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Critical analysis on flag salutation and religious freedom: A comparative analysis on national legal frameworks and Jehovah's witnesses beliefs under Rwandan Constitutional Law.

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Of the academic requirements for the award

Of Bachelor's Degree in Law

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Kigali, June, 2024

DECLARATION

I, Rurangwa Patrick hereby declare that the dissertation entitled “*Critical analysis on flag salutation and religious freedom. A comparative analysis on national legal framework and Jehovah’s witnesses’ beliefs under Rwandan constitution law*” is my original work. To the best of our knowledge, it has not been presented by anybody else at any higher learning institution for any award. Where any source was consulted, references have been duly provided in footnotes and bibliography as well.

Done at Kigali on 22nd / 6 /2024

Rurangwa Patrick

Date 22nd / 6 /2024

Signature.....

APPROVAL

It is certified that the work incorporated in this dissertation entitled “*Critical analysis on flag salutation and religious freedom. A comparative analysis on national legal framework and Jehovah`s witnesses` beliefs under Rwandan constitution law*”: submitted in partial fulfilment of the requirements for the Bachelor’s Degree with honors in law (LLB), in Kigali Independent University (ULK), is being carried out by Mr. Rurangwa Patrick

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Supervisor: Lecturer Murangwa Eduard

DEDICATION

To Almighty God

To my parents

Acknowledgments

First and foremost, I would like to extend my sincere thanks to the school of law for helping me to carry out this research. Specifically, I highly appreciate Mr. **Murangwa Eduard** who was my supervisor in the preparation of this research. He gave me very valuable instructions which have shown me the way to follow and mostly his time when I needed the advice, humbly, he never hesitated to provide the needed help. I am very grateful for his extensive guidance. He has been an encouraging mentor, supervisor and a primary source of direction in this research.

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To all of you, for all your support, May God bless you!

Rurangwa Patrick

Lists of abbreviations and acronyms

§:	Subsection
E.S:	Ecole secondaire
ECHR:	European Court of Human Rights
G.S:	Groupe scolaire
<i>Ibid:</i>	<i>Ibidem</i> {the same author, the same document, the same page}
ICCPR:	International covenant on civil and political rights
Id	Idem {the same author, the same document, but at different pages}
JW:	Jehovah's witness
NRS	Nevada revise statutes
ORS:	Oregon revised statutes
P:	Page
RGB	Rwanda Governance Board
RRLF	Rwanda Religious Leaders Forum
RSSB:	Rwanda social security board
RURA:	Rwanda Utilities Regulatory Authority
TTC:	Teacher Training College
U.S.A:	United states of America
UDHR:	Universal declaration of human rights
V:	Versus
VOL:	Volume
X:	Unknown author
YHWH:	Jehovah

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GENERAL INTRODUCTION

1. Overview

This introduction analyses the topic and is subdivided from the Background of the study, problem statement, Research objective, Research questions, Hypothesis of the study, interest of the study, scope of the study, Research methodology and the subdivision of the study.

1.1 BACKGROUND OF THE STUDY

There is no doubt that in connection with the pledges, **the flag salute** is a form of utterance. Symbolism is primitive but effective way of communicating ideas.¹ The salute of the flag is a gesture of love and respect which shows patriotism.² Normally, to salute a flag, all persons present in uniform should render the military salute. Members of the Armed Forces and veterans who are present but not in uniform may render the military salute. All other person's present should face the flag and stand at attention with the right hand over the heart, or if applicable, remove their headdress with their right hand and hold it at the left shoulder, the hand being over the heart. Citizens of other countries present should stand at attention. All such conduct toward the flag in a moving column should be rendered at the moment the flag passes.³

This culture of respecting national flag seems to be universal because legislators established laws regarding to the respect of national flag so that it becomes compulsory obligation to the people, for example in Rwanda the law n° 71/2024 of 26/06/2024 governing persons and family article 207 provides that "Spouses take oath when raising the right arm while the oath of the civil registrar is taken when he or she is raising the right arm, with the left arm holding the national flag. If the civil registrar is unable to hold the flag due to disability, he or she is caused to wear it." ⁴ The law n°12/2016 of 02/05//2016 modifying and complementing law no 44 bis/2011 of 26/11/2011 governing

¹ Richard c.Mc Millan," *religion in the public school*", mercer university press", p.130

² John and Yost," *separation of church and state in the united state* ",1948, university of Minnesota, p.180

³ John R. Luckey," *The United States Flag: Federal Law Relating to Display and Associated Questions*," p.6

⁴ Law n° 71/2024 of 26/06/2024 governing persons and family article 207

the statutes of prosecutors and other staff of the national public prosecution authority article 8 provides that “before assuming the office, each prosecutor must take the oath.”⁵

Not only those aforementioned laws because there are other different laws that require people in Rwanda to take oath before assuming their office. Such laws requiring to take oath contradicts with the constitution of the republic of Rwanda article 37 which provides that Freedom of thought, conscience, religion, worship and public manifestation thereof is guaranteed by the State in accordance with the law.⁶

This study tries to bridge off the gap that exists between national laws and Jehovah’s Witness beliefs since there is a contradiction between religious beliefs and laws, Jehovah’s Witnesses have been active in Rwanda since 1970. They obtained legal registration in 1992, which the government confirmed in 2002. The Witnesses are well-known for their political neutrality and are generally free to practice their religious beliefs. They don’t sing national anthem, hold flag or joining military training. Some school authorities expel Witness schoolchildren for refusing to participate in patriotic and religious ceremonies at school. Additionally, the government requires schoolteachers to participate in seminars that involve military training and the singing of the national anthem. As a result, hundreds of Witness teachers have lost their employment. In 2010, the Rwandan government required all public servants to participate in an oath ceremony involving the national flag.⁷ Consequently, many of Jehovah’s Witnesses employed as public servants lost their jobs.

Despite these challenges, Jehovah’s Witnesses in Rwanda are grateful for the religious freedom they do have. They hope that there will be time Rwandan officials will recognize that their politically neutral position poses no threat to the government.⁸

Jehovah’s Witnesses believe that saluting the flag amounts to an act of worship, or idolatry, which the Bible prohibits, these believes regarding to the objection of holding national flag based on the interpretation of verse in the bible at **exodus 20 :4-5** which commands that one shall not make or “bow down” to any “graven image” so Jehovah’s witness interpreted flag as a form of Graven

⁵ The law n° 12/2016 of 02/05/2016 modifying and complementing law n° 44 bis/2011 of 26/11/2011 governing the statutes of prosecutors and other staff of the national public prosecution authority article 8

⁶ the constitution of the republic of Rwanda article 37

⁷ Jw.org,” *Jehovah’s witness in Rwanda*”, available online at <https://www.jw.org › Rwanda › Jehovah-witness facts> accessed on 1st April 2024 at 6:50 pm

⁸ United States Department of State,” *International Religious Freedom Report for 2011*”,2011

image and the salute as bowing down or idolatry.⁹ Additionally the states do not reject their view of saying that holding flag or sing national anthem is a kind of worshipping¹⁰ and for not singing national anthem, its objection based on **Luke 4:8** “It is Jehovah your God you must worship, and it is to him alone you must render sacred service”.¹¹

These beliefs have caused a lot consequences towards Jehovah’s witnesses which violated their fundamental rights for example the civil case of Nshunguyinka v. Rwanda social security board {RSSB} where he was a public servant of RSSB and the authorities requested him to take oath while holding the flag which he denied based on his beliefs and eventually, they dismissed him, he appealed this decision administratively and in judicial system until in the supreme court of Rwanda where the court said” No one should rely on the freedom of belief to derogate from the laws and regulations of the state, therefore the appelland should have complied with the directive of taking oath for civil servants” in other words he lost the case and as well as his fundamental right.¹²

This kind of discrimination happened in the united state of America also, one example is Lillian Gobitis, aged twelve, and her brother William, aged ten, who were expelled from the public schools of Miners-Ville, Pennsylvania, for refusing to salute the national flag as part of a daily school exercise. The local Board of Education required both teachers and pupils to participate in' this ceremony and of course this expulsion affects someone’s future and fundamental rights. This court held that public schools may require their students to salute the American flag and recite the Pledge of Allegiance over any religious objections.¹³

But this right came to be granted to the people of America who had religious objection towards flag. As we see it in other chapter Therefore, adherent of Jehovah’s witness faces a lot of challenges that hinders freedom of beliefs based on the laws which requires people to hold national flag and this becomes an obstacles to free exercise their rights since some students expelled from schools

⁹ James f. Harris, “The Serpentine Wall: the winding boundary between a church and state in the united state”,2013, new jersey, p.163

¹⁰ E. Lauterbach,” international law report”; 1st Ed; the research center for international law, university of Cambridge;1986; vol.70; the press syndicate of the university of Cambridge; p.136

¹¹ Ibidem, p.2

¹² Nshunguyinka v. Rwanda social security board, “supreme court, July 22, 2014

¹³ Minersville School District v. Gobitis, 310 U.S. 586 (1940)

on the ground of rejecting to sing national anthem , and whoever deny to take oath while holding national flag where required by the law like in employment loses such opportunity.¹⁴ and acceded to be a state party of universal declaration of human rights of 1948 where in its article 18 stipulates that” Everyone has the right to freedom of thought, conscience and religion, this right includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public and private, to manifest his religion or belief in teaching, practice, worship and observance” and article 21 of aforementioned law states that” Everyone has the right to take part in the government of his country, directly or through freely chosen representatives”. This is clear that the government should not in any way, establish rules which violates fundamental rights.¹⁵

This study aims to assess whether Rwanda as a democratic country implements and respects its laws in a way that favors its citizen without any kind of discrimination and see particularly how Jehovah’s Witness are treated under Rwandan laws versus their beliefs from the bible.

This study analyses the consequences faced by Jehovah’s witnesses while exercising their rights and what can be done to harmonize national laws and fundamental rights which people inherent with. This study also assesses the response of the government of Rwanda to this criticism of not granting absolute freedom of beliefs to the Jehovah’s witnesses and as well as the legality of that response and see how other jurisdiction resolved with those issues faced by Jehovah’s witnesses since they have members in the whole world. This study assesses the legal mechanism adopted by other jurisdiction on this issue and see whether we can incorporate some of the used mechanisms in order to ensure that the human rights are fully protected.

This study analyzes what the government of Rwanda have done so far, to ensure that the rights claimed by Jehovah’s witnesses are fully respected since the laws keeps changing a day to day and see what needs to be done in order to protect the fundamental human right because they are considered to be essential to the development of human personality and human happiness.

¹⁴ The European Association of Jehovah’s Christian Witnesses, “*Rwanda*”, 19 march 2015

¹⁵ Universal declaration of human rights of 1948 article 18,21

The recognition, promotion and protection of these rights are the main justification for the existence of a state and every state is known by the rights it maintains.¹⁶

2. INTEREST OF THE STUDY

2.1. Personal interest

As law student who will soon be advocating people`s right, I would wish to live in a society where everyone enjoys fundamental rights and this study helps to raise awareness of the existing issue and suggests opinions.

2.2 Personal experience

I had a friend some years ago who was an employee of the government but he came to be dismissed on the ground of refusal to take oath while holding the flag before assuming his office and after that I said, I will make deep research on this and explore a lot of information over the issue.

2.3. Academic interest

1. **Legal reform and innovation:** this study can help academician to open discussion on religious beliefs and state laws in order to have a better society where everyone feel valued and exploring what can be done to increase fairness in our society.

2. **Comparative Legal Studies:** this study needs a deep comparative analysis by comparing Rwanda practices on freedom of beliefs versus state laws and other jurisdiction, so that we see whether there are positive things we can incorporate in our national laws.

2.4. Scientific interest

1. **Empirical research:** From a scientific perspective, studying and assess the freedom of beliefs versus state laws which involves empirical research methods and Researchers may gather data, analyze trends, and evaluate the impact not granting fully freedom of beliefs to the society which can bridge off a gap existing and contribute to what can be done so that all the people enjoy their right fully.

¹⁶ Suresh Mani Tripathi, "Fundamental Rights and directive principle of India",2016; Hamburg anchor academic publishing; p.31

2. **Socio-Legal Studies:** This topic can be interesting to the scholars in the field of socio-legal studies. It offers an opportunity to explore the social and cultural dynamics by exploring the influence of state laws over religious beliefs and understanding more about it can bring new thoughts that may be used to raise awareness of the existing matter and suggested solutions which improve fairness in our society.

3. SCOPE OF THE STUDY

This study is limited to examining and analyzing the reasons why some faith-based organization particularly Jehovah's witnesses still claiming their rights in Rwanda. The legality of ordinary laws that affects negatively freedom of religions and it is in that regard that it is supposed to cover issues concerning. Rights of all the people to exercise their rights particularly for religion without facing any discrimination. Therefore, we look at on domestic law as well as in others laws from different jurisdictions and other international instruments.

3.1. Delimitation in space

This study covers the Rwandan territory and international area.

3.2. Delimitation in time

This study covers the time from 1970 up to now because this is when the sect known as Jehovah's witness started to exercise their freedom of believe in Rwanda.¹⁷

3.3. Delimitation in domain

The study deals with civil law especially on tackling the issues people face while exercising their right to freedom of religion.

4. Problem statement

Religion offers direction for personal life, donates consolation, churches have a public voice and represents the values in the society which stimulates common sense.¹⁸ There is no doubt that the above importance of religion is the main reason why all countries recognize the right of beliefs

¹⁷ See supra note 7

¹⁸ Leslie Francis & Hans -Georg Zieberts," the public significance of religion " ,1st Ed, p.7

even if some people went further and said this is the right people inherent with and no law should come and challenge such right.

National laws of Rwanda and ratified international agreement recognize freedom of beliefs and expression and the question is why there are religious organization claiming their right of free exercise of freedom of beliefs in Rwanda while this right was granted under Rwandan laws?

The courts of Rwanda usually receive the legal case of Jehovah's witnesses claiming their right of freedom of beliefs for example some dismissed in different public institution and others expelled from schools on the ground of complying with what they believe and even after examining the legal case of Jehovah's witness by competent courts they remain unsatisfied of court decision for some cases and this has affected negatively their standards of living since there are laws in force that deny their rights and this study tries to analyze this issue and suggest opinion on how it can be solved because we cannot say that we have freedom of beliefs at the same time people claiming such rights.

Joseph Leon Blau – a philosopher said *“Freedom of religion means the right of the individual to choose and to adhere to whichever religious beliefs he may prefer, to join with others in religious associations to express these beliefs, and to incur no civil disabilities because of his choice”*.¹⁹

Therefore, having a certain belief should create no negative effects towards person because his/her choice of beliefs. Is that how it is so far according to that statement? That's what this study is all about.

5. Research questions

Throughout the study, the researcher seeks reasons for continuing legal cases of the Jehovah's witnesses concerning their freedom of beliefs while we have laws granting freedom of beliefs in force. The following questions are answered and discussed in this study:

¹⁹ Blau, Joseph I, *“Cornerstones of Religious Freedom in America”*. Ed, Harper & Row, 1964. P.6

1. What are the challenges Jehovah's witnesses face related to flag salutation and compliance of the laws while exercising their right to beliefs as the constitution of the Republic of Rwanda and other laws provides such freedom?

2. Are there legal and institutional mechanisms that protect the Jehovah's witnesses' beliefs and principle of freedom of beliefs in general?

5.1. Research hypothesis

1. Some Jehovah's witnesses were denied some of their fundamental rights whenever they object to take oath while holding national flag like some students were expelled from school on the ground of not singing national anthem, and others dismissed at work on the same ground.

2. Domestic laws and international laws ratified by Rwanda protect a principle of freedom of beliefs and as well as different institutions in charge of promoting freedom of religion

6. Research objective

This study aims to find the reasons why Jehovah's witnesses keep raising issue concerning their beliefs claiming to be violated while we have well written laws that protects freedom of beliefs and what can be done to ensure that the freedom of beliefs is respected without any discrimination by assessing the nature of the matter and linking it with national laws in order to solve the existing gap.

6.1. General objective

To assess the extent to which the right to freedom of religion is respected in Rwanda and to identify any gaps in legal framework.

6.2. Specific objective

- To identify the rights of Rwandans to exercise their religious beliefs freely and its impact to the society.
- To identify the issues faced by Jehovah's witnesses while exercising their right to freedom of beliefs
- To compare the Rwandan legal framework to international legal framework on respecting religious freedom.

- To identify any gaps in the Rwandan legal framework and make recommendations for reform.

7. Research techniques and Methodology

7.1 Techniques of data collections

7.1.1 Documentary technique

The study uses the documentary technique where the book, legal texts and case laws are entailed in order to assess the legality of establishing ordinary laws that may violate and undermine some religious beliefs in Rwanda.

7.2 Methods of data analysis

7.2.1 Comparative method

The comparative method is crucial for this research, in order to compare the different legal text and legal system in order to show how other legal system resolved the issue and dealt with the freedom of beliefs which helps us to see what we can improve locally so that we ensure the fairness in our society.

7.2.2 Analytical method

The analytical method is used to analyze the books and the legal text in order to assess the impact of harmonizing state laws and religious beliefs particularly the sect known as Jehovah's Witness in Rwanda.

7.2.3 Exegetic method

The exegetic method is also used in order to analyze and interpret different statutes, in different jurisdiction and see how those laws have protected the principle of freedom of religion.

8. SUBDIVISION OF THE STUDY

This study is well introduced by general introduction and the study is comprised by three chapters. The First chapter deals with conceptual and theoretical framework on Jehovah's witnesses beliefs and national laws. The Second chapter deals with the legal impact framework on the flag salutation and Jehovah's witnesses beliefs'. The third chapter deals with legal and institutional mechanisms that protect the Jehovah's witnesses beliefs and principle of freedom of religion. Lastly the study has conclusion, recommendations and bibliography.

CHAPTER I: CONCEPTUAL AND THEORETICAL FRAMEWORK

A popular Rwandan proverb states: “God spends the day elsewhere, but sleeps in Rwanda.” This widely used phrase intended to describe God’s love for Rwanda is one piece of evidence that shows the important role that God plays in the lives of Rwandan people. Rwandans have believed in God even prior to the Christianization of the nation by missionaries and colonizers. African Traditional Religions focuses belief on an omnipotent Supreme Being.²⁰

Unlike Europeans Rwandans believed in one God and worship it in the same way. The colonizers brought different ways of worship God which we accepted; this acceptance started by the king Matara III Rudahigwa on 27th October 1946 when he dedicated Rwanda to Jesus Christ.²¹

It is in this spirit, we found ourselves having different ways of God worship which we adopted in our daily life to the extent the supreme law of Rwanda recognized the right to freedom of religion but the question comes when there are laws contradict with some religious beliefs and this brings a controversial debate like what to what extent religious beliefs can be respected and exercise their beliefs freely and what will prevail between religious beliefs over national laws since civilized countries have committed to respect religious beliefs.

Therefore, this chapter elaborates clearly general overview on contradiction of national laws and Jehovah’s witnesses beliefs, this chapter also explore deeply the origin and development of religion and as well as significance of religion to the society and key terms are well explained so that we understand this clearly. It also addresses the different types of religion and exploring legal mechanisms that grants right to freedom of religion which helps us to assess the legality of laws that may violate freedom of religion.

²⁰ Weinberg, Ben, *"God in Pre- and Post- Genocide Rwanda: Understanding People's Perspectives"* (2015). Independent Study Project (ISP) Collection. 2037.

²¹ Ngabo Birikunzira Jerome, *"implantation and growth of the seventh-day Adventist church in Rwanda (1919-2000),"* university of south africa,2008, p.80.

1.1.0. DEFINITIONS OF KEY TERMS

First and foremost, for a better understanding the issue of flag salutation and religious beliefs, it is better to first understand some key terms that can help us in the contextualizing the main concern of the research before we go in deep. Hence this section provides different definitions of the concepts that helps to understand more the concern of this research.

1.1.1. Religion

Religion always existed in every society, from the most primitive to the most modern.²² Religion is not only universal, but also it is necessary, Religiosity is one of the things that distinguishes man from the other animals.²³

The supreme court of the United States in a case of **Davis v. Beason**, this court defined the term religion “has reference to one’s views of his relations to his Creator, and to the obligations they impose of reverence for his being and character, and of obedience to his will. It is often confounded with the cultus or form of worship of a particular sect, but is distinguishable from the latter.”²⁴

This word religion derived from the Middle English "religioun" which came from the Old French "religion." It may have been originally derived from the Latin word "religo" which means "good faith,"²⁵

Many people in this world believe in God or gods unless some few individuals like the late Germany philosopher and economist called Karl Marx who believed that religion is “an opium of the people”²⁶ those people are called atheists because they don’t believe in God’s existence.

Another definition of religion is given by Galloway which is definitely applicable to theism. According to him, “Man’s faith in a power beyond himself whereby he seeks to satisfy emotional needs and gains stability of life, and which he expresses in acts of worship and service.”²⁷

By this definition Galloway tries to maintain that the essential feature of religion is a faith in a power beyond men which satisfies the emotional aspect of men. In explaining the meaning of

²² Joseph Gaer,” *What the great religions believe.*” Dood, mead, &, New York,1963, p.16.

²³ Richard Caendish,” *The great Religions,*” Arco Publishing, Inc, New York, 1980, p.2.

²⁴ Davis v. Beason, Supreme Court of the United States, 1890, No. 1261

²⁵ Nunik Lelono Putri,” *the influence of Christianity as represented by the main character of Robert louis steven’s markheim,*” semarang state university ,2015. p 1.

²⁶ Dare Ojo Omonijo et al, *Religion as the Opium of the Masses: A Study of the Contemporary Relevance of Karl Marx,*” 2016, p.2.

²⁷ George Galloway: *The Philosophy of Religion,* p. 184

religion Taylor says that religion is the belief in spiritual beings. But his explanation of the meaning of religion does not satisfy a rational mind as he does not give us a clear picture of the nature of spiritual beings. Max Muller, a German born philosopher, gives us a vague definition of religion. While explaining the nature of religion he says that in religion infinite is perceived. There are three different aspects of religious consciousness, viz., intellect, feeling and action. But while defining religion different thinkers emphasize either of the aspects. According to Herber Spencer, religion is a type of hypothesis by which people attempt to comprehend the universe. His definition thus emphasizes the intellectual aspect of religion. Other thinkers like Mc Taggard emphasizes on the emotional aspect neglecting other aspects. Similarly, Frazer`s definition of religion emphasizes only the volition and action. But the definition of religion seems to be more or less satisfactory is put forwarded by Robert Flint, as he embraces all the three aspects of religion. According to him, “Religion is man`s belief in a being or beings mightier than himself and inaccessible to his senses but not indifferent to his sentiments and actions, with the feelings and practices which flow from such a belief.”

The above-mentioned definition and analysis of religion is not sufficient. There are so many definitions of religion given by different thinkers at different period of history but none can give us a complete picture of it. “Religion is hard to define, not because there is so little of it, but because there is so much.”²⁸

1.1.2. Freedom

This term is broad to the extent it can confuse some individuals claiming their right to do anything which might be seen by others as a danger to the community. For example here in Rwanda based on the culture people have freedom to choose what to eat but not all the food like fragrant meat (dog meat) it is not acceptable yet there is a freedom to choose what eat. Let`s look at marriage, there is no doubt that people have right and freedom to get married but not for same sex couples. Therefore,

Freedom is “the state of being allowed to do what you want to do”. For example, freedom of speech, freedom of assembly and others.²⁹ In other words there is a freedom to do what is legislators accepted you to do and We hold that no man has any right to dictate to another what

²⁸ Readings from World Religions, Compiled by Champion & Short, p-1
²⁹ see supra note 23

religion he shall believe, what philosophy he shall hold, what shall be his politics or what view of history he shall accept.

Everyone on the land should be free to think his own thoughts to have his own opinions, and to give voice to them, in public or in private, so long as he does not speak ill of his neighbor and free also to criticize the Government or any party or group of people, so long as he does not incite anyone to violence.³⁰ But this principle creates conflicts between state and its citizen sometimes, when the people are exercising their freedom since claiming freedom, people are likely to protest violently; to which most countries respond by using force.

Freedom is what most people demonstrate for around the world because the citizen believe that they are not being served well and sometimes they are right since some countries characterized by dictatorship and sectarianism as one philosopher called Jean Jacques *Rousseau* said "Man is born free but everywhere he is in chains."³¹ This is a result of freedom denial by the state but normally people claim their right through competent court which is a guardian of the people's right and it is the best suitable way and every civilized society should adopt because it brings justice into the society hence development for the community.

1.1.3. Flag salutation

According to dictionary of Legal Terms of 1st edition 2021 define a flag as a piece of cloth of distinctive color used as a symbol or emblem, representing a collective group or a community.³² All the countries around the world have different flags which represents the specific ideas for example the flag of Rwanda, **Green** symbolizes the hope for prosperity through effective use of the strength of Rwandans and resources of Rwanda. **Yellow** symbolizes economic development. Rwandans must work hard in order to achieve sustainable economic development. **Blue** symbolizes happiness and peace. Rwandans must fight for peace which will lead them to sustainable economic development and happiness. **Golden** sun and rays symbolize the light which

30 Sir Alfred Denning," freedom under law," London, Stevens & sons limited, 1949, p.35

31 Robert Maniquis and Victoria Myers," Godwinian Moments: From the Enlightenment to Romanticism," ed, University of Toronto Press,2011,p.103

32 Dictionary of Legal Terms of 1st edition 2021

progressively enlightens all people. These refer to unity, transparency and fight against ignorance.³³

Flag salutation is an action that indicates respect for the country's flag which generates love and attachment for the country it represents.³⁴ To salute a national flag, all persons come to attention. Those in uniform give the appropriate formal salute. Citizens not in uniform salute by placing their right hand over the heart and men with head cover should remove it and hold it to left shoulder, hand over the heart. Members of the Armed Forces and Veterans who are present but not in uniform may render the military salute. Members of organizations in formation salute upon command of the person in charge.³⁵

1.2.0. Forms of beliefs

There are many different beliefs regarding to worship depending on cultural and historical effects. But there are main beliefs people own, which is one of the fundamental rights recognized in all civilized nations for example the constitution of the republic of Rwanda article 37 which provides that Freedom of thought, conscience, religion, worship and public manifestation thereof is guaranteed by the State in accordance with the law.³⁶

1.2.1. Monotheism

Monotheism is the view that there is only one such God.³⁷ which is characterized by the traditions of Judaism, Christianity, and Islam. According to the evolutionistic school of comparative religion, monotheism is the last and highest stage in the evolution of religion.³⁸ This belief seems to be one of the dominants compared to others because it would still be not an exaggeration to say that its spiritual atmosphere is totally permeated with monotheism and it continues to constitutes one of the major elements in our universe.³⁹

33 Law N° 34/2008 OF 08/08/2008 on characteristics, description, ceremonial and respect of national flag article 5

34 Gerald L. Sittser," A Cautious Patriotism: The American Churches and the Second world war, "university of north Carolina , chapel hill and london,1997,p.188

35 f. County supra note 3 at 3

36 See supra note 6.

37 Wainwright, William, "Monotheism", The Stanford Encyclopedia of Philosophy (Winter 2021 Edition), Edward N. Zalta (ed.), p.1

38 Adamo, D.T., 2022, "*The concept of monotheism in the Book of Proverbs and an African (Yoruba) perspective,*" Verbum et Ecclesia, p.2

39 Nikiprowetzky, V. (1975). "*Ethical Monotheism*". Daedalus, p. 69–89.

Over approximately the past fifteen years, several monographs and anthologies have put research on monotheism on the agenda. The interest is probably due to the fact that during the last few decades, religion has experienced a renaissance in the West and that religion in this region, for the most part, is tantamount to monotheistic religion. The interest is presumably also due to the fact that some forms of monotheism have been associated with religious intolerance, fundamentalism, and violence due to various political circumstances and a number of spectacular events in recent years.⁴⁰

1.2.2. Polytheism

Polytheism is the belief in many gods. After the Agricultural Revolution, our ancestors worshipped gods in return for dominance over plants and animals.

The origin of polytheism, belief in many gods, starts with the Agricultural Revolution.

The Agricultural Revolution led to a religious revolution. In previous, animistic belief systems, man was no better than other animals, plants, and geographical features. For instance, man didn't consider himself superior to a sheep just because he hunted sheep, just as he wouldn't consider himself inferior to tigers just because they hunted him. But when hunter-gatherers became farmers, suddenly man had dominion. Rather than equals in the spiritual realm, sheep and grains became objects farmers owned and protected jealously. Man, and his concerns became the center of religious belief. This was polytheism's origin, and the start of belief in many gods. You don't pray to something less powerful than you are. Man had to find someone or something else to worship, someone to control the things he couldn't. Gods originated as a way to solve this problem. The job of gods was to mediate between humans and the rest of the natural world, over which man now wanted control. Humans worshipped gods in return for dominance over plants and animals. As empires and trade networks grew, the worlds of individuals got larger. Rather than appealing to a few local gods, people now needed a pantheon that could address all the new needs of an expanded world. This was the origination of polytheism, the belief in many gods. Gods usually had distinct personalities and functions. For example, there was a goddess to address infertility, a god to make it rain, and a god to bring luck in war.⁴¹

⁴⁰ Jens-André P. Herbener, "On the Term *"Monotheism"* Vol. 60, No. 5/6 (2013) p.631.,

⁴¹ Shortform, "Belief in Many Gods: The Origin of Polytheism | Shortform Books," available online at <https://www.shortform.com > blog > belief-in-many-gods>, accessed on 24th may 2024

This belief seemed to be the traditional where most people used to pray many gods which came to be override by monotheism from western culture. But Some people criticize these different beliefs because sometimes they are used against the fundamental rights of others which resulted into violence in recent years yet religious beliefs should a platform which unite people disregarding to the differences.⁴²

1.2.3. Atheism

A lot of people think that atheism is a recent idea. But religious disbelief actually has a long and fascinating history. Just as a student of Christianity would want to know about a few rather significant things that happened 2,000 years ago, someone who wants a better understanding of atheism likewise needs to know what atheism has been up to for the past 30 centuries or so in the Enlightenment era by the early 18th century, disbelief was gathering serious steam in Europe. Secret documents challenging religious belief had been circulating for 50 years, just steps ahead of the censors. French parishioners going through the papers of their Catholic priest who died in 1729 found copies of a book, written by the priest for them, telling how much he detested and disbelieved the religion he'd taught them for 40 years. By the end of the century, philosophers in France, Germany, and England were openly challenging religious power and ideas and establishing modern concepts of human rights and individual liberty.⁴³

Atheism is not an affirmative belief that there is no god nor does it answer any other question about what a person believes. *It is simply a rejection of the assertion that there are gods.* Atheism is too often defined incorrectly as a belief system. To be clear: Atheism is not a disbelief in gods or a denial of gods; it is a lack of belief in gods. Therefore, if you lack an active belief in gods, you are an atheist.⁴⁴

42 American civil liberties union, "End the Use of Religion to Discriminate," available online at <https://www.aclu.org/issues/religious-liberty/end-u...> accessed on 24th may 2024

43 American humanist association, "Atheism," available online at <https://americanhumanist.org/uploads/2016/1>, accessed on 24th may 2024

44 American atheist, "what is atheism," available online at <https://www.atheists.org/Activism/Resources>, accessed on 24th may 2024

For the Atheist, they believe into having good behaviors and being supportive to the nature instead of being adherent of any religious group, like Katharine Hepburn who said “I’m an atheist and that’s it. I believe there’s nothing we can know except that we should be kind to each other and do what we can for other people.”⁴⁵

1.3. Theory on the Origin and development of religion

Many attempts have been made to trace the development of religion and anthropologist; historian have often been led by their respective methods to widely different solutions of the problem. A survey of the literature during the last decade shows us that great progress has been made and that uncertainty has been succeeded by certainty and evidence.⁴⁶

A clearly fact-based explanation of the source of origin of religion is probably impossible. Its primitive form is so ancient that only hypothetical and hypothetical rather than factually logical views can be presented about it. However, the question of the origin of religion remains a mystery to this day. Out of all the explanations presented by social scientists in this regard, only a few are acceptable, but because the explanations cannot be scientifically proven, these opinions are only logical concepts. As a result, a great difference of opinion is found among the scholars of this subject. Yet these scholars agree that religion, like other social institutions, arose out of certain needs of man, or that it arose because of the conditions of human life on earth. In this context, here I throw the light on the important theories about the origin of religion propounded by anthropologists, and sociologists. This is important because There is speculation that the first religions were a response to human fear. They were created to give people a feeling of security in an insecure world, and a feeling of control over the environment where there was little control. Here we shall deal with naturalistic, anthropological and social origin of religion theories.⁴⁷

1.3.1. Naturalistic theory of the origin of religion

The pioneer of naturalistic theory of the origin of religion is Ernst Haeckel, a scientist turned philosopher. He expressed his conviction that the discoveries of nineteenth century science bring

45 Jeffrey Olsson, “leaving faith behind,” 2009, p.25

46 Henning, Charles L. “On the Origin of Religion.” *American Anthropologist*, vol. 11, no. 12, 1898, p. 373

47 Dr. Shyama Prasad Mukherjee University, Ranchi, “theories on origin of religion,” available online at [https://dspmuranchi.ac.in › pdf › Blog › Ch 3 \(1\) ...](https://dspmuranchi.ac.in › pdf › Blog › Ch 3 (1) ...), accessed on 24th may 2024

the solution of the enigmas which have perplexed mankind through the centuries. He calls his system “monism” in opposition to all dualisms which differentiates God and nature, soul and body, spirit and matter. There is only a single substance and it manifests itself both as matter and energy or body and spirit. This monism is founded on the demonstrable results of science and it solves the riddles of existence. It gives negative answers to the traditional problems of God, freedom and immortality. The ideas of God, freedom and immortality are based on a mistaken dualism. There can be no God apart from the universe. An invisible God who thinks, speaks, and acts is an impossible conception. In the monistic deterministic cosmos, there is no room for the immortality of the soul or the freedom of the will.⁴⁸

1.3.2. Anthropological theory of the origin of religion

The naturalistic interpretation of religion gained support from the developing science of anthropology. The ideas of Edward Burnett Tylor inspired other thinkers like James George Frazer and Salomon Reinach to formulate the anthropological theory of the origin of religion. Tylor makes two assumptions. (1) human culture – including knowledge, art, religion, customs and the like – has its laws which can be studied scientifically. Like in nature, in culture too we can find the uniform action of uniform causes. (2) The various grades of culture found in the human race can be exhibited as stages in a process of development or evolution. Another idea to which he draws our attention is the phenomenon of ‘survival’. His main contribution was his theory of “Animism” like the *belief in spiritual beings*. Confronted with the phenomena such as death, sleep, dreams etc., primitive man accounted for them in terms of a spirit separable from the body. He believed in other spirits throughout all nature, some of these spirits having the rank of powerful deities. The higher religions have developed out of the matrix of primitive animism. The superiority of the higher religions consists in their moral ideas, which are almost entirely lacking in primitive religion and these moral ideas have turned out to be the abiding fruit of animism. Thus, human progress has taken place through the gradual secularizing of elements which were originally all enveloped in the sphere of animistic beliefs. This process has taken place not only in the transformation of taboos into moral rules but also in the development of science out of magic.

48 Dr.akanksha ,” the pioneer of naturalistic theory of the origin of religion .,”available online at <http://oldsite.pup.ac.in> › MAPHilosophy45,accessed on 24th may 2024

Religion was the very life of nascent societies, and out of it has come our civilizations. He visualizes further progress in the direction of education and the extension of the rational outlook.⁴⁹

1.3.3. Social theory of origin of religion

In the work of Emile Durkheim (1858 – 1917) the theory of the origin of religion gets a sociological slant. His views make not just a sociological theory but it is a complete philosophy, known as ‘sociological positivism’. In his philosophy the idea of society occupies the Centre position and functions as the key for understanding philosophical problems. Truth and falsehood are objective in so far as they express collective and not individual thought. Even the laws of logic reflect the needs of civilized society. Society is not just the sum of the individuals included in it, but a peculiar kind of entity which is the source of constraints governing the thought and behavior of its members.⁵⁰, religion is an integrative force in society because it has the power to shape collective beliefs. It provides cohesion in the social order by promoting a sense of belonging and collective consciousness. This view was supported by Emile Durkheim. A second point of view, supported by Max Weber, views religion in terms of how it supports other social institutions.⁵¹

Weber thought that the religious belief systems provided a cultural framework that supported the development of other social institutions, such as the economy. While Durkheim and Weber concentrated on how religion contributes to the cohesion of society, Karl Marx focused on the conflict and oppression that religion provided to societies. Marx saw religion as a tool for class oppression in which it promotes stratification because it supports a hierarchy of people on Earth and the subordination of humankind to divine authority. Lastly, symbolic interaction theory focuses on the process by which people become religious. Different religious beliefs and practices emerge in different social and historical contexts because context frames the meaning of religious belief. Symbolic interaction theory helps explain how the same religion can be interpreted differently by different groups or in different times throughout history. From this perspective,

⁴⁹ Id.

⁵⁰ X, ” 1 unit 3 theories of the origin of religion, ”available online at <https://egyankosh.ac.in/bitstream/1/Unit-3>, accessed on 24th may 2024

⁵¹ Academia.edu, ” DOC) THEORIES OF RELIGION | Eze Ekene, ”available online at <https://www.academia.edu> > THE..., accessed on 25th may 2024

religious texts are not truths, but have been interpreted by people. Thus, different people or groups may interpret the same Bible in different ways.⁵²

1.4.0. Essential elements of religion

In general, religions have their starting point in some mystical or religious experience of God or something supernatural. When the pioneers of these religions encountered the Divine, they communicated this experience to their immediate disciples and followers. Since this experience is very much personal and ineffable, it cannot be adequately communicated. Thus, in every religion there is some mystical dimension, which is to be experienced by the individual. In religions, scholars have identified some elements as essential. Here an attempt is made to understand these elements of religion, namely, creed, cult and code of conduct.

1.4.1. Creed

Creed is the deposit of faith/articles of faith professed by the followers of a particular religion. Creed is a profession of faith, put in precise form, endowed with authority, and intended for general use in religious rites.⁵³ In Christianity there is the Apostle's Creed, which begins with "I believe". In Islam the creed is recited in a twofold witness La ilaha illa Allah Muhammadu Rasool Allah (There is no god but God, and that Muhammad is the Messenger of God). Buddhism's triple refuge is a profession of faith Buddham saranam gachami, Dhannam saranam gachami, Sangham saranam gachami (I take refuge in the Buddha. I take refuge in the Doctrine; I take refuge in the Community of believers). As time passed by and as the original experience declined, there came a need to codify the essentials of faith based on the foundational experience. And accordingly, some people took upon themselves the duty to codify the doctrinal dimension of religion.⁵⁴

Therefore, it is necessary that there should be a system of beliefs (creed) for any religion. Thus, such a creed helps a particular group of faithful people to be strong believers and united.⁵⁵

⁵² Id.

⁵³ *The Encyclopedia of World Faiths*, Macdonald & Cop London, 1987, p.10

⁵⁴ J. Pathrapankal, "Dimensions and Dynamics of Religion", Thottakara Augustine (Ed.), *Dialogical Dynamics of Religion*, Dharmaram publications, Bangalore, 1993, p.8.

⁵⁵ Id.

1.4.2. Cult (rituals)

Beliefs are explained, taught, and made real through ceremonies. Cult in the practical sense can be described as the intervention of the religion for the proper guidance of the individual for his righteous development. This can be seen in all religions in different ways and times. For example, in the Catholic Church there are seven sacraments (purifying ceremonies) in we see eighteen samskaras (purifying ceremonies) and in Islam, we can see these rituals in one form or other in its Five pillars, especially in the prayers (Namaz) and pilgrimage (Hajj). Hence, cult is an important and essential part of any religion, but it need not be uniform in nature.⁵⁶

1.4.3. Code of conduct

Religion is not merely a creed or performance of some rituals, rather it should guide the people towards a right conduct. It must, therefore, encompass every field of human life like politics, economics, science, technology etc. Hence Gandhiji rightly said Hinduism, those who say that religion has nothing to do with politics do not know what religion means. The moral codes of religion often have a lot to do with social behavior of persons and in that respect, religion plays a very important role as a form of social control. But the ethical precepts of religions relate also to personal conduct and to matters that are regarded as important for self-control and thus for spiritual development. Families of religions often seem very similar in their moral codes. All religions have their ethical prescriptions, and most of them claim that they are based upon revelation. But practice and theory often do not converge. The general acceptance of moral codes by believers appears to be an indication of the ideals they hold, but of course it may not be possible for all the believers to put all the precepts into practice. The main objective of every religion is salvation and the adherent of religions should be characterized by standard behaviors.⁵⁷

1.5.0. Supplementary elements of religion

Besides the essential elements of creed, cult and code of conduct, there are some supplementary elements found in almost all religions. The important ones are myths and mythology through which the religious mysteries are unveiled.

⁵⁶ Mantu Debbarma," *religion a critical survey: Origin and Development of Religion,*" p.45-46

⁵⁷ Ibid

1.5.1. Myth

“Myth” is a word capable of a variety of interpretations. For some people, this word is used as a kind of fairy tale. For others, this is a story which belongs to the ancient past and which emerged from a mode of thinking and understanding out grown by modern scientific man.⁵⁸

It is important to note that this is not the way this word is used in religious discourse. Myth is traditional story which embodies a belief regarding some fact or phenomenon of experience, and in which often the forces of nature and of the soul are personified; a sacred narrative regarding a god, a hero, the origin of the world or of a people which are a part of every culture in the world and are used to explain natural phenomena, where a people came from and how their civilization developed, and why things happen as they do. At their most basic level, myths comfort by giving a sense of order and meaning to what can sometimes seem a chaotic world.⁵⁹

The myths are essential vehicles for communicating the faith of religious traditions. The creation story found in the Bible is an example of this. Through this it teaches that everything is created by God and thus the absolute power of the transcendent God is emphasized.⁶⁰

1.5.2. Mythology

Mythology is the scientific and historical study of myths.⁶¹ It is the special thought form, perspective and language of myth. The term mythology is used in two distinct ways. It is not only the study of myth, but also the body of myths in a particular religious tradition.⁶²

Every society has developed its own myths, which play an important role in the society's religious life. This religious significance has always separated myths from folk tales and legends. People may narrate folk tales and legends for amusements, without believing them. But they usually consider myths as sacred and purposive. Through mythology, we learn how different societies

⁵⁸ John M.,” *Sutcliffe: A Dictionary of Religious Education*,” SCM, London, 1984, p.239

⁵⁹ CliffsNotes,” *Mythology-folklore*, “Available online at <https://www.cliffsnotes.com> › Arts & Humanities, accessed on 25th may 2024

⁶⁰ “*The Jerome Biblical Commentary*,” Geoffrey Chapman, London, 1968, p.10

⁶¹ “*Encyclopedia of Religion and Ethics*”, Vol.1.K T&T Clark, New York, 1980, p. 117

⁶² “*Encyclopedia Britannica*”, Vol. 12, Chicago, 1979, p.793.

have answered to the basic questions of life. We also understand better the feelings and values that bind the members of society into one group.⁶³

1.5.3. Mystery

Mystery has been thought of as that element of doctrinal propositions that is not fully comprehensible to reason. Some examples are Trinity, Vedic Triad, Avatars etc. In a way, religion is man's response to the divine or supernatural mystery. The natural response to mystery is awe. Mysteries are to be distinguished from problems. A problem can be solved, but a mystery cannot be solved; they need to be accepted, believed in and meditated upon.⁶⁴

Every religion has its origin in some mystical experience. The founders of religions speak of a realm of mystery that lies beyond the reach of human grasp and reasoning. The Divine Reality, they point to, remains in a cloud of unknowing for "no one has ever seen God"⁶⁵ therefore Every religion has some or many elements of mystery.

1.6.1. Theory on freedom of religion

Freedom for religion means that "*religion comes first; government comes second.*"⁶⁶ This is based on the idea that the recognition, promotion and protection of these rights are the main justification for the existence of a state and every state is known by the rights it maintains.⁶⁷

freedom of religion or belief protects people who have and who practice various forms of belief. The European Court of Human Rights defines the term belief as views that attain a certain level of cogency, seriousness, cohesion and importance. Traditional, non-traditional and new religious beliefs are protected as are non-religious beliefs such as atheism, agnosticism, humanism and pacifism. The rights not to have an opinion on questions of religion or belief and to criticize any or all religious or non-religious beliefs are also protected.⁶⁸

⁶³ "*The World Book Encyclopedia*", Vol.13, World Book International, Chicago, 1992, p.751

⁶⁴ "John M. Sutcliffe: *A Dictionary of Religion Education*," SCM, London, 1984, p.238,

⁶⁵ Gospel According to John 1: 18.

⁶⁶ Michael Stokes Paulsen, "Freedom for Religion," the yale law journal forum December 4, 2023, p.412.

⁶⁷ See supra note 16

⁶⁸ Katherine Cash," *what freedom of religion or belief involves and when it may be limited*," p.4

The manifestation of religion springs from an inner belief or conviction that supernatural (transcendental) powers exist that somehow affect or perhaps even determine the conditions of human life. This belief or conviction may take many different forms. The most common belief or conviction in our culture group is probably that the supernatural powers may be embodied in a common concept God and that these powers affect human life through the human mind or psyche. Faith and inner conviction become organized religion when faith is institutionalized. This is typically done through a designation of holy scriptures that constitute the content of faith; a working out of rituals symbolizing the content of faith, and a constitution of authorities determining the proper understanding of faith.⁶⁹

“Religious freedom” is too ambiguous to provide any real understanding of the topic however such ambiguity is what makes a religion to be exercised freely depending on individual’s choice without government interference. A classic example of free exercise is the first amendment of the US Constitution which states that Congress shall make no law prohibiting the free exercise of religion. While the discussion of what this means in the US context is extensive in a broader sense the concept of “**free exercise**” can be defined as the ability to freely practice one’s religion and maintain religious institutions. Below are important points that must be taken in into account while measuring the freedom of religion:

- Freedom of worship, observance, or to practice religious rituals or rites, both as an individual and in groups, both in public and in private.
- The freedom to change profess or choose, one’s religion.
- The right not to disclose one’s religious affiliation or beliefs.
- The right to not profess a religion or freedom from religion or be an atheist.
- The right to hold or express religious opinions.
- The right to form, join, or be a member of religious organizations.
- The right of religious organizations to manage their own affairs without interference.
- The right not to join or be a member of a religious organization.
- The right to obtain, hold, and maintain places of worship.

⁶⁹ Henrik Palmer Olsen,” *The Right to Freedom of Religion*”: A Critical Review,” p.229-230

- The right to propagate or spread a religion.⁷⁰

Even if most of the governments in civilized nations accepted the principle of freedom of religion in their domestic laws, but sometimes it's not respected as it should be. It is even hard to measure the level of complying with principle of freedom of religion but below are few basic points which one of them can indicate that a certain government does not respect the freedom of religion while practicing one of the following:

- Arrest, continued detention, or severe official harassment of religious figures, officials, and/or members of religious parties without legal justification.
- The government restricts or harasses members and organizations affiliated with the majority religion but who operate outside of the state sponsored or recognized ecclesiastical framework.
- Restrictions on formal religious organizations other than political parties.
- Restrictions on the public observance of religious practices, including religious holidays and the Sabbath.
- Restrictions on religious activities outside of recognized religious facilities.
- Restrictions on public religious speech.
- Restrictions or monitoring of sermons by clergy.
- Restrictions on access to places of worship.
- Restrictions on the publication or dissemination of written religious material.
- People are arrested for religious activities.
- Restrictions on religious public gatherings that are not placed on other types of public gathering.
- Restrictions on the public display by private persons or organizations of religious symbols.
- Restrictions on or regulation of religious education in public schools.
- Restrictions on or regulation of religious education outside of public schools or general government control of religious education.

⁷⁰ Jonathan Fox," *Religious Freedom in Theory and Practice*, "Human Rights Review, vol 16, 2015, p. 4-5

- Restrictions on or regulation of religious education at the university level. & Conscientious objectors to military service are not given other options for national service and are prosecuted.⁷¹

The right to religious freedom and the duty to tolerate religious diversity, to the extent they impose significant limitations in the internal and external sovereignty of States, are important foundations of modern constitutional and international law, peace and security. The right to religious freedom and the duty to tolerate religious diversity, to the extent they impose significant limitations in the internal and external sovereignty of States, are important foundations of modern constitutional and international law, peace and security.⁷² Religious liberty is not a right conferred by government or judged by government. It is, rather, a fundamental prior limitation on all government power.⁷³ This principle is a key factor when assessing the necessity of any interference with the manifestation of a religion or belief; it establishes the duty of the state to create a ‘level playing field’ between different groups, including both those with religious or non-religious beliefs and those with no religion or belief, with one side being free to present their point of view, and the other to reject it. The principle of respect is thus sensitive to imbalances of power and seeks to ensure that those who ‘enjoy “superiority” over others, educationally, socially, politically or in any other fashion, are not unduly advantaged in an exchange of ideas. Otherwise, the principle may be summarized as respecting the believer rather than the belief. believers and non-believers are entitled to the respect of those who hold to other forms of belief even though, of course, there may be profound disagreement regarding the content of those views since respect for the believer does not necessarily entail respect for what is believed.⁷⁴

⁷¹ Id, p.13.

⁷² Machado, Jonatas E.M. (2005) "*Freedom of Religion: A View from Europe*," Roger Williams University Law Review: Vol. 10: Iss. 2, Article 8, p.454.

⁷³ See supra note 65 at 410

⁷⁴ Dr Alice Donald and Dr Erica Howard," *The right to freedom of religion or belief and its intersection with other rights*,"2015, p.17.

1.7.0. Origin and history of sect known as Jehovah's witness

Just like any other faith-based organization, Jehovah's witnesses have their own history and origin and as well as the origin of name "**Jehovah**" since most of the religious organization have their own grandfathers.

1.7.1. The origin of name Jehovah

The name Jehovah is unique name of God which occurs in a chapter of genesis, but it's deeper significance is not seen until exodus 3. Overtime, the name undergoes a transformation along with changes in the language and in how the name is used. The name Jehovah occurs in the bible over 6800 in the Old Testament.⁷⁵

The name "Jehovah in Hebrew texts is transferred by tetragramme **YHWH**, meaning "Lord".⁷⁶ This name has traditionally been rendered Jehovah in English; scholars prefer Yahweh, or simply **YHWH**. It is derived from the verb meaning "to be" and means either "He is (exists)" or "**He causes to be**" Despite the frequency of yhwh in the Hebrew Bible, "Jehovah" appears only seven times in the King James Version of the Old Testament (see Genesis 22:14; Exodus 6:3; 17:15; Judges 6:24; Psalm 83:18; Isaiah 12:2; 26:4).⁷⁷

Knowing God's name and titles was, and still is, necessary to worship properly and to invoke divine power.⁷⁸ In the bible, the book of Isaiah 42:8 says that "I am Jehovah. That is my name; I give my glory to no one else."⁷⁹ This is the verse based on to some people to call God "Jehovah" from Hebrew translation (YHWH).

The idea of on emphasize for God's name is controversial debate, some people find it important others keeps calling him God, lord, almighty and others. There are criticisms based on logic like saying that God must be having name because since God is common noun not proper noun. This was what motivated some religious movement to come up with proper noun of God as we have mentioned above in Isaiah where God declared himself as "***a Jehovah***"

⁷⁵ ,” *The purpose of god in the name of Jehovah*,” vol 7, 2007, p.59.

⁷⁶ Igor Konstantinovich Garshin,” *Common origin of the God names Yahweh (Jehovah) and Zeus*” p.2.

⁷⁷ Dana m. pike,” *The Name and Titles of God in the Old Testament*,” p.19.

⁷⁸ Id. P.17.

⁷⁹ In the bible, Isaiah 42:8

1.7.2. Origin of Jehovah's witness

The religious community of Jehovah's Witnesses began during the Great Awakening in nineteenth-century America. Most "awakened" communities were splinter groups of established Protestant religions that favored congregational independence. Similar to the Reformation of the sixteenth century, the religious awakening was seen as a reaction against rigid church doctrine, the perception of apostasy, the loss of any real eschatological expectations and the lack of charismatic inspiration.

The religious group that became known as Jehovah's Witnesses was founded by clothing salesman Charles Taze Russell (1852–1916), from Allegheny near Pittsburgh, Pennsylvania. He was raised a Presbyterian and joined the Congregational Church at age fourteen. In 1870, Russell attended a service conducted by Second Adventists, who believed that Jesus Christ would visibly return in 1874. As a result, he and a few close associates founded a Bible study group in Pittsburgh. Their objective was to examine both the Old and New Testaments to learn more about Christ's return. In 1876, Russell met Nelson H. Barbour, the leader of a small group of former Second Adventists in Rochester, New York. In his periodical, "Herald of the Morning," Barbour explained that Jesus had not been visibly present on earth since 1874, but invisibly present. In 1877, they co-authored a book expressing the view that Christ's invisible presence marked the beginning of a forty-year period of harvesting and judgment that would culminate in 1914 with the establishment of "God's Kingdom." Proclaimers of this news would then be glorified, that is, taken into the Kingdom of Heaven. In 1879, Russell began publishing his own monthly magazine entitled "Zion's Watch Tower and Herald of Christ's Presence."

In 1881, he founded "Zion's Watch Tower Tract Society" in Pittsburgh, which was registered in 1884 as a non-profit corporation in the state of Pennsylvania. In 1896, the name was changed to "Watch Tower Bible and Tract Society," and again in 1955 to "Watchtower Bible and Tract Society of Pennsylvania." From 1886 to 1904, Russell penned his six-volume masterpiece "Studies in the Scriptures." Beginning in 1891, he made twelve trips to Europe. In 1900,⁸⁰ the first branch office outside the United States was opened in London. In 1897, the first German issue of "Zion"

⁸⁰ Gerhard Besier and Katarzyna Stokłosa, "Jehovah's Witnesses in Europe," ed, Cambridge Scholars Publishing, 2016, vol 1, p.1-2.

Watch Tower and Herald of Christ's Presence" was shipped to Europe via a literature depot in Berlin. The depot was later moved to Bremen. In 1902, the German branch office was opened in Wuppertal-Elberfeld and moved to Magdeburg in 1923. The world headquarters had already been moved in 1909 from Pittsburgh to Brooklyn, New York, and by 1914 Jehovah's Witnesses were present in 68 countries, spanning all continents. In many of those countries, a branch office was established. After Russell's death in 1916 and the internal dissension that followed, he was succeeded by his former legal adviser, Joseph Franklin Rutherford (1869–1942).⁸¹ The most significant factor that made this religious movement to grow is the preaching strategy for example door-to-door solicitations or walking on the streets and preach the pedestrian.

1.8.0. Religious intolerance

The ability of an individual to freely practice their religion is a fundamental human right which is enshrined in both international and domestic law. As has often been said, "no one is free until we are all free." Freedom of religion has been defined as the right to entertain such religious beliefs as a person chooses, the right to declare religious beliefs openly and without fear of hindrance or reprisal, and the right to manifest religious belief by worship and practice or by teaching and dissemination.

Religious intolerance can be understood as an intolerance of a person's religion, religious beliefs or practices. It is rooted in the negative attitudes, values, and beliefs held towards those of a particular religion. While attitudes of religious intolerance can be very difficult to measure and quantify, actions are more recognizable. Religious intolerance can materialize in many ways, from microaggressions, to lack of accommodation and acceptance of religious practices, to vandalism of religious buildings, hate speech, and physical violence. All acts of religious intolerance are forms of discrimination on the basis of religion. The psychological, economic, and societal impacts these intolerant behaviors and attitudes have on people can be very detrimental and long lasting.⁸²

⁸¹ Ibid

⁸² Canadian human rights commission," *discussion paper on religious intolerance*," 2023, p.1-2.

Yet religion is often viewed as a source of love and compassion, having and living religious beliefs can also be divisive. Therefore, there is a need of much attention on establishing suitable policies and legal text so that we avoid unnecessary consequences that may caused by human right denial.⁸³

1.8.1. Causes of religious intolerance

Some countries in the world do not tolerate or recognize the right to freedom of religion especially in Arab countries like Afghanistan, Iran, Iraq and others but normally, most of the countries recognize the principle of freedom of religion including Rwanda and many other countries and religious intolerance has its own causes as explained below:

Impact of the **School Curriculum** measured the opinion that religious studies at the school level should begin with teaching religious tolerance and peace between all religions, and that there is a need to revise the religious studies curriculum. **Hate Literature** against Religious Groups measured the opinion that hate literature is having a negative psychological impact on both the individual and society as a whole, creating a rift between different religious groups, thus leading to violence. **Impact of the Media** on Religious Intolerance measured the opinion that the media are religiously biased and promote extremist ideas instead of religious tolerance. Instead, the media could be a tool for creating religious respect.⁸⁴

Superiority Syndrome, Religious intolerance usually originates from the perceived superiority of one religion over the others. In simple terms, religious intolerance or fanaticism is the inability of an adherent of a particular religion to acknowledge, accommodate and accept the right of others to live by another faith different from his own. Invariably, such attitude is connected to the conviction that one's religion is the only divinely ordained path to spiritual enlightenment and immortality in heaven. Consequently, a religious fanatic believes strongly that his religion is unquestionably superior to other religions. It is good to point out that being zealous for one's religion is commendable and is to be expected, but where such zeal is wrongly channeled, it becomes dangerous for the life of the community and it is an abuse of human rights.

⁸³ Galbraith Quinn, Carlisle Alexandra and White, Ben, "*Religion as a Source of Tolerance and Intolerance: Exploring the Dichotomy*" (2020). Faculty Publications. P.89.

⁸⁴ Taalia Khan, Karin Osterman, and Kaj Björkqvist, "Severity and Reasons Behind Religious Intolerance in Pakistan: Perceptions of Sunnis, Shias, Ahmadis, and Christians," vol 2,2023, p.77.

Plurality of Religions, the plurality of ways by which human beings express their spiritual cravings is a reality. This fact points in a way to the view that human beings are by nature religious and that they differed and would continue to differ in religions. As regards the first assertion of man being by nature religious, this is in line with the anthropological fact that no human society has been found without one form of religion or the other. Since the existence of a plurality of religions is a reality, then there is bound to be religious intolerance. In fact, many religiously pluralistic societies all over the world have had to grapple with the problem of religious intolerance.⁸⁵

1.8.2. Importance of Religious Tolerance

Promotes Unity and Harmony, Religious tolerance promotes unity and harmony among people of different religions. It creates an environment where people can practice their religion without fear of discrimination or persecution. This environment fosters unity and cooperation among people, which leads to national development. It promotes unity and peace among different ethnic and religious groups. It encourages respect for diversity and helps to create a harmonious and cohesive society.

Boosts Economic Development, Religious tolerance is a vital factor in economic development. It creates an environment of stability, which attracts investments and boosts economic growth. Investors are more likely to invest in a country where there are religious tolerance and peace. Religious tolerance promotes socio-economic development. It creates an environment that allows people of different religious backgrounds to coexist peacefully and collaborate in various economic activities. Religious tolerance opens up opportunities for trade, investment, and tourism, which can contribute to economic growth and development.

Enhances Education and Research Religious tolerance promotes education and research. It encourages people from different religions to share their knowledge, skills, and experiences which lead to the development of new ideas and innovations. It also enables one to learn from one another. Religious tolerance is essential for conflict resolution. Religious conflicts are often fueled

⁸⁵ Dr Ezirim, Joel Kelechi, "the challenges of religious intolerance to the Nigerian development" Trinitarian International Journal of Arts and Humanities, Vol. 1(1), 2021, p.9-10

by religious intolerance and lack of understanding of other people's beliefs. By promoting religious tolerance, conflicts can be resolved peacefully without resorting to violence.⁸⁶

⁸⁶ Id

CHAPTER II: THE LEGAL IMPACT FRAMEWORK ON THE FLAG SALUTATION AND JEHOVAH'S WITNESS BELIEFS.

National flag is respected by everyone including Jehovah's witness, there are different activities that requires a person who is seeking for a service or certain right like to get a job or to perform a job which requires to touch on flag as provided by legal formalities and the question is, what about those who object to touch on flag because there is no exception for religious beliefs yet the government claim to respect the freedom of religion? This is what this chapter is going to be discussing and as well as its consequences.

1.9.0. LEGAL TEXTS THAT PROVIDE THE RIGHT OF FREEDOM OF RELIGION

1.9.1. Domestic law

Freedom of religion as we know it today is thus based on a constitutional demolition of the state-imposed religious compulsion that had been institutionalized during Absolutism. After incorporation into national constitutions in the course of this demolition, the right of religious freedom has also been incorporated into more recent international human rights conventions. In the updating of national constitutions, the contents of the international human rights conventions are now often taken into account, and rights are thus allowed to survive, sometimes without much debate about their justification.⁸⁷

The supreme law (constitution) of Rwanda recognizes the freedom of religion as a fundamental right.⁸⁸ Which people based on exercising their different beliefs and whenever people meet obstacle while exercising their right, they report the case to the competent authorities including courts. For example, on 20 May 2014 (Ecole secondary) E. S. Ruhanga, a school located in the Gakenke District of the North Province, expelled Witness students Jean Damascène Niyibizi (16 years old) and Dieudonné Muramure (10 years old), because they refused to sing the national anthem because their beliefs object it. They remained at home until the problem was resolved following discussions with the authorities.⁸⁹

⁸⁷ Henrik Palmer Olsen," The Right to Freedom of Religion: A Critical Review," p.229

⁸⁸ See supra note 6

⁸⁹ The European Association of Jehovah's Christian Witnesses, 19 March 2015, p.3

2.1.0. International instruments

An important part of the freedom of religion consists in the individual sharing his religion with others in an institutionalized context. In most cases, the establishment of a religious organization, enabling the believers to act in community in internal as well as external dealings is an inseparable part of religion and is at the same time by definition necessary for the existence of a religion.⁹⁰

2.1.1. Universal declaration of human rights

on 18th September 1962 Rwanda acceded to universal declaration of human rights where article 18 states that” Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public and private, to manifest his religion or belief in teaching, practice, worship and observance.”⁹¹

2.1.2. International covenant on civil and political rights

In democratic and civilized nations like Rwanda has ratified numerous international agreement that protect the principle of freedom of religion as a fundamental right. For example, international covenant on civil and political rights (ICCPR) article 18 paragraph 1 stipulates that “Everyone shall have the right to freedom of thought, conscience and religion. This right shall include freedom to have or to adopt a religion or belief of his choice, and freedom, either individually or in community with others and in public or private to manifest his religion or belief in worship, observance, practice and teaching.” Paragraph 2 “No one shall be subject to coercion which would impair his freedom to have or to adopt a religion or belief of his choice.”⁹²

2.1.3. African charter on human and people`s right

Rwanda ratified African charter on human and people`s right in article 8 states that “Freedom of conscience, the profession and free practice of religion shall be guaranteed. No one may, subject to law and order, be submitted to measures restricting the exercise of these freedoms.”⁹³

This freedom of religion includes right to not accept religion in general for example is the case of *Buscarini and others v. San marino* where two newly parliament members in San marino refused to take swear by holy gospel before assuming the office. They filed a case to the European court

⁹⁰ Id. P.234.

⁹¹ universal declaration of human rights where article 18

⁹² international covenant on civil and political rights (ICCPR) article 18

⁹³ African charter on human and people`s right in article 8

of human rights; The applicants were elected to the General Grand Council (the parliament of the Republic of San Marino) in elections held on 30 May 1993.

Shortly afterwards, they requested permission from the Captains Regent, who act as the heads of government in San Marino, to take the oath required by section 55 of the Elections Act (Law no. 36 of 1958) without making reference to any religious text. The Act in question referred to a decree of 27 June 1909, which laid down the wording of the oath to be taken by members of the Republic's parliament as follows: "I, ..., swear on the Holy Gospels ever to be faithful to and obey the Constitution of the Republic, to uphold and defend freedom with all my might, ever to observe the Laws and Decrees, whether ancient, modern or yet to be enacted or issued and to nominate and vote for as candidates to the Judiciary and other Public Office only those whom I consider apt, loyal and fit to serve the Republic, without allowing myself to be swayed by any feelings of hatred or love or by any other consideration."

In support of their request the applicants referred to Article 4 of the Declaration of Rights of 1974, which guarantees the right to freedom of religion, and Article 9 of the Convention. The government as a party to the case was arguing that the wording of the oath in question was not religious but, rather, historical and social in significance and based on tradition. The Republic of San Marino had, admittedly, been founded by a man of religion but it was a secular State in which freedom of religion was expressly enshrined in law (Article 4 of the Declaration of Rights of 1974). The form of words in issue had lost its original religious character, as had certain religious feast-days which the State recognized as public holidays. The act complained of therefore did not amount to a limitation on the applicants' freedom of religion. The applicants and the Commission rejected that assertion. And this court reiterates that: "As enshrined in Article 9, freedom of thought, conscience and religion is one of the foundations of a 'democratic society' within the meaning of the Convention. It is, in its religious dimension, one of the most vital elements that go to make up the identity of believers and their conception of life, but it is also a precious asset for atheists, agnostics, sceptics and the unconcerned.

This court referred to the caselaw of *Kokkinakis v. Greece* judgment of 25 May 1993, Series A no. 260-A, p. 17, § 31, where the court said explained that "***freedom entails, inter alia, freedom to hold or not to hold religious beliefs and to practice or not to practice a religion.***" Finally, this

court ruled in favor of Buscarini and others (applicants), where the court held that here has been a violation of Article 9 of the Convention.⁹⁴

2.2.1. Legal text that violates fundamental rights of Jehovah`s witness

In Rwanda different legal text contain some article which are contrary to the religious freedom of members of Jehovah`s witness. Based on the title of this thesis we are focusing mostly on those claims related to hold national flag because Jehovah`s witnesses are not allowed to touch on flag based on religious beliefs. For example, the law n° 71/2024 of 26/06/2024 governing persons and family article 207 provides that “Spouses take oath when raising the right arm while the oath of the **civil registrar is taken when he or she is raising the right arm, with the left arm holding the national flag.** If the civil registrar is unable to hold the flag due to disability, he or she is caused to wear it.”⁹⁵ Even if the constitution allows the right to Right to participate in the governance of the country and right of access to public service. This formality becomes a challenge for the members of Jehovah`s witness because this formality cannot be skipped due to religious ground because there is no exception provided by the law which may affect civil registrar in case, he or she is a member of Jehovah`s witnesses since in accordance with the aforementioned law civil registrar is obliged to take an oath without a exception.

Law governing the Office of Notary N° 13bis/2014 of 21/05/2014 article 7 states that “Except the Ambassador or the First Secretary of Embassy who is governed by special laws, every notary shall, before taking office, take an oath orally before the Minister or any other civil servant delegated for that purpose in writing by the Minister and statement thereof shall be taken.” Regardless to the right to have a job, this article requires all notaries to take oath without religious exception which hinders development of Jehovah`s witness.⁹⁶

Law n°12/2013 OF 22/03/2013 Governing the bailiff function article 58 states that “before to taking office, bailiffs shall take an oath before the Minister or any other civil servant legally mandated by him/her.”⁹⁷ The law n° 014/2021 OF 03/03/2021 determining statute of judges and judicial personnel article 92 provides that “before commencing their duties, judges and members

⁹⁴ Case of Buscarini and others v. San Marino, European court of human rights, no. 24645/94 ,1999

⁹⁵ See supra note 4

⁹⁶ Law governing the Office of Notary N° 13bis/2014 of 21/05/2014 article 7

⁹⁷ Law N°12/2013 OF 22/03/2013 Governing the bailiff function article 58

of judicial personnel appointed by the High Council of the Judiciary after successfully passing an exam as well as judges and judges in charge of courts appointed by the High Council of the Judiciary take oath before the President of the Supreme Court.”⁹⁸ All these laws require to take an oath before assuming the office which goes with holding a national flag without an exception to the religious beliefs, which deprives the right to job opportunity for the members of Jehovah’s witnesses.

3.1.1. The impact of violating principle of freedom of religion by the state

The protection of human rights is an avowed aim of many democratic constitutions and an ideal in the leading theories of democracy. There is of course dispute about just what rights are included, but freedom of religion is typically among the least controversial rights needing protection.⁹⁹

Due to the fact that “*every action has consequences and every consequence its consequences*”¹⁰⁰ Therefore, violating principles of freedom of religion may cause the following effects:

Social conflict, we can see that religious restrictions serve to violate. To the extent that formal and informal regulations restrict religious groups, their interactions with other groups are often reduced and when they do occur, they are neither cooperative nor equal. When one group holds an advantage or receives privileges above and beyond another group, the chances of social conflict increase. As a result, the theory proposes that when a religious group’s interaction with other members of the society is restricted, the probability of religiously motivated prejudice, discrimination, and violence increases.¹⁰¹ All those effects touch on people’s development since the conflict cannot favor the sustainable development.

Religious restrictions can also alter both how and why religious groups mobilize their membership, serving as another mechanism through which restrictions increase conflict. We find that increased restrictions and reduced social contacts contribute to the formation of social movements and political parties organizing around religion. Some are organized to protest the restrictions of the

⁹⁸ Law n° 014/2021 OF 03/03/2021 determining statute of judges and judicial personnel article 92

⁹⁹ Robert Audi,” *Religion & Democracy: Interactions, Tensions, Possibilities*,” p.19.

¹⁰⁰ Society of the Army of the Tennessee,” *Report of the Proceedings of the Society of the Army of the Tennessee at the ... Meeting[s] ...*” The Society. 1877, Volumes 1-5, p.246

¹⁰¹ Roger Finke,” *Origins and Consequences of Religious Restrictions: A Global Overview*, “Pennsylvania state university.2013, p.308.

state, but many are organized to garner political favors or increase restrictions on minority religions. As noted earlier, these restrictions might be enacted through the state or through vigilante action. This leads to yet another mechanism through which religious restrictions work: To the extent that *a religious group forms the basis for political parties and social movements, the group's ability to motivate social action* (including religious violence) is increased.¹⁰² These effects may cause the overthrow of the government restricting religious freedom if a certain religious group is able to attract the people's emotions and join the movement for striving to practice their freedom freely.

Displacement of people, in the late 1500s and early 1600s, due to the evolution of progressive theological and political thought throughout Europe and England, people began questioning the absolute authority of the established church and wanted to develop their own methods of worship in line with their religious beliefs, the practice of religion by eliminating anything that was not specifically mentioned in the Bible and "believed that the Church of England must be purged of its many excesses and abuses." In England, since the monarch was the head of the church as well as the state, the church could claim that anyone espousing a belief contrary to the official religious precepts not only committed heresy against the church but also treason against the monarch, and therefore committed an illegal act. For that reason, the Pilgrims had been exposed to a flurry of ideas concerning theology, the separation of church and state, and other progressive ideas, such as evolving gender roles.¹⁰³ Seeking a place where people can exercise their freedom of religion freely was among of the reasons that made people migrate from England to America. Therefore, denying people's right may cause people to move from one place to another and this impact the economy since the human resources are moving where they think, they can be totally free.

Poor diplomacy, a country which is known to violate the principle of rule of law, where human rights are violated tend to be isolated by other state which affects the country in the all corners of life. For example, where the powerful states impose economic sanction, it affects the innocent people especially in developing countries where they depend on foreign aid, donation because the

¹⁰² Ibid.

¹⁰³ Julia L. Ernst," *the mayflower compact: celebrating four hundred years of influence on us. Democracy*" North Dakota law review, Vol.95:1, p.21-24

donor countries do not cooperate with countries which violates people's right and once they cut off aid, the citizen may suffer the economic sanction because of human rights violation.

3.1.2. Negative Consequences of Religious Intolerance

Violence and Conflicts, Religious intolerance leads to violence and conflicts. It creates a situation where people from different religions are constantly at odds, leading to chaos and unrest in the society. ¹⁰⁴

Retards Economic Growth, Religious intolerance leads to a lack of investment and economic growth. Investors are hesitant to invest in a country that is prone to violence and conflict.

Hinders Education and Research, Religious intolerance hinders education and research. It creates an environment where people are hesitant to share their knowledge and skills, leading to a lack of innovation and progress.

3.1.3. Strategies to Promote Religious Tolerance

Promotion of Interfaith Dialogue, Interfaith dialogue is an effective strategy for promoting religious tolerance. It encourages people from different religions to exchange ideas and engage in meaningful discussions. Interfaith dialogue and cooperation can promote religious tolerance. Interfaith meetings and forums provide opportunities for people of different religions to interact and learn from each other. Such interactions are essential in breaking down religious stereotypes and fostering mutual understanding and respect.

Education and Awareness, Education and awareness programs are essential for promoting religious tolerance. These programs educate people about the importance of religious tolerance and its benefits to the society. Education is one of the most effective ways of promoting tolerance. Educating people about different religions and their beliefs, practices, and customs can enhance understanding and respect for diversity. Schools and universities can play a critical role in teaching religious tolerance through their curriculum.

¹⁰⁴ Taiwo Oyetoro and Moyinoluwa Talabi, "Religious Tolerance: A Tool For National Development," *Edumania- An International Multidisciplinary Journal*, 2023, Vol. 01(Issue 02,), p.39-41

The government can promote religious tolerance through the implementation of policies that protect the rights of people of all religions. The government can also promote interfaith initiatives to foster unity and cooperation among people of different religions. Promoting tolerance through legislation and policies is critical. Governments should enact laws and policies that promote religious freedom and protect the rights of minority groups. Such policies can include creating a favorable environment for religious groups to practice their faith and ensuring that religious minorities are not discriminated against.¹⁰⁵

3.2.1 The principle of freedom of speech

The justification from conscience explains religion in terms of conscience and autonomy. As autonomous creatures, human beings act according to their deepest beliefs in realization of their freedom. The ability to act freely, according to one's commitment to her profound beliefs, is highly valued among liberal communities. As a consequence, liberal constitutions provide for its protection, most commonly under the principle of freedom of conscience. (Note that a truly liberal respect for freedom of conscience does not depend on or derive from the validity of the belief itself.) The actualization of religious beliefs represents a paradigmatic case of exercising deep and profound beliefs. Therefore, freedom of religion, the argument goes, guarantees the freedom to act on one's religious beliefs and thus to self-govern oneself in accordance to the dictates of one's conscience.¹⁰⁶

This broad standard of free speech, with only very specific, narrowly interpreted exceptions to free speech protection, is essential to democracy. As President Obama stated in his speech to the UN General Assembly in 2012: True democracy demands that citizens cannot be thrown in jail because of what they believe. It depends on the freedom of citizens to speak their minds and assemble without fear, and on the rule of law and due process that guarantees the rights of all people. Unfortunately, at the same UN meeting, Mohamed Morsi at the time still the democratically elected President of Egypt rejected the American approach to free speech. He instead carved out a set of exceptions distinctly different from the American categories. Echoing the Defamation of Religions Resolution, Morsi stated, "Egypt respects freedom of expression," but "one that is not

¹⁰⁵ Ibid.

¹⁰⁶ Avihay Dorfman, "Freedom of Religion," *Canadian Journal of Law & Jurisprudence*, 2010, p.285.

used to incite hatred against anyone. One that is not directed toward one specific religion or cult.”¹⁰⁷

The principle of freedom of speech is clear and sounds to be understandable but as people's differs it ends up being interpreted in different ways. This principle brings confusion and contradictions between legal institutions and ordinary people, sometimes where people may be claiming to have a right over saying something which may end up into commission of a crime while the other people take it as usual thing that could not be a problem normally. For example, is the case of Ingabire Umuhoza Victore where in the judgment of 13 December 2013, the Supreme Court ruled that she “has been found guilty of conspiracy to undermine the Government and the Constitution, through acts of terrorism, war or other violent means, **of downplaying genocide, and of spreading rumors with the intent to incite the population against the existing authorities**”. She was sentenced to 15 years imprisonment by the Supreme Court. Her conviction over a crime of minimizing genocide was based on speech when she was addressing the journalist At the Kigali Genocide Memorial, she said “if we look at this memorial, it only refers to the people who died during the genocide against the Tutsis. There is another untold story with regard to the crimes against humanity committed against the Hutus. The Hutus who lost their loved ones are also suffering; they think about the loved ones who perished and are wondering “When will our dead ones also be remembered?”, she kept claiming that, it is freedom of speech which the courts of Rwanda found otherwise.¹⁰⁸

She even filed a petition to the Supreme Court arising from the case n° RP 0110/10/HC instituted by the prosecution against her before the High Court where she is prosecuted for the crime of minimization of genocide and genocide ideology, therefore she was praying that article 2 to article 9 of Law n°18/2008 of 23/07/2008 punishing the crime of genocide ideology and article 4 of Law n° 33 bis/2003 of 06/09/2003 punishing the crime of genocide, crimes against humanity and war crimes should declared void because they are contrary to article 20, 33, and 34 of the Constitution of the Republic of Rwanda of 04/06/2003. because they are uncertain and confusing to the extent that they prejudice individual rights provided under the constitution to express one's opinion

¹⁰⁷ Asma T. Uddin and Haris Tarin,” *Rethinking the “Red Line”: The Intersection of Free Speech, Religious Freedom, and Social Change*,” 2013, p.11.

¹⁰⁸ *Umuhoza v Rwanda (merits)* (2017) 2 AfCLR 165. P.171-172, 196

especially when talking about the genocide, and these may be subject to different individual interpretations. In this case the court found that, it lacks merit.¹⁰⁹

She did not stop there, as she referred this matter of freedom of speech to the African court on human and people's right where this court made her innocent over the crime of minimizing genocide and genocide ideology, it held that the Respondent State (**Rwanda**) **has violated Article 9 (2) of the African Charter on Human and Peoples' Rights and Article 19** of the international Covenant on Civil and Political Rights on **freedom of expression and opinion**.¹¹⁰

Moreover, in the United States of America, district of Colorado in a case of "**Roberts v. Madigan**" a teacher at a public elementary school was barred from subtly communicating his religious views to his students. The teacher did this in several ways. He kept a Bible on his desk throughout the school day; he read from the Bible in front of the students during a daily fifteen-minute silent reading period; he kept a poster in the classroom with the caption "You have only to open your eyes to see the hand of God;" and he kept two Christian religious books on the shelves of his classroom library.¹¹¹

The case which originated from university of Alabama known as "**In Bishop v. Aronov**" an exercise physiology professor at a public university made a series of religious remarks to his class (including the statement "I personally believe God came to earth in the form of Jesus Christ and he has something to tell us about life which is crucial to success and happiness"), and during final exams, the professor organized an after-class meeting on religious topics, which was attended by several of his students.¹¹²

In California, **John E. Pelozo** was a biology teacher in a public high school in the Capistrano Unified School District and he has brought this action (filing a case) for declaratory and injunctive relief and for damages arising out of his contention that he has the constitutional right to teach his

¹⁰⁹ Re INGABIRE (petition for the repeal of legal provisions inconsistent with the constitution Rwanda supreme court) – RS/INCONST/0002/12/CS, October 18, 2012.

¹¹⁰ Ingabire Umuhoza Victoire v Republic of Rwanda, application number 003/20214, 24th November 2017, p.44

¹¹¹ Roberts v. Madigan, 702 F. Supp. 1505 (D. Colo. 1989)

¹¹² Bishop v. Aronov (11th Circuit Court) (1991)

students pursuant to his belief in the system of creationism, as expounded in Genesis. Adversely the school system contends that his biology classes should be taught pursuant to an accepted theory of evolution which is defined within the framework of the California Education Code. Pursuant to the code, the curriculum sets forth the subjects that must be covered in the high school biology class. The school district must maintain uniformity so that all students are adequately prepared for college entrance exams and higher education. In the biology curriculum, evolution is one of the main themes to be covered. It is taught throughout two years of science study in the district curriculum. In his complaint, plaintiff contends that the school district's requirement that he teach the evolution theory is a violation of his constitutional rights because evolution is a religious theory.¹¹³

In each case where the schools ordered the teachers to cease their religious activities, the teachers responded by filing a lawsuit premised on claims of free speech, and the courts rejected those claims and ruled in favor of the schools. These decisions, from three different federal circuits, indicate that the rules regarding on-the-job religious speech by public school teachers are already quite strict. In Roberts, the teacher did not even speak to his students but rather communicated his religious views through silent, though clearly religious actions.¹¹⁴

This principle of freedom of speech is broadest and interpreted in different ways even if the concept itself is clear so the interpretation will vary according to the history, public morals, culture, and national laws which will define whether a certain activity or speech is acceptable or not.

3.2.2. Contemporary debates on freedom of religion and worship

Basing on the example of Amazing Grace, a Christian radio station, remained closed throughout the year. The Rwanda Utilities Regulatory Authority (RURA) had revoked the station's broadcasting license in April 2018 because of complaints about a January 2018 broadcast of a sermon by local Pastor Nicolas Niyibikora in which he said women were "**dangerous creatures of evil, going against God's plans.**" RURA had also ordered the station's owner to apologize for Niyibikora's remarks and pay a fine. In May of 2018, a court rejected the station's owner's suit against RURA and the Rwanda Media Commission for violating his right to opinion and

¹¹³ *Peloza v. Capistrano Unified School Dist.*, 782 F. Supp. 1412 (C.D. Cal. 1992)

¹¹⁴ Steven G. Gey, "when is religious speech not 'free speech'?" *university of Illinois law review*, p.396-397

conscience, ruling that the station should have complied with RURA's sanctions. On October 7, the station's owner, a U.S. citizen, was arrested and deported to the United States. Authorities stated the owner was arrested because he attempted to hold a press conference on a public street without a permit. The director general of immigration and emigration told press the owner was deported as a prohibited immigrant because of his involvement in "activities that cause public disorder."¹¹⁵ This closure of radio raised again the issue of freedom of speech and worship because the preacher was basing on the scriptures therefore, one can ask himself if the preacher was innocent because he was using the bible we believe in?

There is always such confusion about the religious freedom whether it is absolutely not subject to questionable or not, disregarding to what is written in the holy books like Qur'an or bible. Again, the simple and clear answer is given by the constitution of the republic of Rwanda in article 38 stipulates that "Freedom of expression and freedom of access to information shall not prejudice public order, good morals, the protection of youth and children, the right of every citizen to honor and dignity and protection of personal and family privacy."¹¹⁶ Even the supreme court of Rwanda upheld this principle in judgement of Re Mugisha [Rwanda supreme court—RS/inconst/spec00002/2018/Sc], the court recognized this principle by saying that "freedom of expression is a necessary condition for the realization of the principles of transparency and accountability that are, in turn, essential for the promotion and protection of human rights."¹¹⁷

However, this principle is not absolute, it must be exercised in accordance with the laws and public orders and logically the spread message on radio that women were "**dangerous creatures of evil, going against God's plans.**" Was actually violating their dignity as human being wherever the message would come from.

3.2.3. Prohibition of discrimination

In the international law the principle of equality and non-discrimination is expressed in many legal acts. The first act defining the concept of discrimination was the Treaty of Rome, established on 25 March 1957, which created the European Economic Community. Provisions of this Treaty

¹¹⁵ Rwanda 2019 international religious report, p.5.

¹¹⁶ The constitution of the republic of Rwanda

¹¹⁷ Re Mugisha, supreme court of Rwanda, RS/inconst/spec00002/2018/sc, 2019, paragraph.98

introduced a ban on discrimination on the grounds of origin, and also guaranteed implementation of provisions regulating the principle of equal pay for men and women for the same work.

The principle of equality *bases on equal treatment of entities belonging to the same category or being in the same situation*. It should be noted at this point that it does not lead to equal treatment of all through the application of exactly the same legal norms. The doctrine, in connection with the principle of equality has developed the concept of “relevant feature,” a significant feature on the basis of which entities are categorized. The Constitutional Court has also considered the principle of equality in the same way, by indicating that entities which are in a similar situation should be treated in a similar way, without any favoritism or discrimination, and according to the same measure. It should be emphasized however, that the principle of equality does not determine the order of unequal treatment of unequal persons, by its analogous content.¹¹⁸

The constitution of the republic of Rwanda article 16 prohibit discrimination, where it states that “All Rwandans are born and remain equal in rights and freedoms , any form of or propaganda for discrimination, including on the basis of ethnicity, family or descent, clan, skin, color, sex, region, social status, religion or belief, opinion, wealth, cultural differences, language, economic status, physical or mental disability or any other form of discrimination are prohibited and punishable by law.”¹¹⁹

European Court of Human Rights (ECtHR) during the analysis of a number of cases. E.g. **Łuczak v. Poland**, the ECtHR found that unjustified refusal of access to the social security system for farmers on the basis of nationality alone constitutes discrimination on grounds of nationality.¹²⁰

In *D.H. and Others v. Czech Republic* the placement of Roma children in schools for children with intellectual disabilities was found to be discriminatory.¹²¹ In *Constantin Stoica v. Romania*, the

¹¹⁸ Milena Kloczkowska,” *prohibition of discrimination and the principle of equal treatment in temporary employment – chosen legal aspects*” p.118, 120

¹¹⁹ Art 16 of the constitution

¹²⁰ *Łuczak v. Poland*, The European Court of Human Rights (Fourth Section), 27 March 2007 no. 77782/01

¹²¹ *D.H. and Others v. Czech Republic*, [GC] application 57325/00 Judgment 13.11.2007 [GC]

ECtHR found that racist violence is a particular affront to human dignity.¹²² In the case of *Opuz v. Turkey* the ECtHR stated that violence against women is a form of gender discrimination.¹²³

In a petition filed by Murangwa Edward seeking to annul the unconstitutional provisions. *Me Murangwa* [Rwanda Supreme court –Rs/inconst/spec00001/2019/Sc]. The supreme court explained that “separation of persons, much as people are equal before the law, the differentiation or categorization thereof sometimes does not necessarily imply discrimination because differentiation or categorization of persons may be necessary when there is a legitimate or rational purpose.” To avoid discrimination this court based on the legal scholar called Erwin Chemerinsky where it emphasized that “Things that are alike should be treated alike, and unlike things should be treated unlike in proportion to their unlikeness.”¹²⁴

In a petition filed by Akagera business group seeking to annul unconstitutional article, the supreme court based on the caselaw of *Firma A. Racke v Hauptzollamt Mainz* (Court of Justice of the European Union). Reaffirmed the similar idea that” discrimination consists solely in the application of different rules to comparable situations or in the application of the same rule to differing situations. “¹²⁵ It’s worthy to say that within the discretion of court, it is the one to determine whether a certain act or speech constitutes discrimination and all the above explanation shows that normally to avoid unjust discrimination, the same things should be treated in the same way.

3.2.4. Significance of religion to the society

Religion helps to shape the character of an individual and thereby it molds social life. It brings forth the sense of social value in the mind of people. In obeying the social laws or to respect the elders and to show sympathy towards the feelings of others, or to discharge the social obligations faithfully, the role of religion is immense. In those cases, it acts as a teacher. Not only this, a sense of fellow feeling amongst the people belonging to different communities is also taught by religion. Moreover, religion teaches that the man’s love and services to God will be real only if he loves

¹²² *Constantin Stoica v. Romania*, The European Court of Human Rights, application no. 42722/02, 2008

¹²³ *Opuz v. Turkey*, The European Court of Human Rights, Application no. 33401/02

¹²⁴ *Me Murangwa* [Rwanda Supreme court –Rs/inconst/spec00001/2019/Sc], November 29, 2019

¹²⁵ *Re Akagera business group*, Rwanda supreme court RS/SPEC/0001/16/CS, 23rd September 2016, paragraph 20.

and serves humanity. In developing moral consciousness amongst people, religion acts as an inspiring factor. Religion enforces uniformity of behavior and it strengthens social solidarity and thereby acts as an instrument in stabilizing social order.

In primitive age the influence of religion was very great in controlling society and this feature is not totally lost even today. Social life of primitive people was controlled by inspiring God-fear in their minds but in modern age people are inspired not by fear but by the hope for the attainment of virtuous and noble life. Thus, by fostering patriotic sentiments in men, religion helps to maintain social integration.

In describing the role of religion Dr. S. Radhakrishnan says that religion has innumerable effects. Religion not only guarantees values but it also gives meaning to life. Moreover, the confidence to go on adventures is also inculcated in our mind by religion. Thus, narrating the role of religion he says, "Religion is the discipline which touches the conscience and helps us to struggle with evil and sordidness, saves us from greed, lust and hatred, releases moral power and imparts courage in the enterprise of saving the world.

People live in the third world countries such as, India, Africa, Brazil etc. derive their sense of life from religion and as such religion is very important to them. They get the answers of many questions that appear in their minds. The questions such as, who we are? What is the purpose of life? What is life and what is death? Is there anything after this life? - are very common for human being and they are curious to have answers of these questions. But in the third world countries science is not so developed to answer these questions. Thus, it is religion from which they seek to get answers of these questions countries science is not so developed to answer these questions. Thus, it is religion from which they seek to get answers of these questions.¹²⁶

Religion influences economy, Sociologists like Sombert and Max Weber rightly established the relationship of religion with economic system. Weber observed the influence of Protestant ethics in the development of capitalism. Sombert found this spirit of capitalism in Jewish norms. For the

¹²⁶ Dr. Shanjendu Nath," *Religion and Its Role in Society*" *IOSR Journal of Humanities and Social Science*," Volume 20, Issue 11, Ver. IV (Nov. 2015), p.84

distinct religious principles present in Christianity, capitalism grew in protestant countries but not in the country like India, Pakistan etc. The Hindus lay great stress on spiritual progress than on material progress. Hence, materialism could not grow in India.

Religion provides mental peace; Human life is uncertain. He struggles for his survival amidst the uncertainties, insecurities and dangers, Some-times he feels helplessness. It is the religion which consoles and encourages him in all such time of crisis. Religion gives right shelter to him. He gets mental peace and emotional support. It encourages him to face his life and problems.

Religion explains individual suffering, Man does not live by knowledge alone. He is an emotional creature. Religion serves to the emotions of man in times of his sufferings and disappointment. On God religion puts faith and entertains the belief that some unseen power moves in mysterious ways to make even his loss meaningful. In this way religion gives release from sorrow and release from fear. It helps man to bear his frustration and integrate his personality.

Religion gives recreation, Religion plays a charming role in providing recreation to the people. Religious rites and festivals are more or less performed in every religion which gives relief to the people from mental exertion. Similarly religious lectures, bhajans, kirtans, musical concerts followed by the utterance of hymn etc. gives much more pleasure to the people and provides eternal recreation.¹²⁷

3.2.5. The impact of legal framework and government actions on Jehovah's witness while exercising their rights in Rwanda and also in other jurisdictions.

The sect known as Jehovah's witnesses are allowed to exercise their right to freedom of religion and have got legal status in Rwanda.¹²⁸ But there are numerous laws which compulsory requires them to do what is different from their beliefs and that has the following effects either in Rwanda or in other jurisdictions:

¹²⁷ John Nsorom, "importance of religion to human," p.17-20

¹²⁸ See supra not 7

In 2011, 21 Jehovah's Witnesses working in six different government agencies were fired for refusing to touch the national flag while taking a new public servant's oath. Two of the employees were teachers. The Minister of Public Service and Labor confirmed that individuals who did not comply with the new requirement to cite an oath of loyalty while touching the flag were subject to dismissal under an August 2010 cabinet directive based on Law Number 22/2002 on General Statutes for Rwanda's Public Service. All of the dismissed public servants sued their former employers. The Karongi District Intermediate Court dismissed two cases, but the complainants appealed. At year's end the appeals were tentatively scheduled for April 2012, and the remaining 19 cases were awaiting trial. **None of the 21 employees fired regained their positions during the year which of course affected their lives negatively.**¹²⁹

Work dismissal, 25 of Jehovah's Witnesses have been dismissed from their secular work for their conscientious refusal to take an oath while holding the national flag. Of these, 21 took their cases to court. The following are details concerning their cases:

Between 2014 and 2015 five of the Witnesses lost their case before the Supreme Court. On 31 October 2014 two Witnesses lost their case in the Nyarugenge Intermediate Court. They appealed to the High Court on 28 November 2014. The hearing is scheduled for 14 May 2015. One other Witness lost his case before the Nyarugenge Intermediate Court on 6 March 2015. There are 11 Witnesses waiting to appeal their cases to the Supreme Court. Eight won their cases in the High Court, but the government has appealed to the Supreme Court. The other three Witnesses lost their cases in the High Court and have appealed to the Supreme Court. These cases are pending. Two Witnesses lost their case in the Karongi Intermediate Court in 2012, and received a final, adverse decision from the Supreme Court.¹³⁰

Another example is the case **Nshunguyinka v. Rwanda social security board {RSSB}** where he was a public servant of RSSB and the authorities requested him to take oath while holding flag which he denied based on his beliefs and eventually, they dismissed him, he appealed this decision administratively and in judicial system until in the supreme court of Rwanda where the court said”

¹²⁹ United States Department of State, *2011 Report on International Religious Freedom - Rwanda*, 30 July 2012, p.3-4.

¹³⁰ The European association of Jehovah's witness, Rwanda, (116th Session of the Human Rights Committee, 7 – 24 March 2016), Fourth periodic report pursuant to article 40 of the Covenant, p.4-5

No one should rely on the freedom of belief to derogate from the laws and regulations of the state, therefore the appellant should have complied with the directive of taking oath for civil servants” in other words he lost the case and as well as his fundamental right.¹³¹

In a case of **district of Huye v. Turikunkiko** where Turikunkiko was a primary teacher in Huye district and the time came, the authorities asked all the primary teachers to take an oath which he rejected as Jehovah’s witness do not agree to take an oath while holding a national flag. He was dismissed after rejection and he appealed administratively because he was not convinced by the decision of administration; after losing the expected decision he referred the matter to the competent court where he wanted to regain his position and the high court of Nyanza confirmed that Turikunkiko dismissed legally, which means he lost the case and his fundamental right as well.¹³²

In the Russian Federation, Danish citizen Dennis Christensen was arrested on 25 May 2017, for practicing his religion as one of Jehovah’s Witnesses. He was detained until 6 February 2019, when he was sentenced to six years’ imprisonment and, after losing his appeal, was placed in Penal Colony No. 3, Lgov, Kursk Region. Mr. Christensen has been subjected to periodic harassment in prison. On 19 September 2019, Leninsky District Court, Saratov, imprisoned Konstantin Bazhenov and Aleksey Budenchuk for three and a half years; Feliks Makhammadiyev for three years; and Gennadiy German, Roman Gridasov and Aleksey Miretskiy for two years for practicing their religion. Prison guards at Penal Colony No. 1, Orenburg, violently assaulted five of the men, and Feliks Makhammadiyev required hospitalization. On 20 April 2020, Mr. Bazhenov had his Russian citizenship revoked though he still holds Ukrainian citizenship. Also, on 23 April 2020, Mr. Makhammadiyev’s Russian citizenship was revoked, rendering him stateless because his former Uzbek citizenship was annulled after he became a Russian citizen. **Russia is the second of only two States to have formally made Jehovah’s Witnesses stateless for their religious beliefs.** These actions followed the Russian Supreme Court declaring Jehovah’s Witnesses ‘extremist’ on 20 April 2017 which resulted into ban of Jehovah’s witness in Russia.

¹³¹ See supra note 12.

¹³² district of Huye v. Turikunkiko, high court of Nyanza ,25th June 2020

In Turkmenistan, Jehovah's Witnesses are unregistered and cannot exercise freedom of religion. Since September 2018, there has been an increase in government interference with the Witnesses' religious activity. The authorities have intimidated and harassed them by searching homes without a warrant, seizing personal belongings, forcibly taking individuals from their workplace or homes for interrogation and physical violence. Fifty-five-year-old Bahram Hemdemov served a four-year sentence in Seydi prison after his arrest on 14 March 2015, for holding a peaceful religious meeting at his home in a Turkmenabad suburb.

In Tajikistan, on 10 September 2019, Khujand City Court sentenced 68-year-old Shamil Khakimov, who is in poor health, to seven and a half years' imprisonment with a subsequent three-year ban on religious activities for allegedly 'inciting religious hatred', which amounted to no more than manifesting his beliefs as one of Jehovah's Witnesses. This followed arbitrary searches of seven homes in Khujand, detention of 24 individual Jehovah's Witnesses and interrogations lasting up to 14 hours. German Embassy and EU representatives as well as 10 of Mr. Khakimov's friends were excluded from the unsuccessful appeal hearing before Sughd Regional Court on 9 October.

In Israel, freedom of religion is guaranteed by law. Various religious minorities have the right to register marriages and have burial places allocated for their adherents. Jehovah's Witnesses outnumber some of these religious minorities but are denied such privileges, and hence are unable to marry or to perform funerals in harmony with their religious beliefs. Their most recent application for recognition as a religious community came before the Supreme Court on 13 June 2019, and the government submitted that for 48 years new religious communities have not been approved as a matter of policy. No decision has been rendered.¹³³

In Rwanda, on 31 January 2012 the Apeki Tumba School in the Gicumbi District expelled four Witness students, Abumukiza Lucie, Hakurinka Josiane, Ngaboyishema Patrick, and Niyonshuti Pacifique, because they did not sing the national anthem. The Witnesses appealed to the High Court of Kigali on 11 October 2012. The court ruled against them for procedural reasons on 9 January 2015.

¹³³ 2020 European association of Jehovah's witness, p.1-4

On 2nd February 2014 the “Institute Sainte Marie Goretti teacher training college (TTC) Muramba” dismissed 19-year-old orphan Chantal Uwimbabazi for her refusal to participate in ‘Mass’ conducted by the Catholic Church. Discussions with the Education Office, the Administration of the Ngororero District, the Education Inspector of the Western Province, and the Minister of Education failed to bring a successful resolution. When contacted, the Minister of State, who is in charge of primary and secondary schooling in the Ministry of Education, indicated that the priest has the right to establish the regulations within his school and if Witness students cannot adhere to those regulations, then they should establish their own schools. As a result, Chantal Uwimbabazi has not returned to school and discontinued her education. This action by authorities denies her right to education because of a lack of respect for freedom of conscience and belief. On 12 May 2014 Group scolaire (G. S). Musango, a Catholic school located in the Karongi District of the Western Province, expelled eight Witness students between 13 to 20 years of age for refusing to pay church tax and failure to attend religious services in the church. However, it was alleged that they were expelled for refusing to sing the national anthem. Authorities imprisoned the eight children for six days (4-9 June 2014), and Sylvestre Habaguhirwa was kept in prison until 18 June. On that date, a judge ordered a provisional release under judicial supervision until a court hearing was held on 14 October 2014. Sylvestre Habaguhirwa and another student, Samuel Hagenimana, were beaten. In addition to these two boys, five additional young Witnesses were accused of inciting others to refuse to sing the national anthem. Criminal charges were brought against the students on 14 October 2014. The court acquitted the students of disrespecting and desecrating the national anthem on 28 November 2014.

On 20 May 2014 Ecole secondaire (E. S). Ruhanga, a school located in the Gakenke District of the North Province, expelled Witness students Jean Damascène Niyibizi (16 years old) and Dieudonné Muramure (10 years old), because they refused to sing the national anthem. They remained at home until the problem was resolved following discussions with the authorities.¹³⁴

3.2.6. Some jurisdictions have exempted Jehovah’s witness from saluting national flag and other related symbols.

Jehovah’s witnesses are everywhere in this world, and they are either being treated well or not and other parts have passed through all these challenges they are facing here in Rwanda because even in other countries the adherent of **Jehovah’s witness have been expelled from schools** and some

¹³⁴ See supra note 128 at 3-5

of them **lost their jobs**, all related to flag salutation or singing national anthem so it's time to look at how others dealt with their fundamental rights by much focusing on courts interpretation as a guardian of human rights. As the current law governing persons and family of 2024 require a civil registrar to hold a national flag while solemnizing marriage which may lead to work dismissal in case, a civil registrar maybe a member of Jehovah's witness. We look at how other countries conduct civil marriage and then we compare the best and inclusive practice for the public interest. In America, in 1942, the West Virginia Board of Education required public schools to include salutes to the flag by teachers and students as a mandatory part of school activities. The Board provided a detailed definition of what the salute should look like: keeping the right hand raised with upturned palm in a stiff-arm salute while the individual recited the pledge of allegiance. Students who refused to obey this requirement were subject to expulsion as part of school rules against insubordination and would not be readmitted until they complied. As a result, the children and their families could be charged with a crime based on the child's unlawful absence from school, which could expose parents to jail time.

The children in a family of Jehovah's Witnesses refused to perform the salute and were sent home from school each day for non-compliance. This was based on their core spiritual belief that the laws of God rise above any laws of a secular government. Like other children who refused to salute the flag, however, they were threatened with reform schools used for criminally active children, and their parents' faced prosecutions for causing juvenile delinquency. After filing this petition, the supreme court of U.S held that “*Students may not be required to salute the American flag or recite the Pledge of Allegiance at public schools if it is contrary to their religious beliefs.*”¹³⁵

In south Dakota (a state in north America) the supreme court heard a case of **State v. Davis**, where the plaintiff refused to comply with a school regulation which required all pupils at certain times to salute the American Flag. Following that refusal to salute the flag he was dismissed from school by the school authorities and remained absent for an extended' period. The court held that to require the pupils to participate in the flag salutation against their will was unconstitutional.¹³⁶

¹³⁵ West Virginia State Board of Education v. Barnette, 319 U.S. 624 (1943)

¹³⁶ "State v. Davis, 69 S.D. 328, 10 N.W.2d 288 (1943), July 3, 1943, South Dakota Supreme Court File No. 8532

In a state of New York, in case of **Russo v. Central School District**, where Susan Russo was appointed by the Board of Education for the Rush-Henrietta School District, as a probationary art teacher, and assigned, as of September 1, 1969, to the James E. Sperry High School in Henrietta. As a condition of her employment, Mrs. Russo was required to salute the flag and recite the pledge each morning before start teaching as it was required. when it came time to recite the pledge, Mrs. Russo rose and faced the flag, but neither recited the pledge nor saluted the flag. She simply stood at respectful attention, with her hands at her sides. Significantly, there is no evidence in the record indicating that Mrs. Russo ever tried to influence her students to follow her example. This action was brought by Mrs. Russo pursuant to provisions of the Civil Rights Act, alleging that her dismissal for refusing to pledge allegiance to the flag violated her First Amendment rights and Mrs. Russo seeks reinstatement with back pay, and damages. This court held that her dismissal violated the right provided under constitution.¹³⁷

In India the supreme court heard the case of **Bijoe Emmanuel v. State of Kerala**, where three children, namely Bijoe, Binu Mol, and Bindu Emmanuel, who were believers of Jehovah's Witnesses. They were students at a school in Kerala. The students participated in the school assembly every day. However, they did not participate in singing the National Anthem during the assembly. It was noted that the children never disrespected or insulted the National Anthem during the assembly but stood respectfully and quietly. This was done due to their belief in Jehovah's Witnesses and students were expelled from the school on the instructions of the Inspector of Schools. Finally, the Court concluded that the authorities, including the School Headmistress and the Deputy Inspector of Police, breached the limitation to their powers under the Constitution of India by violating the Petitioners' rights enshrined under Article 19(1)(a) and Article 25(1) of the Constitution. The judgement of the Kerala High Court was set aside with directions to the Respondents to reinstate the children in the school.¹³⁸

Furthermore, the supreme court of India in this case has interpreted the act (law) "Prevention of Insults to National Honor Act, 1971 section 3 "which normally stipulates that Whoever Intentionally prevents the singing of the Indian National Anthem or causes disturbance to any

¹³⁷ "Mrs. Russo seeks reinstatement with back pay, and damages" Russo v. Central School District No. 1, 469 F.2d 623 (1972)

¹³⁸ Bijoe Emmanuel v. State of Kerala, supreme court of India, 1986.

assembly engaged in such singing shall be punished with imprisonment for a term which may extend to three years, or with fine, or with both.¹³⁹

The court interpreted the aforementioned article that, A person who respectfully stands when the National Anthem is sung but does not participate in the singing does not commit an offence under the Act. Offence is only committed when a person prevents another from singing National Anthem. The Court thus impliedly also meant that the freedom to sing would also mean freedom to remain silent.

To avoid violating the principle of freedom of religion the Pennsylvania state resolved it perfectly and in fairly manner, where in Pennsylvania code title 22 education provides that “It is the responsibility of every citizen to show proper respect for his country and its flag”

(1) Students may decline to recite the Pledge of Allegiance and may refrain from saluting the Flag on the basis of personal belief or religious convictions.

(2) Students who choose to refrain from such participation shall respect the rights and interests of classmates who do wish to participate.¹⁴⁰

In a state of Oregon, its supreme court heard a case of **Brush v. State Board of Higher Education**, where plaintiff called Florence Brush, filed a case against the State Board of Higher Education, challenging the constitutionality of Oregon revised statutes (ORS) 342.615, which requires that every teacher in the public schools of Oregon, as a condition of employment, subscribe to an oath in the form set out in the statute. The statute reads as follows: ORS 342.615 “Any person entering into a contract to teach in the public schools of the state shall, as a part of the contract, subscribe to the following oath or affirmation:

“I do solemnly swear, or affirm, that I will support the Constitution of the State of Oregon and the laws enacted thereunder, and that I will teach, by precept and example, respect for the flags of the United States and of the State of Oregon; reverence for law and order and undivided allegiance to the Government of our country, the United States of America.”¹⁴¹

¹³⁹ Prevention of Insults to National Honor Act, 1971 section 3

¹⁴⁰ Pennsylvania code title 22 education, part I state board of education, subpart A- miscellaneous provisions, chapter 12 – students and student services, students’ rights and responsibilities, section 12.10- flag salute and pledge of allegiance

¹⁴¹ OR Rev Stat § 342.615 (through Leg Sess 2011)

The lower court held the statute unconstitutional, and defendant appeals to the supreme court of Oregon where it reaffirmed the decree of lower court by explaining that, the statute violated the First Amendment guarantee of free speech.¹⁴²

In a state of Ohio, its court of appeal heard a case of **Bacher v. City of North Ridgeville**, where the plaintiff (appellant), Gary Baehner, took his oath of office as a fireman in the city of North Ridgeville, Ohio. He swore therein to support the constitutions of the United States and Ohio. He also swore to uphold the charter and laws of the city and to faithfully discharge his duties as a fireman.

Subsequently, plaintiff became interested in, and was officially dedicated into, a religious sect known as Jehovah's Witnesses on February 10, 1974. On February 6, February 18, and March 8, 1974, he refused a direct order from a superior officer to raise the United States flag. It was a duty of the firemen to raise and fly the national flag over the station under the provision of the rules and regulations of the North Ridgeville Fire Department. For the first two refusals, he drew one day suspensions. However, he was dismissed after the third incident. The suspensions and subsequent dismissal have been upheld by the civil service commission of North Ridgeville and the Lorain County Court of Common Pleas. The court of appeal of this state held that his dismissal was unconstitutional and ordered immediately to reinstate the plaintiff to his position as a firefighter in the North Ridgeville Fire Department.¹⁴³

In a state of New Jersey, its supreme court heard a case of **Morgan v. Civil Service Commission**, where The Civil Service Commission certified prosecutor as first on the roster of eligibles, with the status of a "disabled war veteran," for appointment to fill a vacancy in the position of "bridge attendant" in the Bergen County service. He was the only war veteran certified; and the appointing authority, the Board of Chosen Freeholders, was therefore under a peremptory duty to appoint him to the vacant position, unless there was "good cause". The Freeholders refused to make the appointment on the sole ground, **it is conceded, that prosecutor had declared an unwillingness "to salute the flag of the United States."** He is an adherent of the religious sect known as "Jehovah's Witnesses;" and he said that, while he "respected" the nation's emblem, he deemed

¹⁴² "In holding that the 1931 Washington statute violated the First Amendment guarantee of free speech," **Brush v. State Board of Higher Education**, supreme court of Oregon, 245 Or. 373, 422 P.2d 268 (1966)

¹⁴³ **Bacher v. City of North Ridgeville**, 47 Ohio App. 2d 164 (1975) March 19, 1975 · Ohio Court of Appeals · Nos. 2250 and 2251

the salute to be in contravention of the “laws of God.” He interprets the Bible as forbidding “salutation to inanimate objects, because inanimate objects cannot receive that salutation.” But he said that he “would pledge” his allegiance to the government and “to the things for which the flag stands.” The Witnesses deem the flag to be an “image” within the prohibition of Exodus, chapter 20, verses 4 and 5. Finally, the supreme court held that “*I agree that the refusal of the Board of Freeholders to appoint the prosecutor because of his refusal to salute the flag, was illegal.*”¹⁴⁴

In 1940 the supreme court of the United States heard a case of **Cantwell v. Connecticut**, where this court explained clearly that “Freedom of religion has two facades. There is the freedom to believe, which is an absolute freedom. There is, likewise, the freedom to act, which may be controlled when it conflicts with the rights of others”.¹⁴⁵

In 1964 the supreme court of the United States heard a case of **Baggett v. Bullitt**, which was aimed to declare unconstitutional laws requiring state employees to take an oath as condition for their employment. They were required to affirm the following:

“I solemnly swear (or affirm) that I will support the constitution and laws of the United States of America and of the State of Washington, and will by precept and example promote respect for the flag and the institutions of the United States of America and the State of Washington, reverence for law and order and undivided allegiance to the government of the United State.”

In this case, the supreme court held that “*a Washington statute requiring employees of the State of Washington to take a similar oath was unconstitutionally vague and contravened both the First and Fourteenth Amendments to the Constitution of the United States.*”¹⁴⁶

In Rwanda the law governing persons and family version of 2024 requires the civil registrar to hold national flag while taking an oath during the marriage ceremony of the couples which might

¹⁴⁴ "I agree that the refusal of the Board of Freeholders to appoint the prosecutor because of his refusal to salute the flag, was illegal" Morgan v. Civil Service Commission, new jersey supreme court ,131 N.J.L. 410 (1944)

¹⁴⁵ Cantwell v. Connecticut, 310 U.S. 296, 84 L. Ed. 1213, 60 S. Ct. 900 (1940) May 20, 1940 · Supreme Court of the United States · No. 632

¹⁴⁶ “I solemnly swear (or affirm) that I will support the constitution and laws of the United States of America and of the State of Washington, and will by precept and example promote respect for the flag and the institutions of the United States of America and the State of Washington, reverence for law and order and undivided allegiance to the government of the United States." **Baggett v. Bullitt**, 377 U.S. 360, 12 L. Ed. 2d 377, 84 S. Ct. 1316 (1964)

be different to other countries. So, below I'm going to indicate how other countries conduct their marriage in a way that is inclusive to everyone:

In Malawi, the Marriage, Divorce and Family Relations Act Chapter 25:01, in part five the following oath will be taken by the spouses and also in the presence of witness: Registrar: "Do I understand that you A.B., and you C.D., have come here for the purpose of being husband and wife"?

If the answer is "Yes", the registrar shall proceed as follows—

"By the public declaration that you take each other as husband and wife made in my presence, and in the presence of persons now here, and by their subsequent attestation and by signing your names to that effect you become legally married to each other, although no other rite of a customary or religious nature shall take place, and that this marriage cannot be dissolved during your lifetime except by a valid decree of divorce, and if either of you before the death of the other shall contract another marriage while this remains undissolved you commit an offence and shall be liable to punishment for that offence." Each of the parties shall then say to the other- "I call upon all persons present here to witness that I, A.B. takes C.D., to be my lawful wife (or husband)."¹⁴⁷

In Philippine, the family code of Philippines, executive order no. 209 July 6, 1987. Require only the contracting parties to have a legal capacity, the marriage to be solemnized by competent officer, in a presence of two witnesses and their personal declaration that they take each other as husband and wife.¹⁴⁸

In south Africa, Marriage Act 25 of 1961 in its article 30 requires only both couples to exchange vows to each other before marriage officer in a presence of two witnesses without flag involvement.¹⁴⁹ In a state of Michigan, the law does not require anything special while marriage solemnization, its only their presence and at least two witness and the couples must declare that they take each other as spouses before clerk.¹⁵⁰

¹⁴⁷ Marriage, Divorce and Family Relations Act Chapter 25:01, in part five article 34

¹⁴⁸ the family code of Philippines, executive order no. 209 July 6, 1987, title one, chapter one article 3

¹⁴⁹ In south Africa, Marriage Act 25 of 1961 in its article 30

¹⁵⁰ Michigan Compiled Laws, Chapter 551. Marriage § 551.9

In a country of Mauritius, Civil status act 23 of 1981 – 1 January 1982 which entitled “*proceeding at celebration*” under article 24 provides that:

(1) A marriage shall be celebrated in the presence of 2 witnesses and may take place on the date selected by the parties in the office or in any private premises.

(2) The officer shall

(a) read aloud the names and other particulars relating to the parties;

(b) enquire from the parties as to the matrimonial regime under which they wish to be married and whether any marriage settlement has been made between them and if so, the name of the notary with whom it is deposited;

(c) read Articles 212, 213 and 215 of the Code Civil Mauricien to the parties;

(d) obtain the consent of each party to the marriage;

(e) declare the parties married;

(f) draw up in the appropriate register the entry relating to the marriage;

(g) record in the entry the answer of the parties to the question asked in paragraph (b).¹⁵¹ It is clear that, this law does not involve national flag of Mauritius.

In a country of Lesotho, the marriage act of 1974 requires the couples to exchange the vows before marriage officer in a presence of witnesses.¹⁵² So there is no flag involvement as Rwanda requires.

In Ghana, the marriage act provides that the parties may contract a marriage before a registrar in the presence of two witnesses in the registrar’s office with the doors open, between the hours of eight o’clock in the forenoon and four o’clock in the afternoon on a week-day which is not a public holiday and the couples exchange the vows that they take each other as wife and a husband.¹⁵³ In a state of Texas, the couples only required to appear before county clerk and take an oath without flag involvement¹⁵⁴ in a state of California no particular formality required the law requires the presence of the couples and witnesses for solemnizing marriage and the couples must confirm that they take each other as spouses before clerk.¹⁵⁵

In a state of Nevada to solemnize marriage the law provides that “in the solemnization of marriage, no particular form is required except that the parties shall declare, in the presence of the justice,

¹⁵¹ Mauritius, Civil status act 23 of 1981 – 1 January 1982 under article 24

¹⁵² the Lesotho marriage act of 1974 article 31

¹⁵³ Marriage act, 1884-1985 CAP. 127, article 68

¹⁵⁴ Family code chapter 2. marriage relationship, section2.402

¹⁵⁵ California Code, Family Code - FAM § 420

judge, minister or other church or religious official authorized to solemnize a marriage, notary public or marriage officiant to whom a certificate of permission to perform marriages or a renewal of a certificate has been issued, justice of the peace, commissioner of civil marriages, deputy commissioner of civil marriages or mayor, and the attending witness, that they take each other as spouses. In every case, there shall be at least one witness present besides the person performing the ceremony.¹⁵⁶ In England, the law requires only physical presence of the couples, two witnesses and the couples declare that they take each other as a husband and wife before registrar.¹⁵⁷

In a county of Singapore, the law called “*women`s charter*” passed in 1961 under article 23 which entitled that how is a marriage solemnized, provides that “, a marriage must be solemnized with all the following persons in the presence of each other in Singapore:

- (a) the parties to the intended marriage;
- (b) the Registrar or a licensed solemniser;
- (c) at least 2 credible witnesses.

(2) The Registrar or licensed solemniser

- (a) must ask the man whether he is willing to take the woman as his wife;
- (b) must ask the woman whether she is willing to take the man as her husband;
- (c) must not solemnize the marriage unless the Registrar or the licensed solemniser is satisfied that both parties freely consent to the marriage. Under 28 of this law provides that, After the Registrar solemnizes a marriage, the Registrar must register the marriage in the State Marriage Register.¹⁵⁸

All above aforementioned laws of different countries, what they have in common is that, there is no law require the civil registrar to take an oath while holding a national flag which makes the law more inclusive to the extent that no one feels left behind because religious beliefs because when it comes to Rwanda legal text, the law require the civil registrar to hold national flag while solemnizing marriage which may affect negatively civil registrar in case, he or she is an adherent

¹⁵⁶ 2010 Nevada Code, title 11 Domestic relations, Chapter 122 Marriage NRS (Nevada revised statutes) 122.110

¹⁵⁷ Marriage act 1949 under article 44

¹⁵⁸ Women`s charter under article 23 and 28

of Jehovah`s witness and as experience indicate, it may lead to work dismissal whenever he or she may object to that formality provided by the law.

3.2.7. The legality of ordinary laws that may violate principle of freedom of religion.

To start with the constitution of the republic of Rwanda which recognize the rights to privacy, freedom of expression and freedom of religious beliefs and one can question legality of laws that contradict with those fundamental rights as we have seen that there are ordinary laws that requires to hold national flag especially in marriage ceremony and assuming public office which contradict with Jehovah`s witnesses` beliefs.

Article 18.1 of ICCPR provides that, everyone shall have the right to freedom of thought, conscience and religion. This right shall include freedom to have or to adopt a religion or belief of his choice, and freedom, either individually or in community with others and in public or private, to manifest his religion or belief in worship, observance, practice and teaching.¹⁵⁹

The UN Human Rights Committee has explained that the right to freedom of thought, conscience and religion is ‘far-reaching and profound’ and ‘encompasses freedom of thought on all matters, personal conviction and the commitment to religion or belief, whether manifested individually or in community with others.’¹⁶⁰ Normally the laws which contradict with constitution is void and it has to be amended or challenged by a competent court in order to comply with principle of legality for example in Australia, a case of *Canterbury Municipal Council v Moslem Alawy Society*, it was suggested that Australian courts should show restraint in upholding provisions which interfere with the exercise of religion.¹⁶¹

So, we will say that, Freedom of religion is infringed when a law prevents individuals from exercising their religion or requires them to engage in conduct which is prohibited by their religion

¹⁵⁹ See supra note 113

¹⁶⁰ United Nations Human Rights Committee, General Comment 22 on Article 18 of the ICCPR on the Right to Freedom of Thought, Conscience and Religion, CCPR/C/21/Rev.1 (30 July 1993) [1]

¹⁶¹ High court of Australia, *Canterbury Municipal Council v. Moslem Alawy Society Ltd* (1985) 1 NSWLR 525, 544 (McHugh JA)

Alternatively, the freedom will also be infringed when a law mandates a particular religious practice.¹⁶²

Even if international instruments consider the freedom of religion as a principle that is not subject to limitation for example the UN human rights Committee argued that, “*the fundamental right to freedom of thought, conscience and religion, cannot be derogated from even in time of public emergency.*”¹⁶³ In other words, it has no exception according to their argument but in a case of *Jehovah's Witnesses Case Adelaide Company of Jehovah's Witnesses Incorporated Plaintiff v. The Commonwealth Defendant*. Williams as a judge in this case stated that the Australian Constitution may be limited in the interests of national security.¹⁶⁴ In a case of **Johnson v. State**, the court said that “freedom of speech and of press, of assembly, and of worship may not be infringed on such slender grounds. They are susceptible of restriction only to prevent grave and immediate danger to interests which the state may lawfully protect.”¹⁶⁵ It is now clear that to limit freedom of beliefs must be justified by tangible fact especially when a certain belief is danger to the society. Otherwise, there is no excuse for violating the principle of freedom of beliefs and in accordance with hierarchy of norms in Rwanda, any ordinary law violate fundamental rights of the people without legal justification or tangible reasons is unconstitutional.

3.2.8. The responsibility of the government to protect principle of freedom of religion.

The world’s understanding of the action needed to advance human rights is deeply structured by the ‘respect, protect, and fulfill framework.’¹⁶⁶ According to Reeves, those duties contain: ‘(1) **respect rights**, that is, avoid harming, or introducing deprivation of concern to, protected interests, (2) **protect rights**, that is, adequately ensure that others respect rights, and (3) **provide**, that is, aid those whose protected interests are experiencing remediable setbacks.’¹⁶⁷ The provisions of the ICCPR suggest that this duty has two limbs. The first is the duty to take preventive measures

¹⁶² The Australian Law Reform Commission, *Traditional Rights and Freedoms Encroachments by Commonwealth Laws*, report, 2015. P.141-142

¹⁶³ UN Human Rights Committee (HRC), *CCPR General Comment No. 22: Article 18 (Freedom of Thought, Conscience or Religion)*, CCPR/C/21/Rev.1/Add.4, 30. P.1.

¹⁶⁴ High court, *Jehovah's Witnesses Case Adelaide Company of Jehovah's Witnesses Incorporated Plaintiff: v. The Commonwealth Defendant*.10-12 March 1943; 14 June 1943. Melbourne.

¹⁶⁵ "Freedom of speech and of press, of assembly, and of worship may not be infringed on such slender grounds. They are susceptible of restriction only to prevent grave and immediate danger to interests which the state may lawfully protect.” **Johnson v. State**, 755 S.W.2d 92 (1988)

¹⁶⁶ Nampewo, Z., Mike, J.H. & Wolff, J. “*Respecting, protecting and fulfilling the human right to health. Int J Equity Health* **21**, 36 (2022)”. P.2

¹⁶⁷ Reeves AR. Standard threats, “*how to violate basic human rights*”. *Soc Theory Pract.* 2015;41(3), p.416-417

against occurrences of violations of human rights by private actors. The second is the duty to take remedial measures once the violations have occurred.¹⁶⁸

For sure this means a State is duty-bound to respect, protect and fulfill human rights of all individuals within in its territory and also under its jurisdiction, and it must do so without discrimination. Moreover, increasingly, the terms “within its territory and subject to its jurisdiction” are being interpreted in their disjunctive, rather than conjunctive sense, at least as concerns the State’s negative obligation to refrain from violating rights.¹⁶⁹ It is in this framework; the government commit itself to promote and protect human rights which includes right to freedom of beliefs. In a case of **Imbong vs. Ochoa, Jr. Digest**, the supreme court of Philippine explained that Freedom of religion means more than just the freedom to believe. It also means the freedom to act or not to act according to what one believes. And this freedom is violated when one is compelled to act against one’s beliefs or is prevented from acting according to one’s beliefs.¹⁷⁰

In case of *American Bible Society vs City of Manila*, the court held that, the constitutional guaranty of the free exercise and enjoyment of religious profession and worship carries with it the right to disseminate religious information. Any restraint of such right can only be justified like other restraints of freedom of expression *on the grounds that there is a clear and present danger of any substantive evil which the State has the right to prevent.*¹⁷¹ In a case of *Ebralinag vs. The Division Superintendent of Schools of Cebu*, the supreme court of Philippine held that “The sole justification for a given restraint or limitation on the exercise of religious freedom is the existence of a grave and present danger of a character both grave and imminent of a serious evil to public safety, public morals, public health or any other legitimate public interest that the state has the right and duty to prevent.”¹⁷² Moreover, this right recognized under constitution of the republic of

¹⁶⁸ Danwood Mzikenge Chirwa, the doctrine of state responsibility as a potential means of holding private actors accountable for human rights,” *Melbourne Journal of International Law* [Vol 5.

¹⁶⁹ Gabor Rona and Lauren Aarons, “*State Responsibility to Respect, Protect and Fulfill Human Rights Obligations in Cyberspace*,” *Journal of national security law & policy*, Vol. 8:503, p.506-507

¹⁷⁰ Supreme court of Philippine, *James M. Imbong, ET AL., Petitioners, v. HON. Paquito N. Ochoa, JR., ET AL., Respondents.*

¹⁷¹ Supreme court of Philippine, *American Bible Society vs City of Manila.*

¹⁷² Supreme court of Philippine, *Ebralinag vs. The Division Superintendent of Schools of Cebu* (219 SCRA 270 [1993])

Rwanda under article 37,¹⁷³ which the government must respect and protect for public interest unless a certain religious belief may cause a harm to the society as we have seen it above.

¹⁷³ See supra note 6

CHAPTER III: LEGAL AND INSTITUTIONAL LEMEDIES THAT PROTECT THE JEHOVAH'S WITNESSES BELIEFS AND THE WAY FORWARD IN ORDER TO COMPLY WITH THE PRINCIPLE OF FREEDOM OF RELIGION.

The right to freedom of religion has been incorporate in different laws and there are institutions in charge of evaluating the effectiveness of the laws in force and monitor the implementation in order to respect and promote the right to freedom of religion. In this chapter we look at those available remedies that are committed to promote the right of people which related to religious freedom and also suggest the creation of other institutions to ensure the compliance of the principle of freedom of religion.

4.1.1. Domestic policies and statutes that protect freedom of religion in Rwanda and also in other jurisdictions.

Religious freedoms have long been entitled to respect via the First Amendment of the U.S. Constitution, similar state constitutional provisions, and civil rights laws and policies.¹⁷⁴ In Rwanda the constitution of the republic of Rwanda under article 37 recognize the right to freedom of religion.¹⁷⁵ Within the strategic plan of national commission for human right in Rwanda, this institution is aimed to see all Rwandan enjoying Human Rights and Fundamental Freedoms.¹⁷⁶

There is no doubt that whenever the human rights are respected, it favors peace, development and stability in our society. In other words, “Peace can only last where human rights are respected, where the people are fed, and where individuals and nations are free.”¹⁷⁷

Law determining missions, organization and functioning of the National Commission for Human Rights N°19/2013 of 25/03/2013 under article 4 provides that, the overall mission of the Commission shall be to promote and protect Human Rights.¹⁷⁸ Which means that, those rights

¹⁷⁴ Hodge, James G Jr. “*Respecting Religious Freedoms and Protecting the Public's Health.*” *Public health reports (Washington, D.C.: 1974)* vol. 130,5 (2015): 546-9. p.547.

¹⁷⁵ See supra note 6

¹⁷⁶ The National Commission for Rights Strategic Plan (2018 -2024). P.5

¹⁷⁷ Oskamp, Stuart, and Schultz, P. Wesley. “*Attitudes and Opinions. United Kingdom, Taylor & Francis,*” 2005.p.345.

¹⁷⁸ Law determining missions, organization and functioning of the National Commission for Human Rights N°19/2013 of 25/03/2013 under article 4

include the right to freedom of religion and when a certain right recognized in different laws, it is a fundamental step towards respecting human rights.

4.1.2. International instruments protecting religious rights ratified by Rwanda

on 18th September 1962 Rwanda acceded to **universal declaration of human rights** where article 18 states that” Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public and private, to manifest his religion or belief in teaching, practice, worship and observance. ¹⁷⁹

other conventions have alluded to the issue of freedom of religion as the convention on the prevention and punishment of the crime of genocide of the 1948 in its second article in which it defines genocide as any act committed “with intent to destroy in whole or in part, a national, ethnic, racial, or **religious group**”.¹⁸⁰ It is the same of the convention relating to the status of refugees of 1951, which stated in article four that we must accord the refugees the same rights as nationals in respect of the freedom to practice their religion and regarding freedom of religious education of their children. ¹⁸¹

on 21st December 1965, the international convention on the elimination of all forms racial discrimination was adopted by the general assembly of the United Nations article five states that “in order to fully comply with this agreement, we must include right to freedom of religion or belief for all racial and ethnic groups, followed by other fundamental rights and freedoms.¹⁸²

4.1.3. Purpose of the declaration of the elimination of all forms of intolerance and discrimination based on religion or belief.

This declaration was proclaimed by the general assembly of the United Nations on 25th November 1981 in these terms:

whereas one of the fundamental principles of the un charter is the dignity and equality inherent by all human beings, and that all members of the states have pledged themselves to take joint and separate action in cooperation with the organization of the United Nations and promote, encourage

¹⁷⁹ See supra note 115

¹⁸⁰ convention on the prevention and punishment of the crime of genocide of the 1948 in art 2

¹⁸¹ Art 4 of convention relating to the status of refugees of 1951

¹⁸²Art 5 of the international convention on the elimination of all forms of racial discrimination

universal respect for and observance of human rights and fundamental freedoms for all without distinction as to race, sex, language or religion

considering the universal declaration of human rights and the international covenants on human rights proclaim the principle of non-discrimination and equality before the law and the right to freedom of thought, conscience, religion or belief.

Considering that the disregard and infringement of human rights and fundamental freedoms, in particular the right to freedom of thought, conscience, religion or belief whatsoever, directly or indirectly to the wars and great suffering to mankind, especially where they serve as means of foreign interference in the internal affairs of other states and amount to kindling hatred between peoples and nations.

Considering that religion or belief, for anyone who professes a fundamental aspect of his conception of life and that freedom of religion or belief should be fully respected and guaranteed.

Whereas it is essential to promote understanding, tolerance and respect in matters relating to freedom of religion or belief and ensure that the use of religion or belief for ends inconsistent with the charter, other relevant instruments of the United Nations and the purposes and principles of the present declaration is inadmissible.¹⁸³

Convinced that freedom of religion or belief should also contribute to achieving goals of world peace, social justice and friendship among peoples and the elimination of ideologies or practices of colonialism and racial discrimination.

Noting with satisfaction the adoption of several, and the coming into force of some, conventions, under the aegis of the United Nations and of the specialized agencies, for the elimination of various forms of discrimination,

Concerned by manifestations of intolerance and by the existence of discrimination in matters of religion or belief still in evidence in some areas of the world,

¹⁸³ Preamble of the declaration on the elimination of all forms of intolerance and discrimination based on religion or belief

Resolved to adopt all necessary measures for the speedy elimination of such intolerance in all its forms and manifestations and to prevent and combat discrimination on the ground of religion or belief,

Proclaims this Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief:

Indeed, according to this statement, any person has right to freedom of thought, conscience and religion. This right includes freedom to have a religion of whatever belief of his choice, and freedom to manifest his religion or belief, alone or in community with others and in public or private, through worship and performance, observance, practice and teaching.

In addition, no subject to coercion which would impair his freedom to have a religion or belief of his choice and freedom to manifest his religion or belief may be subject only to such limitations as are prescribed by the law and are necessary to protect public safety, public order, health or morals or the fundamental rights and freedoms of others.

For this statement, no one may be discriminated against by a state, an institution, a group or any individual because of his religion or belief.¹⁸⁴

According to article 5 of this declaration

- The parents or, as the case may be, the legal guardians of the child have the right to organize the life within the family in accordance with their religion or belief and bearing in mind the moral education in which they believe the child should be brought up.
- Every child shall enjoy the right to have access to education in the matter of religion or belief in accordance with the wishes of his parents or, as the case may be, legal guardians, and shall not be compelled to receive teaching on religion or belief against the wishes of his parents or legal guardians, the best interests of the child being the guiding principle.
- The child shall be protected from any form of discrimination on the ground of religion or belief. He shall be brought up in a spirit of understanding, tolerance, friendship among peoples, peace and universal brotherhood, respect for freedom of religion or belief of

¹⁸⁴ Id

others, and in full consciousness that his energy and talents should be devoted to the service of his fellow men.

- In the case of a child who is not under the care either of his parents or of legal guardians, due account shall be taken of their expressed wishes or of any other proof of their wishes in the matter of religion or belief, the best interests of the child being the guiding principle.
- Practices of a religion or belief in which a child is brought up must not be injurious to his physical or mental health or to his full development.

In accordance with the ideals of the declaration, right to freedom of thought conscience, religion or belief includes, the following freedoms:

- To worship or assemble in connection with a religion or belief, and to establish and maintain places for these purposes;
- To establish and maintain appropriate charitable or humanitarian institutions;
- To make, acquire and use to an adequate extent the necessary articles and materials related to the rites or customs of a religion or belief;
- To write, issue and disseminate relevant publications in these areas;
- To teach a religion or belief in places suitable for these purposes; To solicit and receive voluntary financial and other contributions from individuals and institutions;
- To train, appoint, elect or designate by succession appropriate leaders called for by the requirements and standards of any religion or belief;
- To observe days of rest and to celebrate holidays and ceremonies in accordance with the precepts of one's religion or belief;
- To establish and maintain communications with individuals and communities in matters of religion and belief at the national and international levels.¹⁸⁵

International covenant on civil and political rights (ICCPR) article 18 paragraph 1 stipulates that “Everyone shall have the right to freedom of thought, conscience and religion. This right shall include freedom to have or to adopt a religion or belief of his choice, and freedom, either individually or in community with others and in public or private to manifest his religion or belief in worship, observance, practice and teaching.” Paragraph 2 “No one shall be subject to coercion

¹⁸⁵ Art 6 of declaration on the elimination of all forms of intolerance and discrimination based on religion or belief

which would impair his freedom to have or to adopt a religion or belief of his choice.¹⁸⁶ International covenant on economic, social and cultural rights under article 2 paragraph 2 prohibit discrimination based on religious beliefs.¹⁸⁷ The ratification of all those international agreements makes people complain about their rights related to believe whenever violated.

4.1.4. International covenant on civil and political rights

Article 18.1 of ICCPR provides that, everyone shall have the right to freedom of thought, conscience and religion. This right shall include freedom to have or to adopt a religion or belief of his choice, and freedom, either individually or in community with others and in public or private, to manifest his religion or belief in worship, observance, practice and teaching.¹⁸⁸

4.1.5. Institutional mechanisms

Freedom of religion like any other right, it has institutions in charge promotion and advocacy for religious tolerance which helps to deal with gaps that may hinder the promotion of human rights especially for those regarding to religious beliefs.

4.1.6. Competent courts

Even if using alternative dispute-resolution mechanisms, such as mediation and conciliation justice, is one of the ways that most of the countries are attempting nowadays to reduce the caseload in different courts.¹⁸⁹ Normally the aggrieved party file a claim to the competent court to seek for justice as the Judiciary considered as the guardian of human rights and freedoms.¹⁹⁰ For the courts to admit the claim, the law relating to the civil, commercial, labor and administrative procedure no 22/2018 of 29/04/2018 under article 3 states that the court admit a claim only where a claimant have standing, interest and legal capacity to sue,¹⁹¹ and this right is recognized by both domestic and international laws because the democratic nations have chosen to settle their disputes by using courts in order to avoid disorder and instability that may result from practice the law of

¹⁸⁶ See supra note 113

¹⁸⁷ International covenant on economic, social and cultural rights under article 2, paragraph 2

¹⁸⁸ See supra note 113

¹⁸⁹ Heike Gramckow and Omniah Ebeid, “establishing small claims courts and the impact on service delivery in the justice system,” issue 9, 2016, p.1

¹⁹⁰ Constitution of the republic of Rwanda article 43.

¹⁹¹ law relating to the civil, commercial, labor and administrative procedure no 22/2018 of 29/04/2018 under article 3

the jungle. Therefore, national courts play a big part to protect all kinds of human rights including freedom of religion

4.1.7. Ministry of education

In Rwanda, ministry of education is in good position to promote religious intolerance, since its primary aim is to fight against illiteracy, promotion of science and technology, critical thinking and positive values and through teaching positive values to the learners, it results into respecting the different opinions of others and as well as their choice of religion which is the primary institution that can help to fight against religious intolerance.¹⁹²

4.1.8. The office of the Ombudsman

The Office of the Ombudsman is one of the Special Institutions which helps to assess any issue related to human rights violation. According to article 5 law n° 54/2021 of 29/08/2021 governing the office of the ombudsman paragraph 1 provides that it has power to receive, review and monitor complaints, acts and decisions related to injustice¹⁹³ which means that whoever may denied freedom related to the beliefs may approach the institution to seek for justice.

4.1.9. Ecumenical associations

The World Council of Churches is a fellowship of churches which confess the Lord Jesus Christ as God and Savior according to the scriptures, and therefore seek to fulfil together their common calling to the glory of the one God, Father, Son and Holy Spirit.

It is a community of churches on the way to visible unity in one faith and one eucharistic fellowship, expressed in worship and in common life in Christ. It seeks to advance towards this unity, as Jesus prayed for his followers, "so that the world may believe." (John 17:21)

The World Council of Churches (WCC) is the broadest and most inclusive among the many organized expressions of the modern ecumenical movement, a movement whose goal is Christian unity.

The WCC brings together churches, denominations and church fellowships in more than 120 countries and territories throughout the world, representing over 580 million Christians and

¹⁹² X, "mineduc: ministry of education", available online at <https://www.mineduc.gov.rw>, accessed on 24th July 2024

¹⁹³ article 5 law n° 54/2021 of 29/08/2021 governing the office of the ombudsman

including most of the world's Orthodox churches, scores of Anglicans, Baptist, Lutheran, Methodist and Reformed churches, as well as many United and Independent churches. While the bulk of the WCC's founding churches were European and North American, today most member churches are in Africa, Asia, the Caribbean, Latin America, the Middle East and the Pacific. There are now 352 member churches.

For its member churches, the WCC is a unique space: one in which they can reflect, speak, act, worship and work together, challenge and support each other, share and debate with each other. As members of this fellowship, WCC member churches:

- are called to the goal of visible unity in one faith and one eucharistic fellowship;
- promote their common witness in work for mission and evangelism;
- engage in Christian service by serving human need, breaking down barriers between people, seeking justice and peace, and upholding the integrity of creation;
- foster renewal in unity, worship, mission and service.

Moreover, this non-governmental organization has also an obligation to engage in discussion in case there is a dispute relating freedom of beliefs of the members which makes an institution that protect and promote freedom of religion through advocacy in order to promote justice and peace as their main goals.¹⁹⁴

4.2.1. Rwanda Religious Leaders Forum

Rwanda Religious Leaders Forum (RRLF) is an ecumenical platform of religions and churches operating in Rwanda, these include the Catholics church, Anglicans church of Rwanda, Protestants, Pentecostals in general, Muslims and independents. The main idea of forming the RRLF was to adequately contribute to constructive ideas that would advise government and the leadership of Rwanda on how they can effectively respond on various issues (basic needs) which affects citizen's lives in general. RRLF aims at promoting sustainable peace through constructive

¹⁹⁴ X, "world council of churches" available online at <https://www.oikoumene.org>, accessed on 24th July 2024

dialogues, religion tolerance, unity and reconciliation and promotion of positive values and principals among Rwandans.¹⁹⁵

4.2.2. National Commission for human rights

The law n° 61/2018 OF 24/08/2018 modifying law n° 19/2013 OF 25/03/2013 determining missions, organization and functioning of the national commission for human rights under article 1 paragraph 2 provides that, the commission is responsible to receive, examine and investigate complaints relating to human rights violations. In article 2 paragraph 5 of the aforementioned law provides that, this commission is also responsible provide views on existing laws.¹⁹⁶ This commission play a great role to ensure that the human rights are respected by advising on what can be done whenever there are human rights violation.

4.2.3. Association representing Jehovah`s witness

The Watch Tower Bible and Tract Society of Pennsylvania is a nonprofit corporation formed in 1884 under the laws of the Commonwealth of Pennsylvania, U.S.A. It is used by Jehovah`s Witnesses to support their worldwide work, which includes publishing Bibles and Bible-based literature. According to its charter, the corporation`s purposes are “religious, educational, and charitable,”¹⁹⁷ since this organization has legal personality, they sometimes file claims on behalf of their adherent which support its members to raise one strong voice.

There is also “the European Association of Jehovah`s Christian Witnesses” which is a Charity registered in the United Kingdom and the Association is assisting the adherents of the faith of Jehovah`s Witnesses in various areas of the world.¹⁹⁸ This is association assist in carrying out

¹⁹⁵ Nkurunziza, “*Nkurunziza - Tax Justice & Poverty*,” available online at <https://taxjustice-and-poverty.org> › Dateien › Nk., accessed on 20th june2024

¹⁹⁶ The law n° 61/2018 OF 24/08/2018 modifying law n° 19/2013 OF 25/03/2013 determining missions, organization and functioning of the national commission for human rights under article 1 paragraph 2 and article 2 paragraph 5

¹⁹⁷ JW.ORG, “What Is the Watch Tower Bible and Tract Society?” available online at <https://www.jw.org> › jehovahs witnesses › faq › watcht. Accessed on 20th June 2024

¹⁹⁸ Korea, From the European Association of Jehovah`s Christian Witnesses, April 6, 2012, p1.

reports in different countries and submit them to the authorities in charge of resolving human rights issues especially those regarding to religious beliefs.

4.2.4. Rwanda governance board

RGB is responsible to register, grant legal personality to faith-based organizations and to monitor whether their operations comply with the law. RGB also has the powers to request for explanations, suspend registration certificate or revoke the legal faith-based organizations for non-compliance with the law.¹⁹⁹ Therefore, the role of RGB to promote freedom of religion of religion is to register and give them legal personality so that they carry out their activities freely.

All the aforementioned legal and institutional mechanisms available to protect the principle of freedom of religion have contributed a lot in terms of respecting freedom of religion but there are should be other ordinary laws specifically protect freedom of religion. Moreover, there should be a specific institution in charge of dealing with all special claims raised by any member of religious organization incase there are laws in force that contradict with the right to freedom of religion and that institution should be able to assess the legality of a claim before the matter submitted to the competent court.

¹⁹⁹ Law N°56/2016 OF 16/12/2016 establishing the Rwanda governance board and determining its mission, organization and functioning article 5-6

GENERAL CONCLUSION AND RECOMMENDATIONS

CONCLUSION

In this research, we have seen that the issue of respecting religious freedom has been there for many years ago and even now within many different countries around the world. Specifically Arab countries some do not even recognize the fundamental right relating to religious beliefs which makes it hard for their citizen whom might need to change the religion because they are Muslim and denial of this right, sometimes causes the persecution because of no religious tolerance existing.

But for democratic and civilized nations recognized the freedom of religion as a fundamental right even if it is a process to comply fully with this right because most of the times, it requires change of national laws, cultures and political will of the government which may take longer. Denial of freedom of religion affect fundamental rights like right to job opportunity and as we have seen it, there are formalities required by the ordinary laws to take an oath while holding national flag like before assuming the office in some position for example: being a prosecutor, a judge, a notary an advocate, a court bailiff, an investigator and others. This affect the adherent of Jehovah`s witness for them to get a job which is totally prohibited by international agreement Rwanda ratified since discrimination based on religion is prohibited.

Most of the countries that faced the same issue we are facing particularly on this right to freedom of religion, their courts and legislative body have solved them in a way that is inclusive for every citizen by removing all obstacles that may hinder the compliance of the principle of freedom of religion for example they exonerated the adherent of Jehovah`s witnesses from singing national anthem, to take an oath while holding national flag either in marriage ceremonies or as condition to start a job. On this point most of the countries to ensure the fairness in their laws like laws governing marriage, **they require presence of the couples and their witnesses, where the couples declare themselves that they take each other as a husband and wife before the competent person without necessarily the flag involvement.**

For the issue of taking an oath before assuming their job position, **they have removed all obstacles to the individuals who may object flag salutation due to religious grounds by changing some laws** and these decisions have contributed to promotion of freedom of religion which led to growth

and development of the countries recognized it. Because the denial of freedom of religion may cause violence in a society and displacement of people like the pilgrim of British to America seeking a place to enjoy their freedom and all those consequences cannot favor the country's development.

Therefore, there is a need for respecting fundamental rights which includes the freedom of religion as long as a certain religious belief does not cause harm to the society or being an imminent danger or being a threat to national security. so, without availability of those exceptions, the freedom of religion should be exercised freely which means that, there should be no consequences for a person who object a certain act that is contrary to his/her religion. There is no doubt that by doing so we can have better society where everyone feels protected and respected.

RECOMMENDATIONS

In this research we have seen acts that violate the principle of freedom of religion based on the ordinary laws and to ensure the compliance of human rights, there is a need change of some laws like law governing persons and family version of 2024 which require the civil registrar to take an oath while holding a national flag during the marriage celebration of the couples which should be amended because logically, the act of holding national flag for civil registrar during the marriage celebration cannot in any way serve any purpose of marriage during the lifetime of the married couples and that means, the amendment of the article cannot affect anything but rather it may help the adherent of Jehovah's witness to feel freely to apply for that job position because so far they cannot perform that task like others do, since it requires to hold national flag which they object based on their beliefs and failure to do so it may leads to work dismissal.

However recently, the government of Rwanda have made a huge success in a favor of Jehovah's witnesses to ensure their freedom of religion because they were unable to legally married in accordance with the law governing persons and family n° 32/2016 of 28/08/2016 article 177 which required compulsory the couples to hold national flag during the marriage celebration as one of the conditions to be valid and this affected negatively Jehovah's witnesses since they were unable to get legally married because they object holding national flag . On 30th July 2024 they changed that article and by now the couples are no longer required to hold national flag. In the law n° 71/2024 of 26/06/2024 governing persons and family article 207, its only civil registrar to hold

national flag during the marriage celebration which is still not enough because in case, a civil registrar is an adherent of Jehovah's witness is unable to participate in that work which may lead to work dismissal if he is already employed or be denied to assume the office whenever he or she may reject to hold national flag according to the current legislation.

For the issue concerning with other job opportunities, there are some laws in Rwanda that discriminate the adherent of Jehovah's witness based on their beliefs because they require to take an oath before assuming some job position and due to existence of those laws, it makes it impossible to get those position which affect their lives negatively because they object holding national flag based on their religious beliefs.

However, there are progress made on this point because the law n°86/2013 of 11/09/2013 establishing the general statutes for public service under article 10, it required that, before commencing his/her duties, each public servant shall take oath, in presence of the competent authority. Under article of 11 of the aforementioned law stipulated that, a public servant shall take oath by holding the National Flag with his/her left hand while raising the right hand with a stretched palm. Fortunately, this law repealed and removed all those articles which means that for a public servant to assume the office is no longer required to take an oath while holding national flag under new Law establishing the general statute governing public servants n° 017/2020 of 07/10/2020 has helped the members of Jehovah's witness to get more job opportunities since before this current law, many of them have been dismissed due to reject holding national flag based on their religion.

Normally, the purpose of recruiting the employees is to get job done. So, there is no tangible link between taking an oath and fulfilling the job obligation. In additional, there is no proof that if an employee does not take an oath, he/she will not perform well.

Therefore, objecting to hold national flag does not mean that the person is not competent or unwilling to fulfil his/her obligation since for the adherent of Jehovah's witnesses do not salute national flag as their beliefs command them to do so. Last but not least, we recommend that even other laws that may contradict with any religious beliefs should be amended as long as those beliefs have no threat to national security or against public order.

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