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THE 1991 TRANSITIONAL CHARTER OF ETHIOPIA: A NEW APPLICATION OF THE SELF-DETERMINATION PRINCIPLE?

Aaron P. Micheau*

INTRODUCTION

EMERGENT AND RE-EMERGENT NATIONALISM seem to have taken center stage in a cast of new worldwide political trends. Nationalism has appeared in many forms across Asia, Africa, Europe, and North America, and is considered the primary threat to peace in the current world order:

[T]he greatest risks of starting future wars will likely be those associated with ethnic disputes and the new nationalism that seems to be increasing in many areas The former Soviet Union and Yugoslavia are being torn by ethnic desires for self-government; ethnic-like religious demands are fueling new nationalism in Israel and the Islamic nations; ethnic pressures are reasserting themselves again in Canadian politics; and throughout the Pacific Basin . . . ethnic issues often lurk just beneath the surface.¹

This Article attempts to provide possible solutions to nationalist issues through the creative application of the self-determination principle. While self-determination has generally been recognized as affording a right to independence from traditional colonization,² recent writers have

* J.D., Washington University School of Law 1995. The author wishes to thank Professor Frances H. Foster for her advice in the preparation of this Article.

¹ John H. Barton & Barry E. Carter, *International Law and Institutions for a New Age*, 81 GEO. L.J. 535, 555-56 (1993).

² Hurst Hannum describes "classic" colonialism as existing in "situations where a European power dominated a non-contiguous territory, in which a majority of the population was indigenous or non-metropolitan." The international community has only prescribed independence in arrangements conforming to this description. Hurst Hannum, *Rethinking Self-Determination*, 34 VA. J. INT'L L. 1, 32-33 (1993).

Chapter XI of the U.N. Charter applies "to territories which were then [in 1945] known to be of the colonial type." G.A. Res. 1541, U.N.GAOR, 15th Sess., Supp. No. 16, at 29, U.N. Doc. A/4684 (1960). Hannum finds that Paragraph 6 of the Declaration on the Granting of Independence to Colonial Countries and Peoples (also by the General Assembly in 1960) sets forth a "fundamental limiting principle, without which one almost never . . . finds a reference to self-determination." That paragraph reads: "Any attempt aimed at the partial or total disruption of the national unity and the territorial integrity of a country is incompatible with the purposes and principles of the of the Charter of the United Nations." *Id.* at 12.

argued that the principle has an "internal aspect" that provides for democratic rights and social and cultural expression.³ This form of internal self-determination, if applied and observed, may preempt and prevent secession and/or civil war, and protect human rights.

In some societies, application of internal self-determination may also require juridical recognition of ethnic or national groups. Such recognition is at odds with traditional human rights discourse.⁴ It also challenges a more conservative view that nationalism is "invented" by political leaders, and is not a reaction to ethnic or cultural repression.⁵ The existence of hierarchical, culturally unintegrated societies requires a new approach to human rights discourse and the self-determination principle.

Ethiopia is this type of society. This Article will analyze the example of recent Ethiopian history and the adoption the 1991 provisional Charter of the Transitional Government of Ethiopia. The Charter provides for a representative democratic structure and the recognition of self-determinative rights, up to and including independence, for the various ethnations of Ethiopia.⁶ While some commentators on recent Ethiopian history have supported such independence in theory, particularly in the

³ See Asbjorn Eide, *Minority Situations: In Search of Peaceful and Constructive Solutions*, 66 NOTRE DAME L. REV. 1311, 1336-37 (1991). Asbjorn Eide defines internal self-determination as "the right of a people living within an independent and sovereign state to adopt representative institutions and to periodically . . . elect their representatives through a free procedure, and with freedom to choose among alternative candidates or parties." He concludes that such a right can be recognized in a unitary or federal system, or a system with autonomous subregions. *Id.* See also Hannum, *supra* note 2, at 63. This right is derived from several international human rights instruments. See *infra* notes 144-46.

⁴ See, e.g., Kenneth Anderson, *Illiberal Tolerance: An Essay on the Fall of Yugoslavia and the Rise of Multiculturalism in the United States*, 33 VA. J. INT'L L. 385, 386 (1993) (noting the practice in the former Yugoslavia); Henry J. Steiner, *Ideals and Counter-Ideals in the Struggle Over Autonomy Regimes for Minorities*, 66 NOTRE DAME L. REV. 1539, 1559 n.33 (1991) (noting the difficulties of bringing the Sri Lankan/Tamil conflict before the Human Rights Commission and Sub-Commission of the U.N., which focussed almost exclusively on "violations of core individual rights rather than . . . the ethnic and political structures giving rise to the conflict . . .").

⁵ See Anderson, *supra* note 4, at 407-08 ("When foreign credit eventually ran out . . . bureaucratic nationalist politicians like Slobodan Milosevic arose phoenix-like from the ashes of communism. It is a familiar story, a standard part of the economic explanation of the rise of nationalism Being old, however, does not make it less true.") Moreover, "Socialism as an economy failed to provide the items of consumption to satiate consumers who would otherwise become (and did become) rabid nationalists." *Id.*

⁶ See Herbert Lewis, *Beginning Again*, AFRICA REP., Sept.-Oct. 1991, at 61.

case of Eritrea,⁷ at least one has concluded that the Charter provides a general right to secession, and its adoption portends the "beginning of the end"⁸ of the Ethiopian state. Furthermore, traditional human rights discourse has generally disapproved of the recognition of ethnic or national groups as juridical objects.

The questions raised in this Article cannot be addressed outside of a specific historical context. Therefore, Part I of the Article will provide a contextual background on which to base the analysis. It will focus on the dialectic of continuity and change with respect to: 1) social inclusion of individuals of varying nationalities, particularly within elite sectors and 2) Ethiopian policy and its protection of cultural rights.

Part II will analyze the nature of "ethnic conflict" in Ethiopia as it compares to other countries in Africa and throughout the world. It will develop categorical models for the nationalist positions Ethiopians hold, and show the extent to which the Charter accommodates them. Finally, it will submit that, in Ethiopia, the principle of nondiscrimination should be subordinated to that of self-determination in order to provide for the recognition of rights based on national membership.

Part III will inquire what the granting of internal self-determination actually entails. Can the Charter provide for cultural expression and autonomy, and at the same time maintain the integrity of the Ethiopian state? Part III will also consider some of the "division of power" issues that lawmakers⁹ should address in a state that recognizes the right to self-determination.

⁷ *Id.* at 61. Some writers have prescribed independence or autonomy for Eritrea, rights which the Charter recognizes. See, e.g., Roy Pateman, *Eritrea and Ethiopia: Strategies for Reconciliation in the Horn of Africa*, AFRICA TODAY, 2nd Qtr. 1991, at 43.

⁸ Aristide R. Zolberg, *The Specter of Anarchy*, 39 DISSENT 303, 307 (1992) ("Although the [July 1991 peace] conference did produce some democratic guarantees and a timetable for political reconstruction, Ethiopia continues to implode. The Council of Representatives has decided to give each of the country's fourteen regions its own parliament and control over internal security. While designed to foster a viable confederation, this framework may signal the beginning of the end").

⁹ The Ethiopian Charter was intended to be a temporary instrument. It has been replaced by a Constitution following similar principles. See *infra* note 82. The constitution was approved by the council of Representatives in May 1994. ETHIOPIA, in CONSTITUTIONS OF THE WORLD (Gisbert H. Franz ed., 1995).

I. HISTORICAL BACKGROUND

A. *From Empire to Federation*

The consolidation of modern Ethiopia, (including Eritrea) began in the late thirteenth century with the emergence of the Amhara, or Solomonic dynasty. This consolidation was accomplished by a gradual process of military expansion from Abyssinia (Tigre, Amhara, and the southern portion of modern Eritrea). In the late nineteenth century it clashed with Italian, British, and French colonialism¹⁰ the Horn of Africa. Generally, Ethiopia continued to expand during this period,¹¹ acquiring the Ogaden and territory to the south, but ceding Eritrea to Italy. The implications of equating this Ethiopian expansion with European colonialism will be explored in Part III.

After the second world war, the British administered the former Italian holdings of Eritrea and Somaliland (which included the Ogaden).¹² Ethiopia contended that economic interdependence and cultural similarities required that Eritrea and Somaliland be "returned" to the Ethiopian state.¹³

However, historically and culturally, Ethiopia, Eritrea, and Somaliland were not identical. Somaliland (now Somalia, including the Ogaden region of Ethiopia, northeastern Kenya, and part of Djibouti) was and is ethnically and linguistically homogeneous and different from Ethiopia.¹⁴ While

¹⁰ See generally ASAFA JALATA, *OROMIA & ETHIOPIA* 32-33 (1993).

¹¹ EDMOND J. KELLER, *REVOLUTIONARY ETHIOPIA* 35 (1988).

¹² *Id.* at 89-91.

¹³ HABTU GHEBRE-AB, *ETHIOPIA AND ERITREA: A DOCUMENTARY STUDY* 53, 54 (1993) quoting the *Memoranda Presented by the Imperial Ethiopian Government to Council of Foreign Ministers*, (London, 1945).

Ethiopians and Eritreans are incontestably one and the same people [T]he history of Eritrea has been one with that of Ethiopia since the second millennium before Christ. The race is the same, the language, except for the dialect difference based on the Gheez . . . is the same. The culture and habits are identical . . . Ethiopia is literally the sole outlet for intellectual and ambitious Eritreans. Finally, their economic past and future are so interdependent that continued severance of the two territories would work the greatest injustice and hardship on the peoples involved.

Similar considerations of historical, racial, and cultural ties likewise apply . . . to the relations between Ethiopia and Somaliland.

Id.

¹⁴ W. Michael Reisman, *Somali Self-Determination in the Horn: Legal Perspectives and Implications for Social and Political Engineering*, in *NATIONALISM AND SELF-DETERMINATION IN THE HORN OF AFRICA* 164 (I.M. Lewis ed., 1983). Reisman characterizes the relationship between Ethiopia and the Ogaden as colonial, and concludes that

Ethiopia had designs on this territory, it had not controlled any of Somaliland prior to European colonization.¹⁵

Eritrea had been a part of Abyssinia since, at the latest, the inception of the Solomonic dynasty, but it was ceded to Italy between 1889 and 1896.¹⁶ During this period, Eritreans assumed a national identity, as well as a level of political development,¹⁷ distinct from Ethiopia. Italian colonization in Eritrea brought about some industrialization, which induced the formation of a working class and a small intelligentsia.¹⁸ These changes in turn helped to create the conditions for the growth of political parties as early as 1944.¹⁹ By contrast, the socioeconomic system in Ethiopia could best be described as feudalist,²⁰ and political parties were illegal.²¹ Ethiopia was never a colony, although it had been held by Italy between 1935 and 1941.

Notwithstanding these differences, in 1948 the British withdrew from the Ogaden region of Somaliland in the face of Ethiopian claims.²² In 1950, U.N. Resolution 390(V) called for a federal relationship between Ethiopia and Eritrea, with Eritrea retaining dominion over its domestic affairs.²³ The Resolution proposed that a Federal Council observe and protect rights of freedom from discrimination regarding to race and nationality, equal protection, freedom of religion, expression, and association in Eritrea.²⁴ The Eritrean Constitution, ratified in 1952, adopted all

Somali, "racial, ethnic, linguistic, and cultural distinctiveness from Amhara-ruled Ethiopia is total."

¹⁵ KELLER, *supra* note 11, at 35.

¹⁶ *Id.* at 32.

¹⁷ GOVERNMENT OF ERITREA, ERITREA: BIRTH OF A NATION 9 (1993); *See also Another Country*, ECONOMIST, Apr. 24, 1993, at 20.

¹⁸ ERITREA, *supra* note 17, at 9.

¹⁹ KELLER, *supra* note 11, at 152.

²⁰ *Id.* at 54-58. According to Keller, "That feudalism existed in Ethiopia . . . can be demonstrated if we contrast the basic features of classical feudalism with the most salient elements of the Ethiopian system." *Id.* at 55-56. He identifies the reintroduction of a money economy in the early twentieth century and the professionalization of the Ethiopian military and bureaucracy as signalling the end of the feudal period. *Id.* at 58.

The general operation of the system of land tenure began with the State taking ownership of conquered land, and parceling out rights to the use of the land mainly to Amharic nobles, peasants, provincial governors, and the Church. *Id.* at 54-58. Indigenous peasants, mostly Oromo, then rented and farmed the land, paying *gult*, or tribute, to the landholder. *Id.* *See also* JALATA, *supra* note 10, at 41.

²¹ KELLER, *supra* note 11, at 87.

²² *Id.* at 157; *see also* Reisman, *supra* note 14, at 153.

²³ G.A. Res. 390(v), U.N. GAOR, 5th Sess., ¶1, U.N. Doc. 38 (1950), *reprinted in* ETHIOPIA AND ERITREA: A DOCUMENTARY STUDY, *supra* note 13, at 196.

²⁴ *Id.* ¶¶5, 7 *reprinted in* ETHIOPIA AND ERITREA: A DOCUMENTARY STUDY, *supra*

of the rights recommended by the United Nations, using language virtually identical to the Resolution in this area.²⁵ However, Ethiopia gradually eroded²⁶ this federal relationship until it formally annexed Eritrea in 1962.²⁷

Imperial policies recognized Amharic culture as Ethiopian culture, and marginalized other cultural expression. Christianity and the Amharic language were other institutions which were transplanted to conquered peoples. Some non-Amharic peoples, particularly Tigrayans and Oromo, were "Amharized" through conversion, intermarriage, and patronage and became part of Abyssinian society.²⁸ After the Italian occupation, Emperor Haile Selassie I reinstated rules against writing, preaching, or broadcasting in any Oromo dialect.²⁹ While the Eritrean Assembly under the federation had chosen Tigrinya and Arabic as official languages, Selassie required Amharic to be taught in primary schools after 1953.³⁰ The task of learning Amharic, in turn, was one factor that disadvantaged other groups in competing for university education. In the late 1960s, over eighty percent of university students were Amharas or Tigrayans.³¹

note 13, at 197-98.

²⁵ ERITREAN CONST. arts. XXII-XXX, reprinted in ETHIOPIA AND ERITREA: A DOCUMENTARY STUDY, *supra* note 13, at 207-09.

²⁶ The Government of Eritrea states that this process was achieved by three different means: 1) interference in religious affairs; 2) manipulation and intimidation of political parties; and 3) terrorist attacks. Only one of the five main political parties in Eritrea during the federalist period, the Unionist party, openly favored unification with Ethiopia. ERITREA, *supra* note 17, at 11, 13.

With respect to religious interference from the Ethiopian Orthodox Church, see David Pool, *Eritrean Nationalism*, in NATIONALISM AND SELF-DETERMINATION IN THE HORN OF AFRICA 175, 182 (I. M. Lewis ed., 1983) (quoting Trevaskis on the role of the Church in Eritrea: "By 1942 every priest had become a propagandist in the Ethiopian cause . . . and popular religious festivals such as Maskal (the Feast of the Cross) had become occasions for open displays of Ethiopian patriotism. The cathedrals, the monasteries, and village churches would be festooned with Ethiopian flags and the sermons and prayers would be delivered in unequivocal language").

²⁷ KELLER, *supra* note 11, at 153.

²⁸ KELLER, *supra* note 11, at 63. Generally Amharization of the Oromo and other groups was a highly selective process aimed at developing a small intermediate class and legitimating the nation-class hierarchy. See also JALATA, *supra* note 10, at 102-03; KELLER, *supra* note 11, at 57 (detailing the "absorption" of Somali elites).

Jalata suggests this process was most advanced among Tigrayans, and considers Tigrayans to be "junior partners" in the construction of the Empire. See JALATA, *supra* note 10, at 183.

²⁹ KELLER, *supra* note 11, at 160. The Oromo constitute the largest ethnic group in Ethiopia. See *infra* notes 95-96 and accompanying text.

³⁰ JALATA, *supra* note 10, at 152-53.

³¹ *Id.* at 104-05; see also KELLER, *supra* note 11, at 139. Tigrayans are, relatively

In general, patterns of state distribution of resources and services were skewed in favor of the provinces where Amhara were predominant: Shoa, Begemdir, Gojjam, and the capital, Addis Ababa. These regions had approximately thirty-four percent of the population of Ethiopia in 1972, but forty-two percent of the primary and secondary school students.³² Most health care services were concentrated in these regions.³³ The patterns of recruitment and education of administrative and military officials were similar.³⁴ This inequality and lack of integration of Ethiopians from different regional and cultural backgrounds, even in elite sectors, such as among professionals and military officers, is significant. This phenomenon distinguishes Ethiopia from many African and other multiethnic societies, and suggests the necessity of remedial policies that abrogate the nondiscrimination principle, as will be further argued in Part II of this Article.

Nationalist resistance during this period was often sparked by imperial taxation and land expropriation policies. In the Ogaden, uprisings began immediately after annexation in 1948, rendering the province virtually ungovernable until 1954.³⁵ Uprisings also occurred in Tigre in 1943³⁶ and in Bale and southern Sidamo (Borana) during the period of 1963-1970 for similar reasons.³⁷

speaking, well-integrated with Amharas. Both groups originate in the northern regions of Ethiopia and share the Christian religion. *Id.* at 18.

³² KELLER, *supra* note 11, at 139.

³³ *Id.* at 139-41. Keller notes that these areas had 57% of the doctors in Ethiopia in 1973. While the population to doctor ratio in Addis Ababa was 5800:1; in Bale it was 739,600:1; in Arussi 365,400:1; and in Sidamo 196,500:1. Six southern provinces—the latter three, and Illulabor, Kaffa, and Gemu-Gofa had 25% of the population, but 9% of the hospitals. *Id.* Even if doctors themselves were not distributed by the government, Amharization and cultural hegemony may have often influenced where doctors chose to practice. *See infra* note 107 and accompanying text.

³⁴ KELLER, *supra* note 11, at 136 (“Christopher Clapham presents statistics showing that of the 156 high-ranking officials recruited into the central bureaucracy between 1944 and 1967, only three came from the six southern provinces where Oromo predominate . . . and only two were Somalis”).

³⁵ *Id.* at 157. (“Somali resistance was immediate, and it mounted as Ethiopia attempted to reassert its authority by collecting taxes around Harar”).

³⁶ GEBRU TAREKE, *ETHIOPIA: POWER AND PROTEST* 91 (1991). Tareke asserts that the uprising was a direct result of animosity among peasants towards the administration, which had reinstated taxes that the Italians had suspended during their occupation. *Id.* Moreover, many peasants accused provincial officials of corruption and illegal overtaxation. *Id.*

³⁷ *Id.* In these southern areas, tax default often meant state expropriation of land from peasants who owned it. This land was often redistributed to Christian settlers from

By 1960, resistance to the empire had become organized into groups that were mainly ethnic or regionally based.³⁸ These included such organizations as ELF (Eritrean Liberation Front) in 1961, which spawned the EPLF (Eritrean People's Liberation Front) in 1970,³⁹ the Somali Youth League and Western Somali Liberation Front in 1960,⁴⁰ and the Macha-Tulama self-help organization in 1964.⁴¹ All of these organizations engaged in armed struggle against the empire, with the exception of Macha-Tulama, whose purpose was to build schools, churches, and mosques, and in other ways assist Oromo development.⁴² Although Macha-Tulama was banned within three years of its inception, during that time it had gathered approximately two million members.⁴³

However, armed resistance among the nations was, at most, an indirect cause of the fall of the empire. A general economic malaise and rising gasoline costs led to increasing protest among students, teachers, and other elements of the urban middle classes in the early 1970s.⁴⁴ These elements included NCOs in the military. Because of the imperial need to control outlying provinces, as well as apprehension of Somalia's

the north, although the native Oromo and Somali inhabitants were predominantly Muslim. In this case, Islam was a unifying factor between Oromos and Somalis. *Id.*

Somalis were also greatly inspired by the 1960 independence of Somalia, an ethnically and religiously homogenous state. It appears that Somalia lent some support to the revolt, but did not instigate it. *Id.*

³⁸ See Anderson, *supra* note 4, at 407. There are at least a few reasons why resistance to the Ethiopian Empire was generally organized along ethnic and regional lines. Anderson's theory would suggest that these are typical premodern associations, "family, village, religion, and tribe" are social groupings that, he contends, operate primarily in non (or pre)-consumer societies, where people are most easily politicized. *Id.* at 421.

This theory, however, does not take into account certain complexities of the situation. The nationalism of groups like the Oromo or the Eritreans could also be explained as a logical reaction to the aggressive cultural hegemonism of Ethiopia, as evidenced by the use of the Church to advocate national unity and forced conversion and settlement policies. The theory seems wholly inapplicable to Eritrea, which was certainly not a consumer society in the 1950s, but managed to overcome religious and ethnic divisions and forge a national identity. An alternative explanation is that the manner in which Eritrea and Ogaden were incorporated into the empire (that is, as integral territories), suggests that their resistance to incorporation would be regionally organized.

³⁹ ERITREA, *supra* note 17, at 16.

⁴⁰ KELLER, *supra* note 11, at 157-58.

⁴¹ JALATA, *supra* note 10, at 155.

⁴² *Id.*

⁴³ *Id.* at 156. *But see* KELLER, *supra* note 11, at 161 (stating Macha-Tulama had gained only 300,000 members).

⁴⁴ ANDARGACHEW TIRUNEH, THE ETHIOPIAN REVOLUTION 1974-1989, 38-39 (1993).

designs on the Ogaden, Selassie had greatly expanded⁴⁵ and professionalized⁴⁶ the Ethiopian military. As a result, the military was considered one of the primary avenues of social advancement, particularly for Amharas.⁴⁷

In 1974, a military council called the Derg⁴⁸ deposed the Emperor.⁴⁹ The ethnic composition⁵⁰ of the Derg, its statements and its politics⁵¹ belied a continuity with the empire with respect to the national question. While the Derg purported to recognize and address nationalist aspirations,⁵² its concessions either lacked substance, or were insufficient.

⁴⁵ During the 1964-69 period, Ethiopia spent 20.9% of its budget on the military, compared with 17.3% on health and education combined. By contrast, the average expenditures for other African states were 8.7% and 21.0%, respectively. PAUL BRIETZKE, *LAW, DEVELOPMENT, AND THE ETHIOPIAN REVOLUTION* 130 (1982).

⁴⁶ TIRUNEH, *supra* note 44, at 10-11. Throughout Selassie's reign, the Ethiopian government enlisted the assistance of several European countries, as well as the United States, in reorganizing its armed forces and training officers. *Id.*

⁴⁷ See, e.g., Patrick Gilkes, *Centralism and the Ethiopian PMAC*, in *NATIONALISM AND SELF-DETERMINATION IN THE HORN OF AFRICA* 195 (I.M. Lewis ed., 1983); BRIETZKE, *supra* note 45, at 129-30.

⁴⁸ The official name for the military junta which took power in June of 1974 is the Provisional Military Administrative Council. Derg, or Dergue, which means "group of equals" is generally used as a shortened name. The Derg consisted of a largely anonymous group of 120 young officers and soldiers. Mengistu Haile Mariam did not emerge as a clear leader until the fall of 1974. Gilkes, *supra* note 47, at 195 (1983); See also KELLER, *supra* note 11, at 185; JALATA, *supra* note 10, at 117.

⁴⁹ TIRUNEH, *supra* note 44, at 37.

⁵⁰ One estimate indicates that of the 123 members that made up the Council, 109 were Amharas. Adding that the Executive Committee of the Derg included only one (of seven) non-Amhara, and that 13 of the 14 Chief Administrators of the regions were Amharas. Paul Baxter, *The Problem of the Oromo or the Problem for the Oromo*, in *NATIONALISM AND SELF-DETERMINATION IN THE HORN OF AFRICA* 130 (I.M. Lewis ed., 1983).

⁵¹ See *infra* notes 124-28 and accompanying text for an examination of the Derg's conceptual framework.

⁵² The National Democratic Revolution Programme, published by the Derg in April 1976, recognized

[T]he right to self determination of all nationalities . . . The unity of Ethiopia's nationalities will be based on their common struggle against feudalism, imperialism, bureaucratic capitalism and all reactionary forces Nationalities on border areas and those scattered over various regions have been subjected to special subjugation Special attention will be made to raise the political, economic and cultural life of these nationalities Given Ethiopia's existing [sic] situation, the problems of nationalities can be resolved if each nationality is accorded full right to self-government

Gilkes, *supra* note 47, at 196. The Derg reformulated the Imperial map, making "autonomous regions" of Afar, Eritrea, Issa, Ogaden, and Tigre. There seems to have

For example, the Derg instituted a literacy campaign,⁵³ which was one of its more successful programs.⁵⁴ The campaign was conducted in Arabic, Amharic, Oromo, Somali, and Tigrinya.⁵⁵ Textbooks were printed and distributed in these languages as well.⁵⁶ However, Eritrean⁵⁷ and (one might argue) Somali⁵⁸ movements were by this time demanding full independence from Ethiopia,⁵⁹ and would hardly be appeased by liberal language policies.

Proclamation No. 31 of 1975, which nationalized land ownership,⁶⁰ ostensibly should have ended the influx of northern settlers onto southern land. Such settlement was a primary complaint of Oromos and other southern peoples.⁶¹ The land reform program gave farmers usufruct rights and eliminated *gult* (tribute) and other feudal duties.⁶² But this legislation also prevented transfer, even testamentary transfer, and the mortgage of land.⁶³ In the place of feudal dues, it imposed taxes and price controls.⁶⁴ Additionally, the Derg replaced the private landholders with officials and administrators from the north, because it recognized that to do otherwise would mean relinquishing central control of these regions.⁶⁵

been little difference, functionally or theoretically, between "autonomous regions" and administrative areas, into which the remainder of Ethiopia was divided. Tiruneh regards these nominal designations as a ploy to appease peoples in the more historically troublesome regions. See TIRUNEH, *supra* note 44, at 282-83; Gilkes, *supra* note 47, at 198.

⁵³ KELLER, *supra* note 11, at 138. About 90% of Ethiopians were illiterate in 1974. *Id.*

⁵⁴ Gilkes, *supra* note 47, at 208.

⁵⁵ *Id.*

⁵⁶ *Id.*

⁵⁷ *Id.* at 201.

⁵⁸ See, e.g., KELLER, *supra* note 11, at 157-58; see also Tareke, *supra* note 36, at 126 (identifying pan-Somalism as a spark to the Bale revolt after Somalia became independent in 1960. Some Somalis advocate unity with the state of Somalia).

⁵⁹ For more discussion of the positions and outlooks of major nationalist organizations, see *infra* notes 119-22, 136-39 and accompanying text.

⁶⁰ Baxter, *supra* note 50, at 134.

⁶¹ See *supra* text accompanying note 37.

⁶² TIRUNEH, *supra* note 44, at 100, 105-07.

⁶³ *Id.* at 100, 105.

⁶⁴ *Id.* at 106.

⁶⁵ Also, during the 1984-85 famine in the Wollo area, the Derg resettled Amharas and Tigrayans from Wollo in Oromo areas. JALATA, *supra* note 6, at 142-44; see also Alessandro Triulzi, *Competing Views of Nationalism in Ethiopia*, in NATIONALISM AND SELF-DETERMINATION IN THE HORN OF AFRICA 123 (I.M. Lewis ed., 1983). In any case, the eviction of *naftaanya*, or armed settlers, was a popular OLF platform. *Id.* at 134-35.

Finally, the war (and conscription for the war) against Somalia disrupted farming.⁶⁶

When Somalia invaded in 1977 to retake the Ogaden region, Ethiopia successfully solicited Soviet military assistance.⁶⁷ With help, the Derg was able to repulse the Somalis and crush most urban opposition, including that of the Ethiopian People's Revolutionary Party (EPRP), and the Ethiopian Democratic Union (EDU). These military counter-offensives also set back the Oromo Liberation Front (OLF),⁶⁸ which had been formed in 1974.⁶⁹ During this period, the Derg gave new life to what had been a losing war in the north, primarily against the EPLF⁷⁰ and the Tigrayan People's Liberation Front (TPLF),⁷¹ which had formed in 1975.⁷²

TPLF and EPLF after 1983 were increasingly coordinating their actions and becoming well-organized fighting forces during this period.⁷³ They consistently outfought the Ethiopian army, which was the largest on the continent, but was mainly an army of conscripts.⁷⁴ In late 1989, TPLF formed a coalition called the Ethiopian People's Revolutionary Democratic Front (EPRDF), which is now the ruling coalition. EPRDF included TPLF, the Oromo People's Democratic Organization (OPDO),⁷⁵

⁶⁶ See *infra* note 68.

⁶⁷ ERITREA, *supra* note 17, at 18.

⁶⁸ JALATA, *supra* note 10, at 127, 137-39. Although the Derg was able to increase its military power at this point, much of the Somali war was actually fought on predominantly Oromo land, because of Somalia's strategy of isolating the Ogaden from Ethiopia. The consequent displacement of Oromos, as well as the heavy conscription from among the Oromo, increased resentment towards the Derg. *Id.* at 137-39.

⁶⁹ Pateman, *supra* note 7, at 44.

⁷⁰ The Eritrean government contends that Ethiopian forces were on the verge of defeat in Eritrea in 1977. However, they were able to quickly transfer resources from the Somalia war to Eritrea. Soviet naval forces also assisted in Red Sea operations. By the early 1980s, most of the Ethiopian army was deployed on this northern front. ERITREA, *supra* note 17, at 18.

⁷¹ TPLF was a nationalist movement, but unlike EPLF and OLF, its main objective seems to have been the overthrow of the Derg and the installation of a more democratic government, i.e., it did not seek to separate Tigre from Ethiopia. JOHN SORENSON, *IMAGINING ETHIOPIA* 65 (1993).

⁷² Pateman, *supra* note 7, at 44.

⁷³ JALATA, *supra* note 10, at 178.

⁷⁴ ERITREA, *supra* note 17, at 18-19. The Government of Eritrea regards the conscription policy as a key factor in the ineffectiveness of the Ethiopian military. *Id.*

⁷⁵ The OLF has asserted that the OPDO was created by the TPLF and EPLF mainly from captured Oromo soldiers fighting in the Ethiopian army in order to draw Oromo support away from the OLF. JALATA, *supra* note 10, at 178, 185, 188; see also

the Ethiopian People's Democratic Movement (EPDM), and the Afar Democratic Union (ADU).⁷⁶ During the period of 1988-1991, the Derg engaged in peace talks with EPLF, proposing a federal solution, but the group would accept nothing short of self-rule.⁷⁷ In the summer of 1991, EPRDF, EPLF⁷⁸, and OLF forces defeated the Derg and held a peace conference⁷⁹ to draft and adopt the Charter⁸⁰ and form a transitional government. The Charter states that it is the supreme law of the land⁸¹ until the drafting of a Constitution on similar principles.⁸²

Since the drafting of the Charter, there are three events or issues that have arisen that are worth highlighting for the purposes of analysis. First, EPLF began administering to Eritrea after the fall of the Derg. At the peace conference, it demanded and received immediate autonomy and an independence referendum (which took place in 1993) largely because of its military strength and its alliance with TPLF.⁸³ The results of the referendum were unanimously supportive of independence.⁸⁴ Some writers have suggested that the decision to allow Eritrean secession may be a future bone of contention in Ethiopian politics.⁸⁵

infra note 135.

⁷⁶ KEESINGS RECORD OF WORLD EVENTS 1992, R10 (Reference Supp., 1992).

⁷⁷ CONSTITUTIONS OF THE COUNTRIES OF THE WORLD, Vol. VI, Ethiopia Sec. p. v (Albert P. Blaustein & Gisbert H. Flanz eds., 1993).

⁷⁸ EPLF attended the conference as an observer. *Ethiopia: Approval of Charter*, 37 KEESING'S RECORD OF WORLD EVENTS 1991 38313, 38322 (July, 1991).

⁷⁹ The conference was held July 6, 1991. JALATA, *supra* note 10, at 187.

⁸⁰ The Charter endorses the Universal Declaration of Human Rights (UDHR) and grants to Ethiopia's ethno-nations the right to self-determination, including secession. TRANSITIONAL CHARTER OF ETHIOPIA, Art. II (1991) [hereinafter TRANSITIONAL CHARTER]. It also forms a Transitional Government (TGE) made up of a 87-member Council of Representatives and an executive, the Council of Ministers. *Id.*, Arts. VI-IX. The EPRDF took a total of 44 seats, OLF took 12 seats, and smaller groups held the remainder. JALATA, *supra* note 6, at 181-82. OLF withdrew from the council on June 23, 1992. *Ethiopia: Regional Council Elections*, KEESING'S RECORD OF WORLD EVENTS 1992, 38941, 38952 (June, 1992).

⁸¹ See TRANSITIONAL CHARTER, *supra* note 80, at Art. XIIX. The Article states: "This Charter shall serve as the supreme law of the land for the duration of the transitional period. Any law or decision that is contrary to the Charter shall be null and void." *Id.*

⁸² A draft Constitution was initially scheduled to be put to the Council of Representatives in March 1994, and then to electors in June. *Ethiopia: Meles Dictates the Agenda*, AFRICA CONFIDENTIAL, Jan. 21, 1994, at 3.

⁸³ See JALATA, *supra* note 10, at 181.

⁸⁴ *Eritrea: Independence Celebrations*, KEESING'S RECORD OF WORLD EVENTS 1993 39445, 39446 (May, 1993). Results of the referendum indicated that 99.8% of Eritreans supported independence. *Id.*

⁸⁵ Pateman, *supra* note 7, at 44. See also Tesfa Guma, *Strategy Towards a*

Second, relations between the OLF and EPRDF soured after the 1991 peace conference.⁸⁶ EPRDF forces killed or detained hundreds of OLF cadres and supporters between June of 1991 and the spring of 1992.⁸⁷ OLF boycotted the regional elections of the summer of 1992,⁸⁸ which were not regarded as completely free by observers.⁸⁹ In April of 1992, however, EPRDF and OLF signed a cease-fire which has continued to hold.⁹⁰ The OLF declared in September, 1992, that secession was no longer its goal.⁹¹

Third, since the fall of the Derg, Ethiopians have organized new, multi-ethnic coalitions, such as the Ethiopian Democratic Action Group (EDAG),⁹² and the Coalition of Ethiopian Democratic Forces (COEDF).⁹³ Both of these coalitions were formed in 1992 to provide a more effective opposition to the EPRDF, which, after all, is a multi-ethnic coalition.⁹⁴

Federated Democratic Ethiopia, ETHIOPIAN REVIEW, Oct. 1991 at 10; Walle Engedayehu, *Ethiopia: Democracy and the Politics of Ethnicity*, AFRICA TODAY, 2nd Quarter, 1993, at 51; *Peasants on Top*, ECONOMIST, Mar. 13, 1993, at 20.

⁸⁶ OLF apparently left the conference with the impression that EPRDF had secured U.S. support prior to the conference. Constitutions, *supra* note 77, at vii. Since OLF had not fully liberated the territory it laid claim to (Oromia), its call for an independence referendum was unsuccessful. JALATA, *supra* note 10, at 181. OLF is estimated to have about 15,000 troops, but has claimed 40,000. EPRDF has some 150,000 troops. Cameron McWhirter & Gur Melamede, *The Ethnicity Factor*, AFRICA REP., Sept.-Oct. 1992, at 30-33; *see also* JALATA, *supra* note 10, at 190 (referring to OLF's claim to 40,000 guerrilla fighters); *supra* note 75 (noting tension over the existence of the OPDO).

⁸⁷ JALATA, *supra* note 10, at 188 (also citing *Africa Watch* reports).

⁸⁸ The regional elections were also boycotted by the All-Amhara People's Organization (AAPO), the Islamic Front for the Liberation of Oromia (IFLO), the Gedeo People's Democratic Organization (GPDO), and the Ethiopian Democratic Action Group (EDAG). Engedayehu, *supra* note 85, at 39; *see also* Ethiopia, *supra* note 80, at 38952.

⁸⁹ *Ethiopia: Regional Council Elections*, *supra* note 80, at 38952. International observers noted several irregularities, including voter intimidation, particularly in the south. Steve MacDonald, *Learning a Lesson*, AFRICA REP., Sept.-Oct., 1992, at 29. To its credit, EPRDF announced the formation of a "neutral board for the rectification of electoral irregularities" on July 16th of that year. *Id.*

⁹⁰ JALATA, *supra* note 10, at 190-92; *see also* Meles Dictates, *supra* note 82, at 3.

⁹¹ Engedayehu, *supra* note 85, at 49. Apparently, OLF's position had not been representative of the majority of its supporters. *Id.*

⁹² EDAG includes some older organizations, such as the EDU. *Id.* at 46.

⁹³ COEDF includes two groups that opposed the Derg: EPRP and the All-Ethiopian Socialist Movement (MEISON); and a new group, the Ethiopian Medhin Democratic Party. *Id.* at 40.

⁹⁴ *Id.* at 40, 46.

B. Ethnicity within Ethiopia

Any thorough investigation into how many ethnic groups exist within Ethiopia and what size they are is bound to reach conflicting or indeterminate results.⁹⁵ However, some facts are clear. The Oromo are the largest ethnic grouping in Ethiopia, including forty to fifty percent of the population, and living mainly in the southern and central regions.⁹⁶ The Amharas comprise fifteen to twenty percent of the population.⁹⁷ The Tigrayans include at most ten percent of the population.⁹⁸ The Somali minority comprises about six percent of the population.⁹⁹ Other ethnic groupings include, but are not limited to, the Afar, Sidamo, Hadiya, Gedeo, Yem, and Agau.

The official language of Ethiopia is Amharic, although in the areas of secondary and university education¹⁰⁰ and commerce,¹⁰¹ English is often spoken. There are seventy-five or more other languages,¹⁰² including Oromiffa, Tigrinya, and Arabic.¹⁰³

Ethiopian diversity also extends to the spiritual arena. Approximately forty percent of the population is Muslim.¹⁰⁴ About thirty-five percent are Coptic Christian (Ethiopian Orthodox),¹⁰⁵ and another fifteen to twenty percent follow traditional African religions. Perhaps five percent

⁹⁵ Baxter, *supra* note 50, at 129, 135. One of the obstacles to accurate determination of ethnicity in Ethiopia is government obfuscation. Baxter notes that Estimates of the Oromo population vary from Levine's, in 1974, of seven million to that of the Oromo Liberation Front, in 1978, of 18 million. It was not in the interest of the Imperial Government to collect and publish accurate data on the ethnic, linguistic, and religious diversity of Ethiopia. Hence, as Markakis remarks "the relative strength of the major ethnic groups remains a matter of guesswork. Such conjectures as have been advanced are politically motivated and therefore of little value."

Id. at 135.

⁹⁶ BRIETZKE, *supra* note 45, at 23; *see also* MacDonald, *supra* note 89, at 29 (suggesting that the Oromo population is 40% of the overall population); *but see* JALATA, *supra* note 10, at 1. Jalata contends that the figure is about 50%. *Id.*

⁹⁷ *See* MacDonald, *supra* note 89, at 28.

⁹⁸ *Id.* at 28. Engedayehu claims this upper limit is about six percent. Engedayehu, *supra* note 85, at 44.

⁹⁹ SANFORD J. UNGAR, AFRICA: THE PEOPLE AND POLITICS OF AN EMERGING CONTINENT 527 (3rd ed., 1989).

¹⁰⁰ KELLER, *supra* note 11, at 140.

¹⁰¹ KEESING'S RECORD OF WORLD EVENTS 1993, R10 (Reference Supp., 1993).

¹⁰² Lewis, *supra* note 6, at 61.

¹⁰³ UNGAR, *supra* note 99, at 527.

¹⁰⁴ *Id.*

¹⁰⁵ BRIETZKE, *supra* note 45, at 21.

are Falasha Jews.¹⁰⁶

II. SELF-DETERMINATION OR NONDISCRIMINATION?

Notwithstanding the diversity of Ethiopian society, it is evident that the elite sectors of Ethiopian society have been dominated by Amharas. Additionally, the level to which Amharization has occurred in Ethiopia suggests that ethnicity is more than simple biological, cultural, or historical difference. Ethnicity is a social and political construct. Non-Amharic individuals were often required to speak Amharic, adopt an Amharic name, and forsake their own cultural heritage in order to gain employment and advance socially.¹⁰⁷

The extent to which ethnicity in Ethiopia is a social construct is distinct from the "tribalism" of many African societies or the multi-ethnic character of some Western European states (though perhaps the relationships between Native Americans and the postcolonial societies of North and South American countries are analogous). A significant number of Ethiopians have been completely isolated from Ethiopian political, economic, and social life¹⁰⁸ because of their ethnic or regional background.¹⁰⁹ To the extent that individuals from subordinate ethnic groups were accepted into dominant elite circles, they were "Amharized" to the point of being indistinguishable¹¹⁰ from the dominant elites. This extreme form of assimilation may well have created the perception (if not the conviction) among Oromos, Somalis, and others, that a cultural war was being waged against them.¹¹¹ The social isolation is as fundamental

¹⁰⁶ UNGAR, *supra* note 99, at 527.

¹⁰⁷ Baxter, *supra* note 50, at 136-39. Baxter gives some examples of Amharization among the Oromo. He notes an Oromo doctor who was educated overseas but refused employment in Ethiopia because he did not speak Amharic. He also describes his acquaintance with a magistrate who was apparently an ethnic Oromo (Arussi), but insisted that he was Amharic and considered the Oromos to be without culture and uncivilized. *Id.*

Interestingly, there is speculation that Haile Selassie and Mengistu Haile Mariam were not Amharas by descent. The evidence is stronger in the case of Mengistu. *Id.* at 136.

¹⁰⁸ See, e.g., *supra* notes 14, 34, 35 and accompanying text (referring to social and political marginalization of Somalis).

¹⁰⁹ See Guma, *supra* note 85, at 10, 12. Although war also served to isolate communities, it did so in a manner which coincided with ethnicity and region. See, e.g., JALATA, *supra* note 10, at 127.

¹¹⁰ See *supra* note 107.

¹¹¹ JALATA, *supra* note 10, at 163. Jalata gives several examples of government repression and subversion of Oromo cultural institutions. One such example was the school system:

in some cases as a language barrier, preventing effective communication between one ethnic group and another.¹¹²

In contrast, the importance of ethnicity in most African societies is relatively mild, never reaching the level of "cultural war."¹¹³ This is because African societies, as a result of colonial intervention, generally lack the level of stratification that would result from a long-lived, entrenched ethnic hierarchy.¹¹⁴ Also, while ethnicity often influences politics in multi-ethnic African societies, the process of political, social, and economic integration among elites, if not general populations, is actually quite advanced.¹¹⁵

This distinction of Ethiopia from other multi-ethnic societies is a

Those Oromo children who have gone to Ethiopian schools have learned history and values that contradict what Oromo learned in their homes and communities. In Oromo oral history, Ethiopian leaders are seen as criminals, bandits and slavers; in Ethiopian history they are depicted as heroes and builders of the "nation". . . . The colonial state had hoped that Oromo students would reject their history, values, and language and accept Ethiopian culture. On the contrary, some of these students became radical as well as bilingual The Oromo liberation movement was created by such people.

Id.

¹¹² Guma, *supra* note 85, at 11-12. Tesfa Guma gives an account of "linguistic politics" in Ethiopia and the difficulties of selecting a common language while honoring and preserving those not selected. *Id.*

¹¹³ Even the tragic Rwandan conflict is not a "cultural war," because Hutu, Tutsi, and Twa Rwandans share the same culture, language, and faiths. See *In the Upheaval in Rwanda, Few Answers Yet*, N.Y. TIMES, May 5, 1994, at A3 [hereinafter *Rwanda*] (discussing organized violence carried out by the Rwandan military); UNGAR, *supra* note 99, at 537.

¹¹⁴ JEAN-FRANCOIS BAYART, *THE STATE IN AFRICA* 153 (1993). Bayart, alluding specifically to Kenya and Cameroon, notes that:

[T]hese societies lack the historical depth to allow a precise differentiation between scenarios. It is also difficult to link the relationship each sub-Saharan State has to the social hierarchy. It is only in time that it will be possible to show whether the structure of inequality is becoming deeply ingrained in society, and whether this structure is likely to reproduce itself in the future.

Id.

¹¹⁵ *Id.* Bayart gives an excellent treatment of this hypothesis, using the term "elite" to refer to political and economic elites, and describing their 'reciprocal assimilation' across the lines between business and politics, between ethnic groups, and between other social categories.

Two reasons for the prevalence of this phenomena might be: 1) the necessity of legitimizing the political authority of heterogeneous states inherited from colonialists; and 2) the dominance of trade, as opposed to production, in African economies, and the consequent need for vibrant links between regions and ethnic groups. *Id.* at 150-79. Bayart concludes that "[e]ven the so-called tribal parties quickly understood the necessity of expanding their activities, and forming trans-ethnic alliances." *Id.* at 164.

crucial factor in the determination of the sources and remedies of inter-ethnic conflict. For example, the process of "invention" of ethnicity or nationalist sentiment, in which elites fabricate mythical ethnic histories, and blame other groups for "unjust enrichment" and oppression, is not the *source*¹¹⁶ of nationalist sentiment in Ethiopia and similar societies.¹¹⁷ The invention-as-a-source model presupposes an initial status of relative equality (and therefore integration) between peoples. It presupposes that collective wrongs either do not exist or need not be redressed.¹¹⁸ As

¹¹⁶ For comparison to other societies, see *infra* note 117 and accompanying text. Anderson suggests that this role of "invention" is preeminent in creating nationalism. He refers to the Yugoslavian conflict as fomented by nationalist politicians and political activists. Anderson, *supra* note 4, at 399-402.

Anderson actually provides a good argument for the *rationality* of individuals involved in this process, who adhere to a tribal identity to which they may have previously been indifferent for the sake of self-preservation once violence begins. *Id.* at 398-402.

The current Rwandan conflict provides an example of invented nationalism, and is distinguishable from ethnic conflict in Ethiopia. In Rwanda, the groups concerned share language and other aspects of culture between them. See, e.g., *Rwanda, supra* note 113, at A3. Moreover, Rwanda, like most African societies, lacks an entrenched historical relationship of dominance and subordination, having endured a period of colonization, in which ethnic relationships were altered significantly. See *supra* note 114.

In short, as compared to Ethiopia, Rwandan society can be said to have ethnic groups whose relationships were, at the point of origin of nationalist sentiment, relatively equal. The elites, as well as their general populations, were fairly well-integrated with one another. Therefore, one can more easily attribute conflict to elite invention.

¹¹⁷ Other states that may fit this description are the American states in which there remains a strong and independent indigenous presence, such as Canada, the United States, Mexico, and Brazil. It has already been pointed out that African states generally do not fit this category. Guma, *supra* note 85, at 11-12. However, Sudan may be a significant exception. *Id.*

¹¹⁸ Anderson, referring to Hindu/Muslim conflict in India states:

A compromise in the status, civil or otherwise, of Indian Muslims is justified because they are presumably still benefiting from the misdeeds of their forebearers, as proven by the fact of unequal distribution of goods across groups. Distributive justice therefore requires that they give up this benefit and that it be redistributed to those-Indian Hindus-who have less than they would have had absent the oppression . . . It does not matter, according to this redistributive argument, whether those who did the oppressing were themselves Muslims or anything else, only that their oppressions "unfairly" benefitted some group in the present over the other. It does not even matter whether the original oppressors in history have been the forebearers of the group that now benefits

Anderson, *supra* note 4, at 401, n.46. Anderson's skepticism targets the accuracy of the claim of a historical hierarchy of Muslims over Hindus, and the concept of collective enrichment. Such skepticism may be warranted in many multi-ethnic societies. Ethiopian

will be argued here, however, recognizing and redressing collective wrongs is a necessity for forging one nation in Ethiopia.

A. The "Essentialist" Position

Amharas have often historically perceived their role as one of Christianization of (at least culturally) inferior¹¹⁹ peoples since surrounding peoples were often Muslim; whether Ottoman, Mahdist Sudanese, Egyptian, or later, Muslim Oromos.¹²⁰ Amharas have been the most likely to advance an essentialist image of Ethiopian nationhood as culturally Amharic,¹²¹ ignoring or belittling other cultures.¹²²

After the fall of the Empire, the Derg continued to equate Ethiopian culture with Amharic culture. Its initial slogan, Ethiopia Tiddem, loosely translated as "Ethiopia First,"¹²³ was publicly defined in December of 1974, six months after the Derg came to power, as Ethiopian Socialism, meaning "equality, self-reliance, hard work for the overall interest of the people and above all the supremacy of Ethiopian unity."¹²⁴

With regard to nationalist movements, the Derg's position was that,

society, however, illustrates an undeniable hierarchy and a much clearer case of collective enrichment. See Guma, *supra* note 85, at 10, 12 (alluding to ethnic stereotypes in Ethiopia which themselves describe a social status, e.g., Amharas are "treacherous and cunning rulers," or Sidamo are slaves.) The distinction is not only the hierarchical relationship: it is the lack of cultural and social integration among peoples.

In contrast, Articles XIV through XVII of the Charter illustrate the perceived necessity of redressing collective wrongs. For example, Article XIV states:

[The Transitional Government] shall give priority to the rehabilitation of those areas that have been severely affected by the war, prisoners of war, ex-prisoners of war, as well as those sections of the population that have been forcibly uprooted by the previous regimes policy of villagization and resettlement.

Article XVII requires the TGE to "make special efforts to dispel ethnic mistrust and eradicate the ethnic hatred that have been fostered by the previous regime." TRANSITIONAL CHARTER, *supra* note 80, at Art. XIV.

¹¹⁹ See, e.g., SORENSON, *supra* note 71, at 69; Guma, *supra* note 85, at 12.

¹²⁰ See, e.g., KELLER, *supra* note 11, at 160; JALATA, *supra* note 10, at 25, 34-36.

¹²¹ This essentialism pertains to national identity. It would be ridiculous, for instance, to hold that only one language exists in Ethiopia. It would be essentialist to maintain that the numerous languages and other cultural variations do not constitute other nations.

¹²² See *supra* note 13. Note that the speech disregards the distinct quality of the other cultures of Ethiopia, and illustrates the historical focus of Ethiopian nationalism. Amharas were apparently willing to fully accept at least a few members of other nations, once they were Amharized. See *supra* note 28.

¹²³ BRIETZKE, *supra* note 45, at 158.

¹²⁴ *Id.* at 159.

although self-determination, and even secession, was among the rights of all nations, self-determination was unjustified under a socialist government.¹²⁵ The Derg's conceptual framework, which was similar to that of the Soviets,¹²⁶ led it eventually to dismiss the nationalist movements as wholly external in derivation.¹²⁷ These positions were extensions of Ethiopian essentialism in socialist garb, whereas during the Imperial history, essentialism was expressed in religious terminology.¹²⁸ In either case, recognition of cultural differences among Ethiopians was suppressed, and internal dissent was projected to a plausible external source.

The nondiscrimination principle was official policy under the Derg, and is a variant of the essentialist position. One of the Derg's fundamental precepts prohibited discrimination on the basis of tribe, sex, language, or religion.¹²⁹ Developing a principle of ethnic or cultural nondiscrimination presupposes that no legally significant distinctions exist along these lines. While the principle of nondiscrimination might seem to be recog-

¹²⁵ Gilkes, *supra* note 47, at 200 (quoting the Ethiopian Revolutionary Information Centre: "[c]ases occur where national movements in certain oppressed countries come into conflict with the interests of the development of the proletarian movement. In such cases support is, of course, entirely out of the question [I]t is a part of the general problem of the proletarian revolution, subordinate to the whole, and must be considered from the point of view of the whole).

Even opposition groups to the Derg, such as MEISON and ECHAAT (movement of the oppressed peoples of Ethiopia) took this position, contending that the extent of these rights could only be resolved in the context of a democratic Ethiopia. *See* SORENSON, *supra* note 71, at 62.

MEISON and ECHAAT eventually came to support the general position of the Derg, and thus became "acceptable" opposition groups. Both had a substantial Oromo membership. *See generally* Gilkes, *supra* note 47, at 208.

The Derg's announcement of "autonomous regions" for several of the more nationalist peoples suggests that it was willing to publicly recognize nationalist claims of distinctiveness, but unwilling to seriously address them. *See supra* note 52. In theory, (or, perhaps in practice, with respect to non-socialist states) the Derg recognized the existence of the other nations. In practice, essentialist policy was the rule.

¹²⁶ JALATA, *supra* note 10, at 129 (quoting Troitsky: "It is impossible to solve the national question in the developing countries without overcoming their economic backwardness").

¹²⁷ *See, e.g.,* BRIETZKE, *supra* note 45, at 37 (concerning Arab support of Afars); SORENSON, *supra* note 71, at 57 (concerning Arab and imperialist support of EPLF).

¹²⁸ *See* Tareke, *supra* note 36, at 131 (describing the Empire's reaction to the Bale uprising); *cf.* SORENSON, *supra* note 71, at 57 (examining views of the from the 1980s as attributing Eritrean nationalism to "imperialist conspirators," or "Arab countries that were 'unquestionable partners of imperialism'").

¹²⁹ BRIETZKE, *supra* note 45, at 159.

nizable only in liberal societies, several writers have shown otherwise.¹³⁰ This principle is analogous in practice to the socialist concept of the "universal man," who has no ethnic or national identity -- only a class identity, which itself disappears when Communism is achieved.¹³¹

This presupposition of universality is difficult or impossible where peoples speak different languages, have different lifestyles, and live in different geographic regions.¹³² Law cannot ignore the existence of identities to which significant numbers of people subscribe.¹³³ Where the state supports one identity or culture in the interests of unity, it necessarily supports the characteristics of the dominant state actors¹³⁴ (in this case, Amharas), assimilating, ignoring, or destroying all others in the process.

¹³⁰ See, e.g., Adeno Addis, *Individualism, Communitarianism, and the Rights of Ethnic Minorities*, 67 NOTRE DAME L. REV. 615, 634 (1992) ("[A]s ironic and as implausible as it may sound, the individualist has an ally in the Marxist when the question is one of the rights of ethnic minorities. Just like the individualist, the Marxist is suspicious of ethnic groups, for he, like the individualist, conceives of the universal individual to be constituted by factors that go beyond the particular ethnic group to which the individual belongs").

¹³¹ See Anderson, *supra* note 4, at 419 ("Universality for Communism, in the end, was an identity consisting of neither individualism nor pre-modern tribalism, but instead identification with the universal collective, the commune, the whole, the totality").

¹³² Baxter, *supra* note 50, at 136-37. Baxter describes some of these differences, contrasting some Oromo lifestyles with those of predominantly Christian groups. *Id.*

¹³³ For example, the principle of nondiscrimination with respect to race or national origin, while dominant in the United States, does not apply to American Indians, who have legally recognized tribes, or nations, and a host of territorial and sovereignty rights that derive from that tribal status. These collective rights derive from at least two sources: 1) the self-identification of the Indians as members of a nation which is separate from that of the United States; and 2) the United States' categorization of (un-assimilated) American Indians as culturally separate.

¹³⁴ See Addis, *supra* note 130, at 643. Addis asserts that:

[F]or members of minority ethnic groups, having equal treatment turns out to be merely the right to be turned into some version of the members of the dominant culture. One can treat individuals equally only if one is comparing them from a given point of view. That point of view is not the abstract individual, for there is not such a creature, but rather the individual who is located in and defined by the dominant culture and tradition.

Id. It might be noted that the effect on members of subordinate groups would be the same whether or not they are numerical minorities.

B. The "Inclusionist" Position

The adoption of the Charter, and recent ascension of TPLF to a position of power,¹³⁵ seem to have eliminated essentialism as the dominant conceptualization of Ethiopian identity. The new position allows for legal and ideological recognition of distinct nations within Ethiopia. The most obvious example of this is the recognition of self-determination as a collective right of nations. Certain nationalist positions, or aspects of them, embrace the inclusionist view.¹³⁶ There is a limit to inclusionism, however, where multiple views of Ethiopian identity are incompatible with one another, and conflict, rather than coexist. The best illustrations of this limit are nationalist positions which demand secession.

C. The "Secessionist" Position

¹³⁵ JALATA, *supra* note 10, at 185. The EPRDF includes other nationalist parties including the OPDO, EPDM (Amhara), and ADU. However, it is significant that the EPRDF is dominated by TPLF. OLF and the All Amhara People's Organization (AAPO) have denounced the OPDO and EPDM, respectively, as unrepresentative of their peoples. *See, e.g., id.* ("A major bone of contradiction between the OLF and the TPLF/EPRDF has been the creation and use of the OPDO in undermining the Oromo question."); Makau wa Mutua, *An Oppressed Opposition*, AFRICA REP., Nov./Dec. 1993, at 51 ("Many Amhara have rejected the EPDM and have instead flocked to the [AAPO], seeing in it the representation of their interests").

TPLF domination of EPRDF, and that coalition's harassment of other parties, particularly the OLF and AAPO, lend strength to claims that the EPRDF has taken the same position on nationalities that the Derg and Empire held. *See, e.g., id.*, at 51-52; JALATA, *supra* note 10, at 185-93. "[T]he TPLF/EPRDF demonstrated its inherent colonial and dictatorial nature by blocking the district and regional elections scheduled to be held in the presence of international observers in Oromia in June, 1992." *Id.* at 192.

¹³⁶ Oromo nationalism is most in line with the inclusionist position. The Oromo have more of a tendency to participate in multi-ethnic coalitions, in the Bale uprising, in MEISON and ECHAAT. Gilkes, *supra* note 47, at 208. The Oromo also often identify themselves as members of subsections of the Oromo, such as Arussi, rather than Oromo. *See, e.g., Baxter, supra* note 50, at 130-39; KELLER, *supra* note 11, at 161; SORENSON, *supra* note 71, at 190 ("[T]he extent of the appeal of this distinct Oromo identity continues to be debated"). Inclusionism recognizes a multiplicity of (sub)identities within the Ethiopian identity. SORENSON, *supra* note 71, at 190.

On the other hand, the strength of nationalist sentiment among the Oromo seems to be directly related to the repressiveness of Ethiopian policies. *See, e.g., id;* Baxter, *supra* note 50, at 132. OLF actions and statements threaten a secessionist line if self-determination is not recognized by the EPRDF government. JALATA, *supra* note 10, at 192-93.

Somali and Eritrean nationalism reveal a third position in Ethiopian identity discourse -- a secessionist position. There are varying levels within secessionism, however. The levels vary in the amount to which they conflict with the Ethiopian identity, which is enshrined in the essentialist and inclusionist positions. For example, Eritrean nationalism, rather than emphasizing historical unity, often focusses on the building of a new nation.¹³⁷ In doing so, Eritreans do not threaten or replace Ethiopian identity.¹³⁸ By contrast, the concept of Oromia infringes on the Ethiopian identity in every way: geographically, economically, demographically, and in symbolic ways.¹³⁹

While the Charter recognizes a right to secession,¹⁴⁰ this right ap-

¹³⁷ See, e.g., SORENSON *supra* note 71, at 50-51; ERITREA, *supra* note 17, at 1. ("The people of Eritrea have forever altered the course of Eritrean history and launched a new phase in the struggle for democracy, equality, and freedom"). The future orientation may result from the ethnic, religious and linguistic heterogeneity of Eritrea. In contrast, Ethiopia has a long history and a dominant narrative of that history to draw from. See *supra* note 13.

¹³⁸ See Reisman, *supra* note 14. Somali nationalism is similar to Eritrean nationalism in that it does not threaten an Ethiopian identity. The Ogaden is, like Eritrea, a relatively new addition to the Ethiopian state. Somali nationalists seek an identity in an external, rather than internal source. *Id.*; see also Tareke, *supra* note 37; *cf. infra* note 139 and *supra* note 111 (comparing Oromo nationalist positions).

¹³⁹ See Baxter, *supra* note 50, at 146. Baxter crystallizes this infringement of Oromia upon Ethiopia:

Oromoland, or "Oromia," encompasses Shoa, which is the very heartland of the Ethiopian state and includes the capital, Addis Ababa The most productive farming land of Ethiopia is in the south and much of it is still farmed by Oromo. The south has been the granary of the north and its supplier of meat, butter, sugar, honey Addis Ababa and the new towns of Shoa could not be fed without food provided by rural Oromo land and labor. The south also provides almost all the principal exports of coffee, gold, timber and hides and skins. If the Ogaden or Eritrea were detached from it, Ethiopia would merely be diminished; but if the Oromo were to detach themselves, then it is not just that the centre could not hold, the centre itself would be part of the detached Oromo land The Amhara would then be forced back to subsist in their barren and remote hills.

On the one hand their numbers, geographical position and natural resources give the Oromo a strong base from which to bargain or act but, on the other, the crucial dependence of Ethiopia on the Oromo inclines the central . . . government to strike out at any manifestation of Oromo consciousness.

Baxter, *supra* note 50, at 146. Jalata illustrates this identity conflict in noting the competitive nature of the historical relationship between Ethiopians and Oromos. He argues that Ethiopia eventually colonized Oromia in order to develop its productive forces, and to preserve an Ethiopian ethnic and religious identity. JALATA, *supra* note 10, at 37, 42, 48. The Oromo identity is thus suppressed and supplanted by the Ethiopian identity, and by implication, would displace that Ethiopian identity if allowed to thrive. See *generally id.*

¹⁴⁰ "[E]ach nation . . . is guaranteed the right to exercise its right to self-determina-

pears limited in practice, as is evidenced by hostility EPRDF has shown to OLF.¹⁴¹ The conflict between identities explains this limitation. The Charter retains an Ethiopian identity; it only recognizes that this identity can have many forms. A substantial rejection or attack upon the Ethiopian identity is beyond the scope of the Charter's guarantees.¹⁴²

III. COLLECTIVE RIGHTS IN A FEDERATION

A. *External and Internal Self-Determination*

If, in practice, the Charter does not provide a general right to secession, what rights does it provide? While self-determination has traditionally been associated with independence from colonialism,¹⁴³ statements of the principle have recognized a necessity for democratic forms of government. Article XX of the African Charter on Human and Peoples' Rights, for example, grants self-determination to all peoples, and adds that "[t]hey shall freely determine their political status and shall pursue their economic and social development according to the policy they have freely chosen."¹⁴⁴ The African Charter contains language

tion of independence, when the concerned, nation/nationality and people is convinced that the above rights are denied, abridged or abrogated." TRANSITIONAL CHARTER, *supra* note 80, at Art. IIc.

¹⁴¹ See *supra* note 87. Employing an argument based on "framers' intent," one must note the predominant role of the TPLF in the drafting of the Charter. See generally *supra* notes 10, 11, 135 and accompanying text. Tigrayans are more likely to embrace the traditional Ethiopian identity than other subordinated groups in Ethiopia. See *supra* notes 10, 11, and 71.

¹⁴² Cf. PATRICIA J. WILLIAMS, *THE ALCHEMY OF RACE AND RIGHTS* 108-09 (1991). The essentialist/inclusionist/secessionist model can be analogized to Patricia Williams' "sausage machine," a model which identifies positivist, legal-realist, and nihilist modes of interpretation.

Williams' model envisions a metaphorical sausage-making machine that takes in ingredients at one end and provides a product at the other. A positivist position holds that because the machine is a sausage machine, anything it produces is sausage, regardless of what ingredients went in to it. A legal-realist mode of interpretation defines the output as sausage, but recognizes limited variation in the meaning of sausage. Thus, "sausage" might include chicken, or pieces of dead rodents. The nihilist mode rejects the name "sausage" altogether, as applied to certain products that come out of the machine. See *id.*

¹⁴³ See R. S. Bhalla, *The Right of Self-determination in International Law*, in *ISSUES OF SELF-DETERMINATION* 91 (William Twining ed., 1991); see also Richard T. DeGeorge, *The Myth of the Right of Collective Self-Determination*, in *ISSUES OF SELF-DETERMINATION* 5 (William Twining ed., 1991). This aspect of self-determination has often been referred to as "external." See generally *id.*

¹⁴⁴ African Charter on Human and Peoples' Rights, June 27, 1981, 21 I.L.M. 58,

similar in this regard to the two International Covenants on human rights.¹⁴⁵ The Declaration on Principles of International Law Concerning Friendly Relations and Cooperation Among States in Accordance with the Charter of the United Nations places more emphasis on the necessity of representation.¹⁴⁶ According to the Declaration, states' restrictions on the right to self-determination for the preservation of territorial integrity or political unity can apply only where their populations are "possessed of a government representing the whole people belonging to the territory without distinction as to race, creed, or colour."¹⁴⁷

It might be noted that any right to representation is not necessarily a group right. But the social aspect of many traditionally individual rights is undeniable.¹⁴⁸ A right to representation should be exercisable in a collective fashion that conforms to whatever association the population deems relevant. In a culturally hierarchical society, cultural membership is a highly relevant association.¹⁴⁹

Both external¹⁵⁰ and internal self-determination contain aspects of independence. However, the external form focusses on the independence of the state apparatus, while the internal form emphasizes the independence of the population, adding that this independence is only assured by a representative form of government. The colonial¹⁵¹ nature of Ethiopian

Art. 20, par. 1.

¹⁴⁵ The first articles of the International Covenants of Economic, Social and Cultural Rights and Civil and Political Rights contain language identical to each other: All peoples have the right of self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development. International Covenant on Economic, Social and Cultural Rights, *adopted* Dec. 16, 1966, 993 U.N.T.S. 3. International Covenant on Civil and Political Rights, *adopted* Dec. 16, 1966, 999 U.N.T.S. 171.

¹⁴⁶ G.A. Res. 2625, U.N. GAOR, 25th Sess., Supp No. 28, at 121, U.N. Doc. A/8028 (1970).

¹⁴⁷ *Id.* at 124.

¹⁴⁸ Steiner, *supra* note 4, at 1543. Henry Steiner has argued that "[m]any such rights constitute vital conditions to the formation and functioning of groups, including ethnic minorities. *Id.* Rights of members of minorities to use their own language, to practice their religion, or to associate are necessarily exercised jointly by individuals. *Id.* In this respect, such individual rights have an inherently collective character." *Id.*

¹⁴⁹ See *supra* note 38. The relative strength of nationalist and regional political organizations in Ethiopia suggests that this is true. Article VII of the Charter, provides that "The Council of Representatives shall be composed of representatives of *national liberation movements*, other political organizations and prominent individuals." (emphasis added). TRANSITIONAL CHARTER, *supra* note 80, at Art. VII.

¹⁵⁰ Bhalla, *supra* note 143, at 91.

¹⁵¹ The term "colonial" is controversial, and generally not used to describe rela-

society completes an analogy between internal and external self-determination. Where international instruments allow for complete independence,¹⁵² a domestic instrument following the same principles should allow for internal autonomy.

B. *Division of Power Issues in Ethiopia*

The Charter's guarantee of internal self-determination is found primarily in Article II.¹⁵³ It provides for the preservation of national identities, the creation of autonomous political units that are represented within a central government, and a subjective test for the right to full independence. In addition, Article XIII provides for local and regional councils based on nationality.¹⁵⁴

It is the task of the drafters of the Ethiopian Constitution to eliminate any ambiguity with respect to the Article IIc grant of full independence. If the Charter's provision of "self-determination, up to and including independence" was only intended to permit Eritrean secession,¹⁵⁵ the

tionships between African peoples, even in the Ethiopian context. From a Marxist perspective, colonialism presupposes the existence of a developed capitalist economy. Triulzi, *supra* note 65, at 116-17.

However, Eritrean and Somali nationalist movements, as well as the OLF, have defined their struggle as one against colonialism. *Id.* Moreover, the self-determination principle, as espoused in the Charter, is not dependent upon the existence of a particular economic relationship; rather, it is based on a perceived distinction (national or otherwise) between groups. TRANSITIONAL CHARTER, *supra* note 80, at Art. IIc (allowing exercise of the right "when the concerned, nation/nationality and people is convinced that the above rights are denied, abridged, or abrogated).

¹⁵² See *supra* note 2.

¹⁵³ Article II reads:

The right of nations, nationalities, and peoples to self-determination is affirmed. To this end, each nation, nationality, and people is guaranteed the right to:

- a. Preserve its identity and have it respected, promote its culture and history and use and develop its language.
- b. Administer its own affairs within its own defined territory and effectively participate in the central government on the basis of freedom, and fair and proper representation.
- c. Exercise its right to self-determination of independence, when the concerned, nation/nationality and people is convinced that the above rights are denied, abridged or abrogated.

TRANSITIONAL CHARTER, *supra* note 80, at Art. II. One might argue that these rights have not been fully honored since the Charter's enactment, particularly for the Oromo. One might also argue that, according to the language of Article IIc, Eritrea's secession was premature.

¹⁵⁴ See *infra* note 158.

¹⁵⁵ This drafters' intention is implied by several facts surrounding the defeat of the Derg and the peace conference at which the Charter was drafted. TPLF and EPLF were

Constitutional text can omit references to independence.¹⁵⁶ Instead, the Constitution should expressly emphasize internal self-determination. Genuine decentralization of power and protections for participation in local and regional governments may defuse nationalist aspirations to secession.¹⁵⁷

Internal self-determination in Ethiopia also requires the resolution of division of power issues between federal and regional governments. The Charter contains some precision on this issue. Article Thirteen states that “[t]here shall be a law establishing local and regional councils [sic] for local administrative purposes defined on the basis of nationality.”¹⁵⁸ Referring back to Article IIa, one could infer, at least, that these councils will have some jurisdiction over education, broadcasting, and other cultural activities. What the Charter lacks is some mechanism for determining the boundaries between regional and central power.¹⁵⁹ These

the strongest of the nationalist movements at that time and were close allies. EPLF actions at the end of the war suggests that it expected independence, and may well have had some prior agreement with TPLF to ensure it. *See supra* text accompanying note 10.

¹⁵⁶ Alternatively, the Constitution could limit further secession to specific, conditional circumstances which would allow Somali independence. *See supra* text accompanying note 10.

¹⁵⁷ Issa G. Shivji, *The Right of Peoples to Self-Determination: An African Perspective*, in ISSUES OF SELF-DETERMINATION 33, 35 (William Twining ed., 1991). Issa Shivji argues that internal self-determination is primarily a democratic right, and that national subgroups within states will not seek secession if they are allowed such freedoms:

[T]he fathers of this right believed that the very *recognition* of the right to secede and the democratic treatment of all nations and nationalities within a particular state led to a situation of voluntary *union* of nations rather than secession The problem in Africa has been precisely that the existing states have not treated nations and nationalities under them democratically; hence their fear that recognition of this right will lead to secession.

Id. (emphasis in original).

It has already been noted that the “right to secede” is limited in the Charter, and should be omitted in the Constitution. It may be overly optimistic to believe that nationalist leaders will never grasp at a legal right to secede if it is offered. This opportunity may be most appealing for small groups who lack the numbers to change federal (or regional) policies which affect them. “Democratic treatment” and even special protections, mentioned in the conclusion of this article, should be sufficient to address these minority problems.

¹⁵⁸ TRANSITIONAL CHARTER, *supra* note 80, Art. XIII.

¹⁵⁹ Consider, in contrast, the Tenth Amendment of the U.S. Constitution, which limits federal powers to those enumerated, and delegates all other powers not “prohibited by [the Constitution]” to the states. U.S. CONST. amend. X.

mechanisms would provide guarantees to nations and regions that have been exploited by the central government policies in the past, such as burdensome taxation or resettlement plans.¹⁶⁰ Allocating resources to regional governments will be a necessity if these governments are to be effective at all. This allocation must be done both by local taxation and support from the central government. To the extent that the latter is constitutionally or statutorily guaranteed, the regional councils will be more independent.¹⁶¹

CONCLUSION

Ethiopia provides an excellent example of the appropriate limits of the nondiscrimination principle.¹⁶² In the future, its central government must make an effort to recognize and assist groups that have been excluded under the empire and the Derg. If the spirit of regional autonomy is followed and funds are distributed fairly, the need for organizations like Macha-Tulama¹⁶³ might be obviated. Regions will be able to build their own infrastructure, and develop their own regional taxation and linguistic education policies.¹⁶⁴

¹⁶⁰ The need for such constitutionalized guarantees cannot be overstated, not only because of the presence of the central/regional conflict in Ethiopian history, but because it is in the context of an economically underdeveloped state. Significant shortages in government funds and skilled administrative personnel often militate towards the centralization of power in such states; such influence would be particularly strong now because centralized interventionist states have successfully instituted growth-oriented economic programs in South Korea, Singapore, and elsewhere. RICHARD SANDBROOK, *THE POLITICS OF AFRICA'S ECONOMIC RECOVERY 70-71* (1993). Politically, central government-elected officials and their parties will wish to build regional political support and might attempt to undermine and supplant regional governments in able to build their own patronage. *Id.* at 74. For examples of such activity, see *infra* note 161.

On the other hand, Ethiopians have several armed and organized liberation movements whose programs emphasize nationalism and regional development. These organizations may well be capable of transforming themselves into political parties, but even if they successfully do so, they will demand stronger regional governments, particularly if they have small constituencies. Thus, there should be some codified mechanism in a future Constitution to govern such political conflicts.

¹⁶¹ SandBrook notes a few examples where local government has been completely disabled by financial dependency on central administration. SANDBROOK, *supra* note 160, at 71, 75. One such example is that of Nairobi, which, after being denied funds from the Graduated Personal Tax in 1968, lost all government grants in 1983. *Id.* at 71. Hereafter, this city's administration depended solely on its own tax revenue, and subsequent overburdening of taxpayers led to a significant increase in defaults. *Id.*

¹⁶² The Charter's guarantees regarding nondiscrimination are implied in its endorsement of the UDHR. TRANSITIONAL CHARTER, *supra* note 80, Art I.

¹⁶³ See *supra* note 42 and accompanying text.

¹⁶⁴ Guma, *supra* note 85, at 12. Guma proposes that each ethnic group should be

To provide for equality of opportunities at the federal level, such as among university students and federal officials, the central authorities might take nationality into account in the provision of spaces, the selection process, or other ways.¹⁶⁵ Additionally, the central government will have to develop rules and mechanisms to protect minorities within each of the regions.

To be sure, Ethiopians should strive for an ultimate goal of legal recognition of the Ethiopian identity and none other. But to recognize the nondiscrimination principle to the exclusion of the self-determination principle will perpetuate the cultural hegemony of the Amharas and the marginalization of other groups. This is why the nations of Ethiopia have applauded the Charter, without necessarily supporting secession.¹⁶⁶ It is necessary that the limits placed upon the right of self-determination are recognized and accepted by all Ethiopians as well, given the uniqueness of including that right in a domestic instrument.¹⁶⁷ But these limits cannot infringe upon the cultural expression of the ethno-nations.

Beyond Ethiopia, it is evident that the principle of self-determination must be clarified. If external self-determination is simply an anachronism (because traditional colonial relationships no longer exist), internal self-determination should be emphasized as a vital and appropriate prophylactic for the sorts of problems which have erupted in states with hierarchical forms.¹⁶⁸ Ethiopia is in a precarious transition period, but has much to gain, not the least of which is to become a positive example for other societies who are struggling with issues of nationalism.

free to speak its own language; all schools should teach one federal language; and all schools should adopt one international language. *Id.*

A possible feature of an autonomy scheme is the "personal law," as described by Henry Steiner. Steiner, *supra* note 4, at 1542. This type of law "provides that members of an ethnic community will be governed by a personal law distinctive to it, usually a law of religious origin." *Id.* Such laws might be useful in giving authority to certain non-Amharic traditions, such as the Oromo *gada*, which is a political/ age-grade system, or Islamic family law. *Id.* In order to avoid rigidity, however, personal laws should be optional, binding only if both or all parties to a dispute agree to them. *Id.*

¹⁶⁵ See, e.g., SANDBROOK, *supra* note 160, at 97.

¹⁶⁶ Engedayehu, *supra* note 85, at 30, 49.

¹⁶⁷ Bhalla, *supra* note 143, at 91.

¹⁶⁸ Such as Mexico (with regard to the Chiapas unrest) or Sudan. See generally *Mexico's Second-Class Citizens Say Enough Is Enough*, *ECONOMIST*, Jan. 8, 1994, at 41; *Sudan's Old Secessionists Try A New Strategy*, *ECONOMIST*, Dec. 9, 1995, at 43.