Contested Secularism in Ethiopia: The Freedom to Public Manifestation of Faith

Nothing is more dreaded than the national government meddling with religion.

President John Adams

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1. Introduction

Ethiopia is one of the religiously diverse countries in the world that hosts all major world religions, the major ones being Judaism, Christianity and Islam. Based on the 2007 Central Statistics Agency (CSA) report, Christianity accounts 62.8%, Islam 33.9% and others 3.3%. Historically, Orthodox Tewahdo Christianity was privileged over all other religions with a status of state religion (art 126 of the 1955 Revised Constitution of Imperial Ethiopia). Although religious freedom was declared by the Imperial Constitution (art 40), it was practically prohibited to adhere a religious belief other than the officially stated religion. The military dictatorship (popularly called Derg), that came to power after ousting the Imperial Regime in 1974 proclaimed the separation of state and religion (art 46 sub art 3 of 1987 PDRE Constitution) which heralded equality of all religions and the freedom to worship one’s own religion (sub art 1). However, taking into account of the socialist and atheist policies of Derg, it was barely possible to talk about religious equality and freedom. The regime not only distanced itself from religion but also persecuted the expression of religions applying the same or similar degree of state-led

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1 Orthodox Tewahdo Christians comprises 43.5%, Protestants 18.6% and Catholics 0.7% (CSA, 2007).

2 Followers of other religions were effectively excluded from public services including education and obtaining land for not only the construction of worshipping houses but for a living (Markakis, 1974). For example, Muslims were excluded from education and holding important public offices including the military.

3 People’s Democratic Republic of Ethiopia (PDRE) Constitution (1987). This was a very short-lived constitution in the country’s history that stayed in force until 1991.
hatred against all religions in the country.\textsuperscript{4} It was the 1991 regime change that brought a fully-fledged separation of state and religion with detailed provisions for freedom of religion.

The freedom to public manifestation of faith in worship, observance, practice and teaching has been guaranteed under the 1995 Federal Democratic Republic of Ethiopia (FDRE) Constitution (art 27). The principle of mutual exclusion of state and religion in one other’s internal affairs is also the corner stone of the constitution with respect to freedom of religion and state impartiality towards all religions (art 11). Despite the constitutional guarantee for the principle of secularism and freedom of religion, there are contestations and rising tensions between the government and members of the Muslim community. This is because of, as Muslim activists claim, the gradual move of the government towards restricting these freedoms, particularly in educational institutions. Limitations over the display of religious symbols and worship have been implemented in educational institutions since 2008 where the Ministry of Education (MOE) introduced a Directive (hereafter, Directive) that banned wearing \textit{niqab} and congregational pray.

Like all other freedoms, religious freedom is not an absolute right. In particular, the external aspect of the right, i.e., the public manifestation of faith may be subject to limitation by law where the restriction is “necessary to protect public safety, peace, health, \textit{education}, public morality or the fundamental rights and freedoms of others, and \textit{to ensure the independence of the state from religion}” as prescribed by the law (art 27 sub art 5, emphasis added). As per this provision, the freedom to express one’s religion or belief in the form of worship (example, praying, preaching or any other ritual activity related to religious belief), observance (wearing of religious clothes, prayer, procession etc.), teaching (imparting the substance of a religion, prepare and distribute religious texts and publications) and practice (choosing religious leaders, teachers, establishing religious schools and organizations) (Parker, 2006: 94-95) should not contradict the wider views of

\textsuperscript{4} The regime regards religion as ‘the opium of the masses and the result of ignorance’ that could be eliminated through time. Its policy was seen within the broader framework of socialist/communist ideology where there was no room for religion. Its ultimate objective was religious-free socialist Ethiopia in which its top party officials were instructed to work hard for that effect.
public morality (though subject to debate), affect the peace and stability of the country, health and education of the society and violate the rights of others. Moreover, the functional independence of the state should be ensured from religious influence. The restriction on religious freedom ‘to ensure the independence of the state’ affirms the secularity principle proclaimed in the constitution. However, this ground of restriction is ‘distinct’ to Ethiopia which might be subject to manipulation. It has never been mentioned in other regional and international legal instruments such as UDHR, ICCPR, ECHR, ACHPR, etc. UDHR under art 29(2) allows the maintenance of ‘the general welfare in a democratic society’ as a justifiable ground to limit freedom of religion. ICCPR under art 18 (3), on the other hand, specifies the limitation only on the manifestation part of freedom of religion ‘to protect public safety, order, health, morals or the fundamental rights and freedoms of others.’ The Ethiopian law is ‘distinct’ in that, it adds ‘the principle of secularism and education’ as justifiable grounds for limiting the freedom to public manifestation of faith. Apart from the expressly provided ones, there are no other grounds to restrict the right to freedom of religious expression. In other words, the lists provided under art 27(5) are exhaustive as it says - “freedom to express or manifest one’s religion or belief may be subject only to such limitations …”

In spite of plenty of provisions in the constitution that guarantee the free expression of one’s religious beliefs, there are apparent signs of government moves towards restricting them. Put simply, the government is trying to limit conspicuous forms of religious manifestations and symbols at the private sphere (at home and inside religious institutions). Though there are debates about the demarcations of the boundaries between

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5 Note that, being secular means being free from the influence or dictation of religious dogmas over government activities and has nothing to do with the religiosity or non-religiosity of students in educational institutions.

6 The European Charter on Human Rights under art 9(2) provides that, “freedom to manifest one’s religion or belief shall be subject only to such limitations as are prescribed by law and are necessary in a democratic society in the interests of public safety, for the protection of public order, health or morals, or for the protection of the rights and freedoms of others”.

7 The African Charter on Human and Peoples’ Rights under art 20(2) guaranteed that, “no one may, subject to law and order, be submitted to measures restricting the exercise of these [freedom of conscience, the profession and free practice of religion] freedoms”.

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private and public spaces\textsuperscript{8}, most countries of the world try to assign religious manifestation to its ‘proper and right place’. France, which follows the most radical form of secularism called laicism, considers religion as ‘an adversary and impediment’ to the normal functioning of politics and expelled religion altogether from public spheres (Hurd, 2008: 23). USA, adhering to what is generally labeled as Judeo-Christian secularism, regards religion as ‘a source of unity and identity’ and favors the accommodation of religion in public places (ibid), Turkey adapted the French model of laicism but, unlike the French, it focuses on state control of religion and religious institutions (ibid: 66). India adopts a form of secularism that ranges from strict separation to state interference particularly on Hinduism when ‘a need’ arises (Barghava, 2006: 23). Still many more ‘democratic states’ across the globe subscribe to the varieties of forms of secularism, in most cases, expelling religion from public spaces.

The Ethiopian government also adopts its own variant of secularism that has taken into consideration of the overall objective of the government’s policy of respecting diversity (at least in its early years of establishment). The shift in the government’s policy for restricting religious manifestations in public places in recent years (particularly after 2008) however refutes this early positive start. This policy is now entertaining resistance from religious communities challenging it on grounds of secularism, constitutionality and its compatibility with the notion of a multinational/multicultural Ethiopian state. This paper explores the contestation between the Muslim community and the government over issues of public manifestation of religious belief. It mainly focuses on two aspects of this right - veiling and congregational pray in educational institutions. It examines about the constitutionality of the 2008 Directive of the Ministry of Education and its compatibility with the principle of secularism and the tenets of the Ethiopian multinational federal system.

\textsuperscript{8} Though these two spheres seem to be mutually exclusive, they are mutually dependent. Based on Habermas’s theory of the public sphere, for example, ‘the public sphere may be conceived above all as the sphere of private people come together as a public’ (Susen, 2011: 43). It is therefore at odd to expect these private individuals to drop their identity while acting collectively in the public sphere since that sphere itself is the result of their aggregation.
The Directive bans conspicuous religious symbols of all religions and acts of congregational prayer in both private and public educational institutions. Before directly delving into the substances of the controversies in Ethiopia, we found better to deal with the role and status of veil and congregational prayer in the religion of Islam.

2. Veil in the Holy Quran

There are some references about clothing for the believers in the Holy Quran. *Surah al-Mu’minun* 23:5 (the Chapter on Believers) prescribes what is expected of the believers with regard to clothing. It provides that, “believers are those who guard their modesty and are those who guard their chastity (i.e., private parts from illegal sexual acts).” *Surah an-Nur* 24:31 (the Light) is more explicit in mandating women to cover their body with veil. It states; “tell the believing women to lower their gaze and be modest, and to display of their adornment only that which is apparent, and to draw their veils over their bosoms, and not to reveal their adornment save to their own husbands, fathers, or husband’s fathers, sons, […].” Women are ordered by the Quran to lower their look against forbidden things, protect their private parts from illegal sexual acts and not to show off their adornment except only that which is apparent (example, eyes to see or hands for work) (ibid) and to their nearest relatives and husbands.

Stating differently, women are not allowed to be bareheaded or naked in front of those male persons whom, in principle or based on the commandments of the Quran, they can marry with. They are required to cover up their body while in public or with somebody else whom he has the ability to marry them. On the other hand, women are free to be bareheaded or not to cover their faces and hairs with headscarves in front of their husbands, fathers, brothers, uncles, grandfathers, younger boys, slaves and other individuals with no sexual ability.

The obligation to lower one’s gaze is not only limited to women. Many people usually consider wearing ‘hijab’ as only an obligation for women (Zakir, n.d: 10). But lowering the gaze of believers is first mandated on males. *Surah an-Nur* 24:30 requires believing
Muslim men to lower their gaze and be modest in their look though it might not be necessarily translated into veiling as women are expected off. It says, “tell the believing men that they should lower their gaze and guard their modesty: that will make for greater purity for them”. In fact, the obligation and the extent of cover on women is stricter than men. While body covering from ‘navel to knees’ is enough for men, complete body covering except the ‘face and the hands up to wrist’ required of women (Zakir, n.d: 11). “If they wish to[o], they can cover even these parts of the body” (ibid). Moreover, the Quran requires believers that “the clothes worn should not resemble that of the unbelievers, the opposite sex, and should not be transparent, so glamorous as to attract the opposite sex and reveal the figure” (ibid).

The Quran under Surah an-Nur 24:60 lightens the burden of older women for lowering their gaze and the requirement of modesty compared with young girls and women but still recommends modesty for them. It provides that, “as for women past child-bearing, who have no hope of marriage, it is no sin for them if they discard their [outer] clothing in such a way as not to show adornment. But to refrain is better for them.” Even for them, it should not be for displaying their adornment or beauty but for any other factor related to old age. The reason behind lowering one’s gaze is to avoid sexual molestation by the strange opposite sex and to be modest in one’s conduct. Some Muslim scholars (Zakir Naik, n.d: 11) argue that, hijab is not a simple wrapping of body – of course that is one requirement for a Muslim - but ‘includes conduct and behavior’ – ‘hijab of the eyes, hijab of the heart, hijab of thought and hijab of intention’.

Some scholars (Laman Tasch, 2012: 17; Scott, 2007: 14; Hoodfar, n.d.: 6, quoted from Nashat, 1988; Keddie and Beck, 1978; Jelodar, n.d: 66), however consider the veil more of customary than religious. They argue that, it is a custom imposed upon Muslim women by men. Black (n.d: 15) argues on the imprecise nature of the Quran in prescribing the veil as mandatory requirement of a Muslim woman. But he did not hide its significance in Islam owing to the continuing practice for centuries. He states that, “[… the] long-standing veiling traditions in Islamic civilizations surely indicate that the veil plays a role in the Islamic faith.”
With varied intensity of interest towards veil, it survived to this date despite the different laws and policies by many countries for curtailing its appearance in public places. Ironically, the veil even became more visible and an icon of resistance at the end of the 20th and beginning of 21st centuries, where most countries attacked it with stringent laws for its elimination or private existence. This attack mainly emanates from the meaning and status accorded to it by various governments or actors.


Does the ban on veil infringe the rights to freedom of religious expression or could it be legally justified on grounds of secularism? Freedom of religion is guaranteed in almost all international and regional human rights instruments such as the UDHR, ICCPR, ECHR, ACHPR and national legal instruments. At the same time, these legal instruments leave the room for states to restrict freedom of religion under certain circumstances if necessary. The restrictions are mainly limited to public manifestation of faith that has a bearing on public safety, national security, public morals or the fundamental rights and freedoms of others. The General Comments provided on art 18 of ICCPR by the Human Rights Committee stresses the need for narrow interpretation of the provisions of the law to limit these rights. That is to mean, only the listed restrictions under the law are allowed (Parker, 2006: 95). Moreover, it is stated that, “limitations must be directly related and proportionate to the specific need on which they are predicated and may not be imposed for discriminatory purposes or applied in a discriminatory manner” (ibid).

Nonetheless, some governments even try to justify curtailing freedom of religious expression under the ‘principle of secularism’, which is not explicitly mentioned under

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9 In protest against the 2011 French law that banned wearing niqab in all public places, one Muslim woman called Kenza Drider stood outside Notre Dame with her full face-veil leaving only her eyes. “In front of this symbol of Paris, Black (n.d: 1) states that, she became a symbol of defiance in defense of what she referred to as her ‘civil liberties as a French citizen’”.

Nazma Khan, a Bangladeshi-American young girl founded the World Hijab Day in February 2014 in defense of wearing hijab and as a symbol of resistance to the laws that bans wearing veil in public places and educational institutions (Berman, 2014).

Ethiopian Muslim university students protested against the draft law of the 2008 Ministry of Education that intended to ban niqab and other religious symbols from educational institutions chanting “is this the gift of Ethiopian Millennium” (Dereje, 2011: 20).
international human rights documents. They defend their actions as ‘necessary’ for preserving the secularity of the state and its institutions from the ‘unnecessary’ influence of religion (freedom from religion).

Though the scope of freedom of religion is wide that encompasses two aspects; the internal (forum internum) and external (forum externum) (Parker, 2006: 94), the focus of this research is on the latter where restriction of the freedom by governments could be justified. The inviolability of the internal aspect of the religious freedom is already expressly provided under such legal instruments and there is no way for states to limit these rights. This research, therefore, investigates the 2008 FDRE Ministry of Education Directive that bans some sort of religious manifestations such as congregational pray and religious symbols in educational institutions. We examined it from both a historical and human rights perspectives. By doing so, it seeks to answer how the Ethiopian policy of secularism in educational institutions and the ban on religious clothes and congregational pray limits the rights of Muslims and how it perpetuates the historical marginalization of Muslims in education.

To start with, over the last two and more decades (post-1991 Ethiopia), wearing veil became a commonplace in the country. It is partly related to the ‘liberal’ religious policy of the Ethiopian People’s Revolutionary Democratic Front (EPRDF) government that encouraged the expression of one’s identity (ethnic or religious) in all public places and partly to Islamic revivalism at the global level where the ban on veiling became a controversial issue and used as a symbol of defiance to the discriminatory policies and practices (Wing and Monica Nigh Smith, 2006).

Freedom of religion and formal equality of all religions is guaranteed in the 1995 FDRE Constitution (arts 27, 11 and 3). The EPRDF government, recognizing the past injustices committed against ‘minority’ religious groups, affirmed religious equality and its public manifestations save some restrictions as prescribed by law for legitimate and justified causes. Free religious propagation and worship either in private or public, individually or in group is allowed by the constitution. This has created immense opportunities for all
religious groups to flourish. Public manifestation of religion became a norm than exception. Often, the government promotes public display of all diversities including religion through government media. Christian, Muslim and other traditional beliefs’ religious holidays have been celebrated in public places with wider media coverage. The Orthodox Christian Epiphany, Meskel (Founding of the True Cross), Christmas and Easter are to be celebrated every year in public places with the attendance of top level government representatives. In all cases, the celebrations are to be transmitted live through public media (radio and television). Likewise, the three Islamic holidays, Eid al-Fatr, Eid al-Adha and Mewlid have been celebrated in public places with the same magnitude and media coverage despite some complaints from the Muslims, including Mejilis, about the inconvenience of the celebrating areas for Muslim holidays. Muslims are celebrating their holidays at the Addis Ababa Stadium (with its low capacity to accommodate the city’s larger Muslim population) while Orthodox Christians used to celebrate their Epiphany and Mesqel in the Addis Ababa’s two largest open areas, Jan Meda and Meskel Square.

The opening up of all public spaces for religious expression and equality has given religious institutions an incentive to flourish and people are becoming more religious (at least in appearance) than ever before. Public display of one’s identity is becoming a norm, if not a rule, and even desirable. It is not difficult to find people with religious clothing and symbols on streets, government buildings, schools, universities, offices and even in the parliament. Due to the more visible nature of Islamic identity, Muslim women wearing veil is common to observe. Wearing veil among Ethiopian Muslim women and girls not only become an accepted style of clothing but also a prominent expression of Muslim identity.¹⁰

For the last two decades, Ethiopian Muslims also came into close contact with the outside world and the ‘scriptural’ teachings of Islam. The ‘liberal’ religious policy of the EPRDF government in lifting up the quota restriction for pilgrimage to Mecca and Medina (Muslim holy lands) and the importation of religious books, audio or video records and

¹⁰ Interview with a Muslim student of Addis Ababa University, 15 November 2014
improvements in satellite technology helped them a lot in communicating with the Muslim *ummah*. After 1991, the government repealed the quota restriction for pilgrimage imposed upon Ethiopian Muslims by the military Derg and allowed the importation of Islamic books, audio and video records without censorship from abroad (Abbink, 1998: 122; Ostebo, 2007: 3; Hussein, 2006: 16). Hence, they start to depend more on scriptural teachings of Islam than the cultural practices of the society. The new generations seem more committed to Islamic principles and prescriptions than traditional practices of their forefathers. As some Muslims claim\(^\text{11}\), the new generations are more concerned with Islamic doctrines and principles than ritual or cultural activities of the previous generation. Moreover, they believe that, the ritual activities (the blending of Islamic principles and customs of the society and other un-Islamic practices) were the result of the suppression of Islamic practices during the previous regimes and have no any religious justifications to be continued. Let alone to exercise the real tenets of Islam, Ethiopian Muslims were not in a position to fast the holy Ramadan at the same day with the Muslim *ummah* (world Muslim population) due to the segregation policy of Ethiopian emperors and rulers (Hajji Beshir, 2011).

After the formal removal of these restrictions by the EPRDF government, Muslims are pushing forward for expressing their Islamic identity in a new and more visible ways at public places. Wearing of niqab as an expression of Muslim identity and religious piety, though still is small and insignificant to necessitate law for its regulation, shows slow but steady growth in magnitude in all public places including universities. It is almost becoming difficult to find a single Muslim girl without the one or the other form of veil. They valued their veil not only for their personal conviction of submission to the commands of Almighty God but also as one manifestation of Muslim identity.\(^\text{12}\) Perhaps, what is lacking from the government and some members of the Christian population\(^\text{13}\) is

\(^{11}\) Interview with Muslim activists in Addis Ababa, November 2013

\(^{12}\) Information obtained from an interview by the researcher with a niqab-wearing student of Addis Ababa University, 15 March 2014.

\(^{13}\) For detailed information on this issue, see Terje Ostebo, 2007. He provides that, the developments in the Muslim community as is visible in increasing number of mosques and holding governmental positions are interpreted as signs of ‘politicized Islam in Ethiopia. Muslim activists are being accused of aspiring for political power (p. 3) and establishing an Islamic government in the country, which in turn created unwarranted fear among the general Christian population.
to view the Muslim activists’ demands for the accommodation of their identity in the secular multicultural institutions and the veil issue in terms of identity politics instead of signs of growing religious fundamentalism.\(^{14}\)

### 3.1 Scope and Objectives of the Directive

As hinted above, the FDRE Ministry of Education (MOE) introduced a directive in 2008 for regulating worshiping, dressing and dietary codes of conduct of students, teachers and administrative workers of educational institutions. It, entitled “\textit{Betmhirt Toku’amat Ye Amlko Sireatin Bemimeleket Yeweta Memeria} – an Amharic term literally means - A Directive for Regulating Worshiping Codes of Conduct in Educational Institutions”, provides for some form of restrictions on manifestations of religious symbols, regulates diets for students and puts a guideline for worship in educational institutions.

#### 3.1.1 Scope of the Directive

For easier applicability, it begins by defining ‘educational institution(s)’ as the law is intended to be applied on such institutions and their staffs. Educational institutions as per the Directive is to mean, all kindergartens, primary and high schools, colleges and universities run by the government, NGOs, missionaries, public or private owners not established for religious propagation. The scope of the application of the regulation covers both government and private educational institutions and from KG all the way to universities. In jurisdictional matters, the law is designed to be applied in all the nine regional states\(^{15}\) including Addis Ababa and Dire Dawa notwithstanding that regional states’ education bureaus have the right to adopt strategies for its implementation depending on their particular circumstances (sub art 10.4).

\(^{14}\) See for example a government policy document entitled “\textit{Yehaimanot Akrarinetnina Yegosa Gichitochin Yeminfetabet Agerawi Eqid Meneshawechna Agitachawech}- literally, A National Plan for Controlling Religious Extremism and Ethnic Conflicts: Background and Directions.” It provides that, one manifestation of Islamic fundamentalism in Ethiopia is, ‘the demand of Muslim extremists places of worship for congregational pray and Islamic dressing in educational institutions’ (n.d: 12).

\(^{15}\) Based on art 47 (1) of the 1995 FDRE Constitution, the regional states of the Ethiopian Federation are: the State of Tigray, Afar, Amhara, Oromia, Somali, Benishangul/Gumuz, the Souther Nations, Nationalities and Peoples, the Gambella Peoples and the Harari People.
In addition to students, the applicability of the law extends over teachers and administrative workers of all educational institutions in the country (sub art 10.2). Notwithstanding the possibility of criminal charges based on the criminal code of the state, the Directive provides the discretion for each educational institution to take disciplinary measures ‘they think is appropriate’ over the violators of the provisions (sub arts 10.5 and 10.6).

The Ministry of Education claimed its authority to enact the Directive from Proclamation No. 471/2005 that was established to provide the ‘Definition of Powers and Duties of the Executive Organs of the FDRE.’ Based on art 10 sub art 1 paragraph (a) of the Proclamation, “in its field of activity, […] each Ministry shall initiate policies and laws, […] and upon approval [by the parliament], implement same.” Pursuant to art 14 (1-4) of the Proclamation, the Ministry of Education is vested with different powers and responsibilities. In the lists of powers and duties of the Ministry, the formulation of laws and policies concerning worshiping, dressing and dietary codes for students is mentioned nowhere. However, in the general powers and duties of each Ministry, formulating laws and policies are within their mandates. Even in that case, the proclamation qualifies by stating “within its field of activity […]” that would limit its powers only within its field.

3.1.2 Objectives of the Directive

The major objectives of the Directive as forwarded in the preamble are to;

- enforce art 25 of the FDRE Constitution that guarantees the equal protection of all persons without discrimination - among others - on grounds of religion,
- implement the religious freedom enshrined under art 27 in educational institutions and
- realize art 90 (2) that provides for the provision of education to citizens in a manner that is free from any religious influence, political partisanship or cultural prejudices.
Moreover, it provides that, since the 1994 education and training policy of the country declares education to be secular\textsuperscript{16}, enacting the directive became necessary.

However, as shall be discussed below, the Directive is in contradiction with these constitutional provisions and the tenets of the Education and Training Policy which the law is supposed to enforce. For better investigation, let’s put this way; does the directive actually enforce or violate art 25 that guarantees non-discrimination on grounds of religion, art 27 that guarantees freedom of religious manifestation and art 90 (2) that protects the influence of religion on education? One can also raise another question for additional assessment; is it really within the mandate of a government to introduce laws for ‘regulating worshiping codes of conduct for students or believers?’ Stating differently, is it not the mandates of religious leaders and the dictums of religious scriptures? Does it not contradict the general principle of non-interference in the affairs of religion guaranteed under sub art 3 of art 11 of FDRE Constitution?

Normatively, how to worship and follow the prescriptions of a certain religion should be left to the faithful and each religious institution. It is argued that, it is up to the adherents of a particular religion or faith to decide whether some actions, example, wearing headscarves, skullcaps, turbans, crosses, congregational pray etc, are required by religious belief or not (Murdoch, 2012: 22). The government is only responsible to keep peace and order in a society instead of describing what, where and how believers conduct their religious beliefs. It means that, when the practice/observance or teachings of a certain religion affects the peace and stability of the state or the rights and freedoms of others, it could be justified for the government to act in proportion to the threats posed. The Ethiopian constitution has already specifically provided the grounds for restricting religious freedom. Using other grounds other than listed in the constitution or that contravenes the provisions of the constitution is invalid or null and void.

\textsuperscript{16} One of the specific objectives of the 1994 Transitional Government of Ethiopia (TGE) Education and Training Policy was ‘to provide secular education’ (art 2 sub art 2.2.7). It does not specify whether it is related to the students’ religious outlook/behavior or the curricula of the education system. However, as it is understandable from the intentions of the constitution, which was introduced later, freedom of religion is respected. And hence, there is no way to secularize students except secularization of the school administration and the curriculum.
Specifically, art 25 of the FDRE Constitution that deals with ‘the right to equality’ provides to all persons - “equal and effective protection without discrimination [among others] on grounds of […] religion” (emphasis mine). The provision guarantees the right to equal protection of the law without any criterion of religious, linguistic, social or political status. Contrary to the legal provision, the MOE with its discriminatory laws, denied niqab-wearing female Muslim students from attending school education both in public and private educational institutions for nothing but wearing niqab. This is to say that, religion is used as a ground for discrimination from accessing basic social services. Similarly, freedom of religion of students in educational institutions is restricted under the pretext of ‘freeing education from the influence of religion’ (art 90(2). Wearing niqab or any other items of religious clothing by no means disrupt or affect the free provision of education from religious doctrines. Secularizing educational institutions does not entail a duty on government organs to secularize students. It involves and only relates to avoiding the incorporation of religious doctrines in the school curricula and content of school subjects. Under the specific objectives of the 1994 Education and Training Policy of the TGE (art 2 sub art 2.2.7), it is underscored that, ‘providing secular education for students’ is the major target of the government. It implies that, the provision of education should be free from the influence of religion but not secularizing students’ behaviors and does not imply regulating dressing and worshipping codes of students. This was reflected in the ‘overall strategy’ of the Policy, particularly in the preparation of curriculum. It states that, “the preparation of curriculum will be based on the stated objectives of education […] in which ‘providing secular education’ is one objective” (sub art 3.1.1). This fact was also clearly observed in the definition given by members of the Constituent Assembly on article 27 (freedom of thought, conscience and religion) during the constitution-making process. They stressed on the ‘avoidance of religious canons or dictums in the school curriculum’ to make education free of religious influence (Constituent Assembly Minute, No. 1-25). Nothing is said ‘how students should look like, how they behave and worship in educational institutions.’
With these overall objectives and designed applicability, the Directive is intended to govern three major issues in educational institutions; dressing, worshipping and dietary codes of conduct of students as shall be discussed below.

### 3.2 Dressing, Worshipping and Dietary Codes

#### 3.2.1 Dressing Codes

Art 6 sub arts 6.1-6.6 are supposed to govern ‘the dressing styles’ of students. It begins by stating that, ‘every student should come up with his/her own uniform set by the respective schools.’ It simply says, ‘school uniform should be based on the standard clothing of a student’ without specifically mentioning ‘the standard’ or citing any model clothing for a student. A student ‘without the standard uniform of a school’ should not be allowed to enter into the school campus and attend class (the teaching-learning process).

It is to be noted that, most schools of both private and public (KG, primary and secondary schools) in Ethiopia mandates their students to wear a school uniform. Therefore, the enforceability of the directive in this regard could not be difficult for educational administrators.

The Directive also provides dressing codes for students of higher institutions where wearing uniform is not mandatory. Accordingly, sub art 6.2 of art 6 stipulates that, ‘based on the nature of their education, students can wear clothes for workshop, laboratory or medical education purposes that should not adversely affect the religion of other students.’ Wearing one’s own religious cloth may not necessarily impinge the rights of other religious followers or non-believers. In this sense, therefore, the law does not explicitly ban religious clothing for higher educational institutions save that such clothes should not undermine other faiths. Sub art 6.4, however, explicitly enlists those individuals who are entitled to wear religious clothes in such educational institutions. It allows those individuals having ‘a good reason’ to wear religious clothes in all public places because of their special roles in that particular religion. As per the provision, ‘it is only the clergymen/women or priests from Christianity and sheiks from Islam could wear
religious clothes inside educational institutions.’ Others are prohibited from wearing the same. This provision is difficult to enforce because of the difficulty to differentiate the clergymen or women or the sheikh from the lay men and women. Who is going to decide whether an individual is a clergy, a sheikh or a lay man or woman to allow him/her for wearing religious clothes in educational institutions? Obviously, school administration or any other government organ should not have that power as this duty is under the exclusive jurisdiction of the respective religious institutions and the believers (Murdoch, 2012). The FDRE Constitution (art 11 sub art 3 and art 27 sub art 2) forbids state organs to interfere in the internal affairs of religion in the form of deciding the religious status of a certain individual as sheikh, clergyman etc. for entitling or denying him/her to wear religious clothes in educational institutions.

In addition to the clergymen and sheiks, the directive provides possibilities for ordinary students to wear religious clothes. It states that, notwithstanding the provisions mentioned under sub articles 6.2, 6.3, 6.4, educational administrators might allow wearing such clothes for special occasions of celebrating holidays. The administrations of the institutions are also authorized to permit the clothing of cap/hat, scarf, netela, gabi etc. for illness or grief, implying that, wearing such clothes in normal circumstances and without the permission of the school authority could result in disciplinary measures and punishment.

As per art 6 sub art 6.3 of the Directive, Muslim female students may wear hijab\(^{17}\) similar in color with their school uniform. However, it prohibits wearing niqab\(^{18}\) that covers the whole body of a student from head to toe including her face. Put simply, while it allows face veiling, it bans covering the whole body (eye to toe). The Ethiopian law in this regard is less restrictive compared with the French law that bans face veiling in all educational institutions and niqab from all public places (Black, n.d). By allowing hijab

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\(^{17}\) Hijab is a head covering that usually covers the women’s hair and neck. It is derived from the Arabic word hajaba-meaning to conceal or to prevent from being seen.

\(^{18}\) Niqab is different from hijab in that it covers a woman’s face with the exception of the eyes. Wearing of niqab is not a common practice in Ethiopia compared with the hijab. Even in higher institutions, niqab-wearing female students are quite few. There is also veiling called as ‘burqa’ where it covers the entire body of a Muslim woman including the eyes with a translucent layer of cloth.
but prohibiting niqab, the Ethiopian law seems following the middle path and an intermediary solution between total ban and permission. Though it is less restrictive, it highly affects niqab-wearing female students since it denies them from entering to the school campus and attending classes. Based on this law, niqab-wearing students could not receive modern education, both public and private, if they refuse to remove their *niqab*. In other words, they are obliged to choose either of the two options; to take off their *niqab* and attend class (education) or abstain from going to school preferring ‘respecting their religious duties’. In this regard, conspicuous religious symbols such as niqab and the law of the government came into collide where seeking secular knowledge by citizens is attached with putting off their ‘religious obligations.’

As we have discussed above, the Quran mandates believers to lower their gaze by covering their body with the one or the other form of veil. Surah 24 verse 31 of the Quran reads;

> […] tell the believing women to lower their gaze […] and not to show off their adornment except only that which is apparent […] and to draw their veils all over their bodies, faces necks and bosoms […] and not to reveal their adornment except to their husbands, or their fathers, or their husbands’ fathers, or their sons, or their husband’s sons, or their brothers, or their brother’s sons, or […] small children who have no sense of feminine sex.

The law of the government, therefore, requires the faithful to sacrifice the Quranic obligation of veiling in public places or in front of strange men. In other words, it offers a tough choice for Muslim female students and parents - (religion or ‘secular’ education). Hassen Taju argues against the law when he states that;

> The *hijab* issue is very crucial because people are torn between two different values. Quran says, ‘a woman who is in hijab gets a better place in jenet [heaven]’. The new educational directive says that, ‘a woman in hijab is not allowed to attend school.’ Faced with a tough choice, the women [female students] and their parents [may] prefer to maximize the religious value than the educational value. The opportunity cost […] is very high” (Hassen, n.d: 1).
In a way that reflects the preference of students and parents for their religious values to educational values, ESAT (a foreign-based Ethiopian Satellite Television) reports that:

Over 95% of Muslim students of Bahir Dar University (located in the Amhara National Regional State) left the campus following the new Directive of the University, which bans women students from wearing niqab and hijab […] and prohibits students from conducting prayer services in the campus(http://www.islamiclife.com/education/2013/ethiopia_bahrdar_university_bans_hijab.php).

In addition to putting a tough choice for niqab-wearing female students, the Directive, in the activists’ perspective, further marginalizes the already marginalized Muslim community in the Ethiopian educational system. One of the prominent Muslim scholar and preacher, Hassen Taju argues that:

Muslims need equal opportunity in education and other governmental institutions. [However], equality does not make sense with a differential start. Ethiopian Muslims need affirmative action because of the historically rooted marginality and imbalance. But what is happening instead is further marginalization […] (Hassen, n.d: 1).

Unlike the mechanisms of redressing ethnic inequality (art 89 sub art 4)19, the 1995 FDRE Constitution institutionalizes a system of ‘formal equality’ among all religions without taking into consideration of the disparities that existed on the ground. To be noted in this regard is, formal equality does not guarantee equal outcome (Xiaoping, 2013: 63). Particularly, in conditions where some groups suffered historical discrimination and marginalization, it may even aggravate unequal outcomes unless supported with affirmative action. The purpose of affirmative action is to bring about equal outcome or what is usually called as ‘substantial equality’ among different groups (Xiaoping, 2013: 63).

During the imperial regime, Ethiopian Muslims were systematically discriminated and marginalized from modern education. Muslims were and still are underrepresented in all

19 Art 89(4) of the 1995 FDRE Constitution provides the possibilities for redressing past injustices and inequalities sustained by some ethnic groups. It says that, “government shall provide special assistance to Nations, Nationalities and Peoples least advantaged in economic and social development”.
governmental institutions including the education sector owing mainly to the exclusion policies of the past Ethiopian regimes. Many Muslim activists critically watch the actions being taken by the EPRDF government in the mirrors of history. Historical alienations, grievances and discriminations against Ethiopian Muslims fed into the contemporary dissatisfaction of Muslims with the policies and practices of the government. Joan Wallach, a historian and the author of a book entitled “The Politics of the Veil (2006)”, argues in favor of analyzing the historical contexts to better understand the contemporary grievances or problems of a certain community instead of exclusively depending on the existing controversies at the spot. She argues that, “without history we aren’t able to grasp the implications of the ideas being advanced; we don’t hear the resonances of words; we don’t see all the symbols contained, for example, in a piece of cloth that serves as a veil” (Keegan, n.d; as cited from Scott, 2006: 8).

On top of its marginalization effect on the Muslim community, the Directive is in clear violation of the basic constitutional and human rights of niqab-wearing students dictating them to unveil to receive their basic rights. Education is regarded as basic human rights for every citizen. As per art 41(3) of the FDRE Constitution, ‘every Ethiopian national has the right to equal access to publicly funded social services’ regardless of their political or religious conviction. The African Charter on Human and Peoples’ Rights (1986), where Ethiopia is a signatory, confirms that, “every individual shall have the right to education” (art 17 sub art 1) without discrimination. It further provides that, in their education system, states are duty bound to promote and protect the morals and traditional values of the community (sub art 3).

In this regard, the Directive could be challenged on the basis of women’s rights for manifesting their religion in educational institutions. The 1995 FDRE Constitution provides for “freedom [of religion], either individually, or in community with others, and in public or private, to manifest one’s religion or belief in worship, observance, practice and teaching” (art 27 sub art 1). Based on the law, niqab-wearing students have the right to express their religious identity through dress and to freely practice their belief. After
all, it is the right of a woman to decide what to wear and not to wear as far as it is not in conflict with ‘public morality and the interest of the state.’

On top of that, forcing a woman or a schoolgirl to unveil sends a negative message to the Muslim public at large that ‘your identity is incompatible with the modern secular state and should be banned.’ Asat (2011: 11) convincingly argues that;

[…] asking a niqab-wearing woman to unveil may be a simple request, but this simple request sends a larger message to Muslim community; it says that if these Muslim women want to participate in the […] education] system, they need to make personal concession. If [they] fail to make concession, they will be […] excluded from our […] educational] system” (emphasis mine).

To be noted here is that, parents and legal guardians have the right to bring up their children ensuring their religious and moral education in conformity with their own convictions (art 27 sub art 4 of 1995 FDRE Constitution, art 18 sub art 4 of ICCPR). In this regard, it is the collective right of the community to inculcate their religious and moral values in the minds of the new generation. In fact, freedom of religious expression is not an absolute right. It is subject to limitation for justified causes. These grounds of restrictions in the Ethiopian context are set under art 27(5) of the Constitution and are exhaustive lists. However, some of the justifiable grounds for limiting public manifestation of religion are very broad and leaves a leeway for the government to construe broadly to deny citizens of the right to freedom of expression. The two grounds of restriction, public morality and security of the state, for example, are open to different interpretation. With regard to state security, some Muslims are outspoken that there is nothing to be feared in hijab/veil that endangers state security and terrorism. It is just one form of submission to the command of God by God-fearing Muslim women that has nothing to do with religious extremism and terrorism. There is no single case of acts of crime or terrorism recorded in Ethiopian soil under the disguise of niqab.
3.2.2 Worshipping Codes

With regard to worship, the Directive (under art 7 sub articles 7.1-7.9) bans any form of congregational pray inside educational institutions. It prohibits the celebration of religious ceremony unless authorized by the concerned authority and bans group worship in buildings or requesting the administration to establish common worshipping places inside the campus. It also prohibits any form of preaching, religious singing in group and salat. Nonetheless, the law provides that ‘these rights are not prohibited for those who want to pray individually without infringing the rights of others by loud voice.’ This is to mean, as far as an individual performs his/her religious duty in a silent mood without disturbing or affecting the rights of others, it is permitted. Worth mentioning here is that, from among the five compulsory salat (prayers) expected from Muslims, megrīb (early in the night), isha (late in the night) and subhi (early morning) salats require believers to pray loudly, when performed either individually or in group. Quran says, Mu’mīnum (the believers) are “those who offer their salat (prayers) in all solemnity and full submissiveness” (Surah 23: 2) and “those who strictly guard their five compulsory congregational salat (prayers) at their fixed stated hours” (Surah 23: 9). Moreover, an individual pray should not be a substitute for group or congregational pray. Congregational pray in itself is mandatory. Therefore, the Ethiopian law (art 27 sub art 1) that guarantees freedom of religion - “either individually or in community with others and in public or private to manifest [one’s] religion or belief” does not give the leverage for the government but only for the believers to choose their preferences. In other words, though the law provides in an ‘alternative’ form, the government could and should not decide how believers worship, practice or observe their religion. The law, in this regard, disregards the mandatory prescriptions of Islam to pray with loud voice and in group, thus implying denial of the rights of believers to perform their religious duty. It totally bans any form of congregational pray in any place of the educational institutions (dormitory, football fields, in the corridor of a building etc.).

As some Muslim informants strongly believe, the ban on congregational pray disproportionately affects Muslims than other religions for at least two major reasons:
First, the Quran strictly mandates believers to pray in congregation especially on Friday. The Quran under *Sura al-Jum’a* (the Congregation or Friday) 62:9 provides that, “O ye who believe! When the call is heard for the prayer of the day of the congregation, haste unto remembrance of Allah and leave your trading.” The phrase ‘leave your trading’ when you hear *azan* (caller) implies the importance of congregational pray over any other worldly affairs including education. It further explains that, “when the prayer is ended, disperse in the land and seek of Allah’s bounty, and remember Allah much, that ye may be successful” (ibid). Based on these two verses, it is after praying in congregation that every Muslim has to return to his normal business or day-to-day activities in order to be successful in worldly life. Some Muslim scholars of Ethiopia also stress on the mandatory nature of congregational *salat* (pray) for Ethiopian Muslims who follow the teachings of Hanbali School. Based on this School, the Prophet’s statement or Hadith is more emphasized where it states; “even a blind man should attend a *salat*. Had it not been for the children and the women I would like to finish off those who do not attend the *salat*” (Hassen, n.d: 1 quoting Hadith). Hassen argues that, there might be some practices such as dietary issues and wearing niqab in university and school campuses which could be compromised but not *hijab* and *salat*.

Second, due to the discriminatory nature of land allotment for the construction of religious institutions by the previous regimes, mosques are fewer in number and far from educational institutions often located in inaccessible places for students. In the imperial practices of Ethiopia, almost all the palaces, including the mobile once before the establishments of a permanent headquarter in Addis Ababa in 1886, were accompanied with the building of churches and educational institutions. Therefore, Christian students, particularly Orthodox Christianity, are by far in a better position than the Muslims to attend congregational pray in the nearby churches. Put simply, there is a wide disparity in the availability of worshiping places for different religious communities, Muslims often disfavored.
3.3.3 Dietary Codes

Concerning dietary codes, the Directive (under art 8 sub articles 8.1-8.4) provides that, “there shall be no special eating rooms (halls) for different religious groups though individual students have the right to choose their food types.” Different types of food stuffs could be prepared either for fasting or ordinary days, or for Muslims and Christians (when it is meat). To be noted here is the fact that, Ethiopian Muslims and Christians could not eat meat together slaughtered by a person of other religious faith. Muslims eat only meat slaughtered by Muslims whereas Christians eat meat slaughtered by Christians with strict observance of the custom\textsuperscript{20} by the Orthodox Christians. Therefore, based on this custom of the society, the law provides for the preparation of two types of food – one for Christians and the other for Muslims.

In time of eating, private pray is allowed whereas group pray is prohibited (sub art 8.4). It is only group activity for religious purpose that is banned by the law to avoid possible conflict among religious groups and avoid unnecessary religious competition.

4. The Veil Ban and the Multicultural State: Are They Compatible?

As we have seen earlier, the overthrow of an authoritarian government in 1991 had created ample opportunities for the opening up of public spaces in Ethiopia not only for political debates but also for public manifestation of faith. It has resulted in unprecedented democratic development in the political arena.\textsuperscript{21} With regard to religion, the socio-political changes that took place in the aftermath of the Derg regime encouraged the revival of religious practices and its public manifestations. It resulted in boosting for religious activities, particularly for Muslims. They became more assertive in

\textsuperscript{20} This practice is regarded as a ‘custom’ because ‘there is no any Biblical or Quranic verse that prohibits eating meat slaughtered by a follower of other religious faith.

\textsuperscript{21} For the first time in the country’s history, multi-party competition was legalized and practiced accordingly though there are some discrepancies in the implementation of the legal provisions. It conducted the first ever genuine multi-party competition for holding political power in 2005 though it turned into repression and suppression following the post-election controversy (Abbink, 2011: 255; Arriola, 2008).
demanding for more rights and their public visibility increased more than ever (Ostebo, 2007: 1; Hussein, 2006: 16).

In the context of Muslim awakening, the EPRDF government seems worried about religious revivalism fearing the ultimate turn out of these groups into religious fundamentalism and the disruption of the secular state order. It started to reconsider the wider opening up of the spaces for religious manifestations. The government, in addition to closing down many of Islamic newspapers and magazines that started to flourish during the initial periods of the regime (Ostebo, 2003), initiated some laws and guidelines about the way religious symbols are to be displayed and religious rituals to be practiced in public places. Ironically, all forms of diversities were respected and even promoted at the beginning. Gradually, the door has started to swing in and out against diversities and dissenting views narrowing the spaces to freely move by themselves in a direction they want (integration or more diversity). It even became the grounds for discrimination.

Government measures then arouse an atmosphere of fear among the Muslim population that ‘the creators of the system (system of accommodation for diversity) are now becoming its destructors’. Broadly speaking, the 2008 Directive has been introduced to limit some forms of religious manifestations of all religions in public and private educational institutions. But when we examine it thoroughly, the law seems directed against Muslims or at least disproportionately affects them. It specifically states that, ‘Muslim female students should not wear niqab but hijab that is similar in color with their uniform’ (art 6 sub art 6.3) without mentioning what is prohibited for other religious groups. Muslim activists argue that, for laws or policies to be fair, “they need to be cognizant of the specificities of the various religious groups” (Hassen, n.d: 1).

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22 The government says that the ultimate objective of these groups (Muslim activists) is ‘establishing an Islamic government in Ethiopia’ (Meles Zenawi’s speech to the Parliament, 17 April 2012)
23 See the 2008 MOE directive. It explicitly prohibits wearing niqab in educational institutions.
24 Interview with a Muslim activist in Addis Ababa, 15 November 2013
According to the General Comments of the Human Rights Committee on the implementation of art 18 of ICCPR on member states and for imposing restrictions on religious freedom, at least three preconditions must be fulfilled:

- it should be prescribed by law and must be sufficiently clear and free from arbitrary application,
- it must be free from discrimination and the law should not disproportionately affect a certain religion and
- it must be used for achieving a legitimate purpose(s) or is necessary (Parker, 2006: 95-96).

Over all, the Directive of MOE that bans niqab and congregational pray in educational institutions could not escape critic and challenge at least on three grounds: self-defeating, undemocratic and morally wrong.

It is self-defeating because the guarantee for group rights enshrined in the country’s supreme law is at stake because of this law. The Constitution stresses group rights to the extent of entertaining allegation of the incumbent party from the opposition to its ‘commitment’ to the ‘neo-Stalinist rights of nationalities (autonomy “up to and including secession”)’ (Tobias Hagman and Jon Abbink, 2011: 583). It is the official dictum of the government that ‘Ethiopia opens her eyes and stretches her hands unto the beauty of diversity’ and the ‘new Ethiopia’ is ‘under construction’ on the basis of multiculturalism. As some scholars on the field argue, “central to the notion of […] multiculturalism] is full participation [of citizens] in public life without being required to leave a religious motivations or beliefs in private” (Parker, 2006: 121). The constitution privileges group rights over individual rights (as some critics goes) or at least tries to strike a delicate balance between these two types of rights. The ‘radical, aggressive and assertive secularism’ that the government is pursuing on public manifestation of faith, we can argue, is incompatible with the general tenets of the Constitution that advocates for pluralism and multiculturalism or (‘unity in diversity’) - unless Islamic identity is considered as an illegitimate offspring of EPRDF’s policy of multiculturalism.
The law could not also pass the test of the principle of non-discrimination. It is severe against Muslims than any other religions because, for example, prohibiting wearing *gabi*\(^{25}\) for a Christian student and prohibiting hijab (niqab) for a Muslim woman is by no means will have the same effect. For a Muslim woman, wearing hijab is religiously prescribed. Metaphorically, it is the same as enforcing a law that prohibits ‘eating grass for sheep and a fox.’ By prohibiting signs of religious symbols of all religions, the law-makers felt the need to appear even-handed, but actually not.

The law is undemocratic because it prohibits the free exercise of religion in public spaces in which the 1995 FDRE Constitution guarantees. It is worth noting the fact that, educational institutions are the center stages for the development of values of democracy and freedom. The 1994 Transitional Government of Ethiopia (TGE) Education and Training Policy confirm this fact. It says, “Education […] plays a role in the promotion of respect for human rights and democratic values, creating the condition for equality and mutual understanding and cooperation among people” (pp. 1-2). Further it provides that, the objective of the policy is “to provide education that can produce citizens who stand for democratic unity, liberty, equality, dignity and justice, and who are endowed with moral values” (p. 10). An anonymous internet post by a certain girl, opposing the French ban on veiling on grounds of religious freedom reads; “in front of each educational institution there is written Liberty, Equality [and] Fraternity, so where is the liberty to exercise our religion?” (Wing and Monica Nigh Smith, 2006: 760). In addition to fulfilling one’s religious duty, wearing hijab or niqab is viewed by some Muslims as exercising the right to freedom of religion. The principle of democracy allows freedom of religion and its concomitant right of manifestation in public places either individually or in group. Prohibiting this right tantamount to violation of democratic values and is an expression of authoritarian government.

The Directive is morally wrong because it violates freedom of a person what to wear or not to wear in public places. In a democratic state, veiling or unveiling is the individual

\(^{25}\) *Gabi* is a traditional or cultural cloth, widely practiced by the Amhara and Tigray ethnic group in the northern part of the country. Though Christians may use it during religious ceremonies, it is mostly used by older peoples as any other clothing.
choice rather than the decision of the government or the state. One woman in her twenties expressed her worry about the involvement of governments in choosing clothing styles for Muslim girls in schools. She said that, “… she was bothered that a younger sister could be told what she can and can not wear in school, and how she can and she can not express her religion” (Wing and Monica Nigh Smith (2006: 766). The Human Rights Watch (2010) is of the opinion that “Muslim women, like all women, should have the right to dress as they choose, and to make decisions about their lives and how to express their faith, identity and morals.” Denying a Muslim woman/girl to decide on her body by forcing her to uncover is tantamount to denying her right of self-determination, the expression of her faith and her desire of asserting her Islamic identity. It is her decision to express her faith, identity and moral values in public places.

When Muslim girls are prohibited from attending schools for nothing but wearing hijab or niqab ‘whom they believe as morally right, religiously required, a sign of respect, dignity, reservedness, modesty’ (Coger, 2011) etc., they could resort into staying home with its concomitant effects of psychological and physical depression (Wing and Monica Nigh Smith (2006: 775). Devout Muslim girls and women consider unveiling as an assault against their religion and prefer to remain at home leaving their education and jobs, whose economic implication is not limited to a certain sector of the society. Surely, discrimination based on religion in educational institutions entail negative psychological, spiritual and cultural effects. As Wing and Monica Nigh Smith (2006: 779) pointed out, “the effects of spirit injury are as devastating, as costly, and as psychically obliterating as robbery or assault.” School girls whose niqabs are taken off by school administrators or by ‘law’ feel some of the symptoms of spirit injury such as “defilement, silence, denial, shame, guilt, fear, blaming the victim, self-destructive behaviors, acute despair/emotional death …” (ibid).

In line with the above argument, it is worth stating here the response of one female university student at Dire Dawa University (Ethiopia) for the University’s Discipline Committee who demanded her to put off her niqab. The Committee warned her to take off her niqab at the beginning of the semester (September) to pursue her university
education informing that ‘wearing niqab is prohibited based on the rule of the university.’ She replied; “it could be difficult to take off my niqab all of a sudden which I am accustomed for long and believes that it is one of the many ways to fulfill my religious duty. But I will think of [removing the niqab] for the next semester.” However, she continued wearing niqab for the second semester and the Committee again wrote a letter, at this time, a short warning. It reiterates her previous promise to put off her niqab for the second semester but came up again with the same style of dressing and gave her thirty days to take off the niqab once and for all.

Though we don’t have the final decision of the University’s disciplinary committee, it is understandable from her reply that the ‘spirit injury’ suffered from the tough choice – education or religion – is so clear. Obviously, she might prefer either to go to the university bareheaded or stay home (since the University’s regulation forced her to choose one but not both), in both cases sustaining psychological and mental obliterating effects.

To sum, educational institutions in pre-1991 Ethiopia were not user-friendly, particularly for Muslims. Muslims were openly and systematically alienated from the educational system (Markakis, 1974). It was the EPRDF period that was user-friendly for Muslims to attend education in public institutions in parity with other religious followers. Hence, it is something normal for the Muslims to require the government that protects and promotes diversity to acknowledge and respect their particularities (example, niqab) in public places. It is also expected of a democratic government to accommodate and respect the interests of various groups, including religious communities. It is only respecting the freedom of citizens (both individual and group) that guarantee peace and security of the state, not the other way round.

*He who sacrifices freedom for security is neither free nor secure.*

Benjamin Franklin

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26 A letter, written in Amharic, for ---- (a female Muslim student) by Dire Dawa University Discipline Commitee in 2012.
5. Conclusion

The 1995 FDRE Constitution accorded a significant protection to public manifestation of faith. It provides limited restrictions as ‘prescribed by law’ and only when necessary for the ‘protection of public safety, peace, health, education, public morality, or the fundamental rights and freedoms of others and to ensure the independence of the state from religion’. However, the 2008 Directive of the Ministry of Education and other subsequent regulations of educational institutions pose threats to this constitutional protection. This is because, for one thing, the restrictions go beyond the grounds of restriction as ‘prescribed’ in the constitution and for the other, they allow the restriction of religious worship and symbols where ‘necessity’ does not actually exist. All the grounds mentioned in the Directive that necessitated for its promulgation, for example, are either not listed in the constitution or are not directly related to the purposes intended to be achieved. Enforcing arts 25, 27 and 90(2) of the constitution and art 2.2.7 of the 1994 Education and Training Policy of the TGE are all irrelevant for this case in a sense that the Directive either contradicts them or not directly related to the intents of these provisions. Generally, the government could not justifying its measures on grounds of ‘public safety, peace, health, education, public morality or protecting the fundamental rights and freedoms of others as stated in the constitution as such religious observances (wearing niqab and congregational pray) have nothing to do with such issues.

The only ground, subject to justifiable reasons, left for the government to defend its measures is ‘the principle of secularism’. Even so, these practices of religious beliefs in educational institutions did not involve ‘undue religious influence’ on government’s provision of secular education stated under art 90(2) of the constitution and the 1994 TGE Education and Training Policy. Similarly, the principle of secularism does not sufficiently provide a legitimate ground for the government to restrict religious symbols and faith from public places. Secularizing government institutions and secularizing the people are two different things. Wearing religious symbols in public places such as educational institutions could not violate the principle of secularism. The religiosity of students in schools does not mean the non-secularity of education. The secularity of
education is rather related with the school curricula being free from religious influence or religious dogma instead of the religiosity or non-religiosity of students. Moreover, the principle of ‘secularism’, as it is stated in the constitution and defined by the constituent-assembly minute, is not a sufficient justification for restricting religious freedom in educational institutions.

In circumstances where the law disproportionately affects some religious groups more than others, it would also be difficult for the government to defend that ‘the law is non-discriminatory and applied in a non-discriminatory manner’. Though, it claims to be neutral and applied on all religious communities, the target is Muslim women’s niqab and congregational pray. Hence, it is better for the government to discard laws that formalize ‘wholesale ban’ against public manifestation of faith that affect Muslims disproportionately. Even worse, a top-to-bottom approach of secularism imposed by the government is nothing but a reflection of government intervention in religious affairs and violation of human rights sanctioned in the constitution and international instruments that Ethiopia is part. This is exactly a reflection of President John Adams’s fear (an idea shared by other US Founding Fathers) when he championed the importance of the separation of state and religion, particularly to the interest of the latter; “nothing is more dreaded than the national government meddling with religion”.
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