

Religion, law and human rights in post-conflict Liberia

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Summary

Liberia has had a turbulent recent history, and today deals with extreme poverty, high crime, ethnic tensions, widespread impunity and corruption. In addition to this, there is a complex and contradictory relationship between law and religion, which further complicates the ongoing efforts towards peace building and reconstruction. This paper aims to highlight the fundamental question of whether certain laws and human rights — in this case, religious or cultural freedom — can or should be actively promoted by the state and by society in such a unique scenario as fragile, post-conflict Liberia. The paper first addresses this question with respect to the country's contradictory dual-justice system, highlighting the problems that arise when the weak state struggles to enforce statutory and human rights law, while much of the population still sees legitimate justice to be rooted in traditional mechanisms, such as trials by ordeal, which oppose these laws. The second section of the paper considers the extent to which all Liberians enjoy religious freedom. It is shown that, while Liberia is de facto a secular state, it is essentially de jure a Christian country. Although there are historically and presently few indications of unrest based strictly on religion, it is argued that there is underlying religious tension that makes it dangerous for the state or society to suggest any major integration of Islam into public life. Some of this tension can be attributed to the growing number of Pentecostal and charismatic churches, which are especially vocal about the encroachment of non-Christians. However, because of Liberia's fragility, it might be the case that promoting religious equality and actively eliminating the Christian bias might cause more harm than good in Liberia today.

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1 Introduction

A consideration of the relationship between religion, law and human rights is a critical endeavour that has been attracting interest from a variety of fields in recent decades. It is becoming increasingly apparent that, when dealing with legal issues, one cannot sideline religion and its significant implications in a world that is not secularising, as past theorists so strongly argued. As Witte poignantly writes, 'Religion is an ineradicable condition of human lives and human communities ... provides many of the sources and scales of values by which persons and people govern themselves ...'¹ Examining varieties of religious beliefs, which are often inextricably linked with varieties of cultural practices,² with respect to law and human rights, opens the door for a number of questions. Are human rights universal or culturally specific?³ More specifically, should traditional cultural practices be protected when aspects of human rights law are antithetical to such tradition?⁴ To what extent should religious practices of one person or group be allowed to impinge on the religious practices of another? When should freedom to practise a religion be restricted if it conflicts with other human rights laws? When is one group's right to proselytise a violation of another's right to fight against such unwanted encroachment?

The complicated, contradictory and unstable relationship between religion, law and human rights in Liberia, combined with the country's turbulent recent history, ethnic tensions and current state of widespread impunity and corruption, risks impeding ongoing efforts towards peace building and reconstruction, unless these issues are addressed by the government and society at large. In this essay, I address two aspects of this relationship: first, the contradictory dual-justice system and traditional justice mechanisms and, second, the extent to which Liberians enjoy religious freedom, especially with respect to an evident

¹ J Witte Jr 'Law, religion, and human rights: A historical Protestant perspective' (1998) 26 *Journal of Religious Ethics* 257.

² The concept of 'culture' and 'religion' and how they relate to one another, is a contentious topic which has received an enormous amount of scholarly attention. See especially T Masuzawa 'Culture' in M Taylor (ed) *Critical terms for religious studies* (1998) 70-93; J Smith 'Religion, religions, religious' in Taylor (above) 269-284. For the purposes of this paper, 'religion' will be used to describe any belief system that specifically has to do with spiritual, cosmological or metaphysical issues and includes all forms of African traditional religions and monotheistic religions. 'Culture' will refer to the broader idea of the 'means of adapting to the physical world and creating systems of meaning through which experience can be interpreted; all human beings, by definition, are rooted in culture', as defined in M Moran *Liberia: The violence of democracy* (2006) 19.

³ S Ilesanmi 'Human rights discourse in modern Africa: A comparative religious ethical perspective' (1995) 23 *Journal of Religious Ethics* 293-295.

⁴ A An-Na'im 'The contingent universality of human rights: The case of freedom of expression in African and Islamic contexts (1997) 11 *Emory International Law Review* 30 53-54.

Christian bias. In the process, I highlight important issues regarding the extent to which certain human rights – in this case, religious or cultural freedom – can be actively promoted in such a unique scenario as fragile, post-conflict Liberia.

2 Liberia: Africa's oldest republic recovering from war

2.1 From pseudo-colony to dictatorship

The area which is now Liberia was settled upon in 1822 by freed American slaves under the aegis of the pseudo-humanitarian American Colonization Society (ACS).⁵ The sovereign state of Liberia was established in 1847 by these settlers who later established the True Whig Party (TWP) that ruled from 1858 to 1980.⁶ These settlers, known as Americo-Liberians, were never more than 5% of the population, yet effectively ran the state with little to no participation from indigenous Liberians, and largely for their personal benefit.⁷ By 1980, despite then-President Tolbert's attempts to further incorporate indigenous Liberians into politics, corruption and inefficiency had left the state without a channel through which non-Americo-Liberian political views and organisations could be effectively incorporated into government.⁸ On 12 April 1980, Master-Sergeant Samuel K Doe staged a bloody *coup* with 16 other low-ranking soldiers and became the first indigenous leader of Liberia, with the exuberant support of indigenous Liberians who had high hopes for their country.

Within weeks of taking leadership, Doe killed or dismissed most senior officers in the military, had hundreds of civilians associated with the TWP arrested and tortured, and killed 13 prominent members from the old regime. The People's Redemption Council imposed a ban on political activities, censored the media, and resorted to killing, looting, cheating and bullying any suspected opponents in order to cow dissent. By 1984, relations between civilian and military groups were severely fragmented, and the initial popular support and legitimacy of

⁵ Although the explanation given by the ACS for repatriation of African slaves was that the freed slaves would benefit, another key reason is probably that the US simply wanted a way to get rid of black freedmen as the institution of slavery was becoming more controversial. J Levitt *The evolution of deadly conflict in Liberia* (2005) 31-33.

⁶ S Ellis *The mask of anarchy: The destruction of Liberia and the religious dimension of an African civil war* (1999) 41.

⁷ By 1865, when colonisation stopped, there were only about 12 000 settlers in Liberia in total. Of these, 4 500 were freeborn, 7 000 born in slavery, and 5 700 freed from transport ships that never made it to the US (known as Congoes). S Hale cited in P Gifford *Christianity and politics in Doe's Liberia* (1993) 9-10.

⁸ C Clapham 'Liberia' in D Cruise O'Brien *et al* (eds) *Contemporary West African states* (1989) 99-111.

Doe and his People's Redemption Council had disappeared.⁹ When increasing pressure from America to return to civilian rule became evident, elections were held in 1984 and after getting 50,9% of the vote in flagrantly rigged elections, Doe declared himself President to the approval of US President Reagan, who sent him a congratulatory telegram.¹⁰ From then on, Doe's destructive leadership was largely for personal gain, not to fulfil the promises he had made to Liberia after his *coup*.

2.2 Civil war

At the end of 1989, future warlord Charles Taylor and his National Patriotic Front of Liberia (NPFL), made up of Liberians who had fled to Côte d'Ivoire and were united by a common hatred of Doe, invaded the country.¹¹ The conflict developed into a civil war and Doe was killed by (now Senator) Prince Johnson at the end of 1990, having maintained power only over his palace and a small section of Monrovia.¹² 'Greater Liberia' was, at its peak in 1992, made up of most of Liberia, parts of Guinea and about a quarter of Sierra Leone. Taylor's territory had its own banking system, currency, television and radio network, airfields and an export trade in diamonds, timber, gold and agricultural products.¹³ By 1996, a huge number of military factions had appeared, many of which were organised with respect to ethnicity, although only about seven were ever very strong, whose main intentions were to occupy territory so that it could utilise resources, much like Taylor did.¹⁴ Throughout the war, repeated attempts were made to restore peace in Liberia, but one warlord or another would either refuse to agree to a deal, or agree, sign papers, and then ignore it altogether.¹⁵

In August 1996, the fourteenth peace accord was signed and most of the fighting stopped. In 1997, Charles Taylor and his National Patriotic Party (NPP) won presidential and parliamentary elections with 75% of the vote (80% of the eligible population voted), probably because the people saw little hope for lasting peace unless Taylor was elected.¹⁶ Although the fighting had stopped, the security situation was still

⁹ Clapham (n 8 above) 103-5.

¹⁰ Gifford (n 7 above) 235.

¹¹ S Ellis 'Liberia 1989-1994: A study of ethnic and spiritual violence' (1995) 94 *African Affairs* 165-197.

¹² Ellis (n 11 above) 167.

¹³ W Reno 'Reinvention of an African patrimonial state: Charles Taylor's Liberia' (1995) 16 *Third World Quarterly* 112-113.

¹⁴ Ellis (n 6 above) 104-105.

¹⁵ MA Sesay 'Politics and society in post-war Liberia' (1996) 24 *The Journal of Modern African Studies* 397-405.

¹⁶ Ellis (n 6 above) 109-110. See also D Harris 'From "warlord" to "democratic" president: How Charles Taylor won the 1997 Liberian elections' (1999) 37 *The Journal of Modern African Studies* 431-432.

precarious. In 1998, after an armed clash outside of Monrovia, Taylor imprisoned a number of opponents and declared himself no longer committed to the conditions of the peace accord. In 2000, a new group of rebels, the Liberians United for Reconstruction and Democracy (LURD), gained control of much of Northern Liberia. By 2003, another rebel group, the Movement for Democracy in Liberia (MODEL), had taken over most of the country except Monrovia. By then the United Nations (UN) had imposed sanctions on the trade of diamonds, timber and weapons because of Taylor's continued support of the RUF in Sierra Leone.¹⁷ In the midst of peace negotiations in Ghana in 2003, the United Nations (UN) announced that Taylor was to be indicted for war crimes.

In June 2003, LURD attacked Monrovia, resulting in thousands of civilian deaths. Nigerian peacekeepers arrived and Taylor was convinced to step down from the presidency and left for exile in Nigeria in August.¹⁸ The peace process continued in Ghana, with Taylor fortunately out of the picture, with representation from warring factions, political parties and civil society organisations. The Comprehensive Peace Agreement was signed in August 2003 and an interim government was established by October, made up of members of various warring factions and political parties. By the end of the year, the United Nations Mission in Liberia (UNMIL) was established and had begun deploying over 15 000 peacekeepers to the country who disarmed and demobilised over 100 000 ex-combatants by September 2004.¹⁹

After largely peaceful, legitimate and free and fair elections in 2005, Ellen Johnson-Sirleaf became Liberia's new president and the first elected African female head of state. She turned Charles Taylor over to the Special Court for Sierra Leone in 2006; his trial is still ongoing at The Hague. With the help of UNMIL and many international and domestic non-governmental organisations (NGOs), and Johnson-Sirleaf's ambitious anti-corruption and development projects, Liberia is undergoing a critical and difficult period of total economic, political, infrastructural and social reconstruction.

2.3 The damage

The facts and figures show clearly the destruction and devastation affecting Liberia today. It is estimated that 270 000 people died during

¹⁷ D Nilsson & MS Kovacs 'Breaking the cycle of violence? Promises and pitfalls of the Liberian peace process' (2005) 7 *Civil Wars* 399-400.

¹⁸ M Moran & M Pitcher 'The "basket case" and the "poster child": Explaining the end of civil conflicts in Liberia and Mozambique' (2004) 25 *Third World Quarterly* 506.

¹⁹ This only resulted in the collection of 27 000 weapons, most of them small arms, strongly indicating that there are still armed individuals, arms caches, or export of weapons to other countries. Nilsson & Kovacs (n 17 above) 405. The World Bank reports that only 70 000 ex-combatants were disarmed by this time. P Richards *et al* 'Community cohesion in Liberia. A post-war rapid social assessment' in 'Conflict prevention and reconstruction' The World Bank and Reconstruction/Social Development Department Paper 21, Washington DC, January 2005 2.

the war and at least one million were displaced; 63,8% of Liberians live below the poverty line; 48% of Liberians live in extreme poverty; 73% of the poor live in rural areas.²⁰ Between 1987 and 1995, GDP fell 90% and external debt was \$3,7 billion. The average income is one-sixth of its level in 1979 and one-quarter of its level in 1987.²¹ Formal unemployment is 80%.²² Between 1987 and 2005, rice production fell 76%, financial services fell 93% and electricity and water fell 85%.²³ Transportation and communication, trade and hotels and construction all fell around 69%. There are an estimated 250 000 refugees, and 350 000 internally displaced persons still need to be resettled.²⁴ The demands on the capital city of Monrovia are massive, not least because of the massive influx of people from the countryside during the war. The population of the city is estimated to have increased from 300 000 in 1989 to more than 1,3 million by 2003.²⁵ Illiteracy is at least 55% and over half of Liberian children ages six to 11 are estimated to be out of school.²⁶ The judicial system is in shambles and there is a widespread climate of impunity and lawlessness.²⁷

Nonetheless, the situation is slowly improving. Economic growth reached 5,3% in 2005, 7,8% in 2006 and 9,4% in 2007. The World Bank has cancelled Liberia's massive debt arrears. Social services are becoming more available, roads are being repaired, schools are being refurbished, businesses are opening and refugees are returning to their homes.²⁸ According to the World Bank, Liberia in 2007 had the largest improvement in the world for 'control of corruption' between 2004 and 2007.²⁹ The Armed Forces of Liberia (AFL), the Liberian National Police (LNP) and Special Security Service (SSS) are gathering new recruits and putting them through training processes. Combined with this, the continued presence of UNMIL is assuring a maintained peace. A Truth and Reconciliation Commission (TRC) is collecting statements

²⁰ Government of Liberia (GOL) Poverty Reduction Strategy (PRS) 2008 25.

²¹ n 20 above, 15.

²² GOL Interim Poverty Reduction Strategy (IPRS) 2006, xiii.

²³ GOL PRS (n 20 above) 15-16.

²⁴ GOL PRS (n 20 above) 13.

²⁵ E Pajibo 'Traditional justice mechanisms. The Liberian case' International Institute for Democracy and Electoral Assistance, Stockholm, 2008 10. The latest census published preliminary results which confirmed the population of Liberia to be 3,49 million, and the population of Montserrado County (where Monrovia is located) to be 1,14 million. Government of Liberia '2008 Population and National Housing Census Provisional Results', LISGIS, June 2008.

²⁶ GOL PRS (n 20 above) 31-32.

²⁷ See International Crisis Group 'Liberia: Resurrecting the justice system', Africa Report 10, April 2006 1-2.

²⁸ In the last two years, there has been a 44% increase in school enrolment; 350 health facilities, 20 clinics and several hospitals and health centres have been restored. GOL PRS 17-19.

²⁹ World Bank Institute, Worldwide Governance Indicators, 2007.

from victims and perpetrators of atrocities during the war. Still, there is a long way to go. At this point, I focus on the particularly weak Liberian justice system.

3 Liberian laws, traditional justice and human rights

3.1 Statutory law

In a Gallup Poll conducted in February 2007, the least trusted institution in Liberia was found to be the judicial system and courts (47%).³⁰ During the war, Liberia descended into almost complete lawlessness. As the transitional government took power in 2003, the statutory justice system, from its inception based on United States and British common law,³¹ was totally defunct. Since the 2005 elections, this sector is still struggling to improve and achieve some degree of accountability, efficiency and respect. This 'culture of impunity' makes it extremely difficult for the enforcement of Liberian law specifically and human rights law generally. Of the many problems, one of the most critical is the severe lack of competent, uncorrupt and efficient staff.³² Judges and other key staff in county circuit courts are frequently absent, resulting in huge delays for trials.³³ Salaries are often late and very low, encouraging staff members to accept bribes for throwing out cases or illegally releasing criminal suspects.³⁴ Magistrate's and local courts are often found trying, sentencing, fining and imprisoning people for criminal and civil cases that lie outside of their jurisdiction.³⁵ Justices of the peace are often corrupt, unqualified and inefficient, yet many Liberians flock to them for help because of their proximity.³⁶ The prison system is substandard, keeping inmates, including juveniles, in overcrowded and unsanitary conditions for months on end; the vast majority of whom have yet to be convicted or tried for any crime, in violation of international human rights law. Release from jail is often expedited with the payment of a bribe. If they do make it to court, most defendants and detainees have no access to public legal aid; most people cannot afford to pay for a private lawyer.³⁷

³⁰ 91% of Liberians were found to trust religious institutions, far more than all other institutions the poll tested, as with most countries surveyed in sub-Saharan Africa. M Rheault 'Liberians give high marks to their government' Gallup Poll, February 2008.

³¹ GOL *Liberian legal codes revised* 15: 3.40.

³² GOL PRS (n 20 above) 20.

³³ UNMIL Report on the Human Rights Situation in Liberia, November 2006-January 2007, 16-18.

³⁴ UNMIL Report on the Human Rights Situation in Liberia, May-October 2007, 10-11.

³⁵ Human Rights Watch *Country summary: Liberia* (2007) 2.

³⁶ n 27 above, 3.

³⁷ UNMIL (n 34 above) 15-21.

UNMIL has played an important role in helping restore this sector under the Legal and Judicial System Support Division (LJSSD). Much has been done, such as the refurbishment and reconstruction of several courthouses and detention facilities and the training of key legal and judicial officers, but there are still huge challenges that must be overcome before the judiciary is considered functional.³⁸ The government is focusing a lot of necessary attention on this sector as well, including enacting and empowering the Law Reform Commission.³⁹

3.2 Human rights law

In writing, the government of Liberia generally respects most facets of human rights law. In practice, there are many violations. This is mostly because of the general absence of the rule of law, and the scale of these violations has improved massively since the end of the war and the regimes of Doe and Taylor.⁴⁰ Because of the massive work involved in establishing basic rule of law in Liberia, human rights issues are often sidelined. According to the Office of the High Commissioner for Human Rights (OHCHR), in Liberia '[h]uman rights are not promoted or protected', although the UN is working with the government to seriously address these problems.⁴¹ There are many human rights NGOs working freely in the country. For decades, Christian churches and organisations have been at the forefront of monitoring human rights. These groups include the Catholic Justice and Peace Commission (JPC), the Association of Evangelicals of Liberia (AEL) and the Liberian Council of Churches (LCC). From the pulpit, pastors of mainline denominations often preach about the need to appreciate human rights.⁴² Since 2003, there have been demands from civil society groups and international parties for the creation of the Independent National Commission on Human Rights (INCHR) in Liberia. The government will formally set up

³⁸ Between May 2006 and August 2007, UNMIL trained 336 magistrates, 220 justices of the peace, 226 prosecutors, 147 magistrate's court clerks and 53 circuit and Supreme Court clerks. UNMIL Fifteenth Progress Report of the Secretary-General on the United Nations Mission in Liberia, August 2007, 9.

³⁹ GOL PRS (n 20 above) 90. See also P Banks 'Reforming Liberia's legal and judicial system: Towards enhancing the rule of law' Republic of Liberia Governance Reform Commission, December 2006, 36-41.

⁴⁰ One obvious constitutional violation allows for only people of 'Negro' descent to be a citizen of Liberia and enjoy the benefits given to citizens, such as owning land. Constitution of Liberia, 1984; US State Department Report on Human Rights, 2007.

⁴¹ OHCHR 'Liberia 2008-2009' <http://www.ohchr.org/EN/Countries/AfricaRegion/Pages/LRSummary0809.aspx> (accessed 29 July 2008).

⁴² This can often be quite vague, and many Christian churches stay away from active involvement with human rights altogether. At best, they might pray against FGM, rape or child abuse, especially within the newer Pentecostal and charismatic churches that are rapidly expanding in number and influence. Based on author's own fieldwork.

this commission in December 2008.⁴³ Meanwhile, the majority of the population has little to no knowledge of the law and human rights. Moreover, it is by no means taken for granted that human rights laws should be obeyed, especially when they conflict with cultural norms, most particularly those that have a religious dimension. Furthermore, in light of the fragility of Liberia today, one might question the extent to which human rights laws *should* be enforced, especially if they risk exacerbating existing tensions.

3.3 Customary law

According to article 65 of the Constitution, Liberia recognises customary law, as written in the Revised Rules and Regulations Governing the Hinterland, updated in 2000.⁴⁴ These rules are nearly identical to those of indirect rule used in Anglophone African colonies in the 1930s and 1940s. As International Crisis Group (ICG), an NGO dedicated to conflict resolution, has noted:⁴⁵

Ironically, while Anglophone ex-colonies have mostly revised or abandoned such laws because of their fundamentally anti-democratic logic, Liberia – never a colony – has maintained them.

Because of the perpetual lack of efficiency, reputability and mere access to statutory legal resources, especially in rural areas, customary law is the most often used recourse to justice for Liberians.⁴⁶ Customary law is formally overseen by the Ministry of Internal Affairs and its representative chiefs (paramount, clan and village), commissioners and local officers. It is informally complemented by Poro and Sande secret societies and councils of elders.⁴⁷

Administering justice in the hinterland are government-created customary courts, presided over by the chiefs with commissioners and superintendents who are involved to administer and oversee their functions.⁴⁸ Statutory circuit courts are legally allowed to review customary law decisions,⁴⁹ but this is very rarely done.⁵⁰ Article 29, the General Rule of Administration, states:⁵¹

⁴³ See President Ellen Johnson-Sirleaf, Annual Address, 28 January 2008. INHCR is currently campaigning against mob violence and rape, but for the most part they are quite inactive. See 'Don't see human rights advocates as enemies' *The Analyst* 3 April 2008.

⁴⁴ Constitution of the Republic of Liberia, 1984 ch VII art 65.

⁴⁵ n 27 above, 7.

⁴⁶ n 27 above, 6-7.

⁴⁷ n 27 above, 8.

⁴⁸ n 27 above, 7.

⁴⁹ GOL *Liberian legal codes revised*, Judicial Code 3:4, 1986.

⁵⁰ n 27 above, 7.

⁵¹ GOL *Rules and Regulations Governing the Hinterland*, Ministry of Internal Affairs, 17.

It is the policy of government to administer tribal affairs through tribal chiefs who shall govern freely according to tribal customs and traditions so long as these are not contrary to [statutory] law.

In practice, there are many contradictions.

3.4 Traditional justice mechanisms

Traditional justice mechanisms in Liberia can be broken down into three main varieties: the sharing of the kola nut, the palaver hut, and trial by ordeal. These methods, or varieties on them, have been used since pre-settler Liberia. That said, state interference with traditional leaders and power structures since the 1940s, combined with industrial development, the movement of populations and the adoption of a dual system of justice, has led to the corruption of the processes from their traditional forms, such that they have lost much of their legitimacy.⁵² Still, they are widely used throughout the country.

The 'sharing of the kola nut' is generally used for breaches in civil law, such as adultery or debt. The perpetrator will provide kola nuts, cane juice and a chicken or a goat to the victim(s). The victim(s) will generally accept this and forgive the perpetrator according to the popular saying, 'Let bygones be bygones'. The palaver hut method is employed throughout Liberia, with a few major differences depending on the region. Generally, the process aims to resolve civil matters pertaining to adultery, divorce, land disputes, debts and, in some communities, theft, rape and murder. The process is overseen by elders, local chiefs and, in some parts of Liberia, by *Zoes* (traditional spiritual leaders). Its intention is to resolve such disputes through dialogue and mediation – specifically confession, apology and forgiveness, followed by some punishment as prescribed by the overseer, which can range from payment of food, money or manual labour, to scorn or banishment from the community.⁵³ There is a clear religious element to this process, in which a libation, ranging from palm wine to animal blood, is poured in order to invoke ancestral spirits, who then compel the contending parties to tell the truth and respect whatever resolution is decided at the end of the process. The process is also intended to drive out any evil spirits that might have caused the offence in the first place and to prevent it from happening again. If either party disobeys, the spirits are expected to cause misfortune.

Trial by ordeal is the most controversial form of traditional justice. This method is used for determining guilt for offences ranging from direct murder and theft, to indirect harm using witchcraft and sorcery. In the sassywood method, the accused person is made to drink a

⁵² Pajibo (n 25 above) 16. See also V Fuest 'Reflections on participatory approaches to "peace building" in Liberia' unpublished draft paper, AEGIS European Conference on African Studies, 11-14 July 2007, African Studies Centre, Leiden 7-8.

⁵³ Pajibo (n 25 above) 18-22.

mixture made from the toxic bark of the sassywood tree. Regurgitation of the drink (as opposed to death) proves that the accused is not guilty. Failure to undergo the trial signifies guilt and the person will be punished by banishment from the village for a charge of murder, and scorned and made to pay restitution in the case of theft. Another method of trial by ordeal involves putting hot metal on the skin of the accused. Withdrawing the leg and the subsequent appearance of a festering wound signify guilt, while an innocent will not be burned. The person who administers the trial by ordeal is considered to be a spiritually powerful and respected individual in the community. Libations are poured before the ritual in order to invoke the assistance of spirits, which make the trial fully legitimate.

The Supreme Court of Liberia in 1940 ruled that all trial by ordeal is in conflict with the statutory law of the state because 'no one shall be compelled to give evidence against himself'.⁵⁴ According to article 73 of the Rules and Regulations Governing the Hinterland, however, trial by ordeal is still legal so long as sassywood is not used: '[Ordeals] of a minor nature and which do not endanger the life of the individual, shall be allowed and is hereby authorized ...'.⁵⁵ Despite all trials by ordeal being made illegal by statutory law over 60 years ago, most Liberians are unaware of their illegality. Even if they do recognise that such trials are illegal, they still consider them an efficient, legitimate and fair method of determining a person's guilt or innocence. Trial by ordeal in all its varieties continues to be practised throughout Liberia, especially in rural areas.⁵⁶ The Ministry of Internal Affairs had, until June 2008, openly licensed 'ordeal doctors' to perform these rituals,⁵⁷ but in 2006 the Ministry revoked the licences of those found administering sassywood.⁵⁸ A former official of the Ministry of Internal Affairs defended trial by ordeal as one of the best means by which 'true Africans and traditional leaders find out facts about unfolding developments'.⁵⁹ As consultants from the International Crisis Group remarked of the Circuit Court in Grand Cape Mount County, which held only one licensed trial in five years in order to determine, ritually, whether or not witches were responsible for the community's lack of schools and healthcare facilities:⁶⁰

⁵⁴ *Tenteh v Republic of Liberia* 7LLR63 (1940), cited in ICG (n 27 above) 9.

⁵⁵ GOL *Hinterland* (n 51 above) art 73, 39.

⁵⁶ UNMIL (n 34 above) 22-23.

⁵⁷ n 27 above, 9. In June 2008, the Ministry claimed to have stopped issuing such licences and claimed that notice of the mandate had been sent to government officials around the country. 'Internal Affairs Bans Issuance of Licenses' *The News* 25 June 2008.

⁵⁸ US Dept of State, Religious Freedom, 2007.

⁵⁹ 'Justice Minister bans sassywood practice' *Daily Observer* 8 February 2007.

⁶⁰ n 27 above, 9.

The fact that the only trial ... has been a ritual practice, condemned by the judicial branch but condoned by the executive, speaks volumes about the state of the justice system and the executive's unwillingness to enforce the judicial decision that outlawed trial by ordeal.

There have been a few recent public statements to educate Liberians about the illegality of such practices, despite their cultural foundations.⁶¹ According to Tiawan Gongloe, current Solicitor-General of Liberia:⁶²

Because our Constitution guarantees the liberty of every Liberian, for a cultural practice that violates the rights of any Liberian I have no moral obligation to protect and respect such culture.

The government of Liberia has included plans for addressing traditional justice in the PRS, which states:⁶³

A national framework will be developed for the exercise of informal and customary justice to ensure that it conforms to human rights standards. It will include measures to inform the community and law enforcement agencies of harmful traditional practices and their contravention of Liberian law, particularly those that are harmful to women and marginalised groups.

3.5 Informal reconciliation and societal regulation

Not all forms of reconciliation and societal regulation are overseen by the government. There exist a number of informal societies that have an evident amount of authority over their communities, and are inextricably linked with traditional religious beliefs. Of course, these are many and varied, but the most well-known and widespread in Liberia are the Poro and Sande secret societies, or 'bush schools'. The exact nature of these societies varies, depending on the locale, and they have undergone many adaptations as they have spread throughout the country over time.⁶⁴ A few researchers have highlighted the political and legal functions of these societies have had in Liberia.⁶⁵

In general, they are overseen by traditional leaders or *Zoes*, who are considered to have significant spiritual power. Historically, the methods used by *Zoes* and initiates of the societies for obtaining and maintaining power were within an unwritten but very organised and rigid structure of spiritual authority that translated into authority in society at large.

⁶¹ n 59 above; 'Trial by ordeal declared illegal' *Informer* 8 April 2008.

⁶² BBC News *The World*, Interview with Jesse Graham, 22 February 2007.

⁶³ GOL PRS (n 20 above) 92.

⁶⁴ Poro and Sande societies were originally found in the border regions between Guinea and Liberia, but in modern times they have spread throughout Liberia, in various forms. Ellis (n 6 above) 226-229.

⁶⁵ See especially RP Fahey 'The Poro as a system of judicial administration in Northwestern Liberia: Its intraclan and interclan functions' (1971) 4 *African Legal Studies* 1-25; RM Fulton 'The political structures and functions of Poro in Kpelle society' (1972) 74 *American Anthropologist* 1218-1233; JL Gibbs 'Poro values and courtroom procedures in a Kpelle chiefdom' (1962) 42 *Journal of Anthropological Research* 279-288.

The spirit of the forest, or 'Bush Devil', was an ambivalent but particularly powerful deity that needed to be supplied with (sometimes human) blood sacrifice in order to 'keep people in their proper places in society, to prevent individuals from transforming in ways which are dangerous to others and to ensure orderly progress from one phase of life to another, such as from childhood to adulthood'.⁶⁶ These sacrifices were done by particularly powerful *Zoes*, in secret, for the purpose of the betterment of the community and according to very specific rituals.⁶⁷

Many facets of these institutions have greatly changed over time, not least because of the adoption of formal statutory and customary law systems, massive migration, the disruption caused by the war and the adoption of monotheistic religions. Nonetheless, individuals in these communities are still expected to respect the authority of the *Zoes*, including in matters of local reconciliation.⁶⁸ However, some of the methods allegedly used by the *Zoes* and other traditional religious leaders have endured through history and are quite contrary to modern statutory law and human rights law. For example, it is still widely believed that one can gain spiritual and physical power through human sacrifice. While historically such actions might have been relatively rare, and restricted to the most powerful of traditional religious leaders,⁶⁹ today there are reports of ritual killings throughout the country, in which a person is murdered and a body part removed for ritual purposes.⁷⁰ It is believed that these body parts can be used, perhaps eaten, for a person to gain spiritual power. Such ritual killings were relatively common during the war, for the purpose of gaining power in battle,⁷¹ but are strictly forbidden by customary and statutory law. According to the Revised Rules Governing the Hinterland, Poro, Sande and other 'cultural societies' are allowed to conduct themselves however they wish, so long as there is no 'abuse committed that is detrimental to public interest'. The Human Leopard Society, for example, which demands human sacrifice in return for spiritual power, is illegal according to customary law and its practice can lead to 20 years' imprisonment or capital punishment if the victim is, in fact, murdered in the process.⁷² Still, in order for the society to be considered legitimate by its members, such rituals are vital.

⁶⁶ Ellis (n 6 above) 278-279.

⁶⁷ Ellis (n 6 above) 231-237.

⁶⁸ C Hojbjerg 'Masked violence: Ritual action and the perception of violence in an upper Guinea ethnic conflict' in N Kastfelt (ed) *Religion and African civil wars* (2005) 156-157.

⁶⁹ Ellis (n 6 above) 232-235.

⁷⁰ US State Department report on human rights, 2007. It is likely that such killings happen far more than is reported.

⁷¹ Ellis (n 6 above) 261-265.

⁷² GOL *Hinterland* (n 51 above) art 68-69 38. About Leopard Society, see Ellis (n 6 above) 235-237.

Such contradictions between traditional religious beliefs and modern statutory laws are not only relevant in rural areas in the context of secret societies. Indeed, it is common for Liberians, regardless of locale, religion, age and level of education, to consider misfortune or strange events to be the result of witchcraft — popularly defined as a physical or spiritual attack on an individual by an ‘evildoer’, for the purposes of harming the victim and thus enabling the ‘witch’ to gain selfish spiritual and physical power.⁷³ Regardless of the number of people actually practising witchcraft for malevolent purposes, the suspicion and near-panic that Liberians have regarding such attacks prove problematic when it comes to bringing the alleged perpetrators to justice. Because a suspected witch cannot legally be arrested or convicted, unless he or she has actually been caught breaking a statutory law, members of the community take justice into their own hands via mob violence or trial by ordeal.⁷⁴ These problems are significant enough to have been highlighted by Deputy UN Envoy for Rule of Law, Ms Henrietta Mensa-Bonsu, at the launching of the most recent UNMIL Human Rights Report.⁷⁵

3.6 Bridging the divide

There are clearly a number of problems with customary and statutory law in Liberia, both in terms of the discrepancies among laws as they are written, the ability to enforce such laws, and in the (mostly rural and poor) public’s lack of knowledge of their rights under both systems. This is especially complicated when dealing with religiously-based traditional justice mechanisms, because they are considered to be fully legitimate to the public, yet are totally contrary to statutory and customary laws. Here one must appreciate the fundamental difference between the bureaucratic nature of *law* — punishment dictated by written laws and human administrators — and the moral nature of *justice* — punishment dictated by tradition and a common sentiment of what is morally fair or unfair.⁷⁶ This disparity, as manifest in the problems surrounding traditional justice mechanisms, creates a signifi-

⁷³ Based on personal fieldwork and interviews.

⁷⁴ See eg ‘Equip-Liberia aborts sassywood in Nimba, victim explains ordeal’ *Daily Observer* 5 October 2007; “‘For killing my mother I have no regrets’ says 24 year-old disabled’ *Daily Observer* 23 October 2006; ‘Casket beats woman’ *Daily Observer* 1 November 2006; ‘UN urges Liberia to outlaw trials by ordeal’ *Reuters* 17 May 2007 <http://www.reuters.com/article/latestCrisis/idUSL17103867> (accessed 3 August 2008).

⁷⁵ ‘UN puts witchcraft center stage’ *The News* 4 April 2008.

⁷⁶ S Ellis & G ter Haar *Worlds of power: Religious thought and political practice in Africa* (2004) 144-147.

cant difficulty in protecting the human rights of every citizen.⁷⁷ Simple abolishment of the law is a weak solution, not least because traditional practices would still be practised nonetheless.⁷⁸ To complicate matters further, the abolishment of certain traditional practices might also be a violation of one's right to maintain his or her culture. The Constitution is vague about the extent to which such traditional practices should be protected.⁷⁹

The Republic shall ... preserve, protect and promote positive Liberian culture, ensuring that traditional values which are compatible with public policy and national progress are adopted and developed as an integral part of the growing needs of the Liberian society.

Because of this complicated issue — perhaps in spite of it — moves are being made not only to publicly declare certain traditional practices as not promoting 'positive Liberian culture', but also to make them formally illegal and to educate the public about respecting such laws. A good example of attempts to bridge this divide between statutory law and traditional practices can be seen with respect to the rights of women.

3.7 Rights of women

There have been a number of legal changes in Liberia to give both rural and urban women more rights to be treated as citizens, not property, as Liberian tradition and customary law allow. Prior to 2003, the wife of a man married under customary law was inheritable property. Further, the age of consent was 12 years old in rural areas and 16 years old in urban areas. However, in 2003 the Association of Female Lawyers of Liberia (AFELL) was finally able to pass a bill they had been promoting for eight years, thanks primarily to Charles Taylor's departure: 'An Act to Govern the Devolution of Estates and Establish the Rights of Inheritance for Spouses of both Statutory and Customary Marriages',⁸⁰ which now allows women married under customary law to inherit from their deceased husbands and increases the age of consent to 18. In practice, most women are not able to take advantage of these new rights out of ignorance or inability to actually enforce men's families to respect them.⁸¹

⁷⁷ Further, 'Traditional justice mechanisms ... need to be seriously, rigorously interrogated so that a dual justice system — one for the rural poor and one for the urban elite — does not become entrenched ... this would inevitably polarise citizens and residents and sow fresh seeds of discord, possibly even violence.' Pajibo (n 25 above) 24.

⁷⁸ n 27 above, 9-10.

⁷⁹ Constitution of Liberia, art 5.

⁸⁰ An Act to Govern the Devolution of Estates and Establish Rights of Inheritance for Spouses of Both Statutory and Customary Marriages, approved 7 October 2003, published by Ministry of Foreign Affairs 1 December 2003.

⁸¹ UNDP Press Release, 'UNDP empowers AFELL' 23 May 2006.

Female genital mutilation (FGM) is a common practice in Liberia, especially in rural areas, as prescribed by the initiation into girls' Sande society. There are no laws, statutory or customary, that specifically prohibit FGM and the government has not taken any substantial steps to banish or discourage the practice.⁸² There is some public discourse surrounding the practice. AFELL have been especially vocal about their opposition to the practice, which they consider a human rights violation. In early 2006, the Minister of Internal Affairs vowed to not discourage the practice of FGM because it was part of Liberia's traditional culture.⁸³ Again, a clear complication arises when the enforcement of human rights conflicts with the respect for certain cultural (and in this case inextricably linked with religious) practices.

This section has considered the complications that arise between the dual system of customary law and statutory law, with specific reference to traditional practices which are popularly considered to be legitimate and given a degree of legitimacy through customary law, yet are contrary to statutory law and international human rights law. At this point it is important to understand the specific issue of religious freedom in Liberia, and the problems in trying to promote it fully.

4 Religious freedom in Liberia

4.1 Religious demography

The religious demography of Liberia is a contentious subject for a variety of reasons. First, in March 2008 the government held the first national census since 1984. The results of this latest census are not expected until 2009, but it will determine the percentages of Muslims, Christians, followers of exclusively African traditional religion, other religions or no religion.⁸⁴ Second, and equally problematic, is the extent to which a Liberian might fit into the neat category of Christian, Muslim, African traditional religion or other. In reality, as is the case in much of sub-Saharan Africa, many individuals overlap African traditional religion with another monotheistic faith, whether they profess to be exclusively one or the other or not. Thirdly, the immigration and emigration scenarios of post-conflict Liberia have hugely complicated the demography. Many Liberians became refugees during the war and may or may not have returned. Similarly, many refugees from other unstable West African countries, especially Guinea, Sierra Leone and

⁸² As above. State Department, Human rights, 2007. This issue is given absolutely no mention in the entire final draft of the PRS, while other issues, such as rape and GBV, are given ample attention. GOL PRS (n 20 above).

⁸³ 'Female circumcision sparks debate' *Daily Observer* 20 February 2006.

⁸⁴ In addition, a Pew survey is currently being developed in order to determine, very specifically, religious affiliations in Liberia and other sub-Saharan African countries. Results for this, though probably not available for years, will be extremely helpful.

Côte d'Ivoire, have settled in Liberia; many of these are thought to be Muslims. Finally, depending on where the statistics come from, numbers can be grossly overestimated. Because of these complications, estimates for the religious demography of Liberia are hugely varied and often disputed. According to the most reliable estimates, as of 2007, Muslims make up 20%, Christians 40% and 'exclusively animists' 40%.⁸⁵

The Portuguese had contact with the area that is now Liberia as early as the fifteenth century, but Christianity was only truly established in 1822 when Baptist settlers from the United States arrived and built the Providence Baptist Church on the coastal stretch of land they named Christopolis, now Monrovia. Other mainline Protestant denominations — the Methodists, Episcopalians, Lutherans and Presbyterians — were established in Liberia soon after and formed the religious backdrop for Americo-Liberians, especially those in power under the TWP, who were often ministers or bishops in these churches. The Roman Catholics have been present since the mid-nineteenth century, but only in 1906 did they establish themselves permanently.⁸⁶ Presently, among the Christian population, the United Methodists and varieties of Baptists are probably the most numerous,⁸⁷ although the many varieties of Pentecostalism, charismatic Christianity and non-mainline Evangelical Christianity have been growing phenomenally since the 1980s. Some of these churches were planted by churches in the United States, Europe or elsewhere in Africa, while many are Liberian-initiated. A few of the US-based variety, such as African Methodist Episcopal, African Methodist Episcopal-Zion, Church of God in Christ and Assemblies of God, have been in Liberia since the early 1900s, but most are less than 30 years old. In Monrovia, at least, these newer churches form a large percentage of the Christian population.⁸⁸ Many of these churches are also adamantly anti- African traditional religion, and actively demonise anything to do with traditional practices or world religions, especially Islam. Also represented are Seventh Day Adventists, Jehovah Witnesses and a sprinkling of Latter Day Saints.

⁸⁵ US State Department, Religious Freedom, 2007. Based on other sources, these percentages vary widely — eg, in 1986 it was estimated that the percentages of Muslims and Christians was 5% and 15% respectively. At the same time, many Muslim leaders claimed that 50% of Liberia was Muslim. Gifford (n 7 above) 262.

⁸⁶ Gifford (n 7 above) 55-56.

⁸⁷ In 1989, according to estimates, there were 67 109 Methodists, about the same number of Baptists, 75 000 Catholics, 30 000 Lutherans, 20 000 Episcopalians, 3 000 Presbyterians; all of which were claiming to be growing substantially at this time. Gifford (n 7 above) 51-57. Baptists in 1998 numbered 60 000 members according to the Baptist World Alliance, <http://www.bwanet.org>; Roman Catholics in 2004 numbered 170 000 members according to diocese counts reported on <http://www.catholic-hierarchy.org>. UMC claims 168 300 members, <http://www.umcliberia.org>.

⁸⁸ Based on author's own fieldwork.

Muslims have been in the area which is now Liberia since the fifteenth century, perhaps earlier, but never in significantly large numbers. The demographic concerning the different types of Islam is even more complicated, because many Muslims might not self-identify as belonging to a certain school or sect. They are overwhelmingly found among the Vai of Western Liberia, the Mandingo who are dispersed throughout the country, and the Fulah who have immigrated from surrounding West African countries, especially Mali, Guinea, Côte d'Ivoire and Sierra Leone. Most Liberian Muslims are Sunnis of the Maliki school, although Wahhabi Muslims are to be found especially among the Mandingo, in addition to a small movement of ultra-conservative Iranian-supported National Repentant Muslims.⁸⁹ There are also a number of Sufi Muslims, many of them immigrants from Mali, Guinea or Senegal, and a few thousand members of the Ahmadiyya sect, especially among the Vai.⁹⁰ A small number of Shiite Muslims are among some of the Lebanese community, many of whom have resided in Liberia for three generations.

Those who practise any variety of African traditional religion exclusively are predominantly in rural areas. Traditional religious beliefs and institutions, like Poro and Sande, have lost much of their historical form, legitimacy and influence in many communities. For example, initiations into Poro take as little as two months, when historically it would take up to three years.⁹¹ The societies have also lost much of their secrecy, especially due to the growing number of born-again Christians, who no longer consider Poro and Sande authority to be legitimate, and therefore are not reluctant to 'expose the truths' about their 'demonic' ways.⁹² Despite these changes, it is still common for most individuals in rural areas to be active members of society, even if they are also active Muslims or Christians, or else they will be scorned, punished or banished from the community and their families, often their only sources of support. The statistic of 40% *exclusive* practitioners of African traditional religion is, arguably, far too high, not least due to the spread of Pentecostal and other non-mainline Evangelical churches into the interior and the mass influx of persons from the rural areas into

⁸⁹ Gifford (n 7 above) 287.

⁹⁰ Based on e-mail correspondence with John York, head of the Inter-Religious Affairs desk of the Liberian Council of Churches (LCC), 20 July 2008; Mohammad Sheriff, Vice-President of the IRCL, 14 July 2008. See also Gifford (n 7 above) 261-263.

⁹¹ Ellis (n 6 above) 224.

⁹² When being initiated into Poro or Sande, individuals take an oath of secrecy; they are told that to reveal anything about their initiation will result in death. Many born-again Christians will talk about their initiation in detail, claiming that although they still believe in the power of the societies (controlled by Satan), Jesus Christ is strong enough to fight the evil forces. Many varieties of Christianity, especially those with Pentecostal and charismatic learnings, are very active in attempting to eradicate the influence of these societies in members' lives, in addition to any other 'traditional' beliefs. Based on fieldwork and personal interviews.

Monrovia during the war.⁹³ Most of these individuals are probably at least nominally Christian or Muslim and affiliated with some monotheistic place of worship.⁹⁴

4.2 A secular state, a Christian country

Since its inception as a sovereign state, Liberia has granted legal freedom of religion to everybody. In practice, the country, founded and ruled by the Christian Americo-Liberians, was for many years a *de facto* Christian state because of its failure to incorporate indigenous Liberians and thus any non-Christians into the government or other significant positions. The original Constitution did not specifically declare Liberia to be a Christian state, but until it was re-written in 1984, it was not specifically secular either. A very lively debate has been going on in Liberia for years regarding religion in public life, and to what extent Liberia can be considered a Christian country.⁹⁵ Christians will very often point out that 'Liberia was founded on Christian principles', because all the original settlers were Christian, the Declaration of Independence was signed in the first Christian church in Liberia (Providence Baptist Church) and all of its presidents, until Samuel Doe, were prominent Christians. There is also a fairly widespread opinion among Christians that Samuel Doe changed the Constitution to make Liberia a secular state against the general consensus of the land, and was only able to do so because of the government that he put in place, which was anti-Americo-Liberian and thus opposed to Christian hegemony.⁹⁶ The wording of each Constitution is worth examining in detail.

The 1847 Constitution of Liberia clearly grants freedom to practise any religion, but mentions Christianity twice and does not specify a separation between church and state. Article 1 of the Declaration of Rights reads:

Therefore, we the People of the Commonwealth of Liberia, in Africa, acknowledging with devout gratitude, the goodness of God, in granting to us the blessings of the Christian religion, and political, religious, and civil liberty, do, in order to secure these blessings for ourselves and our posterity, and to establish justice, insure domestic peace, and promote the general welfare, hereby solemnly associate and constitute ourselves a Free, Sovereign and Independent State.

and further:⁹⁷

⁹³ A recent study on mental health in Liberia measured religious affiliation and found that 89,6% of respondents identified as Christian, 9,1% as Muslim, and 1,3% as African traditional religion or other. K Johnson *et al* 'Association of combatant status and sexual violence with mental health outcomes in post-conflict Liberia' (2008) 300 *Journal of the American Medical Association* 681.

⁹⁴ Ellis (n 6 above) 245.

⁹⁵ Gifford (n 7 above) 265.

⁹⁶ Based on personal interview with John York, 19 January 2008.

⁹⁷ Constitution of the Republic of Liberia, 1847.

All men have a natural and unalienable right to worship God, according to the dictates of their own consciences, without obstruction or molestation from others: all persons demeaning themselves peaceably, and not obstructing others in their religious worship, are entitled to the protection of law, in the free exercise of their own religion; and no sect of Christians shall have exclusive privileges or preference, over any other sect; but all shall be alike tolerated: and no religious test whatever shall be required as a qualification for civil office, or the exercise of any civil right.

The People's Redemption Council made some key changes to the treatment of religion, removing all mention of Christianity, as in the Preamble, '[a]cknowledging our devout gratitude to God for our existence as a Free, Sovereign and Independent State, and relying on His Divine Guidance for our survival as a Nation ...'⁹⁸ Even more importantly, article 14 reads:⁹⁹

All persons shall be entitled to freedom of thought, conscience and religion and no person shall be hindered in the enjoyment thereof except as may be required by law to protect public safety, order, health or morals or in the fundamental rights and freedoms of others. All persons who, in the practice of their religion, conduct themselves peaceably, not obstructing others and conforming to the standards set out herein, shall be entitled to the protection of the law. No religious denomination or sect shall have any exclusive privilege or preference over any other, but all shall be treated alike; and no religious tests shall be required for any civil or military office or for the exercise of any civil right. Consistent with the principle of separation of religion and state, the Republic shall establish no state religion.

Despite the clear mandate for Liberia to be a secular state and to allow religious freedom and equality, these principles are not actively promoted by the government and much of the Christian population does not acknowledge it as such; if they do, they do not necessarily agree with it. Although non-Christians are not actively persecuted, restricted or treated as lesser citizens by the government, the Christian religion still enjoys evident preference and, historically, the Christian religion has shaped much of the culture, law, government and practices of modern Liberia. Further, because of the tendency of the average Liberian not to appreciate or even understand a government totally separate from God, this translates into a tendency for public outcry when it seems this Christian hegemony might be violated. There are most certainly calls within the (mainly Pentecostal and Evangelical) Christian community to not only spread the Christian message throughout Liberia, but to make it a legal Christian state.¹⁰⁰ Although such proposals are not given serious attention by the government and would certainly be overturned by the Supreme Court, there is still a tense debate which, although not yet violent, is certainly not getting any less impassioned.

⁹⁸ Constitution of the Republic of Liberia, Preamble, 1984.

⁹⁹ n 98 above, art 14.

¹⁰⁰ 'The Liberian Christian church and political salvation' *The Perspective* 21 June 2002; 'Bropleh plays with fire!' *The Analyst* 7 January 2008.

While it is not uncommon for countries in sub-Saharan Africa to be *de jure* secular states, yet *de facto* Christian states, many of these countries do not have as many non-Christian citizens as Liberia. As will be addressed below, the discrimination that non-Christian religions face makes the situation concerning religious freedom in Liberia considerably more problematic.

4.3 Christian bias in public life

4.3.1 Religion in schools

There are a number of private Christian and Muslim schools throughout Liberia which are permitted to teach the Bible or Koran and to conduct prayers, as long as they adhere to the basic requirements for curriculum. In public schools, however, according to the Education Law, religious education is forbidden: 'No special or sectarian religious instruction shall be given in the public schools of this Republic other than such general instructions in morals and ethics as the Ministry of Education shall by regulation require.'¹⁰¹ However, the Bible is taught as a major subject in all government schools from primary school to high school and is on the national curriculum as a required course. The Koran is not taught in public schools, and Muslim students do not have a legal option to opt out of Bible class. According to the Bureau of Curriculum, this law forbidding religiously-biased education is in the process of being revised.¹⁰²

It is also common for public schools to practise daily devotional (Christian) prayers in which Muslims are expected to take part. There have been reports of Muslim students not being allowed to use school facilities or be excused from class in order to perform their daily prayers, as there is no legal requirement for schools to allow them to do so. Such discrimination is sometimes fought against by the Muslim community. President Ibrahim Al-bakri Nyei of the Organisation of Liberian Muslim Youth (OLMY) once remarked that the government 'is deeply involved in evangelising Christianity in public schools at the expense of Muslim'. OLMY has made appeals to the Ministry of Education to introduce Islamic education in the public school curriculum, or at least general religious knowledge, but no changes to the curriculum have yet been made.¹⁰³ The Bureau of Curriculum is aware of these

¹⁰¹ Liberian Codes Revised, vol III, ch XIV, 94, 216.

¹⁰² However, nobody was able to show me any documentation of such changes. Personal interview with attorney Zeor Daylur Bernard, 8 April 2008; personal interview with Rev P Tehnesse Brohdonyeu, Bureau of Curriculum, Ministry of Education, 2 April 2008. See also 'Bropleh's call for religious tolerance is the right call, but patronising to gain political advantage is wrong' *The Liberian Dialogue* 8 January 2008.

¹⁰³ 'Muslims adopt 5-count resolution' *Daily Observer* 17 January 2008.

demands and claims to be addressing them in a new curriculum, yet to be released.¹⁰⁴

When asked for comment regarding this discrimination, most lawyers, officials, students and teachers, Muslim and Christian, alluded to the 'general tolerance' that most Christians had for Muslims, allowing them to perform their religious duties during school or work hours, despite there being no legal mandate to do so.¹⁰⁵ That said, whenever asked whether there should be a legal mandate, Christians generally insisted, 'No, this is a Christian country', while Muslims said they would welcome such changes. Whatever moves are made to formally make any changes to the laws involving religion, heated debates are likely to be the result.

4.3.2 Religious holidays

Liberia celebrates Christian holidays as national holidays along with non-religious holidays such as ex-presidents' birthdays, and requires all businesses to be closed on Sundays and holidays. Some members of the Muslim community have vocalised a desire for equal observance of their religious holidays, as well as time off on Fridays in order to pray and permission to conduct business on Sundays and Christian holidays. In one case, Muslim leaders took the issue of the ban on doing business on Sundays to the Supreme Court. Their efforts were ineffective, as the Supreme Court ruled that markets must be closed on Sundays on the grounds that they needed to be cleaned.¹⁰⁶ Although such legal actions are not at all common or widely supported, even within the Muslim community, there are periodic calls from Muslims to remove the Christian bias. For Christian leaders to suggest more rights for the Islamic population is extremely rare. When it does occur, it sparks an impassioned debate. A prominent example occurred in January 2008 when Minister of Information and Methodist Reverend Lawrence Bropleh publicly called for, among other things, the national recognition of Islamic holidays or the proscription of Christian holidays in order to achieve a Christian-Muslim balance in Liberia.¹⁰⁷

As we seek religious tolerance, our national legislature needs to revisit the exclusivity of national holidays granted to the Christian religion, and think of a more equitable religious arrangement ... I will even dare to recommend that we enact a legislation that will set a day aside at the height of the Muslim Hajj as a national holiday. Alternatively, all religious holidays

¹⁰⁴ Personal Interview with Rev P Tehnesse Brohdonyeu, Bureau of Curriculum, Ministry of Education, 2 April 2008.

¹⁰⁵ Based on personal interviews.

¹⁰⁶ US State Department 'Religious freedom' 2007.

¹⁰⁷ S Tewroh-Wehtoe 'Bropleh's call for religious tolerance is the right call, but patronising to gain political advantage is wrong' in Online Newspaper *The Liberian Dialogue* 8 January 2008 <http://www.theliberiandialogue.org/articles/c010808tw.htm> (accessed 30 September 2008).

could be declared as working holidays wherein those persons who are religiously inclined would seek time out to give special prayers and thanks to the Almighty God.

In churches, Pentecostal and mainline, in the media and on the street, these statements invoked a huge response, overwhelmingly critical of Bropleh's comments. Leaders of the Christian community, including the Liberian Council of Churches, which represents over 32 Christian denominations and organisations, immediately spoke out. A Baptist minister accused Bropleh of being 'anti-Christ'; another church commented that Bropleh was 'playing with fire and whipping up religious tension'. A civil society group, Disable Rights Watchdog for Peace Building and Democracy (DIRWAPDEM), went so far to say that Bropleh's comments clearly indicated that his belief system had been tampered with, that he needed to be delivered from the hands of satanic powers with a week of fast and prayer, that his licence as a UMC Minister should be revoked and that he should undergo spiritual counselling. President Sirleaf skirted around the issue, commenting that Bropleh has a right to hold 'personal' opinions on national issues, but that she was not in a position to comment any further. Even some Muslim leaders said the Minister's comments were not helpful and simply caused more religious tension.¹⁰⁸

4.3.3 Inflammatory public statements

It is not uncommon to hear inflammatory public statements that target the Muslim population in Liberia. Police director Beatrice Munah Sieh once condemned Muslim women dressed in veils, comparing them to terrorists and publicly declaring that they could not wear these. Despite this demand, there were no reports of arrest for such activity, and full veils are not a rare sight on the streets in Monrovia. President Sirleaf's religious advisor, Esther Nyameh, sparked controversy when she remarked that she would boycott any forum in which Muslims were allowed to offer prayer. After a public outcry from Muslim groups, she offered a public apology.¹⁰⁹ In January 2008 the high-profile (Christian) National Youth Council led by Reverend Manasseh Conto blamed Muslim extremists for burning down the Minister's house:¹¹⁰

This diabolical attack on the lives of Bishop Conto and his family is believed to be perpetrated by a group of Islamic (Muslim) extremists who have vowed to eliminate Pastor Conto as a means of silencing him from opening the eyes of the Liberian people on the Islamic faith, and his stand that Liberia be declared a Christian nation ... we see the burning down of the Bishop's residence as no accident, but rather a calculated plan by the agent of evil.

¹⁰⁸ *Analyst* (n 100 above).

¹⁰⁹ As above.

¹¹⁰ *Daily Observer* (n 103 above).

In addition, many Pentecostal and Evangelical churches are extremely numerous and vocal and very concerned with ridding Liberia of all Islam, a religion they consider to be equivalent to Satan worship. During loud outdoor crusades, on the radio, during street preaching, and from the pulpit, it is very common to hear the speakers asking God to rid Liberia of the demons of Islam. Spiritual warfare is a common theme; Christians are told that the devil is attacking them, and that the spread of Islam is making this threat more severe. Church leaders often encourage their members to focus on evangelising to the Muslim community, and doing whatever it takes to make them born again in Christ.¹¹¹

4.3.4 Weak public displays of religious equality and tolerance

There is one Muslim in the cabinet of President Sirleaf and one Muslim Supreme Court Justice.¹¹² There is little formal promotion of religious tolerance or anti-bias education in Liberia, aside from the Inter-Religious Council of Liberia (ICRL) which mostly concerns itself with general peace building and women's issues, not inter-religious dialogue specifically.¹¹³ There are sporadic actions or statements made by the President to show support for the Muslim community, such as donating rice at the end of Ramadan in 2007. High-level government officials are required to take oaths. Whoever is being sworn in has the choice of swearing on a Bible or Koran, then opening it and kissing it. Government meetings, NGO workshops and conferences generally open and close with Christian hymns and prayers, although occasionally these are mixed with Islamic prayers. In some cases they begin and end with a moment of silence. However, even this can be controversial.¹¹⁴

4.3.5 Opening religious institutions, regulation of religious institutions and proselytisation

In order for a religious institution to be opened and classed as non-profit, they must produce a constitution and articles of incorporation and apply through the Ministry of Foreign Affairs for approval. The process is straightforward. According to the Liberian Council of Churches (LCC), the ministry forwards all applications for Christian churches to their office for approval; they have yet to deny approval

¹¹¹ Based on author's own fieldwork.

¹¹² US State Department (n 106 above).

¹¹³ Based on author's work with them from January to July 2008; personal interviews with ICRL leaders Mohammad Sheriff and Rev Boimah Freeman throughout.

¹¹⁴ The author witnessed an impassioned hour-long debate regarding religion in Liberia, brought on because the agenda did not include an opening prayer, in a workshop for women's leadership in Liberia, sponsored by an INGO and attended by at least 60 influential women in government, business and civil society, 20 February 2008.

for any institution.¹¹⁵ In rural areas, it is expected that the chief is asked permission to open a new religious institution. They are generally tolerant of such activity, and in some cases have granted the church land on which to build a facility. In one case, the town chief of Medina, a Muslim-dominated area in Grand Cape Mount County, forbade a second church from opening after already giving permission to another.¹¹⁶ There is a huge amount of Christian mission activity throughout Liberia, mainly Evangelicals from the United States and United Kingdom. Legally they enjoy full freedom to work and generally face few restrictions in practice.

The specific activities of any religious group, once registered, are mostly unregulated by the government, provided the religious group is not breaking any statutory laws. Religious groups are classed as not-for-profit corporations, and there have been no formal moves, to this author's knowledge, to investigate whether or not some religious institutions are making an illegal profit. Information Minister Lawrence Bropleh once called on churches to report their earnings and explain what they did with the money. In response, 20 pastors collectively issued a statement calling him the 'anti-Christ'.¹¹⁷ No legal actions were ever taken regarding this matter. It is almost certain that many pastors and overseers of some churches, especially those of the Pentecostal and charismatic variety that preach the gospel of prosperity, are making a very good amount of money and using it to purchase personal automobiles, houses, clothing, trips abroad, and the like. By their theology, such wealth is considered to be legitimate, and prosperity is essential to their faith. Therefore, even if they were brought to court regarding their non-profit status, it would probably be difficult to get a conviction. Of course, such issues are by no means limited to the African context.¹¹⁸

In general, there is great freedom for religious proselytisation. In practice, there is far more vocal Christian activity than Muslim activity, in the form of loud crusades and church services, free tracts, street preachers, posters, banners, and sermons on the radio. Muslims are sometimes heard preaching in front of mosques, and they are largely tolerated, although in many churches, people vocalise that such Muslim preaching invokes demons to attack Christians, so they should sing and pray louder to combat it. There are no laws to regulate the

¹¹⁵ Interview with J York, LCC, 30 March 2008.

¹¹⁶ Personal interviews in Medina, GCM, February 2008. Also based on interviews with Africa for Jesus, a Christian missionary organisation focused specifically on entering Muslim areas to open churches.

¹¹⁷ 'In praise of the Almighty God or the almighty dollar?' *The New Democrat* 15 October 2007.

¹¹⁸ See especially the recent US Senate investigation into six prominent evangelists: 'Senator questions ministries on spending' *The New York Times* 7 November 2007; 'Televangelist preaches prosperity — and relatives gain it' *Chicago Tribune* 27 July 2008.

volume of a worship service, or the hours in which they may go on. For larger gatherings in public fields, the church is required to register with the government, a procedure that is straightforward and non-discriminatory.

4.3.6 Religiously-motivated violence

Despite these incidences of Christian bias, discrimination and heated debate, there have been no substantiated incidents of religiously-based violence and few reports of religiously-motivated murder or assault, although this may just be due to a lack of reporting. In 2007, five men in Grand Gedeh County were sentenced to life imprisonment for the September 2005 beheading of Hastings Tokpah, who refused to join a traditional Poro society because he was a Christian.¹¹⁹ It is believed that such killings are relatively commonplace, especially in rural areas. Quite possibly the mere threat of violence or oppression upon an individual who might refuse to join such a society might be considered a violation of his or her right to practise whatever religion he or she chooses. The power that *Zoes* and other traditional religious leaders have over their people in rural areas must not be understated. One well-established NGO president who has worked in Northern Liberia for over 20 years described it as nothing more than a 'reign of terror' on the people, which has increased in intensity since the war ended.¹²⁰

Both during and after the war, there were periodic reports of churches or mosques being burned down. However, these attacks were aimed at ethnicity, not religion specifically. Riots occurred in 2004 in Jacobstown, Monrovia, and a number of churches and mosques were burned. Initially, this was reported as a conflict between Christians and Muslims, but after investigation it was discovered to have erupted over a land dispute between Mandingo and other non-Muslim ethnic groups, not over religious matters.¹²¹ These events highlight the difficulty in determining the extent to which incidents during Liberia's civil crisis, which in many cases turned Christians against Muslims solely because of the ethnicity, might have fuelled religious tension, and to what degree this tension remains and could lead to specifically religious violence in the future. Although many Liberians might argue that there seems to be great tolerance between Muslim and Christians, any in-depth consideration of these two groups, given the recent history of Liberia and current attitudes among believers, raises the great need

¹¹⁹ US State Department (n 106 above).

¹²⁰ Personal interview, June 2008.

¹²¹ J York 'A study of the events leading to the October, 28 2004 violence in Jacobstown, Paynesville' June 2007, unpublished paper in author's possession.

to address these existing tensions before they are manifest in increased discrimination or violence.¹²²

5 Conclusion

This essay has only skimmed the surface of the issues and problems surrounding religion, law and human rights in Liberia. A few issues are clear and require much more discussion and debate, both in academia and in Liberian public life. Overall, with respect to the current state of the Liberian justice system, one must question how human rights can be promoted in a scenario where customary laws and traditional religious practices are widely considered to be more legitimate than statutory and human rights laws. This is due to a number of factors. First, because of the dual-system of law in Liberia, a large proportion of Liberians are unaware of their human rights. In many cases these human rights contradict their cultural and religious practices under customary law. Therefore, even if they did know about their statutory and human rights, they might not necessarily respect them. Second, a major challenge stems from the current dysfunctional state of the justice system in Liberia. People generally have little trust in these institutions. Because they fall under the jurisdiction of humans, many of whom have proven themselves to be endlessly fallible, untrustworthy, inaccessible and undependable, it will be very difficult to discourage recourse to traditional and sacred justice mechanisms that are legitimised by the spirit world, which does command great respect. That trial by ordeal is still widely considered to be legitimate indicates a notion of causality that is not necessarily conducive to a respect for profane systems of statutory law.

With respect to the level of religious freedom in the country, one must consider whether or not promoting religious equality and actively eliminating the Christian bias might cause more harm than good in Liberia today. Several factors might make such efforts highly problematic. First, the lack of public understanding or appreciation for what constitutes a 'secular' state makes it difficult to even begin a legitimate dialogue concerning religious freedom and equality. Second, the tendency for high-profile Liberians to largely avoid addressing certain controversial topics that might inflame sentiments, cause debate or 'open old wounds', for the sake of keeping peace, makes it difficult to address a variety of issues relating to human rights. This is especially relevant when it comes to the government's reluctance to address in

¹²² York concludes that the Jacobstown violence 'has therefore gone way ahead in justifying these suspicions of Christians in Liberia about Muslims and obviously worsened the relations of Christians and Muslims in Jacobstown in particular, to the extent [*sic*] that people in the community do still entertain the fears that any little discord has the propensity to cause a flare-up between the two groups'; n 121 above, 64-68.

any serious capacity the tensions between Muslims and Christians. That said, it should be noted that any premature attempts to address it might simply generate further unrest. Third, the powerful influence that traditional religious leaders have over their communities in rural areas should not be overlooked as a form of widespread and active religious oppression. However, regulating such practices might be considered an attack on Liberian culture. Finally, the growing tendency for Pentecostal Christian churches to indoctrinate their members, many of them young children who also attend Evangelical Christian schools, with an ideology so focused on spiritual warfare and the African traditional religion and Islamic threat, must be considered to be counterproductive in encouraging religious tolerance and respect for religious freedom. Many are toeing the line of actively promoting religious intolerance, inequality, and therefore, perhaps coming close to violating human rights law. However, to regulate the ideology of a religious group is not only contrary to freedom of religion, but if it were done, many of these churches would perceive it as an attack by the 'agent of evil', further generating religious tension.

The extent to which all of these issues may in fact impede the peace-building and reconstruction efforts, increase religious tensions or engender religious violence, is yet to be seen, but in such a fragile country that is improving so slowly and is home to hundreds of thousands of demoralised, poor and uneducated citizens, one can see the potential danger it not giving these issues serious and thoughtful attention.