”³¹⁵

According to Fasil Nahoum, prior to the enactment of the first written Constitution of 1931, Ethiopia had traditional Constitution in the form of customary laws and canon of the kings (Fetha Nagast and Kibre Nagast), that embraced some legal principles on ecclesiastical and secular matters.³¹⁶ These governed the actions and behaviors of and relationships between the monarchy and nobility as well as between members of society.³¹⁷ Since the introduction of the 1931 Constitution, Ethiopia has seen three major Constitution making episodes. The 1955 Constitution was suspended and eventually abrogated following the demise of Imperial regime in 1974, which was signified by a revolutionary uprising. The 1987 Constitution of the PDRE promulgated under the military rule was nullified when its architect was defeated by the incumbent ruling front, EPRDF, in 1991. In July, 1991 a Transitional Charter that served as an interim Constitution for the transitional period (1991-1994) was promulgated. In 1994, the Constitution of the FDRE was ratified by a constitutional assembly and came into effect in 1995. Constitution making and unmaking process in Ethiopia are, thus, outcomes of frequent changes in the political landscape characterized by shifting of power between competing political forces.³¹⁸ It is widely believed that the promulgation of the 1931 Constitution was mainly propelled by the urge for consolidating absolute power under the custody of emperor Haileselassie, who used the Constitution to entrench his twin policies of centralization and modernization within a juridical frame work of emergent absolutism.³¹⁹ This was effected by reducing most of the traditionally established rights and privileges of the nobility.³²⁰ Interestingly enough, this Constitution did not have any single provision with respect to freedom of religion. In fact, it did not contain any provision pertaining to the status of the EOC either. As Fasil Nahum pointed out, this conscious omission signifies the emperor’s desire to stand apart and distance himself from the influence of the Church’s long established traditional power.³²¹

³¹⁵ Id, P. 6

³¹⁶ Fasil Nahum, cited above at note 256, P. 5

³¹⁷ Ibid

³¹⁸ See, Assefa Fiseha, cited above at note 258, PP. 25-54

³¹⁹ See, Bahru Zewde, cited above at note 257, P. 140

³²⁰ Ibid,

The debate preceding its promulgation was illustrative of the continuing struggle between centralism and regionalism...the compromise formula that eventually emerged through the emperor’s intervention was clearly weighted towards centralism; the concession to the hereditary nobility being that they would be granted hereditary rights over tributary land (*reste gult*) on the basis of their services to the State.

³²¹ See, Fasil Nahum, cited above at note 256, P. 21

Several factors necessitated the revision of the 1931 Constitution in 1955; the changing political and socio-economic environment in Africa in general and Ethiopia in particular in the 1950s,³²² Eritrea's federation with Ethiopia under the UN sponsored arrangement of internal self rule,³²³ and the growing complexity in the mode of operation of the Imperial government, among others.³²⁴

Significant changes that were ushered in by the 1955 Constitution include introduction of universal adult suffrage, creation of a bicameral legislature, and formal recognition of rights and liberties purportedly to be enjoyed by citizens.³²⁵ The modern concept of religious freedom as a right of citizens was recognized constitutionally for the first time. However, unlike its predecessor this Constitution expressly proclaims that the EOC is the officially established State religion.³²⁶

The crisis of the Ethiopian State and the nature of opposition to Imperial rule entailed profound changes in the political landscape, as signified by events and occurrences associated with the revolutionary upheavals of the mid 1970s.³²⁷ In February, 1974 the emperor attempted to dispel the popular resentment by pledging to come up with another more liberal and progressive cabinet purportedly with the view to institute a Prime Minister directly responsible to the parliament and having a real executive power who can appoint people to the ministerial portfolios.³²⁸ However,

The introduction of the written Constitution was a low keyed indirect coup d'etat on the traditional Constitution. It was designed to enhance both change and stability in favor of the monarchy by altering the power structure of the traditional monarchy. It made monarch less accessible to the limiting influence of church and nobility. The Constitution's silence regarding the church effectively removed that venerable institution from the fore front of constitutional power play at least on paper.

³²² Id, P. 25

In that quarter century the social process had altered to such an extent that the constitutional frame work provided by the written Constitution was visibly inadequate. The World war had affected Ethiopia tremendously. The short Italian occupation had created closer ties with the outside World. In 1945 Ethiopia became the founding member of the United Nations.

³²³ James C.N. Paul and Christopher Clapham, Ethiopian Constitutional Development: A Source Book, Vol., 1 (1967), Oxford University Press, P. 387. Inadequacies in the 1931 Constitution became apparent with the changing political climate of the early 1950s, and especially with the federation with Eritrea in 1952. It contrasted unfavorably with the liberal Constitution bestowed on Eritrea by the United Nations, and there were also doubts about its applicability to Eritrea and hopes that a new Constitution might be used to bring Eritrea more closer under the control of the central government in Addis Ababa. Ethiopia was being criticized for the illiberality of the existing Constitution both abroad and by the growing number of educated Ethiopians, and it would be wisest to anticipate demand for change before it became obvious that the government was giving into pressure.

See also, John Markakis, cited above at note 261, P. 275

Two of the basic motives that inspired the constitutional reform in 1955 were the same ones that had inspired the constitutional experiment of 1931, namely concern for Ethiopia's external image and centralization of governmental authority in the hands of the monarch. Other African States, advanced in kind; and Eritrea, with whom Ethiopia had formed a federal union, already possessed a Constitution far more modern than Ethiopia's.

³²⁴ *See*, James C.N. Paul and Christopher Clapham, cited above at note 280, P. 393

³²⁵ *See*, The 1955 Constitution, Articles, 37-64. *See also*, Assefa Fiseha, cited above at note, 258, P. 28

³²⁶ *See*, The 1955 Constitution, Article, 126

³²⁷ *See*, Bahru Zewde, cited above at note 257, P. 229

The popular upsurge of 1974, which attained its peak in the last days of February, was essentially an urban phenomenon. Although, later there was some agitation among the peasantry the countryside remained relatively quiescent. But in the cities and towns different sectors of the population roes in various acts of defiance- the students, teachers, the unemployed youth, civil servants, taxi drivers, and the soldiers.

³²⁸ *See*, Assefa Fiseha, cited above at note 258, PP. 29, 38

In 1966 the recommendation to make the Prime Minister become the effective head of the executive with the power to appoint his cabinet; leaving the emperor in a largely ceremonial role was partly implemented when the Prime Minister become formally

this was merely a desperate attempt that lacked the necessary conditions for its realization and the clock was ticking against the Imperial regime.³²⁹ The Ethiopian student movement had reached its climax, “land to the tiller” and ‘question of nationalities for self determination’ were the catching slogans of that time.³³⁰ Initially the revolution was applauded by an overwhelming majority of the Ethiopian people. Students, teachers, peasants, labor unions, taxi drivers, junior rank soldiers, and religious communities join hands to overthrow the Imperial regime.³³¹ John Markakis and Nega Ayele described the religious dimension of the uprising as follows:

Even more unprecedented and historically significant was the mobilization of the Ethiopian Muslims. The socially introverted and politically passive urban Muslim community now asserted itself in the biggest demonstration ever staged in the country. On 20, April (1974), 100,000, people many of them Christian sympathizers; marched through the streets of Addis Ababa demanding an end to the traditional and official discrimination practiced against Islam in Ethiopia. The day before, a Muslim delegation had presented a list of demands to the Prime Minister. They sought to redress for age old wrongs suffered by Islam in the Christian empire. They asked that this faith be recognized by the State and given financial support, Muslim courts be recognized by law, and Muslim holidays be nationally celebrated. They demand all that Muslims be allowed freedom to form associations, to broadcast over the radio and television, and to be given equal opportunities of employment in the civil, military and diplomatic services. Furthermore, Muslims asked to be given land like all other Ethiopians. Finally, a plea was made that the term “Ethiopian Muslims” be used in public, instead of the regime’s invidious favorite ‘Muslims in Ethiopia’ .³³²

The revolution dismantled the power base of the ruling class, and the centuries old Solomonic dynasty brought to an end.³³³ It also ended the age old symbiotic relationship between the monarchy and the powerful Ethiopian Orthodox Tewahdo Church. This revolution brought radical changes to the political and economic landscape of the ancient regime of Ethiopia.³³⁴ The

responsible to selecting other ministers, but later developments indicated that it was a far too premature gesture to be taken seriously. The same dilemma was to be repeated in 1974 when the revolution was about to erupt. *See also*, Bahru Zewde, cited above at note 257, P. 231, he stated that, under this massive if uncoordinated popular pressure, the regime buckled. On 28, Feb.1974, the cabinet of Prime Minister Aklilu HabteWald was forced to resign....Lij Endalkachew Mekonen was instructed by the Emperor to form a new cabinet. Endalkachew formed a fresh team, ...(but) it made little impression on the popular tide of protest, which continued to expand and to assume ever more radical form and orientation.

³²⁹ Ibid

³³⁰ Id, PP. 223, 225, 229

³³¹ John Markakis and Nega Ayele, *Class and Revolution in Ethiopia*, (1986), The Red Sea press, Publishers and Distributors of Third World Books, 556 Bellevue Avenue, Trenton, New Jersey, 08618, P. 84. *See also*, Bahru Zewde Cited above at note 257, P. 231, On April, 1973, in an emphatic call for social redress, over 100,000 Muslims and their Christian sympathizers came out in a mammoth demonstration chanting slogans for religious equality, separation of Church and State, and the national observance of Muslim holidays, calls for the dismissal of high officials in government ministries and departments were common.

³³² Id, John Markakis and Nega Ayele, P. 94

³³³ Bahru Zewde, cited above at note 257, P. 209

The revolution of 1974 terminated not only one of the longest reigns in Ethiopia’s history, however, but also the Solomonic Dynasty; which counted its life span in terms of Millennia rather than centuries.

³³⁴ Teshale Tibebe, cited above at note 260, P. 168

early months of the revolution, thus, ushered in a new era for the Ethiopian Muslims, and to all peace loving Christians, who had suffered a lot during the Imperial regime. However, events quickly deteriorated with the ascendancy of Marxism-Leninism and the development of totalitarianism centered on the person of Mengistu H/Mariam.³³⁵ In the period between 1974 and 1987, the Provisional Military Administrative Council ruled the country without Constitution, but it went through various stages of changes and had eventually transformed itself into what was known as “the Workers’ Party of Ethiopia”, in an attempt to substitute the military rule with a civilian one.³³⁶ It was in the name of the Working People’s of Ethiopia that the Constitution of 1987 was promulgated and declared the country “the People’s Democratic Republic of Ethiopia”, (PDRE).³³⁷ Chapter six of the Constitution was dedicated to issues of citizenship, freedoms, rights and duties of citizens.³³⁸ Among other things the Constitution pledges to guarantee freedom of conscience and religion, and it also proclaimed the separation of State and religion.³³⁹ Unlike the Imperial Constitution, the PDRE Constitution embraces the modern concept of secularism for the first time in the country’s history. However, the entire move was just a facade. Besides to the government’s inherent hostility to religion in general, the regime continued its policy of repression and murderous campaign against its own people, contrary to the constitutional promises.³⁴⁰ Derg’s constitutional maneuvering only signifies its obsession of window-dressing.

A coalition of opposition forces- the Ethiopian People’s Revolutionary Democratic Front (EPRDF), overthrew the Derg in 1991. In July, 1991 the EPRDF called a national conference made up of representatives of the majority of the different armed factions and other political and ethnic groups.³⁴¹ That conference produced the “Transitional Period Charter”, which served as an interim Constitution until an elected government was instituted and a permanent Constitution

The revolution destroyed the power base of the ruling class of the Ge`ez civilization. By daring to declare Christians and Muslims equal, by separating State and Church, by expropriating land from the land lords and making it available to the peasants, and by using a new State language- the language of Marxism...

³³⁵ See, Bahru Zewde, cited above at note 257, PP. 237-238, 248

³³⁶ Id, P. 255

³³⁷ Ibid

What remained for Mengistu was to institutionalize the power that a combination of cunning and good luck had thrown into his lap. The process proved to be a fairly laborious one. Nearly a decade elapsed before the new State structure assumed its final form in 1987 under the name of the People’s Democratic Republic of Ethiopia (PDRE).

³³⁸ See, 1987 PDRE Constitution, Articles, 31, 43-48

³³⁹ See, 1987 PDRE Constitution, Article, 46 (1-3)

³⁴⁰ See, Fasil Nahum, cited above at note 256, P. 29

The communist ideology the Derg articulated with its promotion of godlessness and its “demotion” of religion (as the opiate of the People) naturally did not sit well with the leadership and the faithful of the various religions.

³⁴¹ See, Assefa Fiseha, cited above at note 258, P. 47

drafted and adopted.³⁴² In the mean time the EPRDF led transitional government embarked on a wide ranging process of democratic decentralization. In many respects the “Charter” was a precursor to the 1994 Constitution.³⁴³ On top of its move towards decentralized system of governance the Transitional Charter demonstrated a profound commitment for the respect and protection of fundamental human rights and freedoms. Thus, the first Article of the Charter states, “Based on the Universal Declaration of Human Rights of the United Nations; adopted and proclaimed by the General Assembly by resolution 217 A III of 10, December, 1948, individual human rights shall be respected fully, and without any limitation whatsoever...” The Charter goes on to mention specifically the “Freedom of conscience, expression, association, and peaceable assembly”; and “the right to engage in unrestricted political activity and to organize political parties, provided the exercise of such right does not infringe upon the rights of others.”³⁴⁴ These rights are particularly paramount as they are rights Ethiopians have never enjoyed during the past successive governments. Like other fundamental rights, freedom of religion has been realized, individuals and communities began to enjoy this right; as a result various preexisting religious groups began to flourish, and a number of new denominations mushroomed astonishingly.³⁴⁵ The current Ethiopian Constitution was ratified on December, 8, 1994, and took effect on the 21st, August, 1995. This Constitution officially replaced the nation’s centralized unitary system of governance with a federal arrangement proclaiming the birth of the “Federal Democratic Republic of Ethiopia” (FDRE).³⁴⁶ According to this Constitution the federation consists of nine member States having equal rights.³⁴⁷ This Constitution guarantees a number of fundamental human rights and freedoms, including freedom of religion, belief and opinion. Article 27 guarantees everyone’s right to freedom of thought, conscience and religion. Article 11 provides for the separation of religion and State; it declares that there is no State religion, and prohibits State interference in religious matters and vice-versa. Article 3 guarantees equality of religions, and as per Article 25 discrimination based on religious grounds is constitutionally prohibited.

³⁴² Id, P. 48

³⁴³ Id, P. 49

³⁴⁴ See, The 1991 Transitional Period Charter, Article, 1 (a, b)

³⁴⁵ The recent figures of registered religious denominations in the Ministry of Justice showed the Protestant and Pentecostal religions are the fastest growing in this country. See also, The 2007, official census report.

³⁴⁶ See, Proclamation No. 1/1995, Articles , 1-3

³⁴⁷ See, FDRE Constitution, Article, 47 (1)

The Constitution envisages a democratic society in which pluralism of belief is an essential feature. That is why Ethiopian secularism seems to tolerate individual religious manifestations in public domain; of course, without the connotation of government involvement.³⁴⁸ Arguably, Ethiopian secularism is not simply about removing religion from societal life, but about removing it from State affairs. Here one needs to distinguish the concept of “society” from the concept of the “State”. In this sense, the Constitution seems to warrant the neutrality of the State towards religion, hence, this can not be understood as an absence of religion in the society, but as religious pluralism- of different religious options equally present, manifested and enjoyed in the society. Ethiopia’s concept of secularism as laid down in the Constitution is stricter than that of Indian and Nigerian secularism.³⁴⁹ This strict secularism manifests itself, for example, in the prohibition of the presence of any religious influence in the educational context. The State promotes religious freedom through a strict separation of religion and government, instead of by indulging itself in religious matters. Of course, in some respects Ethiopian secularism is even stricter than the United States’, when one looks at the role of religion in politics and educational system.³⁵⁰ In America, one can notice a highly vocal religious politics; where as the Ethiopian secularism does not seem to encourage the presence of religion in the political discourse. Comparing it with the French version, Ethiopian secularism seems less stringent. For the French secularism means almost absence of religion from public life. This means not only the separation of politics from religion, but also the prohibition of religious symbols from the public sphere in any case or context where they might be perceived as infringing on the primacy of the French civil religion.³⁵¹ Contrastingly, Ethiopian secularism gives the higher deference to religious manifestation even in government setting. The Constitution also celebrates religious pluralism.³⁵² Of course, in Ethiopia the lack of awareness on the part of the public as to what specific rights are recognized by the Constitution and the international human rights instruments Ethiopia has ratified, and the absence of a vibrant culture of right assertiveness coupled with the passive role

³⁴⁸ See, FDRE Constitution , Preamble and Articles, 3 and 8

³⁴⁹ See, Indian Constitution, Articles 25 (2) (b), 28 (2), 30 (1&2), Nigerian Constitution, Preamble, and Article 38 (3).

³⁵⁰ See, For example, Paul Horwitz, *Religion and American Politics: Three Views of the Cathedral*, (2008), University of Alabama School of Law, PP. 1-25, Electronic copy available at: (<http://ssrn.com/abstract1267445>), See also, Johnny Rex Buckles, “Does the Constitutional Norm of Separation of Church and State Justify the Denial of Tax Exemption to Churches that Engage in Partisan Political Speech?”,(2008),University of Houston , *Public Law and Legal theory Series-A-25*, PP. 1-38

³⁵¹ Dominique Dercherf, “French Views of Religious Freedom”, (2001), *Harvard Center for International Affairs*, available at , (<http://www.brookings.edu/fp/cusf/analysis/relfreedom.htm>), PP, 1-8, last visited, August, 13, 2009

³⁵² The FDRE Constitution in its entirety embraces and celebrates cultural, linguistic, and religious diversity and promotes pluralism.

of our courts in interpreting the constitutional rights may be some of the impediments to articulate and understand the nature of Ethiopia's secularism in depth.

In spite of this shortcoming, we are of opinion that our secularism continues to influence life for good and we should, therefore, recognize the benefits we currently have and the dangers of losing them or giving them away. Besides to some emerging religion related tensions and conflicts, at present, the discussion about the scope and limits of religious freedom in Ethiopia is being driven by religious issues relating to State schools and universities.³⁵³ These issues are currently being discussed in the wrangling about veiling and prayer in schools. In general the absence of a precise elaboration of the normative and/or legal content of religious freedom and the lack of definition of the central concept of our secularism seems to invite in depth survey and analysis.

2.4.7 Conclusion

The first theme of this chapter revolves around the historical development of religious freedom and separation of State and religion. The early history of Western Christianity is characterized by a bloody reality starting when an important rebellion against the Roman Catholic Church took on a religious slant leading to the split in European Christendom between Catholic and Protestant. This split sparked off a series of religious wars which were ultimately to be responsible for the single greatest catastrophe to ever strike the entire white race of Europe.

The Reformation is the name given to this 16th century religious uprising. Although, the Reformation is formally classed as having begun with the rebellion led by Martin Luther, the socio- political conditions which caused the rebellion had been in existence for long. The emerging European nationalism objecting to the fact of the tight Roman papal authority had been an aggravating factor. And, different princes saw it as an opportunity to gain independence from Rome. The dogmatic intolerance of the Roman Catholic Church, its authoritarian, centralized governance structure, its rigid stance on unity of faith within the whole empire pushed many to revolt against its hegemony. The reformists strive for freedom of the Church from tyranny of the Pope, freedom of individual conscience from canon law and clerical control, freedom of State

³⁵³ In Ethiopia there are emerging concerns about the scope and limits religious expression in the context of public schools, colleges, and universities. In some instances even students staged demonstrations, claiming for broader religious manifestation in schools.

officials from church power and privilege. St. Augustine's theory of 'city of God' and 'city of man', Luther's doctrine of the 'two kingdoms' attracted many and served as a rallying cry of the early reformation.

Moreover, the Enlightenment ideologies of John Locke and others have contributed a lot in distinguishing the business of civil government and that of religion and tirelessly advanced this idea until it made a permanent impression. This movement of European Enlightenment spread to America, where it gave an inspirational thrust for the American intellectual rationalism that gradually led towards an atmosphere of religious pluralism, toleration and valued freedom of choice in matters of faith. As a result the idea of State-religion separation as guarantor of religious freedom has been adopted, and today many nations of the World, include formal guarantees of religion-State separation in their Constitutions.

The second theme discusses the nexus between religious pluralism and secular democracy. Thus, it has been noted that religious pluralism is a broader concept it embraces religious tolerance, religious diversity, and helps create an enabling environment to work together on common interest. Religious pluralism celebrates mutual respect and understanding among various groups and calls for robust form of engagement with one another. Therefore, when secular democracy works properly, religious pluralism can flourish, despite the fact religious convictions may differ sharply. Clearly it would be premature to offer a final evaluation of secularism at this point, it is important to note, however, the central theme here is, it is not only religious pluralism is compatible with secular democracy, but also it is only in secular democracy religious pluralism can be fully sustained.

The third theme attempts to highlight the recurring controversies as regards the role of religion in the secular pluralist democracy. Three views have been elucidated in this respect, the first view holds in a pluralistic society religion can be a powerful source of social capital and it legitimately wishes to occupy the public square. Therefore, religious values and reasons in the public political discourse can help to enrich and extend the market place of ideas and can help build a foundation of democratic governance. On the contrary, however, excluding religious reasons from public discourse will run counter to the democratic ideals of non-discrimination and fairness.

The second view maintains that religion should not interfere with or be integrated into the public affairs of society. According to this premise in a liberal democracy religion is a purely private affair. Of course, people are, and should be; free to believe and practice what they please, but

they can not make religion a public affair. In other words religious views often can not easily be compromised, for religious arguments, reflecting absolute truths revealed by supra natural power, do not bend themselves to public scrutiny or aggressive debate. Therefore, this position argues that public reason is the best alternative for it makes the public discourse accessible to all, where people can dialogue with common language and can possibly arrive at compromised settlement.

The third view seems to position itself on the middle ground; this view prescribes a rule of 'engagement' for religious dialogue and calls for rules of 'translation'. According to this position in a pluralistic democracy people from all walks of life, including those with religiously motivated ideas are welcomed to actively participate in the public political debate, however, when religious people opt to engage in such dialogue they have to cast their reasoning in as much as practicable into commonly accessible terms open to all and when they forward religious justification they must expect the regular scrutiny of critical debate.

The final theme of this chapter focuses on the diverse experiences of countries as regards secularism. Accordingly, different countries have varying degrees of separation between government and religion and have adopted various models for the treatment of religious freedom. Due to cultural, historical and political considerations they implement principles of secularism and of religious freedom differently and produce different out comes.

In America the philosophical impetus behind secularism by and large lies in protecting religion from the State. Giving people the right to worship free from government interference is the fundamental notion of American secularism. Although, religious freedom and the principle of secularism later guaranteed by the founding documents of the U.S., the desire for the separation of Church and State was not as central to the birth of the American nation as it was to that of the French Republic. According to the U.S. constitutional jurisprudence the principle of secularism erects a strict wall of separation between government and religion. However, this notion of separation has been the subject of intense debate and controversy. Two opposing views are worth noting in this respect. The first view which is known as "*non-preferentialist*" holds that the Establishment clause only forbids the government from favoring one religion over others, but does not prevent government from aiding religion in general, as long as it does so evenhandedly. The second view insists on the idea that the Establishment clause commands strict governmental neutrality on all religious issues, including neutrality between religious beliefs and non-religious

beliefs. Though, the U.S. Supreme Court was not always consistent in its decisions it plays a crucial role in clarifying the scope, and meaning of the Establishment clause and free exercise clauses and in enriching this sort of debate. In the American system religion is not as such necessarily a private affair; religion can be brought into the public sphere, as long as the government does not promote it. Of course, this lack of a clean break between the public and private sphere is not without implication, some religious institutions involve in political campaign in favor or against any candidate run for public office, indeed at times at the pain of losing their tax exemption privilege. According to the American liberal approach, to disallow public expression of religion would be to burden the individual in favor of society at large. In this regard, the free exercise clause seems to merit more protection than the establishment clause. For example, one of the basic standards developed by the Supreme Court is that, in the case of limitation where the government enacts a law that singles out any religious group or religious expression it is viewed as presumably unconstitutional. This and other laws like the “Equal Access Act”, guarantee the equal opportunity of religious and non-religious expressions alike. However, recent Supreme Court landmark decisions revealed that, where the governmental law is neutral and generally applicable having a clear secular goal, the government is relieved from the burden of showing compelling state interest, even though, the challenged law incidentally burdens religious expression. In matters of religious expression especially in the public school context the U.S. approach is much reliant on “individualized accommodation” model, which places the burden on the individual student and/or her/his family who seeks accommodation in a given school to bear the task of stating their affirmative claim to an exemption from any dress code or any generally applicable rule and bear the burden of proposing a specific compromise with the local school board or school principal. In general the U.S has long been a country of ‘migration’ though, by and large from Europe in which many different groups of people have settled each of them has left some thing of their traditions and culture. It has also had an experience of diverse Christian religious traditions and has had perhaps the broadest contact with various cultures, factors that have forged a nation of relatively tolerant and pragmatists.

In France the historical roots of secularism are strong and fundamental to the Republic’s identity. In the time leading to the French Revolution the clergy was viewed as complicit with the monarch in causing the social crisis. Hence, the French people moved to culminate the church’s intervention in the State politics. As a result one of the founding principles of the Republic was

secularism by and large in the sense of protecting the State from religion. For France it is, therefore, the Republic and the notion of Republican unity, the pride in the culture where all are equal that defines the self. The French version of secularism is called "*laïcité*", which is characterized by two separate elements: legal and ideological *laïcité*. The former insists on a very strict separation of religion and State against the backdrop of the longstanding conflict between the Church and government that resulted in a law regulating very strictly the presence of religious expression in the public sphere, particularly in public schools, the latter claims to provide a value system common to all citizens by purging out religion to its private sphere. Therefore, every citizen is expected to live up to the Republic's basic ideal, indeed one of them is *laïcité*. This is also driven by the deeply held motive of the Republic known as '*intégration*', which others referred to as '*assimilation*'. The French model seem to have behind it the fear inherent in the political system giving priority to the existence of separate communities would undermine the efforts of integrating the individual into the mainstream French culture.

Turkey, whose population is overwhelmingly Muslim, is also considered to have practiced the *laïcité* version of secularism since its foundation as a Republic. The first president of the Republic Mustafa Kemal (Ataturk) was credited for his bold initiatives in radically reforming the nation to take a fundamental departure from the rule of Islamic Caliphate to modern secularist path. Ataturk's reform measure was quick, fundamental and militant. When one closely looks at the specifics of the reform, he/she can easily notice that in some aspects it was even stricter than that of the French version. But, generally viewed, while France comes from a Roman Catholic tradition and Turkey from an Islamic one, secularism in Turkey and secularism in France present many similarities. Both of them are excessively sensitive if not zealous in protecting the public sphere against religious expression. What makes Turkey different in this respect is that its Armed forces have maintained a vigilant watch over the political secularism and have attempted to prove this through successive coups. Today what is the cause of concern for Turkey's secularism is the mounting pressure of Islamist parties that aspire to control the political machine and afterwards to introduce Islamic values in the public sphere.

Legally speaking India is a secular State. The Constitution provides for accommodating and tolerant version of secularism. The Constitution of India prohibits religious instruction in public schools that are totally owned by the State. However, it permits religious education in schools established by endowment, while they are administered by the State. Ethnic or religious

minorities are also allowed to establish and administer institutions that can impart religious instruction along side secular education, even they receive financial grant from the State. Many States of India enacted religious freedom laws that carry anti-conversion provisions with respect to some specific segments of the community especially those considered as lower casts. These laws are aiming to curtail coercion and allurements of vulnerable groups, but the States' action may give rise to some Constitutional issues, the right to propagate one's religion to others or the right to change religion. Though, India has largely a secular Constitution, in practice it is not strong, this may be attributed to the fact that the vast majority of people are religious or communal. As a result in various occasions its secular credentials have been plagued by communal riots. The perennial conflicts between the Hindu fundamentalists and Muslim militants have also been responsible for the death of thousands and destruction of various temples and mosques.

Constitutionally speaking Nigeria is also a secular State, though; there is explicit reference to God in the preamble of the Constitution. Sharia has been in force for many years in northern Nigeria where the majority of the population is Muslim, but until 1999 its scope was limited to personal status and civil law. The manner in which the criminal aspect of sharia law was introduced and applied since 2000 in the twelve States of northern Nigeria coupled with fears and suspicion of many Christians who view it as a step towards forming Islamic theocratic States, sparked off clashes between these two religious communities. As a result in the frequent violent clashes thousands of lives have been lost and a number of churches and mosques have been burnt down. The disturbing phenomenon in Nigeria is the State governments are highly entangled in religious matters. It has been observed that States officially sponsoring religion, funding religious pilgrimages, construct mosques and churches including in public school premises. As can be gathered from the recent developments, these practices do not seem to serve for the good cause of religious freedom and secularism. Rather, they are only adding fuel to the already fragile situation in that country, and embolden the religious fanatics that strive to impose their insanity on the majority of the innocent population.

In Ethiopia, though, the concept of secularism was introduced during the Derg regime, that model of secularism was not of a gratifying nature. The military government had a temptation to secularize the entire society and made a futile attempt to substitute its communist ideology to be professed as a faith. As the government was highly suspicious towards the religious, especially to

the Protestants by associating them with what it perceived as agents of ‘Western Imperialism’, hence, there were times it committed an out right persecution against some of them. In many important respects, the FDRE Constitution represents a radical departure from its predecessors. The Constitution took the classical liberal path as regards religious freedom and secularism, by adopting the strict notion of secularism, i.e., placing a wall of separation between the State and religion. At practical level the incumbent government endeavors to balance the interest of religious freedom and the imperatives of secularism, hence, by and large there are appreciable developments in this respect. Of course, currently there is an ongoing debate and wrangling as regards the place of religion in schools and some conflicts of religious nature have been witnessed in the recent past. These emerging tendencies seem to pose a challenge to our principle of secularism and give a clear signal that the government should continuously strive to strike an appropriate balance between the constitutional values involved.

In sum, each of these models has its own distinct advantages and disadvantages. Despite the wide range of differences among these countries, at least constitutionally it is also necessary to keep in mind that there are some similarities amongst them. Putting it in a general legal context, and within the spectrum of the overall approaches to the relationship between religion and government, the various versions share some common features. This is because in general terms both the overarching principles; the free exercise of one’s religion and the separation of religion and State exist in all systems. Of course, in as much as the degree of variation between France and Turkey is fairly narrow, the degree of variation between United States and Nigeria or France and India is very immense. If some one offered us a choice among these models we would definitely choose first the French, and second the Ethiopian version, because to err on the side of strict secularism seems less dangerous than otherwise.

Chapter Four

Contemporary Challenges and the Religion Factor

This chapter aims to explore the existing practical challenges and problems that revolve around religious issues. Perhaps the most outstanding questions such as, why is it that in the midst of democratic transition and constitutionally entrenched religious freedom, tensions, some times, even violence occur between followers of different religions, most noticeably, between Muslims and Orthodox Christians? Why is it that these days unusual religious intolerance is emerging? What explains this; will be dealt at length. In an attempt to address these and similar questions, this chapter starts with highlighting the religious demography in order to furnish the initial spring board that helps us capture the full picture of the current religious dynamics. Then it moves to examine the positive factors that contribute to religious peace. The next section of this chapter makes a close examination of the factors that contribute to the escalation of religious intolerance by non State entities and the corresponding role of local officials in aggravating the problems. Finally, an attempt will be made to examine the role of religion in conflict scenarios and how religion is manipulated to garner support for other dubious agenda.

4.1 Ethiopia's Religious Demography

According to the recent 2007 census, Ethiopia has a population of nearly 74 million. Of the total population 43.5 percent belongs to the Ethiopian Orthodox Church (EOC), which is the predominant religion in the northern regions of Tigray and Amhara that accounts about 95.5 and 82.5 percent of the regions' population respectively.³⁵⁴

Muslims constitute 33.9 percent of the total population. Islam is the predominant religion in the eastern parts of the country, Afar and Somali regions, as well as in many parts of Oromiya, that constitutes 94.9, 95.3 and 47.5 percent in the regional States respectively.³⁵⁵

Christian Evangelicals and Pentecostal denominations constitute 18.6 percent of the total population. Major Protestant Churches, such as Mekane Yesus and kale Hiwot are prevalent in the SNNPRS, western and central Oromiya. In SNNPRS and Gambella regional States Protestant religion followers represent the majority of the population.³⁵⁶

³⁵⁴ See, Ethiopian Central Statistical Agency, Housing and Population Census Report, 2007, Annexed

³⁵⁵ Ibid

³⁵⁶ Id, See, Population Figure by Religion in Regional States, Annexed

The Evangelical Churches fellowship of Ethiopia (ECFE) claims to have around 23 denominations under its religious umbrella throughout the country. These protestant groups operate under the umbrella of ECFE, sponsor or support missionary work across the nation.³⁵⁷

Some of the major members are Mekane Yesus Church (associated with the Lutheran Church), Kale Hiwot Church (associated with SIM, service in Mission), Meserete Kiristos (associated with the Mennonite Mission), Mulu Wengel (Full Gospel) Church, Emnet Christos, Lutheran-Presbyterian Church of Ethiopia, Genet Church (associated with Finnish Mission), Hiwot Birhan Church (associated with the Swedish Philadelphia Church) the Baptist Bible Fellowship, the New Covenant Baptist Church, the Baptist Evangelical Association etc.³⁵⁸

There are also small number of Latin Rite Roman Catholics that constitute about 0.7 percent of the total population, majority of them are concentrated in SNNPR and Oromiya regions. Moreover, traditional or indigenous animists and other minority religions, such as Jehovah's witnesses, Bah`ai, Jews (otherwise known as Bete Isreal), constitute about 2.6 and 0.6 of the total population respectively.³⁵⁹ Taking Addis Ababa alone the census data will give us the following picture: Orthodox 74.7 percent, followed by Protestant 16.2% percent, Muslim 7.8 percent, Catholic 0.5 percent, others 0.8 percent.³⁶⁰

As can be gathered from the census result, driven by the huge growth seen in the Protestant faith, followers of the Christian faith account for 62.8 percent of the country total population, followed by Muslims at 33.9 percent. It is to be noted that Protestants took off from 10.2 percent in the 1994 census to 18.6 percent as the latest census of 2007 revealed. Among Christians, Orthodox Christianity still holds the majority with 43.5 percent followed by Protestants and 0.7 percent of Catholics.³⁶¹

The Central Statistics Agency (CSA) conducted the census in May 2007, despite delays in Afar and Somali regions; it has come up with total population figure, 73,918,505. However according to the CSA report the actual figure has been estimated to have reached around 76, 941,760, after taking into consideration the gaps between the census period and its submission to Parliament.³⁶²

³⁵⁷ Interview with, Ato Meressa Reda, Director of Religion and Faith Affairs Directorate, in the Ministry of Federal Affairs, 25/08/2009. The Directorate of Religion and Faith Affairs has been established following the proposal provided by Legal and Administration Affairs Standing Committee of the HoPR, in June, 11/2001 E.C to the Parliament. The HoPR in its 44th regular session conducted on May, 27/2001, has approved the amendment proposal that mandate the establishment of the Directorate to be included in proclamation 471/ 1998 under Article 21, as sub Article 9.

³⁵⁸ See, International Religious Freedom, Report, Ethiopian, 2004

³⁵⁹ Ethiopian Central Statistics Agency (CSA), cited above at note 1,

³⁶⁰ Id. See, Addis Ababa's Population Census, by Religion, Annexed

³⁶¹ Id. See, Population Census Figure, Country Total, CSA, 2007, Annexed

³⁶² CSA's Projection in 2008 as per annual population growth rate

Despite this fact, when the census report was unveiled before the Parliament on Dec., 4, 2008 some parliamentarians raised questions with regard to Addis Ababa and Amhara's population, saying that the figures are much less than they expected.³⁶³

It has been noted that some of the claims are based on previous Western institutions' predictions like the U.S. State department population estimation reports, which are according to the Central Statistics Agency authorities inaccurate.³⁶⁴ As regards the number of Muslims; Director General of the CSA, Samiya Zekaria told the parliament on the occasion, "I see in the house quite a few women wearing a head scarf like my self; this was not the case in previous times. So when we are now exercising our rights more freely, it could seem that there is a high population presence. The growth is still there but probably not as perceived."³⁶⁵

Some Muslim diaspora also expressed discontent about the Muslim census figure, but such allegation has not been substantiated with solid evidence to question the veracity of the official population census report.³⁶⁶

After the disclosure of the census report to the parliament, the CSA again made investigation with respect to Amhara's population census, and reported that, it has thoroughly checked the figure against the demographic data which showed consistent trend, it has also checked whether there is a significant relocation of people, which was not the case as it found that still, and concluded that no significant finding was discovered to overwrite the earlier figure.³⁶⁷

What is worth noting here is in addition to the fact that the CSA is led by apolitical professionals, in light of the country's limited resources and the tremendous undertaking a national census represents in a decentralized State like Ethiopia, the agency's job should be appreciated despite some possible reasonable imperfections.

Following the new developments since 1991, and given the entrenchment of religious freedom in the current Constitution various religious denominations are astonishingly flourishing. Despite this fact, the Orthodox Christianity and Islam still maintain the status quo. Of course, when one compares the current figure with that of the 1994 census report Orthodox Christianity shows a significant decrease from about 50 percent to 43.5 percent now. Some Orthodox Church

³⁶³ CSA's televised census report to Parliament, Dec. 4, 2008 by Deputy Prime Minister Addisu Legesse and General Manager of CSA Samiya Zekaria.

³⁶⁴ At the report session some members of the parliament were citing foreign institution's population estimates, like the U.S. State Department, and World Bank, to support their claims. E.g. MP Ato Bulcha Demeksa.

³⁶⁵ In an attempt to clarify the difference between 'perception' and the 'reality' on the ground, Samiya Zekaria's statement during the report session in parliament, Dec., 4, 2008

³⁶⁶ Net work of Ethiopian Muslims in Europe, Website,(ethiopianmuslims.net/m//m=200611-58k)

³⁶⁷ CSA's Report of its investigation, aired on ETV, August, 2009

authorities estimate that, the Ethiopian Orthodox Church has more than forty thousand parishes and monasteries across the country.³⁶⁸ According to these sources in Addis Ababa there are about 130 Orthodox Churches, and almost equivalent numbers of Mosques, in the latter case more than 70 percent of them are built in the last 15 years.³⁶⁹

The Ethiopian government requires religious institutions to be registered in order to enjoy recognized status. And religious institutions and churches must also renew their registration with the Ministry of Justice every three years. As of August 2009, 749 local religious institutions have been enrolled in the Ministry's registry.³⁷⁰

The Ethiopian Orthodox Church was awarded legal personality without having to go through the same procedure as other religions.³⁷¹ The Ethiopian Islamic Affairs Supreme Council, here in after (EIASC), has been registered in 1988 E.C, and never re-registered since then. The Islamic Da`awa and Knowledge Association registered in 1984E.C, the Ethiopian Ulama's Association in 1994 E.C, Al-Wehada Islamic Propagation Association in 1997 E.C. The Ethiopian Evangelical Church Mekane Yesus registered in 1961 E.C, the Evangelical Churches Fellowship of Ethiopia in 1997 E.C, the Jerusalem Memorial Association of Ethiopian Orthodox Tewahdo Church Believers registered in 1960 E.C.³⁷²

In addition to the local religious institutions there are also foreign based religious institutions operating in this country, such as the Church of Christ, the Anglican Church, Ethiopian Baptist Mission, Pentecostal Assemblies of Canada, Swedish Philadelphia Church Mission, Society for International Ministries, and the Church of God in Christ Mennonite.³⁷³

All these religious institutions are primarily, if not solely organized to deliver spiritual missionary service. The government provides license without imposing overly burdensome registration requirements. As has been indicated in the U.S. International Religious Freedom report; the Ministry of Justice declines to issue a license to one traditional Oromo 'religious' organization known as "*Wakefeta*".³⁷⁴ The report hinted that the government seems to have a suspicion that the group may have possible linkage with the outlawed Oromo Liberation Front

³⁶⁸ Abba Samuel, Arc bishop of the A.A *Hagere Sibket(Diocese)* and Assistant of the Patriarch of EOC. "*Be Ethiopia Ye Haymanot Mechachal Alen?*", (2000), P. 90

³⁶⁹ *Id.*, P. 40

³⁷⁰ The Federal Ministry of Justice: Registration of Associations Division, registry. August,7, 2009

³⁷¹ *See*, Civil Code of the Empire of Ethiopia, Proclamation No 165 of 1960 Article 398 (1), the Ethiopian Orthodox Church is regarded by law as a person. Article 398 (2) as such it can have and exercise, through its organs, all the rights which are vested in it by the administrative laws. Article 407 (1) Churches religions, associations other than the Ethiopian Orthodox Church shall be subject to the special laws concerning them.

³⁷² Federal Ministry of Justice, cited above at note 17

³⁷³ *Ibid*

³⁷⁴ International Religious Freedom Report, 2005, Ethiopia

(OLF).³⁷⁵ Apart from this, the granting of tax exemption and the provision of legal entity status to these institutions can be viewed as a positive development in the exercise of religious freedom in this country.

The importance of legal entity status in our increasingly legalistic and bureaucratic World is clear; effective action in this modern setting is difficult without the ability to act collectively with legal personality. Such basic necessities as leasing space, renting buildings, collecting contributions, conducting business with others, producing or distributing materials, owning property to use for religious services, proselytizing and participating in legal proceedings are difficult, if not impossible, without official entity status. Thus, attaining a legal status has significant importance for a religious organization's ability to propagate its religious beliefs.

Apart from those institutions that are engaged solely in missionary work, their developmental wings are treated separately and granted NGO status which makes them subject to the Charities and Societies Law.³⁷⁶ Thus, the government does not issue work permit to foreign religious workers, unless they are attached to these development wings of religious organizations licensed in accordance with the relevant law.³⁷⁷

In addition to the aforementioned rights, both Christian and Muslim holidays are officially recognized and the government continues to warrant a two hour lunch break on Fridays to enable Muslims to go to mosques for prayer. Recognized Christian holydays are, finding the True Cross (*Meskel*), Ethiopian Christmas (*Genna*), Ethiopian Epiphany (*Timket*), Ethiopian Good Friday (*Siklet*), and Ethiopian Easter (*Fasika*). Recognized Muslim holydays are *Id Alfetir* (*Ramadan*), *Id Al Adha* (*Arefa*), and *Mowlid* (Birth of the Prophet Muhammad).³⁷⁸

In sum, in light of the above information religious institutions are flourishing and enjoying the legal entity status they have. The government is discharging its responsibility in this respect. However, as regards the renewal of registration, all religions should be treated equally. As we

³⁷⁵ Ibid

³⁷⁶ See, Tax Exemption Provisions, Value Added Tax Proclamation No. 285/2002 Article, 8 (2) (e), See, Turnover Tax Proclamation No. 308/2002, Article, 7 (d), See, Council of Ministers Regulations No. 79/2002, Article, 23 (1&2), The supply of religious or Church related services by a religious organization is exempted; services rendered by a religious organization are also exempted from tax duties as long as they are integral part of that religion. See also, Charities and Societies Proclamation No.621/2009, Articles, 2 (16), 3(2) (a), 14 (1), Religious organizations purely involved in spiritual services do not come under this Proclamation. As regards the consequence of failure to register properly, the International Religious Freedom Report, 2005, Ethiopia, P. 3 states that, "A group's failure to register results in a denial of legal standing. For example, any organization that did not register with the Ministry of Justice would not be allowed to open a bank account and would be severely disadvantaged in any court proceedings."

³⁷⁷ Informal interview with Aklilu Temesgen, Federal Ministry of Justice, Registration officer August 7, 2009. It is also noted that, very recently on 21/12/2001 E.C the Ministry of Social and Labor Affairs has conducted a consultation workshop with all stake holders on the proposed draft concerning workers, who are employed by the development wings of religious institutions. The draft law is designed to govern those personnel whose type of work is not essentially of a spiritual nature.

³⁷⁸ Ethiopian Telecommunications Corp., 2006 Calendar, issued in Berhanea Selam Printing Enterprise.

have understand it some have never been registered, yet have legal personality, others have never re-register after they did so once still enjoy the legal personality and yet the law requires renewal every three years, thus, such law must be equally enforceable on all, in order to effect the constitutionally recognized right of equality of religions.

4.2 Factors that Contribute to Religious Peace

Before discussing the risk factors that impact religious conflict it is helpful to make a modest attempt to identify some of the major factors in the Ethiopian demographic landscape that can be potential source of peace.

First, when we look at the demographic religious structures and dynamics that is the share and relative number of people affiliated with different religions or denominations in Ethiopian society, one can observe a strong geographic dispersion of believers, this implies such religious landscape inhibits coordination of collective action and hence detracts any mobilization on the basis of religious ideas or identities. It is to be noted in Ethiopia there is no one single denomination that has got majority status.³⁷⁹

Of course, in some parts of the country there are big majority of religious communities in their respective regions who can create conditions that enable them for coordination and interpersonal networks for mobilization.³⁸⁰

In spite of this fact, in Ethiopia ethnic identities are stronger even more important than religious identity and form a central part of an individual or social identity in the socio psychological sense.

Most interestingly, in Ethiopia religious identities cut a cross ethnic identities, where religious identities and ethnic or regional identities do not run parallel,³⁸¹ such situation is more likely to make religious factors serve as deescalating agents rather than escalating ones.

Consistent with the constitutional stipulation in recognition of the right to self rule that has been accorded to ethnic groups under the current federal arrangement, ethnic Regions, Zones and Weredas have managed to benefit from the considerable amount of federal grant. Hence, the

³⁷⁹ See, the Central Statistics Agency Census Report, 2007

³⁸⁰ Ibid

³⁸¹ David H.Shinn, "Ethiopia: Coping with Islamic Fundamentalism Before and After September 11, Feb.2002 Africa Notes, No 7, Center for Strategic and International Studies, P.2. Ethiopian Muslims are generally not receptive to Islamic fundamentalism. Muslims in Ethiopia tend to identify first with their ethnic kin. They are geographically intermixed through out the country except for over whelming concentrations in Somali and Afar-inhabited areas. (csis.org/files/media/csis/pubs/notes_0202.pdf), last visited, 09/11/2009

overall federal policy encourages the pumping of resources into ethnically administrative units.³⁸²

It is to be noted that out of the nine regional States that form the federation, six of them bear the name of the majority ethnic group in their respective regions, and this conveys a clear political message,³⁸³ how much ethnic identity is paramount and incentivizes people to remain loyal and to rally around ethnic identity rather than to religious one. Probably this seems one of the vital factors which enable the formation of political parties that are predominantly defined along ethnic lines.

Therefore, the remarkable lack of coincidence between religious identity and ethnic identity and the relatively weak religious identity will some how restrain any religiously based efforts to mobilize believers in conflict scenario.

Second, it is also important to examine the Ethiopian religious landscape in terms of the religious or theological ideas such as values, commandments and beliefs, as well as their interpretation.

In this respect Christianity and Islam constitute the major religions in Ethiopia. According to the mainstream religious discourse both these religions preach love (perhaps even to enemies), peace, tolerance and forgiveness³⁸⁴ and reject violence, thus adherents are expected to avoid violence and to live up to the pacifist values of their respective religions and will be motivated to engage in peace full co-existence.

However, the issue is much more complicated, since the Holy Scriptures and traditions of these religions are fairly ambiguous with respect to the use of violence. It is easy to find quotes that

³⁸² Sarah Vaughan, "Responses to Ethnic Federalism in Ethiopia's Southern Region" in David Turton, (eds.) *Ethnic Federalism: The Ethiopia's Experience in Comparative Perspective*, (2006) Oxford: James Currey, P. 201, Sarah stated that, "under ethnic federalism, ethnic zones have enjoyed relatively high inputs of capital and recurrent government expenditure, and this fact is widely known by those local elites who have masterminded claims for separate recognition."

³⁸³ Dereje Feyissa, "The Experience of Gambella Regional State", in David Turton, (eds.), *Ethnic Federalism: The Ethiopia's Experience in Comparative Perspective*, (2006) Oxford: James Currey, P. 223. He states that, "the fact that six of the nine states that constitute the FDRE of Ethiopia bear the name of an ethnic group (under the rubric of 'mother states') sends a strong political signal to ethnic groups..." *See also*, Will Kymlicka "Emerging Western models of Multinational Federalism are they relevant for Africa?" P. 56

³⁸⁴ For example, in the **Bible** we find these verses: John 4:7, Beloved, let us love one another for love is of God; and every one that loveth is born of God, and knoweth God. John 4:18 there is no fear in love but perfect love casteth out fear because fear hath torment. He that feareth is not made perfect in love. John 4:20 if a man say, I love God, and hateth his brother, he is a liar: for he that loveth not his brother whom he hath seen, how can he love God whom he has not seen? John 4:21, And this Commandment have we from him, that he who loveth God his brother also. In the **Qur'an** we find also the following verses: *Sura*: 2:109, many followers of the book wish that they could turn you back into unbeliever, after your faith, out of envy from themselves, (even) after the truth has become manifest to them, but *pardon and forgive*, (*emphasis added*) so that Allah should bring about his command; surely Allah has power over all things. *Sura* 2:256, there is no compulsion in religion; truly the right way has become clearly distinct from error; therefore, whoever disbelieves in the shaitan and believes in Allah he indeed has laid hold on the firmest handle, which shall not break off, and Allah is hearing, knowing. (en.knowquran.org/Koran/tolerance/93/2007-2008) last visited, 08,9,2009.

legitimize violence and intolerance, and vice versa, since the Qur`an is open to interpretation and so does the Bible.³⁸⁵

Third, when we look at the characteristics of religious organizations and institutions in the Ethiopian context, though, they have stronger influence on their adherents they by and large maintain non partisan stance in the political realm.

The majority of religious institutions are largely in ward looking put it differently they mainly care about spiritual issues and worshiping.

In Ethiopian context there is no religious institution that endorses or opposes candidates for election to public office, such absence of religious involvement in political campaigns and the higher deference in the political sphere contributes to the creation of peaceful and non-polarized religious landscape. This attitude of religious institutions' self restraint towards the secular realm is vital for potential strength of peaceful coexistence. Fourth, when we examine the Ethiopian situation from the vantage point of the possible idiosyncratic traits of individual leaders, we don't see any emergence of extremist religious leadership so far. In most cases it is observed that religious leaders of different denominations in this country have made appreciable collaborative efforts in furtherance of peace, by rejecting incitement of violence and continue to work together on various important social issues.³⁸⁶

In most of the country Christian and Muslim leaders appear better than in many other countries, they have sought to engage in peaceful dialogue, and there would appear to be a real opportunities in this area that should be exploited.³⁸⁷

Fifth, as can be gathered from our respondents' views with respect to the principle of secularism, there is a general consensus towards the importance of the separation of State and religion.³⁸⁸

³⁸⁵ For example, some argue that the Bible warrants some form of violence citing the verse Matthew 10:34 that says "Do not suppose that I have come to bring peace to the earth, but a sword." Other also argue the Qur`an warrants violence in many of its verses, citing for example, Qur`an 47:4 that states "So when you meet in battle those who disbelieve, then smite the necks until when you have over come them, then make (them) prisoners" Qur`an 9:123 "O you who believe, fight those of the unbelievers near you and let them see how harsh you can be. Know that Allah is with the righteous" (Fakhry's translation) Qur`an 3:56 "as to those who reject faith, I will punish them with terrible agony in this World and in the Here after, nor will they have any one to help." It is, however, recommended to examine the historical and literary context of the verses to comprehend them fully rather than taking them for granted in isolation. James M. Arlandson, "Qur`an 9:123 Vs. Matthew 10:34", P.1-3, (www.answering_islam.org/Authors/Arlandson/Sword.htm-)

³⁸⁶ United States Institute of Peace, Special Report, (2007), *Political Violence and Democratic Uncertainty in Ethiopia*, P. 11, In this report it has been stated that, "Notably, both Muslim and Orthodox Christian leaders took bold and decisive action to quell the religious nature of the Jimma conflict, and this may explain its apparently peaceful resolution".(www.usip.org/.../political-violence-and-democratic-uncertainty-ethiopia), last visited, 18/11/2009

³⁸⁷ International Religious Freedom Report, Ethiopia, 2008. In the report it has been stated that, "the government through the Ministry of Justice and Regional State authorities, continued to support the Interfaith Peace Building Initiative, an NGO dedicated to promoting consultation and cooperation and ending religiously motivated violence. The initiative's members include representatives of the country's major religious institutions: the EOC, EIASC, the Ethiopian Evangelical Church -Mekane Yesus, and the Bahai Center.

³⁸⁸ Respondents from Debre Bisrat Kidus Gebriel Sunday School and from Awelia Muslim Missionary School, Oct., 18/2009, and Oct., 03/2009, respectively.

And, this implies that, the existence of secular minded population would easily resist efforts to create religious in - group and out-group stereotypes.

Sixth, it is worth noting that the culture of religious tolerance is deeply rooted in the Ethiopian socio-cultural fabric.³⁸⁹ Most people are friendly to their fellow citizens, regardless of religious differences. Religious public holidays are warmly celebrated at national level. On the occasion the adherents of one religion show best wishes for the others. Neighbors spend the day together in a festive mood. They mix much with their neighbors; Ethiopians are well known for firmly stand together during good and bad times irrespective of their religious or other social backgrounds.³⁹⁰ This culture of tolerance really deserves to be emulated by others.

The last perhaps the most important factor worth mentioning is the current political systems' role in creating conducive situation for peaceful coexistence of different religions in this country.

In the first place freedom of religion and equality of religions are expressly enshrined in the Constitution, there is no State religion, religion and State are separated, and mutual non-interference is guaranteed. Secondly, according to the Ethiopian law organized religious entities can not be simultaneously eligible to operate as political groupings. Most importantly, the Ethiopian political space does not seem to accommodate faith based parties with clear religious programs.³⁹¹ This situation avoids the possibility of stronger connection between religious organizations and political actors, it diminishes the possibility of over politicization of religious issues and it minimizes the chance of vulnerability of religions to manipulation by hypocritical politicians.

In sum, the main finding here is, the Ethiopian religious demographic landscape and the overall political system offer more conducive environment to religious peace than to religious conflict.

However, this does not necessarily mean that, there is no nexus between different religious factors and conflict. Notwithstanding, the over all positive factors referred to above, there are times where religious demands may serve as catalyst to sectarian conflict. We shall examine this dimension in the next sub title.

³⁸⁹ Yohannes Gebresellasia (Ph.D), He observed that, "The cover of religion to advance a hidden agenda is obsolete and unacceptable in the 21st century." *Reporter* English News Paper, March 28, 2009. Yohannes, stated that "Amongst the many and varied characteristics that make this nation unique is its long history of religious tolerance and the generational brotherly/sisterly relationship and mutual coexistence between and among the multiethnic, multi-religious multilinguistic and other related back grounds of its people..."

³⁹⁰ *Ibid*

³⁹¹ *See*, FDRE Constitution Articles, 3, 11 and 27. According to the National Election Board authorities reasoning the prohibition of political space for faith based parties is implicit in the FDRE Constitution's underlined norm,(secular principle), that religion and politics (State) are separate and a party that aspires to hold government power and yet promote a specific religious agenda will stand against equality of religions and it would be harmfully divisive in a religiously pluralist society like ours. Interview with Ato Ermias, Deputy Head of National Election Board Office, 25/12/2009, Addis Ababa. *See also*, Political Parties Registration Proclamation No 573/2008, Articles 11 (5), and 27 (2) (b)

4.3 Factors that Contribute to Religious Conflict

4.3.1 Prayer and Religious Wearing in Public Schools

The debate over prayer and veiling is becoming more common as various Muslim students become more committed to the practice or public expression of religion in public schools. Universities and schools are increasingly confronting issues involving religious accommodation for school dress codes, group prayers and dietary requests.³⁹²

Perhaps due to the visible nature of the practice of Islam, at the forefront of the push for religious accommodation in public universities are Muslim students. This time around many universities are steeped in controversy, while they attempt to regulate religious practices in their campuses.³⁹³ Given the atmosphere of religious freedom, it is not surprising that in recent years, Muslim students have been increasingly vocal in their challenges to school regulations that somehow restrict religious practices in public schools.

For now the controversy surrounding the prayer issue seems to hinge on two questions. First, whether prayer in group (*Salat Al-Jamaat*), is permissible, if so how large or small should a group be? Second, should a fixed place (space), if not room be designated for prayer in school campus? Muslim students and religious authorities argued that *Salat* prayer is one of the five pillars of Islam³⁹⁴ and it is also a constitutionally guaranteed right that deserves full protection.

As we understand it, no one contends the fact that *Salat* is the most important act of worship in Islam. On the government side the intention is not to ban prayer altogether; but the main bone of contention lies in how and where it should be undertaken. More specifically, whether group prayer should be accommodated or should it be observed in the form of solitary prayer or small groups in different areas within the campus?³⁹⁵

It is noted that according to the Islamic theology, offering prayer with *jamaat* (group congregation) is *wajib* (essential), and *mustahab* (commendable act). As for its importance it has been believed that *Salat al-Jamaat* carries more reward than *furada* (prayer offered individually). Moreover, Muslims widely believe that *jamaat* prayer develops harmony and unity among them,

³⁹² Interview with Ato Tizazu Desalegne, Advisor in the Religion and Faith Affairs Directorate, Ministry of Federal Affairs, September, 14/ 2009.

³⁹³ Ibid

³⁹⁴ Ibid, See also, Mary Pat Fisher and Robert Luyster, *Living Religions*, (1991), Prentice Hall, Eagle Wood Cliffs, N.J. 07632, P. 289. The Five Pillars of Islam are: *Tashahhud*- faith in oneness of God, and the finality of the prophet hood Muhammad; *Salat*- five times daily prayers i.e., Fajr, Zuhr, Asr, Maghrib, and Isha; *Zakat*- alms giving to the needy; *Swam*- self purification through fasting, Ramadan; *Haji*- the pilgrimage to Mecca for those who are able. See also, "Islamic Religious Law in Daily Life, (www.islamicacademy.org/Books/htm.)

³⁹⁵ Ato Tizazu Desalegne, cited above at note 39

acquaints them with affairs, issues, provides an opportunity to know about the problems faced by their fellow believers, to meet and enjoy the blessings of the pious and saintly people.³⁹⁶

According to some practitioners the minimum number of people needed for *salat al- Jamaat* (group prayer) is two, only for the *jumuah* (Friday prayer), there must be a minimum of five people, including the *Imam* (the person who leads the prayer). But, it has been believed that as much as possible a big group prayer is commendable provided that followers face no trouble in joining the group or reaching the congregation.³⁹⁷

The government and schools' concern is not on the practice of religious prayer rather on the manageability and administrability of a big crowd. Obviously, schools and universities have limited resources in terms of human and material capacity, and they have a duty to regulate and administer the overall campus activity and to discharge their mission unencumbered.

For that matter, the prayer controversy may not be confined only to the above mentioned issues. Although, there are no reported cases, if one closely contemplates on the wide range of scenarios he/she may find another issue like foot bath, and may ask whether schools should install foot washing facilities, if so wouldn't this amount to endorsement of religion?

While in undergraduate study, this author observed that some Christian students were complaining about Muslim students washing their feet in the sinks. We can find also a similar range of considerations that add to the complexity, for example, what if students leave the class room for prayer, wouldn't this disrupt other students? Can teachers join in or lead the group prayer? Can students be allowed to invite guest preacher to lead the campus prayer? There are no clear answers to these questions. Nonetheless, as has been dealt in chapter two some foreign experiences suggest that, disruptive expression is not tolerated and teachers are not allowed to lead student prayer.

Another contentious issue involving religious accommodation lies in the Muslim female students' wearing the veil. It is to be noted that the various sects of Islam have differing interpretations of Sharia, ranging from relatively moderate to extremely conservative.³⁹⁸ If at all what they have in common is as a religious duty it is best for women to be modest in terms of dressing.³⁹⁹

³⁹⁶ Interview with Zahra Mohammed Ali, Qur'an educated religiously observant, 3rd year Accounting student, at the Royal University College, Addis Ababa, 02/10/2009.

³⁹⁷ Ibid

³⁹⁸ Does the Qur'an Require Women to Wear the Veil?, (middleeast.about.com/od/.../f/me080209.htm), last visited, August, 17/2009

³⁹⁹ Ibid

However, the Qur`anic concept of modesty remains open to varied interpretations, for the conservatives modest dressing implies the covering of the entire body, including the face, hands and feet. According to some the entire body except for the face, and hands, still to others only the headscarf suffice to the religious duty.⁴⁰⁰

On the international plane, in various Muslim communities emphasis on veiling is on the rise and women feel compelled to veil in order to be treated as respectable and pious women. Examples, such as the forced veiling of women by the Taliban and other theocratic regimes, and the throwing of acid on the faces of Afghan and Kashmiri women who don't cover are extreme examples of this mentality.⁴⁰¹

Some Muslim scholars argued that the Qur`an has no requirement that women cover their faces with a veil, or cover their bodies with the full-body head to toe garment. These people admit, however, the Qur`an does address veiling explicitly, but only in so far as the Prophet's wives were concerned. Most significantly they insist that, the Qur`an's requirement did not mention a veil as it is understood by some as a face covering.⁴⁰² One additional argument by the proponents of the veil is the belief that women will be protected form sexual harassment, if they covered themselves from head to toe.⁴⁰³

On the opposite side it has been argued that the underlying assumption behind the pro-veiling view is the perception that women are responsible for the actions of men and for limiting men's uncontrollable 'lustfulness' and 'sexual impulses',⁴⁰⁴ these critics with out actually taking a strong theological stance against the veiling, argued that social experience reveals that no form of dress can protect women from men who are sexually violent. Although, they concede that the Qur`an calls for modesty on behalf of women and men, they argued that, it is consciously left the injunction very vague so as to allow for dress codes to follow cultural understandings of modesty. Thus, they believe the ideal garments are left to the discretion of the wearer.⁴⁰⁵

There seems no end to the debate about the covering of women. One thing that can be said, without too much theology to go through is wearing *niqab* undoubtedly disrupts the educational necessity of eye contact and face to face communication in the class room setting.

⁴⁰⁰ Headscarf and Veiling, (www.quranic.org/quran_article/.../headscarf-and-veiling.htm), last visited, 02/10/2009

⁴⁰¹ Ibid

⁴⁰² Aljazeera TV, English Channel, Inside Story, "Debate over the Issues of Religious Veiling", 25/ 06/ 2009

⁴⁰³ Ibid

⁴⁰⁴ Ibid

⁴⁰⁵ Ibid

In our case it has been observed that teachers, librarians and security guards face problems, when students refuse to unveil for identification.⁴⁰⁶ Besides to the need for identification, what would be the appropriate solution, if a student refuses to take part in mandatory sport classes on religious grounds?

In recent years the wearing of a veil (*niqab*) has been on the agenda, it is in fact the extreme variant of the issue related to the parts of woman's body that has to be covered. In higher educational institutions, since the recent years we are starting to see a few female students wearing *niqab*. As regards its signaling effect, whether it signifies mandatory religious observance or wearer's personal desire to deliberately guard visible symbols of identity or any other form of proselytism, is far from clear. But, what we sense is most of those who stage demonstrations in our day candidly believe that any type of veiling is religiously prescribed.⁴⁰⁷ Of course, according to some government sources, this may be coupled with the reactions of a few extremist elements who want to shield them selves under the guise of defending religious expression.⁴⁰⁸

As far as prayer and veiling are concerned, at least two distinct interests are often at stake: freedom of religious practice, and separation of religion from the State. The principle of religion-State separation and the privatization of religion as a matter of the rights of individual and communities have been put forth as the legal solution to the problem of religious plurality and diversity.

Despite this constitutional stipulation, now confronted by religious tensions that have erupted in one school after another, policy makers seem to have faced with the real task of striking the delicate balance between secularism and freedom of religious expression in government setting.⁴⁰⁹ Currently, we have come to know some efforts are underway to address such issues pertaining to public schools, though; these more meetings do not bring enough answers so far.⁴¹⁰ Until recently some of the issues were temporarily resolved through negotiation or compromise, though, attempts for accommodation have been largely inconsistent and heavily lack

⁴⁰⁶ In June 2009 in AAU *Sidist kilo* campus a public lecture was delivered by Asst. Prof. Getachew Assefa in commemoration of human rights day, this author recalls that, Asst. Prof. Zekarias Kenea has shared his personal experience in the event, how he was troubled to identify a veiled student while he was assigned as an invigilator.

⁴⁰⁷ Interview, with Ato Mohammed Dube, an expert in the Religion and Faith Affairs Directorate, Ministry of Federal Affairs, 17/ 9/ 2009.

⁴⁰⁸ Interview with Ato Destaw Mekuanint, Advisor of the Minister of Ministry of Education, 09/ 08/2009

⁴⁰⁹ Interview with Ato Tizazu Desalegne, cited above at note 39

⁴¹⁰ Interview with Ato Meresa Reda, cited above at not 4

uniformity.⁴¹¹ It has been observed that, some of the higher institutions provide or designate prayer space (room) for Muslims, others deny altogether; some allow Muslim students to wear *hijab or niqab*, others attempt to prohibit headscarf.⁴¹² In as much as some of them commit grave blunders imposing total ban; others excessively feel compelled in the interest of accommodation or even some show total indifference. One teacher commenting on the latter tendency said “it seems as if we are living in a time period of ultra political correctness.”⁴¹³ It is not surprising; however, in the absence of any clear guidelines, school officials have actually no choice other than dealing with religious demands based on their own understanding of what is appropriate. As we understand it, still now teachers and school officials do not have any guide line that give them the legal safe harbour in handling such issues.⁴¹⁴

It is also interesting to see another latest manifestation in the recurrent debate some universities have faced with difficulties in responding to the needs of students as regards dietary requests for separate butchering and dishes.⁴¹⁵

The proliferation of such demands suggest that the need not only to reach at acceptable consensus, but also to flesh out and articulate the generally phrased principle of secularism and the freedom of religion in the form of comprehensive legislative act by detailing the implicit and explicit consequences of both constitutional values in order to understand them fully and to effect smooth implementation.

Although, no simple formulas are available to resolve difficult questions about religious practices; in any case, consideration of the following points is particularly important in handling religious claims for accommodation. The strength of the religious claim and the strength of the competing government interest, the administrability of possible exemption, and the sincerity of the claimant.⁴¹⁶ But, what remains unclear in our case is, who is best suited to assess the strength of religious claims and government interests and to develop administrable standards?

⁴¹¹ Ibid

⁴¹² Our respondent students reflect this idea, both from EOC Sunday School and Awelia Muslim Missionary School

⁴¹³ A teacher at Bekelle Weya, Junior and High School, 16/10/2009

⁴¹⁴ This author has spoken to people in the Federal Ministry of Education, the Planning and Policy Division, Expert: Ato Tilaye, Higher Education Student Affairs Acting Head: Ato Mulugeta and the Advisor, Ato Destaw Mekuanint, all said there is no general guide line that govern religious issues in schools so far. 09/ 08/2009. Once again this author has spoken to the Public Relations Expert and Documentation officer, in the Federal Ministry of Education, Ato Mekonen Asmamaw, according to him there is no any approved guide line or directive what so ever to this date, however, he showed me a certain document drafted in 2000 E.c. which is shelved with out any progress perhaps because of the wrangling created as a result of some private media out lets which mistakenly publicize about the merit and objective of this proposed draft. 07/ 12/2009

⁴¹⁵ Ato Tizazu Desalegne, cited above at note 39

⁴¹⁶ Walter F. Murphy, et al., American Constitutional Interpretation, (2nd ed., 1995), PP. 410-411, It has been observed that, balancing also attracts interpreters when simultaneous reliance on different parts of constitutional document poses a conflict. For instance, one person's supposed right to freedom of expression ...may clash with another's supposed right to enjoy the status of equal citizenship.

For this question of institutional competence, are school officials, even judges well equipped to determine what or when religious claims should prevail or curtailed, unless they are given highly specific guidance by the legislature? In other jurisdictions, such as, U.S.A, India; the Supreme Courts, in Germany and Turkey; the Constitutional Courts, demonstrate remarkable judicial activism in adjudicating disputes with regard to religious claims. These courts and the European Court of Human Rights are instrumental in protecting religious liberty and articulating the scope and content of the right and the central concept of secularism. In Ethiopia, the power to interpret the Constitution in a case of controversy or even abstract interpretation remains in the House of Federation (HoF)⁴¹⁷ though; at least constitutionally a narrow lee way is left for the judiciary to share its interpretative power in the course of its routine business.⁴¹⁸ All the same, in the absence of clear legislative frame work, their attempt to interpret such issues would only lead to increased uncertainty as to what specific rights are protected and/or limited by the Constitution.

In this case we are not saying the parliament can create something that is not already there or redefine the constitutional rights, but it can prescribe the means by articulating the existing rights, so as to layout the road map for effective implementation. In our case to make matters far worse the passive role of our courts in interpreting constitutional issues coupled with the controversial legislative acts (Proc. No.250/2001, Art.,2(5), 17(2), & Proc.,251/2001, Art., 2), that stripped off the jurisdiction of courts, and the lack of well developed principles of constitutional interpretation seem to exacerbate the problem. So it is commendable to confer the courts expressed power that enables them to strike down executive decisions that contravene the constitutional rights or values.

4.3.2 Proselytism

Ethiopia is a land of religious diversity. Although, the major religions are Orthodox Christianity, Islam and Protestantism, the latter encompasses a great variety of denominations.⁴¹⁹ Since 1991, various denominations were created on a voluntary basis and nothing prevented new

⁴¹⁷ FDRE Constitution, Articles 62 (1), 83 (1), 84 (2) *See also*, Proclamation No 250/2001 Article, 23(4), that reads in full: A case requiring constitutional interpretation which may not be handled by courts may be submitted to the Council of Inquiry by, at least, one thirds of members of the Federal or State Councils, or the Federal or State Executive bodies. *See also*, Assefa Fiseha, "Constitutional Adjudication in Ethiopia", *Mizan Law Review*, 2007, Volume 1, No 1, P.19. He pointed out that "the HoF would be the most suitable candidate as it is more a political than a judicial body. It is in recognition of this fact that is stated (in the Proc. 250/2001, Article 23(4))."

⁴¹⁸ Assefa Fiseha, *Federalism and the Accommodation of Diversity in Ethiopia*, Revised edition, (2007), A Comparative Study, Forum of Federations, PP. 407-409. Assefa argued that "the Constitution does not seem to wipe out the role of the judiciary completely. If one sticks to the terms employed by the text, the relevant Article states:" where any federal or state law is contested as being unconstitutional..." *See also*, Assefa's analyses, in *Mizan Law Review*, (2007), Vol., 1, No. 1, PP.16-17.

⁴¹⁹ This is clearly seen in the documents that indicate the religious landscape of this country. Fore example, in both census reports of 1994, 2007 and in the Federal Ministry of Justice registration office.

denominations from being organized. Undoubtedly, this has to be considered one of the fruits of the democratic Constitution. The FDRE Constitution proclaims freedom of religion; which allows a multiplicity of denominations that could exist side by side and guarantees them to have equal rights.⁴²⁰

Since all the various religious institutions operate in the same constituency, it is natural to expect aggressive competition between them in an attempt to recruit new followers and to retain existing ones. Here comes the issue of proselytism. Despite, its emotive if not negative connotations in the current ecumenical context,⁴²¹ we shall use the word proselytism here in the neutral sense of meaning: efforts of persuasion aiming at a change of convictions.

When discussing the problem of proselytism, however, it is important to remind the general positions of denominations, since it has implications with the issue under consideration. As noted in the fore going chapter proselytism is one of the issues that repeatedly have drawn the attention of ecumenical dialogue in several assemblies and congresses.⁴²² According to WCC'S statements practices of proselytism are unethical which neither recognize the integrity of the local churches nor are sensitive to local culture.⁴²³ Even though, there seems ecumenical consensus that proselytism is unacceptable and churches should renounce it; still it is a subject of much discussion among different Christian denominations.⁴²⁴

It is worth noting that the Ethiopian Orthodox Church is an active member of the WCC, the largest ecumenical institution in the Christian World.⁴²⁵ In February, 2006 the WCC in its 9th assembly has elected a new body to lead the organization for a term of ten years. Among the newly elected eight WCC presidents, His Holiness Abune Paulos Patriarch of the EOC is one of them.⁴²⁶ According to Orthodox ecumenical doctrine proselytism is “denounced as out side the bounds of true evangelistic witness”, it is regarded as a “corruption of Christian witness.”⁴²⁷

⁴²⁰ See, FDRE Constitution, starting from the preamble, to Articles 3, 11, 27

⁴²¹ Joel A. Nichols, “Mission, Evangelism, and Proselytism in Christianity”: Mainline conceptions as reflected in Church documents, 1998, *Emory International Law Review*, Vol. 12, P.566. A. Nichols stated that the word “proselytism” in recent years has come to convey a sense of improper evangelism. Christian groups condemn proselytism and routinely use the term only in its negative sense. (papers.ssrn.com/sol3/papers.cfm?abstract_id=762467), last visited, 13/10/2009

⁴²² Id., P. 623. For example, it has been stated that, “Since 1973, representatives of Eastern Orthodox Churches have met regularly to discuss the theology and meaning of mission and evangelism with in the Orthodox tradition”

⁴²³ Id., P. 639, “proselytism is distinguished from true mission: proselytism (according to WCC’s position) is the conversion of Christians from one confession to another through methods and means that contradicts the spirit of Christian love and violates the freedom of the human person.”

⁴²⁴ Id., P. 566, Nichols pointed out, “All agree that proselytism is wrong, but none admit engagement in it. All Christian groups strongly advocate in- reach proselytism because it concerns their own denominations. Most disputes arise over out-reach proselytism, and Christian groups lack a uniform view on this topic.”

⁴²⁵ World Council of Churches – News release, July, 23/ 2009, PP. 1-2, it is to be noted that the WCC has Currently 348 member churches. (www.anglican.org/.../world_concil_of_churches_news_release), last visited, August, 13/2009

⁴²⁶ Ibid

⁴²⁷ Joel A. Nichols, cited above at note 68, P. 627

In spite of this fact, the concept of ‘Christian mission’ and the understanding towards the notion of ‘proselytism’ varies from denomination to denomination.⁴²⁸ For example, Protestant missionary work in societies where other Christian churches were already present is warranted, where as for Eastern Orthodox Churches this is unacceptable and constitutes proselytism.⁴²⁹ Thus, there seems no clear consensus as to the positive expression of the incorporation of new followers, and this exemplifies the division of Churches as regards proselytism.

In Islamic perspective proselytism directed at Muslims is not acceptable, though proselytism in the form of Islamic *da`awa* (missionary out reach) is mandated.⁴³⁰

In the legal sense as long as proselytism is understood as an “expressive conduct undertaken with purpose of trying to change the religious beliefs, affiliation or identity of another with out at least any form of coercion it is acceptable. This is because to propagate one’s beliefs is one aspect of the rights of the proselytizer. In as much as the right of the proselytizer, the right of the target to the peaceful enjoyment of his/her freedom of religion is also equally recognized.”⁴³¹

Against this theological and legal background, now we shall see the practical implication of proselytism. These days, proselytism is every where in Ethiopia. It is common to see people preaching installing high volume sound amplifiers on minibuses, freely moving in every street and main squares of the capital; even some times they stop their vehicles in front of other denominations’ edifice or Churches.⁴³² Some people post their religious brochure on the fence walls of other denominations. It is also observed that some civil servants from different denominations, posting religious verses, crucifix, portraits of angels and saints inside government offices in their work place.⁴³³ According to one interviewee’s observation, some

⁴²⁸ Stahnke Tad, “Proselytism and the Freedom to Change Religion in International Human Rights Law”, *Brigham Young University Law Review*, (1999), P. 3 Likewise, views on proselytism may vary depending up on religious identity of the target. For instance, distinction may be drawn between targeting those of a different denomination with in the same religion, and those of a different religions altogether. Given these divergent views, proselytism can raise problems of an intrareligious nature, as well as problems of interreligious relations and unity. (findarticles.com/p/articles/mi_qa3736/is_199901/ai-n8836117), last visited, 19/10/2009

⁴²⁹ Joel A. Nichols cited above at note 68, P.605. This problem is exacerbated if evangelicals adhere to a narrow definition of a Christian and consider nominal adherents of other Christian faiths (especially Catholicism and Orthodoxy) candidates for evangelism proselytism.

⁴³⁰ Stahnke Tad, cited above at note 75, P. 4, Proselytism targeted at Muslims is prohibited; where as aggressive proselytism by Muslims directed at non believers is demanded. For Example, in Malaysia, proselytism directed at Muslims is a criminal act.

⁴³¹ Id, P.6, While international human rights instruments recognize the right to have religious beliefs and the freedom to act on them, these instruments also confirm that States can limit this freedom to act in order to ensure other specified interests. This is the case even though; those who believe they are entitled to engage in proselytism may be burdened, perhaps severely, in the manifestation of their religious beliefs. Conversely, a strictly religious basis for restricting proselytism is not by itself a valid limitation on the activity. As a result of this principle, members of some religions may be frustrated in the attempt to enforce what they believe to be appropriate standards of behavior. But, by employing these principles, international human rights standards are directed at achieving a peaceful balance between the interests of those holding different religious views on proselytism, as well as the interests of those holding no religious beliefs.

⁴³² Tizazu Desalegne, *Ye Haymanot Gichitoch Mensea Achir Ye Tinat Proposal*, February, 2000 E.C A.A (unpublished), Ministry of Federal Affairs, P. 9

⁴³³ Interview with Ato Tizazu Desalegne, 23/9/2009, Advisor of Religion and Faith Affairs Directorate, Ministry of Federal Affairs.

People leased houses in residential neighborhoods and set up congregations, sometimes they conduct overnight processions that amount to sound abuse.⁴³⁴

The flourishing of various religions may signify the existence of religious freedom in this country. Besides to their missionary work some religious institutions are involved in provision of social services, such as, health, education, clean water etc.⁴³⁵ and this will show the fruits of their faith and commitment to the society at large. But, such services are not expansive enough as much as the number of denominations. Questions are seldom asked at this time about the relationship of many of the denominations' missionary works and the values they inculcate in the particular communities they operate. Their very existence appeared to be its own justification, and no further discussion of mission goals was required.

Some of the interviewees stated that, a few of them only focused on ecstatic motive in an attempt to recruiting young new missionaries, sending messages that the youth should expect nothing of this Word, because what is offered with the 'kingdom' has nothing to do with the present life.⁴³⁶

According to these observers such asceticism would prevent the youth from taking any action to change their situation and above all it kills work ethic. These sources indicate that, in the course of approaching youngsters with the purpose of winning them for their own denomination, some are even told in case promises are not fulfilled that some thing is wrong with their faith.⁴³⁷ It has been also noted that a significant number of youth, especially in the southern parts of the country, spent all day long singing in congregations, while they are from poor households.⁴³⁸

But, we can't see any sound reason what so ever that prevents to encourage people to achieve blessings in this World while they work hard for health, shelter and prosperity.

Delivering a double message is possible; to strive for heavenly kingdom as well as for decent earthly life, since the Holy Scripture also prescribes hard work for living.⁴³⁹ The aforementioned romantic motive for missionary activities could sound sweet and exciting for the young

⁴³⁴ Ibid

⁴³⁵ International Religious Freedom Report, 2002, P. 5, longstanding evangelical protestant denominations, particularly the Mekane Yesus and Kale Hiwot Churches, provide social services such as health care and education to non-members as well as to members.

Of course, it is not only these that provide social services, the EOC and the EIASC also do engage in similar activities. This author visited some churches and has seen the EOC provides education to orphan and poor family children of different religious backgrounds. e.g. Debre Bisrat Kidus Gebriel Church.

⁴³⁶ According to one respondent's comment from Mekane Yesus, these days, many tiny 'religious' denominations are mushroomed with the aim not to save life, but to collect money for their lively hood .Ato Tesfaye Mekane Yesus Legal Service Head. Interview with Ato Tizazu Desalegne, cited above at note, 80

⁴³⁷ Ibid

⁴³⁸ Ibid

⁴³⁹ The holy scriptures prescribe working hard for living. See, For example, Bible, Proverbs, 12:24, 14:23

inexperienced, but a commitment to missionary service or proselytism that does not take into account those whom it purports to serve, turns the altruistic objective into a self-centered aim.

As far as misguided proselytism is concerned this author has witnessed one experience. A couple of years ago in Debrezeit I was sat alone in a certain café waiting for outdoor service, the waitress came quickly and took my orders. After finishing my white coffee another lady came out of the café and asked me politely to join me, I did agree, she introduced her name, I did the same. A few moments passed in a deadly silence, presumably noting my loneliness she said “you seem overwhelmed, is there something bothering you? Take it easy Jesus solves every thing” taken by surprise when I started to mumble a reply, without giving me any chance, she began questioning me whether I am ‘saved’ or not? Later on I learned from the waitress, that café is a convenient place for her to proselytize, and she does this three days a week.

This experience taught me how much conservative proselytizers are over bearing. They assume that it is only them they possess the truth and that it is therefore the duty of the ‘unsaved’ to accept it without question. These observations we make are intended mainly to point areas which seem to us to bear further consideration within the religious denominations concerned.

As can be gathered from some respondents’ view, another problem of proselytism is exhibited by manipulative or illegitimate techniques of adding members to one’s own particular community.⁴⁴⁰ Three temptations are observed here. First, unfair criticism or caricaturing of the doctrines, beliefs and practices of another denomination, and building one’s own case, at the expense of others.⁴⁴¹ Second, alluring through educational opportunity, humanitarian aid, or using moral or psychological pressure.⁴⁴² Third, exploiting people’s loneliness, distress vulnerability, and creating disillusionment with their own religion in order to ‘convert’ them.⁴⁴³

This author knows some people who pressurize their domestic workers to attend with them church sermons. Though, there are multiple illegitimate if not coercive practices of proselytism that went unnoticed, let us see one illustrative practice that has been done by a certain local NGO. Ostensibly this NGO purports to provide vocational training for poor women in sewing machine, child day care, and cookery. In actual fact, however, much of the time is spent on spiritual education. One should bear in mind that these poor women are from different

⁴⁴⁰ Respondents from Orthodox Christian, Debre Bisrat Kidus Gebreial, Mekane Yesus Church, Mulu Wengel Church, have emphatically explained how unfair criticism and comparisons by people who supposed to teach their religion contributes to interreligious tension and animosity.

⁴⁴¹ Ibid

⁴⁴² See, the statement by Abdu Ethiopia, Annexed at the back of this paper.

⁴⁴³ Ibid

denominations, and their main purpose is to take the vocational training, however, they are captive audience during the religious lessons. The more striking experience is every Friday all the trainees were supposed to go to congregation to which this NGO is affiliated, which is far away from the place where vocational training is delivered, and attendance is mandatory.⁴⁴⁴ This is a clear violation of the Constitution, and viewed from the international human rights standard it constitutes a denial of freedom of conscience and amounts to indirect coercion.⁴⁴⁵

As we understand it from our respondents' comments, in Ethiopia Christian denominational experiences and practices of conversion are often not seen as complementary but as competitive, even contradictory.⁴⁴⁶ Moreover, any attempt by either Christian or Muslim to win converts from the other group is seen by the target group as aggressive behavior intended to divert away followers from the truth and onto path of error. Competitive missionary activities may be expected as both Christianity and Islam are by nature missionary religions; however, they must employ appropriate means free of deception and must respect the rights of the target of proselytism. At the same time in so far as proselytism is conducted in honest and consensual manner each must recognize the right of the other to convince and to be convinced.

According to some sources, it has been reported that members of minority faiths, such as Pentecostals have complained they "encountered overt opposition from the public while proselytizing."⁴⁴⁷ Muslims and Orthodox Christians on their part complain about the aggressive proselytism by Pentecostals and Jehovah's witnesses.⁴⁴⁸ Apart from the differing doctrinal background of faiths, this has also been exacerbated by the strong family ties in Ethiopian society and conversion from one religion to the other is frequently considered to be a betrayal of that allegiance.

It seems, therefore, evident proselytism is one of the factors that contribute to inter religious tension in Ethiopia. It is widely believed that Protestant and Pentecostals have engaged in vigorous proselytism targeting Orthodox communities and have drawn many of their members from followers of Orthodox religion background, and this has given rise to inter-religious

⁴⁴⁴ Interview with, Tiruye Gedamu, Halima Seid, and Hareg Asfaw, trainees of the NGO from October, 2008 up to August 2009, these women told this author they were pressured to close their eyes during prayers, to go to congregation every Friday and to sing religious songs in sermons, July 16, 21, 2009. The NGO is named "Good Samaritan Training Center".

⁴⁴⁵ See, FDRE Constitution Article, 27(3) and ICCPR Article 18(2)

⁴⁴⁶ Most of the respondents from Debre Bisrat Kidus Gebriel Sunday School, Mekane Yesus Church, and Mulu Wegel Church, affirmed that one of the sources of tension between different religions is what they call the unfair criticism against another religion during proselytism. Mekane Yesus Church respondent commented that, some are tempted to snatch followers from other faith institutions.

⁴⁴⁷ See, International Religious Freedom Reports, 2005, 1999, Ethiopia, P. 7

⁴⁴⁸ See, International Religious Freedom Reports, 2002, 2003

animosity at church and community level. Of course, this tendency has proven contagious to Muslim community as well, since they are also some how targets of Pentecostal proselytism.⁴⁴⁹

4.3.3 Land

Throughout history, land has been recognized as a primary source of wealth, social status, and power.⁴⁵⁰ It is the basis for shelter, food, and economic activities; it is the most significant provider of employment opportunities in rural areas and is an increasingly scarce resource in urban areas. Land also has great religious, cultural and legal significance. There is a strong correlation in many societies between decision making powers and the quantity and quality of land rights one holds.⁴⁵¹

According to the FDRE Constitution rural and urban land is under the exclusive ownership of the State and the People of Ethiopia. It is a communal property of the people and can't be sold or exchanged.⁴⁵² However, in actual fact land has become a sellable property. Following the country's open policy for market economy after the fall of the communist regime, investment is flourishing, production and service industries are blooming, there is an astonishing construction boom.

As a result of this rapid development, the price of land is sky rocketing. In anticipation of this promising market value of land, many people reportedly strive to manipulate the encouraging policy towards investment under the guise of *Limatawi Balehabt* (developmental investor), and managed to acquire land in different places for speculative resale purposes. Indeed, it has been alleged that, some of these 'rent seekers' who have got considerable parcels of land fencing it temporarily and have managed to sell it on at incredible prices with out adding any value on it.⁴⁵³ Moreover, it has also been alleged that, land squatting often occurs in many parts of the country

⁴⁴⁹ International Religious Freedom Report, 2004 Ethiopia, P. 7, the report says Muslims and Orthodox report proselytization by Pentecostals and Jehovah's witnesses. EOC leaders report that sometimes Protestants fail to respect Orthodox holy days and Orthodox customs. Muslims report that some Pentecostal preachers disparage Islam in their services. The Catholic Church doesn't actively try to convert EOC members to Catholicism. Protestant religions, actively try to convert Orthodox followers, resulting in the charge by Protestants of the EOC's exhibited supremacy.

⁴⁵⁰ Bahru Zewde, *A History of Modern Ethiopia, 1855-1991*, (2nd ed., 2001), Ohio University Press, P. 14, Bahru described this societal trend, "Thanks to a lineage system of landownership known as *rest*, the peasant could claim a plot of land as long as he could trace his decent. But his control over his produce and his labor time was limited by the claims of the nobility, both lay and clerical. A system of surplus appropriation, the *gult*, gave the nobility rights to collecting tribute, often of an arbitrary nature, from the peasant. Hence, the term *gabbar*, often used interchangeably with *balagar*, peasant."

⁴⁵¹ Id. PP. 191-192

⁴⁵² See, FDRE Constitution, Article, 40 (3)

⁴⁵³ This is the reality on the ground, State and private media have reported time and again about how people manipulate the open and conducive policy for investment. For example very recently ETV, announced perpetrators of illegal land selling, Nov. 23/ 2009

including in the outskirts of the capital by those who don't have access to land holding through the government machineries.⁴⁵⁴

According to some respondents' view, these people are resolute in venturing into repeated squatting even when they knew the government can demolish their flimsy houses, at any time, but they did hope that either the government may grant amnesty and legalize them or they can sell their parcel in the meantime.⁴⁵⁵

Of course, the ineffectiveness of management of urban and rural lands exacerbate the incidence of land squatting. At times there was a virtual collapse of enforcement action against illegal squatters and it was widely believed that some of the municipal authorities themselves are in one way or another tainted with similar practices of squatting on State land.⁴⁵⁶

Some observers suggest that another factor that provides an additional impetus to conflict between Christians and Muslims was each group's claim over a highly valued land. For instance the conflict that arose recently, on July 16, 2009 in Dessie town was a case in point. As we understand it from some government sources, in that incident the fact of the case was this; Orthodox Christians have got a valid permit from the relevant authorities to construct a church on a certain site, Muslims oppose and resist the construction claiming that the site was traditionally theirs and used to be burial ground for Muslim community in the vicinity.⁴⁵⁷

This tension has come to the knowledge of the local authorities and gave orders to the Christian to stop construction so as to prevent further escalation. However, the Christians outraged by such decision and resumed construction. Consequently, violent clashes erupted between the two communities and with local police that took the lives of some individuals.⁴⁵⁸

Finally, the situation has come under control by security forces and after high level religious and State authorities intervened; the Christians abandoned it presumably reaching some sort of compromise.⁴⁵⁹ In this particular incident one can not say the land conflict between the two communities was caused by religious difference. Rather, the cause lies at least in part in the local authorities for their lack of understanding of the historical context if not contestation over the land they allocated and for failure to act quickly before things went wrong.

⁴⁵⁴ State TV has showed many incidents of this practice and the actions that were taken by municipal officials reclaiming the illegally seized plots. On 25/11/2009 State TV aired that the A.A city administration in collaboration with Oromiya State has planned to reclaim state lands held by squatters, and is resolute to tackle what it calls '*hige wett Ye meret werera*'.

⁴⁵⁵ Ato Afewerk Tekle, Yeka Sub City Administration, Yebota Yizota Ena Wesen Maskeber Expert, August, 20/ 2009

⁴⁵⁶ The A.A Administration exposed many corrupt local officials and some residents who illegally sell land in July, 2008, Nov., 23/ 2009

⁴⁵⁷ Ato Tizazu Desalegne, cited above at note 39

⁴⁵⁸ This incident has received wide media coverage

⁴⁵⁹ Ato Tizazu Desalegne, cited above at note 39

Some government sources indicate that, similar claims are recurrent in many parts of the country that have contributed to local level land disputes between religious communities. In the course of fierce competition, each religious group construct its own historical myth attached to a certain land and this creates difficulties to local authorities to take rigorous enforcement action.⁴⁶⁰ According to some respondents' observation, these days tensions over administrative allocation of land to religious communities have become acute, for example, in January 2008 in Gondar there has been clash between Orthodox Christians and Muslims over land. The Orthodox Christians were resented with the allocation of land for Muslims to construct Mosques and Madrassa near by Orthodox Churches arguing that one of the plots was originally used for observance of epiphany (*Bahre Timket*), and they consider the other as Church's premise (*Atbia*).⁴⁶¹

At this juncture, it may be timely to consider the question; whether some kind of precautionary measures are needed as regards proximity in allocating plots to prevent likely provocation. We are of opinion that local and municipal authorities should not over look this consideration.

The proximity factor can not be easily ignored, according to some accounts, for example, on September 26,2008 in Dembi, Oromiya regional State, a conflict has erupted as a result of smoke from an Orthodox Christian celebration entering a near by mosque. This escalated into a violent conflict that resulted in deaths of local people, churches and many houses were burned displacing dozens of local residents.⁴⁶²

According some sources another proximity problem was witnessed in Harar, where each religious group complains about the other. Muslims annoyed by the high volume speakers from the near by church during ceremony, likewise Orthodox Christians get angered by the high sound amplifiers from near by mosques used for daily prayer calls.⁴⁶³

Government sources indicate that the other dimension of the problem related to land is that when a private individual bequeathed his/her residential house to religious organization, in no time such house would be demolished and rebuilt or some how modified and turn out to be a church or a mosque in breach of the town planning.⁴⁶⁴

⁴⁶⁰ Ibid

⁴⁶¹ Ibid

⁴⁶² International Religious Freedom Report, 2007 Ethiopia, P. 5

⁴⁶³ Aissetu Barry, Director of Interfaith Peace Initiative "The fact that a problem has surfaced due to religion is a shame for religious leaders", Saturday,18, April, 2009, Reporter News Paper, English Version.

⁴⁶⁴ Interview with Ato Tizazu Desalegene, cited above at note 39

There are also reported cases, where private individuals bought residential houses, and afterwards attempted to change to some kind of structures for religious services that led to clashes with the local communities of other faith. In this respect several incidents have been recorded, for example on August 4, 2001 in A.A there was a clash between Muslims and Christians⁴⁶⁵ when the former begun to construct a mosque near by Orthodox Church allegedly without permit.⁴⁶⁶ On November 30, 2001 in A.A a clash was reported between both communities, when Muslims begun to construct a mosque allegedly with out permit.⁴⁶⁷ On December 30, 2001 still in A.A both Orthodox Christians and Muslims clashed when Muslims began to construct a mosque allegedly without a valid permit.⁴⁶⁸ On January 13, 2003, a confrontation occurred in A.A in Merkato neighborhood between Muslims and city officials, who had come to demolish what they alleged illegally constructed mosque. On April 26, 2003 in wereda 4 kebele 28 area Orthodox Christians allegedly attempted to destroy a fence surrounding a plot supposedly a mosque site that reportedly led to violence between both groups. It has also been alleged that, on December 24, 2002 Orthodox Christians opposed and resisted the construction of a mosque in Ayer Tena neighborhood in A.A and clashed with Muslims.⁴⁶⁹

Apart form the illegal land squatting and several attempts to construct mosques and churches, there are increasing requests for land to construct churches, mosques, schools, and cemeteries. Despite the government's provision free use of land for religious communities, still the demand for land remains to be a challenging issue for the A.A city administration.⁴⁷⁰

Given the growing interest and competition for urban land, it comes as no surprise that various religious institutions complain about land allocation. For example, it has been reported that, the EIASC has raised concerns with respect to the equitable celebration of religious holidays, pointing that Orthodox Christian holidays, such as Meskel (finding of true cross) and Timket (eqiphany), are celebrated in Meskel square and Janmeda, two large gathering venues in A.A. where as, Muslim holiday, Eld Alfetir ceremony is celebrated⁴⁷¹ at A.A stadium, which they don't consider it a convenient site. Thus, the EIASC has asked the city administration of A.A for a new site to build a venue for such celebration.⁴⁷²

⁴⁶⁵ Ibid

⁴⁶⁶ International Religious Freedom Report, 2002, Ethiopia

⁴⁶⁷ International religious Freedom Report, 2003, Ethiopia

⁴⁶⁸ International Religious Freedom Reports, 2002, 2003 Ethiopia

⁴⁶⁹ International Religious Freedom Report, 2003, Ethiopia

⁴⁷⁰ In August 2009, top officials of A.A administration have held a meeting with various religious leaders to discuss over the land issue.

⁴⁷¹ Tiazazu Deslaegne, cited above at note 39

⁴⁷² Ibid

Evangelical Protestants are also said to have complained that they are perceived as new comers, they remained disadvantaged in the allocation of land compared to the EOC and the EIASC. Members of the Jehovah's and other minority Pentecostal denominations alleged that there is a visible inequity in treatment and access by local officials when seeking land for churches and cemeteries. They stated that, though, the government provides them some land, it is not sufficient, so they have resorted to lease or purchase buildings to use as places of worship through out A.A.⁴⁷³ In general it has been reported that most Evangelical protestants and Pentecostals believed that both the EOC and EIASC were favored for church and mosque land allocations.⁴⁷⁴

Of course, the disparity of land resources between religious institutions can be attributed in part to the country's historical background, i.e. to the Imperial past that used to favor majority religious identity.⁴⁷⁵

In spite of this fact, most religious organizations gave credit and much appreciation to the current system of governance, especially the development of religious freedom.⁴⁷⁶ Unfortunately, as in any change, implementation may be difficult and time consuming, especially in the complex Ethiopian society and tradition. In view of this it is understandable if minority religious institutions feel there are still issues of implementation.

As noted earlier, the land issue is one source of religious conflict. Thus, it seems plausible to conclude that unless this land issue is taken seriously it will continue to impact negatively inter religious relations, and may contribute in perpetuating social instability.

4.3.4 Intolerance

Ethiopia is sometimes referred to as a mosaic of peoples and cultures due to its ethnic diversity. More than eighty languages are spoken and two of the World's major religions; Christianity and Islam, plus a number of other minority faiths and traditional beliefs are followed, resulting in rich and diverse cultures.⁴⁷⁷ Christianity, Islam and traditional belief have made great contribution to the development of diverse cultures and traditions. The long standing traditions

⁴⁷³ Ibid

⁴⁷⁴ Ibid

⁴⁷⁵ Bahru Zewde, cited above at note 97. P. 193 He wrote that, a proclamation in 1947 (numerous fees and labor traditionally imposed on the tiller). He added, measures to terminate the Church's *gult* were not even considered.

⁴⁷⁶ Ato Werku, Ethiopian Seventh Day Adventist Church official, , EIASC, and Mekane Yesus, affirmed that, these days they are happy with the current system of governance, they have full freedom to worship, and they get land from the government, Sept., 17/2009. One Full Gospel Church official has also affirmed that the government is positively responding for their request of land, though, there are still some implementation problems created by some individuals, 10/12/2009.

⁴⁷⁷ Yohannes Gebreselasie, cited above at note, 36

have opened avenues to forge shared attitudes and experiences of the Ethiopian people.⁴⁷⁸ Religious and other cultural festivals, with roots in the distant past are very colorful and still continue to form an important part of communal life.⁴⁷⁹ The development of mutual respect and tolerance among the believers of the cross and the crescent has also been the solid foundation for the peace full-coexistence of the followers of the various faiths.⁴⁸⁰

Of course, this was not the only defining feature of the relations between the Christian and Muslim societies in Ethiopia. As can be gathered from historical records, there have been some set backs and incidents that slightly tarnished such exemplary relationship, though, by and large they may be attributed to the reigning rulers who had fought for power and economic reasons.⁴⁸¹ Indeed, one can not also deny the fact that Orthodox Christianity as the traditional official State religion of the past imperial regimes; it had advantages over other faiths.⁴⁸²

Notwithstanding these historical black spots, since the initial hospitable experience during Prophet Muhammad's life time, Christian and Muslims communities have lived together for centuries in harmony and cooperation.⁴⁸³ Consistent with this tradition, a couple of years ago, the Ethiopian Muslim clerics and people to their credit have in no uncertain terms condemned the Union of Islamic Court's (UIC) jihad on their country, that has been acknowledged for its tolerance by the prophet him self.⁴⁸⁴ Evidences are abundant to substantiate the long standing culture of religious tolerance in this country. That ranges from intimate friendship, good neighborly hood to inter religious marriage.

⁴⁷⁸ Ibid

⁴⁷⁹ Ibid

⁴⁸⁰ International Religious Freedom Report, 2005, Ethiopia

⁴⁸¹ It has been believed most past skirmishes and conflicts were more of politico- economic rather than religiously motivated. The Muslim peripheries were expected to pay taxes and tributes, like any other non Muslim regions. But they were generally left alone to pursue their own cultures and religions. They were in effect semi-autonomous regions with their own rulers, religions and cultures.

Forexample, in Assefa Fiseha's book, cited above at note 65, P. 18, Assefa wrote "on the eastern side we find the Afar sultanate, the Somalis and the emirate of Harar representing another important center of Islamic power and influence. For the major part of their history, the Afars lived under great autonomy of their own, with minimal intervention from the highland kingdoms in Afar affairs. The Awsa sultanate was a vassal of Menelik but after agreeing to pay tribute, the sultan won recognition of his authority over his subjects... in short, the majority of the kingdoms of the South, South west and Eastern sides existed as autonomous units(*emphasis added*), only indirectly associated with the center usually marked by the payment of tributes."

⁴⁸² David H. Shinn, cited above at note 28. He stated that, "Islam expanded gradually in Ethiopia, especially in the lower lying parts of the country. (But), treated as a secondary religion, Islam emerged in the shadow of Christianity, and Muslims experienced discrimination. There were, however, only brief periods (*emphasis added*), when Christian rulers tried to suppress Islam. There were other occasions, especially the period of rule from Gondar in the seventeenth century, when Muslim communities had considerable autonomy."

⁴⁸³ Yohannes Gebressellasie, cited above at note 36

⁴⁸⁴ In Nov. 26, 2006, Walta Information center has reported that the inhabitants of Somali State firmly stand by the government as the jihad declared against Ethiopia by the Union of Islamic Courts (UIC) mainly targets the people of the State, Muslim clerics of the State underscored. Imams, representatives of Sharia Courts, Islamic Affairs Offices, and mosques, as well as elders denounced it. Sharia Courts President, Sherif Mohammed Sherrif Abdi Seid, said (UIC's) move is to destroy Islam aimed at impeding the development of the inhabitants of the Somali State. Islamic Affairs Office Head, Sheik Omar Farah Mohammed, said on his part, declaring jihad against Ethiopia, the country that welcomed Islam first and foremost, is illegal and unacceptable by the religion.

However, contrary to this tradition, recently we are beginning to see unhealthy trends. Intolerant attitudes are emerging, especially between Orthodox Christians and Muslims. Before examining who are behind the scenes, it may be helpful to highlight some of the intolerant practices that are ensuing, since the recent past.

The temptation of manipulating religion has multiple facets. According to government reports some people from the Orthodox Christianity strive to portrait Ethiopian identity as ‘inherently’ Christian, implying that other faiths do not belong to this country. This has been manifested by carrying slogans and wearing tee-shirts written on it ‘Ethiopia is an Island of Christianity.’⁴⁸⁵

According to the same sources, as was the case for extremist Christians, we also find an outright arrogance from some Muslim individuals who snatched microphones from the preaching priests and chanting ‘religious’ slogans “*Allah W`akber*” in side the Church.⁴⁸⁶ These sources alleged that some Muslim extremist elements have also desperately tried to capitalize on the historical precedents, sensitizing past injustices, employing emotive words, in an attempt to ignite tempers of the innocent adherents to accentuate polarization and hardening position.⁴⁸⁷

There are also some evidences that point to the role of print and electronic media, used as means in this scary campaign.

As described in the ruling party’s documents, some extreme elements from both religious groups record or print their rubbish propaganda of hatred on CD, DVD, cassettes to reach out as much as possible to every house hold. These products carry unmoderated criticisms, offensive, slanderous, and outrageous comments on religion and religious values.⁴⁸⁸

The evidences that we have seem to suggest, some news papers, bulletins and other media outlets have been serving the evil motives of these groups. Some of the local new papers carry articles that have extremist religious undertones that accentuate differences and highlight hatred deliberately ignoring shared community values.⁴⁸⁹

⁴⁸⁵ Addis Raey (New vision), EPRDF’s, *Ye Nidfe Hassab Metsihet*, (Policy Bulletin), Tir-Yekatit(2ndissue., 2001 E.C),

⁴⁸⁶ Ibid, See also, The case of Arsi, petitioned by Assasa Debre Mihret Kidus Gebriel Church, Annexed. See also, Dagmawi Wube, the religious studies room, (www.ccel.org/node5329), last visited, 02. 09. 2009. One Mulu Wengel official in A.A, described that some people entered in their Church and attempted to conduct their version of prayer. He also said that some individuals from different religion made a request to teach about their faith in the Mulu Wengel Church, Dec., 11/2009.

⁴⁸⁷ Addis Raey, cited above at note 132, PP.11-12

⁴⁸⁸ Id, P.8

⁴⁸⁹ See, For example, *Selefiya*, local News Paper, July 04, 2008 No 386, P. 2. This news paper tries to ‘educate’ people about the importance of *jihad*, stating that: ‘if a call for *jihad* is pronounced be on the fore front, respond with no hesitation for the *Jihad* call’. (*This is the author’s translation*).The exact statement goes on: “*Besachew seelahu Aleyiy Weselem ye jihad arma sir teselifen liniwaga ende wagam genetin linikafel tsmamitenal*”... “*Le jihad tiri milash bemestetim hone amirochin bemetazez reged yeminoren andina glise akuwam yihew new... amirun yetazeze enien tazeze amirun yaltazeze enien altazezem, bilewal ye Allah Meliktegna...*”

It has been observed that, in the name of comparative religion some people wrote and publish translations that are harshly critical of other religions. False comparisons are frequently made between religions designed to feed the kind of controversy and tension that erupted in many parts of the country.⁴⁹⁰ The ruling party (EPRDF) sources alleged that some extremist groups even have infiltrated the mainstream religious institutions and to some extent they have become successful in planting their evil seeds.⁴⁹¹

Some individual observers indicate that, in certain localities people of different faith who lived in harmony for long start to separate *Edir*, and *Ekub*, seeking to establish the same institutions, but along religious lines,⁴⁹² this is really an appalling precedence. According to some respondents' view such exclusivist tendencies are products of radical preachers.⁴⁹³ Many of the respondents agree that such mentality runs counter to the longstanding tolerant Ethiopian tradition and it is a futile attempt by a few individuals to create segregated and ghettoized communities along religious lines. Indeed, this gives us a strong signal that, if these people do have the opportunity, nothing will prevent them from erecting buffer zones that are no-go-areas for all those of a different faith. Here every citizen should be alert not to let the country sleep walking into segregation.

According to some sources it is alleged that, another dimension of this bleak scenario manifested it self by stamping a pejorative label to religious institutions. For example labeling the Protestant and Pentecostal religions as '*mete haymanot*', '*ye zeit ena ye sinde haymanot*', '*yaltetemeku ahzab*' (*unbaptized heathens*), to Orthodox Christianity as '*ye neftegna haymanot*', '*superstitious*' or '*ye kafir haymanot*', a tendency to associate indigenous Islam with '*external forces*', '*Muslims in Ethiopia*' etc.⁴⁹⁴ It is not , therefore, difficult to realize that any

⁴⁹⁰ Id, P.4 and 5

This news paper narrates what it calls the "campaign of Hassan Anjamo in *Sebat bet Gurage*". Some of its narration contains this; "*Silemu selam tagegnalachihu alebelezia bemiwesedibachew ye hail ermija litegebiru endemigededu yemiglise neber...Betekiristianat ena limadawi emnet betochin akatelu. Hizbu esliminan endikebel tiri aderegulet. Be Aklil yeneberu betekiristianat ena ye Sheitan mamlekiyawoch hulu tekatelu.*" When it compares Islam with other religions it says; "*merz merz new, mar degmo mar...weyim Islam ke kufar gar befisum lizamed aychilim...Allah Islamin siyawerd kedemit haymanotochin shirwachewal...*"

⁴⁹¹ see, Addis Raey, cited above at note, 132, P.13

⁴⁹² *Selefiya*, News paper cited above at note 136, P.2, For example, seems to discourage the social interaction between different faith groups. In one of its article about "what is expected from married Muslim couples (family) relations, it denounces mixing with others stating: (Muslim) *endet rasun ke 'ektilat' (Medebelalek) yadin?*" many of the respondents also express the emergence of this trend; people are told by some extremist groups not to shake hands, not to associate in social life with other people of different faith.

⁴⁹³ Ato Tizazu Desalegne, cited above at note, 80. See also, Abba Samuel, cited at note 15, P. 25

⁴⁹⁴ Tizazu Desalegne, *Ye Haymanot Gichitoch Mensea, Achir Ye Tinat Proposal*, Yekatit, 2000 E.C A.A (unpublished), P. 7.

Ethiopian Mekane Yesus official response indicates that, except Orthodox Christians, all other Christians are mistakenly labeled as "Pente", people use this term not in its correct connotation, but to express their prejudice. 30/12/2009. Ato Tesfaye, Legal Service Head, in the Mekane Yesus Church Head Office in Addis Ababa.

classification and labeling has purpose behind it; in the first place it signifies intolerance, and secondly it may lead to provocation and polarization.

The government sources forcefully state that, some extremist people use what ever possible means at their disposal to foment hatred, instigate violence wrapping themselves in the flag of religion.⁴⁹⁵ According to some respondents view the most disturbing phenomenon is the radical groups' main focus has become the younger generation. They reach out universities, colleges and even lower level educational institutions to realize their project: 'radicalization of the youth'.⁴⁹⁶

The same sources alleged that, some youngsters are perfectly manipulated stridently echoed the rhetoric of their 'evil couches', some are skeptics having the perception something is wrong between religions, though, not transformed into being active tools; many are disillusioned, found themselves under a total bewilderment.⁴⁹⁷

These sources gave an account of such unfolding trends stating that, the logical and necessary consequence of all these savagery practices is outright violence.⁴⁹⁸ Indeed, this has happened over and over again in recent years. Domestic and foreign sources reported that in many parts of the country people murdered, displaced, churches and mosques burned, property destroyed as a result of religion related violences.

According to some reports it has been alleged that, in some areas people were forced at gunpoint to recant their faith and convert to other religion.⁴⁹⁹ It is also alleged that, in predominantly Muslim areas Christians are discriminated against, they have been denied to worship freely, their religious ceremonies were disrupted, their sacred objects and places profaned.

In Christian dominated areas Muslims face similar problems; they prevented from practicing their religion freely, have been harassed and attacked.⁵⁰⁰

One may wonder why is it at this time, where religious freedom and equality of religion are guaranteed, we are witnessing increased tensions and violent conflicts. Why is it, happening? Why is it that exorbitant religious demands are increasing? Why aggrieved people quickly resort to violence or staged unauthorized demonstration and mob reaction? These are very important questions for us to ponder over. We shall attempt to examine them right now.

⁴⁹⁵ Addis Raey, cited above at note 132, PP. 10, 15

⁴⁹⁶ Id., P.8, it has been noted, some of extremist elements even demand to construct mosques in public schools. Tizazu Desalegne, cited above at note 80.

⁴⁹⁷ Id, P.15

⁴⁹⁸ Addis Raey, cited above at note 132, P.9

⁴⁹⁹ See, International Religious Freedom Reports, (1999, 2000, 2002 20004, 2005,2006, 2007, 2008), *See also*, Jimma Zone Security Assessment Report of Hidar, 2001 E.C, available with this author.

⁵⁰⁰ Addis Ra'ey, cited above at note, 132, P. 8

4.3.5 Extremism: The Global Syndrome

Government sources and individual commentators pointed out that, in the Ethiopian context what extremist groups have in common is all attempt to fog their real motives. They often confuse or conflate religion with politics. According to the same sources, the former is a strategy for camouflage; the latter is the real objective.⁵⁰¹ These sources accused that both Islamist and Christian extremist groups deliberately misinterpret Ethiopia's current socio-political landscape. Although, from different perspectives some how they converge in perceiving Ethiopia as a Christian 'enclave', denying the deeply rooted tradition and existence of Islam in this country.⁵⁰² As can be gathered from these critics' view point, both alleged extremist groups largely are still on the side line and both also wage an open campaign against their respective religious institutions' leadership.⁵⁰³ One should also note that religious organizations in this country are becoming enormous financial institutions. Put it differently these organized religions are becoming 'religion industries' having different revenues from different sources, including businesses run by themselves.⁵⁰⁴

Questions, such as, are these institutions properly scrutinized for their financial conduct? Are they subject to neutral principles of secular laws? Who are these institutions accounted for? Do the religious communities at large have put mechanisms in place to regulate the finance acquired on their behalf? How does intra-denominational conflict resolved? And similar issues are beyond the scope of this study.

What we want to highlight is rather, those 'extremist' groups are allegedly yearning to control the wealth of these institutions yet unable to do so, launch their divisive propaganda up on religious leaders, denouncing them on a number of occasions as rubber stumps in order to create suspicion in the minds of followers.⁵⁰⁵

⁵⁰¹ Id, P. 15, *See also*, Yohannes G/ Sellassie, cited above at note 36.

⁵⁰² Mohammed Mealin Seid, *The Role of Religion in the Ogaden Conflict*, January, 26, 2009, ([hornofafrica.ssrc.org/mealin/...](http://hornofafrica.ssrc.org/mealin/)), last visited, August 13, 2009 Mohammed pointed out that "In the eyes of many, Ethiopians and foreigners alike, Ethiopia is still considered a Christian enclave,"

⁵⁰³ Some Orthodox respondents even hint in the EOC there is a tendency of tribalism. A respondent from Mekane Yesus Church, also state that some people relate religion with nationality and language identities. In this respect there are extreme voices from the diasporas.

⁵⁰⁴ Interview with Ato Bitew Kassaw, an expert in the Religion and Faith Affairs Directorate, 28/9/2009' He told this author that, recently he has made a research for his Masters thesis in A.A University, social Anthropology Department, and his major research theme was on intra-church disputes. And he finds out that there is acute dispute with in the church hierarchies, especially in EOC, that stem from financial matters. In this respect Ato Tizazu Desalegne, cited above at note 80, he also told this author there is fierce dispute between the EOC Synode and Mahabere Kidusan (part of the EOC establishment) about financial resources and governance issues.

⁵⁰⁵ In the Muslim Institutions similar problems have been reported, for example, between the EIASC and the A.A Islamic Affairs Higher Council, and this dispute had also financial and governance dimension. *See*, for example, *Al kuds* local Amharic News paper, *Sené* 27, 2000 E.C and also *Selefiya* local Amharic News Paper, July 4, 2008. In all these cases one can observe extreme religious undertones.

At this juncture it is relevant to ask, how and why fundamentalist groups came into existence and what they aspire to accomplish? Many people agree that, judging from their actual practices, both groups absolutely deviate from the teachings of the holy Bible and the holy Qur`an, thus their real agenda can never be religion.⁵⁰⁶

Government sources assert that these groups are by and large products of ‘defeated politics’ or better put are ‘bankrupt politicians’ who use religion as a ‘mask’ for legitimacy.⁵⁰⁷ The government strongly believes that it is these people too often acting in the name of religion that fanned the flames of hatred and fanaticism themselves serving as great obstacles in the path of peace.⁵⁰⁸ According to some reports a few of the extremist elements are brain washed by radical religious teachings and apparently are also motivated by politics.

It has been alleged that, although, most of the fringe fanatics are home grown, some of them especially the Muslims are indoctrinated by foreign radical teachings, baptized by Wahabism to foment hatred and instigate conflict.⁵⁰⁹ Some sources suggest that, these people are sponsored by foreign powers, received money and travel documents before filtering home to engage in their dirty business.⁵¹⁰

Government sources also affirm that some of these extremist elements have close connection with countries in the Middle East who want to destabilize the country.⁵¹¹ Of course, the government reports do not pin point specifically who these foreign actors are. Understandably, the government dare not publicize this due to pragmatic and diplomatic considerations.

What we sense by now is, therefore, the extremism emerging in our country seems to have both domestic and international dimensions. Government sources alleged that there are also some ‘Ulemas’ in the case of Islam and ‘Priests’ in the case of Christian, who join the cue of extremists that provide the necessary religious cover to deceive innocent followers and garner sympathy for their cause.⁵¹²

The ruling party’s sources disclosed that, one of the things that exacerbate the religious tension is the role of government officials. It has been alleged that some officials have become unable or

⁵⁰⁶ Respondents from both Orthodox and Muslim groups share this idea.

⁵⁰⁷ This position is frequently reflected by the State media, and it often stated by the government’s Communications Office. *See also*, Addis Raey, cited above at note 132, PP.13-14

⁵⁰⁸ *Ibid*, in the years 2008 and 2009, the Prime Minister reiterated this position in the National Youth Conferences conducted, in A.A.

⁵⁰⁹ Alem Zelalem, *Saudi Arabia’s Wahabism and the Threat to Ethiopia’s National Security*, September, 26/ 2003. (<http://ethiomedias.com/press/wahabismthreattoethiopia.html>), last visited, July,16/ 2009

⁵¹⁰ *Ibid*

⁵¹¹ Addis Raey, cited above at note 132, PP. 14-15

⁵¹² *Id.*, P.13

unwilling to distinguish their governmental authority from their personal religious conviction. They used religion as a criterion for service delivery. They totally forget or deliberately ignored the constitutional principle that underlines religion has nothing to do with citizenship rights.⁵¹³

According to the same source, when some where the mayor is Christian he/she will discriminate against people of other faith, where as provides preferential treatment for Christians by allocating land for churches, cemeteries etc. In similar fashion, if the mayor is Muslim the reverse is true.⁵¹⁴

There were allegations that, such local tyranny is not only confined to land issue; it extends to many other aspects of social life, at times ending up with lawlessness in some localities, denying adequate protection for religious freedom.⁵¹⁵

Some other reports also alleged that the Wahabism influence is becoming the greatest menace in this country. For example, in the U.S. international religious freedom reports of the years, 2005, 2006, 2007 and 2008, it has been continuously stated that, the EIASC has emphatically expressed the challenges it faced about the increasing external Wahabi influence with in the Muslim community. These reports also disclosed, the EIASC has alleged that an enormous amount of money is pumped into the country through Saudi-funded travel agencies and some NGOs, and it is concerned over external non- Ethiopian Islamic influences that are growing. The reports add, Wahabists attempt to utilize their financial leverage sneaking hard to infiltrate with in the ranks of the EIASC, and there is an increasing concern over the prospects of wahabsits gaining seats in the Council.

Other sources also complement this observation indicating that in 1996 E.C two high Muslim officials had written a complaint letter to the Prime Minister noting that there is a concerted activity of Wahabists in Ethiopia and how Wahabists are striving to corrupt politicians and other citizens using the power of money obtained from Saudi Arabia estimated around four million Saudi Rial.⁵¹⁶

The fatal attraction of fundamentalism⁵¹⁷ is its appeal to spiritual purity and strict divine laws, a perverted theology, as a result, it has been alleged that Wahabism in this country has got its own

⁵¹³ Id., P.16

⁵¹⁴ Ibid, *See also*, Arsi case, petitioned by Assasa Debre Mihret Kidus Gebriel Church, Annexed

⁵¹⁵ *See*, the charge lodged by the Church of the Living God for Evangelistic Ministry. *See also*, The petition lodged by the Assasa Debre Mihret Kidus Gabriel Church, both cases are annexed. *See also*, Jimma Zone Security Assessment Report of Oromiya State.

⁵¹⁶ Getachew Reda, *Fundamentalism A threat to Ethiopian Christianity*, (2008), San Jose, California, (www.tecolahagos.com/getachew.htm), last visited, 15/12/2009, Getachew wrote that, "two high Muslim officials from A.A. namely Ato Abdul Razaq and Hajj Omar Juju wrote a complaint to PM Meles Zenawi regarding their concern about the activity of Wahabists in Ethiopia..."

See also, Abba Samuel, Arc bishop of A.A *Hagere Sibket (Diocese)*, and Assistant of the Patriarch, 2000 E.C, *Be Ethiopia Ye Haymanot Mechachal alen?*, P. 25. *See also*, Reporter News Paper (Amharic), *Tahsas*, 19/1996E.C.

⁵¹⁷ Dilip Hiro, *Holy Wars: The Rise of Islamic Fundamentalism*, (1989), Rutledge, New York, PP.1-2, Fundamentalism is the term used

adepts, especially from the young educated segment of the Muslim community and from government officials.⁵¹⁸ Some respondents say, many young people have uncritically embraced Mosque and Church teachings and practices, especially with respect to fellow citizens of other denominations.⁵¹⁹ If this is true, undoubtedly it seems; then religious institutions need something else than mere theology, a cautious struggle to purify themselves from politics and from people who pursue their self-serving agenda under the banner of religion.⁵²⁰

Recently, after the government has given warning on the TV for those who are stirring some kind of clash, and declared its zero tolerance to religious extremism things seem to calm down at least temporarily.⁵²¹

This is also reinforced by the public discussions underway initiated by the government to revitalize the awareness and vigilance of the community at large.⁵²² Some interviewees suggest that Wahabists seem to have changed their strategy, by this time they are almost underground working quietly for the long range noting this public vigilance and government attention, they seem to wait for the right opportunity, until some kind of government weakness or political vacuum is created.⁵²³

In order to have a better picture of the situation let us see the Jimma case as it has received wide media coverage and it was the most outrageous religious violence in the recent history of this country. Following this scary conflict, the Oromiya Regional State had setup a four member fact finding better put security assessment committee in 27,3,2001 E.C.

This committee has made a visit on the conflict affected Weredas, and met with local residents, religious leaders, traders, NGO workers, civil servants, administrative and security local officials, victims and perpetrators of the crime and other relevant informants. After a thorough investigation, it produced its final findings to the relevant authorities.

This author has accessed the full report of the committee; the relevant items to our discussion are the following. The report indicates that the main actor behind the Jimma violence was a group called *Kawariyaa*, according to informed local residents and authorities; this group is a radical

for the effort to define the fundamentals of a religious system and adhere to them. One of the cardinal tenets of Islamic fundamentalism is to protect the purity of Islamic percepts from the adulteration of speculative exercises. Related to fundamentalism is Islamic revival or resurgence a renewed interest in Islam. Behind all this is a drive to purify Islam in order to release all its vital force.

⁵¹⁸ Interview with Ato Ewnetu Blata, Director of Intergovernmental Relations Directorate, Ministry of Federal Affairs, 24/08/2009

⁵¹⁹ Respondents from Debre Birsat Kidus Gebriel Sunday School, Addis Ababa, Sept., 20/ 2009

⁵²⁰ Addis Raey, cited above at note 132, P. 24

⁵²¹ Id, P. 7

⁵²² Ato Tizazu Desalegne, cited above at note 80. Currently discussions are under way at community level on the issues of religiously related tensions and violence.

⁵²³ Ibid, Ato Ewnetu Blata, cited above at note 165, also does have similar opinion in this respect.

offshoot of the renegade Islamic Front for the Liberation of Oromiya (IFLO).⁵²⁴ The same report and the ruling party's sources alleged that this group has also links with Oromo Liberation Front (OLF).⁵²⁵

According to local residents, this group also calls itself in Oromiffa "*Tokkummaa Musliimoota Oromiya*" literally translated as "Oromiya's Muslim Unity". some times it also called itself in Arabic as "*Oromiya Al Ittihad Al Islamiya*". The report further indicates that apprehended members of the group confessed that they have connections with Islamist militant groups operate in Middle East countries. The report also adds that the former members of the group admit that the original members have managed to infiltrate into Ethiopia since 1992. And it goes on to state that the major operating areas of the group are Limukosa, Sekka, Omonada, Chorra, Deddo, Gomma, weredas and Jimma town, and most of its recruits are reportedly from these areas.

According to the report, former members of the group estimate in every wereda at least 30 active members are assigned. Their operational structure comprises four major committees. Fund raising committee, domestic intelligence committee, foreign intelligence committee, harboring and escape route committee (a committee that helps criminal members from being caught). Their major tasks are undertaking propagation emphasizing on themes like, Muslims should not be governed by *Kafirs* (infidels) instead be governed by Sharia law, implementing forced conversion (as stated in the report they did this in Gomma, Omonada, Deddo, Limukosa). Mobilizing people not to pay taxes and not to buy fertilizers, instead encourage establishing Muslim community self help fund. Recruiting new members and administer oaths. As a matter of routine practice they call on residents to alienate, harass and black mail people who have not been complicit in their evil deeds.

The report also mentioned that, members of the group confessed that their long aspiration is to establish Islamic State, for the short term they strive to realize only Muslims to hold government positions in local elections.

The report went on to state that, the other tactic employed by the group is, in order to abort government programs or messages and to disconnect government from local people; they told the Muslim community to stay away from traditional mosques, avoiding *jama`at* (group) prayers. Instead they insist on prayer through dispersed and small groups. Mobilizing local Muslim

⁵²⁴ Jimma Zone Security Assessment Report of the Oromiya Administration and Security Bureau, Hidar, 27, 2001 E.C

⁵²⁵ Ibid, See also, *Addis Ra'ey, Ye Ehadieg Ye Nidfe Hassab Metsehet*, Kitse, 2 Kutir,6, Hamle- Nehassie, 2001E.C, P. 41

communities to hate and stigmatize Christians, they encourage and tell Muslims to insult fellow Christians out rightly '*Kafir*'!

They warn people, they should not spare any chance to weaken State machineries. They call for economic sabotage; telling people not to buy factory processed products, such as sugar, oil, milk, honey, instead prescribe local products for consumption. They urge and harassed students not to go to schools, saying 'secular education is politics', instead they prescribe the study of Qur'an in madrassas. Teachers told the committee, in the strong holds of *Kawariya*, the number of students attending schools is dwindling.

According to the same report, this group sent many recruits to unknown destinations paying to some 10,000 birr to others 5000 birr for each, and local people said most of these youngsters don't return home until the period covered by the report. The group also forces Christian students to wear Muslim *hijab* and to carry Koran while they go to school. The group conducts its own census, registering local residents mainly along religious and ethnic lines, classifying as *Kawariya*, *Wahabi*, *Tijaniya*, Sufi, Christian, indigenous Oromo, and settler Oromo etc.

The report also indicates the frequency of harassment, forced conversion and beating of Christians in rural areas was intense. Christians in several weredas informed the Committee, some of the police and security personnel were collaborators. It has been also reported that in Jimma zone Muslims are made to be divided along different sects, sufi, *Wahabi*, *Tijania* and *Kawariya*.⁵²⁶ Except sufi others are late comers and they labeled the sufi sect as old faith tainted and patronized by the '*kafir*' government. According to this report members of *Kawariya* do not want to use sufi mosques, instead they built new mosques in many localities. The same report disclosed that in Omonada wereda (one of the strong holds of *Kawariya*) in one kebele there are 8-10 newly built mosques.

⁵²⁶ Dilip Hiro, cited above at note 163, PP. 31, 32, 35, 41 and 42. *Sufism* is one of the sects of Islam. Dilip Hiro described that, "like the adherents of the Eastern Orthodox Church, they came to believe that Allah, or the ultimate reality, could be apprehended only by direct personal experience. They, therefore, stressed meditation and contemplation of the deity, and regarded direct involvement in Worldly affairs, or pursuit of political power, as distractions from the path of seeking Allah within. Through, their practices they injected warmth piety and altruistic love into Islam. They came to be known as Sufis-from the term *suf*, wool, linked to the woolen garments... Sufism grew rapidly between 1250-1500 when the Caliphate was based in Cairo under Mamluk Sultanates..." *Wahabism*: this sect was based in Mecca and Medina. This sect founded by Mohammed Ibn Abdul Wahhab (1703-87), a native of Najd, a Hanbali strong hold. Born into a religious family in Uyaina. Abdul Wahhab was inspired as much by Hanbal as by Taimiya. After his education in Mecca and Medina he returned to his home town. He was appalled by the prevalence of superstition, adultery and tribalism in his community, which had grown lax in its observance of Islamic rites and practices...he and his followers resorted to destroying the sacred trees and tombs of the saints...regarding themselves to be the true believers, the Wahhabis launched a jihad against all others whom they described as apostates-a practice which had many precedents in Islamic history. But what was unprecedented was the degree of Puritanism they wanted to impose on the community. Claiming authority from the Haddiths, they banned music, dancing and even poetry, which had always been an integral part of Arab life. They prohibited the use of silk, gold, ornaments and jewellery.

Religious leaders of the surrounding told the Committee, in Jimma zone there are 3874 mosques of these only 200 of them are united and have good relations with the EIASC. The rest have no relationship with the mainstream Sufi Muslim mosques and most of them are reportedly built by the direct Saudi donation given to the *Wahabis* and *Kawariyas*.

The *kawariyas* also manifest hatred towards the traditional sufi Ulemas, Imams and moderate religious personalities even some times, they harassed and beat them. The report also mentions, the *Kawariya* has spread its activities beyond Jimma zone, to areas such as western Welega, Illuababora, Bale, East and west Hararge. As indicated in this report, in Limukosa, Limuseka, Omonada, and Gomma many local government officials and civil servants found to have been members of *Kawariya*. In fact, the report also adds that Wahabists too have even greater share of members who are in government positions.

One can not really understand what was going on just by looking at what is happening on the surface but viewed against this back drop, it may not be surprising to see the kind of conflict that erupted in that area. The violence of the 2006 begun when violent Muslims presumably members of this group, disrupted the annual celebration of the Christian Demera/ Meskel, as a result innocent lives lost, properties destroyed and sacred objects burnt down.⁵²⁷ This is the ugly face of militant religious extremism.

On another plane, some studies suggest that, though, the Ogaden conflict is not a religious one, yet religion has a catalytic role in it.⁵²⁸ According to the study, ONLF strives to capitalize on the past conflictual history of Somalis in their relations with other Ethiopians so as to make the ongoing conflict perceived as a continuation of that historical precedence.⁵²⁹

It has been alleged that, in an attempt to mobilize supporters ONLF utilizes emotive words, such as *jihad* and fighting for the Muslim cause against what they call invaders (infidels). In order to secure legitimacy its leaders deliberately appeal to Somalis' Muslim identity to garner diasporas' support. ONLF cadres in the pastoralist areas of Somali region employ similar rhetoric to justify their cause and rally local support.⁵³⁰

⁵²⁷ Oromiya Administration and Security Bureau, Jimma Zone's Security Assessment Committee Report, November, 2001 E.C .See also, the number of perpetrators, suspects, who faced justice and pardoned, annexed at the back of this paper.

⁵²⁸ Mohammed Mealin Seid, cited above at note 149, P. 1

⁵²⁹ Id., P. 4. Mohammed Mealin wrote the following lyrics, that used by ONLF to sensationalize the past conflicts. He stated that, these lyrics are drawn from one of the famous songs ONLF cadres recite to instigate supporters during public gatherings. "*Axmed Guray Ma uu dhiman ma gablamin darwiishkii geenyaduu ma daalanaa*". He translates it as follows. "Ahmed Guray (Gragh) has never died, the Dervish has never lost, and the horse is not retired".

⁵³⁰ Ibid

The study also discloses that, some times ONLF switches position to fit its audience, using a secular rhetoric to deceive the Western countries in which a majority of its top leaders reside. What ever the leaders' real intention may be, the study indicates that its rank and file are mobilized under the banner of *jihad* against what they perceive 'Christian aggressors'.⁵³¹

According to the same source, ONLF has also established stronger links with Islamist groups in Somalia proper, it had good relations and cooperation with the defunct union of Islamic Courts (UIC) and it continues to have with *Al-Shabaab*.⁵³² Recently the Ethiopian government has alleged that *Al-Shabaab* has officially declared *jihad* on Ethiopia.⁵³³ Several local and foreign sources alleged that the Islamic fundamentalist movement from neighboring Somalia has been one major security menace to Ethiopia. One should recall the fact that Ethiopia has been claiming it was a target of terrorism well back beyond September 11,2001 the day that unleash the horrors of terrorism on the U.S soil.

Some sources also reported that, in the years 1995 up to 1998 *Al Ittihad Al Islamiya* had continuously attacking Ethiopia. According to these sources, the bombings of Ghion Hotel in A.A in January 1996, the Ras Hotel in Dire Dawa in the same year, the assassination attempt against the then Minister of transport and communications the late Dr. Abdul Mejid Hussein, the explosion of Addis Ababa's Wabe Shebelle hotel in August 1996, were reportedly committed by *Al Ittihad*.⁵³⁴

Following this the Ethiopian government took retaliatory action and destroyed *Al Ittihad's* base at *Luuq*, a place found in the Ethiopian Somali regional State territory.

According to government sources, among the dead there were a number of non-Somali foreign fighters.⁵³⁵ Though, there were no solid evidences that show OLF'S links to *Al Ittihad*, yet, there were some allegations that, another Oromo organization named Islamic Front for the Liberation of Oromiya (IFLO) had links to *Al Ittihad*.⁵³⁶ The same sources alleged that in all these cases *Al Ittihad* most often uses religious rhetoric as a justification for the acts of terror it committed. It has been recalled that, in 2006 Somali Islamists form the UIC, and wage a *jihad* war against Ethiopia still in the name of religion. Indeed, in that particular year the Ethiopian government

⁵³¹ Id., P. 5

⁵³² Ibid

⁵³³ The Ethiopian government has asserted this last year, on the State TV saying that, although, *Alshabaab* declares Jihad on Ethiopia; by now it is not as such a security threat as it was two years ago.

⁵³⁴ Federal Police Commission, Crime Report Compilation, 1994-1999.

⁵³⁵ Ethiopian National Defense Operations Division, Report Compilation , 1998

⁵³⁶ Ibid

has reiterated its official position stating that all the local and foreign insurgents have formed what it calls an “axis of evil” (*Ye Tifat Ginbar*), that stretched from Asmara to Mogadishu to create havoc in Ethiopia. Most importantly, during the climax of hostilities between Ethiopia and the UIC in Somalia, Eritrea has been accused by Ethiopia, the Transitional Government of Somalia, and the U.S. of sponsoring, arming, and training the Islamist militants that waged a jihad war against Ethiopia. According to the Ethiopian government, and foreign sources, Eritrea’s role in exacerbating the threat of jihadis in the horn shows no sign of abating.⁵³⁷

This brings us to our final conclusion that, religion is not at the heart of the conflicts referred to above, but religion contributes to it and it is manipulated to mobilize supporters from local or any where else to the furtherance of political agenda. However, this is not to suggest that, there are no genuine religious problems that need appropriate response. There are real religious claims and may continue to emerge in the years to come. Thus, we can not pretend to say categorically that, every thing is politically motivated. Nonetheless, every one needs to be cautious in identifying objectively genuine religious concerns from sham religious nuance. In as much as we should be serious on malicious demands, we must also be honest and responsive enough to entertain and solve real spiritual concerns.

4.3.6 Conclusion

Religion is most probably a category too broad for meaningful analysis. In an attempt to identify factors that can explain the role of religion in peace making and conflict, one must acknowledge the fact that peace and conflict are the result of a complex interplay of multiple variables; hence, religious factors are embedded in a complex and dynamic setting of other political, social, economic and cultural conditions. In spite of this fact we have made a modest attempt to identify some of the major factors that contribute to peaceful religious coexistence and that contribute to religious tensions if not conflicts.

In the first section of this chapter we have confirmed the fact that this country is increasingly becoming religiously diverse. Most importantly since 1991 as the result of major changes in the political system, various religions are mushroomed and continue to flourish. Taking the advantage of the constitutionally guaranteed religious freedom, individuals and communities

⁵³⁷ By now this has become a matter of public secret; even the African Union, the United Nations and the U.S. have affirmed it. On top of this, very recently, on December, 25/2009, the UN Security Council, has passed Resolution No. 1907, which imposes arms, financial, and travel sanction on the Eritrean government for its alleged role of sponsoring terrorism in the horn of Africa. *See also*, Mohammed Mealin Seid, cited above at note 149 P.5, *See also*, Mathza, “Horn of Africa: Religious Tolerance Crucial for Stability”, (www.ethiopiafirst.comS/news2007/mayreligioustolerance.pdf), last visited, Oct., 2, 2009

have enjoyed a considerable degree of freedom to manifest, observe, practice and teach their religious beliefs.

The government is doing appreciable job in respecting and protecting freedom of religion of individuals and communities in general; it grants tax exempted legal entity status to various religious organizations that engage in spiritual services. Moreover, the government also recognizes many religiously affiliated developmental institutions that involve in the provision of various social services.

Despite all these positive steps, there may be still issues that need further attention, for the moment we have observed that as regards registration, all religious organizations should be treated equally, if the law requires renewal of registration at a certain period of time, this has to be applied equally on all, other wise it would create a sense of resentment on those that are selectively required to do so. And, above all it would run counter to the constitutionally guaranteed right of equality of religions. The other point we have noticed is that based on the current census in this country there is no one single religion that can claim majority nation wide. This is true if all denominations are viewed separately in light of the particular faith they pursue. With respect to the positive factors that contribute to religious peace, the following points are worth noting. The religious landscape of Ethiopia exhibits a wide geographic dispersion of believers. As long as citizens of different denominations settled side by side in many different parts of the country, religious identity at least can not serve as major mobilizing agent in conflict scenarios. Most importantly, since the major religious identities cut across different ethnic identities such mismatch is more to serve as diffusing agent in the event of conflict rather than as escalating one.

In Ethiopia, we have observed the fact that ethnic identity is more powerful instrument of social capital than religious identity does. One of the explanations for such trend lies in the political system in general, and the federal arrangement in particular, because the concept of nation, nationalities gives much attention to ethnic identity and the enormous benefit it accrues to every ethnic group even to individuals who belong to.

For that matter, there are convincing assessments that indicate even before the introduction of the current political system; Ethiopians are well known to identify themselves in terms of their ethnic kinship rather than through their religious affiliation.

This longstanding understanding of the 'self' is more reinforced by the newly introduced political system which encourages ethnic identity as a rallying factor to be recognized as nation, nationality or people and that paves the way to be a state hood.

The other important factor is that the mainstream religious ideals and commandments can serve as forces of peace. Although, we know no religion in this World that celebrates violence we are more certain that both the major religions in Ethiopia, Christianity and Islam teach in favor of peace, love, forgiveness, service and caring to all human beings.

Indeed, the magnanimity of our religious leaders should not be overlooked. Unlike many other countries religious leaders and their institutions distance themselves from any direct and indirect involvement in politics; such institutional dissociation of religion from politics will help enhance religious peace.

The general consensus over secularism on the part of the public and the longstanding culture of tolerance are also important assets of the Ethiopian society. All these factors coupled with the existing constitutionally recognized religious freedom create more conducive environment for all religious denominations to live side by side peacefully and to maintain social harmony in general.

As regards the factors that contribute to religious tension or conflict the following points are identified. Two of the factors that raise the temperature in the current tension are the issues of prayer and wearing of religious clothing in public schools. As mentioned in chapter three, as citizens, students should be allowed to manifest their religious beliefs, but on condition that this does not amount to proselytizing or disrupting the schools' mission, or creating disorder at school. Given the dictates of pluralism embraced in our constitutional system as a normative value; it is not possible to prohibit completely the donning of religious insignia at school, but limits can be drawn. There should not be much of dispute about headscarf, as it is obvious that head covering *per se* will not necessarily and immediately offend State neutrality. The problem comes, however, when veiling amounts to disrupting factor against the schools' underlined interest.

Although, the range of positions as regards prayer and veiling are not quite clear; from some observations, two temptations seem to create the problem; on the one hand, the desire to eliminate any religious insignia or practice without showing any harm of it; on the other hand, the insistence to manifest religious practice at any cost without giving due regard to other

competing interests. These extreme positions seem the major obstacles that impeding the progress of an acceptable consensus for reasonable accommodation.

Proselytism is also another factor that causes tension between different religions. Although, propagating one's faith to others may be viewed as one aspect of religious freedom, it has to be conducted in a proper manner, but there are unregulated, illegitimate ways of proselytizing, that cause some kind of tension between different denominations and their followers. Thus, this factor deserves attention, since religious organizations in this country are competing more aggressively than ever for space and to recruit as many followers as possible.

Land is also one of the crucial areas of competition and has become potential source of conflict. We observe some illegal land holding practices committed by religious institutions. These are exhibited in the form of squatting, construction of mosques and churches without a valid permit in contravention of zoning rules and town planning. In this situation the role of local authorities in exacerbating the problem should be underscored.

The emerging trend of intolerance between followers of different religions is also another problem. In the name of comparative religion some preachers unfairly criticize other religions' doctrines and deeply held values. This practice is not confined to preaching sessions, but the caricaturing is also done using electronic and print media, such as news papers, DVD, and CD's. Different sources indicate that, some extremist elements also manipulate religion to create divisions, and polarization between different religious groups by sensitizing historical precedents, and there is a temptation that the present generation should bear the brunt of past injustices. The most appalling factor is the emerging extremism.

It has been observed that, this extremism has also external dimension. The unity and cohesion of our societies is threatened by external forces, who want to destabilize this country. According to government reports some of their agents utilize religious demagoguery, clinging on religious symbols and forms in their attempts to command the allegiance of the confused populace. As can be gathered from some government reports, some of them grouped themselves as a small clandestine organization which practice savagery acts of intimidation, forced conversion, and killing. Some of them secretly foment hatred and division between communities by preaching a radical form of religion that taught to hate others as a matter of religious duty.

The division of labor seems highly complementary between those using violence and those systematically infiltrating State institutions especially in the administrative machineries. It has

also been observed that, these extremist elements are spreading their ugly tentacles by politicizing religion to polarize religious groups; depending on the circumstances, the shape of the tension they create varies from extreme violence, as in the case of Jimma, to open propagation of hatred in congregations, churches and mosques.

As we understand it from the cited sources, some militant groups that resort to armed warfare to achieve their political goal are also attempting to exploit religious sentiments realizing that religion is a potent force and it has got so much emotional pull behind it.

In sum, fundamentalism in any form is an incredibly dangerous phenomenon; in a World harassed by violence and conflict in the name of religion, no one is in shortage of cautionary lessons to learn from. Religious extremism should be a matter of serious concern to the Ethiopian people, and extremists should not be allowed a free ride to plant their poisonous seeds. It is high time for us to tackle extremism of any kind be it home grown or imported. Fundamentalists of any persuasion whether Muslim or Christian are dangerous people who stand against peaceful coexistence, mutual understanding and social cohesion.

Chapter Five

Conclusion, finding and recommendations

5.1 Conclusion and Finding

In chapter one, we have highlighted the historical background, focusing on the colossal events that have relevance to the topic we undertake. In this chapter we have sketched the facts that, in addition to Ethiopia being one of the oldest civilizations in the world, it is also one of the ancient Christian nations in the World.

Another very fascinating fact with respect to Ethiopia is that, it is the first country that embraced Islam; while Muslims were persecuted in the holiest Islamic city of Mecca. Examining the relationship between these two major religions; Christianity and Islam, communities of both religions live side by side in peace and harmony for centuries. Unsurprisingly, however, there were some brief incidents of religious intolerance and persecution. Nonetheless, since the initial introduction of Islam into Ethiopia, relations between Christians and Muslims were cordial for the most part of history.

Of course, it is hard reality that every nation's religious landscape is influenced, obviously by its history. Indeed, due to historical reasons, Orthodox Christianity had been the official State religion of Ethiopia up until 1974. This phenomenon coupled with the multitude of other political, social, and economic problems forced the country to undergo through a series of political crisis and social upheavals that led to the 1974 revolutionary uprising.

Due to the lack of agile leaders who can articulate a unifying vision within the intelligentsia of that time the military hijacked the revolutions' agenda and drifted the country into another form of political crisis. Finally, the year 1991 saw the demise of the Derg rule. In 1995 the nation emerged as a federal republic proclaiming it through its Constitution. This federal Constitution, among other things guarantees the freedom and equality of religion; it declares the separation of State and religion and pronounces that there is no State religion.

Ethiopian Muslims, Christians, and other denominations finally achieved a sense of freedom and equality unparalleled in their previous history.

In sum, though, in this chapter much of the discussion was couched in terms of historical development, we have realized the fact that the ultimate safe guard for religious freedom, tolerance and mutual coexistence of different denominations is a constitutionally guaranteed

freedom and equality of religions, separation of State and religion as well as a firm commitment to live up to the spirit and text of the Constitution.

In chapter two we have gone beyond the Ethiopian context to ponder over the issues, how the freedom of religion and the concept of the separation of State and religion develop? What were the ups and downs that had been gone through? And what lessons can we draw from?

In this attempt we have come across the fact that religious freedom and separation of State and religion in the Western World have passed through a tragic evolutionary process. By and large these values are products of the European Reformation and Enlightenment movements.

Most importantly we have found the fact that, to the Western democracies, secularism has become a monument, which will always remind them of the unprecedented tragedy and human misery their past generations had gone through.

We have come to know that one of the defining features of classical liberal democracy is the commitment to the idea of separation of powers, indeed to the separation of civil government and religion too. The liberal notion of secularism defines religion as a private issue in the sense that it is neither a public responsibility nor right to enforce a religious doctrine or practice on its citizens, because religion and belief is a matter of personal conscience and identity. It also implies that the State should not take a stand on the truth claims of various belief systems, nor discriminate persons or groups on the basis of their religion or belief. Moreover, liberal secularism implies that religious groups could not as such have power over political institutions or decision making in a way that restricts the rights of others to participation in public life.

Given Ethiopia's religious diversity and/or pluralism, we don't see any other option that suits well than such liberal notion of secularism. That is why these principles of liberal secularism have all been underlined in full vigor in the FDRE Constitution. However, what remains unclear was, though, this liberal secularism presupposes the above mentioned principles, does that imply the complete exclusion of religious manifestations in the public realm?

This issue is part of the on going debate over the role of religion in the public square, especially of electoral and legislative involvements and in other various matters of governmental setting; we found that the breadth of Ethiopia's achievement in this respect quite stunning.

In the event, many older democracies struggling with the question of the extent to which religion should play a role in the public life, such acrimonious debate is not a matter of much concern in the Ethiopian political discourse, of course, save a few extreme voices in public school context.

We observed the fact that at practical level people freely manifest religious beliefs, particularly, it is common to see people who dress religious clothing in government setting, including parliamentarians, but the politics is free from religious overtones or undertones. Thus, the role of religion in the Ethiopian public space is minimal and it is not as wrangling as it does in other countries.

But, this does not mean that the constitutional form and practice are completely in consonance. We shall reflect up on this in summarizing chapter three and four.

The final theme we explored in this chapter is that, the issue of how secularism can be applied in a variety of ways in different constitutional democracies.

Here, we have observed the fact that the range and degree of variation between secular States is immense. Some of them, while they claim constitutionally secular, yet in actual fact they excessively entangled with religion to the extent of constructing mosques and churches in the public school premises spending a large amount of public fund.

Others allow religion to play some kind of role in their politics; some also allow regulated role of religion in education but strongly protect their secular political culture. In a sharp contrast, others strictly confine religion to purely private life, allowing no room to religion neither in politics nor in education; even, some of them went further to the extent of prohibiting any religious attire in governmental setting.

The lesson we draw from such observation is that, the way the concept of secularism understood and implemented reflects the specific political, social, cultural and historical development of a given country concerned, and can not be applied as a set of universal category or natural domain, albeit some salient features.

Of course, there seems a wide agreement on the idea that the normative and/or legal content of a secular State is the attempt to keep religion separate from State action, and vice versa, but when it comes to practice this general notion may mean various things.

Thus, it is difficult to provide absolute definition for secularism; simply a secular State is a constant exercise in negotiating the relationship between religion and the State, which is always couched by mediation and balance.

What we finally realize is, therefore, striking and maintaining that delicate balance is the never ending daunting task of a secular State.

Chapter three considers both the international and domestic legal regimes and standards that govern religious freedom and the limitations. As regards the international legal framework various aspects of religious freedom have been expressly recognized by several international instruments; the major ones are the UDHR, the ICCPR and the 1981 UN Declaration on religious freedom. Despite this, due to the sensitivity of issues involved in religious freedom and its wide range implications there is no single comprehensive treaty that is solely dedicated to freedom of religion to this date.

Two of the major contentious issues of religious freedom on the international plane are the right to change religion and proselytism. Although, the right to change religion is expressly recognized in the UDHR, the subsequent instruments i.e. the ICCPR and the 1981 UN Declaration on religious freedom, do not explicitly provide for the right to change religion, because of the pressure from dissenting States. In fact the UN Human Rights Committee in its general comment on freedom of conscience and religion affirms that freedom of religion includes the right to change religion.

In the case of proselytism none of the international standards afford expressed recognition. But, the practice of many democratic States and the international jurisprudence seem to support the position that proselytism falls within the ambit of religious freedom.

In the international instruments the formulation of the freedom is consciously worded in order to embrace a wide range of aspects of the right, thus it encompasses, thought, conscience, and religion. In an attempt to comprehend this notion fully a distinction is made between the internal aspect of the right which refers to 'thought and conscience' and the external aspect which refers to the freedom to 'manifest'. The former is absolutely inviolable, where as the latter is subject to permissible limitations.

As regards limitations, the requirements that a limitation must be prescribed by law, necessary and proportionate are of paramount importance. The test of these requirements is not as easy as it appears; the inquiry is more complicated when it applies to real case scenarios. The second section of chapter three considers the scope and limit of freedom of religion in the Ethiopian legal framework.

As far as the scope of freedom of thought, conscience and religion is concerned the FDRE Constitution Article 27(1) is simply replication of Article 18(1) of the ICCPR. Moreover, since the Constitution mandates that this right should be interpreted in conformity to the principles of the

UDHR and international covenants of the human rights adopted by Ethiopia, by extension it implies to the ICCPR. Therefore, as regards the scope of the right, what has been described above will directly apply to Article 27 of the FDRE Constitution. Now for the sake of brevity we shall sketch the major shortcomings of the Ethiopian legal framework and its deviations from the international human right instruments and standards referred to above. As regards proselytism, since the Ethiopian legal system does not offer any clear guidance, it is problematic to draw fine line between proper acts of proselytism and improper acts of proselytism. As has been discussed in depth, in the absence of clear legal rules it is difficult to strike a proper balance between the freedom to proselytize and the multitude competing rights and interests of others and the State.

With respect to the place of religion in the education system, the FDRE Constitution Article 27(2) provides for the right of religious communities to establish religious educational institutions save Article 90(2) of the Constitution that prohibits any religious influence in secular education. Since, the Constitution does not provide for any exception we understood this prohibition to apply equally on both public and private schools.

In this respect unlike many other secular countries, the FDRE Constitution follows a strict model of secularism with respect to educational system. Of course, the international standards do not seem to prohibit religious instruction to be imparted along side secular education in private schools.

In connection to this, what remains unclear in Article 90(2) of the Constitution is that, the indeterminate nature of the wording “education shall be provided in a manner that is free from any religious influence”. Putting it differently it is difficult to tell with certainty the actual scope of ‘religious influence’? It is less clear, whether it includes issues such as religious wearing of students and teachers, prayer, dietary requests and other campus activities. Therefore, once again in the absence of specific guidance, it is difficult to articulate the permissible range of religious accommodations that are envisaged by the Constitution.

As regards the scope of limitation, the FDRE Constitution, Article 27(5) contains more limitation grounds that are not listed under the limitation clause of ICCPR Article 18(3). On top of the grounds listed in this covenant, the FDRE Constitution adds “education” and “to ensure the independence of the State from religion”, as legitimate grounds to restrict the right to manifest religion. Moreover, under the ICCPR Article 4(2) freedom of religious expression is non derogable right in time of public emergency. Contrastingly, it is derogable right under the FDRE

Constitution. In this respect the Ethiopian system is beneath the minimum standard set by the covenant.

Most importantly, though, we argued that “ensuring the independence of the State from religion” may simply mean protecting the secular nature of the State and its institutions from religious interferences, still we see some problem that may result from the vague wording of this ground.

Since ensuring the independence of the State from religion can encompass a broad range of conceivable acts, this may give unfettered power to the government to restrict any religious expression it perceived as a threat to its independence. As a result the freedom of religious expression may be left in precarious position dependent on the whims of the government. Thus, we argue that in order to invoke this ground as justification, it has to be reduced into specific law that shows the concrete interest(s) at stake, the religious conduct that poses an imminent threat to that interest, and the necessity and proportionality of the limitation imposed.

With respect to conscientious objection, the FDRE Constitution recognizes this right only in the case of objection to military service. Even in this case there are no standard criteria for granting such exemption and the scope and content of this right is far from clear. In other words, whether the Constitution envisages only to religiously motivated objections or it includes other non religious basis of objection, such as ethical or philosophical motives is doubtful. Moreover, questions such as, to what extent can the government make exceptions with respect to military service or up to what point may a person be forced to perform a duty that contradicts his conscience or belief, and who decides over the legitimacy and sincerity of the claim and related issues of jurisdictional competence and procedural mechanisms are worth nothing.

Finally, we consider the tension between religious freedom and other fundamental rights. In this regard we attempt to compare the place of freedom of religion vis `a vis freedom of expression. And, our inquiry leads us to the conclusion that the overall Ethiopian legal system tends to give more weight to freedom of religion than to freedom of expression.

Furthermore, the concerns as regards religious groups’ autonomy that may perpetuate gender stereotypes and undermining women’s equality are worth noting. In general how to deal with the tension between two equally protected rights is a painstaking task. No general answer can be given that reconcile the myriad of clashing values in every context, but it is necessary to begin to articulate the principles that should guide decision making in particular contexts.

In chapter four we have highlighted the religious demography of Ethiopia. And we found that since 1991 the protestant religion has become the fastest growing denomination in this country. Of course, Orthodox Christianity still holds the highest population percentage followed by Islam.

The government grants legal recognition to religious organizations without much bureaucratic red tape and it gives them the privilege of tax exemption status. However, the practice of renewal of registration does not apply to all equally and this has to be considered by the law enforcement agencies.

As regards the potential source of religious peace we have found that Ethiopia has many positive assets that have to be exploited fully. The Ethiopian religious demography shows that many believers of different denominations are found in several regions of the country; in many urban and rural areas people of different faith have settled in a mixed pattern. This geographic dispersion diminishes the potential of creating segregated ghettos along religious lines. There is also a good culture of religious tolerance that is deeply rooted in the Ethiopian social fabric. In addition, the general consensus over secularism in the people's mind set, the existence of moderate religious leaders, the basic tenets and commandments of religions are forces of religious peace.

Moreover, the existence of a law that prohibits any religious grouping to indulge itself in political activities and the restriction on any political grouping to legitimize itself on the basis of religious agenda as well as the overall constitutional system that provides for greater degree of religious freedom are some of the major factors we identify that can play crucial role in maintaining religious peace.

With respect to factors that contribute to religious tension and conflict; the following points have been identified, the controversy over veiling and prayer in public schools, and the lack of clear consensus on acceptable religious accommodation, the problem of aggressive proselytism, the problem of land allocation for religious purposes, the practice of land squatting, the emerging tendency of intolerance between followers of different denominations, the role of local authorities who happen to be collaborators of extremists who pursue some dubious political agenda, the emerging religious extremism that stems from radical religious teachings and partly sponsored by foreign forces, are some of the major factors that led to the inter religious tensions and conflicts. All in all, the main finding in this chapter is, though, all the negative factors identified contribute in varying degrees to religious tensions; the major culprit is undoubtedly the emerging religious

extremism, that is partly sponsored and influenced by foreign elements and adverse geo-political factors.

Finally, we can not pretend to prescribe ready made solutions to all the legal and practical challenges referred to above. Thus, we have to concede at this stage our paper undoubtedly leaves many pertinent questions unanswered. Nonetheless, the purpose of this study is to begin a discussion about the emerging challenges surrounding the issues of religious freedom and secularism in contemporary perspective.

5.2 Recommendations

Sweeping statements are often made about freedom of religion and secularism, but there is a virtual absence of definition with respect to their content, scope and their necessary implications. The constitutional provisions freedom of thought, conscience, and religion, as well as the separation of State and religion are too broad and generally phrased not readily fit into specific cases. For example, what amounts to violation in terms of wearing religious symbols in educational setting, or ensuring the independence of the State from religion? Terms of such nature may be interpreted to embrace a wide variety of acts that are prone to uncertainty, making the need for elaboration very essential.

- Therefore, in order to realize the proper implementation of religious freedom without endangering the constitutional principle of secularism, we need a legislative frame work that provides for specific provisions detailing the meaning, content and scope of the right and the specific limitations that are sought to be imposed. Such legislative act not only gives the necessary tool and road map for those who assume the responsibility for the enforcement of those constitutional values, but also it informs and warns citizens, what to do and what not to do in the course of exercising their rights.
- Based on this legislation, a specific guideline that regulates the issues of religious accommodation in schools and universities is also necessary. Although the Ministry of Education may be in charge of this task, the formulation process should be participatory to canvass support from all stakeholders. This is crucial, because if the enforcement and interpretation of religious freedom and secularism is simply left to the decency and wisdom of those who assume that responsibility without offering a clear guidance and the proper device for effective implementation, inevitably matters will fall out differently. As we understand it, the absence of a legislative frame work and a clear consensus guideline

left open the possibility for every individual to take matters into his own hands. Though, our premise is not that constitutional provisions may, in no way be directly implemented, the legislature is better equipped and placed to define the substantive meaning and its scope of application to respond to the religious needs and dynamics of the society through specific legislation. Moreover, in the broader sense interpretation is a collective enterprise that ranges from a simple executive clerk to the HoF. Thus, by filling the gaps and clarifying ambiguities, the legislature should discharge its responsibility to bring the great constitutional provisions and principles into reality.

- Furthermore, it has to be noted that freedom of religion is not merely exercised individually; it is also a community's right; meaning it has collective dimension. In addition, it has also vertical and horizontal dimensions, in the sense that it operates in respect of the relation between private citizens and/or groups and the State, as well as between private individuals. At times those relationships may give rise to some procedural issues like standing, thus, the development of legislation that handles issues of such nature is important. In this respect one may recall how the EIASC's claim was blocked by the ICC, stating it lacks standing in the Kedija Bashir's case, arguably, a decision that trumps religious group's autonomy.
- It has to be noted that the current system is the outcome of an intense and lengthy struggle to bring socio-political justice. As part of this, secularism is introduced essentially as a political response to Ethiopia's diversified religious state of affairs. Ethiopia is not only characterized by ethno-cultural diversity but also by denominational plurality. The best means we had to manage this diversity in a fair and impartial manner is if we have a political realm that is free from any religious influence. This is because, if too many of these religious communities exist, and touch upon too many areas of life including politics, the common ground essential to a well being of our democracy will cease to exist. Thus, to prevent this; the strict conception of Ethiopia's secularism should be kept intact in its full vigor, keeping the distinction between religious society and secular State.
- However, in order to respond to the constitutionally guaranteed freedom of religious expression and the normative value of pluralism, a legally regulated, predictable and reasonable accommodation of religious claims in the public sphere is commendable. If

this is supported by carefully developed guideline, it would at least substantially minimize the considerable wrangling or confusion that we are witnessing over the shape and authenticity of the current religious accommodations in public universities.

- As we understand it secularism does not imply hands off government, indecisive, halting, or hesitant until matters transform from show to shove, or indifferent towards religious affairs. We believe our secularism does not deny the possibility of allowing a legally regulated interaction between the government and religious institutions. This is vital for the government and religious groups as well; since both have a stake and responsibility of defending and respecting the Constitution.
- The legislation we envisage here, however, must never allows the government to indulge itself in interpreting ecclesiastical doctrine of any religion or to interfere or oversee their internal governance, but the government is under a duty to enforce rule of law and to safeguard the constitutional order. Nonetheless, the government can not discharge those responsibilities single-handedly, and it needs the cooperation of religious communities and their institutions.
- Thus, here comes the need for an establishment of a strong institution that makes assessment, coordinate efforts, facilitate interfaith dialogue and serve as a bridge between the State and religious institutions. In a religiously diverse society religion single handedly can not resolve conflict; at least between parties from different faiths. But, impartial institutions are called upon to do so. We don't believe that every problem is solved through legal battle, hence, when religious institutions have concerns, as the government does; they need a certain government institution to which they speak to, that has sufficient stature and competence. We know very recently the government has set up a very small branch (Directorate of Religion and Faith Affairs), with in the Ministry of Federal Affairs; on top of its infancy, its actual power and responsibility has not been defined yet. All the same we suggest the need for an institution that serves as a bridge either by strengthening the already existing one or another.
- The government, especially municipal authorities should enforce town planning and zoning rules to tackle illegal constructions and land squatting practices for religious purposes. Leniency towards the powerful religious communities with respect to land

holding practices can generate resentment among other, less privileged minority religious communities whom they feel they are losing out.

- The abuse of power committed by local authorities should be taken seriously, and the government needs to have the determination and necessary courage in bringing culprit officials before justice. Many of our respondents describe their dissatisfaction over the lack of transparency and audacity on the dispensation of justice. It is an irony and a twisted logic to understand, if not to believe, in the era of democratization, to hear people being forced to recant their religion at gun point in broad day light.
- Religious stickers, crucifix, verses, portraits and the like should be removed from government offices, and relevant authorities should inspect to that effect.
- The government should make strict regulation on guest religious missionaries, who temporarily enter into the country, and it has to be in full consent and authentication of the relevant mainstream religious authorities that represent the particular religious community concerned.
- We will be considered flippant, if we assume that legal mechanism alone solve the problems and engender the commitment and mutual understanding required to sustain a culture of tolerance and peaceful coexistence. Thus, it is necessary to look beyond legal frame work. We believe that the responsibility to uphold the freedom of religion or belief, and the constitutional principle of secularism rests not only with the government but also with religious leaders as well. Therefore, leaders of religious communities bear tremendous responsibility for guiding their followers towards a peaceful coexistence, using their power and influence to inculcate the value of tolerance in the hearts and minds of their members; which is a necessary condition to live harmoniously with those who think and believe differently.
- Moreover, religious leaders must look beyond stereotypes and wholeheartedly approach fellow leaders of other denominations to make genuine dialogue and consensus. In a World harassed by the scourge of violence and conflict in the name of religion, it will be naive to shy away from genuine interfaith dialogue, and retreating into religious ghetto mentality will only create the openings for extremist infiltration, thus, working together on common interest should not be over looked.

- The recent move taken by the government to create awareness and to revitalize the vigilance of the larger public is constructive. This sort of discussion at community level will enhance every citizen's responsibility in spotting those who call their personal insanity a 'religion' in order to garner support and sympathy. But, such community awareness initiative should not be done after a lengthy denial and reluctance, awaiting until the grim reality projects itself. Sometimes, we observe a tendency that 'religious extremism' is not named for fear that its mere mention conjures its existence. We know even some people get nervous when such and similar terms are mentioned, but the point should no longer be about labels and packaging, but about content and substance.
- The government actions must go beyond being reactive and be proactive guided by the legal principles and rule of law. During incidents of religion-related tensions and violence a highly cautious approach is necessary in identifying the real culprits, otherwise, lumping all individuals or groups who raise religious issues under one frightening label will only breed dangerous pattern and itself gives a preference to violence to the advantage of a few evil master minds.
- Finally, it has to be admitted that there is unavoidable, constant tension between the secular State and religion. The rules of the game are balancing and compromise. For that matter, compromise is the hall mark of democracy. So, it is unrealistic to expect unanimity on matters of secularism and religious expression; what is important is, to get ready to play in accordance with the rules of the game peacefully and with robust civility. Every one should remind that, a good sign of a healthy polity is to cope with disagreement without falling into pieces.

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እንደሚታወቀው ዩኒቨርሲቲያችን የተጻጻፈው የጥናት ስልጣን ለተማሪዎች የምርምርና ሀብረተሰባዊ አገልግሎት መስጠት ነው። ይህን ለማድረግም ለተማሪው አስፈላጊ የሆነ ጥያቄዎችን ለማሟላት ለሁሉም ተማሪዎች አስተዳደራዊ አገልግሎቶችን በተቻለ መጠን እያሟላ ይገኛል። እነዚህም ግብአቶች ሁሉ የመማር ማስተማር ሂደቱን በሚያግዝ መልኩ ያተኮሩ ናቸው። ከዚህ ውጭ ተማሪው በገልጽ ሆኖ በሰድን ያለው ማህበራዊ ሁኔታዎችን ማሟላትና ምላሽ ማስገኘት ይኖርበት ይገባል። ይህን ሁኔታ ለማሟላት ለተማሪው አስተዳደራዊ አገልግሎት በተለይም ከሃይማኖትና ከፖለቲካ ነፃ የሆነ ተጽዕኖ ነው። ለዚህም ለሁሉም ተማሪዎች እንዲሁ ግን የተወሰኑ ተማሪዎች በተለይ ሃይማኖታዊ ፍላጎታቸውን በዩኒቨርሲቲው ትጥር ገቢ ገንብረው በሌሎች የዩኒቨርሲቲው ማህበራዊ አካላት መብት ላይ ተንተኛው ለማካሄድ እየጣሩ ይገኛሉ። ይህም በዩኒቨርሲቲው ዋና ተልእኮ ላይ ትልቅ አደጋ በመሆኑ ከወዲሁ ሊቆም ይህን የሚያረጋግጡ ለመከፈት ሊቀጡ ይገባል። ስለሆነም በግቢ ውስጥ ባሉ ጥናቶች ለተማሪዎች ሃይማኖታዊ ስብሰባ እና ፀሎት ማካሄድ በጥብቅ የተከለከለ ከመሆኑም በላይ በካፍተሪያ የማሰጠት ገልጋሎቶችም ከሃይማኖታዊ ስርአቶች ውጭ መሆናቸውን ተገንዝባችሁ ስተጠቀሱት ሀገወጥ ተግባራት እንድትቆጠቡ እያሳሰብን ይህን ማሳሰቢያ ወደ ጎን በመተው በሀገወጥ ተግባራት ተሳታፊ የሚሆን ተማሪ ግን በግሉ አስተዳደራዊ ህጋዊ እርምጃ የሚወሰድበት መሆኑን በጥብቅ ለማስገንዘብ እንወዳለን።

ከሰላምታ ጋር ዩኒቨርሲቲ ጽ/ቤት

የግን ዘርፍ
የተማሪዎች ዲን
Yemane Akeay
Students Dean

Mekelle University
Office of Dean of Students

Table one: Population Size by Religion and Place of Residence (2007)

Country total		%	Urban No.	%	Rural No.	%
All persons	73,918,505	100	11,956,170	100	61,962,335	100
Orthodox	32,138,126	43.5	7,070,932	59.1	25,067,194	40.5
Muslim	25,045,550	33.9	3,098,275	25.9	21,947,275	35.4
Protestant	13,746,787	18.6	1,614,145	13.5	12,132,642	19.6
Traditional	1,957,944	2.6	39,252	0.3	1,918,692	3.1
Catholic	536,827	0.7	66,468	0.6	470,359	0.8
Others	471,861	0.6	67,098	0.6	404,763	0.7

Source: Central Statistical Agency of Ethiopia, Census Report, 2007

Table Two: Population Size of Regions by Religion (2007)

	Oromiya	Amhara	SNNPRS	Somali	Tigray	Afar	Benshangul	Gambella
Orthodox	8,269,813	14,208,067	2,995,555	27,893	4,123,087	54,675	221,168	51,454
Muslim	12,886,961	2,952,775	2,118,977	4,369,426	171,219	1,324,050	304,432	14,919
Protestant	4,818,842	30,240	8,346,046	2,635	3,635	9,344	90,272	215,092
Traditional	895,251	5,667	992,699	2,659	164	439	47,478	11,682
Catholic	122,700	4,270	362,229	1,297	15,616	989	4,191	10,356
Others	164	13,037	227,025	35,237	735	185	3,306	3,413

Source: Central Statistical Agency of Ethiopia, Census Report, 2007

Table Three: Population Size by Religion of the Two Federal Cities and Special Enumeration Areas

	Addis Ababa	Dire Dawa	Special Enumeration areas
All persons	2,728,248	—	96,570
Orthodox	2,044,481	87,629	4,600
Muslim	212,806	243,188	89,294
Protestant	443,821	9,583	1,981
Catholic	13,185	1,461	9
Traditional	1,375	242	136
Others	22,580	724	550

Note: The total population size of Afar and that of country total includes the estimated population of eight rural kebelles (21,410), in Elidar Wereda Afar region. But, the percentages are computed excluding this estimated population. The total population figures for the Afar and Somali regions refer to the counted population of the regions as of November, 29, 2007.

Source: Central Statistical Agency of Ethiopia, Census Report, 2007

Table Four: Percentage Distribution of Major Ethnic groups 2007 & 1994 Census (Ethnic groups having >1 million people)

Ethnic group	2007- Population number	%	1994- Population number	%
Oromo	25,488,344	34.5	17,080,318	32.1
Amhara	19,867,817	26.9	16,007,933	30.1
Somali	4,581,793	6.2	3,160,540	5.9
Tigray	4,483,776	6.1	3,284,568	6.2
Sidama	2,966,377	4.0	1,842,314	3.5
Guragie	1,867,350	2.5	2,290,274	4.3
Wolaita	1,707,074	2.3	1,269,216	2.4
Hadiya	1,284,366	1.7	927,933	1.7
Afar	1,276,372	1.7	979,367	1.8
Gamo	1,107,163	1.5	719,847	1.4

Table Five: This table shows the figures of perpetrators who involved in Jimma violence (2006) and members of the Kawariya exposed by the community, who have been brought to justice.

	Name of Wereda	Exposed by the community	Released on Amnesty	Released on Bail	Remanded	Convicted & Sentenced	Discharged on Acquittal	Escapes
1	Limmu Kosa	544	502	28	13	1	-	-
2	Gomma	381	287	39	48	-	-	7
3	Chorra Botoro	134	92	3	39	-	-	-
4	Gumay	118	58	-	29	-	-	27
5	Tiroftata	80	58	9	17	5	-	-
6	Limmu Seka	58	28	-	29	17	-	-
7	Gera	36	36	-	7	-	-	-
8	Sokoro	32	19	5	3	-	5	-
9	Sekacherkosa	31	23	-	8	-	-	-
10	Omo Nada	25	7	8	8	2	-	-
11	Setema	20	18	2	2	2	-	-
12	Manna	12	2	-	-	-	-	-
13	Kerssa	11	7	4	-	-	-	10
14	Nuno Benja	10	4	-	4	-	-	-
15	Deddo	4	—	-	-	-	-	-
16	Shebe Somboro	1	—	2	5	-	-	-

Source: This table is taken from the Oromiya Administration and Security Bureau: The Jimma Zone Security Assessment Report of Hidar, 2001 E.C.

ይህ መጠይቅ በኢ.አ ዩኒቨርሲቲ የህግ ፋኩልቲ ለማስተርስ ዲግሪ መመረቂያ የጥናት ፅሁፍ ማሟያነት የሚውል ነው። ለሁሉም ጥያቄዎች በወደዱት መልኩ ምላሽዎን እንዲያስፍሩልኝ በአክብሮት እየጠየኩ ከውድ ጊዜዎ ቀንሰው መጠይቁን በመሙላት ስላደረጉልኝ ትብብር በእጅጉ አመሰግናለሁ። ሥምዎን ከመፍ መቆጠብ ይችላሉ።

1. በኢ.ፌ.ዲ.ሪ ህገመንግስት የሃይማኖት የእምነትና የአመለካከት ነፃነት ተረጋግጧል። ይህን መብት ከማስከበርም ሆነ ከመጠቀም አኳያ የሚታዩ፡-

ሀ) አዎንታዊ ለውጦች ቢገልፁልኝ _____

ለ) አሉታዊ ክስተቶች ቢገልፁልኝ፡ _____

2. በኢ.ፌ.ዲ.ሪ ህገመንግስት መንግስትና ሃይማኖት የተለያዩ ስለመሆናቸውና መንግስት በሃይማኖት ጉዳይ ጣልቃ እንደማይገባ ሃይማኖትም በመንግስት ጉዳይ ጣልቃ መግባት እንደሌለበት ተደንግጓል።

ሀ) የዚህ መርህ ጠቀሜታ ምንድነው ይላሉ? _____

ለ) በመርሁ አተገባበር የሚታዩ አሉታዊ ችግሮች ካሉ ቢገልፁልኝ፡ _____

3. በሀገራችን በተለያዩ ሃይማኖቶች እና በተከታዮቻቸው መካከል መከባበርና መቻቻልን አሥመልክቶ

ሀ) የሚታዩ በጎ እሴቶች ቢገልፁልኝ _____

ለ) የሚታዩ አሉታዊ ክስተቶች ቢገልፁልኝ _____

4. የህጋዊ ሰውነት ምዝገባ ወይም እድሳት በተመለከተ ያለዎትን አስተያየት ቢገልፁልኝ

5. የአምልኮ ወይም የቀብር ቦታ አሰጣጥ በተመለከተ

ሀ) አዎንታዊ: _____

ለ) አሉታዊ _____

6. ሃይማኖቱን ለማስፋፋት በምታደርጉት እንቅስቃሴ ያስተዋሉት

ሀ) አዎንታዊ ክስተት _____

ለ) አሉታዊ ክስተት _____

7. በእምነቱ ተከታዮች ላይ የሚደርስ ተፅእኖ አለ ይላሉ?

ሀ) አዎን _____ እንዴት ይገልፁታል? _____

ለ) የለም _____ እንዴት ይገልፁታል? _____

8. በተለያዩ የሀገራችን ክፍሎች በተለያዩ የሀይማኖት እምነት ተከታዮች መካከል ሃይማኖት ነክ ግጭቶች አልፎ አልፎ ሲከሰቱ ይስተዋላል። የግጭቶቹ መሰረታዊ መንስኤ(ዎች) ምን ይመስልዎታል?

9. በሃገራችን የሃይማኖት አክራሪነት (ጽንፈኝነት) አደጋ አለ ይላሉ?

ሀ) አዎን _____ እንዴት ይገልፁታል? _____

ለ) የላም _____ እንዴት ይገልፁታል? _____

10. ሃይማኖት ነክ ግጭቶችን ለመከላከልም ሆነ ለዘለቁታው ለማስወገድ ምን መደረግ አለበት ይላሉ?

ሀ) በሃይማኖት አባቶችና መሪዎች በኩል: _____

ለ) በሃይማኖት ተከታዮች በኩል: _____

ሐ) በመንግስት በኩል: _____

This questionnaire is prepared for the purpose of gathering information to my Masters thesis that I am pursuing in AAU Law Faculty. I am grateful for your kind cooperation investing your precious time to fill the questionnaire. You can refrain from writing your name.

1. Freedom of religion, belief and opinion is guaranteed by the FDRE Constitution. What is your assessment in terms of protecting and exercising this right?

a) Would you explain the positive developments?

b) Would you explain the negative phenomena? If any?_____

2. The FDRE Constitution proclaims that, state and religion are separate, and the state shall not interfere in religious matters, like wise religion shall not interfere in state affairs.

a) What is the advantage of this principle? _____

b) What is its disadvantage? _____

3. As regards to mutual respect and tolerance between different faith groups and between followers of different religions:

a) Would you explain positive values that still exist? _____

b) Would you explain the negative tendencies/ incidents/ you observe? _____

4. What is your comment on the process of granting legal entity status or renewal of registration? _____

5. What is your comment with respect to allocation of land for religious purposes and cemeteries?

a) Positive comment: _____

b) Negative comment: _____

6. In the course of your endeavors to expand your missionary activities what positive or negative situation do you observe?

a) Positive observation: _____

b) Negative observation: _____

7. Do you think followers of the religion encounter mistreatment?

a) Yes _____, how do you explain it? _____

b) No _____, how do you explain it? _____

8. In some parts of the country there have been isolated conflicts between people of different denomination. What do you think are the basic cause (s) of these conflicts? _____

9. Do you think there is a danger of religious extremism in our country?
a) Yes, _____ how do you explain it? _____

b) No, _____ how do you explain it? _____

10. To prevent or avoid religion related conflicts, what do you think should be done by:- _____

a) Religious leaders _____

b) Followers of different religions _____

c) The government _____

This questionnaire is prepared for the purpose of gathering information to my Masters thesis that I am pursuing in AAU Law Faculty. I am grateful for your kind cooperation investing your precious time to fill the questionnaire. You can refrain from writing your name.

1. The FDRE Constitution has guaranteed the right to freedom of religion, belief and opinion. How do you rate the practical implementation of this right?

1.1 It has been fully implemented. _____

1.2 partially implemented _____

1.3 Narrowly implemented _____

1.4 Totally not implemented _____

2. The FDRE Constitution proclaims that, state and religion are separate, and the state shall not interfere in religious matters, likewise religion shall not interfere in state affairs.

2.1 What is the advantage of this principle? _____

2.2 What is its disadvantage? _____

2.3 Do you think wearing religious clothing or religious symbols by students and teachers in public schools is compatible with the principle referred to above?

a) Yes, it is compatible? _____

b) No, it is not compatible? _____

3. Have you ever encountered any discrimination or mistreatment because of your religious identity? Do you know such incident encountered on others?

a) Yes, _____ would you explain? _____

b) No, _____ would you explain? _____

4. Do you think in our country there is mutual respect and tolerance between different denominations and between followers of different faiths?

a) Yes, _____ how do you explain it? _____

b) No, _____ how do you explain it? _____

5. Do you think there is a risk of religious extremism in our country?

a) Yes, _____ how do you explain it? _____

b) No, _____ how do you explain it? _____

6. In some parts of the country there have been isolated conflicts between people of different denominations. What do you think are the root causes (s) of these conflicts? _____

7. What measures do you think should be taken in order to prevent if not to avoid conflicts of religious nature?

a) on the part of religious leaders _____

b) on the part of followers of different religions _____

c) on the part of the government _____
