THE STATE, NONGOVERNMENTAL ORGANIZATIONS AND THE MAKING OF THE CHARITIES AND SOCIETIES PROCLAMATION NO. 621 OF 2009 IN ETHIOPIA – HISTORICAL AND INSTITUTIONAL PERSPECTIVES

A DISSERTATION PRESENTED

BY

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ABSTRACT OF DISSERTATION

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ABSTRACT

This dissertation examines the historical and institutional contexts of the making of the Charities and Societies Proclamation No. 621 of 2009 in Ethiopia – a law designed to regulate nongovernmental organizations (NGOs). My study examines the historical path the Ethiopian state followed in the regulation of modern voluntary organizations in general and of NGOs in particular by tracing the emergence of the cultural frame defining the identity of the Ethiopian state, the internal and external challenges the state faced, and how the state responded to these challenges through selectively appropriating global ideas, practices, and influences to legitimate its rule and its international relations. The study also demonstrates the modern turn that this path takes through an investigation of the process in which the latest Ethiopian law on voluntary organizations and NGOs, the Charities and Societies Proclamation No. 621 of 2009, was adopted. By examining this concrete episode of policy formulation and law making my research shows how different actors utilize different, at times disparate and at other times contradictory, ideas and discourses in advocating for a policy agenda favorable to their interests. Through an examination of the historical and institutional contexts and the political processes that led to the new legislation, this dissertation shows the enduring legacy of history in law and policy making and the role of global ideas, and legislative models as well as of actors in bringing about institutional change.
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INTRODUCTION

The world of nongovernmental organizations (NGOs) is very complex since, to paraphrase Handel (2003, p. 1), few aspects of modern life are untouched by them. NGOs are active in not only readily recognized fields such as disaster relief, but also in such areas as disarmament, peace and security, defense, terrorism, and the exploration of Mars. If there is one thing that is common to all NGOs, as indeed to all organizations, it is the fact that they are products of and contribute to the shaping of the historical experience of their societies. Equally true, no society is an isolated one – a truism that proved to over the past three to four centuries as the world becomes more integrated in an ever-expanding global economic and ideological order. NGOs are thus the products and producers – the embedded agents – of a global social order of interconnected politics, economics, ideas, and practices.

To examine this complex web of relations, this dissertation examines the world of NGOs in Ethiopia by focusing on the historical, institutional, and legal processes leading

1 As discussed in the next chapter, one of the challenges of studying NGOs is definitional, as the term is not one with either sociologically or legally agreed parameters. In this study, following the structural-operational definition formulated by Salamon and Anheier (1992; 1997) NGOs are formal, privately initiated, non-profit distribution, self-governing, and voluntary organizations that have socially beneficial goals broader than the immediate betterment of their membership. Chapter 2 below provides a more contextualized characterization of NGOs in Ethiopia.
2 Because of terminological and conceptual confusions discussed in chapter 2, it is difficult to get an exact total of the number of NGOs in the world. In 2000, the Yearbook of International Organizations has registered more than 40,000 international organizations. The Yearbook, however, is neither exhaustive nor inclusive as it limits registration to only those organizations that have a transnational character.
to the adoption of the Charities and Societies Proclamation No. 621 of 2009. The enactment of this legislation marked the high tide in a relationship of increasingly latent hostility and mistrust between the Ethiopian government and NGOs that became especially pronounced following the much-contested national elections of 2005.

Yet, hostility and mistrust are not the only markers of relations between the state and NGOs in Ethiopia. There are many examples of cordial relations and partnerships between the government and NGOs. The Christian Relief and Development Association (CRDA), the largest umbrella organization of NGOs in Ethiopia, for instance, was established by churches to coordinate their responses to an appeal by the Ethiopian government for help in addressing the 1973 famine. Another NGO, the Relief Society of Tigray (REST) was established in the late 1970s by the Tigray People’s Liberation Front (TPLF), the senior partner of the currently ruling Ethiopian Peoples’ Revolutionary Democratic Front (EPRDF), to coordinate relief operations in territories then controlled


4 In May 2005 the third federal and state level elections were held. Although the pre-election process was characterized as the “most democratic” Ethiopia has ever seen (The Economist, 2005), the results were disputed. Following protests that turned violent the government arrested the leaders of the main opposition party and two NGO activists and charged them with attempting to violently overthrow the constitutional order (*Public Prosecutor vs. Engineer Hailu Shawel et al.* Criminal File Number 43246, Federal High Court. Addis Ababa).

5 See Chapter 3 Section (E) for the history of the CRDA and Chapter 4 Section 4 for the CRDA’s role in the making of the Charities and Societies Proclamation No. 621 of 2009.

6 The EPRDF is officially a coalition of four ethnic based political parties: the Amhara National Democratic Movement (ANDM), the Oromo People’s Democratic Organization (OPDO), and the Tigray People’s Liberation Front (TPLF) and the Southern Ethiopian Peoples’ Democratic Movement (SEPDM) – itself a coalition of twenty small ethnic political parties in Southern Ethiopia. The TPLF and its junior partner the ANDM (known at the time as the Ethiopian Peoples’ Democratic Movement-EPDM) established
by the Front. Presently, it works in close cooperation with the regional government of Tigray, often innovating small scale projects that the Regional State takes over and expands.

CRDA and REST, however, are not exceptional cases of cooperation between the Ethiopian state and NGOs. Over the past four decades, the relationship between the Ethiopian state and NGOs has grown in importance. No longer confined to disaster relief, NGOs have become active in various policy forums as representatives of civil society. The number of NGOs established and operating in Ethiopia has increased dramatically in the period since the coming into power of the present government led by the EPRDF in 1991 (Desalegn Rahmeto, 2002; Clark J., 2000). Out of a total population of more than 79 million (Federal Democratic Republic of Ethiopia Population Census Commission, 2008), nearly 17 million individuals have reportedly benefited from NGO activities in such fields as food security, health care, safe water provision, HIV/AIDS prevention, and education (Development Studies Associates, 2004). The amount of money that both indigenous and international NGOs spend on projects has also been

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the EPRDF in 1989 during the armed struggle against the Derg. Although a coalition, the EPRDF is organized on the principles of “democratic centralism” thus giving its constituent organizations ideological and leadership cohesion.

7 Chapter 3 Section D discusses REST and its relations with the TPLF.

8 Until the enactment of the Charities and Societies Proclamation No. 621 of 2009, Article 545 of the 1960 Civil Code defined a “foreign” organization as one that has its head office outside Ethiopia. The categorization of an NGO as “national” or “international” followed this rule. As discussed in chapter four, the Charities and Societies Proclamation made the source of income the defining marker for the characterization of NGOs and categorized them as “Ethiopian”, “foreign” and “Ethiopian resident.” Generally, the study follows the rule of the Civil Code in characterizing an NGO as national (or indigenous) or international, and does not apply the further classification of indigenous NGOs into “Ethiopian” and “Ethiopian resident” introduced by the Charities and Societies Proclamation.
Thus expenditures by international NGOs have grown from Birr 216.76 million in 1997 to Birr 399.95 million by 2001 while the expenditures by indigenous NGOs have increased from Birr 286 million in 1997 to Birr 519 million in 2001 (Development Studies Associates, 2004).

This trend is not unique to Ethiopia. Since the 1980s, NGOs have emerged as major actors in international development. They have been the first responders to natural and human-made catastrophes. They carry out projects ranging from providing small-scale loans to the extremely poor to global campaigns against the debt burden of developing countries or global poverty. In countries as far apart as Zimbabwe (Dorman, 2003), Ukraine (Wilson, 2006), Mexico (La Boz, 1995, p. 80) and the Philippines (Silliman & Noble, 1998), NGOs were at the forefront of the struggle for democracy and human rights.

The increasing importance that NGOs have attained has also led to much scrutiny about their effectiveness, accountability, and legitimacy. More significantly, over the past few years, and especially since the dawn of the new millennium, many countries have adopted laws aimed at controlling and at times curbing the operation of NGOs. In 2009, Ethiopia followed this trend by enacting the Charities and Societies Proclamation No. 621 of 2009 that severely restricted the NGO activities.

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9 As discussed in chapter 4, one of the arguments that NGOs made when opposing the enactment of the Charities and Societies Proclamation No. 621 of 2009 was that the Proclamation would negatively impact their contribution to the national economy. One newspaper article pointed out that the amount of foreign exchange that NGOs brought into the country in recent years exceeded the amount earned from the sale of coffee, the country’s major export (Embilta, 2008).
Adopting a theoretical framework that integrates insights from different strands of new institutional theory, my dissertation studies the global and national historical processes leading to the emergence, and characteristics of the regulation of NGOs in Ethiopia. It will also closely examine the processes of political contest over policy formulation and law making that culminated in the enactment of the Charities and Societies Proclamation in 2009. Through these investigations, the dissertation shows how NGOs themselves contribute to the shaping of their institutional environment and regulatory framework.

The making of the Charities and Societies Proclamation No. 621 of 2009 is a moment when global and national historical processes defining the nature of the state and its relations with society as well as political contests between the state and NGOs over the meaning and direction of these processes converged. The actual legislative process started in 2008 when the government proposed a bill to govern NGOs. While regularizing the disparate administrative and regulatory approaches governing NGOs, the draft bill also proposed wide ranging restrictions and extensive administrative intrusion into the internal management of NGOs by government agencies. The bill embodies the ideological position of the ruling EPRDF on the nature of NGOs and the role they should be allowed to play in Ethiopian society, especially in its politics.

The restrictive views of the EPRDF and its government ran counter to the views of NGOs, especially of some indigenous and activist NGOs, that saw NGOs as active members of civil society with an important role in the development and democratization
of Ethiopian society. In the course of several months, while the bill was passing through the law making process, these NGOs attempted to influence its contents. While not dramatic, their efforts stood in opposition to the government’s vision. To some extent, they were also able to mobilize the historically docile and fractured NGO community behind their efforts. Although ultimately unsuccessful, these efforts by NGOs represented a new chapter in the relationship between the Ethiopian state and NGOs.

The immediate political processes behind the making of the Charities and Societies Proclamation No. 621 of 2009 have, however, deep historical roots. Efforts by NGOs to forge a more favorable regulatory framework started in the nineteen nineties when they launched different initiatives to better regularize relationships with the state and among themselves. The efforts at legislative reform that started at easing administrative requirements for the registration of NGOs grew in ambition and came to be nothing less than a demand for the transformation of relations between the state and civil society.

Indeed, the regulation of NGOs is only one expression of the relationship between the state and society. Neither the law, nor NGOs can be studied in isolation from the state that sets the regulatory framework for NGOs. This three-way relationship among the law, NGOs, and the state assumes particular salience in the case of developing countries like Ethiopia for a number of reasons. As demonstrated in chapter 2, NGOs are relatively recent phenomena in developing countries. The nature, behavior, and

10 Chapter 4, section (B), (4) (at notes 180 and 181) below discussed who these NGOs were, and their efforts to influence the contents of the Charities and Societies Proclamation No. 621 of 2009.
The significance of NGOs are intertwined with the encounter between the expanding world of Western liberal capitalism and the developing world of the global South (and to some extent the post-Communist transition world of the former Soviet Union).

The encounter between the West and the global South and its effect on NGOs as well as their interrelationship with the state is particularly visible in the post World War II period. The emergence of international development discourse – the set of theoretical views and institutional arrangements that claims to promote development as an international goal – as well as the use of aid as an instrument of foreign policy in the post World War II period, has had immense effect on the nature, and role of NGOs in developing countries. In the decades following the demise of communism and the ascendance of neoliberal economic orthodoxy, academic and practitioner discourse supported by the policies and practices of powerful international aid agencies has juxtaposed the state in these societies and NGOs, and thrown their relationship into sharp relief. Since the 1980s, the resurgence of interest in the idea of, as well as policy prescriptions for, the promotion of civil society has also influenced NGOs. As will be shown in chapter 2, however, neither “development” nor “civil society” is a creation of the post World War II world. Rather, they represent continuities in ideational responses to and the consequent structural arrangements occasioned by the social transformations and dislocations accompanying the birth, expansion, and contestation of a capitalist economic order first in the North Atlantic and then in the rest of the world.

The law on NGOs in Ethiopia is a synthesis of the historical experiences of the Ethiopian state and its reactions to its encounter with the West. The development of this law, especially its contestation and enactment like the processes leading to the adoption
of the Charities and Societies Proclamation No. 621 of 2009, shape, and is in turn influenced by, the responses of both the state and NGOs to these historical experiences, encounters and their accompanying discourses. By examining these reactions, especially in the context of the making of the new law on NGOs, the dissertation will shed light on an aspect of the process of globalization as manifested in the law making process in Ethiopia.

To summarize, my dissertation presents a historically and theoretically informed examination of the nature of the relationship between the state and NGOs by viewing the latter as actors embedded within an institutionalized world of global and national political economy, history, ideas and practices. Though historically informed, the study is not a linear presentation of unfolding events. Rather, it presents a punctuated narration of significant episodes that explain the relationship between the Ethiopian state and NGOs. The emphasis is therefore not in detailing the day-to-day, but on the enduring features of the past, particularly, the transformational events and processes especially those that are related to the law and its making.

While the history and arguments presented in the present research apply to international NGOs operating in Ethiopia and to indigenous NGO, the study’s focus is on the latter. Two reasons justify this focus. First, international NGOs had limited and indirect roles in the political contests behind the enactment of the Charities and Societies Proclamation 621 of 2009. Second, while the role of international NGOs in developing countries including in Ethiopia has been a subject of many studies, indigenous NGOs are understudied phenomena. Third, and most important, as argued in chapter 2, international NGOs represent the responses of Western society to its encounter with the
developing world of the global South. Indigenous NGOs, on the other hand, are appropriations of Western originated organizational forms and ideas by local actors in developing countries. They are thus the more appropriate subjects in studying the consequences of the encounter between the West and developing societies from the perspective of the latter.

My research identifies the unique characteristics of the institutional environment of Ethiopian NGOs, the key events and ideas that inform the behavior of the state and NGOs, and how these are reflected in the law making process. By examining the immediate law making and policy formulation processes, the study will also document the mechanism deployed by indigenous NGOs and the state to influence the policy outcome, and therefore, to shape the institutional world of NGOs.

The dissertation has four chapters. Chapter 1 deals with the methodological framework of the research. It presents the research problem and questions, the theoretical framework employed, as well as, the data collection methods used in the dissertation. Chapter 2 discusses the global emergence and expansion of NGOs. The chapter traces the history of NGOs to social transformations resulting from the rise of capitalism in Europe and North America and the expansion of global capitalism and Western missionary activism to the rest of the developing world. The chapter begins by a contextualized characterization of indigenous NGOs in Ethiopia that captures their defining mark but also their historical emergence and their web of institutional relationships. It will then present a historical overview of the ideas as well as the social and legal changes since the sixteenth century that facilitated the emergence of NGOs as distinct forms of organizations in Western societies in the pre-World War II period. The
The final section discusses the significant transformations in the nature and global distribution of NGOs that has been taking place since the end of World War II.

The third chapter presents the overall context and historical progression of the regulation of voluntary organizations in general, and NGOs in particular, in Ethiopia. As one of the few countries in the world with a continuous state history that goes back to millennia, Ethiopia has a complicated history. In summarizing this history, in this and in other parts, the dissertation does not purport to be comprehensive. It is limited to showing how history has contributed to the shaping of the regulation of NGOs. This is an important caveat since these historical summaries emphasize the historical experiences of the Christian Kingdom of Ethiopia that shaped the institutional foundations of the modern Ethiopian state and its regulation of NGOs.

The first section of chapter 3 discusses the origins of the Ethiopian state in the highlands of Ethiopia. The identity of the Christian Kingdom was defined by its drive to expand its rule among the various population groups that inhabited the Ethiopian highlands and by its conflicts with the populations and kingdoms in the lowlands surrounding the highlands. Its identity and legitimacy derived from a unique form of Christianity that evolved in isolation from the rest of Christendom. The strong bond between the Ethiopia to survive and the Orthodox Church allowed the statehood of Ethiopia and gave the Orthodox Church a paramount position as the source of the state’s legitimacy. During the sixteenth and seventeenth centuries, the state’s identification with the Orthodox Church was challenged by the rising power of the Muslim Kingdom of Adal. The sixteenth and seventeenth centuries were also periods when Europe began to expand its global reach, and Ethiopia came into major and sustained contact with Europe.
The second section reviews some of the major events and conflicts that took place in Ethiopia and shaped the cultural frame through which the Ethiopian elite interpreted their encounter with the West.

As these encounters intensified through the nineteenth and twentieth centuries, the Ethiopian state became increasingly receptive to ideas, practices, organizational forms, and legislative models as well as material resources from the West. The state’s selective appropriations of these products of the West characterize the regulation of voluntary organizations in general and of NGOs in particular since the first half of the last century. The third section of Chapter 3 reviews the emergence of the modern Ethiopia state and its increasing exposure to ideas and practices from the West during the last half of the nineteenth century and the first half of the twentieth century. It also highlights the challenges the modern Ethiopian state faced that emerged during this time and that successive regimes from the early founders of the modern Ethiopia state to present day rulers grappled with. These challenges include those of forging a unified state that integrates the disparate population groups and regional elites of a territorially expanded state, building an economically strong and militarily secure state capable of facing external threats to sovereignty and internal challenges to its rule, and responding to the demands of a growing population whose needs and the state’s responsibility to meet them are increasingly defined by global standards as much as by internal demands. In responding to these challenges and their conflicting demands, the state opened itself to influences from the West including organizational models of voluntary associations and legislative models of regulating them.
Section four of chapter 3 reviews developments in the Ethiopian state and its relations with voluntary organizations in general and NGOs in particular after the end of the Italian occupation in 1941. During this period, the challenges the modern Ethiopian state faced were further accentuated in a setting that witnessed the increasing integration of the Ethiopian state in the global order of the post-World War II period. Section four of chapter 3 reviews the major transformations that Ethiopian society went through during this period that formed the backdrop for the emergence of modern forms of voluntary organizations and NGOs and their regulation by the state.

Section four also reviews how the confluence of events and processes that questioned the legitimacy of the Ethiopian state. The rise of alternative ideologies that heavily borrowed from Western sources and yet were rooted in the Ethiopian experience accompanied the crisis in the legitimacy of the state. After the fall of the monarchy in 1974, the two successive regimes that came to power, that of the military led Derg\(^{11}\), and of the EPRDF, have tried to organize state and society relations based on alternative ideologies. In reviewing the transformations that Ethiopian society went through after 1941, the fourth section of chapter 3 deals with appropriations of Western influenced ideas, practices and organizational forms, including NGOs by the Ethiopian state and elites unfolded and how these appropriations are reflected in the legislative and

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\(^{11}\) *Derg* is Amharic for “council” from the official Amharic designation of the group of junior and non-commissioned officers that came to power in September 1974 -- “giziyawi wetaderawi astedader Derg” (Provisional Military Administration Council). The *Derg* officially disbanded in September 1985 with the establishment of the People’s Democratic Republic of Ethiopia. “*Derg*”, however, commonly designates the regime that continued in power with the formation of the Workers’ Party of Ethiopia (WPE) headed by Lt. Colonel Mengistu Haile Mariam, who was also the Chairman and most powerful figure in the military council. This paper utilizes the term in this commonly used sense to refer to the rule of both the military and WPE regimes.
administrative mechanisms dealing with NGOs. Chapter 3 also has a case study of the Christian Relief and Development Association (CRDA), an indigenous NGO emblematic of most indigenous NGOs in Ethiopia. CRDA’s history demonstrates the responses of Ethiopian NGOs to their institutional environment especially when this environment is uncertain or hostile.

Chapter 4 discusses the historical context of the Charities and Societies Proclamation No. 621 of 2009 and its enactment. The chapter has two parts. The first part reviews the regulation of voluntary organizations prior to 1991, the year the Derg fell and the currently ruling EPRDF came to power. The section begins by tracing the emergence of a modern legal system and bureaucracy that culminated in the codification of Ethiopian law, a process that took about half a century from the beginning to the mid twentieth century. It then presents the legal regime under the 1960 Civil Code of Ethiopia which governed voluntary organizations, and the subsequent emergence of administrative mechanisms that bypassed the Code to regulate NGOs.

The second section of Chapter 4 examines the development of the legal and administrative regime governing NGOs after 1991. The section discusses the events and processes that led to the adoption of the Charities and Societies Proclamation in 2009 and the role played by NGOs in these processes. In the post-1991 period, NGOs and particularly indigenous ones increased in numbers and relative influence. However, the proper role of NGOs in general and how they should be regulated was contested by the state and NGOs. Section two of chapter 4 details these contests that were made visible in the efforts by the state and NGOs to modify the existing and forge a new regulatory framework for NGOs.
A. STATEMENT OF THE PROBLEM AND RESEARCH QUESTIONS

Reviewing the state of NGOs in the world after the United States’ declaration of the War on Terror and the increasing resort to repressive measures against voluntary organizations by many states, often justified on grounds of fighting terrorism, Thomas Carothers (2006, p. 55) wrote:

After two decades of the steady expansion of democracy-building programs around the world, a growing number of governments are starting to crack down on such activities within their borders. Strongmen – some of them elected officials – have begun to publicly denounce Western democracy assistance as illegitimate political meddling. They have started expelling or harassing Western NGOs and prohibiting local groups from taking foreign funds – or have started punishing them for doing so. This growing backlash has yet to coalesce into a formal or organized movement. But its proponents are clearly learning from and feeding off of one another.

Carothers’ assessment was occasioned by a spate of legislation and government measures restricting NGOs in several countries including Russia, Belarus, Tadzhikistan, Uzbekistan, Kazakhstan, China, Nepal, Zimbabwe, Eritrea, and Venezuela. Carothers attributed these restrictive laws and measures, at least in part, to governments’ concerns over the implications of the color revolutions of Ukraine and the Central Asian republics, and to democracy promotion by the United States as practiced under the presidency of George W. Bush (Carothers, 2006, pp. 55 - 59).
Yet, these were not the only countries that issued laws that deal with NGOs since George W. Bush became president. An examination of the laws available at the database maintained by the International Center for Nonprofit Law shows that from 2000 to 2009 more than forty countries enacted laws that mainly dealt with NGOs. Countries from Afghanistan, the United Kingdom, Belize, Zimbabwe, and Australia to Saudi Arabia enacted laws that deal with NGOs. About twenty countries have formal restrictions on the types of activities that NGOs can engage in, who can become a member, founder, or staff of NGOs, or sources of funding NGOs can have.

Even in the case of those statutes that have a permissive approach (such as those in Australia, the United Kingdom, and Afghanistan) to the organization, operation and funding of NGOs, there are recurrent themes demonstrating concerns about controlling NGOs. These concerns are expressed in requirements of registration, either for obtaining legal personality, or for obtaining different privileges, especially tax privileges, the establishment of supervisory governmental agencies to oversee NGOs, rules on the governance mechanisms of NGOs, and requirements on maintaining financial records and submitting reports to government agencies.

12 The database is available at http://www.icnl.org/knowledge/library/index.php. The database has official versions and unofficial translations of laws and other resources from nearly one hundred eighty countries around the world that deal with the regulation of NGOs. The review was limited to those laws whose text is available in English.

13 Requirements for registration do not, per se, represent restrictiveness towards NGOs. The laws referred to here are generally permissive in their approach towards the setting up of, and the types of activities that can be carried out by, NGOs. Requirements for registration, however, can be unduly excessive and allow wide discretion to administrative agencies thus constraining the formation and freedom of operation of NGOs (Irish, Kushen, & Simon, 2004, pp. 26 -27)
Why is it that in the past three or so decades many countries found it necessary to issue laws regulating NGOs? As will be discussed in this dissertation, NGOs assumed significant prominence in the last three decades of the twentieth century as economic and political actors. In developed countries, NGOs serve as important mechanisms of transferring wealth within the states themselves (Salamon L. M., 2003, p. 12) as well as from the wealthy nations of the West to developing countries (Edwards & Hulme, 1996). In developing countries, NGOs have emerged as major agents of development and democratization, with considerable resources at their disposal, and at times, in direct competition with states (Igoe & Kelsall, 2005). Moreover, NGOs are playing a considerable role in the policy process as promoters and watchdogs of norms of behavior both within sovereign states and in international relations. Many states respond to this rising importance of NGOs by adopting or overhauling laws dealing with voluntary, nonprofit, or similar organizations (Jordan & van Tuijl, 2006, p. 4).

The more substantively challenging question is why is it necessary to have laws to regulate NGOs? From the perspective of regulatory theory, the regulation of any industry is technically justified on microeconomic considerations promoting market efficiency and rectifying market failure (Baldwin & Cave, 1999, pp. 9-17). Garton (2009, p. 119) finds that although most microeconomic justifications do not apply to the regulation of NGOs:

Regulation can be justified by reference to: (a) the need to prevent anticompetitive practices, (b) the externalities that result from unfettered

14 As Igoe and Kelsall (2005) show, the optimism about the ability of NGOs to act as the “magic bullet” in resolving the challenges of poverty and illiberal governance that was prevalent in the 1980s was replaced by a more critical view of NGOs that questioned both the capacity and legitimacy of NGOs as agents of democratization and development.
political campaigning, (c) the need to ensure accountability, … (d) the need to coordinate the sector, (e) the need to respond to philanthropic failures\footnote{Following Salamon, Garton identified two cases of philanthropic failure. In failures of philanthropic paternalism, philanthropic action is directed by the desires of the giver rather than the needs of the receiver leading to the disempowerment and stigmatization of the latter. In failures of philanthropic amateurism, the sustainability and quality of philanthropic action is compromised due to disproportionate reliance on volunteers (Garton, 2009, pp. 113-115).}, and (f) the need to prevent the erosion of key [civil society organization] structural characteristics\footnote{The key structural characteristics are those of independence from the state, organizational autonomy and efficiency, and volunteerism (Garton, 2009, pp. 114-117).} \[Footnote added.\]

O’Halloran, McGregor-Lowndes, and Simon (2008, pp. 99-104) provide a template of four core functions that the law performs in relation to charities that can also serve as justifications for laws on NGOs. First, the law gives full effect to the intention behind the establishment of charities. It protects the interest of the creator of the charity by ensuring that the charity’s administration conforms to the expressed will of the creator of the charity. Since the establishment of charities entails privileges ranging from variations in the application of the rules of the law on property to getting tax exemptions, the law also performs a policing function that aims at preventing the abuse of charities. Charities are established for a relatively long period. Consequently, the circumstances they were created under may differ from those they operate now. As a result, it may be necessary to bring charities up-to-date to be able to respond to contemporary issues and concerns through the mediation and adjustment functions of the law in relation to charities. Finally, the law may provide different privileges and supports to facilitate the
activities of charities. One of the major privileges that the law accords to charities in this regard is that of exemption from tax liabilities.

The legal-functional or regulatory formulations of the justifications undergirding regulation in general and the regulation of NGOs and similar organizations in particular, that O’Halloran et al, and Garton formulated respectively, can explain many of the laws and legal reforms enacted or drafted in the past nearly three decades. These include the reform of charity laws in many countries that follow the common law system including the UK, Ireland, Australia, Canada, New Zealand, Singapore, and the United States.17 In commenting on legislative reform in several of these countries, Garton (2009, p. 7), notes as “striking”:

the fact that all the reform proposals have been made on the assumption that regulation of organized civil society – and more specifically, regulation of the charitable sector – is justified. None of the reform bodies … asks itself what a flourishing civil society might achieve, and whether regulation will enable this. The need for regulation is assumed, and all that is considered is the form that regulation should take.

The assumption about the desirability of NGOs and similarly situated organizations is itself based on a more fundamental assumption about the desirability, or naturalness, of these organizations themselves. In fact, despite adjustments to fit local conditions this fundamental assumption subsists in jurisdictions such as those of the

17 For a discussion of the reforms in the charity laws of these countries see O’Halloran (2007), Garton (2009), and O’Halloran, McGregor-Lowndes and Simon (O’halloran, McGregor-Lowndes, & Simon, 2008).
United States, Canada, Australia, and New Zealand, with historical ties to England (Garton, 2009, p. 141).

Laws like those that Carothers referred to, however, question the validity of this fundamental assumption. Gershman and Allen (2006, pp. 40-46) identify nine measures that these types of laws impose on NGOs. These include: restrictions on forming NGOs; delaying the recognition of, or denying legal personality; restricting fund raising capabilities from foreign or domestic sources; granting extensive discretionary powers to government agencies to control NGOs; restricting political activities by NGOs; interfering in the internal affairs of NGOs; and, imposing stiff criminal liabilities.

Furthermore, while “such provisions are found in virtually every region of the world, [they] tend to be most common in the Middle East, Africa, Asia, and the countries that used to make up the Soviet Union” (Gershman & Allen, 2006, p. 39).18

18 Summarizing an International Center for Not-for-Profit Law study, Gershman and Allen noted that (pp. 39-40):
States with restrictive laws tend to exhibit one or more of the following characteristics:
• a “closed” or command economy;
• government by leaders with autocratic tendencies;
• the belief that political dissent – whether internal or within a neighboring country – is a threat to the current regime or incumbent party;
• concerns about religious fundamentalism or, more specifically, jihadist Islam;
• a contagion or copycat effect of similar legislation or practices introduced across neighboring regimes;
• a record of human rights abuse;
• a concern about alien or foreign influence.
It is notable that this enumeration covers virtually all the regions of the world except the North Atlantic region of Europe and North America.19 Neither are restrictive laws limited to states with authoritarian regimes, although they are prominently present under such regimes. India, the world’s largest democracy, has laws dating back to the colonial era and to the 1970s that restrict and closely monitor the establishment, operation, and foreign fund raising of NGOs (Behar & Prakash, 2004, p. 204; Sato, 2002, pp. 64-67).

The geographic spread of restrictive laws on NGOs is significant in two important respects. The first is historical. As discussed in chapter 2 of this dissertation, NGOs in non-Western societies are products of historical processes of the encounter between the West (first through European colonialism further augmented by American expansion) and the rest of the world. Second, NGOs in the global South serve as transfer mechanisms of material and financial resources, and as agents of diffusion of Enlightenment-influenced values and norms into the rest of the world. How states and elites in non-Western societies receive the resources and norms flowing from, and the organizational carriers of, the encounter with the West are influenced by the particular historical and institutional experiences in their respective societies. Laws on NGOs in non-Western states can be expected to reflect the particular modalities through which the past and on-going encounter with the West, as well as the resources, norms, and organizational carriers that are the products of the encounter, were mediated.

19 Although the Latin American region is not among those enumerated by Gershman and Allen, several laws passed or bills tabled since their piece appeared in 2006 are characterized by similar restrictive trends. States in the region with such restrictive laws or bills include Ecuador, Venezuela, Peru, Mexico and Nicaragua (ICNL, 2009).
Despite the many states and laws that restrict the establishment and operation of NGOs, what historical and institutional processes lead to the adoption of these laws, or the role of NGOs in the legislative processes that resulted in the enactment of these laws, have not generated much academic scrutiny. The lacuna is particularly striking in light of the fact that NGOs have come to assume a considerable role in the processes of development and democratization that developing societies in the world are engaged in to varying degrees of success. My dissertation aims at contributing to filling this gap by examining the historical and institutional processes that led to the making of the Charities and Societies Proclamation No. 621 of 2009 in Ethiopia, and the role of NGOs in the law making process.

The central research question in this study is how the historical experiences of the Ethiopian polity influence the state’s legislative and policy approaches to NGOs in general and how they shape the contents of the Charities and Societies Proclamation No. 621 of 2009 in particular. The study will also analyze the processes involved in, and the proximate events that triggered the making of the Proclamation and NGOs’ efforts at influencing the outcomes of the law making process.

More specifically the dissertation answers the following questions:

1. What are the global and national events and processes that shape the regulation of voluntary organizations and NGO in Ethiopia and the Charities and Societies Proclamation 621 of 2009?
2. What were the roles of different actors, and especially state elites and NGOs, themselves, in shaping the laws and regulations on voluntary
organizations and NGOs in general and the Charities and Societies Proclamation 621 of 2009 in particular?

3. What were the instrumentalities, narratives, and discourses, the actors deployed to influence the law making process?

B. THEORETICAL REVIEW

This research adopts an institutionalist theoretical approach to investigate the research questions. The study of institutions has a long lineage in social sciences. Immergut (1998) traces the social scientific engagement with institutions to Jean-Jacques Rousseau who criticized Hobbes, Locke and others for considering individual and atomist interest maximization as matters of natural preference that are of paramount importance in explaining social life. For Rousseau, individual preferences are not “universal postulates on which one could found a scientific theory of politics, but …[are] products of society – its norms and its institutions.” Recently, the study of institutions has developed in reaction to functionalist and behavioral views of social life. March and Olsen (2006, p. 6), the progenitors of the new institutionalist movement, summarize their seminal paper of 1984 as a reaction against the behavioral and functionalist tendencies of abstracting political actions from their institutional and historical contexts. The turn away from functionalist and behavioral accounts has not only been the growth of “new” institutionalist studies and interpretations of social facts, but diverse approaches to the study of institutions clustered around different academic disciplines-mainly those of economics, political science and sociology. While these differences are in part
reflections of academic proclivities, they are also the results of different views of what “institutions” themselves are and of the methodological approaches for studying them.

Despite the diversity of approaches, there is a consensus on the place of institutions in social life. This consensus is summarized by March and Olsen (p. 7) who characterize institutions as follows:

Institutions give order to social relations, reduce flexibility and variability in behavior, and restrict the possibilities of a one-sided pursuit of self-interest or drives. The basic logic of action is rule following—prescriptions based on a logic of appropriateness and a sense of rights and obligations derived from an identity and membership in a political community and the ethos, practices, and expectations of its institutions. Rules are followed because they are seen as natural, rightful, expected, and legitimate.

Members of an institution are expected to obey, and be the guardians of, its constitutive principles and standards.

Scott (2008, p. 51) summarized the analytical frameworks on the nature of institutions based on what are termed as the three pillars of institutions: the regulative, the normative, and the cultural-cognitive. The regulative aspect of institutions, consisting of both formal regulatory rules and agencies as well as of informal mechanisms of compliance, sets up the rules, enforcement and monitoring systems and rewards and sanctions that bound organizations. The normative pillar of institutions provides values that define the appropriateness of goals to pursue, and norms that designate the legitimate ways of pursuing these goals. Institutions thus define the roles that actors can play. The cultural-cognitive pillar of institutions emphasizes the shared meaning that actors
attribute to social reality taking into consideration not only objectively existing conditions, but also subjective interpretations given to these conditions. Through their interpretive activities of using frames and templates for analyzing and organizing thought and constructing shared meaning, actors internalize the objective world, assume roles, and behave in accordance with their shared meanings.

Scholars in the tradition of rational choice institutionalism emphasize the regulative aspects of institutions. North, for instance, views institutions as:

perfectly analogous to the rules of the game in a competitive team sport.
That is they consist of formal written rules as well as typical unwritten codes of conduct that underlie and supplement formal rules…An essential part of the functioning of institutions is the costliness of ascertaining violations and the severity of punishment (quoted in Smith, 2008, p. 52).

The basis for the emergence and functioning of institutions is the rational choice of individuals that aim to maximize benefits and minimize costs for themselves (Fiorina, 1995, pp. 113-114). Underlying rational choice institutionalism are a set of assumptions on the rationality and the primacy of the interests of individuals as distinguished from ideas. Thus, both the rationality and the choices of actors in rational choice institutionalism are exogenously determined (Geddes, 1995, p. 82). Institutions “serve a limited number of general purposes [and] rational actors can be expected to create similar kinds of solutions across time and across cultures” (Fiorina, 1995, pp. 113-114). There is an inherent contradiction between the egotism assumed in the individual actor and the collective constraint imposed by institutions. In rational choice institutionalism, this contradiction is “resolved in practice, if for no other reason than that, individuals realize
that institutional rules also constrain their competitors in whatever game of maximization those competitors may believe themselves to be involved” (Peters, 2005, p. 49).

The preference shaping quality of institutions is one of the major insights of rational choice institutionalism. Actors assess their constraints and try to maximize their benefits within the system of rules that constitute their institutional framework. As they do so, however, their actions necessarily affect the functioning of the institutions themselves, sometimes in unexpected ways. As Scott summarized it:

Laws do not spring from the head of Zeus or norms from the collective soul of a people; rules must be interpreted and disputes resolved; incentives and resources must be designed and will have unintended effect; surveillance mechanisms are required but will prove to be fallible, not foolproof; and conformity is only one of many possible responses by those subject to regulative institutions (2008, p. 54).

The limitations of rational choice institutionalism, especially in its application to non-Western democratic societies, stem from its methodological goal of theoretical abstraction that is highly influenced by neoclassical economics and its ahistorical focus on the workings of the institutionalized and legislatively bounded here and now of Western liberal democratic processes. In his examination of the application of rational choice explanations to political processes in Latin America, Weyland (2002, pp. 6-14) noted that political goals deduced from Western liberal, and especially US settings are transferred to non-Western actors. The political objectives of these actors, however, are shaped by factors other than those of electoral politics thus challenging the explanatory powers of the rationalist model. Similarly, the excessive attention to formal rules and
procedures detract from a closer examination of informal processes and power interplays that actually determine the direction and outcome of political and historical processes. Consequently, its causal model is unable to account for the relationship between formal institutions expressed in rules and norms to preexisting and subsisting patterns of political behavior.

Partly in reaction to the criticism that the theory is insensitive to history and context and partly because of its application to both temporally and spatially comparative studies, several rational choice institutional scholars have made use of more contextualized application of the theory. A good example of this approach is the collection of studies by Bates et al. (Bates, Grief, Levi, Rosenthal, & Weingast, 1998). The subjects of the studies range from the political system in Medieval Genoa to the International Coffee Organization. While explicitly espousing rational choice institutional theory, the authors employ what they refer to as an “analytical narrative approach” that “pays close attention to stories, accounts, and context [but also] extracts explicit and formal lines of reasoning which facilitates both exposition and explanation” (p. 11).

While history is incidental to rational choice institutional theorizing20 it is central in historical institutionalism. The main tenet of historical institutionalism is summarized as “the basic and deceptively simple idea . . . that the policy choices made when an institution is being formed, or when a policy change is initiated, will have continuing and

20 Peters (p. 72), however, shows that history figures prominently in the works of several economic institutionalists including North, Coase and Posner. The point, however, is that the use of history is primarily employed in support of deductive reasoning based on an a priori theoretical frame.
largely determinate influence over the policy far into the future” (Peters, 2005, p. 71). Immergut (1998) points out the major rectifications adopted by historical institutional theorists in addressing the implied overemphasis of the structural power of history and institutions. These reorientations are influenced by a more interpretive view of social life and give emphasis to both agency and contingency.

Unlike rational choice institutional theorists, historical institutionalism views the definition of interests not as preordained, but rather as the interpretive product of actors working within definite and historical contexts. Similarly, historical institutionalism emphasize multi-causality, viewing the interaction of several factors as constituting the “constellation of causes” which indeed may be more significant than the several variables on their own. Consequently, historical institutionalists are more attuned to deciphering the contexts of the cases rather than to formulating or proving generalizable laws. Historical institutionalists also “emphasize the contingency of history [as] quirks of fate are responsible for accidental combinations of factors that may nevertheless have lasting effects.”

Historical institutionalism emphasizes the role of the state and politics in shaping public policy and institutions. The regulation of NGOs, in Ethiopia or elsewhere, has, however, to be seen not only as the exercise of the prerogative of the domestic state. It also has to be situated within the global political economic and discursive context within which it takes place. States, however, do not exist in isolation. They inhabit a global order in which they interact with and learn from each other. As Skocpol argued, this necessitates
consideration of the various ways in which state structures and actions are conditioned by historically changing transnational contexts. These contexts impinge on individual states through geopolitical relations of interstate domination and competition, through the international communication of ideals and models of public policy, and through world economic patterns of trade, division of productive activities, investment flows and international finance. States necessarily stand at the intersection of domestic sociopolitical orders and transnational relations within which they must maneuver for survival and advantage in relation to other states.

(Skocpol, 1985, p. 8)

The global order that has emerged since at least the nineteenth century is also one in which non-state actors, including NGOs, play significant roles in shaping policies. World-polity theory explains this interconnected global order. States are under pressure to conform to global level norms. These norms provide a legitimizing framework for states and result in increasing organizational, policy and ideological isomorphism among states (Meyer, Boli, Thomas, & Ramirez, 1997). International nongovernmental organizations play key roles as carriers of the cultural norms and frames in the construction of this legitimizing world culture (Boli & Thomas, Introduction, 1999). At the national level these cultural norms and frames constitute the repertoire of resources utilize in contentious politics (Tarrow, 2005, p. 60).

The enactment of laws regulating NGOs in Ethiopia was as a political process in which the organizational forms, frames, and boundaries of organizations were contested. As such, it is a process of institutionalizing the regulatory framework of the
organizational field inhabited by NGOs. DiMaggio and Powell (1983, p. 148) defined the organizational field as “those organizations that constitute a recognized area of institutional life.” The organizational field is the mid-level forum between the micro-level agents and organizations and macro-level societal structures where the construction, maintenance, and reproduction of institutions takes place, in what Giddens (1984, pp. 16-28) refers to as the duality of structures and the process of structuration (DiMaggio & Powell, 1983; Scott, 2008). The theory of structuration holds that institutions constrain the choices that agents have. At the same time, the existence and reproduction of institutions are dependent on the internalization and transmission of the latter by actors. Yet, as reflexive and knowledgeable beings, actors also derive the rules and resources necessary for action from social institutions. Consequently, institutions constrain agents, but also allow the latter the freedom of and resources necessary for, action that may ultimately lead to the transformation of the institutions themselves. The study examines the historical trajectory of organizations and policy and legislative approaches to understand the structural constraints within which social actors operate. Such an examination helps to understand how the state and other social actors such as NGOs contribute to the sustenance and transformation of structures and institutions.

C. RESEARCH METHODS

This study combines a variety of qualitative methods to investigate the historical and political processes leading to the making of the Charities and Societies Proclamation 621 of 2009 as a case of the process of institutionalization (DiMaggio, 1991). Historical research is “a powerful method” to investigate the effects of social change, the
development of social institutions, and the trajectory of social movements (Neuman, 1994, p. 371; Tilly, 1981, pp. 44-46). The examination of such macro-level issues demands paying attention to the multiplicity of causal processes, and the specificity of context. It also calls for a review of history over an extended period of time (Pierson & Skocpol, 2002, pp. 698-699). This study reviews the historical processes of the formation of the Ethiopian state and the growth of its centralized rule leading to the adoption of the Charities and Societies Proclamation No. 621 of 2009. While these processes took place over millennia, the study’s emphasis is on the period that the Ethiopian state came into close contact with the West since the sixteenth century and particularly the past 160 years that witnessed the emergence and growth of the modern Ethiopian state.

Historical methods are useful to understand the complex phenomena that contribute to shaping organizations. Suddaby and Greenwood (2009, p. 181) maintain that historical methods provide certain advantages. As distinct from other more positivist methods, historical methods allow a consideration of multiple sources of organizational change. They sensitize researchers to pay attention to historical events and decisions that have enduring legacy on organizations, and how the interpretations by organizational actors of such events and legacy contribute to shaping organizations and their environment.

The review of the processes leading to the Charities and Societies Proclamation No. 621 of 2009 was made largely based on interviews conducted, and textual analysis of NGO reports, laws and official policy statements gathered in a field study conducted in Addis Ababa and in Mekelle, between January and June of 2009. I conducted the field
study in Addis Ababa, the capital of Ethiopia, because it is in this city that the headquarters of international development agencies, embassies, as well as most NGOs in Ethiopia are located. Moreover, the fast unfolding political processes behind the making of the Charities and Societies Proclamation No. 621 of 2009 happened in Addis Ababa. Consequently, many individuals deeply involved in NGOs and their regulation live in Addis Ababa. It is also in Addis Ababa that the CRDA, the organization that I selected as the primary case to illustrate the emergence and development of NGOs in Ethiopia has its office. Part of my research was also conducted in Mekelle, the capital of Tigray Regional State. It was in Tigray that the TPLF launched its armed struggle against the Derg. More significantly, however, REST, the NGO first established as the humanitarian wing of TPLF, has its head offices in Mekelle, although it also has a liaison office with limited staff in Addis Ababa.

I designed the plan for my field research in fall 2007 and had it approved in spring 2008. My initial plan was to study how the discourses of “civil society” and “development” shaped the organization and behavior of NGOs and their relations with the state. I also wanted to see how different interpretations of these two discourses were utilized by the state and NGOs themselves to shape the institutional environment within which NGOs operate, including their regulation. When I actually started the fieldwork in January 2009, I encountered circumstances that were significantly changed from what they were in 2008. The Charities and Societies Proclamation No. 621 of 2009 was issued just days before I arrived in Ethiopia. As I started my field research, I began to notice that this legislation was dominating the conversations I had with my informants. As I continued my discussions with my informants, I became convinced that the enactment of
the Charities and Societies Proclamation represented a significant moment in shaping the institutional environment of NGOs and that it will have far-reaching consequences on the organization and behavior of NGOs. I therefore decided to shift the focus of my field research and to mainly investigate the process through which the Charities and Societies Proclamation 621 of 2009 was enacted and the role of NGOs in this process.

When planning my fieldwork, I realized that I might need to adjust my data collection as the field research unfolds. Accordingly, I designed my research with sufficient flexibility to accommodate this need. Thus, even though the focus of my field research and my eventual analysis changed, I used the research methods in my initial research design with some modifications reorienting the purposes for which the data collection methods were used. In my original research design, I planned to review documents and to use in-depth interviews conducted with the help of an interview guide as the major sources of data for my research (see attachment 1).

Besides biographical information about the informant, the interview guide as originally prepared had ten clusters of issues that focused on the organization, operation, external relations, and regulatory environment of NGOs. I intended to use the interview guide with different types of informants to ensure that relevant topics were covered without predetermining the set of questions to be asked and without limiting the ability of interviewees to express what they considered important. The guide had the flexibility to adjust the issues to be covered and the order and wording of questions to the specific circumstance of the particular interview and informant. In preparing the interview guide, I was also aware that interesting issues that emerge during the particular interview or the
overall fieldwork would be probed through new questions not anticipated in the interview guide as well as through follow-up questions and discussions.

As the fieldwork proceeded, I concentrated more on the cluster of issues related to NGO-government relations, and the regulatory environment of NGOs. Furthermore, my interviews also incorporated a cluster of issues relating to the making of the Charities and Societies Proclamation No. 621 of 2009, NGOs views on the processes leading to, and the effects of, the Proclamation, and the role of NGOs in the law making process. My selection and review of documents also focused on these interrelated issues, viz. the relations between NGOs and government, and the processes leading to the enactment of the Charities and Societies Proclamation No. 621 of 2009, on the one hand and NGOs views on, and participation in the making of, the Proclamation.

Consequently, my field research in Addis Ababa concentrated on two sets of issues. The first of these was understanding the policy considerations behind the regulation of NGOs and the processes that gave effect to these considerations in actual laws and policies. To attain this purpose, I used a combination of methods. First, I analyzed various laws on voluntary organizations that have been issued in the past sixty years in particular the 1960 Civil Code, the 1966 Associations Registration Regulations, and the Charities and Societies Proclamation 621 of 2009. In addition to officially issued laws, I also examined policies and drafts of laws bearing directly on the regulation of NGOs. The policy documents and draft legislation that I examined were issued in the post-1991 period when the necessity of regulating NGO was considered as pressing by the government. The major documents that were issued during this time include: the policy documents on disaster management issued in the early 1990s soon after the
EPRDF came to power; the successive economic policy documents adopted in the context of Ethiopia’s economic reform and poverty alleviation programs; and draft laws on NGOs prepared in 2002-2003 as well as different draft versions of the Charities and Societies Proclamation itself. I did a textual analysis of these documents in the context of their broader policy frameworks, and state ideologies.

To understand fully the actual processes behind the preparation and implementation of these laws and policies from the perspective of the government especially in the post-1991 period, I interviewed former and current officials of the former Disaster Preparedness and Prevention Commission, and the Ministry of Justice, who were involved in the preparation and implementation of laws and regulations on NGOs. I selected these interviewees because they were involved for nearly two decades in the administration of NGOs, the drafting of laws, and the preparation of economic policy papers in Ethiopia. I also conducted an in-depth interview with a high level official at the Ministry of Finance and Economic Development who was involved in the preparation of the poverty reduction strategy papers of Ethiopia and in the government’s dialogue with its donors. While they held responsible positions in government, the personal relationship that I had with them, allowed us to have open communication.

The second set of issues I wanted to investigate in my field research in Addis Ababa concerned the impact state policies and laws had on NGOs and the corresponding responses of NGOs to these policies and laws. In particular, I wanted to examine what the role of NGOs was in the formulation of policies and laws regulating NGOs, and the

21 In 2008, the DPPC was once more restructured as a major department under the Ministry of Agriculture and Rural Development.
making of the Charities and Societies Proclamation No. 621 of 2009. In investigating these questions I also followed the basic contours of my original research deign albeit in a modified way that accommodated the changed circumstances in the field.

I started my field research by studying the organizational history of one of the two organizations that I planned to study, the CRDA. In the design for my field research, I selected CRDA for an in-depth study of NGOs in Ethiopia due to several reasons. It is the oldest umbrella organization of NGOs in Ethiopia. As explained in Chapter 3, it is also an NGOs in itself and, as such, one of the oldest NGOs in Ethiopia. It played key roles in shaping the institutional environment of NGOs under successive regimes, including in the formulation of the Charities and Societies Proclamation No. 621 of 2009. These were also valid reasons to continue with my selection of CRDA as a case study in my actual fieldwork. However, instead of studying the planning and implementation of its programs, I focused on CRDA’s establishment and contributions to the growth of NGOs during the Imperial era and the rule of the Derg, legal and political regimes that were inimical to independent organizations. I also focused on the role and increasing visibility of CRDA as the representative of NGOs and civil society in general with the coming into power of the EPRDF. Furthermore, both my initial need to understand the overall state and environment of NGOs in Ethiopia as well as my investigation of the role of CRDA in the processes shaping the regulatory environment of NGOs led me to interview key informants. I purposefully identified informants knowledgeable about NGOs and their regulation in Ethiopia through their academic and practitioner work dealing with NGOs. In selecting these informants, I used both convenience and snowball sampling methods.
I also started my in-depth study of REST that I intended to use as the second case study organization in my original research design during my field research in Addis Ababa. With my focus in the study adjusted to concentrate on the regulation of NGOs in general and the making of the Charities and Societies Proclamation No. 621 of 2009, however, my study of REST assumed a new significance. As detailed in Chapter 3, REST served as the humanitarian wing of the TPLF, the senior member of the ruling EPRDF. During the armed struggle the EPRDF waged against the Derg, REST served as the contact point of the TPLF with international donors and NGOs. As my field research proceeded, I find that it was necessary to understand the history of REST as a window to look at the views of the EPRDF on the role and regulation of NGOs. My field research thus concentrated on unraveling this history.

I began my study of REST through in-depth interviews with key informants at the liaison office of REST in Addis Ababa who led me to other key informants in Addis Ababa and in Mekelle. I conducted further in-depth interviews at the head office of REST in Mekelle with informants who worked at the offices of REST in Sudan and in TPLF controlled areas during the armed struggle as well as in REST support committees in Europe. I also conducted in-depth interviews with current senior staff of REST whom I selected to get their insights about the role and regulation of NGOs, and the relationships between NGOs in general and REST in particular with government. My selection of these informants was thus purposely made and covered all the department heads of REST. Furthermore, I studied available documents including consultants’ reports, correspondence, and project documents that were produced during the time of armed struggle, as well as documents on organizational history, strategic plans and
reports produced after the EPRDF assumed state power and REST was reorganized as an autonomous NGO.

In addition to my work at the headquarters of REST in Mekelle, I also visited a REST district office in Wukro, a town outside Mekelle, and the surrounding rural areas where REST implemented various projects. Wukro is a town of historical significance both for the TPLF and for REST. It was the site of regional resistance to the centralization drive of the government of Emperor Haile Sellassie after the end of Italian occupation, a subject of several aerial bombardment by the Derg during TPLF’s armed struggle, and a major aid distribution center during the 1984-1985 famine. In addition to visiting actual project sites that helped me observe how REST operated in close cooperation with the governmental structures of the Regional State, I also held in-depth interviews with the staff in the district office to get a fuller appreciation of the operations of, and relations maintained by, REST.

I also made use of a source of information that was not anticipated in the original research design and that came to be particularly pertinent in light of the emphasis of my research on the regulatory environment of NGOs and the making of the Charities and Societies Proclamation. This was the Taskforce of NGOs established at the end of 2008 to negotiate the reform of the law on NGOs with the government. Soon after the establishment of the Taskforce, the Ethiopian government came out with the draft of what would be eventually promulgated as the Charities and Societies Proclamation No. 621 of 2009. Over a period of nearly a year, the Taskforce was the primary coordinating body of NGOs’ efforts to influence the law making process, preparing several position papers, commissioning studies, organizing discussion forums, and coordinating media
presentations. I analyzed many of these documents. I also reviewed email exchanges among members of the Taskforce that were very useful in understanding the interpretations of events by the members of the Taskforce and NGOs in general and in establishing the sequence of events. I also held in-depth interviews with some of the most active members of the Taskforce as well as individuals who helped the Taskforce in preparing its position papers and studies that I selected because of their deep familiarity with the work of the Taskforce and because of their availability. I used these interviews to understand the perspectives of member NGOs and individuals on the Taskforce regarding the processes of the making of the Charities and Societies Proclamation, the role of NGOs in the making of the Proclamation, and the negotiations with the government.

In conducting the field research, I benefitted from my early familiarity of the world of Ethiopian NGOs as an active participant in the events that took place in the crucial period between 1993 and 2000 when the number of NGOs grew and a new breed of NGOs working on issues of human rights and democratization in particular emerged. While doing my field research, I also observed one human rights NGO’s efforts to reorganize its operations to comply with the requirements of the Charities and Societies Proclamation. I was thus able to get a valuable insight on how NGOs and their staff perceived the Proclamation and its requirements, and the mechanisms they designed to stay within the confines of a law that altered the regulatory framework of NGOs.

I carried out my fieldwork at an auspicious time to research the making of the Charities and Societies Proclamation No. 621 of 2009. Informants’ recollections about events were fresh. The effects of the political contests were still reverberating. The
state-run media were still running shows justifying the making of the law. Nonetheless, there was an atmosphere of reserve among NGOs and their personnel, pronouncedly present especially among those NGOs that engage in human rights and democracy-promotion activities. Supporters of the new Proclamation also gave the impression of being unduly defensive. Under these circumstances, it was necessary to have the trust of informants. My sampling of informants with whom I had long relations, who further led me to other informants in snowballing fashion was crucial in establishing that trust.

While the combination of convenience and snowball sampling could be a source of bias, and lead to the exclusion of alternative points of views, the fact that the study concentrated on two organizations that stood on opposite sides of the debate on NGOs and their regulation minimized that danger.

As already indicated all my informants were purposively selected due to their expertise in the history and regulation of NGOs in Ethiopia. (See Annex II for the responsibility and distribution of informants.) All my informants were relatively well educated. Most of them have their first degrees and many had postgraduate degrees. The majority of them held responsible positions in NGOs, government, the ruling party, or academia. A few had their own consultancy businesses. Except two, all of them were Ethiopian nationals. Two important consequences flowed from the profile of my informants. The first was that the informants were drawn from among the elite of Ethiopian society. Their views represented the views of those of the elite and not of the majority of Ethiopians, supposedly the beneficiaries of both the activities of NGOs, and their regulation by the state. Second, despite the similarity in their social background, informants’ views clustered around two nearly polarized perspectives on the nature and
role of NGOs that can be classified broadly as supporting or opposing the government’s restrictive approach towards NGOs expressed in the Charities and Societies Proclamation No. 621 of 2009. Despite these polarized positions on the Proclamation itself, there were beliefs similarly held by nearly all informants about NGOs expressed in tropes of cautiousness about NGOs and Western influences in general.

In trying to understand what lies at the roots of these polarized views and tropes, I noticed that these were not of recent origin occasioned by the passing of the Charities and Societies Proclamation No. 621 of 2009. These tropes formed the background of the arguments of both supporters and opponents of the Proclamation. They were also noticeable in the relations between Ethiopian NGOs and their Western donors, and as the case study of CRDA and REST below shows, date back to the early years of NGOs in Ethiopia. In analyzing the data from the field research, thus I find it important to try to trace the origins of these beliefs. This in turn led me to a deeper study of the cultural origins of the Ethiopian state and the contests over power among its elite.

I began my analysis of the data from the field research by concentrating on four main issues. These were: organizational history; relations between NGOs and governments; the regulation of NGOs; and NGOs involvement in the law making process. In my analysis of the data, I find that a proper interpretation of the data has to be situated in the historical context of the emergence of the modern Ethiopian state, its relation with the external world, and the evolution of its regulation of voluntary organizations in general and NGOs in particular. Furthermore, I find it important that the historical experience of the Ethiopian state and its NGOs be presented in the global context within which the Ethiopian state and NGOs are located. This context is presented
in a review that reinterprets secondary sources from the perspective of the research problem and the theoretical position adopted in the study.
CHAPTER 2 THE EMERGENCE AND GLOBAL EXPANSION OF NONGOVERNMENTAL ORGANIZATIONS

Understanding the nature and institutional framework of NGOs in Ethiopia necessitates an appreciation of the nature of NGOs as well as their institutional and discursive framework at the global level. Several reasons warrant this consideration. First, Ethiopian NGOs, as indeed NGOs in developing countries in general, represent the global diffusion of particular models of organization that emerged under early capitalism and gained prominence in the post World War II period. Second, while Ethiopian NGOs operate within the political opportunities and structures afforded by the Ethiopian state, these opportunities and structures are influenced by a global discursive and structural framework within which the Ethiopian state is situated. As will be argued below, the influence of this global framework on the state’s policies and practices is pronounced in the post World War II period. Third, though characterized by asymmetry in power relations, there is a networked relationship between Ethiopian NGOs and their donor international NGOs that shapes the nature and behavior of the former.

This chapter reviews the global emergence and growth of NGOs. The first section begins the review by identifying the defining characteristics of Ethiopian NGOs that places them within the global network of NGOs, international development, and civil society promotion. The second section presents an overview of the emergence and growth of NGOs in the pre World War II period. In the last section, the growth of NGOs in the post World War II period is reviewed.
A. CHARACTERIZING NONGOVERNMENTAL ORGANIZATIONS IN THE ETHIOPIAN CONTEXT

As mentioned earlier, providing a succinct and universally agreed definition for the term NGO is difficult. This is due to partly the interchangeable use of terms to designating organizations that resemble each other, but that still may have significant differences among them. Such terms include, among others, “charities”, “social enterprises” “the third sector”, “voluntary associations”, “peoples’ organizations,” “nonprofits,” and “civil society organizations” as well as “nongovernmental organizations” (Anheier, 2005, p. 38). One notable attempt to sort through this “terminological tangle” (Salamon & Anheier, 1992, p. 128) and to bring about conceptual clarity was that of the John Hopkins Comparative Nonprofit Sector Project (Salamon, Sokolowski, & List, 2004, p. 5; Anheier & Salamon, 2006, p. 94).

Building on the database of the Project Salomon and Anheier (1992; 1997) and Salamon, Sokolowski, and List (2004, p. 8) examined definitions of the “nonprofit sector” within which they subsumed NGOs applied in different countries. They find that these definitions mainly followed one of four major directions. Thus, “legal definitions” emphasize the categorization of an organization as enshrined in a legal instrument of a particular jurisdiction to define it as a nonprofit organization. “Economic/financial definitions” highlight voluntary contributions as the major sources of income to be the major marker of nonprofit organizations (p. 31). In “functional definitions,” the focus is on the public interest serving purpose of an organization. After noting the limitations of these three definitions, they then formulated what they characterized as the “structural operational definition”
The “structural-operational” definition of nonprofit organizations (Salamon & Anheier, 1992, p. 135; 1997, pp. 33-35; Salamon, Sokolowski, & List, 2004, pp. 9-11) has five elements. Accordingly, nonprofit organizations have formal structures exhibiting a degree of regularity and permanence in their organization. They also have broad socially beneficial goals and do not have the principal aim of generating, and distributing profits to their members. Their establishment is privately initiated. They also have the capacity to govern their internal affairs in relative independence from the state. Finally, nonprofit organizations show evidence of some degree of voluntary involvement by their members or other volunteers in their administration or operation. These criteria have formed the basis for many studies on not for profit organizations in general and NGO in particular.22

While the structural-operational definition and its elements may be useful in abstracting some of the defining features of nonprofit organizations, they are not without problems. As Salamon and Anheier (2006, p. 96) acknowledged, the characteristics identified in the structural-operational definition are ideal-type features more useful in globally oriented comparative studies than serving as definitive markers present in historically and spatially contextualized situations. Thus, for instance, Yamamoto (1998, p. 14) points out the difficulty of applying the criterion of being “formal” to some Japanese nonprofits as “there are a large number of groups and organizations that may

22 See for instance studies by Daniel Sahelyesus Telake’s (2005, p. 33) study on the relation of Ethiopian and Northern NGOs; Jan Van Til’s (2000, p. 28) study of the role of voluntarism and nonprofit organizations in the United States; Lewis’ (2001, pp. 37-38) study of the management of development NGOs; Dollery and Wallis’ (2003, p. 116) study of not for profit organizations in the economic and policy role played by such organizations in advanced industrial societies.
not meet this criterion [as] these are groups at community levels, whose membership is often limited to certain age groups, sex, or locality.” Yet, it is the abstracting quality of the definition and its elements that Salamon and Anheier (1998a, p. 350) insist makes the definition particularly salient in studying the nonprofit phenomenon in developing countries.

In their introduction to a series of studies on the nonprofit sector in five developing countries,23 Salamon and Anheier (1998b) noted the challenges of identifying a recognizable nonprofit sector in these countries due to the different historical and sociological experiences in the growth of nonprofit organizations in these countries. One of these is the low level of overall income in developing countries. This economic factor, on the one hand hinders the growth of formalized nonprofit organizations, and on the other hand, gives rise to informal mechanisms of addressing social service needs and lessening the demand for formalized nonprofit organizations. Differences in religious and cultural traditions and the existence of greater heterogeneity of society in developing countries also leads to traditional forms of organization that have different forms and structures than nonprofit organizations in Western societies. The size and strength of an urban middle class positively influences the growth of Western styled nonprofit organizations. While a tradition of historically authoritarian regimes stymied the growth of such organizations, the expansion of development aid expanded opportunities for the growth of such organizations especially in the form of NGOs. They thus argued that the broadening of the parameters of the structural-operational definition would capture the diversity of non-market and non-state organizational forms that cater to societal needs.

23 These countries were Brazil, Egypt, Ghana, India, and Thailand.
whose features and nature is different from nonprofit organizations in developed and Western societies (Anheier & Salamon, 1998b, pp. 4-23).

The exercise in casting a wide definitional net to capture as much organizational forms as possible is not, however, without problems. This is something that Anheier and Salamon themselves acknowledged when they noted the necessity of conceptually distinguishing among “entities that are part of pre-modern social structures . . . entities that took shape as part of colonial domination . . . and entities that have emerged in more recent times as instruments of empowerment of the urban and rural poor” (Salamon & Anheier, 1998a, p. 349). Although mindful of historical experiences of modernity in shaping nonprofit organizations in developing countries, the writers did not clearly identify the distinguishing characteristic of any one of these “entities.”

The traditional associations of the type included by the expansive structural-operational definition exhibit the transformation of the basis of organizing from being predominantly kinship, or territory based, to one that is interest based and voluntary.24 As many anthropological studies show, this transformation took place in the context of an increasing urbanization. Perhaps even more significantly, it also took place in the context of the encounter between non-Western societies and Western inspired forms of political and civic organizing and the opportunities and models they provide for voluntary organization (Lewis, 1999, pp. 75-77; Frost, 1999, pp. 157-184; Mitchell, 1987, pp. 259-277). It should, however, be noted that the adoption of traditional affiliations and organizations to respond to experiences of dislocation caused by rapid transformations of

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24 This brings to mind the now much disfavored functional distinction between ascription and status on the one hand, and personal freedom and contract on the other. For a critical review of the theoretical foundations of this distinction see Kuper (1982).
social and political life is not uniquely non-Western and is observable in the encounter of relatively cocooned subaltern communities with massively powerful and dominant social and political organizations in Western societies (Gans, 1982).

It is within this encounter between the West representing the expansion of advanced global capitalism and developing societies that the nature of nonprofit organizations in general and NGOs in particular need to be viewed. As discussed below, this encounter resulted in the transformation of the experiences and institutions as well as types of organizations in both developing as well as developed societies to varying degrees of success. Nonprofit organizations in the West emerged in response to the social and economic challenges posed by, as well as by taking advantages of corresponding legal and political changes following, the emergence, and expansion of a capitalist economic order. They built on ideas organizations with roots in religious and cultural traditions going back to millennia. The specific organizational forms that they took, however, depended on the peculiar historical and institutional, including legal, experiences of particular countries. Furthermore, the rapid industrialization of European and North American economies and the intensive contacts with the non-Western world following the nineteenth century global expansion of European colonialism and Western missionary activism significantly reshaped the nature of non-profit organizations in the advanced capitalist societies of Europe and North America.

The same transformative processes shaped organizations in developing societies since at least the nineteenth century, when these societies encountered the technological advances and value systems of the West. As the historical backgrounds in the case studies in Anheier and Salamon (1998) demonstrate and as chapter 3 below shows, these
transformations manifested themselves in the reconstitution or emergence of different forms of nonprofit organizations – from traditional associations to professional NGOs. In all cases, the organizations served as responses to the structural transformations in the political economy of, and the social dislocations in, developing societies following their encounters with the West. As the case studies suggest, the greater the influence of the West including modalities of organizing in these societies, the more pronounced the resemblance between nonprofit organizations in the West and those in developing societies. Nonetheless, there may still be differences in the types of organizations or the way the organizations operate.25

NGOs are specific organizational modalities in which the encounter with the West and the responses to political economic transformations are manifested in developing countries. As will be discussed in more detail in chapter 3, the specific direction these organizations take is dependent on their place in the structure of international

25 A parallel may be drawn here between nonprofit organizations and business companies. As in the case of the nonprofit organizations, the organizational and legal changes that facilitated the emergence and ultimate dominance of business corporations began to take root during the birth of a monetized capitalist economic system, and in the wake of European colonization of the rest of the world (Micklethwait & Wooldridge, 2005, pp. 16-36). Conceptual as well as legislative developments in the legal system facilitated and defined the paths that the growth of business companies followed. The parallel between the development of business companies and nonprofit organizations is apt because of the historically close affinity between the two forms of organizations. Until the two forms began to part ways in the sixteenth and seventeenth centuries and came to constitute two separate realms by the nineteenth century, the formation of corporate bodies was the prerogative of the state usually exercised to serve the interests of the state.
development. Here, however, it is necessary to briefly deal with the defining character that sets apart NGOs in developing societies from other nonprofit organizations.\(^{26}\)

While NGOs can be seen as constituting a sub-set of the broader class of “not for profits” and share many of the characteristics that other members of the large set exhibit, these characteristics cannot be sufficient to fully define what constitutes an NGO. In fact, in many cases elements of the structural operational definition used to characterize nonprofits may pose problematic when applied to NGOs. One of the elements of the definition is, for instance, formal and legal organization. While legal is generally a hallmark of NGOs, many such organizations may not even have legal recognition.

This can happen in two situations. In some cases, there are delays between the establishment and formal legal recognition of an NGO. Alternatively, the state may withdraw the formal recognition it accords to an NGO without actually dissolving it as an entity. As discussed in chapter 4, in the early 1990s, the registration and formal recognition of NGOs in Ethiopia could take as long as three years. It took Action-Professionals’ Association for People (APAP), an indigenous human rights organization in Ethiopia, five years to have a formally recognized legal status as an NGO. Between its establishment and formal registration, however, it had concluded and was carrying out its operations under an operational agreement, the legal status of which was dubious, with the government agency entrusted with the coordination of the activities of NGOs. The Ethiopian Human Rights Council (EHRCO) the pioneering human rights NGO in

\(^{26}\) To the extent that they deal with international development, the defining character discussed below also marks NGOs in developed countries too.
Ethiopia, had its registration withdrawn and had to contest the administrative decision denying its registration for years before it was legally recognized.\textsuperscript{27}

In the second situation, NGOs may be established and operate outside the legal system of a state, a situation that is common in countries with failed states and with insurgent movements that control significant territory. The Somalia NGO Consortium has 18 Somali NGOs. Most of these NGOs were set up after the central government in Somalia collapsed and continue to operate in a territory that has been without an effective state since 1991. (Somalia NGO Consortium, 2009). More significantly for this study, insurgency movements in the Horn of Africa (Ethiopia, Sudan and Eritrea) all had relief and rehabilitation wings that eventually developed into well-fledged NGOs.\textsuperscript{28} The Eritrean People’s Liberation Front (EPLF) had the Eritrean Relief Organization (ERO), and the Southern Sudanese People’s Army had the Sudan Relief and Rehabilitation Association (SRRA). One of the organizations that is studied in this dissertation, the Relief Society of Tigray (REST) was also formed initially as the relief arm of the Tigray People’s Liberation Front – much in line with the other two organizations in the region. During the first 15 years of its existence, REST was operating in territories under control by the rebel movement while establishing support groups and offices across the region and in many cities around the world. It was also able to raise millions of dollars and was the key agency in distributing relief assistance during the 1984-1985 famine working

\textsuperscript{27} Chapter four discusses the issue of NGO registration in Ethiopia in general and the problems that APAP and EHRCO had in registration in particular.

\textsuperscript{28} Chapter three discusses in more detail the establishment and operation of these organizations, especially the Relief Society of Tigray (REST).
closely with international NGOs and even governmental agencies working through NGOs. Yet, it did not have any formally acknowledged legal existence within Ethiopia.\textsuperscript{29}

While autonomy from the state in formal organizational decision-making characterizes many NGOs, to what extent this autonomy represents independence from the state is a definitional matter. No NGO formally recognized as such by a state can be fully independent of the state, as it has to comply with at least some minimal legal requirements prescribed by the state such as not engaging in violent or anti-state activities. In most countries, there are requirements of registration with relevant state agencies to gain legal recognition or to obtain privileges such as those of tax-exempt status. Apart from such formal requirements, however, in many instances states do have some degree of influence on the activities of NGOs. Such influences lie in a continuum. At one end of the continuum, there are state proscriptions that prohibit NGOs from engaging in certain activities.\textsuperscript{30} Moving along the continuum, many states especially those in Western industrial countries support and direct the activities of NGO through funding. At the other extreme of the continuum, there are NGOs that are closely affiliated with or are actually organized by governments outside the structures of the state giving rise to what are referred to as GONGOs (government organized NGOs). This includes for instance many environmental and other NGOs in China (Edwards, 2009, p. 34; Schwarth, 2008, p. 64) and some NGOs in Pakistan (Nejima, 2002, p. 100) and, in Uzbekistan and Kazakhstan (Adamson, 2002, p. 188).

\textsuperscript{29} Chapter 3 discusses the history of REST.

\textsuperscript{30} These may restrict NGOs from carrying out activities or funneling funds to causes that are considered as inimical to the interests of the state. For a discussion of restrictions on the political activities of NGOs in various jurisdictions, see (6 & Randon, 1995).
Finally, the criterion of voluntarism is usually marked more by its absence for many NGOs than its presence – a fact that Salamon and Anheier acknowledge when they limit voluntary involvement in non profits to one that is more akin to being symbolic than substantial (Anheier & Salamon, 1998b, p. 21). Unlike grass-roots associations, NGOs do not generally have broad based membership that is significantly involved in their decision-making. They rather consist of a core of professional staff committed to the cause of the organization that serves as an intermediary between grassroots beneficiaries and other actors in the development chain such as state or donor agencies. In this respect, what Carroll has stated about Latin American NGOs -- whom he termed as grassroots support organizations (GSOs) and membership support organizations (MSOs) -- applies to most NGOs in developing countries. Noting that the NGOs he studied are not voluntary organization in the sense of the extensive involvement of voluntary efforts and resources in the operation and management of the organization, Carroll wrote (1992, p. 15) “although their board members and directors usually donate their time, management and operating staff are compensated and most get regular salaries. Hence, these organizations can be more properly thought of as nonprofit rather than voluntary.”

Despite these problems the criteria identified by Salamon and Anheier are useful in establishing the contours for a broader, internationally oriented, comparative study of the NGO sector. More significantly, they can also serve as a starting point in developing a more ethnographically sensitive and contextualized definition of NGOs. To capture fully the essence of NGOs in most developing countries in general and in Ethiopia in particular, however, they need to be viewed in the context of international development and aid.
NGOs place in the web of international development and foreign aid is captured by the lay understanding of their nature. The Amharic term used to describe NGOs in Ethiopia is “mengistawi yalhonu dirijitoch” – a literal translation of nongovernmental organizations. However, the term is employed usually as a self-designation by NGOs themselves or in settings that are more formal. However a more popular term for NGOs is “ye Irdita dirijit” – “aid organization.” In fact, the license plate of vehicles owned by NGOs has a distinctive orange color and the abbreviation “AO” for “aid organization.” A no less popular term is “ye Wichi dirijit” – foreign organization. There is a lot of confusion, as well as lack of clarity and specificity in the use of these terms.

Organizations such as the World Bank, and other agencies of the United Nations that operate in the country, and bilateral aid organizations such as the USAID as well as small and indigenous NGOs are referred to by these terms. Their usage, however, is historically and ethnographically rooted and justified. As will be discussed in subsequent sections of this Chapter, NGOs made their appearance on the Ethiopian scene in large numbers after the 1974 famine as providers of Western, humanitarian aid. Despite the confusion in usage, the employment of these Amharic terms to characterize NGOs is indicative of deeply held and unquestioned assumptions about the nature of NGOs that have an almost taken for granted quality.

The lay understanding about the nature of NGOs is supported by some academic research. Various studies (Daniel Saheleyesus Telake, 2005, pp. 253-356; Abebe Chekol; Bereket Loul; Teketel Abebe; Clapham, Christopher; Long, Gil; Sinclair, Mark, 2004) indicate the high proportion of foreign funding as a source of income for Ethiopian
NGOs. They also show the grave threat that dependence of foreign aid poses to the sustainability of NGOs and their programs.

Dependence on foreign sources of funding is observed in the case of the CRDA, the subject of the case study in chapter 3, as well as the Relief Society of Tigray (REST), the NGO that had historically strong ties to the presently ruling also discussed in some detail in chapter 3. These two organizations are among the largest, oldest, and, and, and based on those yardsticks, the most successful NGOs in the country. REST gets almost all of its funding from Western governmental aid agencies, most notably USAID, and international NGOs. While CRDA has a slightly more diversified source of income as it requires its members, that are themselves NGOs, to pay membership dues regularly, the proportion of membership dues in the overall budget of the organization is almost insignificant. Even then, since member organizations pay dues from foreign funds, the extent to which dues can be categorized as locally generated is questionable.

B. THE EMERGENCE OF NGOS AND THEIR PRE-WORLD WAR II GROWTH

The ethical roots of present day NGOs with their emphasis on alleviating poverty and providing sustenance to those suffering from marginalization can be traced back to religious precepts going back to millennia. Almost all religions and cultures recognize

31 From the time of the armed struggle when REST was operating several commercial enterprises in the Sudan until now, REST engaged in several profit generating projects. After the EPRDF came to power, the profit generating ventures that REST used to run during the armed struggle were separated from REST and organized as commercial enterprises under the Endowment for the Rehabilitation of Tigray, a holding company closely associated with the TPLF. In the post, 1991 period too, REST initiated several ventures that were organized as autonomous commercial enterprises once they demonstrate their profitability (Interview with senior official of REST, March 2009).
the moral goodness of caring and giving to someone other than one’s kith and kin.\textsuperscript{32} Moreover, many religions and cultures also exhibit mechanisms that institutionalize the religious and moral urgings of charity. The most notable development in the secularization of charity began in England during the sixteenth century in what Marx (1921, p. 784) characterized as the “primitive accumulation of capital.” As Marx pointed out, the period witnessed the beginning of the transformation of the feudal society into a capitalist economy. Feudal landholdings were broken up leading to the displacement of tenants from land. With their property confiscated, churches could not carry out their traditional functions of charity.

By the last decades of the sixteenth century, English society was under strain as inflation skyrocketed and the price of food rose beyond the reach of the poor in a society in which the gap between the rich and the poor was expanding. Unemployment was rising, and those who were employed saw their real wage falling. Between 1585 and 1600 two famines took place leading many deaths. Matters were made even more difficult because of England’s external adventure in support of the Dutch Revolt of 1585. There was an increase in crime and organized riots (Sharpe, 1995). The Church that had been the traditional dispensers of charity was no longer in a position to carry out this responsibility following the dissolution of monastic orders between 1541 and 1560 (Fremont-Smith, 2004, p. 27).

\textsuperscript{32} The collection of essays in \textit{Philanthropy in the World’s Traditions} (Ilchman, Katz, & Queen, 1998) present the moral understanding and institutional set up of philanthropy in various cultural and religious traditions including those of pre-colonial Africa, Native Americans, South Asia, the Far East, and Islam as well as in pre-industrial Europe. For a discussion of charity in various religions including Buddhism, Christianity, Hinduism, Judaism and Islam see Greenberg (2008, pp. 108-113).
Concerns over maintaining order, the absence or weakness of poverty relief mechanisms and the state’s desire to supply the demands of the emerging industrial economy with wage laborers led to the adoption of the Poor Law of 1601. The law built upon and consolidated a series of legislative measures started in 1531 intended to force, by punitive means, the unemployed into employment (Trattner, 1999, p. 10). The Poor Law had two important consequences. The first was an acknowledgment of the state’s responsibility to provide for those designated as worthy of support. Through an authorization of local authorities to assess and collect revenue and disburse welfare to those unable to work “the statute recognized the existence of involuntary unemployment, and firmly established the individual’s right to public assistance” (Trattner, 1999, p. 12). The second was the establishment of formalized mechanisms for charity.

A major component of the Poor Law of 1531 was the Statute of Charitable Use. Described as “the starting point of the modern law of charities” (Keeton cited in Fremont-Smith, 2004, p. 28), the Statute had two interrelated purposes. The first was that of encouraging private giving to charity to address issues of poverty and welfare. Second, the statute also aimed at curbing the abuse of charitable trusts (O'Halloran, McGregor-Lowndes, & Simon, 2008, p. 29)33. The statute accomplished these purposes mainly

33 One of the areas where the contest between Crown and Church took place was that of trusts. As part of the process of the breaking up of the feudal powers of the Church, the state placed restriction on granting trusts to churches. In the 1530s a statute prohibited the creation of a trust of more than twenty years for religious purposes. The Statute of Charitable Uses followed this spirit as it excluded religion from the enumeration of charitable purposes for which a charitable trust could be established (Fremont-Smith, 2004, pp. 28-30).
through an enumeration of the purposes for which the charitable trust could be created\textsuperscript{34}. The creation of the charitable trust was instrumental in institutionalizing not only the system of welfare, but generally of philanthropy. “A persistent failing of prior philanthropy had been the absence of such a mechanism to permit the establishment of permanent endowments…but the creation of the charitable trust, with its carefully rationalized claims against the future, provided a more stable institutional mechanism” (Payton & Moody, 2008, p. 142).

Despite its acknowledgement of the responsibility of the state to provide welfare, the fundamental assumption that undergirded the law was “that of a partnership between private charity and the state ‘in which the state filled gaps left by charity rather than charity filling the gaps left by the state; and this has continued down to the changed situation of our own day’” (Fremont-Smith, 2004, p. 31 quoting \textit{Report of the Committee on the Law and Practice Relating to Charitable Trusts}).\textsuperscript{35} The Poor Laws continued to be the major legislative response of the state to poverty in England well into the nineteenth century until the material deprivation and ideological challenges engendered by industrialization necessitated their reform in 1834.

\footnotesize

\textsuperscript{34} While subsequent statutes have repealed the substantive sections of the Statute of Charitable Uses of 1601, its enumeration of charitable purposes in the preamble has been maintained through judge made law and continues to be the basis for the identification of charities both in the United States and England (Fremont-Smith, 2004, p. 118).

\textsuperscript{35} Salamon (2003, p. 11) considered service delivery as the primary role of nonprofits in the United States noting that ‘they deliver much of the hospital care, higher education, social services, cultural entertainment, employment and training, low-income housing, community development, and emergency aid services available in the United States.’ that the primary role of nonprofits in the United States is that of service delivery.
The Poor Laws of England formed the foundation on which other countries following the Common law model, most notably the United States, built their legislative responses to poverty and institutional arrangements that relied on private charities (Trattner, 1999, p. 13). The development of charity law in the United States, however, parted ways with that of England when the American colonies gained independence and made the incorporation of English law conditional on it being consistent with republicanism. The basic features of charity as formulated in the Poor Law of 1601 were retained by the colonies and the states joining the Union who followed a model either of incorporating English common law and statute, or of making their own statutes (Fremont-Smith, 2004, p. 44). The colonies, however, were generally wary about charities that led to a more strict interpretation of the statute, and of the application of the test of “charitable purpose” (Friedman, 1985, pp. 254-255). As a result, charity law in the United States developed differently from that of England as early court decisions rejecting the application of charitable trust “affected the entire development of the law of charities” (Fremont-Smith, 2004).36

The organization of social life in the United States was different from the one that prevailed in England. Elected political offices marked the political structures of most of the Colonies. The harsh living conditions of Colonial America that necessitated mutual support and interdependence, the absence of an officially sanctioned hierarchical church, the political peripheral status, and geographic distance of the Colonies from the metropolitan center contributed to an ethical framework that emphasized individual

36 The differences in US and British laws on charity and how they are reflected in Ethiopia’s new law on charities is discussed in Chapter 4 on The Making of the Charities and Societies Proclamation.
responsibility and voluntarism (Fischer, 2010, pp. 102-104). In the decades preceding the American Revolution, prompted by the homegrown ideas of enlightened urban intellectuals as well as revivalist and rustic itinerant preachers of the Great Awakening, American voluntarism found its expressions in mushrooming voluntary associations that were to play key roles during the American Revolution (Hall, 2006, pp. 33-34). The political environment, however, turned to be more daunting once the Republic was established. Hall (2006, p. 35) describes the situation that prevailed in the United States from 1750 to 1800 as follows:

The centrality and effectiveness of voluntary associations in the Revolution served to kindle hostility toward them after the war, as Americans sought to establish governmental and legal institutions based on democratic principles. Democratic theory as it existed in the late eighteenth century viewed associations as inimical to popular government, not only because any combination of citizens was viewed as a threat to the political rights of individuals, but also because people feared that such associations representing special interests could capture control of elected governments.

These fears were expressed not only by the admonitions of such public figures as Jefferson and Washington, but also by increasing legislative restrictions on associations. By the beginning of the nineteenth century, however, the legislative pendulum began to move in the opposite direction. In a series of cases the United States Supreme Court affirmed the rights of individuals to create charities without state interference basing its decisions on the sanctity of contract and the constitutional restriction against the state
from enacting legislation retroactively interfering in their performance. The Court’s decisions led to the bifurcation of states’ legislative approaches to charities: one that allowed the formation of charities for any purpose and encouraged them through tax exemptions, and a more restrictive one that limited their activities and tax exemption (Hall, 2006, pp. 36-37). As industrialization and urbanization progressed, there was an increasing momentum in the formation of voluntary associations. When Tocqueville, visited America in 1831, he was impressed by the number and vibrancy of American associational life, and saw them as a singular phenomenon that distinguished Americans from Europeans. His observations would prove to be the foundation for the academic and policy debates on whether civil life in America has been eroded in the late twentieth century. As will be discussed below, his observations became a justification for the

37 The most famous of these cases is *The Trustees of Dartmouth College v. Woodward* 17 U.S. 518 (1819) 17 US 518 (Wheat). In *Dartmouth* the State of New Hampshire attempted to reorganize the administration of the College established under a charter granted by George III and to bring it under its control. The Court viewed the Charter as resulting both in a contract between the state and the grantees of the charter, and in other contracts being formed between the trustees and other who donated property to the chartered college. The actions of the legislature of New Hampshire therefore violated the Contract Clause of the Constitution. More significantly, *Dartmouth* established the personality of corporations and their entitlement to the rights and protections of the law. Thus, “in *Dartmouth* the Supreme Court began the task of constructing the legal foundation of corporate power by vesting the constitutional right of property in the corporation. As the legal entity acquired rights, duties and obligations as a person under state and federal law, the corporation realized an autonomy that was essential to the growth of corporate power. (Chief Justice) Marshall’s opinion in *Dartmouth* also articulated the core of American law’s contribution to the ideological justification of corporate power—the doctrine of corporate individualism” (Bowman, 1996, p. 45).

38 The most notable academic of the late twentieth century whose views of American society are highly influenced by Tocqueville is Robert Putnam argued that voluntary civic groups are necessary to engender and sustain democratic institutions (Putnam R., 1993) and that their diminution in modern times leads to the erosion of civil life in America (Putnam R., 2000).
policy prescription of promoting NGOs as instruments of promoting democracy in the late twentieth century and are thus worth quoting at length.

Americans of all ages, all conditions, and all dispositions, constantly form associations. They have not only commercial and manufacturing companies, in which all take part, but associations of a thousand other kinds-religious, moral, serious, futile, extensive or restricted, enormous or diminutive. The Americans make associations to give entertainment, to found establishments for education, to build inns, to construct churches, to diffuse books, to send missionaries to the antedotes, and in this manner they found hospitals, prisons and schools....Wherever at the head of some new undertaking, you see the government in France, or a man of rank in England, in the United States you will be sure to find an association...Thus, the most democratic country on the face of the earth is that in which men have in our time carried out to the highest perfection the art of pursuing in common the object of their common desires, and have applied this new science to the greatest number of purposes. In aristocratic societies men do not need to combine in order to act, because they are strongly held together...Among democratic nations, on the contrary, all citizens are independent and feeble; they can do hardly anything by themselves, and none of them can oblige his fellow-men to lend him their assistance. They all, therefore, fall into a state of incapacity, if they do not learn voluntarily to help each other. If men living in democratic countries had no right and no inclination to associate for political purposes, their independence would be in great jeopardy; but they might long preserve their wealth and their cultivation: whereas, if they never acquired the habit of forming associations in ordinary life, civilization itself would be endangered. A people among whom individuals should lose the power of achieving great things single-minded, without acquiring the means of producing them by united exertions, would soon relapse into barbarism (Tocqueville, 1904, pp. 593-595)

The nineteenth century witnessed the expansion of the world capitalist system in what has been variously termed as the first (World Bank, 2002, p. 24), or the second (Robertson, 2003, p. 103) wave of globalization. During this period, assisted by the forces of rapidly expanding industrialization and the revolution in transportation, the integration of the world into the global capitalist economy was intensified. One consequence of industrialization was the proliferation of both governmental and, especially, nongovernmental international organizations. Starting from the early decades
of the nineteenth century, and growing in leaps and bounds during the second half, new non-governmental organizations with cross-border mandates began to emerge. Organizations that had been mainly circumscribed within national boundaries began to assume transnational forms too. Table 1 adopted from Lyons (1963) demonstrates this dramatic growth in the number of international NGOs.

<table>
<thead>
<tr>
<th>Years</th>
<th>No. of International NGOs Established</th>
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<tbody>
<tr>
<td>1815-49</td>
<td>4</td>
</tr>
<tr>
<td>1850-54</td>
<td>1</td>
</tr>
<tr>
<td>1855-1859</td>
<td>6</td>
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<tr>
<td>1860-1864</td>
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<td>1865-1869</td>
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<td>1870-1874</td>
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<td>1875-1879</td>
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<td>1880-1884</td>
<td>11</td>
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<td>1885-1889</td>
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<td>1890-1894</td>
<td>35</td>
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<tr>
<td>1895-1899</td>
<td>38</td>
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<tr>
<td>1900-1904</td>
<td>61</td>
</tr>
<tr>
<td>1905-1909</td>
<td>131</td>
</tr>
<tr>
<td>1910-1914</td>
<td>112</td>
</tr>
<tr>
<td>TOTAL(^{39})</td>
<td>466</td>
</tr>
</tbody>
</table>

Industrialization also expanded and transformed the territorial reach of Europe. As Gillen and Gosh (2007, p. 45) noted:

Industrialism facilitated the renewal of European colonialism in the nineteenth century, and produced the transformation of social relations that has come to be called modernity. In many ways the new colonial

\(^{39}\) Lyons also points out that of this total number 191 were still active at the middle of the twentieth century.
empires continued and elaborated the established pattern of European colonialism, extending them to the world as a whole.

Though industrialization provided the economic impetus and colonialism furnished the global theatre, the proliferation of international organizations during this period could only take place because of corresponding ideational changes. The growth of scientific and geographical knowledge fostered a view of the world as a unified whole, and a belief in the superiority as well as the civilizing role of the Western world. These beliefs provided the ideological justification for the efforts and organizations that promoted “universal” values in diverse fields such as the search for a universal language (Kim, 1999) and the promotion of women’s suffrage (Berkovitch, 1999).

One of the earliest manifestations of the organizational change caused by the globalizing processes of the nineteenth century took place in the anti-slavery movement. The Society of Friends led opposition to slavery both in the United States and England since the early days of the eighteenth century. By the end of the century, anti-slavery sentiments were on the rise both in England and in the United States. In 1772, the anti-slavery movement scored a major legal victory when the Chief Lord Justice ruled that the repatriation of a former slave from England to Jamaica would be illegal. In 1787, the

40 The diversity of international organizations and movements in the last half of the 19th and first quarter of the 20th Centuries is considerable. Many are related to the promotion of international commerce. Others focus on scientific and technical cooperation. One of the most important movements of the period focused on workers’ rights and includes the Socialist Internationals. The selected review in this section deals only with those that have a more direct bearing on the growth of NGOs that operate or are based in Third World countries. Lyons (1963) provides a more exhaustive review of the movements and organizations of the period from a European perspective. The collection of studies in Boli and Thomas (1999) review some of these movements and organizations and their ideational underpinning from a world polity institutional perspective.
Society of Friends and activist preachers from other denominations had formed the Society for the Abolition of the Slave Trade. Resisting the conservatism that followed the French Revolution and persevering in its efforts, the movement garnered sufficient public support to have the slave trade and slave trafficking outlawed in 1807 (Miers, 2003, pp. 1-7). The success and model of the British anti-slavery movement inspired the formation of a similar organization—Société française pour l’abolition de l’esclavage, the society for the abolition of slavery—in France in 1834 (Jennings, 2000, p. 50). Armed with success in Britain, the activists turned their attention to the rest of the world. In 1839, the British and Foreign Anti-Slavery Society was formed and served as a catalyst for the international movement for the abolition of slavery. Renamed in the twenty-first century Anti-slavery International, it still exists as the world’s oldest NGO (Miers, 2003, p. 7).

The global anti-slavery movement has been referred to as “the forerunner” of modern transnational social movements (Keck & Sikkink, 1998, p. 41). The organizations in the movement including the British and Foreign Anti-Slavery Society were also pioneers in the growing field of international NGOs that emerged in the nineteenth century and rapidly expanded between the last decades of the nineteenth to about the beginning of the First World War. This was also a period during which a corresponding development is observed in the emergence and expansion of international governmental organizations (IGOs) established by an international treaty among two or more states. By analyzing data from The Yearbook of International Organizations, Boli and Thomas (Boli & Thoms, 1999, p. 22) establish that, in the average, ten international NGOs were founded each year in the 1890s. This number grew at the beginning of the
twentieth century and peaked at fifty-one in 1910. International NGOs that emerged in the period prior to World War I had two major features. They were based mainly in Europe and North America (Reinalda, 2001, p. 16). They were also mainly concerned with establishing international norms of behavior in what Boli and Thomas (1999, p. 15) refer to as “promoting world-cultural principles.”

The anti-slavery movement, as indeed other movements of the period, such as the temperance movement, had deep ties to religious revivalism, both among Catholics and Protestants that engulfed the North Atlantic world in the eighteenth and nineteenth centuries and restarted an energized missionary drive to promote Christianity in the non-Western world. European missionary activity in the non-European world went back to the sixteenth and seventeenth centuries with Jesuit missionaries following Portuguese and Spanish explorers promoting Catholicism in China, Japan, India, the New World (Edwards, 1997, pp. 338-349, 534) and Africa (Hastings, 1994, p. 72). Special Papal authorization allowed the Kings of Portugal and Spain unfettered ecclesiastical authority over the churches established by these missionaries, giving the kings “a control over the church overseas almost greater than that exercised by the king at home” (Hastings, 1994, p. 72). The amalgamation of the interests of Church and Crown meant that “missionary organizations, although private, were considered an arm of the Crown since Church and Crown were united” (Smith, 1990, p. 28).

Missionary activities from the late 18th to the early 20th Centuries were to be different. Protestant missionaries in the reviverist traditions of the eighteenth century that were especially pronounced in Britain and the United States (Pestana, 2009, p. 217) benefitted from the rising maritime power of Britain, and the influx of evangelical
volunteers. They embarked on a non-state commissioned missionary drive among non-Westerners (Walls, 2001). The establishment of internationally oriented missionary societies in Britain provided the missionary movement an organizational structure to recruit and fund volunteers from many European countries (Walls, 2001, p. 35). In the United States too, beginning from the early parts of the nineteenth century and influenced by British and Scottish experiences, missionary societies including those organized by African American churches raised money for, recruited and deployed international missionaries (Jacobs, 2002; Curti, 1963, pp. 138-145).

Lacking the coercive means of the state, the missionaries of the late nineteenth and early twentieth centuries had to follow and develop the early Jesuit example of living among and like their host communities (Walls, 2001, p. 28). Although raising funds through missionary societies at home, missionaries working in colonized societies were also getting funding from colonial powers with whom they shared a common vision of territorial expansion (Smith, 1990, p. 28). The result was, as Stanley (2001, p. 15) observed:

Nineteenth century protestant missions tended to oscillate between continuing admiration between for the territorial vision that had animated European Christendom in its first encounter with the non-Western world in the sixteenth century-a vision of unitary Christian polities governed by a partnership of church and state dedicated to the overthrow of “heathen idolatry”- and a separatist’s vision of a church set apart from the structures of an apostate world, seeking to renew society by the evangelism of individuals rather than by imposed structural change.
C. NGOS IN THE POST WORLD WAR II PERIOD

The post World War II period is an epochal one for the evolution of NGOs. The growth of NGOs during this period, in terms of their numbers and influence, can be viewed in relation to two important discourses that have held sway during the period and that have contribute to the way NGOs see themselves. The first is the hegemonic rise of “development” as ‘the central organizing concept of our time.” (Cowen & Shenton, 1995, p. 27). With the rise of “development” as the leitmotif of the post World War II period, and with what some have characterized as the “invention of the Third World” (Escobar, 1988) many NGOs in the global North transformed themselves from addressing relief needs arising out of catastrophes to being agents and advocates of development. Thus, the period witnessed the exponential growth of NGOs, both transformed and new ones, as key actors in international development. Furthermore, the number of NGOs based in the developing countries of Asia, Latin America and Africa, increased especially after the neoliberal turn in development orthodoxy and the fall of the Soviet Empire during the 1980s. Many NGOs working in the field of international development were successors of the Christian missionary endeavors of the nineteenth century. Smith (1990, p. 29) found that “of the 205 largest North Atlantic PVOs[private voluntary organizations]/NGOs engaged in … socioeconomic assistance in Latin America, Africa, the Middle East, or Asia in 1980 and 1981…twenty-one-or 10.2 percent-originated as missionary societies or affiliates of religious denominations between 1798 and 1912.”

As Figure 1 taken from an Organization for Economic Cooperation and Development (OECD) study shows, the number of European NGOs working on international development issues in the Third World that were established in the period
1945 to 1950 was 92. That number increased to 455 by 1990. The total number of European NGOs identified by the OECD as working on international development was nearly 2500 (Woods, 2000, p. 12). As Northern NGOs expanded in both numbers and influence, a corresponding development occurred in the global South. (Fowler, 1992, p. 17). It is important to note here is that these growths in the number of NGOs in the North and South were asymmetrical. While in both the South and North, the number of NGOs dramatically increased in the era of neoliberalism, the growth in the number of Southern NGOs did not really take off until this latter period that began in earnest in the 1980s. Even among countries in the global South, there were marked differences among countries and regions. As Barrow and Jennings (Barrow & Jennings, 2001, p. 8) noted “The growth of southern NGOs has varied from country to country but, in general effective southern NGOs emerged earliest in South and East Asia (such as Bangladesh and the Philippines) and in a number of countries in Latin America, such as Chile, Brazil, and Nicaragua. Only in the 1990s was there a rapid growth in the number and importance of indigenous NGOs in Africa, and their influence varies across countries.”

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41 As already mentioned, Anheier and Salamon (1998b, pp. 4-23) identify several reasons for the late growth of nonprofit organizations in developing countries including in Africa. These include the higher prevalence of poverty, the relative weakness of the middle class, and illiberal political regimes.
The 1980s and 1990s, accompanied by the fall of Communism and the triumph of President Ronald Reagan in the US and Prime Minister Margaret Thatcher in the UK, were a decade of high enthusiasm about NGOs in the developing world in general and in Africa in particular (Edwards & Hulme, 1996). Writing in the early 90s Solomon (1994) attributed this “associational revolution” to the perceived failure of the state in general. The proliferation of NGOs was also related to a reorientation in thinking about development. International development theory and practice shifted over time from a model of modernization that emphasized large scale projects to spur industrialization in the 1960s, to one that aimed at addressing basic needs in the 1970s and 1980s, to one that turned attention to participation in the context of economic liberalization (Ebrahim, 2001). The development discourse that emerged in the 1990s was one in which NGOs were seen as a major, if not the major, vehicle of development, and the state’s role was increasingly pushed aside. As Fisher (1997) points out while major donor agencies, both
bilateral and multilateral subscribe to this view of development and embrace the role assigned to NGOs, even critics of this discourse, both reformist ones who saw the discourse as amenable to adjustments and radical ones who saw it as fundamentally flawed, embraced NGOs as necessary allies. Mohan (2002) argues that the convergence of views between both proponents and critiques of the development project regarding the desirability of NGOs was due not so much to a consensus about the role of NGOs as much as it was due to the different roles each group wanted NGOs to perform.

The expansion of the number and influence of NGOs was also related to the “Third Wave of Democratization.” NGOs were as much instrumental in bringing about these changes as were shaped by them. A key concept that gained currency since the 1980s to capture the dynamics in the growth and role of NGOs, especially in the process of democratization, was “Civil Society.” The revival of interest in civil society can be traced to the 1980s when various anti-authoritarian social movements took shape in Europe and South America such as protests against military regimes in Latin America, resistance to communist regimes in Eastern Europe, and disenchantment conservative politicians with the welfare states of Western Europe (Edwards & Foley, 1998). A later but parallel development, which proved to be very influential, was also taking place in

\[\text{42 Huntington (1991, p. 15) defined a “wave of democratization” as “a group of transitions from nondemocratic to democratic regimes that occur within a specified period of time and that significantly outnumber transitions in the opposite direction during that period of time.” According to Huntington, the world has witnessed three waves of democratization. The first two took place between 1828 and 1926 and between 1943 and 1962 respectively. The “Third Wave of Democratization” is a phrase he used to characterize the successive changes in regime that started in Portugal and Southern Europe in 1974, and expanded to reach, to varying degrees of penetration and success all corners of the globe and culminating in the fall of the Soviet Empire in the late 1980s and early 1990s (1991, pp. 8-15).}\]
the United States with scholars of both liberal and neoconservative persuasions focusing attention on what they saw as a deterioration of civic engagement in America (Skocpol, 1999).

Growing in these diverse locations, and responding to different challenges, the idea of civil society as it evolved in the late twentieth century was based on decidedly different assumptions about the nature and role of civil society. Thus, in both Latin America and Eastern Europe, civil society was seen as a forum of resistance to the state, although traditions in the two locales differed in their approach to the market. In Latin America, where popular struggle against authoritarian regimes also involved resistance to neoliberal economic policies (Avritzer, 2004) civil society’s role was also seen as one of resisting the state. On the other hand in Eastern Europe, recognizing the necessity of the right to private property and a free market for the full fledged development of the private sphere of civil society as a countervailing force to the all powerful state, arguments for civil society also espouse arguments for the liberalization of the economy (Ehregnberg, 1999). In Western Europe, “civil society” was a mechanism of articulating group interests in a pluralist polity. In the United States, US “civil society” was a forum where citizens learn citizenship skill. In its neoliberal formulation in the US, “civil society” was also the instrumentality that assumes the welfare functions of the state through its benevolent engagement, (Edwards & Foley, 1998).

By the 1980s with the revival of civil society, a neo-Tocquevillian view of civil society as the realm of associations independent from the state came to be dominant. Mainly articulated by Putnam (1993) in his study of civic life and government performance in Italy, this view emphasized the crucial role that civil society plays in
democracy. Archon (2003) identified several contributions associational life could make to democracy. Thus, associations and the freedom to associate that are intrinsically worthy as hallmark of a democratic polity. Associations perform a pedagogical function that equipping their members with the skills of good citizenship. They also serve to check the dominating tendencies of the state and to represent the interests of their members in the policy-making arena. Associations also facilitate democratic deliberation and governance.

The view about the benefits of associations to social life extended well beyond academic circles and was embraced as a policy prescription to address major social problems especially in the field of international democracy aid where major donors actively sought to promote civil society in developing and transitional countries. Cartothers (1999) and Ottaway (2000) note that Western aid to civil society under the rubric of democracy promotion mainly focused on NGOs. In Africa, donor interest led not only to the proliferation of indigenous NGOs, but also to their dependence on foreign donors putting into question their legitimacy, endogenous roots, agenda, and performance, (Edwards & Hulme, 1996).

As the new millennium approached, the uncritical views about African NGOs as the “missing link” in the development and democratization of the Continent began to give way to more tempered assessment (Igoe & Kelsall, 2005). Within the major international aid agencies, there was also a shift towards a view of the state as central to development best expressed in the World Bank’s 1997 World Development Report (World Bank, 1997). Consequently, as more international aid was funneled towards governments, NGOs had to compete for shrinking funds. Nonetheless, as the World Bank turned away
from the harsh structural adjustment programs of the 1980s towards a poverty reduction strategy paper approach that called for increased participation by communities in development programs, more space was opened for NGOs to work as partners with governments in the implementation of international development programs (Fraser, 2005). As discussed in Chapter 4, the regulation of NGOs in Ethiopia in the 1990s and the early 2000s would be significantly influenced by the adoption of this view on the role of the state, and the relation of NGOs to the state.
CHAPTER 3 THE STATE AND NONGOVERNMENTAL ORGANIZATIONS IN ETHIOPIA – HISTORY AND POLITICS

This chapter reviews developments that influenced the rise of NGOs in late twentieth century Ethiopia. The patterns, outlined in the previous chapter, in which NGOs emerged in Western Europe and North America and spread to the global South outlined in the previous chapter were observable in the rise of NGOs in Ethiopia too. As the integration of the Ethiopian polity into the world economic and cultural systems accelerated in the second half of the twentieth century, the similarities and parallels between the global and national processes and developments became more pronounced. The chapter reconstructs the major features of the encounter between Ethiopia and the West and Ethiopia’s integration into the world polity. It also reviews the growth of NGOs in Ethiopia as an aspect of this dynamic of encounter and integration.

An appreciation of the historical development of the Ethiopian state, as well as the internal and external challenges it faced, is necessary to understand its encounter with the West in general and the growth of NGOs in Ethiopia in particular. This means reviewing the emergence, growth, and the state of NGOs and their regulation within the larger context of the history of the Ethiopian state. This chapter outlines the major contours of the history of the Ethiopian state beginning from its origins that gave it its unique identity to its . The first section is a brief history of the origins of the Ethiopian state. The religious foundations of this state, and its relative isolation from the rest of Christendom, shaped its identity and set the stage for its encounter with the West. The second section describes the initial encounters of the Christian Kingdom of Ethiopia with the global expansion of the military, economic, and ideological powers of Europe in the sixteenth century. The initial encounters of the Christian Kingdom with the West, and the
traumatic experiences that surrounded them resulted in the subsequent isolation of the Kingdom and formed the basis for its suspicions towards the West. The isolation of the Christian Kingdom continued until the nineteenth century global expansion of European power into Africa through colonialism. The third section reviews the changes that came about with the reconfiguration of the Christian Kingdom as the basis for the modern Ethiopia state that took place as the integration of the modern Ethiopian state in the global political economic as well as cultural system started. The fourth section deals with the events and processes that took place after 1941 that significantly altered the nature of the Ethiopian state. In the final section, the organization history of an Ethiopian NGO is presented as a case study demonstrating the emergence, evolving role and engagement with the state, of NGOs.

A. THE ORIGINS OF THE ETHIOPIAN STATE

Recent archeological records suggest the existence an indigenous form of organized state, the Kingdom of the Da’maat, with its capital at Yeha, that ruled the present day Tigray Region of Ethiopia and the highlands of present day Eritrea by around the second millennium BC (Marcus H., 2002, p. 3; Pankhurst, 1998, p. 20). The subsequent rise of rival states in the region, however, eclipsed this Kingdom leading to its decline and final demise by around the first century BC. The emergence of one of these rival states, the Kingdom of Axum, and its rise to regional dominance between the fifth and first centuries BC engendered a distinct form of civilization in the region with its own writing style, architecture, and mode of agricultural production (Marcus H., 2002, pp. 3-5; Shinnie, 1978, pp. 262-263; Ayele, 1997, pp. 65-70). Axum and its civilization
furnished the foundational myth of the Ethiopian state – a myth that was powerful enough to subsist for millennia and shape the identity and character of the modern Ethiopian state that emerged in the nineteenth century. Even after events in the last parts of the twentieth century shook this mythical foundation, Axum and its civilization, continue to exert powerful leitmotifs in Ethiopian politics as well as historiography (Crummey, 1988, p. 16; Teshale Tibebu, 1995, pp. 12-15).

Around 300 AD, the Axumite Court under Ezana, motivated as much by political considerations as by religious conviction, converted to and made Christianity the official religion of the Axumite Kingdom (Kaplan, 1982). Three fundamental features characterized the growth of Christianity in Ethiopia. First, as an establishment Church that spread in a top down model, the Church continued to have very close affinity with the state (Taddesse, 1972, p. 24). The state (mainly in the person of the emperors) continued to be actively involved in the Church’s proselytizing activities, doctrinal development, as well as ecclesiastical and lay organization and administration. The official tie between the Church and state was broken only after the 1974 Revolution, although even after this time the state continued to subtly and not so subtly be involved in the affairs of the Church (Appleyard, 2010, p. 125).43

Second, from its early days, Christianity in Ethiopia developed in relative isolation from the rest of Christendom although it also had a hierarchical and at times strained relation with the Alexandrian Church. It is in this isolation that the Church

43 After the 1974 Revolution, an official budgetary allocation by the state subsidized the Ethiopian Orthodox Church, whose extensive landholdings and property were confiscated following the nationalization of land. Arguably, the most egregious involvement of the state in the affairs of the Church was the arrest and execution of Patriarch Tewoflos by the Derg in 1977.
developed its unique doctrines and traditions (Taddesse, 1972, p. 30). These beliefs, traditions, and practices sharply defined the Ethiopian Church as the “only truly indigenous African church” (Tovey, 2004, p. 56) and shape its relations with the rest of Christendom. They were also the important cords that bound the Christian inhabitants of the northwestern highlands of Ethiopia that transcended linguistic differences and geographic segregation and helped to forge a commonly shared sense of identity and vision of destiny. As a repository of the legends and myths fostering a sense of uniqueness, the Church helped to sustain the idea of an Ethiopian state through centuries of isolation and fragmentation. As such, the Church also supplied the ideological foundation and legitimacy for the rule and territorial expansion of the state (Rubenson, 1976, pp. 408-410).

This role of the Church became pronouncedly evident by the seventh century with the isolation and weakening of the Axumite Kingdom began. Several factors contributed to the decline of the Axumite Kingdom including its isolation from Mediterranean cultural and commercial activities with the establishment of Muslim kingdoms on the coast and the bordering lowlands and infiltrations by tribes to its north (Mekouria, 1988; Cerulli, 1988). The weakened state that was increasingly pushing southwards from its northern base in search of resources and territory was finally unable to withstand the assault of its rebellious southern majority subjects – the Agaw. Christianity facilitated comingling between the rebels and the incumbents as the new rulers of the Zagwe dynasty appropriated the Axumite culture and continued the statehood of Ethiopia (Marcus H., 2002, p. 12).
Just as the Agaw had rebelled against the rule of the northern Axumites, a southern regional kingdom based in Shoa under King Yikuno Amlak, overthrew their rule, and established in 1270 what came to be known as the Solomonic dynasty. The empire created by Yikuno Amlak vastly expanded the territorial reach of what had been ruled by the Axumites and the Zagwe spreading Christianity further south. The Christian Kingdom established by Yikuno Amlak had to compete with the Muslim principalities along its peripheries for territory and control over trading routes. It was finally able to subdue, though not necessarily subjugate, these principalities, and to make considerable territorial gains under the rule of Emperor Amda Tsion. (Taddesse, 1972, pp. 119-145).

After the restoration of the Solomonic dynasty by Yikuno Amlak in 1270, the territorial reach and the power of the Christian Kingdom expanded under his successors especially under King Amda Siyon (1314-1344). By the middle of the fifteenth century, the Christian Kingdom was in control of most of the highland areas of present day Ethiopia and Eritrea on either side of the Rift Valley (Taddesse, 1972, p. 155). Evangelization spearheaded by the monastic orders of the Orthodox Church spread Christianity among the non-Christian populations of the heartland of the Kingdom. However, the objective of religious unification remained elusive and “the political boundaries of the Kingdom extended much further than the frontiers of the Church” (Taddesse, 1972, p. 205).

The rule of King Zara Yacob (1434-1468) brought the centralization of state power to its zenith. The religious schisms that had threatened the unity of the Church and questioned the legitimacy of the state were settled with both concessions to their beliefs
and traditions, and rich grants of land. In this way, the Church was able to maintain its unity. However, it came under the effective control of a strengthened state (Crummey, 2000, pp. 24-34).

B. THE SIGNIFICANCE OF THE RELIGIOUS CONFLICTS OF THE SIXTEENTH AND SEVENTEENTH CENTURIES AND ETHIOPIA’S ENCOUNTER WITH THE WEST

The sixteenth century that saw the first wave of European colonization from the Iberian Peninsula also marked the beginning of intense contacts between Europe and the Christian Kingdom of Ethiopia. The contacts between Ethiopia and Europe that took place at the time resulted in a significant transformation of the Ethiopian state and its relations with the outside world. First, these contacts helped the Christian Kingdom

\[\text{44 In 1450, King Zara Yacob convened the Council of Debre Mitmaq where he settled the controversy that divided the Orthodox Church between the Houses of Ewostatewos and Tekle Haimanot. The major theological differences between the two houses revolved around the observance of Jewish traditions especially that of the Sabbath. The Ewostatewans favored a more traditional interpretation that insisted on the strict observance of the Sabbath, while the more powerful House of Tekle Haimanot followed the Alexandrian line in its observance of Sunday as the day of the Lord. As the conflict grew over the fourteenth century, however, there was much more involved than just the observance of the Sabbath. The Ewostatewans were based in the north, and their evangelism brought them in close contact with the Beth-Israel (Falasha) who followed Judaism. The House of Tekle Haimanot had its base in the south closer to the royal center in Shoa. In rejecting the adopted line of the Alexandrian Church, the Ewostatewans represented a streak of independence and nationalism that runs counter to the interests of the latter. Persecuted since their start and disdainful of the riches of the Church, the Ewostatewans were also more critical of the kings. Zara Yacob, who grew up in monasteries in the north, was more sympathetic to the Ewostatewans cause. He made the observance of the Sabbath the policy of the national church broadening the policy of his predecessor, King Dawit that had allowed the Ewostatewans to observe the Sabbath. He brought the recalcitrant monks into the fold of the Church. (Taddesse, 1972, pp. 206-231; Hastings, 1994, pp. 28-34). The conflicts, however, were to reemerge in subsequent centuries under various doctrinal and interpretative differences once again threatening the unity of the Church and the Kingdom.} \]
survive an assault by Muslim neighbors that could have proven fatal. However, because of the conflicts between Islam and Christianity, and subsequently, because of intra-faith conflict among traditional followers of Orthodox Christianity and converts to European Catholicism, the relatively strong organization and ideological cohesion of the centralized state of the Ethiopian Christian Kingdom was weakened. Second, these contacts adversely affected the views of both the Ethiopian state and the Orthodox Church towards the West. As the sixteenth century began both the state and the Church were eager to establish and maintain contact with Europe, and open to theological and ideological cross-pollination. By the middle of the seventeenth century, however, any major and sustained avenues of cooperation with the West were closed until the nineteenth century.

On his arrival in Ethiopia in 1520, the Portuguese priest, Francisco Alvarez noted the power of the Christian King over his dominion. Commenting on the wealth and territorial expanse under the rule of the Bahir Negash and the Tigre Mekonnen,45 as well as other regional lords, Alvarez (1881, pp. 93-94) wrote:

The Prester John46 deposesthem and appointsthem whenever he pleases, with or without cause;…These great lords, who are like kings, are all

45 Emperor Zara Yacob created the posts of the Tigre Mekonen (the lord of Tigray) and Bahir Negash (the ruler of the land adjacent to the sea). The Bahir Nagash, seated at Dabarwa (near the present Eritrean city of Asmara), ruled the territory north of the Mereb River (the present boundary between Ethiopian and Eritrea) and extending to near the coast of the Red Sea. The Tigre Mekonen was overlord of the area east of the Tekezze River and south of the Mereb (roughly corresponding to the present day Tigray Region of Ethiopia) (Lapido G. Delebo, 1985, p. 88; Marcus H., 2002, p. 27; Pankhurst R., 1998, p. 98; Trivelli, 1998, p. 260).

46 The widely held legend of Prester John, believed to be a king of an eastern Christian Kingdom, started in the twelfth century. In the fourteenth and fifteenth century,
tributaries of the Prester John…The lords beneath these, even though they hold their lordship from the hand of the Prester John, pay their tribute to the other lords; and they account for all on delivering it to the Prester.

(Footnote added).

Alvarez was the chaplain of a Portuguese mission that came to Ethiopia because of a mutual desire on the part of European Christendom and the Christian Kingdom of Ethiopia to establish a close alliance against the Islam. Believing Ethiopia was the land of Prester John, Europe considered it a potential ally in its wars with the forces of Islam. Similarly, the rulers of the Christian Kingdom of Ethiopia also viewed Europe as an ally in the Kingdom’s conflicts with Muslims. They also hoped that an alliance with Europe would help free the Orthodox Church from dependence on the Egyptian Coptic Church.

Here, it is important to note how what motivated Ethiopians in seeking relations, with Europe and how they interpreted these contacts. Explaining Zara Yacob’s motives in seeking European cooperation during his rule, Taddesse, (1972, p. 265) remarked:

Right from the beginning of their contact with European Christians, the Ethiopians had always been impressed by the political and military aspects of an over-all Christian solidarity against the Muslim powers of the Near East, and the advantages of sharing in the superior technical advancement of European nations. This had been the underlying motive of the policies of [Kings] Dawit and Yishaq, who sent their embassies to Europe asking it spurred European navigation in that aimed at locating the legendary kingdom. Portugal launched the expeditions that eventually led to the European discovery of the route to India via the Cape of Good Hope, and the colonization of West Africa, to search for the Prester John (Fagan, 1998, p. 38). Since at least the thirteenth century, Europeans identified the Ethiopian kings with the Prester John (Taddesse, 1977).
for technical aid. [Zara Yacob] was only doing the same thing in 1450. With the advice of his Italian ambassador, Pietro Rombullo, the king did not hesitate to appeal for technical assistance even through the papacy, which was a strong European state in its own right.

The Ethiopian Orthodox Church also viewed positively contacts with Europe although with an element of apprehension as to what such contacts could bring. As Hastings (1994, p. 44) observes, for the Orthodox Church, contact with Europe meant:

In Christian terms, the almost total isolation of Ethiopia which had lasted since the seventh century, apart from a very narrow lifeline to Alexandria, had come to an end. Theological, devotional, and artistic contacts were multiplying. The new links were met with both suspicion and eagerness. Ethiopians were anxious for allies against Islam and very much aware that they were part of a wider Christian world. What religious differences they had with even a Western Christian like Alvarez were really quite small in comparison with what they held in common. At the same time, after so long an isolation and so national a tradition, they could not easily relate to ideas from abroad which challenged that tradition in any significant way.

For the Ethiopians, contact with Europe had strategic significance taking into consideration the threats posed by their Muslim neighbors. An alliance with Europe could tip the technological balance in their favor. Their keen interest in European technological advancement was evident in their repeated requests for artisans from Europe. They also refused to allow those Europeans and other foreigners who entered the Kingdom to leave the country and made them perform technical and artisanal works
Although steadfast in their Orthodox faith, they were not resistant to the exchange of ideas with and spiritual instruction from Europeans. As with previous emperors, Lebna Dengel sent letters to Portugal and Rome requesting military alliance as well as artisans through Alvarez when the latter left at the end of his mission. No less significantly, however, his letters also included requests for spiritual teachers (Merid, 1998, p. 34). Lebna Dengel’s regime was also one in which translation of works from Greek and Arabic into Ge’ez was intensified (Hastings, 1994, p. 135). Thus, “none of this could suggest fear of outside influences, so long as they could be made to tally with the intrinsic orthodoxy of Ethiopia” (Hastings, 1994, p. 136).

The motivations of the Ethiopian state and the Orthodox Church in seeking an alliance with Europe and benefitting from its technological superiority were prompted by the geopolitical conditions in the region. Even with the expansion of its territories and the consolidation of its ideological hegemony within its realm, the Christian Kingdom was unable to subjugate fully its Muslim neighbors of the coastal regions. Low intensity conflicts with the latter disrupted the flow of traffic on the Kingdom’s trade routes to the sea and the pilgrimage of Christians to Jerusalem. As time went by, the danger that these conflicts posed to the survival of the Kingdom itself began to register. It was, in fact, her realization of the potential long term threat of the rise of the Muslim kingdoms that had prompted Queen Elleni⁴⁷ to send a mission to Portugal in 1509 seeking the latter’s assistance.

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⁴⁷ The queen who was the wife of King Baeda Mariyam was herself the daughter of the king of the Muslim Kingdom of Hadiya in the southern highlands. The practice of intermarriage between the kings of the Christian Kingdom and of its Muslim neighbors was quite common (Alvarez, 1881, p. 110; Trimingham, 1965, p. 82). This in fact was an aspect of the complicated relationship between Islam and the Christian Kingdom which, as Hastings noted were not “straightforward…On the surface, Muslims appear simply as
alliance, and in 1520 a Portuguese mission arrived in Ethiopia. Apart from the external threats it faced, the Christian Kingdom also suffered from internal instability. One source of these threats was succession to the throne at the death of an emperor that became intense after the death of Zara Yacob (Taddesse, 1972, p. 268). Rebellions by diverse population groups that exhibited the expanded Kingdom’s inability to fully integrate its non-Christian subjects and outlying regions of the Kingdom were also major causes of instability (Trimingham, 1965, p. 78).

The Muslim Sultanate of Adal effectively exploited the weaknesses of the Christian Kingdom engendered by the latter’s internal problems and external insecurity. The Sultanate under the charismatic Imam Ahmed bin Ibrahim al Ghazi set in motion the events and processes that almost resulted in the total annihilation of the Christian Kingdom in the sixteenth century. The Imam mobilized his forces as well as the Muslim in the Christian Kingdom into a well-organized and veritable war machine. He had the technical and material support of the Ottomans (Hastings, 1994, p. 137), but more significantly he mobilized his forces using the ideology of jihad and transforming their ambition from its traditional orientation of seeking war booty in foraging missions of pillaging to one of forging a lasting caliphate (Trimingham, 1965, p. 86). In 1527, the rising forces of the Imam defeated the outlying posts of the Christian Kingdom in Bali and set the precedent for their continuing success. In 1529, the Muslim forces won a

the enemy…But that was largely rhetoric. In Ethiopia Muslims were a very real threat both to Christianity and to the monarchy, and certainly, the former was highly unlikely to survive without the latter…Nevertheless, there were plenty of Muslims within the Ethiopian state, and not only Arab traders. Parts of the kingdom were largely inhabited by Muslims and, so long as they were loyal, they were as safe as anyone. There was much intermarrying” (1994, p. 136)
decisive victory against their much larger Christian foes in the battle of Shimbra Kure, about 80 kilometers from modern day Addis Ababa.

After the battle of Shimbra Kure, the forces under the command of the Imam routed the Christian army whose leader, Emperor Lebna Dingel, hastily retreated and continued to wage a guerrilla war. The Muslim forces destroyed the administrative and religious infrastructure of the retreating Christian Kingdom and won many converts to Islam. They brought the larger portions of the Christian Kingdom under the rule of the Muslim Kingdom by appointing their own governors to their newly acquired territories and by forging alliances with the different subject populations within the Christian Kingdom, (Taddesse, 1977, p. 175). The Imam himself moved to the northwestern highlands and established his seat of power at Dembea north of Lake Tana, the source of the Blue Nile.

Despite their military successes, the Muslim forces never completely subdued the Christian resistance. Towards the end of his rule, in fact, the Imam recognized the necessity of accommodating the Christians. To that end, he offered compromises to the fugitive King proposing to marry the Emperor’s daughter (Taddesse, 1977, pp. 176-177; Budge, 1966, p. 233). The King, however, steadfastly rejected these offers. Instead, he sought the help of European Christendom and sent missions to European capitals including the Vatican. His refusal paid off ultimately though he was not alive to see the rewards. Five years after his death, a Portuguese army contingent responding to Lebna Dengel’s request landed on the Red Sea shores. The contingent suffered serious causalities in its first encounter with the forces of the Imam. The perseverance and leadership of the Queen Mother, Seble Wongel, helped the Portuguese forces to recover
from their losses and to rally a joint force of Ethiopians and the remaining Portuguese under the leadership of the Emperor Galawdewos (Hastings, 1994, p. 138). The small Christian forces surprised the Imam at his new seat of power near Lake Tana, and a volley from a Portuguese musket killed him in February 1543. As the forces of the Imam who were held more by his charisma than a commitment to his cause fled back to their coastal territories, the short-lived Muslim Kingdom of Ethiopia that extended from the Indian Ocean to the lowlands of present day Sudan dissipated (Taddesse, 1977, p. 182; Trimingham, 1965, p. 89; Hastings, 1994, p. 138)

Lebna Dengel’s desperation and his strong desire to get Europe’s assistance against the Muslim forces made him susceptible to the influence of Jean Bermudez, a member of Alvarez’s mission that remained in the country when the mission left. He was willing to accept Catholicism partly as a price to get the alliance of Rome and Portugal, but also, because of his personal conviction (Budge, 1966, p. 335). In 1535, Lebna Dengel sent Bermudez to Europe in search of military assistance with a promise of converting to Catholicism (Taddesse, 1977, p. 181). Bermudez returned to Ethiopia with the Portuguese soldiers in 1541 a year after the death of Lebna Dengel, claiming the title of Patriarch of the Ethiopian Church, and urging the new Emperor Galawdewos to accept Catholicism without much success.

The founder of the newly established Jesuit Order St. Ignatius Loyola, however, took up Bermudez’s efforts and arranged for the appointment of a patriarch and the dispatch of missionaries to Ethiopia (Caraman, 1985, pp. 10-11). Ignatius had drawn instructions for his missionaries to follow. He urged them to focus on establishing unity between the churches and respect the traditions of the Ethiopians unless they clearly
contradicted Catholic teachings. He also wanted his missionaries to minister to the material needs of the Ethiopians through providing the latter with skilled workers, establishing schools, and introducing treatises on law (Caraman, 1985, p. 11). Thus began a series of attempts to convert the Ethiopians to Catholicism. At the head of these attempts were different Jesuit missionaries that used approaches from the outright haughty to the respectful and subtle (Merid, 1998, pp. 37-45). Initial reactions to the Jesuits’ efforts were negative. The theological arguments of the Jesuits did not persuade Galawdewos, who authored a treatise defending the theology and practice of Ethiopian Christianity. The Emperor was also keen on reestablishing the authority of the Orthodox Church to regain the allegiance of his subjects, and rebuked the entreaties to convert to Catholicism (Abir M., 1975, p. 538; Hastings, 1994, p. 139). The Portuguese missionaries’ repeated interference in the power wrangling among the different contenders led to their falling out of favor in court and among the population at large. “Whereas formerly, the Portuguese were regarded as saviors of the country and its Christian religion, [by the last quarter of the sixteenth century] they had come to be considered as a source of danger to its independence” (Merid, 1998, p. 43).

The Jesuits’ persistent efforts paid off when they converted the Emperor Susenyos around 1622. Promises of increased military and economic support from the Portuguese by the tactful Jesuit priest, Paez, were factors in Susenyos’ profession of Catholicism. This support was crucial for Susenyos’ efforts to quell internal resistance to his rule (Merid, 1998, p. 45). Paez’s respectfulness towards the traditions and practices of his hosts was a key ingredient in the success of the Jesuits. Equally important for the Jesuits’ success was the firm conviction among the native converts, some of the most powerful in
the land, who articulately defended the new articles of faith in debates with the Orthodox priests (Hastings, 1994, pp. 151-153; Merid, 1998, pp. 45-47).

The Jesuits’ rash action in condemning the traditions of the Orthodox, including the banning of the *tabot* and the requirements of rebaptism, after the death of Paez, fed the resentment among the Orthodox priests and the peasantry. Contenders to the throne were able to exploit the resentment by mobilizing wide scale rebellion against the Emperor and the Jesuits (Budge, 1966, pp. 390-391; Hastings, 1994, pp. 152-153; Merid, 1998, pp. 50-51). Although able to defeat his opponents in battle, Susenyos had to reestablish Orthodoxy as the state religion and abdicate his throne in favor of his son Fasiledes in 1632 (Budge, 1966, pp. 390-393; Merid, 1998, p. 54). Fasiledes promptly expelled the Jesuits. Moreover, concerned about retaliatory measures from the Portuguese, he entered into agreements with his Muslim neighbors to seal the country’s borders and closed Ethiopia to further missionary work from the West – a policy that lasted until the nineteenth century (Merid, 1998, p. 55).48

As already stated above, because of religious conflicts, the character of the Christian kingdom was fundamentally changed. The most immediate and major consequence of the conflicts was the penetration of both the traditional heartlands of the Christian Kingdom and the territories of its Muslim rivals by the Oromo. Through conquest, settlement and assimilation the Oromo penetrated vast territories formerly under the rule of the Muslim and Christian Kingdoms. The extensive population

48 There were the occasional travelers and adventurers, like the Scotsman James Bruce, who entered Ethiopia during this time. However, as Abir (1975, p. 31) noted, “only since the beginning of the nineteenth century, as a result of the growing interest of Britain in the Red Sea littoral, have Europeans seriously tried to breach the walls of isolation around Ethiopia.”
diffusion that resulted from this development redefined the characteristics of the population through an intermingling among linguistic groups both in the heartland as well as in its periphery. The result was a fundamental change in the composition and cultural makeup of the population (Lapiso, 1989, pp. 155-177; Mohammed, 1990, pp. 18-26).

Within the Christian Kingdom, the power of the central state weakened while regional powers grew in strength with increased militarization and insecurity characterizing the realm (Tsegaye, 2007, pp. 83-85). The rise of regionalism was such that by the eighteenth century, the influence of the Emperors of the Christian Kingdom would not extend beyond the confines of their capital, Gondar. Even their ability to have a seat at Gondar was dependent on the acquiescence of the powerful regional nobles. In a period of Ethiopian history referred to as the Zemene Mesafint – the era of princes – powerful regional and almost independent fiefdoms based in Tigray, Begemdir, and Gojjam, fought within the heartland of the Kingdom for ascendance. Meanwhile, regional lords further south in Shoa maintained their autonomy and concentrated on increasing their resources and territory, until by the middle of the nineteenth century a powerful dynasty emerged ruling a more consolidated and relatively peaceful kingdom (Pankhurst, 1998, pp. 131-133; Abir M., 1968, pp. 144 - 170).

Part of the reason for the decline of the powers of the central state was its inability to maintain its ideological hegemony through a unified and compliant, if not subservient, official church. Successive theological controversies that threatened to tear apart the Orthodox Church also shook the central state’s ideological hegemony. The often bloody religious conflicts resurrected the medieval period’s theological controversies that Emperor Zara Yacob had settled at the Council of Debre Mitmaq. This time, however,
the influence of the teachings of the Jesuit Missionaries and reactions to it were strongly
evident (Marcus H., 2002, p. 43). The controversies arose as soon as Fasiledes
reestablished the official status of the Orthodox Church, and continued throughout the
eighteenth and nineteenth centuries (Hastings, 1994, pp. 162-169). As the powers of the
Emperors waned, regional warlords flourished often in tandem with doctrinal and
hierarchical divisions within the Orthodox Church that strengthened regional identities

Nonetheless, the Church retained its role as the repository of the idea of a
continuous and specially ordained Ethiopian state. Its prize of legitimating the rule of a
winner as the anointed of God, and its power of anathematizing those it opposed, coupled
with its extensive land holdings as well as the personal and powerful tie that its clergy
had as the father confessors of noble and peasant alike, made it too powerful an actor to
be ignored by anyone (Fargher, 1996, p. 65). No longer eager to establish close relations
with Western Christendom, the Church’s view of the latter changed from what it was at
the beginning of the sixteenth century to another that considered the influence of Europe
as a threat against its very existence. With the powerful position that it had among the
rulers as well as ordinary citizens, it was able to set the terms on which Europeans would
be able to engage in the country even long after the isolation of the country was broken.
It was on these foundations that Ethiopia encountered sustained European interest in the
nineteenth century and the process of building the modern Ethiopian state began with the
ascendance of Emperor Tewodros II in 1855.

As the nineteenth century began, Ethiopia was still isolated from the rest of the world and in the midst of the Zemene Mesafint with different regional lords vying for dominance. By the end of the century, however, the Ethiopian state was relatively strong, centralized, and able to resist European colonialism. Ethiopia’s isolation was also broken with the state enjoying international recognition and diplomatic relations with major European powers, while Western missionaries engaged in proselytizing and tending to the material needs of different groups. The rise of Tewodros II to power in 1855 marked the beginning of this transformation which ended the Zemene Mesafint that started with the assassination of the Emperor Iyoas in 1769 (Budge, 1966, p. 468; Marcus H., 2002, p. 47).

Ethiopia’s isolation began to be systematically broken in the nineteenth century as European interest increased with missionary, scientific, and commercial missions to the country. By the end of the nineteenth century, several missionaries established their operations in the country, mainly focusing on proselytizing. The reception by the Ethiopian rulers to these initiatives was less than welcoming. Various regional rulers were not only mindful of the bloody religious conflicts in the 17th Century, but were also keen in forging a unified polity impervious to religious dissension (Rubenson, 1976). With the expansion of the territories of the central Ethiopian state in the late nineteenth and early twentieth centuries, the role of the missionaries began to be seen as one of assisting the integration of the population of the newly acquired territories into the fold of the central state. Hence, missionary activities in the outlying regions of the state were
tolerated, if not encouraged. This attitude began with the ascension to power of Tewodros whose rule, ironically, ended because of a diplomatic crisis caused by his treatment of missionaries.

By the middle of the nineteenth century when, after defeating several of the regional warlords, Tewodros became Emperor, some powerful patterns became noticeable in the way the modern Ethiopian state would be constituted and in its relations with the outside world. Despite internal conflicts and segmentation, there was a clear sense of statehood among highland Christian inhabitants who shared the same faith and material culture. However, there was also a strong sense of regional identity not only between subjects of the Christian Kingdom and the population of its periphery, but even within the different regions within the Christian kingdom. The tension between these centripetal and centrifugal forces later compounded by the successful incorporation of the periphery into the Ethiopian state in the last decades of the nineteenth century under Menelik II continue to be one of the major challenges of the modern Ethiopia state.

Tewodros’ regime was characterized by his attempts to break up regional powers and establish a centralized state power (Rubenson, 1966, pp. 46-66). His lasting legacy, however, may have been limited to only reviving the self-awareness and sense of mission of the Christian Kingdom (Rubenson, 1966, pp. 90-91) that was crucial in maintaining the continued sovereign existence of the Ethiopian state in the face of the onslaught of European colonialism (Rubenson, 1976, p. 409). Tewodros’ rule also coincided with the expansion of European interest manifested especially by an upsurge of missionary activity. In his attempt to forge a unified and modern state in the face of the threat posed by Europe, Tewodros adopted a policy that welcomed European technological advances.
The ideological basis of his claim to a unified Ethiopia, however, was firmly established in purifying and expanding Ethiopian Orthodox Christianity (Crummey, 1988, pp. 17-23). The policy he adopted in dealing with Europe was an attempt to balance his need for European support in strengthening his power, while fending off the ideological undermining of the religious legitimacy of the Ethiopian state (Crummey, 1972, p. 110; Rubenson, 1976, pp. 172-173). It was a policy that would continue to be followed by his successors.

The legacy of his rule, however, continued during the rule of his successors and are still evident to this day. All rulers that came after Tewodros had to attempt to attain three major goals that began to take shape during his rule. The first is that of creating a foundational myth and a national identity that can withstand external pressures and internal tensions and that helps in maintaining the sovereignty of the state. Related to this is the task of bringing the historical peripheries and hinterland into the fold of the traditional state and integrating its populace as citizens of the state. Pursued both as an instrument of these goals and as an end in itself, the third aim has been that of modernizing the economy and bringing it to a par with the rest of the world. These challenges and goals can be seen to various degrees of emphasis and success among all successors of Tewodros.

Yohannes IV who succeeded Tewodros after a brief interlude, was more sensitive to regional identities and conscious of their force and thus, his policy was more accommodating to regional power centers (Zewde Gabre-Sellassie, 1975, pp. 251-253). His preferred instrument for national unity, formed under the threat posed by an expanding Egypt, was religion reflected in his efforts not only at building a doctrinally
unified Orthodox Church, but also in his attempt to impose a common Christian identity on all his subjects (Zewde Gabre-Sellassie, 1975, pp. 94-100).

His tolerance of regional powers allowed the almost peripheral province of Shewa to increase its powers and resources through its expansion into the western and southern periphery of the Christian Kingdom. The relative isolation of Shewa from the rest of the Christian Kingdom had spared it from the conflicts and instability of the Zemene Mesafint. It was able to exploit its relative peacefulness and its strategic position on the trade routes from the hinterlands of the richer south and south western parts of Ethiopia to the port of Zeila to benefit from the rising international trade and to strengthen its military (Merid, 1988). As a result, at the end of the nineteenth century Shewa under Menelik came to be the most powerful regional power. By the last quarter of the nineteenth century, the expansion of Shewa had accelerated and brought under its control territories to the west, south, and east of the Christian Kingdom and defining the territorial limits of the modern Ethiopian state. This expansion, carried out in the context of the rising influence and threat of European colonialism, resulted in transforming the nature of the Ethiopian state as population groups that were culturally different from the core Christian Kingdom were brought into firm control under the latter. In extending its rule into these territories the Ethiopian state created a complex web of center-periphery relations that were based on an exploitative political and land holding system (Donham, 1986, pp. 24-44).

The expansion of European colonialism in Africa during the nineteenth century posed a serious threat to Ethiopian independence. European powers took control of the coastal areas bordering the Ethiopian state. To the west, the British, together with Egypt
were ruling the Sudan, and Kenya to the south, and British Somaliland in the east. In the
north and the south-east, Italy possessed Eritrea and Italian Somaliland. In the east, the
French had control of the port of Djibouti and the territory surrounding it. The last
decades of the nineteenth century witnessed successive confrontation with these
European powers, sometimes violent and at times diplomatic. In one of these
confrontations, Ethiopian forces led by Emperor Menelik II, who succeeded Yohannes,
repulsed Italian invasion at the Battle of Adwa in 1896. Adwa gave international
legitimacy to the Ethiopian state as an equal partner in the Westphalian system of
sovereign states with its territories defined in treaties with European colonial powers.

As the state continued the consolidation of its power, it was drawn more into the
global economy. The Ethiopian state of the late nineteenth and first half of the twentieth
century, especially under Emperors Menelik and Haile Sellassie, took leading roles in
efforts at modernizing the economy and polity. The state was at the forefront in initiating
a capitalist economy in what was an essentially feudal economic order. It was, however,
constrained in its efforts both by lack of resources and structural tensions between the
feudal economic order and the emerging capitalist system. These tensions manifested
themselves as ideological and armed conflicts between the forces of modernization and
those of tradition.

The challenges the Ethiopian state faced in late nineteenth century and early
twentieth century were accentuated during the regime of Emperor Haile Sellassie. The
Emperor came to power as a result of the conflict between the extremely conservative
Shewan nobles and *Lij* Iyasu,⁴⁹ the designated heir of Emperor Menelik. The centripetal beliefs and practices of the Shoan nobility were on a collision course with *Lij* Iyasu’s conciliatory and accommodating tendencies towards the diverse beliefs and populations that were incorporated into the Ethiopian state and his experimentation with modernity. Despite the expansion of the state’s rule into the periphery inhabited by populations who do not necessarily share the Orthodox Christian faith, nor the foundational myths of the traditional state, the Shewan nobility saw the Ethiopian state as a uniform whole defined by adherence to the Orthodox faith. Iyasu, however, saw the exclusion of the periphery population and Muslim Ethiopians as a threat to the survival of the country. He not only viewed the Muslim subjects of the state as having an equal stake as his Christian subjects,⁵⁰ but to thwart the expansionist ambitions of colonial powers that were bordering Ethiopia, he also extended his friendship and material support to the anti-colonial struggle of the populations of neighboring colonies, that of the Somalis in British Somaliland (Marcus H., 2002, p. 114). As Marcus (1987, p. 15) put it, he wanted to transform the monarchy “into a more national and neutral figure, not inflexibly identified

⁴⁹ *Lij* Iyasu, also referred to as *Abeto* Iyasu, was the grandson of Emperor Menelik. His father, King Michael was a Muslim Oromo chief of Wollo that was christened by Emperor Yohannes as part of the latter’s policy of seeking national unity by establishing religious unity. His godfather was Emperor Menelik, then the King of Shewa, who married Michael to his daughter in a typical feudal fashion of forging alliances through marriage.

⁵⁰ Gebre Igziabher Elias, the chronicler of Iyasu’s rule quoted the latter as saying “My strongest wish desire is that all natives of Ethiopia should be of one heart and [all together] watch the country’s frontiers. Even if we differ with respect to religion, still you must not forget that we absolutely have to unite in love of [our] country” in a meeting of Muslims and Somali notables that he called from Hararghe, the easternmost region largely inhabited by Muslims and Somalis and that was incorporated into the fold of the Ethiopian state by Menelik by the late nineteenth century (Gebre-Igziabiher Elias, 1994, p. 352)
with the Christian ruling caste…His task was nation building, not imperial exploitation. His message of brotherhood and social equality threatened those who ran the empire state”. It was not long before the Shoan nobility, with diplomatic support from the neighboring colonial powers of France, Britain and Italy, successfully conspired to topple him from the throne and enthroned the daughter of Menelik, Zewditu as Empress and figurehead, and bestowing the actual power of heading the state to the then Ras Teferi Mekonen who later became Emperor Haile Sellassie.

When Haile Sellassie came to power, first as regent in 1916 and then as the monarch in 1930, the centralized state now seated in Addis Ababa had more resources than pretenders from other regions. Haile Sellassie’s early years were about careful balancing on the high wire between the reactionary and parochial interests of the supported by the clergy and the pull towards modernity and integration into the global economy. He gradually moved into breaking the power of the traditional nobility by

51 With the expansion of the Ethiopian Empire during the rule of Menelik, the Shoan nobility had become very powerful as they came to control the now expanded and powerful central state, and as they had access to territories and resources that lie in the newly incorporated territories over which they were appointed as overlords. They were, thus, more or less unified in their opposition to Iyasu. The nobility of the other regions of the traditional heartland of the Ethiopian state, however, were not so united. In fact, the nobility of Gojjam and Wollo and Tigray were either openly or covertly supportive of Iyasu. The main ally of Iyasu, however, was his father, Michael of Wollo, who was made King of Wollo and Tigre by his son. His attempt to reestablish his son’s rule failed at the Battle of Sagalle where he was defeated and captured by a Shoan army.

52 Iyasu’s foreign policy was based on the calculation that European powers that do not have extensive colonies in Africa in general and in territories neighboring Ethiopia in particular pose less of a threat to Ethiopia than those who are closely embanked. During the First World War, thus, he supported the Central powers of Germany, and the Ottoman Empire and Austro-Hungary and displeasing the Entente powers of Great Britain (who had colonies in neighboring Kenya, British Somaliland, and the Sudan), France (the colonial power of neighboring Djibouti – then called the French Territories of Afar and Issa) and Italy (that was ruling Italian Somaliland as well as Eritrea).
steadily pushing towards the full integration of autonomous and semi-autonomous regions under the authority of a centralized state whose bureaucracy was accountable to him. The centralization of state power progressed, with fits and starts, in the period before the 1935 Italian invasion and culminated in the adoption of the first written constitution in 1931.

The 1931 Constitution modeled after the 1889 Meiji Constitution of Japan was seen by Haile Sellassie as an instrument to cement state power and to further break the power of the regional lords (Bahiru Zewde, 2002, p. 110). The Constitution, while initiated and pushed by the Emperor, was a document in which regional nobles agreed to abandon (or were forced to concede) not only any pretensions they might have to the throne, but also their claims to hereditary title to their respective regions. As such, the 1931 Constitution was a formalization of the reduction of the status of regional nobles to appointees of the Emperor and paved the way for the abolition of any regional autonomy and the establishment of a centralized bureaucratization of local administration. In the process of rationalizing state power, Haile Sellassie was assisted by a growing number of Ethiopians exposed to European education and influences through education abroad or by attending the modern schools that the Emperor was expanding in Ethiopia.53 They were the key personnel of the modern bureaucracy that Haile Sellassie was establishing to supplant the traditional nobility and to increase the resources of the central government (Steer, 1937, pp. 73-74). Wary of colonialism in general and Italian designs in particular,

53 Bahru (2002, pp. 35-98) divides the pre-Italian war educated into two generations. The first generation were educated in Ethiopia in the first modern school established by Emperor Menelik. The second generation were educated in the Middle East (Egypt and Lebanon), France, Italy, Britain, and the United States.
and aware of the country’s lack of modernity and preparedness to counter European aggression, they were also at the forefront of promoting an Ethiopian national identity that transcended regional affiliations (Bahiru Zewde, 1993). They were characterized as “intensely proud of being Ethiopians and were outspokenly anti-foreign, if not truly xenophobic” (Marcus H. G., 1987, p. 138).

The educated Ethiopians were at the forefront of the formation of modern and formalized associations, and thus, spearheaded the emergence of more secularly oriented and indigenous associations during the first decades of the twentieth century. The creation of these formalized associations gained momentum in the period that immediately preceded the Italian invasion of 1936. With a progressive emperor in the person of Haile Sellassie I, who was more open to European ideas and influences than most of his predecessors in power, and with a rising number of Ethiopians who were exposed to European education and ideas, new indigenous associations began to emerge in the 1930s. The Ethiopian Red Cross Society was established in 1935 with the involvement of the Emperor. The Patriots’ Association was also established by educated Ethiopians with the objective of promoting patriotism and the abolition of slavery in Ethiopia (Mesie-Hazen Wolde-Kirkos, 2007, p. 360). The Italian occupation that lasted from 1935 to 1941 tested the state’s ability to maintain itself. The occupation resulted in the almost total annihilation of the emerging

54 One of the means suggested by some of the Young Ethiopians as necessary for the promotion of a Pan-Ethiopian national identity was the use of Amharic as the national language and the suppression of other languages singling out missionaries who were using vernacular languages in the schools they run. As Marcus (1987, p. 137) noted “that the domination of Amharic might frustrate and alienate various ethnic groups was ignored by many nationalists, especially the Young Ethiopians, who stared fixedly at a vision of a modern nation gleaned from Western textbooks.”
intellectual class in Ethiopia. It also further weakened the powers of regional lords. When Emperor Haile Sellassie returned to rule the country in 1941, his efforts at strengthening the powers of the central state were more successful. His pursuit of forging a unified state based on a pan-Ethiopian national identity that transcended regional loyalties represented a continuation of the policies of his predecessors. He was, however, more open to adopt innovative policies aimed at bureaucratizing state power. As the next section shows, it was his policies and the global order that emerged after World War II that influenced the relationship between the Ethiopian state and society, in general, and NGOs and their regulation in particular.

D. THE ETHIOPIAN STATE, VOLUNTARY ORGANIZATIONS AND NGOS IN THE POST WORLD WAR II PERIOD

After five years of Italian occupation, Ethiopia regained its independence in 1941.\textsuperscript{55} In the nearly seven decades until the enactment of the Charities and Societies Proclamation, Ethiopian society witnessed events that redefined the relationship between state and society, reconfigured the nature of the Ethiopian polity itself, and influenced the nature and regulation of voluntary organizations in general and NGOs in particular. Broadly speaking, two major transformative processes stand out as particularly relevant to the subject matter of this research. The first is the integration of the Ethiopian state in a global political and economic system, in which the idea of development assumed a

\textsuperscript{55} Sbachi (1985, p. 218) argued that the formal recognition of the independence of Ethiopia could only be made after the conclusion of a peace treaty as Ethiopia was recognized as, and thus legally continued to be, an Italian colony until 1947. This does not seem to agree with several international and diplomatic facts, most notably, Ethiopia’s status as a founding member of the United Nations.
crucial role in the ideological legitimacy of states. The second is the rise of alternative ideologies that challenged the dominance of the Ethiopian Orthodox Church, and the traditional basis for the legitimacy of the Ethiopian state. The two processes are not discreet. At times, they fueled, and at times, they served as brakes on each other.

Three regimes have been in power in the post-1941 period of Ethiopian history. These were the Imperial Regime of Emperor Haile Sellassie that lasted until 1974, the Derg that was in power between 1974 and 1991, and the EPRDF that has been in power since 1991. Each regime responded to the transformative processes of the post-1941 period and the challenges they posed, but in different ways. Moreover, those who held state power as well as those challenging the authority of the state locally translated and appropriated the global ideas, ideologies, practices, and organizational forms that accompanied these processes. This section summarizes the main features of the transformative processes of the post-1941 period, and how these processes as well as their interpretations by different actors mediated the rise and regulation of NGOs.

1. The Rise of Development and the Integration of the Ethiopian State in the Global Political and Economic System

The defeat of the Italian occupiers in 1941 provided Emperor Haile Sellassei with unrivalled opportunities to consolidate the powers of the central government. The centralization of state power is a topic discussed more in chapter 4 in connection with the regulation of voluntary organizations and the development of the bureaucratized state. Although it started fitfully and under some serious local resistance, the centralization of state power ultimately proved successful. The weakening power of regional lords already underway before the Italian occupation tipped the balance in favor of “the monarch and
his bureaucratic supporters” and against “the religious and aristocratic opposition [whose
goal is] the preservation of the traditional society and their privileged positions within
that society” (Huntington, 1968, p. 160).

In the years following his return to power in 1941, Haile Sellassie continued his
pre-war role of the “modernizing monarch” who viewed external threats to sovereignty as
necessitating “defensive modernization.” As Huntington (1968, p. 155) puts it:

“Perhaps even more important, however, has been the recognition of the
need for modernization for domestic reason. The principal threat to the
stability of a traditional society comes not from invasion by foreign armies
but from invasion by foreign ideas. The printed and spoken word can
move quicker and penetrate further than can regiments and tanks. The
stability of twentieth-century traditional monarchies is endangered from
within rather than from without. The monarch is forced to modernize and
to attempt to change his society by the feat that if he does not, someone
else will. Nineteenth-century monarchs modernized to thwart
imperialism; twentieth-century monarchs modernize to thwart revolution.

Both international and domestic considerations were behind the Ethiopian state’s
embrace of “modernization” after 1941. The initial impetus for modernization was the
Emperor’s conflict with the British who stayed in Ethiopia after they helped oust the
Italians. Upon his return to power after his exile, Haile Sellassie did not spend time to
reestablish his own authority. At the same time, the British established a military
administration in the country that lasted until January 1942. The British themselves were
equivocal about the fate of Ethiopia. The London based Colonial Office favored total
independence. The local military and colonial administrators, however, insisted on establishing a protectorate and eventually breaking up the country. The Emperor and the British were thus set on a collision course. Desirous of countering the British, Haile Sellassie turned for support from other powers, notably his former enemies, the Italians (Sbacchi, 1985, p. 219; Sbacchi, 1979).

With the conclusion of the Anglo-Ethiopian Agreement after much wrangling, British military administration in Ethiopia ended in 1942. While the Agreement acknowledged Ethiopia’s independence, it severely curtailed its sovereignty. It obliged Ethiopia to consult with the British before making major civilian and military appointments, and granted the latter the right to reoccupy the country in case of military necessity. The British also obtained the exclusive right to air transportation in Ethiopia (Sbacchi, 1979, pp. 35-36; Marcus, 1995, p. 12). British economic assistance, amounting to £2.5 million under the Agreement, came with a substantial cost. Ethiopia conceded control over its finances to the British. The Agreement also allowed the British to remain in the Ogaden, the territory adjacent to the Addis Ababa-Djibouti railway linking Ethiopia to the sea, including the vital commercial town of Dire Dawa, and the grazing areas around the Ethiopian border with British Somaliland (Marcus, 1995, p. 12). Thus, the Agreement was “similar to the British diplomatic understanding reached with Egypt in 1922, the only difference being Haile Sellassie was aware of the British political game” (Sbacchi, 1979, p. 36).

The Emperor’s search for an ally against the British led him to the United States for assistance. Unlike the UK, the US had a clear policy “to assist in the rehabilitation of Ethiopia and maintenance of its political independence” (Marcus, 1995, pp. 25-26).
Moreover, the Roosevelt Administration wanted Ethiopia’s continued role as a supplier of cereals to the Allied Forces war effort in the Middle East and North Africa. It was also keen to showcase Ethiopia as a model of non-colonial and pro-Western development. Domestically, supporting Ethiopia could shore up support to the war among African-Americans (Marcus, 1995, p. 14; Spencer, 1984, pp. 102-107). This coincidence of interests between Ethiopia and the United States led to closer relations between the two in economic, diplomatic, and military fields. The signing of a cooperation agreement between Ethiopia and the United States in 1943 marked the beginning of this relationship. Ethiopia thus became the first country to benefit from America’s commitment to reshape the post-war political and economic order through financing the reconstruction of liberated countries (Becker & McClenahan, 2003, p. 60).

In the years that followed, Ethiopia succeeded in getting US support to hasten the departure of the British from its territories, and to resolve its claim over Eritrea. In turn, the United States was able to count on Ethiopia as a valued ally in a part of the world it considered susceptible to anti-American or pro-communist sentiments. When President Harry S. Truman launched the Point Four Program, Ethiopia became a prime candidate, since for both the United States and Ethiopia Point Four was a means of modernizing Ethiopia.

56 America’s first interests in Ethiopia date back to the early years of the twentieth century when a mission led by Robert P. Skinner visited Emperor Menelik between 1903 and 1904 and signed a treaty with the Emperor. Skinner was keen in advocating closer commercial ties between the two countries noting that the Ethiopia’s main imports were American textiles (Skinner, 1906).

McVety (2008) demonstrates, however, that this similarity of goals belied fundamental differences between the Haile Sellassie’s government and the administrators of Point Four on strategies as well as ultimate result. The early years of American involvement in international development presumed America’s role as one of providing technical assistance. The preferred mechanism was the provision of resources and especially of expert advice and training to encourage grass roots based and small-scale projects that emphasized local participation and limited mechanization (McVety, 2008, p. 385). Point Four adopted this approach when it started its operation in Ethiopia in 1952. An idealist expectation also underlined Point Four from the beginning when Truman announced it. America expected the modernization of economies ultimately to engender democracy, since societies exposed to American technical assistance would naturally gravitate towards the democratic ideals and form of government of American society.

Haile Sellassie, however, viewed progress as achievable through large-scale industrialization. He was aware of the vulnerability of his empire to attacks from technologically advanced powers ruling the territories adjacent to Ethiopia. His awareness stemmed not only from his experience during the war with Italy, but also from his wrangles with the not so friendly British who continued to occupy parts of Ethiopian territory and almost all neighbors of Ethiopia except for the tiny French Territory of Afar and Issa (now named Djibouti).

As early as 1945, the Ethiopian government prepared a ten-year sector plans that emphasized industrial development. Though, the plans were not realized, they laid the foundation for launching, in line with the orthodox views about planning held by the World Bank and the United Nations, three successive five-year plans. With the adoption
of the first five year plan covering the period 1958-1962, Ethiopia became ‘the first African country to commence comprehensive planning for economic and social development’ (Imperial Ethiopian Government, 1962, p. 33). While focusing on the large-scale modernization of the economy, the three plans also showed differences in the strategies and goals they adopted. The First Five Year Plan focused on import substitution and the development of infrastructure. It also called for the expansion of export by developing non-traditional export products. In the Second Five Year Plan, more emphasis was given to developing an industrial base and to reform the economy to be more export oriented. The Third Five Year Plan emphasized growing the manufacturing sector through increasing savings and investment (Shiferaw, 1995, pp. 6-15).

Nonetheless, cautiousness not to alienate the traditionally powerful nobility and the Orthodox Church as well as the concentration of power in a highly centralized state under the absolute leadership of the monarchy tempered the Emperor’s embrace of modernization (Clapham, 1969, p. 118). By the late 1950s, dissatisfaction about the pace of development as well as the Emperor’s rule began to increase ultimately leading to questioning the model of development followed, and even the very legitimacy of the Ethiopian state.

2. The Rise of Alternative Ideologies and the Crisis in State Legitimacy
Making use of the material and rhetorical resources encapsulated in the rise and internationalization of “development” in the post World War II period (Escobar, 1995, pp. 22-23), the Ethiopian state continued to be at the forefront of leading the economy and the polity in the process of building a capitalist economy. The inadequacy of the
progress made apparent to the educated elite whose internalization of the powerful standards and concepts of development (Shrestha, 1995) led them to compare Ethiopia with the rest of the world and especially with the newly decolonizing states of Africa (Greenfield, 1965, p. 319). Consequently, they began to question the regime’s ability to bring about development and ultimately its legitimacy. The elite’s disenchantment with the Haile Sellassie’s regime was accompanied by challenges to the hegemony of the Ethiopian Orthodox Church that resulted from the expansion of modern education and alternative ideologies and non-Orthodox religions.

The roots of the dissatisfaction with the state and its ideology lie in the very modernization project that the state ushered in. Like his predecessors the emperors Tewodros, Yohannes, and Menelik, Haile Sellassie was keen to strengthen the power of the central state. He recognized the importance of cultivating Western educated elite as a means of consolidating the powers of the central state, staffing the expanding bureaucracy, and modernizing the economy. He was therefore more open to Western influences than his predecessors were.

Haile Sellassie’s approach towards Western missionaries was an example of his liberal stance towards the West. In 1944, the government issued the first comprehensive law regulating missionary activities and organizations,\textsuperscript{58} The preamble of the Regulations for the Establishment of Missions of 1944 stated that the issuance of the Regulations was necessary “to define clearly the policy to be pursued towards Missions so as to effect the closest possible collaboration between this Government and Missions.”

\textsuperscript{58} Regulations for the Establishment of Missions. \textit{Negarit Gazetta} Year 3 no. 12, 1944.
The Regulations divided the country into two main spheres. Missionaries could not proselytize in “Ethiopian Church Areas,” although they could establish hospitals and nondenominational schools. They were granted wider latitude in ‘Open Areas,” where they could proselytize. The designation generally corresponded to the geographic division between the territories of the ancient Christian Kingdom and the southern territories incorporated within the modern Ethiopian state during the rule of Menelik II. The Regulations also declared Addis Ababa as an Open Area.

The expansion of missionary activities that followed the adoption of the Regulations led to the expansion of non-Orthodox Christian churches in the country. In the 1960s, with the rise of evangelical and Pentecostal movements, many of these non-Orthodox missionary churches had local spin-off indigenous churches. The monolithic façade of Christianity in Ethiopia represented by the Ethiopian Orthodox Church was fractured and the dominance of the latter challenged by the rise of the new churches. The new churches, especially the indigenous ones that emerged in the 1960s, were particularly successful in attracting the population of the peripheral territories of the state, but more importantly the urban and educated population within the heartland of the former Christian Kingdom.

The expansion of modern Western-modeled education further challenged the ideological hold of the Ethiopian Orthodox Church. Menelik introduced Western-modeled education in Ethiopia at the beginning of the twentieth century, but it was under Haile Sellassie that modern education expanded. The expansion of modern education accelerated after the Italian occupation. Haile Sellassie sent many students abroad for tertiary level education, while opening new schools and expanding the enrollment of
students within the country. The country’s first college opened its doors in the 1950s in Addis Ababa, forming the core of what later became the Haile Sellassie I University.

One consequence of the liberalism of Haile Sellassie’s regime and the rise of Western influence in the country was the marked increase in the number of formal voluntary associations. The trend started in the early 1930s and accelerated following the liberation of the country from Italian occupation in 1941. Urban and educated Ethiopians began to form various associations. In the pre-Italian war period, the educated elite formed these associations to respond to the threats of Italian aggression and to promote the causes of patriotism. After liberation, however, associations that promote the interests of their membership began to make their appearance. For example, in 1949, the Ethiopian Teachers’ Association was formed with the objective of promoting friendly relations among teachers. In 1965, it was reconstituted as a trade union. Labor began organizing in the 1950s, and in 1963, the Confederation of Ethiopian Labor Unions won formal recognition from the government. The Confederation continued its expansion and by 1973 it had 173 affiliates with a membership of 80,000 (Ofcansky & Berry, 1993, pp. 160-161). Professional associations like the Ethiopian Bar Association and the Ethiopian Medical Association were established in the early 1960s. The 1950s and 1960s also saw the birth and expansion of student unions that proved to be pivotal in shaping the subsequent political history of the country.

In December 1960, the seemingly invincible rule of Haile Sellassie was shaken when the elite Imperial Body Guard attempted an unsuccessful coup d’état, marking a watershed in popular dissatisfaction with the Imperial regime (Levine, 2007, p. 5). Political ideas of republicanism and Pan-Africanism influenced the coup leaders, the
commander of the Imperial Body Guard, Mengistu Neway, and his American educated brother, Germame Neway. The coup leaders represented the growing educated and urban middle class and its frustration with the pace of development in the country, and the inequitable economic order of the *ancien régime* (Greenfield, 1965, pp. 337-418; Clapham, 1968).59.

The coup attempt revealed the weaknesses of the Imperial regime shattering its claim of divine legitimacy,60 and sowing the seeds of irreverence supplanting what seemed until then the undivided allegiance of the armed forces and the educated class. In doing so, it opened the possibility of change through avenues other than the one sanctioned by the regime in power. The instigators of the *coup* also amplified, if not introduced a view of Ethiopian society as divided not only between those who are for modernity and those who are not, but more importantly between the haves and the have-

59 The 1960 attempted *coup d’État* was not the first attempt against Emperor Haile Sellassie as there were a number of attempts that were made before it. Notable amongst these are those by Dejazmach Balcha, Dejazmach Aba Wukaaw, and Ras Gugsa Wole before the Italian invasion during the reign of Empress Zewditu when Haile Sellesie was still a regent (Bahiru Zewde, 2002, pp. 132-137). After the Italian invasion coup attempts were also made by Dejazmach Belay Zeleke, Bitweded Negash Bezaibh and the indefatigable plotter Blatta Takele Wolde Hawariat (Bahiru Zewde, 2002, pp. 210-211). The pre-invasion attempts were launched in protest against the encroaching power of the centralizing state and in defense of traditional privileges, while the post-independence plots had republican orientations. None of them had the degree of success or notoriety in capturing the popular imagination as was achieved by the 1960 attempt.

60 Historically, Ethiopian monarchs have based their claim to the throne in their alleged direct descent from King Solomon and the Queen of Sheba. The legend of the travel of the Queen of Sheba, her meeting with King Solomon, and her giving birth to Menelik I is detailed in the *Kebra Negest*. Ullendorf (1968) provides an extensive discussion on the old testament and other sources of the *Kebra Negest*. The legend was officially sanctioned as part of the modern law when it was incorporated in the 1955 Revised Constitution of the Empire of Ethiopia.
As an enduring legacy of the coup, this framing was particularly powerful in influencing the nascent student movement, giving a new turn to student activism (Balsvik, 2005, p. 100).

The turn that students’ activism took was significant in shaping the subsequent direction the country’s political life was to take. Students became not only politicized, but also more radicalized, espousing Marxist analysis (and Leninist oriented organizational forms) to the conditions and challenges prevailing in the country (Messay Kebede, 2008). Their demands for change were cast in terms of Manichean class struggle, ultimately calling for the violent and revolutionary transformation of Ethiopian society. The ruling class and its allies, including its Western and Western-affiliated supporters, were categorized as class enemies of the “broad-masses” that had to be annihilated in both ideological and physical senses. Increasingly, radical student leaders dominated students’ unions at the various university campuses and at high schools within the country as well as those formed in Europe and North America, and used them as

61 Prior to the 1960 coup attempt, there have intellectuals who have pointed out the exploitative and conservative nature of the political and economic system prevailing in Ethiopia. Most notable amongst these is the pre-Italian invasion writer Gebrehiwot Baykedagn, whose Atse Menelike Ina Ethiopia and Mengistina Yehizb Astedader were damning pieces about the then prevailing political and economic order. Another writer of the same period who also wrote in the same vein is Afework Gebre Iyesus (Bahiru Zewde, 2002, pp. 111-137)

62 The politicization and ultimately the radicalization of Ethiopian students and their organizations owe their origin in no small measure to the anti-colonial sentiment that was sweeping across Africa at the time. Many students from the colonies and newly independent countries in Africa were given a scholarship to attend the HSIU. The contacts between Ethiopian and other African students allowed the latter not only to be exposed to ideas of pan-Africanism and anti-colonialism, but also to liberal ideas of freedom of expression and assembly. It also helped the latter to shed away their traditional diffidence and to assume a demand a more assertive role for themselves (Balsvik, 2005, p. 74).
forums to voice issues of social justice and calls for the removal of the regime. By the late 1960s, some students have begun forming underground political organizations that were to prove tragically consequential in events to unfold in the 1970s and following decades.

The radicalized student movement helped bring the 1972 famine to the attention of the public at large and especially to urban dwellers and elites. Although drought and famine took place in Ethiopia periodically, the 1972/73 famine was larger in magnitude than most previous ones. The more significant difference, however, was in the way “famine” came to be seen. In general, famines were viewed as acts of God over which human agency had limited, if any, role. Pankhurst and Johnson (1988, pp. 54-55) describe this view in the context of the Great Famine of 1881 – 1991:

The Ethiopian reaction of the Great Famine was often that of a traditional, fatalistic, and deeply religious society. The first response of Ethiopian Christians was to pray. [Emperor] Menelik called upon the people of Shewa, early in the rinderpest epidemic, to gather in their churches and pray to God ‘because you know full well that if the oxen disappear there will be no more grain, and that if there is no grain there will be no men.’ He and his consort, Queen Taytu, frequently prayed day and night in their

63 Pankhurst (1990), on the basis of a review of travelogues, historical writing and other contemporary accounts shows that between the 15th and 19th Centuries there was at least one famine per decade in Ethiopia.

64 The distinction to be the worst famine in Ethiopian history goes to the 1888 – 1892 referred in Ethiopia as the “Kifu Qen” (evil days) famine. Mortality rates in that famine are estimated to range from one third to three quarters of the total population. (Pankhurst & Johnson, 1988, p. 54)
chapel, while the public flocked to the churches and for two whole months
the entire population of the capital prayed each night in the open.

By the middle of the twentieth century, the government viewed the issue of food
scarcity as related to development and took measures to alleviate the hardships that
resulted from famine. Its policies to address the challenges of famine, however, flowed
from an analysis of famine as a matter of scarcity of food that can be resolved with the
application of proper managerial tools to address the shortcomings of the market and the
deployment of technology to increase food production (Getnet Bekele, 2009, p. 46;
Dunning, 1970, p. 278).65

At the end of the 1960s, however, the inadequacy of viewing famine merely as a
technical problem became apparent.66 The injustice and economic inefficiency of the
land holding system was brought to the fore with the government itself tabling proposals
for land reform before Parliament. Landholders who dominated Parliament, however,
repeatedly rejected even the modest proposals forwarded by the government. “Land to
the tiller” became the rallying cry of students who were increasingly virulent in their
opposition to the regime. When drought struck and famine followed in 1973, critics of

65 Indeed, this managerial and technical view of famine was also one adopted by
Emperor Menelik during the Great Famine when the Emperor mobilized his courtiers and
subjects to till the land by hand (in the face of the lack of oxen) setting an example of
doing so himself. (Pankhurst & Johnson, 1988, p. 55)
66 This was explicitly acknowledged in the government issued Third Five Year
Plan 1968-1973 issued in 1969. Earlier, policies on land reform were developed and a
ministry to implement them was established. However, the legislative mechanisms to
implement these measures was not forthcoming from parliament. The impasse led to the
adoption of a piecemeal approach giving birth to the Chilalo Agricultural Development
Unit, a joint project of the Ethiopian and Swedish governments in Chilalo province that
aimed to integrate both technical measures to increase productivity and policy measures
aimed at reforming land holding. (Dunning pp. 285 – 289). Even that attempt did not
bear much fruit, however, and was overtaken by the revolutionary events of 1974.
the government, especially the radicalized students, saw it as the consequence of the failure of the regime in power.

The government’s action gave further credence to the assessment that the famine was a product of the failure of the state and its officialdom. Provincial administrators reported about the extensive drought and warned about the impending famine in 1972. Despite these warnings, the government was not prepared to avert or respond to the catastrophe. When famine struck and thousands died or fled their villages, the government not only ignored the problem, but also imposed a news blackout and prevented humanitarian agencies from providing help. The police rounded up those who fled from the drought and came to Addis Ababa, and forcibly threw them out of the city that was busy preparing to host the tenth annual meeting of the Organization of African Union (Harberson, 1988, p. 85). The only organizations that were providing any form of assistance to those in need were the churches and the Ethiopian Red Cross.

Despite the government’s efforts at denial, however, news about the famine broke out. Partly, this was due to the magnitude of the famine itself, but partly it was due to students’ and their teachers’ public outcry and protest. A group of university professors visited the affected areas and organized teach-ins and exhibitions in the university campus in Addis Ababa. Students followed this by taking to the streets and distributing food to the needy (Harberson, 1988, p. 85). In Dessie, the capital of Wollo, one of the two most affected provinces, police killed 17 students protesting the government’s handling of the famine. The government’s attempts to deflect criticism by framing the
famine as natural did not succeed. For quite some time it was able to keep foreign embassies and international aid agencies from pressing the issue of famine. When a BBC documentary about the famine aired in the UK and public outcry ensued, however, it had to acknowledge the famine. It established a ministerial committee to coordinate relief efforts, and a commission of inquiry to investigate the cover-up of the famine. Unable to address the humanitarian crisis that resulted from the famine, the government finally appealed for international assistance thus opening the gate for an influx of international NGOs.

3. Revolution and the Reorganization of State Power – The State and NGOs in Post-1974 Ethiopia

The famine galvanized popular discontent with the regime in power and contributed to the downfall of the government of Emperor Haile Sellassie in 1974 in a revolution “as absolute and as bloodthirsty as anything seen since Lenin overthrew the Czar in 1917” (Korn, 1990, p. 4). The cascading of the revolution began in 1973 with the mutiny of soldiers in outlying border posts. By February 1974, urban centers including Addis Ababa were rife with protests against the regime that were fueled by widespread

67 The most infamous statement was attributed to the provincial governor of Wollo who referring to the flocks of starving inundating the major road to Addis Ababa and the towns allegedly said that famine and migration is the normal way of life for the people of Wollo. However, the best example of the way the government tried to frame the issue is evident in the statement made by the Emperor himself who said “rich and poor have always existed and always will. Why? Because there are those that work…and those that prefer to do nothing. Each individual is responsible for his misfortune, his fate.” (Kumar, 1987, p. 10).

68 One consequence of the famine was the large number of international NGOs that came into the country to provide humanitarian assistance to the victims of the famine. As the discussion in the next section on the establishment of CRDA shows, the famine, and its consequences influenced NGOs and their regulation in Ethiopia in subsequent decades.
unemployment, and rising costs of living following the oil crisis of the 1970s. Cracks within the ruling class prevented it from responding effectively to the growing popular anger, and contributed to the demise of the regime.

Junior and non-commissioned officers from the armed forces hastily gathered together to form a leadership committee that came to be known as the Derg (which means committee in the ancient language of Ge’ez). Goaded into more radicalism by student and intellectual radicals, the soldiers gradually chipped away the support of and isolated the long ruling Monarch, finally deposing him in September 1974. An epoch in Ethiopian history where the ideology and socio-economic structures of the Christian Kingdom of antiquity formed the foundations of the modern Ethiopian state was thus brought to an end.

The same challenges of poverty and national statehood that its predecessors faced confronted the military junta that came to power. If anything, its problems were more complicated in the absence of a strong, traditionally rooted legitimizing ideology that was available to its predecessors. The changes that the Derg ushered in addressing these challenges were truly radical bringing about the total reordering of state-society relationships expressed in transformative public laws. The centerpiece of these changes was the nationalization of land that wiped out the feudalistic land holding system imposed in the southern parts of the country, following their incorporation into the state by the forces of Emperor Menelik. Deprived of its landholding and properties, the Ethiopian Orthodox Church became dependent on the subsidy of the state for its sustenance. It was no longer the established religion of the state, and its status was relegated from being the religion of the state to being one of several religions.
The *Derg* and its civilian allies were Marxists bent on building a new socialist state. The *Derg* and later, the state party it formed, the Workers Party of Ethiopia, launched a huge experiment of ordering and regimenting social life. The reach of the state and its coercive machinery were extended to cover every aspect of social life. Independent associations were frowned upon and Ethiopians were organized in officially sanctioned structures based on their residence, age, gender, and vocation. By the late seventies national associations of peasants, workers, women and youth as well as citywide urban dwellers’ associations were established. These associations were hierarchically organized starting from the lowest *kebele* level. Most of these associations, and especially the urban dwellers associations with their revolutionary guard committees, were key players in the terror campaign that the *Derg* unleashed to wipe out organized resistance to its rule. The ferociousness of the campaigns, dubbed the Red Terror, in which tens of thousands were jailed, tortured, and killed, coupled with the officially sanctioned regimentation of life discouraged any initiatives of self-organization on the part of citizens within the bounds of the state. The field of voluntary organization was left to traditional associations such as the *Idir* and to international NGOs. During the time the *Derg* was in power, NGOs engaged in humanitarian work were major providers of relief assistance and engaged in limited long-term development activities. However, their establishment, and operations were severely monitored and restricted.

The *Derg*’s efforts to reconstitute radically the Ethiopian polity were opposed by those who would not recognize its legitimacy and by those who rejected the very state the *Derg* was at the helm of. The seventeen years of the rule of the *Derg* were characterized by seemingly unending conflicts that encompassed both urban and rural areas. One of
these conflicts that proved to be enduring and pivotal in Ethiopia’s recent history was the 
quest for regional autonomy in Tigray, in the heartland of the ancient Christian Kingdom 
of Ethiopia. The main protagonist of the armed quest for regional autonomy and 
restructuring state power was the Tigray People’s Liberation Front (TPLF) established in 
1975 by a group that was mainly composed of students from Haile Sellassie University.

Tigray is at the heartland of the traditional Ethiopian state with the Christian 
Kingdom of Ethiopia tracing its historical and ideological roots to Axum in Tigray 
(Taddesse, 1977, p. 248). As the seat of state power moved southwards, however, 
parochialism aided by linguistic differences and religious doctrinal disputes took root 
(Abir, 1980, pp. 154-157). When, during the Zemene Mesafint, the centralizing powers 
of the state broke down, Tigray became one of the major seats of regional power. The 
role of the Tigrean nobles in the political life of the Christian Kingdom was particularly 
pronounced during the powerful rules of the Tigrean nobles Michael Suhul, Sebagadis, 
and Wube during the Zemene Mesafint. In fact, as Crummey (1975) noted, ethnicity did 
not figure as much of a factor in explaining the conflicts that were taking place during the 
Zemene Mesafint, as did the feudal lords’ pursuit of land and resources.

The rise of TPLF was the product of the use of ethnicity as a tool of mobilization 
that emerged in Ethiopian politics in the second half of the twentieth century. Following 
the liberation of the country from Italian occupation, the final push of expanding the 
frontiers of the state was accomplished during the post-colonial period. The British 
handed over the Ogaden and the Haud regions, Ethiopian territories that had been under 
British rule following the defeat of the Italians. After much diplomatic wrangling and
compromise at the United Nations, the former Italian colony of Eritrea was federated with Ethiopian under the sovereignty of the Ethiopian monarchy.

The incorporation of these regions brought to the fore the tense relationship between the center and its periphery. With the elites of these territories exposed to the rhetoric of anti-colonialism sweeping across the world in the post World War II period, the age-old center/periphery relationship within the Ethiopian state acquired a new articulation. In 1961, following the dissolution of the federal arrangement in Eritrea, an armed rebellion for the independence of Eritrea was launched. Initially, the independence movement drew its support from the largely non-Tigrigna speaking and largely Muslim population of the lowlands of Eritrea whose relationship with the traditional Ethiopian state was tenuous and whose religion made them unwelcome within a state that fiercely claimed its Christianity. However, the independence movement had supporters among the highland, Christian Tigrigna speaking population, especially among those members of the educated elite. Yet, it took more than a decade for the movement to break out of the dichotomous bind between the highland Christians and the Muslim lowlanders and to constitute itself as a trans-Eritrean one (Markakis, 1987, pp. 104-145).

As the Eritrean independence movement continued to gain momentum, and as rebellion, at times sporadic and at times sustained, spread in other regions, political discourse in Ethiopia proper became more mindful of the ethnic relationships within the state. In the 1960s, spurred by the growing number of students from outlying regions and diverse ethnic backgrounds, students at Haile Sellassie I University began to discuss openly the issue of ethnic relations within the state. Though initially the student activists
were faithful to the idea of a unified Ethiopia they not only began to recognize the inequitable relationships that prevailed among the different ethnic groups within the state, but gradually began to question the ability of the state to be able to address the problem. As the students became more radical in their politics, they saw the Eritrean liberation movement as an ally in their fight against the regime. With the ascendance of Marxism among the student activists, a new articulation of the “nationality question” began to take shape. In 1969, Walelegn Mekonnen, a student at the University wrote a seminal paper on the subject in the University students’ magazine (Walelegn Mekonnen, 1969).

Walelegn’s paper served as the unofficial manifesto of the radical leaders of the students’ movement. However, two lines emerged among the students. The first accepted the structure of the Ethiopian state as it existed, and saw the “nationality question” as amenable to solution within a broader pan-Ethiopian identity. Another group questioned the very existence of an Ethiopian identity that transcends the identities of the various ethnic groups concretely expressed in their languages and cultures. In the Marxist lingo of the time, the first group viewed “class oppression” as the primary contradiction of the Ethiopian state, while the second group assigned primacy to “national oppression.”

In the period immediately preceding and following the 1974 Revolution, these lines were to lead to the formation of two types of organizations. Those who favored the “class oppression” argument clustered around organizations that tended to be multi-ethnic in their organization and membership. Two of the more prominent ones among these were the Ethiopian People’s Revolutionary Party (EPRP) and the All Ethiopian Socialist Movement-commonly referred to in its Amharic designation as MEISON. Those who
emphasized the national question opted for organizations that called for the disintegration of the “empire state” and promoted the secession of various ethnic groups from the state. The most prominent one of these was the Oromo Liberation Front established in 1973.69

Tigrean radicals of the time split between these two lines. Hailing from an ethnic group that was at the core of the traditional state, they could not fully embrace the disintegration of the modern Ethiopian state. Many of the prominent leaders of the first group of organizations, including the EPRP’s Birhane Meskel Redda and Dr. Tesfaye Debesay, were Tigrean. At the same time, many of them were sensitive to the political dominance of Shewa, and the linguistic dominance of Amharic promoted through its sanctioning as the official language of the state and the medium of instruction in modern education. The ethnic affiliation with highland Eritreans who embraced the causes of independence also furnished another pull factor towards embracing the idea of breaking up from the “empire state.”70

The establishment of the TPLF exhibited the tension between these two lines. Initially established as an underground organization of radical students by the name of the Tigray National Organization (TNO), it tried to accommodate the tension by espousing the idea of the unified Ethiopian state yet reserving the right of Tigray to

69 Another difference between these two groups that later emerged during the rule of the Derg was manifested in their strategies and areas of operations. Multi-ethnic organizations concentrated their efforts in urban areas, either cooperating with the Derg (as by MEISON before its fall out with the regime) or organizing urban opposition and insurrection against the Derg (as by the EPRP. The EPRP, however, had a small contingent of armed guerrillas in the mountains of eastern Tigray). The nationalists formed rural based armed insurrection as their preferred mode of operation seeking support among the peasantry of their respective ethnic groups.

70 Some of the Tigrean radicals that favored the secession agenda formed the Tigray Liberation Front, an explicitly secessionist organization. It was militarily defeated by the TPLF and eliminated in the seventies (Aregawi Berhe, 2009, p. 51).
secede (Aregawi Berhe, 2009, p. 41). In February 1975, the TNO transformed itself into the TPLF starting its armed struggle at Dedebit, a remote corner of northwestern Tigray whose isolation shielded it from effective control by the central state. The TPLF attributes its ultimate success to its accurate analysis of the political problems in the country as primarily characterized by the primacy of “national oppression.” Its first years, however, show the tenuousness of this interpretation. Despite its espousal of the cause of Tigrean national identity, the TPLF competed fiercely for the allegiance of both the urban elite and the rural peasantry of Tigray. The former were as much likely to embrace the pan-Ethiopian rhetoric of the EPRP as they were to embrace the nationalism of the TPLF. The peasants, on whose support the TPLF depended, were more likely to rally behind the Ethiopian Democratic Union (EDU) – the royalist and pan-Ethiopian organization led by the descendant of Emperor Yohannes IV and the hereditary ruler of Tigray, Ras Mengesha Seyoum. Indeed the small forces of the TPLF at Dedebit could only survive amidst a hostile peasantry because of the feudalistic and parochial allegiances the latter had towards one of the leaders of the TPLF (Aregawi Berhe, 2009, pp. 56-57).

The ultimate dominance of the TPLF in Tigray was the result of a combination of different factors, some of which were outside the control of the TPLF itself. Major among these was the terror campaign unleashed by the Derg against its opponents, especially the mainly urban-based EPRP. The campaign not only led to the demise of

71 These tensions would later emerge when in 1976 the TPLF came out with a manifesto that called for the establishment of an independent Tigray Republic. The idea did not get any traction, and was abandoned. It nonetheless remained a matter of some embarrassment to the TPLF as it assumed state power (Aregawi Berhe, 2009, pp. 158-162; Young, 1997, pp. 99-100)
that organization, but also made the rural based TPLF a refuge for those who were fleeing the Derg’s onslaught. The military, political and strategic errors of the Derg and the EDU (as well as the armed wing of the EPRP) also alienated the peasantry and allowed the TPLF to capitalize on their disaffection (Gebru Tareke, 2009, pp. 84-89; Young, 1997, pp. 93-96).

At the same time, however, the TPLF also had to construct a convincing narrative that could attract the support of the urban elite and the rural peasantry, by claiming its mission as one of a struggle against the oppression of Tigreans, highlighting “genuine grievances in the community. These grievances included the demand for Tigrayan equality, ending discrimination in government employment and education, more schools, hospitals and other infrastructure, and an end to the imposition of [Amharic]” (Young, 1997, p. 116). The TPLF also had to demonstrate its capacity for administration in a manner that was responsive to the social service needs of the peasantry (Young, 1997, p. 114).

As the TPLF expanded its areas of operation, it faced serious challenges in meeting these social needs. Government agencies could no longer deliver the limited social services they provided in times of peace. At the same time, the Derg was carrying out reprisal actions attacking and destroying the meager resources of the population in TPLF controlled areas. The TPLF had to come up with a mechanism to address these problems, and more importantly to mobilize financial and other resources from inside and outside the areas it controlled. In June 1978, the Central Committee of the TPLF decided
to establish REST as a humanitarian wing to operate both within and outside the areas that the Front controlled (Young, 1997, p. 121).\textsuperscript{72}

There was an important external factor that influenced the formation of REST. This was the experience of the more established Eritrean liberation fronts – the Eritrean Liberation Front (ELF) and the Eritrean Popular Liberation Front (EPLF).\textsuperscript{73} Each front had its own humanitarian agency – the Eritrean Red Crescent Society in the case of the ELF and the Eritrean Relief Agency in the case of the EPLF. The TPLF had a close relationship with the EPLF with the first batch of its fighters trained by the EPLF. Despite several rocky chapters, this relationship continued with the two fronts remaining in “strategic alliance” against the \textit{Derg}\.\textsuperscript{74} It was therefore natural for the TPLF to draw lessons on how to organize its humanitarian wing from that of the EPLF.

The two fronts followed different strategies in conducting their armed struggle. Generally, the EPLF preferred a conventional styled warfare with fixed bases, while the TPLF opted for more mobile guerilla warfare strategies (Young, 1997, p. 127). The choice of strategies was a matter of dispute between the two fronts with the TPLF accusing the EPLF of not waging a “people’s war” and of reluctance to fully respect the rights of minorities within Eritrea (Gebru Tareke, 2009, p. 96). The ERA model of organizing support committees abroad and using them not only as a means of raising humanitarian assistance, but also as a means of propagating the aims of the armed

\textsuperscript{72} Interview with senior official of REST/TPLF, March, 2009.
\textsuperscript{73} Interview with senior official of REST, March, 2009.
\textsuperscript{74} As discussed below, the two fronts became bitter enemies following the Ethio-Eritrean war of 1998.
struggle and recruiting supporters among exiled communities was one area where the TPLF and REST learned a lot from the EPLF and ERA (Young, 1997, p. 121).

However, in terms of defining its identity and its mission, REST viewed itself as different from the humanitarian wings of the Eritrean fronts. According to a senior officer of REST who has been in leadership position since its establishment,

The TPLF viewed its struggle as a holistic one. It did not just focus on the liberation of Tigray. It also viewed the overall development of Tigray and its environmental rehabilitation as part of its struggle. It had to do so, because of the environmental degradation of the region and the extreme poverty of the population. It could not wage the armed struggle unless it also tackled the problems of development and the environment. This was different from the approach the Eritrean fronts took. Their sole preoccupation was that of the armed struggle engaging in relief work long after the armed struggle had started.75

There were two important relationships that were to characterize REST in its formative years and that continued to define its organization and operations. The first and most important was the relationship between REST and the TPLF. REST was

75 Indeed, the relief operations of the Eritrean liberation movements were started long after the two organizations were established. Bereket relates the story of the formation of the Eritrean Relief Association as a response to the internal displacement and refugee problems that were exacerbated as a result of the escalated offensive the two liberation fronts engaged in 1975. According to him, he initiated the idea of forming a relief agency that would serve the population affected by the conflict and that would operate within the areas controlled by both fronts. The relief agency was to be independent of both fronts. Both fronts agreed to his proposal but the ELF withdrew from the plan at the last moment and launched its own relief operation. The ERA continued to act as an independent agency for some time until it was finally taken over by the EPLF. (Bereket Habte Selassie, 2007, pp. 313 - 324)
established by the decision of the Central Committee of the TPLF, and was structurally accountable to the Central Committee. Organizationally, REST had two divisions. Its external division was based in the Sudan. The head of the external division, a member of the Central Committee of TPLF, was the director of REST and worked under the Foreign Relations Committee of the Central Committee. A deputy director that worked under the Economic and Social Committee of the Central Committee headed REST’s internal (or field) operation.\(^{76}\)

Despite this seeming structural autonomy, however, both internally and externally REST was an extension of the TPLF. Externally REST helped the TPLF bypass diplomatic difficulties that donor agencies and foreign governments had in supporting an armed movement fighting an internationally recognized government. As discussed below, this became crucial in getting the support of Western governments and international organizations after the 1984-1985 famine.

Even in its early days, REST provided diplomatic cover for the TPLF. The TPLF initiated its armed insurrection in an area adjacent to the Sudan – which shared an extended and porous border with Ethiopia was a necessary transit point for the TPLF to access the rest of the world. The large number of Ethiopians that lived as exiles, and traversed across the border to work as seasonal laborers, in the Sudan, provided a large pool to recruit combatants and mobilize resources. It was among this group that the TPLF’s initial efforts at getting the support of Tigreans living abroad concentrated (Young, 1997, p. 130). The Sudanese government of the time under General Gafaar

\(^{76}\) Interview with senior official of REST/TPLF, March 2009.
Nimeiry was wary of the revolutionary ambitions of the Derg and allowed rebel and opposition movements to operate in the Sudan (Young, 1997, pp. 129-130).

The TPLF, through the relief and civilian activities of the REST utilized the opportunity and gradually expanded its presence, through extensive political work among the refugee population and by operating considerable commercial activities. It opened workshops to repair its vehicles and hospitals for its wounded fighters (Young, 1997, p. 157). The REST office in Khartoum, Sudan was thus the unofficial office of the TPLF, from which the front directed and coordinated its external operations. More significantly, REST made the arrangements necessary for Western NGOs and religious organizations to deliver much needed humanitarian assistance to the ever increasing population living in the territories that were under the control of the TPLF.

Within Tigray, however, neither REST nor those working for it viewed REST as distinct from the TPLF. The identification between REST and TPLF was observable in the staffing of REST. The personnel working for REST were recruited from among those that had joined the rebel movement. Once they went through the basic military training offered by the Front, combatants were assigned to the different sections of the TPLF based on the Front’s determination of where their particular skills would be useful. Generally, the Front assigned recruits who were relatively well educated to work with REST as members of the popular mobilization division of the TPLF. The identification of REST with TPLF organizationally and functionally continued until 1992 when the

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77 The fighters within the TPLF worked in either of two major divisions. Those in the Armed Division (kifli serawit) staffed the combat units of the Front. Those in the “popular mobilization” division staffed the civilian administration and services of the front including REST.
EPRDF seized power and REST registered as an autonomous NGO under the 1960 Civil Code.  

The second most important relationship in defining REST and its operations is the relationship that REST had with the quasi-political structures that the Front established in the areas that it controlled. These structures evolved into the political structures of the Regional State after the EPRDF came to power in 1991. One of the first tasks that the Front carried out after taking control of an area was that of setting up local councils (called *Baito*). Members of the councils were elected directly at the local (*Tabia*) level, and indirectly at the district (*wereda*) and zonal (*zoba*) levels. In establishing the councils, the Front was supplanting the traditional structures of state power and introducing ideas that were novel in a highly hierarchical and patriarchal culture that gave deference to status, gender, and station in life. The councils were to be in charge of

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78 In March 2010, the British Broadcasting Corporation’s “From Our Own Correspondent” broadcasted a show alleging that some of the money raised from the Western donors in response to the 1984-1985 famine was used by the TPLF to purchase arms (Plaut, 2010). The report generated quite a controversy with charges of the BBC’s lack of professionalism made by Sir Bob Geldof and the Prime Minister of Ethiopia (The Independent, 2010).

79 The initial action of establishing local councils was taken by the *Derg* following the nationalization of land. Proclamation 25/1975 on the nationalization of rural land provided for the establishment of peasant associations in all rural areas of the country with a membership of 20 households. The peasant associations at the lowest levels (called *kebele*) were entrusted with the task of administering the Proclamation at the local level. Their leadership was to be elected from among residents of the *kebele* with the exception of those who were landowners before the Proclamation. The Peasant Associations were also granted judicial responsibilities and were tasked with ensuring security through their Revolutionary Guard committees. Although initially markedly democratic, subsequent legislations and practice, deprived them of much of their autonomy and they were finally co-opted asmere administrative appendages to the state bureaucratic machine.

80 In the initial phases of the Front’s operations, it was difficult to gain the trust of rural residents to come forward to elect or be elected in the *baitos*. Partly, the reluctance
local affairs including the distribution of land that the Front implemented in the areas it controlled. Baitos at different levels were organized with different committees responsible for a range of affairs, such as judicial administration, and social and economic matters. Through security and militia committees, the councils ensured the security of their respective areas and passed information to the Front regarding military and other activities. Thus, the Baitos were instrumental in mobilizing popular support to the front and in consolidating its military and territorial gains.81 Other organizations established by the TPLF complemented the baitos. Associations for women, and youth, were were also established and organized hierarchically. All of these organizations were established by the TPLF as instruments of mobilizing the population in its struggles and consolidating its rule. They were thus under the political direction of the Front (Aregawi Berhe, 2009, pp. 230-253).

REST’s operations meshed with the activities and responsibilities of these councils. In the early days of the Front, before it was possible to get assistance from abroad, the Baitos were key players in mobilizing community support to those who were affected by the battles the Front was engaged in. Recollecting these early days a senior official of REST said:

We will be taking representatives from communities to areas that have been scenes of battles and reprisal attacks. The representatives would see

stems from uncertainty about the viability of the Front’s operations and fear of reprisals by government forces. Partly, the reluctance was also due to the very unfamiliarity of electing or being elected to a position of authority in a hitherto hierarchically organized society that is very much conscious of status and rank. Interview with senior REST official, March, 2009).

81 Interview with senior REST/TPLF official, March, 2009.
people and cattle killed. They would see huts burned. They would talk
with those affected. They would then go and report what they saw to their
neighbors and communities. Each household would contribute whatever it
can. People would give chicken, earthenware pots (used as kitchen
utensils), grass to thatch the roofs of burned tukuls and even ropes. We
collected everything that they gave. There was nothing we would not take
because it was their voluntary contribution. But more importantly, we did
so because everything that they gave was important in the daily life of the
peasantry.  

As the resources of the Front and REST increased and their areas of operations
expanded, the Baitos’ participation in relief administration and their relationship with
REST came to be more regularized. Thus, a committee of the Baito at the tabiai level
would select those that should be getting relief assistance in an open forum where
residents of the tabia participate and vote in the selection process. REST delivered the
relief assistance to the baito who then distributed assistance to those they selected.

By the late nineteen seventies, the TPLF was in control of most rural areas of
Tigray. The Front found it difficult to gain the recognition and limited legitimacy that the
Eritrean liberation front were enjoying internationally. Nonetheless, the support
committees that REST established in several West European, North American, and
Middle Eastern countries83 served as the ad hoc offices of the TPLF and helped establish

82 Interview with a senior official of REST, March, 2009.
83 At various times REST had support offices in the United States, Germany,
Italy, Sweden, Australia, Saudi Arabia, and Kuwait. Interview with senior official of
and maintain international support. Through REST and the support committees, the Front obtained some relief assistance from a few Scandinavian church organizations and smaller international NGOs (Duffield & Prendergast, 1994, p. 54). During this period, and until the 1984-1985 famine, however, international support was very limited and mainly took the form of individual volunteers and cooperation from small NGOs, trade unions, and churches in Western Europe, with the main support to the TPLF coming from Tigreans living abroad. To achieve international recognition, the TPLF even reverted to some dramatic action, including the capture and publicized negotiated release of some foreigners (Young, 1997, p. 121).

Changed circumstances, however, brought about the recognition that the TPLF and REST sought when seasonal rains failed in the early eighties. REST and the TPLF were the first to raise alarm about the impending humanitarian crisis, warning that the drought would lead to an enormous flow of the population of Tigray to the Sudan. Their warning, however, was not taken seriously (Young, 1997, p. 131). When the crops failed and famine ensued, the TPLF organized the migration of hundreds of thousands of peasants from the drought-affected areas of eastern and central Tigray to the Sudan.

84 Interviews with former volunteers at the offices of REST support committees in Khartoum and London, and a former senior official of REST, March and April 2009. The volunteers (who are westerners) attribute the difficulties of the TPLF/REST in this regard to the success of the Derg’s portrayal of TPLF as a bandit group, the difficulties of bypassing diplomatic niceties, and the pro-Albanian Marxist rhetoric of the leadership of the TPLF itself.

85 Interviews with a senior REST and TPLF official, and an international volunteer working with REST at the time, March 2009.

86 One of the earliest cases of negotiations between the Derg and TPLF conducted through the good offices of the Sudanese government involved the release of two Russian doctors capture in July, 1980 when the TPLF attacked and briefly took control of Axum (Solomon, 2007, pp. 102-107).
The TPLF’s decision to move hundreds of thousands of peasants from the drought-affected areas of Tigray to the Sudan was as much a matter of military necessity as it was one dictated by humanitarian considerations. In November 1984, the Derg had started a major program to resettle 300,000 heads of households or 1.5 million people from the drought prone northern highlands, including areas in which the TPLF was operating, to the more fertile southern lowlands (Pankhurst A. , 1992, p. 55). The Derg’s resettlement program of the 1980s was more expansive than resettlement programs that were carried out in the 1970s that failed because of the enormity of the tasks involved and the limited available resources. Nonetheless, the resettlement program of the 1980s was hastily designed and implemented (Dawit, 1989, pp. 281-299; Young, 1997, p. 145). Its implementation also involved extensive coercion. Settlers in the program were usually rounded up forcibly, separated from their families, and moved hundreds of kilometers away from their home to an unfamiliar environment in which little, if any, preparations were made in place to accommodate them (Human Rights Watch, 1991, pp. 211-230; Pankhurst A. , 1992, pp. 67-73). By 1986, nearly half a million people resettled through the program. Nearly seventy-eight percent of them were from Tigray and adjacent regions in which the TPLF was operating (Dawit, 1989, p. 303). The program eventually moved about 600,000 people in phases that lasted until 1988 (Human Rights Watch, 1991, p. 211).

The Derg presented its resettlement program as a technical measure of addressing the recurrent famine (Dawit, 1989, p. 294).87 Western governments and international

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87 Dawit also noted that while the RRC was reluctant about the program due to the technical difficulties involved, it hastily prepared a plan for the program at the request of
NGOs differed in their reactions to the program, with the US, the UK, West Germany, and other West European countries opposing it, while Italy, Canada, and different agencies of the United Nations, as well as the communist allies of the *Derg* supported the program. Generally, NGOs operating in Ethiopia were silent about the immense human and environmental costs of the program. In fact, eight international NGOs and religious organizations assisted in its implementation (Pankhurst A., 1992, p. 75).

The TPLF, however, saw the program as a strategy to deprive it of the popular support necessary to wage its guerrilla war (Young, 1997, p. 169). When the early signs of famine appeared in 1983, TPLF and REST appealed for relief assistance from Western donors and logistical support from the Sudanese government (Young, 1997, p. 131). With support from a few small international NGOs, they assisted the famine victims. The available support, however, was inadequate in relation to the magnitude of the famine. The TPLF adopted a strategy where it would allocate the limited resources it had to support those who could not leave their villages. It also settled some of the villagers from the eastern and central parts of Tigray in the more fertile Western parts of the region. For the majority of famine victims deemed capable of walking the arduous trek, however, it organized a massive operation of moving them from their villages and helping them cross to the refugee camps of the Sudan. The operation involved moving the Chairman of the *Derg*. Moreover, while noting that there was no formal discussion or decision to use the program as part of the *Derg*’s war efforts, Dawit also argued that the intrusiveness and highhandedness of Mengistu and his lieutenant, Legesse Asfaw, in the implementation of the program indicated that they anticipated the program would benefit the war effort. Gebru (2009, p. 150) disputed arguments that the *Derg* was using the resettlement program as a strategy of war, pointing out that the number of people moved from the Tigray and Eritrea was relatively small, and that the resettlement was also carried out in provinces that were peaceful.
about six hundred thousand people, often under aerial bombardment by the Derg, over hundreds of kilometers in about six weeks.\textsuperscript{88} REST took the responsibility for coordinating the operation, organizing rest stops, and providing food and medical assistance en route to the Sudan. Once in the Sudan, REST also took the responsibility for running the refugee camps.\textsuperscript{89}.

The famine, as well as the relocation and resettlement of a large number of people from the conflict areas of Tigray to the Sudan and back again, established REST as a credible humanitarian organization. More significantly, the operation showed the TPLF as a formidable and disciplined armed movement with effective control over the large portion famine-prone northern Ethiopia.\textsuperscript{90} Internationally, not only the famine but also both REST and the TPLF generated considerable media interest. The table below demonstrates the media interest that peaked during the famine years, and later, when the civil war intensified and the TPLF/EPRDF were marching towards Addis Ababa. In Western Europe, and North America, news of the famine and increased publicity about the operations of the TPLF led to a considerable flow of resources and volunteers. Support offices of REST in European and North American countries witnessed a surge of interest in the activities of REST and the struggle that the TPLF was waging.\textsuperscript{91}

The border crossing by hundreds of thousands, as well as the publicity of the famine itself, led to massive assistance by Western governments and international NGOs. United Nations agencies also became involved. Within a year, however, with improved

\textsuperscript{88} Interview with REST senior official, March 2009.
\textsuperscript{89} Interview with a senior official of REST/TPLF, March 2009.
\textsuperscript{90} Interview with a senior official of REST/TPLF, March 2009.
\textsuperscript{91} Interview with former head of REST support office in Western Europe, April, 2009.
rains the TPLF/REST once more organized an operation that saw the border crossed by hundreds of thousands, this time back to their villages. The return operation was carried out under more auspicious circumstances with support from, and close monitoring by, international donors. With more resources available, REST was able to provide the returnees with support during their journey as well as reserve supplies and funds to purchase seeds and instruments necessary to restart life in the villages.⁹²

<table>
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<tr>
<th>PERIOD</th>
<th>TIME TPLF MENTIONED IN MAJOR WORLD NEWS SOURCES</th>
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<tr>
<td>JAN. 1, 1975 – DEC. 31, 1981</td>
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<tr>
<td>JAN. 1, 1982 – DEC. 31, 1982</td>
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<td>JAN. 1, 1989 – DEC. 31, 1989</td>
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<td>JAN. 1, 1990 – DEC. 31, 1990</td>
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During and after the 1984-1985 famine, the TPLF and REST gained in stature among foreign governments and NGOs. Largely, this was because the TPLF was in control of virtually all of Tigray except the major urban centers. Unable to access famine victims through the Addis Ababa government, major donors including the European

⁹² Interview with senior REST/TPLF official, March 2009.
Union and the United States sought alternative mechanisms of reaching the population. The mechanism most used by international aid agencies, including the US, the European Commission, and UN agencies, was the Emergency Relief Desk, a coalition of international organizations and mainly protestant churches established in 1981 to provide cross-border assistance from Sudan to the rebel controlled areas of Eritrea and Tigray (Duffield & Prendergast, 1994, p. 5). REST became the local implementation agency of the ERD in 1981 after the latter’s establishment (Duffield & Prendergast, 1994, p. 54). The ERD was the earliest and the major mechanism of raising relief assistance to the rebel controlled areas of Eritrea and Tigray. Other consortia, including, the Tigray Transport and Agricultural Consortium established in 1983, followed usually because of lobbying by the rebel fronts (Duffield & Prendergast, 1994, p. 57).

In the years following the 1984-1985 famine, REST reorganized itself to better handle the flow of resources from, and the complex web of relations it established with, Western donor agencies and NGOs. As the figure below shows, several NGOs and, through them, major governmental aid agencies supported REST in carrying out several

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93 Kissi (2005) pointed out that the United States’ reluctance to provide relief assistance was not limited to the then rebel movement. Both the Carter and the Reagan Administrations limited assistance to the Derg government to express the US’s dissatisfaction with the state of human rights in Ethiopia and to preclude the anti-American Derg regime from accessing resources that it might use to strengthen its position vis-a-vis its opponents.

94 Duffield and Prendergast listed the following as members of the Emergency Relief Desk: Brot fur Die Welt/Diakonisches Werk (Germany); Christian Aid (UK); DanChurch Aid (Denmark); Dutch Interchurch Aid; International Coordination Committee for Development Projects (the Netherlands); Lutheran World Relief (US); Norwegian Church Aid; Sudan Council of Churches (Sudan), and the Swedish Church Relief. These were later joined by Canadian Lutheran World Relief, the Mennonite Central Committee, and Finnchurchaid.
projects. The projects were mainly aimed at addressing the environmental and poverty issues of the population living in TPLF controlled areas.

Relations between REST and the TPLF on the one hand, and donor agencies and international NGOs on the other hand, were not always smooth. There were two major reasons that accounted for the occasional difficulties in the relationship. The first and, perhaps the major one, was the initial doctrinaire attachment of the TPLF to a Marxist program. As participants of the 1960s Ethiopian students’ movement, the leaders of the TPLF were committed Marxists. In fact, they subscribed to “pure” Marxism that followed a Maoist analysis of social relations, and that condemned the Soviet Union as a “social-imperialist.” Although conscious of the need to get the support of Western aid agencies, the TPLF insisted on the total ownership and control of the aid that it obtained. It was therefore selective about the organizations that it allowed to work in the areas under its control. For many international NGOs, the TPLF’s approach appeared hostile, while the TPLF saw such NGOs as condescending. The TPLF and REST were also mindful of the fact that many international NGOs continued to work under the Derg at the famine including supporting the resettlement program, while refusing to work with the TPLF and REST.

The Marxist stance of the TPLF also made it difficult for some Western governments, especially the United States, to work with it. Conservatives within the US,

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95 Interview with former country representative of an international NGO, March 2009. The representative later joined REST in a senior management position.
96 In at least one incident, REST refused to receive funding from a consortium of international NGOs that included one of the NGOs working in the Derg’s resettlement program. Letter from Abadi Zemu, Director of REST to Trygve Dverby of Redd Barna, Khartoum. July 24, 1990.
and to some extent in the UK, insisted that the TPLF was no different from the Derg and deserved no support. REST and its support committees in Western Europe and the United States were instrumental in bringing about gradual change in perceptions about the TPLF, by emphasizing the Front’s achievements in land reform, its effective handling of humanitarian governance issues, and the participation of communities and women in decision making through the baito structures.

These experiences continued to shape the TPLF’s attitudes towards NGOs after the EPRDF came into power in 1991 and REST was reorganized as an autonomous NGO. Although trained professionals in various fields have replaced almost all personnel of the armed struggle era, the experience of the armed struggle continue to influence the overall ethos of the organization. REST itself works closely with the Regional Government, synchronizing its plans with those of the Regional State. Its documents and its senior staff described the role of REST as one of bringing in best experiences and resources in development work and introducing innovative practices. Perhaps more significantly, REST’s and TPLF/EPRDF’s experience of the armed struggle era are reflected in the latter’s attitude towards NGOs and their role as well as the regulation of NGOs in post-Derg Ethiopia.

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98 Interview with former volunteer at London office of REST, April 2009.
99 Interviews with department heads of REST, April 2009.
Figure 1. REST, its donors, and its projects (a partial list) from 1985 to culled from various project documents and reports at REST warehouse in Mekelle and from Duffield and Prendergast (1994).
In May 1991, the TPLF that had formed the EPRDF defeated the *Derg*. In June 1991, in a conference held in Addis Ababa the EPRDF adopted a Transitional Period Charter and established the Transitional Government of Ethiopia in a coalition with some minor partners, notably the Oromo Liberation Front, formed in the early seventies by radical Oromo students from the Haile Sellassie I University. In 1992, the OLF abandoned the coalition and reverted to armed conflict leaving the Transitional Government under the sole control of the EPRDF. Rejecting the unitary model of organizing state power that had been in place since the 1931 Constitution of Emperor Haile Sellassie, the EPRDF restructured the Ethiopian state as a linguistically organized federal one.

Quietly abandoning its commitment to a Marxist oriented state dominated economic program just before its triumphal march into Addis Ababa, the EPRDF reversed most of the socialist policies of the *Derg* under a structural adjustment program supported by the World Bank and other Western donors. The EPRDF, however, resisted full privatization of the economy, especially by retaining state ownership of land and some major enterprises engaged in key economic activities such as banking, power and telecommunications. Thus, the economy was largely liberalized, although the state continued to have a dominant role not only in directing the economy, but also in owning and carrying out important economic activities. Under the EPRDF’s rule, the country’s relation with the West and major international development agencies improved. In line with the poverty strategy paper mechanisms of the international financial institutions, Ethiopia is currently implementing its Poverty Alleviation and Sustainable Development Program.
The fall of the Derg in 1991 changed the overall environment within which NGOs operated. In the immediate aftermath of the fall of the Derg, the political and organizational space for NGOs and other forms of associational life opened up. Many indigenous NGOs representing diverse issues and constituencies were established. NGOs continue to address many challenges that Ethiopians face from HIV/AIDS to human rights violations. Yet, the overall view about NGOs on the part of the state continues to be one, at best of indifference, and at worst, of suspicion and latent animosity. Chapter 4 will examine in more detail this ambivalence in the relationship between the state and NGOs that characterizes the regulation of NGOs in post-1991 Ethiopia. Before chapter 4, however, the next section outlines the history of an indigenous NGO in Ethiopia that exemplifies the trajectory of development of NGOs in Ethiopia and their evolving relations with the state.

E. NONGOVERNMENTAL ORGANIZATIONS IN ETHIOPIA – A CASE STUDY OF THE CHRISTIAN RELIEF AND DEVELOPMENT ASSOCIATION (CRDA)

The Christian Relief and Development Association is an umbrella organization of NGOs. In that sense, it is different from many indigenous NGOs constituted by individuals. It is one of the earliest NGOs in the country and enjoys tremendous goodwill and prestige with the accompanying access to resources – something that many indigenous NGO do not easily obtain. Its claim of being the de facto representative of NGOs is accepted both by the government and by donor agencies, a fact attested to by its participation as the representative of civil society in several donor and government platforms.
However, the CRDA is more than a partnership of individual NGOs. It has a very powerful secretariat that carries out diverse projects and actively engages in sizeable fundraising for its activities. As has already been mentioned, the main source of income for CRDA is not membership dues, but funding from foreign donors. This gives the secretariat a high degree of autonomy from the membership. Moreover, the support, including funds that the CRDA extends to its members, especially to indigenous NGOs with constrained fundraising capabilities, strengthens the secretariat’s autonomous position from the membership.\(^{100}\) As discussed below, CRDA played a significant role in shaping the institutional landscape in which NGOs operated in Ethiopia. It was instrumental in introducing concepts, as well as organizational and project models through formal and informal trainings and funds. It provided a model for, and facilitated the organization of, recently formed NGO consortia.\(^{101}\) This section presents an overview of the history of the CRDA and the institutional environment in which it was established and continued to operate emphasizing crucial historical episodes in which the process of institutional construction and contestation took place.

1. Establishment

The circumstances that led to the establishment of the CRDA demonstrated the growing crisis within the Ethiopian state and its inability to respond not only to the development, but also to the humanitarian needs of its populace. Following its establishment, the CRDA also lived through a period of Ethiopian history, when the

\(^{100}\) The implications of the funding relationship between the CRDA and its member NGOs is further discussed below.

\(^{101}\) The most notable of these consortia is the Poverty Action Network – Ethiopia (PANE) that was very active in the processes leading to the enactment of the Charities and Societies Proclamation of 2009.
state’s ideology was antithetical to NGOs, and the almost military like organization of citizens’ associational life by the state was not conducive to independent associations in general and NGOs in particular. As one of the oldest and most prominent NGOs in Ethiopia, the nature of the relationship that the CRDA forged with the state under these circumstances served as a template for the broader terms of engagement between the state and NGOs. These terms held sway until the mid 1990s when the rise of more activist NGOs and the recasting of its role by the CRDA itself led to efforts to redefine the nature of the relationship between the state and NGOs.

As already stated above in the discussion on the 1973 famine, Haile Sellassie’s government was reluctant and ill prepared to respond adequately to the humanitarian needs created by the famine. When finally the state began to assist the victims of the famine, its aid was inadequate; it also proved to be inept and corrupt (Shepherd, 1975). From the beginning, it was the churches and missionary organizations, including the established Ethiopian Orthodox Church, who were active in providing relief assistance (Eide, 2000, p. 65). Once the government appealed for assistance, the several international NGOs rushed into the relief effort ushering in the first major wave-like influx of international NGOs into Ethiopia.

The relief efforts of churches and international NGOs, however, were not without problems. Mehari and Vahquis (1976, p. 1017) described the situation as follows:

The famine in Wollo and Tigray was passing its climax in October 1973 when the attention of the world was captured by this tragedy. The response from voluntary organizations was rapid and soon became overwhelming. It is said that at one time during 1974 some 40
organizations were working simultaneously in Wollo. Much needs assistance was thus given, but much confusion was also caused due lack of a master plan for organization and coordination. Expatriates came with technical skill and the best intentions but often with little or no advance knowledge of local conditions. When they had gained good experience and their help was needed for long-term development work they were often ready to return home.

With so many organizations suddenly thrust into providing relief in an unprecedented catastrophe, the need to harmonize operations emerged. In 1973, some of the major actors, mainly churches and church affiliated organizations, formed an ad-hoc committee to coordinate their relief activities. An internal document of the CRDA\textsuperscript{102} tells the story of the establishment of the Christian Relief Fund – the ad-hoc body established to coordinate relief operations among churches that later became the CRDA – as follows:

A group of largely Faith-based non-governmental organizations (NGOs), while traveling to the northern parts of the country to unilaterally respond to the then disastrous famine, had met each other in unnamed hotel . . . they realized that each of them were there for the same purpose of rescuing the lives of many about to be claimed by the then severe famine. Sooner, [sic] they started contemplating on [sic] the possibility of forming a joint operation to address that immense relief need and got departed to further discuss on the matter here in Addis. ..., the meeting held in Addis

on May 19, 1973 concluded with the agreement of forming a joint relief operation coordinating office known as the Christian Relief Fund

A more detailed (and at least in one respect, significantly different) account is provided by Father Kevin Doheny who was the head of the Welfare Desk of the Ethiopian Catholic Church and became the first chairperson of the CRF, and later of the CRDA. He noted that the initial idea for forming a coordinating body came when two government officials contacted him to get the Catholic Church’s support in the government’s relief efforts. In response, he insisted on a gathering of all the churches. The first meeting of the churches which he characterized as “a memorable and historic meeting, the first of its kind in Ethiopia” (Doheny, 1997, p. 98) was held in a government minister’s office and was chaired by the minister himself. It was in a second meeting attended only by the churches that representatives of the churches agreed to establish the CRF.103

It is important to note the role of the government in the establishment of the CRF/CRDA. By the time the government was calling for the churches to meet, it was under pressure to acknowledge the famine. It had already established an inter-ministerial committee to coordinate relief operations.104 Under pressure from protests by students

103 Before his assignment to Ethiopia, Father Doheny worked in Nigeria during the Biafra Conflict. He was actively involved in delivering relief assistance in that conflict. His experience in Biafra where relief efforts by the churches were coordinated by a body similar to the CRF was what led him to insist on having a similar set-up among the churches in Ethiopia (Doheny, 1997, p. 99).

104 This committee formed the nucleus for the formation of the Relief and Rehabilitation Commission (RRC), the major government agency to raise funds, and to coordinate and distribute relief assistance. The RRC also became the major agency to deal with NGOs. Chapter four discusses the establishment of the RRC and the institutional set up regulating NGOs following its establishment.
within the country and bad media coverage and negative public opinion internationally, the government became more responsive to the famine, and acknowledged the malfeasance of its officials in attempting to cover up the famine by establishing an inquiry commission. When it was dealing with the churches, therefore, it was in a position to acquiesce to at least some of the demands that the churches made or implied.

One of the issues in which the government apparently gave way to the demands of the churches working under the umbrella of the CRF/CRDA was allowing the legal registration of an umbrella organization comprised only of other organizations. Ethiopian law at the time was silent on the subject of the establishment of umbrella organizations. Both the Civil Code of 1960 and the Associations Registration Regulations of 1966 suggested that only individual human beings could establish an association. The existing practice conformed to a strict interpretation of the provisions of the law.105 In fact, until the mid-1990s, the CRDA was the only umbrella organization of NGOs.

Among the non-Orthodox churches, several factors may have contributed to their coming together. As the already quoted document from the CRDA suggested the official reason for the churches’ coming together to form the CRF was the enormity of the task of responding to the famine and the need to coordinate their activities. Two facts, however, suggest the possibility of another consideration behind the formation of the CRF. The first is the alacrity with which the churches who “had nothing in common – they did not know each other or what to share and there was no trust between them” (Doheny, 1997, p. 99) – agreed to form the CRF. The second fact is the absence of the Ethiopian

105 Chapter four discusses the legal requirements for the registration of associations including NGOs and problems associated with these requirements.
Orthodox Church from the gathering and the historical context of the relationship between the latter and the churches that formed the CRF.

Relations between the Ethiopian Orthodox Church and the churches that founded the CRF had always been difficult. In the years immediately preceding the formation of the CRDA, the relations among the churches had deteriorated further. In 1972, the government, with much pushing from the Orthodox Church, unleashed a wave of arrests and persecution of the followers of the various indigenous evangelical/Pentecostal churches that had been growing numerically and expanding into the turf reserved for the Ethiopian Orthodox Church\textsuperscript{106}. The new churches first emerged in the 1950s either as spin-offs from foreign missionary run churches, as disaffected reactions against the more established protestant churches, or even as frustrated responses to the highly conservative and ritualistic practices of the Orthodox Church. By the 1960s they began to make significant inroads among urban dwellers and the educated, most notably among university students. Unlike the missionary churches and the more established protestant churches, the new Pentecostal churches were aggressive in proselytizing and in the practices and traditional authority of the Orthodox Church.

In turn, the Orthodox Church was quick to condemn the new Pentecostal churches and their followers. In regions where the hold of the Orthodox Church was strong, the tension between the Ethiopian Orthodox Church and the new churches generated intense animosity towards members of the latter leading to incidents of mob attacks at gatherings,

\textsuperscript{106} The proselytizing and related activities of churches other than the Ethiopian Orthodox Church have been reserved to what have been considered as peripheral regions – outside the traditional home base of the Orthodox Church conterminous to the boundaries of the Orthodox Christian dominated state before the expansion of its territories in the nineteenth century during the region of Menelik II.
arson of places of worship and assault on individuals. Although the Emperor seemed to be sympathetic to the new religionists, he was unable to resist the demands of the Orthodox Church and its clergy as well as some members of the ruling elite. In 1972, thus, the government issued a security directive that essentially characterized these religions as alien and their followers as threats to national security leading to the widespread persecution of their followers (Tibebe Eshete, 2009, pp. 145-189).

Although only members of the newly established indigenous Pentecostal churches were the subjects of these persecutions, the other churches who had a carefully calibrated relationship with the Orthodox Church were also concerned. This could be seen in the decision of the General Assembly of the Mekane Yesus Church, an offshoot of the “legitimate” work of the Lutheran Church that was officially registered as a civil association in the early sixties. The General Assembly declined to issue a statement accepting one of the persecuted churches, the Mulu Wongel Church, because “it feared the political consequences of the acceptance of Mulu Wongel” (Eide, 2000, pp. 62-63).

Despite these inauspicious circumstances, the CRDA played a key role in responding to the famine. Its and its members’ activities were remarkable in the face of the silence about the famine not only from the government of Ethiopia, but also from official international aid agencies of both Western governments and international agencies. Of the latter, Shepherd (1975, pp. x-xi) wrote:

The international community remained silent and created the second cover up. Behind the protective curtain of respect for local sovereignty, the second cover-up went along with the [Imperial Ethiopian Government’s] own cover-up and involved every major international relief agency, most donor nations, and many African leaders. All kept quiet as the Sellassie government requested. One authoritative voice might have saved thousands; their silence condemned tens of thousands. One international relief official who was in Ethiopia during the crisis – and didn’t speak ou-
ticked a list of partners in silence: the American Embassy, one of the largest in Africa, which included more than twenty-five United States Aid for International Development (USAID) workers in Addis Ababa alone; the West Germans; Swedes, British; the French, a colonial power with important railroad connection in nearby Djibouti, but who never donated a single bag of their wheat surpluses of 1973-74; the leaders of the organization of African Unity (OAU), who wined and dined in Addis amid the worst of the famine, and who knew about it (but didn’t believe the reports); and the UN agencies—the Food and Agricultural Organization (FAO); silent despite its own advance crop warning; WHO, which also deliberately and carefully covered up a massive cholera outbreak; UNICEF, whose workers in the field cabled, argued, fought, and finally resigned from its reluctant bureaucracy.

The CRF/CRDA, in contrast, issued worldwide appeals for relief assistance. By the middle of 1973, weekly meetings of the CRF became regular and their minutes provided firsthand accounts of the spread of the famine and the damage it was inflicting. For quite some time, until the Ethiopian government acknowledged the famine in November 1973, they were the only ones who informed the world about the famine (Shepherd, 1975, pp. 38-39). Besides the minutes that were made public, the CRF and its members also helped the wider dissemination of information by helping newsgathering by the international media. A documentary about the famine by Jonathan Dimbleby helped lead to an outpouring of aid from the public in the West helping British NGOs to raise $1.5 million. It also opened a chapter in the cooperation between relief NGOs in the north and the mass media to cover humanitarian crises across the globe (Clark, Fernandez, & Zhang, 2005, pp. 12-13). No less significantly, the leaders of the rising Derg used the documentary as the coup de grace in their effectively discrediting Emperor Haile Sellassie and whipping up public anger against his rule (Markakis & Nega, 2006 (1978), p. 139).
Yet, neither the CRF/CRDA nor its member organizations raised their voices against the inequitable socio-economic relationships that were at the root of the famine. As Shepherd (1975, pp. 48-50) pointed out, members of the CRF/CRDA were silent on the inequitable land holding system in southern Ethiopia, although they were the first to notice the spread of the famine in, and delivered relief assistance to the population in, the southern provinces.

2. From an Ad-Hoc Body to the Representative of Civil Society

The transformation of the ad-hoc committee to a permanent organization began in December 1973 with the election of an executive committee to coordinate the activities of the member organizations in famine relief, the employment of an Irish Catholic priest\textsuperscript{107} as a full-time staff and the opening of an office (CRDA, 1993, p. 11; Doheny, 1997, pp. 100-101). In September 1974, by-laws were drawn up as per the requirements of the 1960 Civil Code and an operational agreement was signed with the Relief and Rehabilitation Commission in 1975 (CRDA, 1993, p. 11).

The opening of an office and the employment of full time staff helped CRDA to move gradually in the direction of forging its own organizational identity and mandate. A 1974 survey of relief organizations working on famine in Ethiopia described the CRDA as “not an operational agency, but a conduit for funds and information” (University Famine and Relief Organization, 1974, p. 21). The CRDA has continued to follow this model throughout its existence, except for a brief period in the late 1970s and early 1980s, when it carried out its own relief and rehabilitation projects responding to

\textsuperscript{107} Brother Augustine O’Keefe, the first Executive Director of CRDA, remained in the post until the mid 1990s when the first Ethiopian Executive Director replaced him.
the humanitarian crisis that resulted from the war between Somalia and Ethiopia (CRDA, 1993).

One of the major operations of the CRDA was coordinating information flows among member organizations, government offices, and international aid agencies. The CRDA has played this significant function since its early days. Until the late-1990s, when the size of membership made it cumbersome and led to its discontinuance,\textsuperscript{108} the main mechanism of information sharing was the regular monthly meeting. As Father Doheney (1997, p. 105) commented about these meetings during the first years of the CRDA:

\begin{quote}
The decision to meet the first Monday of each month was a great move. It meant agencies from overseas could plan their meetings to coincide with the meetings and local participants could combine their shopping expeditions to the capital with attendance at the meetings.
\end{quote}

Helped by the grass-roots level presence of its member churches and relief agencies, the CRDA provided an assessment of the requirements of humanitarian assistance independent from the government that lacked credibility among Western nations and aid organizations (De Waal, 1997, p. 123). Regular working relationships and information exchanges with the RRC helped the CRDA to take part in formulating national appeals for relief assistance from donors and in laying an early warning system for disasters. In the early days of its operations, the CRDA supported the government’s own relief and rehabilitation activities serving as a conduit for transferring Western aid money to the government. As early as 1974, the CRDA had provided funds for the

\textsuperscript{108} Interview with former senior official of the CRDA, February 2009.
activities of the Relief and Rehabilitation Commission (University Famine and Relief Organization, 1974, p. 11). A 1985 publication by the RRC singled out the CRDA as an agency that carried out joint programs with the Commission focusing on rehabilitation programs with a focus on rehabilitation “so as to obviate the need for continuous assistance in the future,” a practice the Commission urged other agencies to follow (Relief and Rehabilitation Commission, 1985, p. 221).

Helped by its association with international NGOs and religious organizations, the CRDA gained a reputation as an efficient mechanism of aid delivery among donor agencies soon after its establishment (Doheny, 1997, pp. 104-106). During the 1983-1984 famine, the CRDA’s reputation and experience in information dissemination and especially in resource mobilization proved to be crucially important. Western donors, including the United States, were at first unwilling to provide relief assistance, leading international NGOs and the RRC to charge them with making the famine a political issue useful to topple the Marxist government (Hailu Lemma, 1985, p. 44). It took shocking international media coverage and massive public outcry to pressure Western governments to respond to the famine. When, under massive outcry following media reports about the famine, Western donors began providing relief assistance, they were reluctant to channel their aid through the RRC and made much use of NGOs including the CRDA (Kissi, 2005; Dawit Wolde Giorgis, 1989, p. 240).

The infusion of resources that followed the famine had mixed results for NGOs in general and the CRDA in particular. The Derg reluctantly agreed to open the country to the operation of NGOs. The CRDA facilitated the entry into the country and operation of many international NGOs by serving as a temporary office and hosting volunteers (Dawit
Wolde Giorgis, 1989, p. 241). The CRDA’s support was crucial. As the then Commissioner of the RRC, Dawit Wolde Giorgis (1989, p. 241), put it:

The government never trusted the voluntary agencies. They were looked upon as either imperialist agents or religious organizations that dampened the militant spirit of the people. The voluntary agencies never understood this. Most of them believed that the government welcomed their presence and was grateful for their assistance. In fact, most of the voluntary agencies that came to Ethiopia during the crisis of 1984-1985 were invited by the RRC without the approval of the regime. Once they were inside, the government was reluctant to expel them because of the damage it would do to the already precarious image of Ethiopia. But if it ever found any excuse at all, the regime never hesitated to order individuals or even entire agencies out.

The massive infusion of humanitarian assistance helped NGOs to enlarge their resources and operations. However, it also engendered negative views about NGOs.

Lautze et al (2009, pp. 15-16) summarized this when they wrote:

The humanitarian organisations (including many with no previous experience in Ethiopia) appeared to be awash with money. Ethiopia presented the international NGOs with an unprecedented opportunity for expansion, not only for their operations in country but also for their work elsewhere in the world. But their new equipment and vehicles and generous budgets made them a source of envy for government officials who had to manage ministerial departments with a fraction of the resources available to NGOs. NGOs employed the surfeit of educated Ethiopians who found themselves redundant in the revolutionary government. The discrimination inherent in the policy of organisations which had a different salary scale for ‘local’ hire caused justifiable resentment and unease among the often highly qualified Ethiopian staff.  

109 This feeling subsists to the present as “a residue of resentment in government circles and sections of the informed public. It is as if Ethiopians, or rather the urban elite, never forgave these organizations for forcing their way into the country at a time when both state and society were overwhelmed by tragedy” (Desalegn Rahmeto, 2002, p. 106). As will be discussed in the next chapter, this was a sentiment that the government appealed to in its framing of the debate about the Charities and Societies Proclamation.
CRDA’s role of coordinating the activities of its member organizations, supplementing their financial and material resources, and providing common services to its members (CRDA, 1992; Borton, 1995, p. 32) continued throughout the 1980s and the 1990s. Despite the growth in its size, resources, and operations, when the new government led by the EPRDF assumed power in 1991, the CRDA had an established system that followed the model it adopted at its establishment in 1973. Apart from a few incursions into carrying out relief assistance projects on its own, it focused on its roles as a facilitator of information exchange and a coordinator among its member organizations and donor agencies in Ethiopia. Religious organizations, including the development and humanitarian wings of the Ethiopian Orthodox Church that joined as members in the 1970s, and international NGOs dominated its membership.

With the change in government and the adoption of a Transitional Period Charter that made the Universal Declaration of Human Rights its centerpiece, NGOs, including those that engage in activities that have not traditionally been carried out by NGOs in Ethiopia, including members of the CRDA, began to emerge and increase in number. Most of them joined the CRDA as associate and full members. By 1993, the CRDA had 91 members.

In 1993, the Transitional Government adopted a National Policy on Disaster Prevention and Management (Transitional Government of Ethiopia, 1993a) which were supplemented by the Directives for Disaster Prevention and Management (Transitional Government of Ethiopia, 1993b). The Policy and its implementation instruments streamlined the regulation of NGOs. In a trend that has continued in the coming years, the 1993 Annual Report noted that in a trend that continued in the coming years, “at the
end of the year CRDA participated in an NGO/RRC task force set up by the RRC to improve the working relationship between NGOs and government” (CRDA, 1993, p. 1). Thus, CRDA’s engagement with the government, on relations between NGOs and the government, started in earnest and helped CRDA to assume the role of de facto representative of the NGO sector in the country. Nineteen ninety-three also marked the gradual shift of the CRDA towards a role that highlighted its role as an advocate of NGOs.

With the emergence and increase in number of indigenous NGOs starting in the early 1990s, CRDA’s reputation as a credible source and an effective mechanism for the dissemination of information allowed it to play a leadership role in the NGO sector. In the early 1990s, for instance, the CRDA spearheaded the move of indigenous NGOs towards a long-term development oriented through promoting the use of Participatory Rural Appraisal techniques and integrating community consultations in project planning and implementation by NGOs.\(^\text{110}\) In 1996, the CRDA started its first strategic planning process, again setting the example for, and subsequently promoting the process among indigenous NGOs.\(^\text{111}\)

As part of institutionalizing its leadership role among NGOs, the CRDA established a Training, Workshop and Advisory Department in 1993. The department organized several training programs throughout the year. Initially, the topics covered in these programs were not out of bounds with what NGOs and members of CRDA have been doing in the past two decades. However, they began to reflect the emerging view

\(^{110}\) Interview with former senior staff member of CRDA, February 2009.
\(^{111}\) Interview with former senior official of CRDA, February 2009.
within the CRDA as well as the NGO sector in general that NGOs need to shift from addressing immediate needs of relief assistance to one of engagement in long-term development projects.\footnote{The 1993 Annual Report lists 26 training programs and study tours organized throughout the year. Some of the topics covered were: developing community based credit schemes; gender issues in development; situation of street children; cost recovery strategies for health services.}

In 1999, the training programs were fully focused on carrying out long-term development programs. The 1999 Annual Report (CRDA, 2000, pp. 20-22) presents these programs under six headings. “Organizational development” trainings had the objective of “increasing the effectiveness” of NGOs and covered topics such as accounting, financial management, and general management. Another category of trainings under the title “development project planning” aimed at building “the capacity of members in development project identification, preparation, appraisal, implementation, monitoring and evaluation” (CRDA, 2000, p. 20). Training on “methodological skill development,” and “cross-cutting thematic issues” also addressed similar capacity related issues. One group of trainings designated as “creating a more enabling environment” were oriented towards the external environment of NGOs rather than their internal operations. According to the Annual Report, “the overall purpose of the training programs organized in the area of creating a more enabling environment was to enhance members’ capacity in the area of advocacy, lobbying and productive information sharing.” (CRDA, 2000, p. 21).

The CRDA’s role of serving as a model and representative for NGOs in Ethiopia was supported by its increasing involvement in funding NGOs. While the CRDA’s
funding of NGOs allowed smaller and indigenous NGOs to access resources at the particularly difficult time of their first years, it also had an adverse effect on the organization itself and its relations with member NGOs. A report by an outside consultant that the CRDA and its donors commissioned summarized the relationship between the membership and the secretariat of the CRDA as follows (Pratt, 2008, p. 7):

CRDA has created a patronage (clientalist) (sic) system whereby membership offers the possibility of funds and services. The provision of grants to members is a double-edged sword. Yes it enables CRDA to support institutional development of smaller NGOs, and act as a fundraiser for members, so not surprisingly there is a backlog of membership applications from people hoping to access these resources. As members have said: it is a good investment to pay 3000 Birr membership fee and get 50,000 Birr back in grants! However, this system is one of the main areas for which CRDA is criticized. Those who do not get as much funding as often as they think they should accuse the secretariat of favoritism, or worse of exclusion of certain groups.

Despite these difficulties, by the mid-1990s, the CRDA became explicit about its role of serving as the representative of NGOs. It established a working group that focused on the legal environment of NGOs. It also spearheaded the adoption of a code of conduct for NGOs.113

In 2000, the CRDA adopted its first strategic plan and five year program. The strategic plan viewed the CRDA’s role as one of promoting civil society. Its main themes and strategies, therefore, were aimed at realizing this goal. In 2003, the CRDA represented NGOs in negotiations with the Ministry of Justice in the drafting of a revised legislation on NGO operations. When national elections for federal and state parliaments were held in 2005, the CRDA engaged in training voter educators and election monitors,

113 Chapter four discusses the contents of the code of conduct.
and participated in a consortium of NGOs that monitored the elections. The consequences of the involvement of the CRDA in the 2005 elections, however, brought it into direct conflict with the government and served as justification for the government’s adoption of a new legislation on NGOs in 2009. Chapter four focuses on the processes and events leading to the enactment of the Charities and Societies Proclamation No. 621 of 2009 further discusses these activities of the CRDA and their import.
CHAPTER 4 THE MAKING OF THE CHARITIES AND SOCIETIES PROCLAMATION NO. 621 OF 2009 – LEGISLATIVE PRECEDENTS, CONTINUITIES AND CONTESTS

This chapter examines the processes leading to the enactment of the Charities and Societies Proclamation No. 621 of 2009. Looked at from a broad historical perspective, the Proclamation is part of the process of the modernization of Ethiopian law that began in the first years of the twentieth century. This broad process represents the legal response of the integration of Ethiopia into the global political economic system. It shows the appropriation and deployment of Western legal forms and rules by the Ethiopian state to order Ethiopian society. More immediately, the Proclamation is the product of recent political events and conflicts that exhibited current contests over the local translation of global discourses on development, civil society, and the role and regulation of NGOs. The chapter discusses both processes by relating the evolution of the regulation of voluntary organizations and the political events and processes leading to the enactment of the Charities and Societies Proclamation No. 621 of 2009.

A. THE PRE-1991 REGULATION OF VOLUNTARY ORGANIZATIONS AND NGOs

The late 1950s and the 1960s marked a watershed in the legislative history of Ethiopia. In 1957, the Penal Code was promulgated, followed in quick succession, by the Civil, Commercial, Maritime, Criminal Procedure, and Civil Procedure Codes. The adoption of these codes, and especially of the 1960 Civil Code, provided a comprehensive framework for the regulation of voluntary associations. The process of modernizing the legal system, however, was set in motion during the regime of Menelik
II. In the early years of the twentieth century, the Emperor introduced two major changes that would mark the beginning of a bureaucratized administrative and legal system.

The first of these measures was the centralization of the appellate jurisdiction of courts. Prior to the introduction of this measure in 1908, judicial power resided in regional governors, and the emperors had appellate jurisdiction lying with the Emperor. The emperor dispensing justice from his imperial throne was an iconic image of Ethiopian emperors. Menelik retained the imperial prerogative. However, he delegated his powers to judges appointed by him and exercising judicial powers as functionaries of the central state. Thus, the process of bureaucratizing the judicial function and concentrating it in the hands of the central government away from the regional nobility started.

The second of the measures that Menelik took was to have more significance especially in relation to the regulation of voluntary associations and ultimately NGOs. In October 1907, the Emperor appointed the first ministers and constituted the first cabinet in Ethiopia with the objective of “introducing a European system into our country” (Marcus H., 1970, p. 572). Marcus (1995, p. 227; 1970, p. 572) and Bahiru (2002, p. 114) attribute Menelik’s motive in constituting a cabinet to his desire to ensure a peaceful succession at his death, a fact that gained immediacy due to his falling sick in January 1907. However, Menelik’s explicit statement of his rationale for appointing the ministers also showed an important consideration he had in forming the cabinet. The Emperor was under pressure from neighboring colonial powers, especially Italy, that justified their

\[\text{114} \text{ In fact, the practice continued until the demise of the Imperial regime with the fall of Haile Sellasie I.}\]
colonial design as one of a “mission to civilize.” To counter the charge of “barbarism” and to gain legitimacy in the eyes of European powers, Menelik, more so than any of his predecessors, had been keen to adopt European structures and legislative models. In 1894, for instance, he applied for Ethiopia’s membership in the International Postal Union – an attempt that was frustrated by Italy (Marcus H., 1995, p. 108).\footnote{Ethiopia joined the Union in 1908, a year after the constitution of the council of ministers.} In another context, a law issued in 1907 provided that in disputes relating to land the \textit{Code Napoleon} would be applied in the absence of an applicable custom (Mahiteme-Sellasie Wolde-Maskel, 1962 (1969), p. 171).

As both Marcus (1995, p. 228) and Bahiru (2002, p. 115) note, the appointed ministers did not have the power base of the traditional nobility. The constitution of the cabinet was thus useful in centralizing state power without threatening the power of the Emperor. Indeed while Menelik was still alive and active, the ministers did not have much influence in the running of the government. However, when later the Emperor could no longer run the government due to his paralysis, the ministers began to play the powerful role in maintaining the balance between the Shoan nobility centered on the capital and the regional feudal lords. Their role was in fact significant in ensuring the assumption of imperial power by \textit{Lij} Iyasu.

Menelik’s successor, \textit{Lij} Iyasu, further pursued the centralization of state power. As already noted in chapter 3, Iyasu’s project of reorienting the Ethiopian state as one that transcended its traditional (and Shoan nobility dominated) framework to be inclusive of the diverse religious and population groups in the country, set him on a collision course with the traditional nobility.
course with the powerful Shoan nobility. In his confrontation with the traditional nobility, Iyasu tried to use the cabinet to sideline the nobility by appointing younger and educated ministers (Tibebe Eshete, 1998). It was this policy of appointing ministers from the newly emerging middle and educated class whose appointment could be justified on the basis of technical expertise that was continued by his successors.

The use of European modeled laws and the modernization rationale to undermine the power of the traditional nobility continued more intensively during the rule of Haile Sellassie, epitomized by the promulgation of the first written constitution of Ethiopia in 1931. The Constitution was a major legislative instrument in Haile Sellassie’s drive towards centralizing state power. The fifty-five provisions of the Constitution dealt with the succession to the throne, the powers and responsibilities of the Emperor, the Cabinet, and the Parliament (established for the first time in the country), and the rights of citizens. The drafter of the 1931 Constitution was Bejirond Tekle Hawariat, a European educated intellectual who was first appointed to the cabinet by Lij Iyasu. The model he selected for the Constitution, however, was not European. Rather it was the 1889 Meiji Constitution of Japan.

The selection of Japan was not an accident. Ethiopian intellectual of the time viewed Japan as an orderly model of progress that could serve in transforming Ethiopian society without losing its traditional roots and values. As Bahiru (2002, p. 110) noted:

Japan was decidedly the model which almost all the intellectuals wanted to follow in transforming Ethiopia from the medieval to the modern age….What is more, Japan as a model of modernization was not merely
confined to the realm of intellectual discourse; it had a clear and direct impact on policy.

In the pre-Italian war years, the Constitution, coupled with the rising power of the central government, performed well in formalizing the concentration of power in the hands of the Emperor and disempowering the traditional nobility. The Constitution was also instrumental in legitimizing the process of bureaucratizing state power that intensified after liberation. Thus, the 1931 Constitution was a means of centralizing state power, and to a limited extent, a means of modernization through providing an alternative source of legitimacy of state power to the one provided by tradition (Clapham, 1969, p. 35).

Claiming his powers under the Constitution, Haile Sellassie appointed his first cabinet after the war soon after he returned to Addis Ababa in 1941. The 1931 Constitution also served as the constitutional source of authority for the 1943, Ministers (Definition of Powers) Order. One of the ministries established by the Order was the Ministry of Interior, responsible for the registration and monitoring of nonprofit making associations until 1995. Emperor Menelik, who along with the first cabinet established the Ministry, assigned it the responsibility of maintaining internal security and policing (Mahiteme-Sellasie Wolde-Maskel, 1962 (1969), p. 104). Under the 1943 Order, the Ministry’s powers included not only those of oversight of local and municipal administration, but also of registering foreigners, and carrying out programs to address unemployment and the youth. Subsequent amendments, however, transferred some of the

powers of the Ministry to other Ministries.\textsuperscript{117} Consequently, the most important function of the Ministry remained to be that of policing and maintaining internal security.\textsuperscript{118} It continued to have this responsibility during the rule of the \textit{Derg} and during the Transitional Period after the demise of the latter.

The reorganization of the bureaucracy was only one of the measures that Haile Sellassie’s government took up as its legislative agenda in the years following its restoration to power. As Greenfield (1965, pp. 281-282) notes:

\begin{quote}
The year 1942 saw many publications of the \textit{Negarit Gazetta}, proclaiming laws and appointments… Proclamations dealt with all spheres of life of a modern state. There were regulations for police, for justice, for public health, etc., and like the publications of more recent date they were very impressive to read, but bore little relationship to the real state of affairs. These modern institutions and regulations could not function because the feudal society on which they were superimposed allowed them no roots. The feudal and landholding classes considered laws to be irrelevant to themselves and only important in so far as they were useful to further their own aims. The Emperor took the same attitude to parliament which he re-established in 1942, and of which his ministers were not members.\textsuperscript{119}
\end{quote}

\textsuperscript{117} One of these, for instance, was the Ministers (Definition of Powers) (Amendment) Order 46, 1966, \textit{Negarit Gazetta}, Year 25, Issue 23, that transferred the responsibility of carrying out programs to address the problems of youth and unemployment to the Ministry of National Community Development and Social Affairs.\textsuperscript{118} The Ministry of Interior was one of the ministries established by Emperor Menelik. The responsibility of maintaining internal security and policing was among the ones that was assigned to the Ministry by the Emperor (Mahiteme-Sellasie Wolde-Maskel, 1962 (1969), p. 104). It would continue to have this responsibility after the fall of the \textit{Derg} and during the Transitional Period after the demise of the latter. It was reorganized and its powers concentrated on issues of security and immigration by the Security, Immigration and Refugee Affairs Authority Establishment Proclamation 6 of 1995 (\textit{Negarit Gazetta} Year 1 Number 6, 1995).\textsuperscript{119} Greenfield’s point about parliament is an interesting one. As mentioned above, parliament was first established in 1931 under the first written constitution. In the pre-Italian war period, Haile Sellassie had used the institution to balance the power of the traditional nobility with the rising modernists who were his allies. Following the liberation of the country, some of the patriots who resented the Emperor’s exile and his favoritism to his fellow exiles after he reassumed power, engaged in unsuccessful attempts that aimed at establishing a constitutional monarchy following the English
By the 1950s, however, the Emperor had established his absolutist rule. The Emperor’s prestige as an enlightened autocrat was firmly established (Levine, 1961). More significantly, Eritrea with its liberal political tradition and constitution was federated with Ethiopia.\textsuperscript{120} This proved to be a major impetus for a review of the 1931 Constitution and the adoption of the 1955 Revised Constitution (Spencer, 1984, p. 257).\textsuperscript{121} The Constitution, drafted by an American, was influenced by liberal conceptions of human rights derived from the US Constitution and the Universal Declaration of Human Rights (Spencer, 1984, p. 258). Yet, as the American drafter of the Constitution (Spencer, 1984, p. 257) commented:

\begin{quote}
In modernizing the constitution and laws of Ethiopia to bring them in line with the innovations introduced into Eritrea by the UN constitution for that territory, the Emperor was not acting out of liberal motives. Quite the contrary. Behind the screen of this pretext he was pursuing his longstanding policies of centralization and of constructing check-valves against mounting pressure for liberalization.
\end{quote}

\begin{flushright}
model or even a republic with Parliament exercising real power (Greenfield, 1965, pp. 292 - 294).
\end{flushright}

\textsuperscript{120} One of the conditions for the federation of Eritrea with Ethiopia was that it remain as an autonomous unit within the Ethiopian Empire with its own constitution. The Eritrean Constitution drawn up by the United Nations and adopted by an Eritrean Constituent Assembly as part of the process leading to the federation provided for separation of powers, extensive bill of rights, and a multiparty system. It was clearly incongruent with the absolutist 1931 Constitution of Ethiopia that concentrated powers in the hands of the Emperor, did not envisage political parties, and had a minimalist approach to human rights (Tekeste Negash, 2005, pp. 73-80)

\textsuperscript{121} The Revised Constitution of the Empire of Ethiopia Proclamation No. 149/1955. \textit{Negarit Gazetta} Year 15 No. 2.
The 1955 Revised Constitution provided the framework for the process of codifying the laws and adopting the modern codes started in 1954. The codification process started with the establishment of a Codification Commission, and legislative drafting by comparative law experts from France and Switzerland (Aberra Jembere, 2000, pp. 199-201).

With the adoption of the Civil and Commercial Codes in the 1960s the Ethiopian legal system recognized two major forms of juristic persons122 – civil and commercial juristic persons. “Profit” was what constituted the difference between these two types of juristic persons. Article 405 of the Civil Code provides that:

Groupings formed with a view to securing or sharing profits shall be subject to the provisions of the Commercial Code relating to partnerships.

The same shall apply to cooperative and other groupings which tend to satisfy the financial interests of their members by placing them in a position to save money.

The Civil Code governed organizations that did not generate profits to their members designating them as “associations.”123 The Code, however, did not govern all

122 The term “juristic person” refers to those entities that were recognized by the law as having a personality of their own distinct from the individual physical persons that establish, run, or work for them. Such juristic persons include both the for profit and the nonprofit corporation. The state and its divisions were also recognized as juristic persons. The Civil Code of Ethiopia also recognized the State and its administrative divisions, as well as the Ethiopian Orthodox Church and its parishes and dioceses as having a legal personality of their own (Articles 394 – 403 of the Civil Code of Ethiopia). The focus here is on those organizations established by the voluntary will of individuals (and to some extent groupings and organizations).

123 Art. 404 of the Civil Code on the definition of the Association reads: “Definition. An association is a grouping formed between two or more persons with a view to obtaining a result other than the securing or sharing of profits.
not-for-profit organizations as it envisaged the issuance of a special legislation to govern specifically designated organizations such as trade unions,\textsuperscript{124} or religious organizations.\textsuperscript{125} No such special legislation, however, was enacted. Consequently, the Civil Code continued to govern even these types of organizations as “associations.”\textsuperscript{126} Hence, both by design and by default, the major juristic form of a non-profit making organization was that of the association defined by the Code as “a grouping formed between two or more persons with a view to obtaining a result other than the securing of profits.”\textsuperscript{127}

The 1960 Civil Code introduced a comprehensive legal framework to regulate voluntary organizations. As was the case with other sections of the Code as well as portions of the Commercial Code, the Civil Code’s provisions on the regulation of voluntary organizations were forward looking. For the most part, the state of voluntary organizations existing at the time of the adoption of the Civil Code did not require the elaborate and sophisticated legislative framework of the Code. Rather, the Code aimed at establishing the legal framework for voluntary organizations expected to emerge eventually with the progress and modernization of Ethiopian society. In fact, these provisions as indeed, the codification of civil law itself were “based on the idea held in Ethiopia [that] codification in itself was progress, a desirable and even necessary thing for the country” (David, 1962-1963, p. 188).

\textsuperscript{124} Article 406 Civil Code.
\textsuperscript{125} Article 407, Civil Code. Of course, the Ethiopian Orthodox Church and its sub-divisions are not covered by this provision as they are conferred with juristic personality. See note 2 supra.
\textsuperscript{126} Article 406(2) and 407(2).
\textsuperscript{127} Article 404, Civil Code
In the absence of an already existing legal framework to draw principles and rules from the drafter of the Code, the renowned comparative jurist, Prof. Rene David, integrated rules and principles drawn from different jurisdictions in crafting the rules of the Ethiopian Civil Code governing voluntary organizations. His intent, as well as the second innovation that the Civil Code introduced was, establishing a liberal legislative regime regulating voluntary organizations in Ethiopia, that substantially differed from what prevailed in the legal system of the source countries themselves.

The innovative features of the Civil Code were discernible in the technical rules governing the three forms of voluntary organizations it set up. There were three types of voluntary organizations under the Civil Code. The “association” derived from continental European legal sources is one of them that the Code defined as “an act by which a person destines certain property irrevocably and perpetually to a specific object of general interest other than the securing of profit.” 128 Another continental European modeled form of voluntary organization under the Code was “endowment” which the Code defined as “an act by which a person destines certain property irrevocably and perpetually to a specific object of general interest other than the securing of profit.” 129 A third form derived from Common law sources was the “trust.” The Code defined the trust as “an institution by virtue of which specific property is constituted in an autonomous entity to be administered by a person, the trustee, in accordance with the instructions given by the person constituting the trust.” 130

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128 Article 483, Civil Code.
129 Article 483, Civil Code.
130 Article 516, Civil Code. Another type of organization governed by the Civil Code is the “committee”. The committee is a temporary entity established for limited
The approaches that the Code followed in regulating the establishment and supervision of these three types of organizations generally followed those in the source jurisdictions of the rules on the organizations. However, the Code had some features that were common to all organizations distinguishing the regulation of voluntary organizations under the Code from those in the source jurisdictions. In all three types of organizations, except for the restriction on profit making in the case of associations, the establishment of the organizations was not restricted in terms of purposes or in terms of who could constitute them. The Ministry of Interior had the overall power of supervision with respect to the associations and endowments, in line with the general approach that continental legal systems followed. However, the availability of judicial review under the Code checked the supervisory and discretionary powers of the Ministry in regulating associations. Although, similar judicial reviews were not available for the endowment, the virtual similarity between the endowment and the trust curbed the theoretically unlimited powers of the Ministry to regulate endowments.

Six years after the adoption of the Civil Code, the Ministry of Interior issued the Associations Registration Regulations of 1966.\textsuperscript{131} The Regulations were issued based on the enabling provisions in the Civil Code that authorized the Ministry of Interior to issue subsidiary legislation necessary for the implementation of the Civil Code.\textsuperscript{132} The Regulations, however, went further than the scope the Civil Code envisaged for them by widening the discretionary powers of the Ministry of Interior. Under the Civil Code, the purposes of raising funds for a specified purpose. Once its objective is fulfilled, it ceases to exist or is converted to an endowment. (Article 515, Civil Code).


\textsuperscript{132} Art. 479, Civil Code.
Office of Associations under the Ministry of Interior had the perfunctory function of serving as the depository of the bylaws of associations. There was no further requirement for the legal recognition of associations except that of depositing their bylaws with the Office of Associations within three months of their establishment.\textsuperscript{133} Under the Regulations, however, the Office assumed discretionary powers in granting or denying the registration of associations.\textsuperscript{134} The Office of Associations under the Ministry of Interior assumed wide discretionary powers in registering and dissolving associations.

The Regulations were the regime’s response to the growing number of associations that emerged in the late 1950s and especially in the 1960s. More significantly, some of these associations had objectives that went against the very legitimacy of the state. One group of such associations was composed of those formed by the growing number of local Pentecostal churches. As Tibebe Eshete shows (1998, pp. 145-168) starting from the late 1950s, the Pentecostal movement had been making strides in major urban centers and among university students to the displeasure of the Orthodox Church. Although spurred by the activities of foreign missionaries, including sermons by the noted evangelist, Billy Graham, the Pentecostal movement in Ethiopia was mainly a local affair, drawing its resources and missionaries as well as developing its doctrines locally. While unable to get the full support and protection of the state, it was nonetheless able to get the unofficial support of some within the ruling elite, most notably the Emperor himself. Until the persecution of its members started in earnest in the late

\textsuperscript{133} Art. 413, Civil Code.
\textsuperscript{134} Art. 8, Associations Registration Regulation Legal Notice no. 321/1966.
1960s and early 1970s, the Pentecostal movement and its churches were silently tolerated as associations without getting formal registration from the Ministry.

The increasingly political university students were also active in the late 1950s and 1960s trying to form national students unions. Their efforts to form a university wide union were unacceptable to the university administration and the government who were keen to control the students and to keep their organizations within the bounds of the various university campuses and under the supervision of “faculty advisors.” In 1961, the students request to have their union registered by the Ministry of Interior failed to get any formal response from the Ministry (Blasvik, 2005, pp. 103-129).

Ethnic based association that arose in the period were also potentially threatening to the regime in power. Particularly notable among these associations was the Mecha and Tulama Self-Help Association. The Association formed in 1963 with the objectives of promoting local development among and preserving the language and culture of the Oromo. The Oromo were not only the largest ethnic group in the country, but they also constituted the bulk of the population groups that were incorporated within the modern Ethiopian state during Menelik’s expansion to the south, west, and east of Shewa.\textsuperscript{135} The fact that the majority of Oromo were followers of Islam further compounded their

\textsuperscript{135} As mentioned in chapter 3, the Oromo migration following the religious conflicts of the sixteenth and seventeenth centuries changed the populations composition of the Christian Kingdom. The Oromo settled in the heartland of the Christian Kingdom in many cases adopting the religion and state structures of the Christian Kingdom. At least one Ethiopian Emperor had clear Oromo descent and could only speak \textit{Afan Oromo} - the language of the Oromo. During the \textit{Zemene Mesafint} many of the prominent regional nobles of the Christian Kingdom were Oromo. Oromo individuals held high positions within Menelik’s army and bureaucracy, as well as in those of his successors. Nonetheless, many Oromo resented the feudal system imposed on the southern periphery of the modern Ethiopian state as well as the preclusion of the use of \textit{Afan Oromo} from official use.
subordinate status within the Ethiopia state. The Association’s activities drew the attention of the authorities especially when prominent Oromo, including a high-ranking general of the army, joined the Association and began to propagate its causes.

Immediately after the adoption of the Associations Registration Regulations, the government charged the leadership of the Association with violating the provisions of the Regulations and arrested them (Markakis, 1975, pp. 178-181).

Despite the liberal provisions of the 1955 Revised Constitution on human rights and especially the Civil Code’s elaborate framework on voluntary organizations, Haile Sellassie’s regime remained deeply suspicious of and inimical to voluntary organizations. As Markakis (1975, p. 180) observed:

> In the past, collective action for purposes not served by traditional types of associations took two forms: (a) petition to the emperor or other high dignitary; (b) rebellion. The traditionally oriented rulers of Ethiopia today cannot conceive of any middle course between these two extremes. Accustomed to receiving petitions on the part of *ad hoc* groups, they are prone to attribute political motivations to groups that organize on a permanent basis and seek to promote goals independently of the state. As a matter of policy, the government discourages the formation of modern associations through a rigid registration policy, and restricts the capacity of existing associations for action through oppressive surveillance tactics and the maintenance of a general atmosphere of intimidation.

This state of affairs remained unchanged until the fall of the *Derg* in 1991 when the events and processes that led to the enactment of the Charities and Societies Proclamation No. 621 of 2009 began to unfold.
B. THE ADOPTION OF THE CHARITIES AND SOCIETIES PROCLAMATION NO. 621 OF 2009

1. From Uncertainty to Bureaucratic Red Tape

The period immediately following the demise of the military government and the establishment of the Transitional Government of Ethiopia (TGE) in 1991 was one of unprecedented openness paralleled only by the one that prevailed in the period between February 1974 and the assumption of state power by the military in September 1974. The Transitional Period Charter of June 1991 incorporated the Universal Declaration of Human Rights as part of Ethiopian law. Numerous political parties emerged from their underground existence or were newly established. Privately owned and independent newspapers mushroomed and voiced critical views about the newly established government and the EPRDF. A few voluntary associations also came into existence and began activities that were unheard of before, such as human rights monitoring and education and the promotion of democratization. Regional and ethnic based associations also began to operate more freely and openly.\(^{136}\)

Some of these associations were highly visible due to their leadership, such as the Ethiopian Human Rights Council led by the famous and veteran academic Prof. Mesfin Wolde Mariam.\(^{137}\) Others were prominent due to their organizational history and affiliation. This, for instance, was the case with the Oromo Relief Association that used

\(^{136}\) The EPRDF and its member organizations were also actively engaged in establishing ethnic/regional based “development associations” modeled after the Tigray Development Association that was established abroad during the rule of the Derg. 

\(^{137}\) Professor Mesfin was one of the academics of Haile Sellassie University who brought attention to the 1974 famine. In 1991, a few weeks before the military victory of the EPRDF, he proposed the formation of a transitional government led by elders. His proposal was not accepted and was in fact criticized by both the military dictator Mengistu Haile Mariam and the EPRDF.
to serve as the relief agency of the Oromo Liberation Front, the junior partner in the Transitional Government.\(^{138}\) With the global interest in NGOs and the fall of the Derg, Western donors were eager to fund these organizations and their activities.\(^{139}\) Relations between the TGE (and the EPRDF) and some of these newly established NGOs began to deteriorate soon. This was particularly the case with the Ethiopian Human Rights Council (EHRCO). Six months after the establishment of the TGE, and barely three months after its own establishment, EHRCO issued its first biannual human rights report (EHRCO, 1991). The report generally followed the format of traditional international human rights reports and focused on fundamental freedoms. However, it also included a section on “dismissal from jobs.”\(^{140}\) The Report noted that EHRCO had presented its report to the Ministry of Interior seeking the Ministry’s responses to the allegations of human rights violations in the report. According to the Report the response of the Ministry to EHRCO’s request was:

\(^{138}\) The OLF left the Transitional Government in 1992 alleging pressure from the EPRDF in the wake of national and local elections and resumed its armed resistance. The ORA was deregistered and its bank account frozen in 1995 on the grounds that it was providing support to the OLF. It was finally closed down and some of its staff charged with complicity with a terrorist organization in 1997.

\(^{139}\) Despite the availability of funds Ethiopians were cautious about establishing NGOs that have human rights and democratization objectives. As late as 1996 one Western bilateral donor agency returned funds allotted by its headquarters for civil society and democracy promotion because there were no funding applications from Ethiopians (Interview with official of Western donor agency, February 2009).

\(^{140}\) In subsequent reports, EHRCO expanded the topics covered to deal with some issues of economic rights and the democratization process. As a result, EHRCO’s reports also included criticisms of economic and other topics, such as the regionalization and education policies of the government. These criticisms were cited by the government as proof of EHRCOs nature as a political-rather than merely a human rights-organization (Interview with an NGO official, Addis Ababa, February 2009; Interview with a university professor, Addis Ababa, February, 2009).
1. The Transitional Government of Ethiopia is in the process of enacting subsidiary legislation to serve as guidelines for the establishment of various political, human rights, trade union, and other non-governmental organizations.

2. These legislations will regulate the relationship among these non-governmental organizations themselves and their relationship with the government.

3. EHRCO’s legal personality must be recognized pursuant to these regulations. Until these conditions are complied with, the Ministry will find it difficult to respond to EHRCO’s request.

EHRCO’s legal status remained unchanged until 1997. Its relations with the government, both during the Transition and after the adoption of the Constitution of the Federal Democratic Republic of Ethiopia in 1995, however, continued to deteriorate.

The government continued to deny registration to EHRCO arguing that the activities the latter engaged in were politically partisan, and it should seek registration under the Political Parties Registration Proclamation (Desalegn Rahmeto, 2002, p. 110). EHRCO continued to deny these charges, and persisted in seeking registration under the 1960 Civil Code as an association. Though not registered, EHRCO continued to operate and issued regular and special reports on human rights in Ethiopia. In 1995, however, the Commercial Bank of Ethiopia blocked EHRCO’s bank account maintained at the bank because it was not registered (EHRCO, June 1995). The Ministry of Justice finally registered EHRCO in 1999 (Desalegn Rahmeto, 2002, p. 110).

The registration problem that EHRCO had with the Ministry of Interior was not unique. Just as in the Imperial era, the wide latitude that the Ministry had in determining whether an association can be registered meant that for those associations engaged in non-traditional activities, registration depended, for the most part, on personal connection and clout. This was particularly true for organizations intending to engage in human rights and democracy promotion activities.
Organizations registered prior to 1997 had to use various means to register. The Ethiopian Women’s Lawyers’ Association (EWLA), a prominent women’s rights organization, had to rely on the personal connection of its founders with government officials, including the Minister of Justice, the Vice Minister of Interior, and the Chairman of the Constitution Drafting Commission to pressure the Office of Associations Registration to grant its Certificate of Registration.\footnote{141 Personal communication with a member of EWLA, March 2009. EWLA would later face the registration problem again when the Ministry of Justice suspended its registration following a critical opinion about the handling of a criminal case by EWLA.} The Society for the Advancement of Human Rights Education, an association formed by curriculum experts at the Ministry of Education, was able to register because its founders had close personal and professional relations with the Minister of Education who wrote a letter to the Ministry of Interior supporting the registration of the association.\footnote{142 Personal communication with former member of SAHRE, March 2009.}

Some organizations avoided the Ministry of Interior and registered with other agencies. The Inter-Africa Group designated itself as a regional organization and was able to enter into an agreement that allowed it to operate as an international NGO with the Ministry of Foreign Affairs.\footnote{143 Interview with independent consultant, February 2009.} Action-Professionals’ Association for People (APAP), an organization that engaged in human rights education and legal aid, could not be registered with the Ministry of Interior. The RRC registered APAP as an NGO when the latter presented a proposal and managed to convince the Commission (RRC) that its legal
aid program fell within the mandate of the Commission as it aimed at poverty alleviation\textsuperscript{144}

In fact, the RRC continued its practice of registering NGOs that had started during the \textit{Derg} and that helped avoid the problem of granting legal recognition to Western NGOs under the Civil Code of 1960. Its registration, however, was limited to those NGOs that were engaged in relief and, to some extent, development activities. Most of these were international NGOs although, after 1991, indigenous NGOs also began to appear and soon their number overtook that of international NGOs.

Despite the good relations it had with many international NGOs during its time of armed struggle against the \textit{Derg}, the EPRDF and the government it led were wary about NGOs in general. Some believe that the EPRDF’s experience as an insurgent movement, when international NGOs provided it with critically important material support and crucial diplomatic cover, was a factor in shaping the Front’s critical views about international NGOs. In the words of one such observer, “the TPLF knew exactly how effectively subversive humanitarian assistance can be” (Lautze, Raven-Roberts, & Teshome, 2009, p. 20). The EPRDF government was also eager to reverse Ethiopia’s image as famine ridden and aid dependent. It also wanted to ensure that the humanitarian tragedy of the 1974 and 1984 famines would not happen again. It was keen to assume the dominant role in achieving this objective and viewed the role of NGOs, especially international ones, as only supplementing its own efforts (Clark J., 2000, p. 20).

\textsuperscript{144} APAP’s registration with the RRC continued until 1995 when the Commission deregistered APAP and forty six other NGOs. It was reregistered in 1997 by the Ministry of Justice.
The National Policy of Disaster Prevention and Management adopted soon after the EPRDF came to power was an instrument in which the TGE formulated the respective roles of the government and NGOs in addressing the humanitarian and development needs in the country (Transitional Government of Ethiopia, 1993a). As expressed in the Policy, the adoption of the policy was necessary: “so that relief assistance is provided to the affected population in a manner which ensures that such efforts contribute towards disaster prevention and sustainable development, and that disaster prevention activities get due attention in the government’s development efforts” (Transitional Government of Ethiopia, 1993a). The policy provided for a comprehensive mechanism of disaster management with different bodies assigned different responsibilities. Section II (9) of the Policy defined NGOs as “humanitarian organizations which, using their own resources, participate in the country’s efforts to eliminate poverty” (Transitional Government of Ethiopia, 1993a, p. 3). The Policy required that “every NGO desiring to operate in the country must register with the RRC” (p. 9). It further authorized the RRC to make policy directives to govern NGO operations (p.3).

The Directives for Disaster Prevention and Management further elaborated the broad framework of the National Policy of Disaster Prevention and Management (Transitional Government of Ethiopia, 1993b). Detailed rules governing NGO were set forth in the Directives. NGOs had to follow the RRC’s instructions in the types of activities they carried out and the kind of assistance they provided. They needed to obtain the approval of the RRC to work in any area or with any population group (Transitional Government of Ethiopia, 1993b, pp. 34-35). Their application to the RRC
for registration had to “among other things specify…(a) the type of activities they intend
to be involved in; (b) the areas where they prefer to undertake such activities; and (c)
their physical and financial resources” (p. 35).

Under the Directives, the RRC had one month to make its decision on whether to
register an NGO that applied for registration. Once the RRC approved the application,
the NGO had to secure the approval of the concerned regional state council that had the
power “to give sanction to the proposal, with or without modification or refuse sanction”
(p. 35). NGOs were also obligated to submit periodic reports on their activities “at the
respective levels” and to have their activities “open for inspection” by “concerned
authorities.” That both the Policy and Directives were very intrusive and restrictive of
the organizational independence of NGOs was clear. For the NGOs at the time, who
were almost exclusively international and mainly focused on delivering humanitarian
assistance, however, the major problem that the Policy and Directives posed were the
bureaucratic red tape and the excessive reporting requirements (Lautze, Raven-Roberts,

There was, however, another problematic aspect. The Policy and Directives
essentially continued the bifurcated approach in the regulation of voluntary associations
that emerged during the Derg. Under the rule of the latter, the approach could work
smoothly because it was not possible to organize any voluntary organization except
traditional mutual aid societies like the Idir and associations organized and sanctioned by
the state itself. The Transitional Period Charter (and subsequently the 1995
Constitution), however, introduced liberal principles of human rights, including the
freedom of association.
Despite the extensive powers that it had under the Policy and Directives, the RRC did not have the necessary resources to discharge fully and efficiently its functions of licensing and monitoring NGOs. The inexperience and limited resources in the newly established regional Relief and Rehabilitation Bureaus further exacerbated the regulatory problem NGOs faced in the regions. As a result, the RRC was unable to promptly deal with the increasing requests for registration by NGOs, especially indigenous ones that led to a backlog of applications. Even worse, the Commission was unable to monitor effectively the implementation of project agreements that it entered into with NGOs.145

In 1995, the Constitution of the Federal Democratic Republic of Ethiopia was adopted (the FDRE Constitution).146 It made the linguistically-based ethnic federal arrangement adopted during the transition period permanent, with nine states constituting the federation.147 Article 51 of the Constitution specifies the areas of federal jurisdiction over which the federal government exercises enumerated powers while residual powers are vested in the states by Article 52(1). Following the adoption of the Constitution, the agencies of the federal government and their powers were redefined. The former Ministry of Interior was dismantled.148 The responsibility of registering not-for-profit

145 Interview with former official of the RRC, March 2009. At the time there were also allegations of corruption among RRC staff who were rumored to curry personal favors from NGOs, and of NGOs trying to improperly influence the concerned officials. However, there has not been any proven case of such corruption.
147 FDRE Constitution Articles 46, 47 and 50.
148 See footnote 63 above.
associations was transferred to the Ministry of Justice.\textsuperscript{149} The Relief and Rehabilitation Commission was reorganized as the Disaster Prevention and Preparedness Commission (DPPC).\textsuperscript{150} The regulation of voluntary associations including NGOs was divided between these two agencies. Article 23(5) of Proclamation 4 of 1995 empowered the Ministry of Justice to “register, in cooperation with other concerned organs, non-profit making foreign organizations, and trans-regional associations.” The DPPC retained the responsibility of coordinating and supervising the “relief assistance of nongovernmental organizations” as per Article 6(10) of Proclamation 10 of 1995.

The transfer of responsibilities from the Ministry of Interior to the Ministry of Justice did not bring much change immediately. This was only natural in as far as it was not only the responsibilities of the former Ministry of Interior that were transferred, but also its procedures and, perhaps more important, its staff. Nevertheless, gradual changes began to take place. Mostly these changes related to the way the Office dealt and interacted with NGOs. The Office of Associations Registration moved to the relatively more accessible Ministry of Justice from the secretive premises of the Ministry of Interior.\textsuperscript{151} As all NGOs, including international ones, were required to reregister with

\textsuperscript{149} Article 23(9) of Definitions of Powers and Duties of the Executive Organs of the Federal Democratic Republic of Ethiopia Proclamation No. 4 of 1995. \textit{Negarit Gazeta}, Year 1, Number 4.

\textsuperscript{150} Disaster Prevention and Preparedness Commission Establishment Proclamation No. 10 of 1995. \textit{Negarit Gazeta}, Year 1, Number 10.

\textsuperscript{151} The Office of Associations Registration was housed not in the main office of the Ministry of Interior in the central parts of Addis Ababa, but in the separate compound of the Department of Internal Security located at the Old Airport neighborhood of the City. The compound had a nefarious reputation as the underground site of detention and torture during the time of the Derg. Whether the reputation was deserved or not, it had an intimidating effect. That effect was amplified even more as applicants to the Office of Associations Registration were made to wait outside the high walled compound to hand
the Ministry of Justice, they were able to establish regular contacts and cordial relations with the staff of the Office. Through these contacts and regular interactions, the staff of donor agencies and of the NGO desk of the DPPC, as well as representatives of NGOs were able to explain to the staff of the Office the operations of NGOs, thus helping foster a less suspicious outlook about NGOs.\textsuperscript{152}

In 1996 and 1997, some international NGOs and donor embassies, notably the USAID funded PACT, organized a series of exposure tours for the head and some of the staff of the Office to visit countries with a more open regulatory approach to NGOs (PACT, 2003). NGO staff that travelled with the head and staff of the Office were able to establish personal and cordial relations with the latter and convey to them information about the contribution of the NGO sector and its challenges. The employment of recent law graduates to staff the Office further bolstered this positively shifting attitude towards NGOs.\textsuperscript{153}

The more cordial atmosphere towards NGOs within the Office notwithstanding, the overall regulatory framework did not change much. In 1996, the Ministry of Justice issued a document that was entitled the Associations Code of Conduct. The document enumerated seven “cardinal values” to guide the conduct of NGOs.\textsuperscript{154} Each value had several broadly formulated obligations imposed on NGOs under it. Thus, the value of probity entailed obligations of not abusing privileges, and avoidance of conflict of

\textsuperscript{152} Interview with former official of the Ministry of Justice, February, 2009.
\textsuperscript{153} Interview with former official of the Ministry of Justice, February 2009.
\textsuperscript{154} The seven “cardinal values” in the document were probity, self-regulation, justice, service, cooperation, prudence and respect.
interest. “Self-regulation” included the duties of carrying out periodic appraisals and evaluations. Under “service,” there was the obligation of striving to fulfill “unmet basic needs.” The value of “respect” entailed the duties of respecting the laws, and policies of Ethiopia as well as the duty of strict observance of the conditions of authorization issued by the Ministry. Noncompliance with the Code was a ground for unspecified “administrative sanctions” by the Ministry.

Though designated as a “code of conduct” applicable to all associations as defined by Article 404 of the Civil Code, the actual targets of the document were international NGOs and especially those that fund the operation of indigenous NGOs and groups.\(^1\) The Ministry also required international NGOs to sign a Memorandum specifying the conditions and restrictions they had to respect. Typically, these Memoranda proscribed international NGOs from engaging in political or similar activities that would influence policy issues.\(^2\) More significantly, international NGOs were to fund only those organizations registered by the Ministry and only upon the prior approval of the Ministry. Moreover, each Memorandum had as an attachment a list of organizations that each international NGO could work with.\(^3\)

\(^1\) The Ministry did not officially publicize the Code of Conduct. It rather made it part of the agreement that international NGOs enter into as part of the registration process.

\(^2\) One such restriction was the prohibition against carrying out public opinion surveys.

\(^3\) An immediate consequence of this requirement was that international NGOs that were funding the activities of human rights related NGOs stopped their funding. Ethiopian human rights NGOs, however, continued getting funding from bilateral aid agencies as well as from northern NGOs that did not have a physical presence in Ethiopia.
Apart from these limitations on international NGOs, all NGOs were required to register with the Ministry. After they secured their certificates of registration, NGOs that engaged in relief and development related activities had to enter into an operational agreement with the DPPC. They were further required to enter into a project agreement with the regional state where they would carry out their project. With the growing number of indigenous NGOs that began to get involved in activities other than those aimed at addressing the immediate humanitarian needs of relief and development – commonly referred to as “advocacy NGOs” - the bifurcated regulatory approach that had emerged during the rule of the Derg was extended to NGOs. Thus, only the Ministry of Justice dealt with “advocacy” NGOs while both the Ministry and the DPPC dealt with relief and development NGOs.

The bureaucratic red tape that was involved in the registration process was considerable, leading to a backlog of applications at every stage. Both NGOs and donor agencies continued to press for a simplified process. With its membership composed of more indigenous NGOs than international ones, the CRDA started initiatives aimed at simplifying the registration process and, in general, of improving the legal environment of NGOs.

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158 If an NGO’s operations were limited to one regional state only and it was based in that state, it had to register with the justice office of the regional state and enter into an agreement with the regional relief and rehabilitation office.

159 Such advocacy NGOs include those working on human rights, gender, the rights of different sectors of society, such as children and the disabled, and policy advocacy on different issues ranging from the environment to poverty.

160 International NGOs were also involved, usually indirectly, through funding and facilitation of discussions, in efforts seeking the improvement of the legal environment of NGOs. They were also more influential among the donor agencies and missions.
Other organizations, most notably the USAID funded PACT, were also trying to influence the regulatory environment mainly concentrating in what they referred to as raising awareness on the role and working environment of NGOs through the organization of workshops and consultation meetings (PACT, 2003). In March 1997, the CRDA joined these groups to constitute the Ad Hoc NGO Consultation Working Group tasked with drafting a Code of Conduct for NGOs. After negotiations that took nearly two years, the Group finalized a Code of Conduct. In 1999, a meeting of nearly two hundred NGOs officially adopted the Code of Conduct for NGOs in Ethiopia. The Code of Conduct specified its purposes as those of ensuring transparency and accountability, improving service delivery by NGOs, and improving communication between NGOs and “various stakeholders.”

One area of disagreement among NGOs made apparent during the negotiations of the Code of Conduct was defining the mission of NGOs. The issue came to the fore with growing number of NGOs involved in human rights and democracy promotion activities that challenged the traditional role of NGOs in service delivery. Many indigenous NGOs that addressed the immediate survival needs of different population groups, ranging from caring for orphans to providing safe drinking water to rural and pastoralist communities, were uncomfortable with an expansive view of the role of NGOs.  

An indigenous NGO’s representative who was active in the negotiations of the code of conduct at the time saw the debate as between two types of NGOs. The first group of NGOs saw at least some of the human rights and democracy promotion NGOs,  

as motivated more by opposition to the government than a genuine concern for development. On the other hand the push for the inclusion of advocacy as the proper field of engagement by NGOs was made by those NGOs whose views of “development” was informed by the “capability” approach to development elucidated by Amartya Sen and adopted by activist NGOs elsewhere in the world. The prevailing view among NGO during the negotiation of the Code of Conduct and at the time of its adoption was that NGOs should eschew any activity that might be construed as “political” by the government. For many NGO leaders, in fact, the question boiled down to whether the government would allow them to operate if their activities could be viewed as “political” - the answer to which they suspected would be “no.”

The concern that NGOs had about being on the wrong side of the government was well founded. As already mentioned, EHRCO was denied registration and its bank accounts were seized. Another human rights NGO, APAP, had its registration cancelled and its bank account seized too. From 1996 to 1997, the government closed down and arrested some of the staff of two NGOs, the Oromo Relief Association, and the Human Rights League, who were charged with providing support to the rebel Oromo Liberation Front (Amnesty International, 1997). The formulation of the nature and mission of NGOs in the Code of Conduct was crafted carefully to accommodate the concerns of NGOs in the Code of Conduct was crafted carefully to accommodate the concerns of

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162 Sen (1999, p. 3) viewed development as expanding, through rights and entitlements, the capability of individuals to a life of freedom from deprivation and tyranny. His views formed the basis of what came to be known as the “rights based” approach to development adopted by many NGOs in developing countries. The approach reorients NGOs from immediate welfare and service delivery to focus on the policy and institutional context of their operations by engaging in advocacy, and working for democracy (Molyneux & Lazar, 2003, pp. 6-7).

163 Interview with informant cited at note 143 above.

164 Ibid.
both the activist and the more cautious NGOs. The Code defined an NGO to be “a voluntary, not for profit, non-self-serving, non-governmental, non-partisan and independent organization or association involved in the promotion of social justice and development.” It also specified that:

Our mission as NGOs operating in Ethiopia is to improve and advance the public good, the quality of life of those who are disadvantaged and vulnerable, and the proper management of the environment for future generations. To realize this mission, NGOs shall seek to empower and build community capacity, and provide services for sustainable development. They shall also work in partnership with each other, the Government, and the public.\textsuperscript{165}

The Code specified twelve “standards of conduct” for NGOs to abide by.\textsuperscript{166} Under each standard, the Code specified a number of obligations totaling thirty-nine that signatories of the Code committed themselves to. All of the obligations were directed at the organizations and operations of the NGOs themselves. The careful wording of the Code’s standards and commitments was designed to shield the signatories from any accusation of being engaged in “political activities.” Equally importantly, however, they were meant to protect them from pressure by the government and to help them maintain their organizational autonomy.

\textsuperscript{165} NGO Code of Conduct, p. 3.

\textsuperscript{166} These were: people centeredness; fairness and equity; moral and ethical integrity; transparency and accountability; good governance; independence; communication and collaboration; gender equity; environmental consciousness; and sustainability of impact.
The standards comprised the first part of the Code, while the second part provided a mechanism of code observance. The self-regulatory body of code observance consisted of a general assembly of all signatories of the Code and a Code Observance Committee. The latter was made up of five members elected by and from among the general assembly and two representatives of “civil society” elected by the general assembly. The general assembly had the authority to “evaluate the status of adherence of the standards of conduct by signatories” as well as “to hear appeals from the decisions of the Code Observance Committee.” The Code Observance Committee was responsible to promote awareness about, and to ensure compliance with, the Code. It also reviewed and made decisions on complaints of breach of the Code of Conduct by an NGO or its staff.

The Code also laid down a complaint procedure for “any person” to lodge a grievance against a signatory NGO or its employee. After fulfilling procedural requirements, including the prima facie existence of a case, the Code Observance Committee would hear a complaint. If it determined that the case had merit, the Committee could take a number of measures aimed at educating the offending NGO. It could also recommend the suspension of the NGO by the general assembly.

From among the nearly 200 NGOs that attended the initial meeting about the Code mentioned above, 165 signed the Code (CRDA, 2000, p. 11). Initially, CRDA hosted the secretariat of the Code Enforcement Committee and assigned a staff member to work as the secretary of the Committee. Although its enforcement mechanisms were weak, the adoption of the Code was considered by donor agencies in the Development

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167 The Code defined “civil society” as “all other formal and informal groups and associations that are not of the public and business sectors” excluding NGOs.
Assistance Group as an encouraging step in assuring both the accountability and independence of NGOs. 168 There were, however, views that were critical of the Code. The major one of these was its limitation to relief and development NGOs and its exclusion of advocacy NGOs. 169

The enforcement of the Code proved to be challenging. 170 There were several reasons for this. Most signatories of the Code were not actively promoting or disseminating it. As a result, not many staff members of NGOs or their beneficiaries were aware of the Code or its complaint mechanisms. Complaints, when made, tended to be administrative ones by staff members, who, at any rate, had better and more effective mechanisms of redress than what the Code provided. Some of the members of the Code Enforcement Mechanism were not enthusiastic about their duties either. 171

It is difficult to say that the Code had accomplished its objective of contributing to the creation of a more enabling environment for NGOs. As events proved later, not much seems to have been taken from the Code to shape a positive outlook about NGOs by the government. While during the negotiation of the draft bill on NGOs with the Ministry of Justice and during the processes leading to the enactment of the Charities and Societies Proclamation No. 621 of 2009, NGOs referred to the adoption of the Code as proof of their self-regulation, the government did not take much notice of these arguments.

168 Interview with program officer of a bilateral development aid agency, March 2009.
169 Interview with informant cited above at note 148.
170 This paragraph is based on interviews with the informant cited at note 48 above and with former senior official of the CRDA, February 2009. Both informants were intimately involved with the enforcement of the Code.
171 The Committee members had to juggle attendance at the meetings of the committee with their office duties and it was difficult to arrange meetings convenient for all members.
Meanwhile, other processes were unfolding that did influence, however transiently, the government’s approaches towards NGOs.

2. The Period of Positive Engagement
In 1998, a border dispute between Ethiopia and its newly independent former province of Eritrea escalated to a full-fledged war. One of the consequences of the war was a split within the upper echelons of the TPLF that soon boomeranged across all other member organizations of the Front at all organizational levels. The conflict that had been simmering for some time opened in public in March, 2000. As the intra-party conflict escalated the group led by the chairman of the Front, Prime Minister Meles Zenawi projected the conflict as an ideological contest on the nature of the party and the domestic governance of the country, accusing its opponents of corruption and authoritarian tendencies. It also pushed for further liberalization of the economy and devolution of power. The group led by Prime Minister Meles Zenawi emerged victorious and purged its opponents from the Front and from the government position they had held (Medhane Tadesse and John Young, 2003). In the months following the resolution of the intra-party conflict, the EPRDF began publishing and conducting public discussions on several policy documents that reflected the position of the winning group and that formed the framework for several policy directions, including those relevant for the regulation of NGOs. The next paragraphs discuss these documents.

In a series of publications released in 2001 and 2002, and discussed in public for several weeks, the EPRDF outlined its policies on a number of subjects including

industrialization (FDRE, 1994(2002)), democratization (FDRE, 1994 (2002)), capacity building (FDRE, 1994 (2002)), rural development (FDRE, 1994 (2001)), and foreign policy (FDRE, 1996 (2004)). In two of these documents, the Front explained its thoughts about voluntary associations. Part three of the document on rural development dealt with the role of leadership. It characterized the participation of the rural population in the development process not only as essential but also as critical for the rural development strategies and programs to succeed (FDRE, 1994 (2001), pp. 243-244). Among the mechanisms suggested to generate such participation, two were the establishment of associations for women and youth starting at the lowest kebele level (pp. 256-264).

The document on democratization (FDRE, 1994 (2002)) also dealt with the subject of associations. The document emphasized the critical importance of a democratic order for peace and development, as well as for the survival of the country itself (p. 13). It outlined what were suggested as necessary measures to strengthen the democratic character of the legislative, executive, and judicial organs of the state and to ensure the institutionalization of democracy. It also identified necessary actions to ensure grass roots participation through what it referred to as ‘popular associations” and “popular institutions.”

In a section that dealt with “mass and professional associations in the democratization process” the documents detailed EPRDF’s views on the nature of voluntary associations (FDRE, 1994 (2002), p. 127). Accordingly, the document characterized these associations as necessary to rectify the shortcomings of opposition political parties and the mass media that it viewed as constrained in positively contributing to the democratization process (FDRE, 1994 (2002), p. 127). To discharge
this responsibility, these voluntary organizations should be open in their membership, democratic in their organization and operation, and capable of representing the interest of their constituent members [127-138]

The view of associations outlined by the two documents was not one that might resonate with professionally organized NGOs that have few, if any, membership. It was also the expression of an instrumental view of associations as mechanisms of mobilizing the grass roots to participate in the structures and processes of the state, or more appropriately the Front. Far from the Tocquevillellian view of diverse associations of individuals gathered around issues of common interest, the associations envisaged in these documents were mainly ascriptive in character, and presumed to operate under the leadership of the Front. In fact, the only significant mention of NGOs was in the document dealing with foreign policy (FDRE, 1996 (2004)). According to the document, the government’s policy towards international NGOs should be based on helping international NGOs to bring into the country the material resources needed to supplement the government’s development efforts while noting that there would be unspecified areas of differences with these NGOs (FDRE, 1996 (2004), pp. 157-158).

“Decentralization” and “civil service reform” were two subjects dealt with in almost all of these documents. Both were described as necessary to ensure the success of the democratization process and development. The government started the process of devolution of state power with the establishment of the regional states during the Transition Period. In 1996, a civil service reform program was also launched that was “designed to improve the efficiency, effectiveness, and transparency of public institutions” (World Bank, 2005, p. 6). The Bank, however, described the
implementation of the program as ‘cumbersome, partly due to its attempts to plan the entire process and ‘get it right the first time’, and partly because the executing office was under staffed and over-controlled” (p. 6). In 2001, another capacity-building program designated the “National Capacity Building Program” with multi-donor support and covering some fourteen sectors was launched (World Bank, June 27, 2002, p. 4). The Program was designed to further devolve state power to the werda level and to improve service delivery by government agencies at the federal level.

Viewed from a broader perspective than their technical nature, the restructuring of state power under a federal arrangement after 1991 undergirded the capacity building programs of both 1996 and 2001. The capacity building and decentralization programs were also carried out in the context of the structural adjustment programs and poverty reduction strategy papers that the World Bank proposed to restructure and reform the public sector dominated economies of most African countries (World Bank, June 27, 2002, pp. 2-5).

Public sector reform was on the agenda of the World Bank since at least the 1980s Strategic Adjustment Programs (SAPs). Ayee (2008, p. 56) identified three phases in the Bank’s engagement with civil service reform. The first phase that lasted from the 1980s to the 1990s, focused on measures that were geared towards attaining macroeconomic stability. The second phase, lasting from the mid 1990s to 2000, concentrated on “performance and civil service management.” The third phase started after 2000 and was aimed at improving service delivery.

The third phase public sector programs translated the proposals that the World Bank adopted in its 1997 World Development Report (World Bank, 1997) into
programmatic action (Ayee, 2008, p. 60). The Report called for a better performing public sector that is accountable, closer to the public, legitimate and focused on efficiently providing the services that it is capable to deliver. Emphasizing the significance of the legitimacy of the state for development to succeed, the Report insisted that this legitimacy should be sought not only through regular, free and fair elections but also by ensuring the representation of the interest and voice of various sectors of society. In this connection, the Report acknowledged the contribution that NGOs can make to development and to the legitimacy of the state in general. While acknowledging the potential for abuse, and the continuation of existing patterns of imbalanced power relationships, within NGOs and other voluntary associations, the Report (World Bank, 1997, p. 116) observes that these organizations,

given the many obstacles facing ordinary citizens, especially the poor, in articulating and pressing their needs, these associations play a vital role in channeling their voice and in public affairs. And those organizations that genuinely work in the public interest can be valuable partners in economic and social development.

Third phase public sector reforms were carried out following the 1997 World Development Report are marked by their emphasis on “provision of basic services through processes driving pluralisation, decentralization, and participation; beneficiary surveys, self-appraisal exercises, performance improvement plans by public servants, customer-friendliness and responsiveness and Poverty Reduction Strategy Plans” (Ayee, 2008, p. 57).

Ayee (2008, p. 68) notes that:
trends in reforming the public sector in Africa show that they had been
influenced by both liberalization and democratization. It is perceived that
donors, rather than ‘home grown’ forces have driven them. Each trend
placed emphasis on accountability and improved service delivery.

Yet, it is important to note that the civil service reform programs in Ethiopia that
had started in the early 1990s predated the launching of the third phase reforms. They
also had a strong internally driven political objective of restructuring the centralized state
in a federal arrangement (Ministry of Finance and Economic Development (MoFED), July

Within the broad framework of public service reform, the Ministry of Justice also
implemented reform measures to efficiently deal with applications for registration by
NGOs. Simplifying the process of registration began as early as 1997. By 2000 a report
in the International Center for Nonprofit Law Journal (International Center for Not-for-
Profit Law, 2000) quoted some NGO officials in Ethiopia as saying that the problem of
registration had “evaporated” with new and transparent processes set in the Office of
Associations Registration at the Ministry of Justice. In the same report, however, another
NGO official remarked that the process still “takes too long to have an initial registration
application approved; the bureaucratic requirements for the filing of various associated
documents are numerous and consume inordinate time and resources.” Another NGO
official quoted in the report also complained about the absence of an “effective

173 For a discussion of the context and effects of the decentralization programs in
Ethiopia see Tegegne Gebre-Egziabher and Kassahun Birhanu (2007)
mechanism for appealing decisions on the granting of registration to NGOs or of the revocation of registration status beyond the Ministry of Justice.”

In 2003, the reform process culminated in an overhaul of the registration system that led to significant efficiency in the system. In November 2003, the head of the Office of Associations Registration announced “the Ministry of Justice has managed to complete registration of NGOs and associations [which used to take more than a year] in less than a week” (Ethiopian News Agency, 2003).

Encouraged by the overall positive atmosphere, NGOs began making more demands for a comprehensive legislation to govern their establishment and operations. This was particularly noticeable during the consultation process leading to the adoption of the Sustainable Development and Poverty Reduction Program (SDPRP). NGOs participation in the consultation process of the SDPRP was quite extensive. The final Program adopted gave prominence to the involvement of NGOs in the various sectors of the economy as well as to their demands for the deepening of the democratization process and the creation of an enabling environment for civil society (Ministry of Finance and Economic Development (MoFED), July 2002, pp. 168-173). One component of the Program was that of building the capacity of civil society organizations (p. 49).

174 The Sustainable Development and Poverty Reduction Program was a three year program that Ethiopia began to implement in 2002 as part of the poverty reduction strategy paper process. It was succeeded in 2006 by the Plan of Accelerated and Sustainable Development to End Poverty (PASDEP) (Ministry of Finance and Economic Development, 2006, p. 1).

175 The Program did not elaborate on how this component would be implemented. The Ministry of Capacity Building was responsible for this component. Subsequent to the adoption of the Program, the Ministry established a civil society capacity building project unit. It also submitted a project proposal to the World Bank for funding. Many NGOs did not like the government’s initiative, seeing it as posing the risk of undue
A more opportune moment for NGOs to advocate for a better legal environment presented itself when the Ministry of Justice began drafting legislation on NGOs and invited several NGOs to take part in a workshop held from June 3-4 2002. At the end of the workshop three NGOs were selected by the attending participants to work with the legal drafting committee of the Ministry of Justice. One of them was the CRDA. The two other NGOs, Action-Aid Ethiopia, and PACT were both international NGOs indicating the initial reluctance of indigenous NGOs to participate in the process. In the course of the negotiations with the Ministry, more indigenous NGOs exhibited interest and began to take part in the legislative drafting process. Thus, by 2003 when an NGO Legal Framework Taskforce was established, thirteen NGOs became members, none of whom were international NGOs. In July 2004, dissatisfied by the Justice Ministry’s reluctance to incorporate their recommendations into its drafts, the members of the NGO Legal Framework Taskforce decided to prepare their own draft. After discussing their alternative draft with other NGOs, they submitted it to the Ministry of Justice in October 2004.

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176 Action-Aid Ethiopia is part of the network of Action-Aid International. The latter views its local affiliates as independent NGOs indigenous to their country. The representative of Action-Aid on the committee elected to represent NGOs in the drafting process was Daniel Bekele, an advocate, who would be charged and convicted in the aftermath of the 2005 elections.

177 PACT is an American NGO that is under contract with the USAID to implement the latter’s program of supporting local NGOs and other voluntary organizations.
3. The 2005 Elections and Their Aftermath

While negotiations about the draft legislation were being conducted between the Ministry of Justice and NGOs, Ethiopia was gearing up for the 2005 elections to federal and state parliaments. Since the fall of the Derg in 1991, three countrywide elections were held. In 1992, the first nationwide elections for regional and local councils were held during the transition period. The main contender with the EPRDF, the OLF, withdrew from the process just days before the election leaving the field uncontested for the victory of the EPRDF (Lyons, 1996, pp. 126-128). In 1994, elections for the constitutional assembly were held. The small oppositions, as it existed, withdrew from the elections alleging harassment (Lyons, 1996, p. 130). In 1995, elections were held for the Federal Parliament as well as regional councils. The weakened opposition parties, who at any rate claimed harassment and intimidation, were no match to the EPRDF that again won with few seats held by some prominent opposition figures (Lyons, 1996, p. 132). The second nation-wide elections for the federal parliament held in 2000 were more open and competitive than previous elections, though they still failed to be truly free and fair (Pausewang, Tronvoll, & Aalen, 2002, p. 23)

In the 2005 elections, the EPRDF committed itself to a more open and competitive election. Many NGOs saw the elections as an opportunity to take part in the political process more assertively. A June 2004 report by the International Foundation for Electoral Systems (IFES, June 2004, p. 7) found that, spearheaded by the CRDA, several NGOs had already organized a taskforce to monitor the elections. The state controlled media was opened for use by opposition parties. For the first time in modern Ethiopia’s history, public and live debates were held between the representatives of the
ruling, and opposition parties. In one of these debates, the representative of EPRDF criticized NGOs, questioning their contribution to development and accusing them of mismanaging resources. Six NGOs responded to the accusation in an open letter addressed to Prime Minister Meles Zenawi in his capacity as the chairperson of EPRDF. 

Far from the tone of diffidence that NGOs were used to in their dealings with government offices, the letter was very assertive. It began by highlighting the contributions of the NGO sector to the national economy and noted, “the limited studies conducted on NGOs indicate that 20% and above of total aid in the country is channeled through NGOs [and that] it is hardly possible to state that NGOs work is negligible.” After remarking on the participation of NGOs in the sustainable development and poverty reduction program (SDPRP) as well as the capacity-building program, the writers of the letter asserted, "we believe taking advantage of such collaborations the government can benefit from considering NGOs programs in its development plan, thereby maximizing resources. Dialogue and debate between our two sectors can help in fostering this, should the government consider such mechanisms.” Noting that NGOs are legally registered organizations that work closely with and periodically report to the government, the letter also stated, “accountability is an important element in the work of NGOs. The sector is morally accountable to the Ethiopian people who are the primary recipients of development benefits. In conclusion, the letter characterized the remarks made by the

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178 The six organizations were the CRDA, constitution for Reproduction Health Alliances, the Ethiopian Inter-Faith Forum development Dialogue and Actions, Environmental Development Action, Emergency Civil and Social Education Center. Good Governance Forum, the natural NGO forum, and the Return of Ethiopian Women’s Association. (Open Letter to H.E Ato Meles Zenawi, Oct 4, 2004.)
representative of the EPRDF in the debate as one that “undermines the work and image of the sector” and demanded “the withdrawal of the statements.”

The letter in terms of its content and its tone, as well as, in the manner it was publicized, was an indication of the degree of confidence that NGOs, especially indigenous ones attained over the past few years. It was also symptomatic of the opposition to the EPRDF that was gaining momentum at least in urban areas and among the urban middle class in the context of the run up to the 2005 election. This opposition to the EPRDF in urban areas was demonstrated in the results of the election where the EPRDF performed poorly in most urban areas, and lost all twenty-three seats to the Federal Parliament in Addis Ababa to the main opposition group, the Coalition for Unity and Democracy-known by its Amharic name of Kinijit. Some professional associations, such as the Ethiopian Economics Associations had clearly stated policy positions that contradicted the EPRDFs views and policies. In fact, some members of the leadership of the opposition were in the leadership of NGOs as well. One of the most visible figures of the leadership of the opposition, Dr. Birhanu Nega, was in the leadership of the Ethiopian Economics Association, while another opposition leader Dr. Alemayehu Areda was a member of the board of directors of the CRDA.

As the campaigning in the election intensified, the relations between the government and the NGOs sector in general and some NGOs in particular deteriorated further. In early May 2005, Prime Minister Meles Zenawi accused the opposition of employing election rhetoric, comparable to that of the Interahamwe militia during the genocide in Rwanda, designed to incite ethnic conflict (Aalen & Tronvoll, 2009, p. 195). As Election Day approached, the National Election Board of Ethiopia refused to accredit
election observers mobilized by a constellation of NGOs who had earlier been engaged in voter education. The NGOs had prepared a code of conduct for their observers and trained them on election monitoring. The NGOs took the matter to court and just days before the election was to take place, the Federal High Court made a decision in their favor (Carter Center, 2009, p. 19). On the night of Election Day, the prime minister announced that his party, the EPRDF had won enough seats both in the Federal Parliament and in the regional councils to form both the federal and regional governments. He also declared what some characterized as a state of emergency in Addis Ababa and its environs, banning public demonstrations (Carter Center, 2009, p. 24).

In June, supporters of the opposition clashed with government forces who killed several protestors. The security forces also arrested several hundred supporters of opposition parties. Again, the CRDA issued a statement calling for restraint by all parties, and for independent investigation of the violence. The tense situation continued through the summer of 2005. The official results of the election that were trickling from the election board finally declared EPRDF the winner of the elections in August 2005. Opposition parties were torn between accepting the outcomes as declared by the Board or withdrawing from the process. The main opposition group, Kinijit decided to hold public meetings with its supporters to make up its mind. NGO activists took part in some of these discussions, some urging the opposition to join parliament and others, calling for a boycott. In early November 2005, Kinijit called for a series of protest actions. When

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179 Fourteen NGOs and two professional associations were named in the suit against the National Election Board of Ethiopia.
violence ensued following the call, the government took swift action. Demonstrations, in which opposition supporters clashed with government forces, were violently crushed. Thousands of youth were rounded up and taken to isolated military camps and jails. The leaders of the opposition and two NGO activists were arrested and charged with attempting to overthrow the constitutional order. Through such measures, the government established its full authority and the elections-related turmoil settled by winter 2006.

Relations between the government and NGOs were cool after the events of the 2005 election, but as late as December 2006, an official of the Ministry of Capacity Building was reported to have made the following observation.

Government has a positive impression of [civil society organizations]. It conceived them as development agencies. … the public is represented by CSOs. The government believes that CSOs have immense contribution in development by promoting good governance, [and] through their role in the democratization process (CRDA, 2006, p. 31).

The official informed the writers of the report that the government was working on a simplified legislation that would facilitate the operation of civil society organizations (pp. 31-32).

4. The Genesis of the Charities and Societies Proclamation No. 621 of 2009
Gradually some NGOs began calling for a reformed legislative framework for NGOs in 2006. Earlier in the year, the European Union had launched what had been to date the largest single project to fund “non-state actors” (a category that the EU
understood as including, but larger than, NGOs). The project aimed at enhancing non-state actors’ “dialogue with various stakeholders, including Government and [raising] their capacity to actively participate in the national development process” (Forum on Social Studies, 2006)

Three NGOs obtained funding under the project to carry out studies on the legal environment and code of conduct of NGOs and to hold consultations on the findings of their studies. In October 2006, the three organizations held a joint workshop with participants drawn from several other NGOs. At the end of the workshop, the participants issued a communiqué announcing the formation of a Taskforce for an Enabling Environment for Civil Society (hereinafter “Taskforce”). Membership in the Taskforce eventually grew to some twenty NGOs although participation varied from time to time. The more active member NGOs numbered about seven and constituted the executive committee of the Taskforce. By the end of March 2008, the Taskforce had commissioned a study and organized a workshop to assist NGOs develop a common position on the desirable legal framework. It also made efforts to arrange meetings with officials of the Ministry of Justice without success.

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181 The Euro 10 million project was a component of the Country Strategy Paper that Ethiopia signed with the EU in 2002. The Country Strategy Paper was itself part of the framework of arrangements under the Cotonou Agreement between the EU and developing countries.

182 These were the Forum for Social Studies, the Organization for Social Justice in Ethiopia, and the Union of Ethiopian Civil Society Organizations.

183 These were Action-Professional Associations for People(APAP), CRDA, the Ethiopian Women Lawyers’ Association (EWLA), Forum on Social Studies (FSS), Organization for Social Justice in Ethiopia (OSJE), Poverty Action Network – Ethiopia (PANE), and Union of Ethiopian Civil Society Organizations (Interview with members of the Taskforce, February 2009, and June, 2009).
The workshop called by the Taskforce was held on March 28, 2008 under the title of “civil society and democracy.” By this time, however, rumors about a draft law the Ministry of Justice was said to be in the process of developing dominated the discussions at the Taskforce meetings. In a memorandum entitled “Proactive Engagement on NGO Legislative Process” one of the member NGOs of the executive committee, characterized the mood among the participant NGOs of the workshop as one of confusion. The Taskforce would soon become the major mechanism of coordinating NGO efforts to influence the outcome of the law making process.

Those NGOs that had seen a leaked copy of the draft were shocked not only because it was significantly different from the draft that was the subject of negotiations between the Ministry of Justice and NGOs in 2003 and 2004, but also because in their view, it was extremely restrictive and punitive towards NGOs. Several NGOs, both indigenous and international, called the Ministry for explanations. The Ministry’s response, however, was that it had nothing to do with the draft being circulated, and that it would involve the NGOs when it developed its own draft. Nonetheless, the Taskforce considered the proposal for proactive engagement in the memorandum mentioned above.

In early May 2008, however, the Ministry of Justice invited a few NGOs for a discussion on a draft legislation that was essentially similar to the one that had been making the rounds among NGOs earlier. The Taskforce arranged a meeting with Minister of Justice Assefa Kesito. The meeting with the Minister, however, failed to live

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184 Interview with a member of the executive committee of the Taskforce, June, 2009.
up to expectations. This was due to the absence of a common position among the NGOs attending the meeting. Some NGOs focused on the implications of the draft legislation on their particular organization or projects, while others wanted the discussion to be about the broader implications of the draft to the NGO sector as a whole. It became clear to the members of the Taskforce that the Minister of Justice did not have much say in the preparation of the draft as he was unable to answer the questions they raised. The NGOs therefore requested to meet with Prime Minister Meles Zenawi. The Taskforce nonetheless decided to prepare a memorandum summarizing what they viewed as the concerns of NGOs in relation to the draft legislation.

The Taskforce, now with increased participation from other NGOs, coordinated the preparation of the memorandum. When the Prime Minister accepted the NGOs’ request to meet with him, the Taskforce submitted the memorandum it had prepared summarizing the objections of NGOs to the draft to the Office of the Prime Minister. The objections were framed on the basis of what the memorandum referred to as “internationally accepted benchmarks” for a “progressive” legislation regulating civil society organizations.

Two meetings were held with the Prime Minister in June, 2008. In these meetings, the Prime Minister categorized the objections raised by the NGOs as falling into two categories. The first were those questions that have broad policy and constitutional implications. The Prime Minister characterized these matters as already decided categorically by his party and therefore, non-negotiable. The major one of these was the classification of NGOs as foreign or national based on their funding sources. He

185 Interview cited above at note 158.
argued that the right to participate in the political process was constitutionally guaranteed to Ethiopians only, and that organizations that are funded by foreigners cannot be considered as truly Ethiopian. Since the Prime Minister refused to discuss any objections that could be raised in relation to the fundamental framework of the draft, the remaining discussion dealt mainly with the aspects of NGO operation that were raised mainly in connection with the concerns of particular NGOs.

At the end of the meetings the Prime Minister suggested that the NGOs submit their suggestions excluding those issues that he characterized as not subject to negotiations. Following up on his suggestion, the Taskforce submitted a memorandum outlining its proposals for inclusion in the draft to the Ministry of Justice. The Memorandum began by noting that no proposals were forwarded on issues including the definitions of charities and societies, sources of income, permitted activities and judicial review, although it stated that these issues were crucial to the survival and maturity of the NGO sector. Nonetheless, the memorandum presented some proposals that could have significant impact on the draft.

One of the proposed changes was a narrower definition of “foreign funds” that would exclude funds provided by international development agencies for the promotion of...
of civil society under international agreements between the Ethiopian government and international donors. There was a suggestion for the inclusion of representatives of charities and societies, elected by the charities and societies themselves, in the Charities Board, the supervisory organ of the Charities and Societies Agency. Furthermore, it was suggested that no less than fifty per cent of the total number of board members should be drawn from charities and societies. Another suggestion was to allow the formation of umbrella organizations of charities and societies. A thirty-day limit on the period within which the Agency had to make decisions on an application for registration was proposed with an automatic registration to follow the Agency’s failure meet the deadline. A rephrasing of the definition of “societies” that would reduce the minimum number of members to two and allowed their establishment for any purpose other than profit was also requested. Finally, scrapping the criminal penalties of the draft proclamation and replacing them by reference to the generally applicable provisions of the Penal Code was also suggested.

As a result of the discussions with the Prime Minister it became clear that many of the NGOs that were engaged in “relief” and “development” activities would not be adversely affected by the proposed proclamation, although they would be subject to closer scrutiny. Many such NGOs viewed this as acceptable, sharing the sentiments of the executive of an indigenous NGO who said “this was not new to NGOs in Ethiopia. If

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188 This would have excluded, for instance, the funds provided by the EU in its Non-State Actors Support Program mentioned above.
this is going to satisfy the government, it is good because at least now we know what they want."

That the law’s adverse impact was limited to only a few NGOs was also explicitly stated by officials of the Ministry of Justice (Blunt, 2008). These were the NGOs engaged in “advocacy.” In the summer and fall of 2008, many NGOs were going through a process of restating their mission statements, reorienting their programs and in general distancing themselves from activities that could be viewed as “advocacy” or fall under any one of the activities proscribed for foreign funded NGOs. In several cases, the “rights based approach” that was adopted by many NGOs over the past few years was laid aside quickly. One consultant who was active in training NGO employees in designing “rights based” programming and organization was surprised with the alacrity with which the approach was abandoned by some NGOs. An NGO officer that was involved in “advocacy,” but that also closely worked with “development” NGOs, however, was not surprised, since for many of the latter type of NGOs, the approach was simply a response to donor pressures. As soon as the opportunity to drop the approach presented itself in the form of the draft legislation, they were quick to seize it.

Among those NGOs that were engaged in “advocacy” activities, and especially the prohibited activities in the draft legislation, the period following the discussion with the Prime Minister was one of both despair and frantic activity. In some, if not all, of these organizations, staff morale was very low. In the face of the uncertain future of the

189 Interview with the executive of an NGO, March, 2009.
190 The number of such NGOs was said to be 137.
191 Interview with NGO consultant, February, 2009.
192 Interview with senior officer at an advocacy NGO, May, 2009.
organizations, many staff members left. In some cases, some Western donor agencies that had been funding the activities of these organizations expressed doubts to the latter about the possibility of funding future activities. As a board member of one of these NGOs who was also actively involved in the efforts of the organization to chart its response to the draft legislation put it, “the most damaging effect of the law may come about not from what the government might do, but from what the staff, the NGO itself and its donors are doing”.  

At the same time, however, some of these organizations and those in the Taskforce continued their efforts to influence the contents of the draft before it became law. These efforts were carried out by individual organizations, or by the Taskforce. Some of the prominent “advocacy” NGOs also formed a loose and informal network to plan and carry out joint actions, an arrangement encouraged by donor agencies. NGO activities at influencing the outcome of the law-making process at this stage, or at minimizing its adverse impact if the bill passed into law, took several forms. Local representatives of donor agencies were briefed in group or individual meetings. Options of minimizing costs including pooling resources to save overhead costs, utilizing the complaints procedure of the African Human Rights Commission, as well as reorganizing as an Ethiopian charity with full funding from local sources were considered.

The NGOs also used the privately owned newspapers to express their opposition to the proposed law. A series of articles on the implications of the law on “civil society” prepared by a subcommittee of the Taskforce organized to coordinate public relations.

193 Interview with a board member of an advocacy NGO, February, 2009.
activities and individual NGOs were published. The articles focused on four major themes. The first was the contribution that NGOs were making to the national economy, claimed to exceed that of coffee, the major export commodity, in terms of earning foreign exchange (Embilta, 2008).

Second, the fact that NGOs’ activities complemented the plans and activities of the government, especially in providing social services, was emphasized and their access to particularly vulnerable groups highlighted. In this connection, the fact that NGO work involves much hardship (contrary to the view of a life of high pay and extravagance) was also highlighted. The argument that NGOs are expressions of a democratic political order was made, though not always forcefully. NGOs involvement in the promotion of human rights in general and the rights of women and children in particular were thus cited as exemplars of their contribution in strengthening the democratization process.

The articles characterized the proposed law as threatening the contributions that NGOs make. There were two aspects of the law that were singled out for criticism. The first was the restriction on sources of funding (and to a limited extent the cap on the maximum amount allowed for overhead) and its implications on the types of activities that NGOs can engage in. Equally importantly, the powers of the proposed Charities and Societies Agency were criticized as excessive and as violating the Constitutional right to have one’s case heard in a judicial forum.

In July 2008, Ethiopian Radio and TV broadcast a report by the EPRDF-affiliated Walta Information Center in which the Minister of Justice gave an interview about the

194 Articles were published in the Amharic papers Embilta, Addis Neger and Reporter and the English papers The Reporter, and Capital.
draft proclamation. In his interview, the Minister praised the proposed law as one that would help strengthen NGOs and facilitate their operations. Comparing the draft to the existing law, the Minister noted that the draft law ‘will avoid the shortcomings’ of the latter that denied NGOs “the opportunity to contribute to peace, democracy and development.”

At the beginning of the fall of 2008, however, this positive note about the role of NGOs shifted. The major ideological journal of the EPRDF, Addis Raey, published an extended article on the draft proclamation (EPRDF, 2008). The article started by noting that the unusually controversial nature of the draft proclamation. It explained this controversy as prompted by the fact that the proclamation “deals with a subject over which an ideological contest is waged between two policy choices faced by Africa in general and Ethiopia in particular-the choice of rent seeking neoliberalism and the choice of developmental democracy” (p. 3). It then proceeds to analyze the meaning of “developmental democracy” and its views on voluntary organizations based on a more fundamental analysis of the necessity of democracy and the role of the state in the economy.

One of the major arguments of the article is that a state that is democratic is necessary for the very survival of Ethiopia and for development to take place. The importance of democracy stems not only from its inherent value but also because it is the only means of mobilizing the willing participation of the population behind the development efforts of the state. Democracy, however, needs to have the mechanisms...

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that allow the expression of the interests of various sectors of society. The legitimacy of a state in the Ethiopian context depends on its ability to win the support of the majority of the population through its representation of the interests of the majority in a peaceful election through which the “rent seeking” alternatives of its opponents are made visible and rejected. The ability of a party to win elections is equated with its espousal of the policies of a developmental state.

A “developmental state” is one that is capable of mobilizing the participation of the population with the goal of attaining fast and continuous economic growth from which the population will benefit (p. 4). It has an active role in rectifying market failures and in general directing the economy through its guidance of “forces of development”. It is also sensitive to the distributional effects of economic growth. It therefore actively promotes the availability, on equal terms, of opportunities for all citizens, to participate and benefit from the process and benefits of economic growth. This role of ensuring equal opportunities is realizable through its provision of opportunities for citizens, again on equal terms, to have access to resources such as those of education and health. Once the “developmental state” manages to create the conditions necessary to realize these opportunities, however, whether “an individual participates in the opportunities that are available is a matter of personal choice” (p. 10).

This state rules over a society that is divided between those whose interests are the developmental state represents—the peasantry and of the “broad masses” (EPRDF, 2008, p. 10)- and those who are “rentiers.” The document itself does not define what “rent seeking” is and who “rentier” are, terms that are clarified to some degree in a 2001 publication, the Industrial Development Strategy of the Federal Democratic Republic of
Ethiopia (FDRE, 1994 (2002)). The Industrial Development Strategy, which endorses the application of the more active role of the state in directing the economy and rectifying market failures modeled after the developmental states of East Asia, argues that the state can only play this role if it is independent of the moneyed interests. The danger to the independence of the state comes from what are referred to as ‘dependent entrepreneurs’—those who try to extract profit not out of productive entrepreneurship, but through their ties to the state (pp. 51-54).

In the Strategy, the relationship leading to extractive practices and rent seeking is the one between the domestic state and entrepreneurs, especially domestic ones. The Addis Raey article, however, goes beyond this and views relationships created in the chain of international relationship as sources of extraction and rent seeking. The developmental state is also faced with the challenges of rent seeking that the policy rent regime created by international aid poses. Unlike other actors and especially NGOs, whose funding is a form of policy rent paid out through international aid, however, the developmental state is structurally capable of withstanding the tendencies of rent seeking emanating from international aid because its primary focus is that of development (EPRDF, 2008, p. 24).

NGOs are viewed in the article as one form of the pluralism generated by neoliberalism. This pluralism, which is reflected in the multiplicity of NGOs and political parties, is not as organic and participatory as it is built based on the neopatrimonial relations created and promoted by neoliberalism. Neither can the organizations that are the products of this relationship be democratic (EPRDF, 2008, pp. 17-18). Thus, NGOs’ participation in the policy process is rejected, at least implicitly.
The article, however, envisages a limited role for NGOs within the framework of the “developmental democratic” state if certain conditions are fulfilled. The first condition is the unfettered ability of the state (more specifically the government, as the right to judicial review is argued as inapplicable to NGOs) to license and direct the operation of NGOs. While the freedom of association is guaranteed in the Constitution, its application is limited to citizens only. As such, it cannot be claimed by organizations that are established by foreigners. More significantly, the right cannot be claimed by organizations that get their funding from foreign sources. Even if all the founders and all the leaders of such organizations are Ethiopian, ultimately they will be accountable to and controlled by their donors and therefore cannot represent Ethiopian interests. This is why “all countries, including those that are developed and have a full fledged democratic order, such as the United States prohibit political parties and individuals from getting funds from any foreign powers or foreign citizens to run their operations, and impose legal punishments on them if they do so” (EPRDF, 2008, p. 21). Consequently and as a second condition NGOs can play a desirable role if they can bring necessary resources to supplement the efforts of the state without supplanting, or putting in question the legitimacy of, the latter.

There are, however, another group of voluntary organizations that the article considers in a very favorable light. These are what the article referred to as “mass organizations.” They are necessary components of the structures of a democratic state because of their ability to represent the particular interests of segments of the broad constituency of supporters of the developmental democratic state. It is only these associations that should be allowed to have the full benefits of the constitutional freedom
to association. While the article’s characterization of these associations is similar to that of the 2002 publication on democratization mentioned above, it is different from the latter in its emphasis of limiting their participation in the political process.

The publication of the *Addis Raey* article was the major one in a coordinated media campaign the government launched in the fall of 2008 and continued through the winter of 2009. A number of articles that appeared in *Addis Zemen*, the government owned newspaper criticized the corruption and extravagance of NGOs.\(^{196}\) An equally important theme of these articles was that of portraying NGOs as agents of foreign interests, or as ready to profit by manufacturing a bad image of the country through amplifying social problems, especially the famine problems current at the time.\(^{197}\)

In November 2008, the Council of Ministers approved the draft and forwarded it for consideration by the House of Peoples’ Representatives\(^ {198}\) -- the law making lower house of Ethiopia’s parliament. Within a month, in December 2008, the bill was presented at a regular session of parliament, as required by procedural requirements, and transmitted for committee consideration. Renewed efforts on the part of NGOs started to


\(^{197}\) In the summer and fall of 2008 predictions about a looming famine that could affect millions was a bone of contention between the government and aid agencies including international NGOs. (TIME, 2008).

\(^{198}\) The Constitution provides for a bicameral parliament that consists of a popularly elected House of Peoples’ Representatives that is the major law making body, and the House of Federations whose members are elected by the regional councils. References to Parliament in this paper is to the House of Peoples’ Representatives.
once more influence the outcome of the process. The Taskforce prepared and distributed
to government ministries and members of the House of Peoples’ Representatives an
updated memorandum. The House Committee organized a public hearing on the draft
legislation. Barely two months after the Council of Ministers approved the draft, an
overwhelming majority of the Parliament, with all members of the ruling EPRDF voting
in favor and the opposition voting against, formally passed the draft into law.

5. An Overview of the Charities and Societies Proclamation No. 621 of 2009
The Charities and Societies Proclamation No. 621 of 2009 is a comprehensive
legislation governing the establishment, mode of operation, governance, monitoring and
supervision of NGOs. It also established a new bureaucratic agency to oversee NGOs
and provide for administrative and punitive sanctions of enforcement. This section
reviews the provisions of the legislation by especially highlighting the notable,
controversial, and novel features of the legislation.

The Proclamation has 112 articles organized in ten sections. The preamble of the
Proclamation briefly states the rationale for the enactment of the law to be those of
ensuring “the realization of citizens’ right to association enshrined in the Constitution”
and the necessity of “promulgate(ing) a law to aide and facilitate the role of charities and
societies in the overall development of (the) Ethiopian Peoples.” A background
document explaining the the law prepared by the Ministry of Justice stated that the law
was drafted by taking into account existing laws and practice as well as the legislative
practice of Charities Act of the UK, the Nonprofit Organizations Act of South Africa, and
the Nongovernmental Organizations Registration Act Statutory Instrument of Uganda
One of the major changes that the Proclamation introduced, compared to the regime that was established under the 1960 Civil Code, relates to its definition and characterization of voluntary organizations. The Civil Code’s categories of associations, endowments, and trusts (as well as committees) are also maintained in the Proclamation. Just as in the Civil Code, the major distinction between associations on the one hand, and endowments and trusts on the other hand is related to the distinction between membership and property. In maintaining these categories of the Civil Code, however, there are changes that the Proclamation introduced.

The first and seemingly minor one of these is that of terminology. The preferred term for the “associations” of the Civil Code in the Proclamation is “Societies”. Article 55 of the Civil Code defines a “society' as “an association of persons organized on non-profit making and voluntary basis for the promotion of the rights and interests of its members and to undertake other similar lawful purposes as well as to coordinate with institutions of similar objectives.” The definition thus provided is significantly different from the one under the 1960 Civil Code in that the purpose of “societies’ is tied to the rights and interest of the membership. While the drafters of the code seem to have the “mass organization” model in mind when drafting this article, it is difficult to clearly understand this from the provision itself. Unlike Article 406 of the Civil Code that delineates its application to associations that have the objective of promoting the “financial interests” of their members or “representing a particular calling,” article 55 of the Proclamation does not give any indication of what the “interests” of members may be. Nor is there any indication of the minimum number required to form a society. The
confusion is further complicated by the provisions of Article 46 on a “charitable society” that is defined as “a society which is established for charitable purposes.”

By creating the category of “charitable society” the Proclamation muddles the conceptual division between the two types of voluntary organizations that it recognizes. The first category is, as already mentioned, that of the “society.” The second major category of nonprofit organizations that the Proclamation recognizes is that of “charities.” Article 14 (1) defines a “charity” as “an institution which is established exclusively for charitable purposes and gives benefits to the public.” Unlike the Civil Code that did not specify the objectives for which the “association” or the publicly oriented “endowment” and “trust” can be established, the Proclamation incorporates the common law concepts of “charity” and “public benefit” into Ethiopian law. Thus, charities can be established exclusively for charity and to benefit the public.

In Section 1, the Proclamation deals with introductory matters that, nonetheless, have wider and substantive repercussions. This is particularly true of Article 2 on definitions and Article 3 on the scope of application of the Proclamation. Read together these two provisions not only define what constitutes a charity or society and which types of associational forms are regulated by the Proclamation, but also circumscribe the types of activities that such associations may engage in. The Proclamation then specifies a list of fourteen activities that are considered as constituting ‘charitable purposes.”

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199 For a discussion of the concepts of ‘charity” and “public benefit” and their application in various common law jurisdictions see (O'Halloran, McGregor-Lowndes, & Simon, 2008).
200 Article 14 (1) of the Charities and Societies Proclamation No. 621 of 2009.
201 Article 14(2). Some of these activities are poverty alleviation, promoting economic, social or environmental development, and promoting animal welfare.
14(2)(o) also grants the Charities and Societies Agency the power to designate any other activity as charitable.

There are four types of charities that the Proclamation recognizes as per Article 15. These are the charitable endowment, the charitable institution, the charitable trust, and the charitable society. All of these except the charitable institution are forms of voluntary organizations that were recognized under the Civil Code. In defining these types of voluntary organizations, the Proclamation also follows the definitions under the Civil Code with the additional requirement added that they be established for charitable purposes.202

As already mentioned, the formulation of the rules of the Civil Code on voluntary organizations followed two distinct legal traditions—the common law and the civil law. In both traditions, the institutions of “trust” and “endowment” had a historical and sociological background that is very much related to the exercise of the right of ownership after the death of an owner. Each system developed its particular way of dealing with the dilemma of allowing the wish of the owner of a property, and restricting the ability of the dead to control the living from beyond the grave through their wills. The institution of “trust” is the common law’s response to the dilemma, while the endowment represents the civil law’s rejoinder.

In incorporating these categories into Ethiopian law, the drafters of the Civil Code seemed to have wanted to retain the concepts of the civil law tradition, but also to make the more liberal institution of the common law available for use. Despite some

202 Art. 16 on the definition of the charitable endowment. Art. 30 on the charitable trust. Art. 46(1) on the charitable society. Article 46(2) on the charitable committee.
incongruities, the two systems could work side by side. The Charities and Societies Proclamation No. 621 of 2009, however does not seem to be particularly concerned about the sources of the categories of the Civil Code. This is most notable in the imposition of the “charitable” and “public purpose” criteria on the “endowment.” While the Civil Code permits the establishment of an endowment for purposes of “general interest,” the Proclamation not only requires that this interest be “identifiable,” and not exclusive, but also that it should be “charitable.”

Article 16 on the definition of the “charitable endowment” also rules that an “order of the agency” can create an endowment. Article 505 of the 1960 Civil Code allowed a court to order the amalgamation of different endowments into one. The amalgamation, however, could only take place upon the application of the “organism for the protection” of the endowments the founder appointed. Moreover, the endowments to be amalgamated need all share the same “organism.” In fact, while administrative involvement in the “endowment” is more extensive than the “trust” and the “association” under the Civil Code, once an endowment is permitted to stand by the Ministry of Interior, the will of the person who established the “endowment” governs. This was in line with the civil law tradition governing foundations. Under the Charities and Societies Proclamation No. 621 of 2009, however, the reverse holds true. Once the endowment is established, the primary responsibility of overseeing the endowment passes to the Agency.

203 Article 14(3)(a).
204 Article 14(3)(b).
205 Article 14(1) and (2).
The only category of organizations defined in the Proclamation that does not have any parallel in the Civil Code is the “charitable institution.” Article 27 of the Proclamation defines the “charitable institution” as “a charity formed by at least three persons exclusively for charitable purposes.”\(^{206}\) The drafters described the institution as a mixture of a “society” and the “charitable endowment” (Ministry of Justice, 2001 (2008), pp. 21-22). What distinguishes the “charitable institution” from a “charitable endowment” is the fact that the former is an association of individuals while the latter is property that is recognized as having a legal personality. On the other hand, the difference between the “charitable institution” and a “society” is the charitable purpose of the former.

The distinction between the “charitable institution” which is an association of three or more persons established for charitable purposes, and a “charitable society” which is a “society… established for charitable purposes”\(^{207}\) is, however, difficult to clearly establish. Although the drafters of the Proclamation suggested that the difference between the two lies in the requirement that the members of the charitable institution furnish a minimum warranty for the liabilities of the organization, while those of the “charitable society” do not have to comply with this requirement, it is not clear why anyone would opt for the former type of organization when both are similar in every other respect.

\(^{206}\) The drafters of the Proclamation noted that the “charitable institution” is “new” under the Proclamation unlike the other forms of organization. They did not indicate whether there are any foreign jurisdictions that they have used as a source in formulating the rules relating the “charitable institution” (Ministry of Justice, 2001 (2008), p. 15). Of the foreign laws mentioned in the explanations, none of them have such a category of organizations.

\(^{207}\) Article 46 (1).
These organizations are classified into three broad categories as foreign, resident Ethiopian and Ethiopian. Unlike the Civil Code that established the citizenship of an organization on the basis of the location of its head office, the Proclamation defined “foreign charities and societies” on the basis of the citizenship of its founders or members, control, and sources of income. Thus, any organization with a non-Ethiopian citizen as a founder or member, or established under a law other than Ethiopian law, or derives its income from foreign sources, or is controlled by non-Ethiopians is considered to be a foreign organization. “Income from foreign sources” is defined by the Proclamation as “donation, or delivery or transfer made from foreign sources of any article, currency, or security.” Even if an organization is established in Ethiopia according to Ethiopian law, by Ethiopians, and its management and direction is by Ethiopians, it would not still be considered as an Ethiopian organization if it gets more than 10 per cent of its income from foreign sources. It would rather be designated as an “Ethiopian resident charity or society”.

The most serious consequence of this classification, one that had generated a lot of criticism, is that only organizations that are Ethiopian charities or societies can engage in the full range of activities that are enumerated under Article 14 of the Proclamation. Thus, foreign and Ethiopian resident charities or societies cannot engage in activities related to the promotion and monitoring of human rights or “the rights of nations,

208 Article 545, Civil Code.
209 Article 2(4).
210 Article 2(15)
211 Article 2(3).
nationalities and peoples and that of gender and religion;\textsuperscript{212} activities related to the protection of the rights of children and the disabled;\textsuperscript{213} activities related to conflict resolution;\textsuperscript{214} and activities related to “the promotion of the effectiveness of the administration of justice and law enforcement services.”\textsuperscript{215} While the Proclamation does not apply on religious institutions, NGOs that are established by religious institutions are still subject to the limitations of the Proclamation.\textsuperscript{216} There is a significant exception for these preclusions. The government may allow an organization to engage in any of the precluded activities irrespective of the source of income of the organization.

The Proclamation also provides for the establishment of a government agency in charge of charities and societies. The structure as well as the powers and responsibilities of the Agency are set forth.\textsuperscript{217} Article 8 establishes a board to oversee the Agency. The board will have seven members two of whom will be representatives of charities and societies, and all of whom will be appointed by the government. The Agency has wide ranging powers with extensive discretion in the licensing, registration and monitoring of

\textsuperscript{212} Article 14(2)(j) and (k).
\textsuperscript{213} Article 14(2)(l)
\textsuperscript{214} Article 14(2)(m).
\textsuperscript{215} Article 14(2)n.
\textsuperscript{216} The initial draft distributed by the Ministry of Justice did not exclude religious institutions from the application of the Proclamation. During the Prime Minister’s first meeting with NGOs several leaders from various religions and denominations came to the meeting and took front row seats. Before the meeting started, the Prime Minister told them that the draft law was not intended to apply to their organizations, and that they may leave the meeting if they want to. They left the meeting immediately thereafter. Subsequent drafts included the exclusion in its present form. Interview with a NGO executive, who attended the meeting with the Prime Minister, June, 2009.
\textsuperscript{217} Articles 4, 5, 6, and 7 of the Proclamation provide for the establishment, objectives, powers and responsibilities, and structure of the Agency respectively.
all types of charities and societies. The Agency may deny registration on several grounds including its belief that the purposes of the organization are “prejudicial to public order, welfare or good order in Ethiopia.”

Organizations have to submit annual narrative and financial reports and notify the details of their bank accounts to the Agency and have their licenses renewed every three years. The Agency has extensive powers to institute investigations, subpoena records, and under some conditions, to seize the property or order the replacement of the management of organizations. It may also suspend or revoke the license, or order the dissolution of an organization. In addition to the administrative powers of the Agency, the Proclamation also provides for criminal and civil sanctions on organizations that fail to comply with its conditions, including failure to maintain keep financial records for five years after the end of the budget year. Decisions of the Agency can be appealed to the Board. Any judicial review of the Agency’s decision,

218 Article 6(1)(a).
219 Articles 64 and 65.
220 Article 69(2).
221 Article 76-80.
222 Article 83.
223 Article 76.
224 Article 84.
225 Article 85.
226 Article 90.
227 Article 91.
228 Article 92.
229 Article 93.
230 Article 102 (2)(a)
231 Article 104(2).
however, is limited to Ethiopian organizations only.\textsuperscript{232} This means that almost all NGOs in Ethiopia as they are currently organized and funded cannot have recourse to a judicial review of any decision of the Agency.

There are some important changes that the Proclamation has brought about. First, it has centralized the process of registering and monitoring NGOs (and other forms of voluntary organizations) under the same agency. As a result, the bifurcated regulatory regime of voluntary organizations is now unified under the Agency. Whether the centralized approach followed in the Proclamation will actually lead to more efficiency in the administration of NGOs is unclear. Nor is it clear whether such an agency will have the requisite organizational competence to discharge this colossal responsibility is something that only the future will tell. If the past is any indication, this may not be the case.

\textsuperscript{232} Article 104(3)
CONCLUSION

The elections and the events that followed following the 2005 elections in Ethiopia demonstrated the vulnerabilities of the ruling EPRDF and served to trigger the making of the Charities and Societies Proclamation 621 of 2009. Many critics of the law, including NGO activists, themselves explained the Charities and Societies Proclamation No. 621 of 2009 as an attempt by the EPRDF to stifle critical voices about its rule (Amnesty International, 2008; Human Rights Watch, 2008).

There are two points that such an explanation fails to address. First, NGOs in Ethiopia have always been mute in their criticism of governments. As pointed out in Chapter 3, while the CRDA and its members whose response to the 1973 famine was crucial in bringing the world’s attention to the famine, they refrained from pointing out the inequitable landholding system that was at the root of the famine. During the 1984 famine and the Derg government’s forced resettlement, NGOs were generally quite about the armed conflicts that raged in the country and government policies that exacerbated, if not caused, the famine and its tragic consequences. After 1991, not many NGOs worked in the areas that the Charities and Societies Proclamation 621 of 2009 precluded from foreign funded NGOs.

In more recent times, one of the debates within NGOs themselves was whether NGOs should be active in democracy and human rights promotion. When confronted with the issue, as during the discussion on a code of conduct, or when asked to adopt the rights based approach in their programming, most NGOs were reluctant to adopt an expansive role that would depart from their traditional role of providing humanitarian and
welfare assistance. Although a minority of activist NGOs took part in the 2005 elections, most NGOs avoided involvement in the political process, much less criticism of the government before, during, or after the elections. In fact, most NGOs are careful not to be viewed as politically active and are ready to distance themselves from those activist NGOs whose activity may be interpreted as political. There was, thus, no immediate reason that the government should be concerned particularly about the political activism of NGOs.

Second, the EPRDF’s views on the role of NGOs in Ethiopia’s political and economic life were expressed repeatedly and consistently long before the 2005 elections. As Chapter 5, shows, these views informed the policy documents that the EPRDF issued between 2000 and 2002. They also provided the justifications for the Disaster Management and Preparedness Policy and Directives that the Transitional Government issued in the early 1990s soon after the EPRDF came to power. Nonetheless, since its coming into power in 1991, the EPRDF and the government it led vacillated between two positions on the role of NGOs. On the one hand, they were suspicious about NGOs and restrictive in the regulation of NGOs. On the other hand, and especially after 1997, they were more open and accommodating to NGOs. The 2005 elections and the adoption of the Charities and Societies Proclamation resolved that vacillation in favor of a more strict and restrictive approach towards NGOs. It is in that sense that the 2005 elections and their aftermath explain the adoption of the Charities and Societies Proclamation.

The pre-2009 vacillation of the government on the role and regulation of NGOs reflected the conflicting views about NGOs and their role in development and democratization that were present in global discourses on development and civil society.
As discussed in Chapter 2, while after the 1980s NGOs came were in development and democratization, their effectiveness in these roles was questioned in academic circles and among development practitioners since at least the mid-1990. The EPRDF-led government’s policies on NGOs and their regulation reflected and accentuated different sides of the debates about the role, effectiveness, and legitimacy of NGOs.

The early policy statements of the EPRDF-led government on the role of NGOs expressed in the Disaster Prevention and Preparedness Policy and Directives were in line with a global critical view of NGO that emerged after the harsh realities of the 1980s retrenchment of the state in developing countries. In the 1990s, global discourse about development accorded a more robust role to governments in addressing humanitarian and welfare needs in their societies, and relegated the role of NGOs to that of providing support to governments. With the adoption of the poverty alleviation strategic papers approach in the late 1990s and early 2000s, NGOs role as representative of civil society came to be accepted within the policy framework of major international development aid actors, especially the World Bank. That was also the time when the EPRDF-led government that signed on the poverty reduction strategy paper framework became more positive and permissive towards NGOs.

The vacillation between the strict and the permissive observed in the regulation of NGOs in post-1991 Ethiopia, however, is not only a reflection of global shifting views about NGOs. Rather, it shows that the EPRDF was able to appropriate selectively the view of NGOs that helped it in responding to the internal political challenges that it faced. In the early 1990s, soon after coming into power, the main challenge facing EPRDF was consolidating its rule. Its strict regulation of NGOs was geared towards that
goal. The more permissive approach of the late 1990s and early 2000s was a product of the internal conflicts within the party as they were the result of the dictates of its donors. In fact, as the Party’s public documents at the time showed, the fundamental instrumentalist view about voluntary organizations that the EPRDF had since its early days had not changed even in its liberal period between 2000 and 2005.

In as much as the EPRDF was able to benefit from the fluidity of the view about the role of NGOs within the global discourse on development and civil society, a few activist NGOs were also able to benefit from the fluidity within the national political discourse. Utilizing liberal conceptions of democracy, human rights, and civil society they pushed the boundaries of the regulation of NGOs gradually expanding the role of NGOs from one of providers of humanitarian assistance to one of organized representatives of civil society actively involved in “political” activities of democracy and human rights promotion, however limited this involvement might be.

The 2009 Proclamation did not, therefore, represent a significant departure from earlier regulatory and policy approaches towards NGOs. It rather represented the culmination of a political contest within the organizational field of NGOs. The boundaries and regulation of the field had become fluid and contestable following the assumption of state power by the EPRDF in 1991 and its adoption of a liberal discourse in terms of the political and constitutional organizations of Ethiopian society. The EPRDF had officially subscribed to a liberal organization of state and society relations as expressed first in the Transitional Period Charter and then in the 1995 Constitution. However, the governments it led did not significantly depart from the illiberal administrative and legislative approaches to the regulation of NGOs institutionalized in
the state’s bureaucratic machinery, and its administrative procedures. NGOs used the inconsistency between the official commitment to the liberal organization of state-society relations and the illiberal regulation of voluntary organizations to challenge the latter.

As shown in Chapter 3, the EPRDF held its views about the nature and role of NGOs long before it came into power in 1991. These views flowed from the Front’s conception of the proper place of citizens’ organizations within the political order. In the early days of the armed struggle of the TPLF, citizens’ organizations were considered to be mechanisms of mobilizing grassroots support behind the Front. The political leadership of these organizations flowed from the Front. International NGOs garnered support to help the Front address the material and welfare needs of the population under its control. The TPLF/EPRDF’s relation with international NGOs was dictated by this view. As shown in Chapter 4, this was also the view that the EPRDF consistently expressed in policy statements since the 1990s.

What makes this view more interesting is that it was also a view that the EPRDF’s predecessor, the Derg, held. As shown in Chapter 3, the Marxist Derg’s tolerance of international NGOs was a reluctant admission of its dependence on the financial and material resources they brought into the country. The Derg had institutionalized its views on the role and regulation of NGOs through the bureaucracy and administrative procedures of the Relief and Rehabilitation Commission. When the EPRDF overthrew the Derg and assumed state power in 1991, it not only carried out the regulatory infrastructure bequeathed by the Derg, but further regularized it through expansive policy and administrative frameworks, and expanded it through adoption by the newly established federal states.
The *Derg* and the EPRDF were products of the radicalized students’ movement of the 1960s. One of the hallmarks of the student movement’s opposition to Haile Sellassie’s regime was its espousal of Marxism. It also opposed the West, especially as represented by the United States. Yet, the anti-Western stance of the student movement was itself the product of Ethiopia’s exposure to the West. Not only did it adopt the rhetoric and analysis of Marxism, but it was a consequence of the expansion of Western education, and the crisis in state legitimacy following the integration of the Ethiopian polity in the periphery of a global political economic order. One of the major triggers of the crisis in the legitimacy of the Ethiopian state in the post-World War II period was that it failed the measures brought about by the hegemonic rise of “development” as the Western influenced elite viewed the political economic order the regime represented incapable of modernizing Ethiopia.

Despite later dissatisfaction about the pace of progress, it was Haile Sellassie’s regime that led the drive to modernize Ethiopian society. Haile Sellassie, however, was interested in the economic and military strength that modernization represented and not necessarily in the political reordering that the transformation of Ethiopian society might require. The distinction between the material and political aspects of “development” and the espousal of the former and wariness about the latter was not unique to Haile Sellassie. It was evident in the approach that Ethiopian rulers adopted in their relations with the West from their early encounters with the West. It was entrenched in a cultural framework that was wary of the West, and viewed it as a potential threat. This cultural framework emerged in the context of the religious conflicts of the sixteenth and seventeenth centuries. The consequent prism of isolation and challenge to identity
colored the way the Ethiopian state viewed the sustained encounters between itself and
the West initiated in the nineteenth century by Western missionary activities and colonial
adventures which also extended to Western influenced modes of life and organization
including formal citizens’ associations and NGOs.

The state-led development efforts of the first half of the twentieth century resulted
in the fragmentation of the cultural framework that shaped the identity, and formed the
basis for the legitimacy, of the Ethiopian state as it joined the global political and
economic order. The state was called upon to conform to global norms of modernity and
legitimacy. The regulation of voluntary organizations during Haile Sellassie’s regime
showed a negotiation of the conflicts inherent between the traditional cultural framework
and the global norms of legitimacy. From the early regulation of missionary activities to
the 1960s laws on voluntary associations, it used the law to attain global legitimacy in a
manner that did not threaten local dominance. Where voluntary organizations threatened
its rule, the regime responded by taking measures that departed from the norms that it
incorporated in its Western-influenced laws as it did to the voluntary organizations and
new religious movements of the 1960s. While balancing conformity to global norms
with ensuring local political dominance was made superfluous by the Derg regime’s total
preclusion of voluntary organizations, the rule of the EPRDF witnessed its resurgence.

The EPRDF-led government’s adoption of the Charities and Societies
Proclamation No. 621 of 2009 drew the attention and opposition it did because it
contradicted the still dominant view of NGOs as agents of democratization and
expressions of a democratic order. Meyer et al (Meyer, Boli, Thomas, & Ramirez, 1997)
suggest that the post-World War II world is one in which states’ freedom in formulating
policies is constrained by a global system of norms that dictates “isomorphism.” Thus, “nation-states are more or less exogenously constructed entities—the many individuals both inside and outside the state who engage in state formation and policy formulation are enactors of scripts rather more than they are self-directed actors” (p. 150). Meyer et al acknowledge that the policy and legislative isomorphism of states in the framework of world culture does not translate into practical implementation of the norms. As an example, a state may sign international treaties on human rights because respect for human rights is norm of the world society. Yet, due to internal capacity and politics, a state may not actually implement the obligations enshrined in the international treat, a situation that Meyer et al referred to as “decoupling.” In their words (Meyer, Boli, Thomas, & Ramirez, 1997, p. 154) “decoupling is endemic because nation-states are modeled on an external culture that cannot simply be imported wholesale as a fully functioning system. World culture contains a good many variants of the dominant models, which leads to the eclectic adoption of conflicting principles.”

The adoption of the Charities and Societies Proclamation No. 621 of 2009 demonstrated this process of “decoupling” in action with an important caveat. The Ethiopian state under the rule of the EPRDF adopted world society norms of democratic governance and respect for human rights. The view of the nature of NGOs under the Charities and Societies Proclamation No. 621 of 2009, however, did not follow the dominant view of NGOs as expressions of Tocquevillian associations that are the bedrock of a democratic society. It is rather an instrumentalist conception of NGOs as mechanisms of transferring material resources. Moreover, the legislative model used in
drafting the Proclamation did not conform to the dominant view on the nature and role of NGOs.

The non-conformance of the view of the Charities and Societies Proclamation No. 621 of 2009 with the globally dominant way of thinking about NGOs has two implications. The first is that the latter has not yet attained the degree of taken-for-grantedness that would make it a norm states feel obliged to follow. In fact, the increasing number of states adopting laws that depart from a liberal associational view of NGOs mentioned in Chapter 1 indicates to the weakness of the associational view of NGOs as a global norm. The second implication is that, at least in as far as the regulation of NGOs is concerned, there is a competing global view of NGOs other than the associational view, that states can opt for without feeling obliged to follow the latter.

Despite its tenuousness as a global norm, NGOs in Ethiopia espoused the associational view in their efforts to influence the law-making process in the adoption of the Charities and Societies Proclamation No. 621 of 2009. Even before the law making process started in 2008, NGOs in Ethiopia presented themselves as the organized representatives of civil society. This was evident in the policy processes that took place in the late nineties and early two thousand. The poverty reduction strategy papers processes that started in 1997 allowed NGOs more stake in the policy formulation and evaluation processes. The legitimacy accorded to the involvement of NGOs in the policy process strengthened NGOs’ claims to be arenas to voice alternative arrangements of organizing the relations between state and society. It was also in this frame that NGOs presented their arguments in the course of the negotiations on the draft legislation on NGOs that was prepared by the Ministry of Justice in 2003.
Outside the policy processes, NGOs made their most powerful claim as representatives of civil society in the events immediately preceding and following the 2005 elections. In the event, NGOs took the unusual stand of criticizing the ruling party’s views about the limited role of NGOs and the government on its handling of the fallout of the crisis following the elections claiming equivalence in their legitimacy to that of the state. Among NGOs, the associational view of civil society allowed activist NGOs to assume the role of leadership within the sector and to set the agenda for NGOs engagement with the state. As the negotiations over the Code of Conduct for NGOs in the late nineties showed, not all NGOs were ready to embrace this view. However, gradually it came to be central to NGOs’ views about themselves and about their relationships with the state.

The adoption of the Charities and Societies Proclamation No. 621 of 2009 showed the limitation of NGOs to institutionalize their views on the nature, constitution, and role of voluntary organizations through the policy and legislative processes. In broader theoretical terms it also showed the limitation of NGOs as carriers of world culture. At least in the absence of taken-for-granted norms, and in the presence of alternative models other than those that conform to Western, liberally informed ones, the NGOs capacity as carriers of world culture is limited within the confines of the political opportunities and structures afforded by the state. In the case of the regulation of voluntary organizations and NGOs, the Ethiopian state, as already noted, opted for a course of action that veers away from what would have been expected under a world culture theoretic model.
Why does the Ethiopian state adopt the particular model of regulating NGOs that it legislated in the Charities and Societies Proclamation No. 621 of 2009? As already noted, the structuralist enactment of world cultural norms does not fully answer this question since the state had an option not to follow global norms or dominant views. As discussed in chapter 1, rationalist models propose actors’ preferences in pursuing interests to explain the policy choices of actors. However, as the discussion on rational choice theory in chapter 1 shows, these models are weak in explaining policy choices in the absence of the democratic institutions of competitive politics that provide mechanism for expressing preferences through votes. Despite the relative liberalization of Ethiopian society after the fall of the Derg, the political system in Ethiopia remains essentially non-competitive, with the dominance of a single party, thus limiting the explanatory power of rational choice theory. No less significantly, rational choice theory is also weak in explaining the definition of interests by actors. Thus, even though, the general statement that the policy choices made by the Ethiopian state, or more accurately, by the EPRDF are rational choices made in pursuit of self interest, the need to understand how the state defined its interests, and what accounts for such definition.

It is here that a historical explanation becomes pertinent. First, the policy choices enshrined in the Charities and Societies Proclamation No. 621 of 2009 build on policy choices that were already made and institutionalized. While the Proclamation introduced new concepts into the legal system of Ethiopia, its essential features in regulating NGOs were already in place long before the Proclamation was enacted. One of the major features of the Proclamation is its establishment of an administrative agency that regulates NGOs. While the functions of licensing, monitoring, and regulating NGOs is
now consolidated in one state agency, the Ethiopian legal system was characterized by
the extensive regulatory powers that state agencies had over voluntary organizations. At
the time the Proclamation came into effect, these powers were exercised by the Office of
Associations in the Ministry of Justice, and before that the RRC/DPPC and the Ministry
of Interior.

The critical juncture in terms of the formal legal and administrative choices in the
regulation of voluntary organizations in fact took place with the enactment of the
Associations Registration Regulations of 1966. As already noted in chapter 4, the legal
regime that was established by the 1960 Civil Code to govern voluntary organization was
liberal in its approach with in-built judicial review mechanism to check the discretionary
power of administrative agencies. The Code was promulgated at a time of unprecedented
openness towards the West and Western influenced ideas in post-1941 Ethiopia. The
Regulation for the Establishment of Missions of 1944 allowed foreign churches wider
permission to proselytize and even more freedom to engage in non-proselytizing
activities than was the case before. The incorporation of Eritrea with its political and
organizational tradition also had a reverberating effect manifested in a constitution that
was informed liberal notions of human rights. Western education was expanding and the
educated elite integrated in the bureaucratic machinery of the state.

The Civil Code of 1960 indicated one direction that the state could have followed
in the regulation of voluntary organizations. The Code was permissive in terms of the
purposes for which voluntary organizations could be established. Generally, the
establishment of a voluntary organization was not a subject of administrative approval.
Even when administrative approval was required, it was subject to judicial review. The
Regulations redefined the more liberal legal regime governing voluntary organizations under the 1960 Civil Code by granting extensive discretionary powers to the Ministry of Interior. It is also important to note that the Regulations were issued at a time when the legitimacy of the state was particularly challenged by the increasing number of voluntary organizations, from ethnic associations, student unions, to new churches.

Subsequent expansions of the discretionary powers of state administrative agencies over voluntary organizations were built on the template already forged by the Regulations. As in the case of the 1966 Regulations, these subsequent expansions of the discretionary powers of administrative agencies took place at times when the regime in power felt particularly vulnerable, and its legitimacy challenged. This was what happened under the Derg regime when the 1984 famine, combined with the rise in strength of armed resistance to the state and the failure of the state’s socio-economic transformative policies, led to a weakening of the Derg’s grip on power and thus an influx of international NGOs. Similarly, the 2009 Charities and Societies Proclamation followed the 2005 elections and the subsequent crisis that tested the EPRDF’s tolerance of its critiques.

Path dependency, however, explains more than particular policy choices and institutional arrangements, but also helps understand persistent patterns in the political views of citizens and elites (Pierson & Skocpol, 2002, p. 700). As noted above and in chapter 3, the EPRDF and its senior partner the TPLF held an ambivalent attitude towards NGOs dating back to the days of armed struggle. It was also noted that this attitude is traceable to the 1960s students’ movement with its critical stance towards the West. Neither is this attitude limited to the EPRDF. Chapter 3 noted the resentment
towards international NGOs generated following their influx in the wake of the 1984 famine. The view of NGOs as local representatives of foreign interests is one that is common, as expressed in popular terms used to describe NGOs. The fact that NGOs get their financial resources from international donors tends to reinforce this perception. It was in fact a perception that the government played on in its media campaign to promote the adoption of the Charities and Societies Proclamation. It is even a view shared, at least by some, who are themselves involved in NGOs.

The broader, ambivalent, and at times hostile view about NGOs, and about foreign, and especially Western influences was also noticeably present among the state and Western educated elite prior to the 1960s. The regime of Haile Sellassie was characterized by his balancing acts between playing the “modernizing monarch” open to Western ideas and influences and appeasing traditional elites resistant to such ideas and influences. This balancing act was played not only during the early years of the Emperor’s rule, but even after managing to centralize state power and concentrate it in his hands. The most recent expression of this balancing act played in favor of traditional interests was the persecution of Pentecostal Christians in the 1960s and 1970s whose coreligionists became the pioneers of the NGO movement in Ethiopia with the establishment of the CRDA.

Suspicious about the West and its influences, however, was not limited to the traditional elite of state power nor to the post-1960 generation of the student movement. Even at the time of the initial mimicry of Western ideas and influences, the educated, including the Western educated elite were wary of the state. This was pronouncedly evident in the period prior to the Italian invasion of 1936 when the educated elite, such as
the Young Ethiopians, were openly critical and hostile towards the West. They were also at the forefront of establishing patriotic, and anti-colonial voluntary organizations. The experience with the British during the interregnum following the defeat of the Italians and full sovereignty also helped to stoke the suspicious views about the political motives of the West. What distinguished the views of the pre- and post-1960 generations of educated elite towards the West was the conscious and absolute rejection of the Western model and the adoption of Marxism by the post-1960 generation. Yet, both generations of educated Ethiopians share a similarity in their views towards the West, since even the pre-1960 educated Ethiopians preferred to follow non-Western models, such as the one they saw in Japan, as a model of development in Ethiopia. In the post-1941 period, the non-colonial background of the United States generated the favorable view towards the United States among the educated and the state elite.

As argued in chapter 3, the animus towards the West was rooted in the trying experiences of the Ethiopian state and its official and powerful Orthodox Church during the religious conflicts of the sixteenth and seventeenth centuries, and sustained in a feedback loop through the encounters of the early modern Ethiopian state with European colonial and missionary interests. The sustained encounter with the West made the modern Ethiopian state both susceptible and open to Western influences. As the encounter intensified in the twentieth century, the state’s appropriation of Western ideas and institutions also grew. These appropriations were geared primarily towards strengthening the position of the state and the holders of its powers vis-à-vis their opponents. The master frame of Ethiopian statehood as unique is fractured with the rise of the competing master frame of modernity and development. Depending on the
particular power play at hand, the state resorted to one or the other frame to justify its actions. Equally importantly, with the disenchantment of the educated elite with the Ethiopian state and the state’s composition changed with its expansion from its traditional highland base, opposition to the state and its rulers as well as demands for more freedom also exploit these competing frames.

The political contests over the making of the Charities and Societies Proclamation No. 621 of 2009 represent the continuation of the contest between the state and the opposition to, or the demand for more freedom, from the state by the educated elite. As the profile of the respondents to this study shows, NGOs in Ethiopia are elite dominated. What distinguished them from the educated elite of the 1960s is their professionalism that usually focused on addressing immediate material needs, and their role as conveyors of, not only ideas, but also material resources. Their elitism together with the all-reaching controls of the state that expanded its structures of power extensively following the fall of the imperial regime in 1974 and the crisis in state legitimacy, mean that they are extremely constrained in mobilizing grass-roots support or in acting as social movement entrepreneurs. This was manifested in the extremely limited options that NGOs had to influence the law making process during the Charities and Societies Proclamation No. 621 of 2009. Yet, where the political opportunities afforded by the state were favorable they were able to play an important role in the policy process.

In theoretical terms, this means that while path dependency helps to explain the origins of broadly held political views and persistent institutional arrangements, the power and sustainability of such views and arrangements is mediated by the centrality of issues of power as well as the rise of global ideas and models. This challenge is
particularly strong in countries like Ethiopia that are peripheral to the global cultural and political economic systems, and thus seek the legitimacy and the consequent flow of material resources that the global systems accord. In brief, a fuller theoretical explanation of the making of the Charities and Societies Proclamation needs a hybrid theoretical framework that integrates the origin explaining powers of path dependency and the quest for legitimacy anticipated by world culture theory and how these are mediated by the actual power contests among elites.

The focus on elites points to one limitation that this study has which is its focus on the political contest among the elite. This limitation flows from the profile of the informants interviewed and the secondary literature reviewed for the historical narrative of the Ethiopian state. More significantly, however, it flows from the nature of NGOs themselves. Part of the explanation for this elitism may be the professional and linguistic demands of raising funds from Western donors. Whether or not this is actually the case is an issue that needs more research. The experience of the growth of indigenous evangelical churches in Ethiopia in an extremely hostile environment, often with little support, from foreign donors indicates that the failure of NGOs to be truly grass-roots may have other causes.

Ethiopian political history, as reviewed in chapter 3, was dominated by the struggle between the center and the regions. Since at least the 1950s, this struggle became more pronounced with the rise of ethnicity as a means of political mobilization. Following the assumption of power by the EPRDF, ethnicity was institutionalized in the state structure through the reorganization of state power on the basis of ethnic federalism. Another area of useful future research may thus be the extent to which ethnicity impacts
the politics of NGOs. As already noted in chapter 2, NGOs were lauded as agents of
democratization in non-Western societies in the eighties and early nineties. That view
was itself based on a Tocquevillian conception of civil society as the realm of
independent associations. As critical views about NGOs grew recently, whether NGOs
can truly serve as such agents became increasingly questioned. Yet, as this study showed
even in the constricting political environment of Ethiopia, NGOs were active in
promoting liberal norms of democracy and human rights. In the absence of alternative
structures, such as a parliament in a competitive political system, the implications of
restrictive laws on NGOs political and related activities on, and generally, the critical
stance on NGOs role as agents of democratization is also an area that needs to be closely
studied. In fact, such a study may be even pressing in light of the rise and attractiveness
to some of views challenging liberal conceptions of the nature of the relationship between
the state and society. Equally importantly, the rise of the economic power of illiberal
states such as China and what it would mean to the regulation and future of NGOs is also
a subject of further research.

While Ethiopian NGOs efforts to have a liberal regulatory regime failed with the
adoption of the Charities and Societies Proclamation No. 621 of 2009, the Ethiopian
state’s needs for resources from abroad still make it vulnerable to exogenous, particularly
Western, influences. This need led the Ethiopian state to be more open to the activities of
Western missionaries as well as education at the beginning of the last century. As shown
in Chapter 3, those influences in turn resulted in a crisis in the legitimacy of the state and
the expansion of Western-modeled voluntary organizations including NGOs. Whether
the state’s needs for economic progress and military security in the twenty first century would lead to similar developments is something that may need future research.
ANNEX I INTERVIEW GUIDE

This interview guide is prepared to assist a systematic gathering of interview data from different interviewees. It is intended to assist as a reminder of the topics and types of questions that need to be covered in the interviews. Questions within the interview topics can be modified or further explored depending upon the context of the particular interview.

I. Biographical Questions
   a. Title and position at organization.
   b. Primary responsibilities at organization.
   c. Time at current position.
   d. Previous positions and responsibilities.
   e. Educational background.

II. Organizational History Mission
   a. When was the organization established?
   b. What is the mission of the organization? How has the mission evolved over time? What accounts for changes in mission? How is the mission translated into action?
   c. What were the important events/stages in the development of the organization? Why are they important?
   d. Were there any crises faced by the organization? What happened? How were they resolved? What lessons were drawn?

III. Relations with other organizations
   a. What other organizations does the organization regularly work with?
   b. How would you characterize the relationship with these organizations? What problems do you have? How are these problems handled?

IV. Programming
   a. What programs are being carried out by the organization? Why are these programs considered important?
   b. How would you rate each program’s importance in relation to the other programs? Why?
   c. What were the major programs that were undertaken by the organization in the past 10/20/30 years? Why were these programs carried out? How have these programs changed? If there are programs that are no longer being carried out, why were they abandoned? What lessons are drawn from past programs?
   d. In what ways do you think that past and present programs have contributed to civil society strengthening and development?

V. NGO-Government Relations
   a. How would you characterize NGO-government relations?
   b. What are the challenges in NGO-government relations? What do you think accounts for such challenges?
c. What areas in NGO government relation do you see as satisfactory?
d. What areas in NGO-government relations would you see as needing improvement?

VI. NGO-Donor Relations
a. How would you characterize NGO-donor relations?
b. What are the challenges in NGO-donor relations? What do you think accounts for such challenges?
c. What areas in NGO donor relation do you see as satisfactory?
d. What areas in NGO-donor relations would you see as needing improvement?

VII. NGO Regulatory Environment
a. How do you see the regulatory environment of NGOs facilitating or constraining NGOs?
b. What improvements would you like to see? Why?
c. How has your organization complied with the regulatory environment? What difficulties do you experience in compliance? How do you overcome these difficulties?

VIII. NGOs and Development
a. What are the challenges that need to be addressed in the development process? How do you define these challenges?
b. What are the strategies that are necessary to address these challenges? How do you define them?
c. What contributions do NGOs make to development? What are the best examples of such contribution?
d. How does your organization contribute to development? What are the best examples of this contribution?

IX. NGOs and civil society.
a. What are the challenges that civil society faces in Ethiopia? How do you define these challenges?
b. What are the strategies that are necessary to address these challenges? How do you define them?
c. What contributions do NGOs make to civil society promotion? What are the best examples of such contribution?
d. How does your organization contribute to the growth of civil society? What are the best examples of this contribution?
## ANNEX II. RESPONSIBILITY AND NUMBER OF INTERVIEWEES.

<table>
<thead>
<tr>
<th>RESPONSIBILITY OF INTERVIEWEE</th>
<th>NUMBER OF INTERVIEWEES</th>
</tr>
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<tbody>
<tr>
<td>Head and senior staff of NGOs</td>
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<tr>
<td>Other staff member of NGOs</td>
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</tr>
<tr>
<td>Senior officials of Ministry of Justice and DPPC</td>
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</tr>
<tr>
<td>Other senior government official</td>
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</tr>
<tr>
<td>Academicians and Independent Consultant</td>
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<td>Former volunteer at REST</td>
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<tr>
<td>Senior cadre of the TPLF</td>
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</tr>
<tr>
<td>Former TPLF fighter who worked with REST</td>
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<tr>
<td>Representative of international aid agencies</td>
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<tr>
<td><strong>TOTAL</strong></td>
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REFERENCES


