

5-1-1998

## Christianity and Islam: Lessons from Africa

J. Paul Martin

Follow this and additional works at: <https://digitalcommons.law.byu.edu/lawreview>



Part of the [Christianity Commons](#), [Human Rights Law Commons](#), [Other Religion Commons](#), and the [Religion Law Commons](#)

---

### Recommended Citation

J. Paul Martin, *Christianity and Islam: Lessons from Africa*, 1998 BYU L. Rev. 401 (1998).

Available at: <https://digitalcommons.law.byu.edu/lawreview/vol1998/iss2/5>

This Article is brought to you for free and open access by the Brigham Young University Law Review at BYU Law Digital Commons. It has been accepted for inclusion in BYU Law Review by an authorized editor of BYU Law Digital Commons. For more information, please contact [hunterlawlibrary@byu.edu](mailto:hunterlawlibrary@byu.edu).

## Christianity and Islam: Lessons from Africa

*J. Paul Martin*\*

### I. INTRODUCTION

As we end the twentieth century there is a resurgence of interest in religion and the role it plays in our lives.<sup>1</sup> Religion and, unfortunately conflicts that are religiously defined have returned to center stage in world politics.<sup>2</sup> After years of neglect, more academics are examining religious beliefs and practices. They recognize, perhaps, the *de facto* role religion plays in the lives of large segments of the earth's population and in the decisions of many world leaders.

Certain works and the popular press have suggested an inherently conflicting relationship between Islam and Christianity.<sup>3</sup> The potential for conflict between Christianity and Islam is augmented by modern communications and increasing population movements that bring about an unprecedented intermingling of religions, eliminating religiously homogeneous communities virtually everywhere.<sup>4</sup>

---

\* Executive Director of the Center for the Study of Human Rights, Columbia University. The Essay draws on the author's research on the evangelization of the Sotho in nineteenth century Southern Africa and on an article on religious proselytization co-authored with Father Harry Winter, O.M.I., who is a director of the Oblate Center for Mission Studies in Washington D.C.

1. See David M. Smolin, *Cracks in the Mirrored Prison: An Evangelical Critique of Secularist Academic and Judicial Myths Regarding the Relationship of Religion and American Politics*, 29 LOY. L.A. L. REV. 1487, 1512 (1996) (discussing worldwide "resurgence of conservative, and even fundamentalist, religion").

2. See A. Peter Mutharika, *The Role of the United Nations Security Council in African Peace Management: Some Proposals*, 17 MICH. J. INT'L L. 537, 538 (1996) (stating that countries are increasingly faced with threats from internal religious conflicts).

3. See, e.g., Johnathan K. Stubbs, *Persuading Thy Neighbor to Be as Thyself: Constitutional Limits on Evangelism in the United States and India*, 12 UCLA PAC. BASIN L.J. 360, 366 (1994) (stating that when Christian missionaries moved into Islamic areas there was a natural conflict with existing laws).

4. See SAMUEL P. HUNTINGTON, *THE CLASH OF CIVILIZATIONS AND THE REMAKING OF WORLD ORDER 198-200* (1996) (discussing the rise in immigration due to improved transportation and communication).

## 402 BRIGHAM YOUNG UNIVERSITY LAW REVIEW [1998

However, Islam and Christianity have much in common.<sup>5</sup> They come from related theological traditions, and both believe in a single omnipotent God who is concerned with human history and who has sent messengers to guide human beings to salvation.<sup>6</sup> Proselytization<sup>7</sup> has characterized the history of both Christianity and Islam, although its intensity has varied from group to group, and historical period to historical period, within each tradition. Today, Muslims and Christians are increasingly intermingled. They now live more often in the same spaces, which increases the danger of competing for the same souls.<sup>8</sup> Decisions on the permissibility of Muslim customs are finding their way into western legal systems, which, though secular in form, still reflect their Christian origins.

In some parts of the world, Christian-Muslim antagonisms exhibit, and in others could regain, the political force they possessed during the period of the crusades in the late Middle Ages.<sup>9</sup> Some people in the West identify political Islam as the major enemy of Western Civilization.<sup>10</sup> On the other hand, others seek to improve relations between the two faiths. Christian groups are reformulating their theologies of mission to reject pejorative concepts like proselytism to talk about witness, dialogue and cooperation.<sup>11</sup> The increasing religious pluralism of modern society has brought these segments of the Christian church to appreciate the importance, and indeed the necessity, of institutionalized tolerance in the civic sphere.

---

5. See S.I. Strong, *Christian Constitutions: Do They Protect Internationally Recognized Human Rights and Minimize the Potential for Violence Within a Society?*, 29 CASE W. RES. J. INT'L L. 1, 62 (1997).

6. See Leila P. Sayeh & Adriaen M. Morse, Jr., *Islam and the Treatment of Women: An Incomplete Understanding of Gradualism*, 30 TEX. INT'L L.J. 311, 313-14 (1995).

7. Proselytization and religious missionary work are used interchangeably in this Essay in their most generic form, namely, as witnessing and seeking to recruit new members to the beliefs and practices of a particular religious tradition.

8. See JOHN L. ESPOSITO, *THE ISLAMIC THREAT: MYTH OR REALITY?* 46 (1992).

9. See John S. Pobee, *Religious Human Rights in Africa*, 10 EMORY INT'L L. REV. 163, 165 (1996); Lisa L. Schmandt, Comment, *Peace with Justice: Is it Possible for the Former Yugoslavia?*, 30 TEX. INT'L L.J. 335, 337 (1995).

10. See Ann Elizabeth Mayer, *Universal Versus Islamic Human Rights: A Clash of Cultures or a Clash with a Construct?*, 15 MICH. J. INT'L L. 307, 320 (1994).

11. See DAVID J. BOSCH, *TRANSFORMING MISSION: PARADIGM SHIFTS IN THEOLOGY OF MISSION* 368 (1996).

This Essay uses historical and theological reflections on Christian missionary work in Africa to reach beyond the stereotypical view that religions are necessarily in conflict with one another and that the West is fighting Islam for souls. It seeks to develop a vision of a path toward a peaceable social order based on contemporary concepts of human rights. Religion and society are obviously multifaceted. My research on missionary work in Africa shows that religious missions involve much more than competition for souls. Their net results are pervasive and it is important to take into account the resulting big picture. My basic thesis and the lessons we can learn from Christianity and Islam in Africa are: (a) the relationship between religion and "civilization" as a whole is complex and descriptions should not be unduly simplified, let alone reduced to stereotypes; (b) social equilibrium depends on the continuing, gradual interpenetration of different cultural, economic and political traits and traditions; these processes are impeded when public policies try to separate out, socially or physically, the different traditions; and (c) while still to be improved, human rights represent the best set of common standards to assure a peaceable social order.

## II. IMPACT OF RELIGION ON SOCIETY

In the modern world, increasing pluralism is both an empirical fact and a process that requires astute public policy to ensure a peaceable social order.<sup>12</sup> World views and national policies that juxtapose or, worse still, separate or demonize as inimical traditions, ideas and practices that have significant numbers of adherents, inevitably lead to social tension, and may lead to violent social conflagrations, as we have seen most recently in the former Yugoslavia and Northern Ireland.<sup>13</sup>

---

12. See Peter A. Samuelson, *Pluralism Betrayed: The Battle Between Secularism and Islam in Algeria's Quest for Democracy*, 20 YALE J. INT'L L. 309, 328 n.137 (1995) (discussing the historical roots of religious pluralism and encouraging peaceful interaction); Joseph P. Viteritti, *Choosing Equality: Religious Freedom and Educational Opportunity under Constitutional Federalism*, 15 YALE L. & POL'Y REV. 113, 189-90 (1996) (explaining the important role religious pluralism has played).

13. See Peter Wallensteen, *Global Patterns of Conflict and the Role of Third Parties*, 67 NOTRE DAME L. REV. 1409, 1414-15 (1992) (describing violence in Yugoslavia and Northern Ireland); Gerard Whyte, *Religion and the Irish Constitution*, 30 J. MARSHALL L. REV. 725, 727 (1997) (describing conflicts in Northern Ireland).

## 404 BRIGHAM YOUNG UNIVERSITY LAW REVIEW [1998

Preempting potential conflicts and resolving actual conflicts, even at an early stage, must be seen as a major challenge requiring multiple institutional and individual inputs, certainly much more than a military presence and the assistance of a few Non-Governmental Organizations (NGOs) and United Nations (UN) agencies.

Within both Islam and Christianity there are many groupings, theological traditions, and religious and secular authorities.<sup>14</sup> Both religions view the tolerance of other religions with difficulty. Both religions are universalist, appealing to and welcoming all human beings. They both decry all forms of discrimination on grounds such as gender, nationality, and ethnic origin.<sup>15</sup> Within each system there are conservative and radicalizing movements. In addition, Christianity and Islam have adapted to many varied cultural situations and both maintain their commitment to recruiting new members throughout the world.<sup>16</sup> Overall, Christianity has placed a greater emphasis than Islam on administrative structures as mechanisms of unity.

From time to time, both faiths have been closely allied with political power,<sup>17</sup> if not also with its sword.<sup>18</sup> For the past four hundred years, the major difference between the two traditions has been the enormous industrial, technological and commercial interests that have accompanied Christianity. This is beginning to change in industrializing Muslim countries, such as Malaysia and Indonesia.<sup>19</sup> As the relative economic

---

14. See, e.g., Gary R. Govert, *Something There Is That Doesn't Love a Wall: Reflections on the History of North Carolina's Religious Test for Public Office*, 64 N.C. L. REV. 1071, 1078 (1986) (explaining the different practices of Christian groups); Denis E. Owen, *Disbelieving the Culture Wars*, 6 U. FLA. J.L. & PUB. POL'Y 253, 254-55 (1994) (explaining the different political approaches of Christian denominations); S.I. Strong, *Law and Religion in Israel and Iran: How the Integration of Secular and Spiritual Laws Affects Human Rights and the Potential for Violence*, 19 MICH. J. INT'L L. 109, 125 (1997) (discussing the different divisions within Islam).

15. See HUNTINGTON, *supra* note 4, at 211.

16. See *id.*

17. See Omar Saleem, *Be Fruitful, and Multiply, and Replenish the Earth, and Subdue It: Third World Population Growth and the Environment*, 8 GEO. INT'L ENVTL. L. REV. 1, 14-15 (1995) (describing the close relationship between the state and religion in the Islamic world).

18. See Pobe, *supra* note 9, at 164-65 (describing the union between governments and religions in Nigeria and Sudan).

19. See Thomas M. Franck, *Community Based on Autonomy*, 36 COLUM. J. TRANSNAT'L L. 41, 56-57 (1997).

power of the "Christian West" diminishes the relationship between the two religions will likely be affected.

The critical elements to consider in assessing the impact of these religions on society are: (a) the evolving social and economic context in which the religions are active, (b) the major actors, (c) the missionary methods and goals, (d) the patterns of adaptation, (e) the eventual outcomes, and (f) the normative systems and actions taken by the civil powers to assure social order. These will be discussed successively.

#### A. *The Evolving Social and Economic Environment*

Religious missionaries in Africa were always part of more general cultural and economic flows. Islam moved with traders along the east coast, across north Africa and the Sahara, and down, inland, into the west.<sup>20</sup> Christianity moved with the expansion of Europe, down the west coast and into the middle of sub-Saharan Africa. As a result, there is now a broad band across Africa where Islam and Christianity interface and intermingle.<sup>21</sup> The interesting aspect of this interaction is that in some countries it is amicable, while in others it is tension-provoking.<sup>22</sup>

Day-to-day local community activities in towns and villages reflect traditional African character rather than European. Local factors, rather than national, generally determine how a given community responds to religion. Africans have long recognized the benefits offered by religious organizations, such as increased access to education and other social services, and have adjusted their beliefs accordingly.<sup>23</sup> There are many stories of Africans moving from one Christian faith to another

---

20. See Surya Prakash Sinha, *The Axiology of the International Bill of Human Rights*, 1 PACE Y.B. INT'L L. 21, 25 (1989) (describing expansion of the Islamic world to northern Africa); Derege Demissie, Note, *Self-Determination Including Secession vs. The Territorial Integrity of Nation-States: A Prima Facie Case for Secession*, 20 SUFFOLK TRANSNAT'L L. REV. 165, 177-78 (1996) (describing spread of Islam across the coast of eastern Africa).

21. See Pobe, *supra* note 9, at 163.

22. See generally FREEDOM OF RELIGION AND BELIEF: A WORLD REPORT (Kevin Boyle & Juliet Sheen eds., 1997) (providing examples of individual countries including Sudan and Egypt).

23. See Donna E. Arzt, *Heroes or Heretics: Religious Dissidents Under Islamic Law*, 14 WIS. INT'L L.J. 349, 421 n.190 (1996) (describing nominal conversions in order to receive benefits).

## 406 BRIGHAM YOUNG UNIVERSITY LAW REVIEW [1998

in order to advance their education. Both Islam and Christianity, albeit in different ways, have opened up the world to Africans, bringing in outsiders and also linking Africans to their respective network and communication systems.

*B. The Major Actors*

In assessing the impact of religions on society, the most significant actors are the religious leaders and their communities, but public officials and nonreligious sponsors are also important. Religious innovators and missionaries are religious activists seeking change and seeking to convert members of a community. The history of missions in Africa shows that individual human qualities, the chemistry of the interaction, and leadership impinge significantly on the development of religious groups. They must always be taken into consideration.

African communities responded to the first Christian missionaries in different ways. Some communities sought to exclude all external missionaries, others welcomed missionaries, but most were somewhere in between. Some, like the Sotho in southern Africa, welcomed the missionaries as a way to help them understand and adjust to the encroaching western forces.<sup>24</sup> Others, like the Zulu in southern Africa, preferred to resist missionaries and relied on their own resources and traditions.<sup>25</sup> Typically, strong groups resisted and weak ones accommodated.<sup>26</sup>

Once they accepted missionaries, these societies—first the small African and later the colonial units—had to mediate conflicts among religious groups and their followers as well as between religious groups and traditional political authorities. These processes, which were ad hoc in traditional African societies, were formalized by the colonial powers through laws governing not so much religion as certain functions of religion, notably education and family laws.<sup>27</sup>

---

24. See ADRIAN HASTINGS, *THE CHURCH IN AFRICA: 1450-1950*, at 311-12 (1994). As a highly organized monarchy, the Zulu were "highly suspicious of any suggestion of dual loyalty." *Id.* at 311.

25. See *id.* at 311-12. Rather than being suspicious of Christianity, kings in the Sotho kingdoms actually converted to Christianity. See *id.*

26. See *id.*

27. See Laura Nader & Mariane Ferme, *Transplants Innovation and Legal*

In general, the available political space and the quite different patterns of religious practice on the part of traditional African religions, meant that a considerable amount of symbiosis was possible in sub-Sahara Africa for Islam and Christianity. The colonial powers and their immediate African successors, with the exception of Sudan, have systematically refrained from sponsoring a particular religious persuasion as the state religion.<sup>28</sup>

From the point of view of African governments today, the net result is a low level of religious (as opposed to ethnic) conflict. Even along the Islam-Christianity divide, in states like Mali and Burkina Faso, public and private entities manifest a high degree of religious integration. Tensions are greatest in countries, such as Nigeria<sup>29</sup> and Sudan,<sup>30</sup> where the former colonial powers enforced separation,<sup>31</sup> and restricted interpenetration, such as that of Christian missionaries into Muslim regions. Today, religious tension in Nigeria and Sudan is the most significant in Africa. This supports the argument that, left to themselves, people can find better ways of symbiosis.

Religious and other activists make allies and link up with other social forces, choosing individuals and groups with goals other than their own with whom they are willing to collaborate. These alliances can often be more implicit and informal than explicit and formal. While most alliances are with persons in positions of local authority, in any given social environment

---

*Tradition in the Horn of Africa*, 45 AM. J. COMP. L. 209, 210 (1997) (reviewing MODELLI AUTOCTONI E MODELLI D'IMPORTAZIONE NEI SISTEMI GIURIDICI DEL CORNO D'AFRICA (Elizabetta Grande ed., (1995))).

28. Cf. Pobee, *supra* note 9, at 163-67 (mentioning government decisions which show preference towards a religion).

29. Cf. Robert G. Gosselin, *Minority Rights and Ethnic Conflict in Assam, India*, B.C. THIRD WORLD L.J. 83, 86 (1994) (discussing the conflict in Nigeria).

30. See Austin Metumara Ahanotu, *Muslims and Christians in Nigeria: A Contemporary Political Discourse*, in RELIGION, STATE AND SOCIETY IN CONTEMPORARY AFRICA: NIGERIA, SUDAN, SOUTH AFRICA, ZAIRE, AND MOZAMBIQUE (Austin Metumara Ahanotu ed., 1992).

31. See NOEL Q. KING, CHRISTIAN AND MUSLIM IN AFRICA, 81 (1971); see also ELIZABETH ISICHEI, A HISTORY OF CHRISTIANITY IN AFRICA: FROM ANTIQUITY TO THE PRESENT 235-37 (1995) (explaining that even Christian colonial administrators "consciously fostered Islam" by preferring them over Christians in the military and for domestic jobs).



## 408 BRIGHAM YOUNG UNIVERSITY LAW REVIEW [1998

there are other persons with whom the missionaries feel cultural bonds or allegiances.<sup>32</sup>

The relatively simple forms of collaboration exercised by the first colonial administrators, local shopkeepers, and religious missionaries in the last century have been supplemented or replaced by a very wide range of change-oriented forces. These forces include governmental and intergovernmental aid agencies,<sup>33</sup> development and humanitarian organizations,<sup>34</sup> corporations ranging from extractive industries to export item producers in search of cheap labor,<sup>35</sup> and other nongovernmental agencies of all sizes with a myriad of goals and interests.<sup>36</sup> Human rights rhetoric pervades the work of all the foreign development groups, often combining it with the promotion of democracy, rule of law, and good governance. They extend their influence through consultant relationships, contracts, loans, and grants to local NGOs, private businesses, and government agencies. A Coca-Cola executive, committed to a profit margin for the corporation in Atlanta, could have a social impact comparable to that of a missionary who teaches science in a high school in Nigeria or Armenia.

Muslim missionary activity in Africa and in the south of the former Soviet Union is said to enjoy external support from governments as varied as Turkey, Saudi Arabia and Iran. Similarly, it can be said that Christian missionary activity frequently benefits from the support of western governments such as through the United States government's use of Christian aid organizations to distribute food through PL-480.

The mainstream established churches from the Christian west are seen as natural allies in the work of western development agencies. International businesses concerns

---

32. See generally MAX GLUCKMAN, ANALYSIS OF A SOCIAL SITUATION IN MODERN ZULULAND (1958).

33. See Anthony V. Raftopol, Note, *Russian Roulette: A Theoretical Analysis of Voucher Privatization in Russia*, 11 B.U. INT'L L.J. 435, 446 (1993).

34. See THOMAS CAROTHERS, ASSESSING DEMOCRACY ASSISTANCE, THE CASE OF ROMANIA (1996); Maku Wa Mutua, *Hope and Despair for a New South Africa: The Limits of Rights Discourse*, 10 HARV. HUM. RTS. J. 63, 65-66 (1997).

35. See Detlev Vagts & William R. Cotter, *The South African Quagmire: In Search of a Peaceful Path to Democratic Pluralism*, 82 AM. J. INT'L L. 684 (1988) (reviewing THE SOUTH AFRICAN QUAGMIRE: IN SEARCH OF A PEACEFUL PATH TO DEMOCRATIC PLURALISM (S. Prakesh Sethi ed., 1987)).

36. See Wa Mutua, *supra* note 34.

attempting to set themselves up in the newly independent countries also appeal to the churches, as do many of the governments in the newly independent states of the former Socialist world. Cultural, political and economic globalization bring both openings and resistance. The responses of the various branches of Islam and Christianity are extremely varied. The topography of the responses has yet to be mapped.

### *C. Missionary Methods and Goals*

Missionary methods and goals suffer most from the stereotypic images of missionaries deceiving and manipulating local populations. By definition, missionaries are committed to change and thereby threaten to disturb the local populations' prior equilibrium and thus evoke hostility. Today, the older churches in Eastern Europe complain about the resources at the disposal of the new religions, pointing, for example, to the monopoly of the television channels on Sunday by foreign evangelists.

As history reveals, forms of promulgating religious faith range from indirect action in the form of simple witness and lifestyle without any attempt to preach or harangue, to providing health, education and other services. Today, for example, the Hari Krishna group runs a food kitchen in an especially neglected area of Chechnya. Education and health services have always been a major component of Christian missions around the world.<sup>37</sup> More recently, Islamic groups have increased their humanitarian work both within Islamic countries and by sending workers to countries with Muslim populations undergoing civil war.<sup>38</sup> Other groups focus on direct evangelization, the "I-am-here-to-convert-you" message. The most serious problems, however, occur when either method is endorsed and enforced by civil force.

The human rights issue, as far as methods are concerned, arises from the fear that these initiatives are coercive,

---

37. See Enid Trucios-Haynes, *Religion and the Immigration and Nationality Act: Using Old Saws on New Bones*, 9 GEO. IMMIGR. L.J. 1, 19 n.101 (1995) (giving a definition of missionaries which includes many services other than religious proselytizing).

38. This information is based on personal communications to the author from human rights specialists working in Albania and Bosnia.

## 410 BRIGHAM YOUNG UNIVERSITY LAW REVIEW [1998

deceptive, manipulative, disrespectful, fraudulent, or invasive of privacy. Missionaries have been and still are accused of being abusive to and even destroying local culture and customs, and as capitalizing on the misfortunes of disadvantaged people who are ill-prepared to resist or understand what is happening.<sup>39</sup> How does one decide which are legitimate and which are illegitimate methods of persuasion? Who is to be the judge? Inevitably it falls to the government authority, which has its own interests, but has no criterion by which to judge the innate truth of any religion. It must turn to more secular criteria.

At the same time, missionaries can be, and are, used to bring benefits to the local population. History repeatedly shows how education services brought by the missionaries were used by local people to obtain jobs and advance within the society at large.<sup>40</sup> There are many stories of young people adjusting their religious beliefs successively to obtain schooling. The early missionaries' work on the orthography of a language was often critical, not only to assure the survival of a language, but also for later literary contributions. These are just two examples of the many social forces and interests at work. Neither the missionaries nor the local people are fully in control. Each must learn to work with those forces and interests. My own research on missionary work in Africa has convinced me that both the missionaries and the local people are rational actors, enjoying sophisticated insights into the risks and benefits involved.<sup>41</sup>

*D. The Resulting Processes of Accommodation and Adaptation*

When the cultures of the external and internal forces are very different, every element of a society may be put in question: values, mores, world views, economic structures, and levels of political and economic independence. This is as true in

---

39. See Rebecca Tsosie, *Negotiating Economic Survival: The Consent Principle and Tribal-State Compacts Under the Indian Gaming Regulatory Act*, 29 ARIZ. ST. L.J. 25, 30 (1997) (discussing the plight of Native Americans when Christian missionaries criminalized traditional customs and religion).

40. See ISICHEI, *supra* note 31, at 235-37.

41. See generally Abdullahi Ahmed an-Na'im, *Sudanese Identities*, in THE SEARCH FOR PEACE AND UNITY IN THE SUDAN (Francis Deng & Prosser Gifford eds., 1987). This text illustrates lengthy and sophisticated conversations between Protestant missionaries and the local chief on topics ranging from politics to theology. There is also the wider process of social change and the role of religious thought. See *id.*

an African village in the nineteenth century as it is in a Russian one today, as the Orthodox Church seeks to regain the moral authority and influence it had before communism, while competing with missionaries and other agents from Europe and Asia.

Groups and individuals reflecting the greatest dissatisfaction with their immediate social environment or prospects respond most dramatically. For example, within five years of the first nuns arriving in Lesotho, celibacy as a nun proved an attractive option for young Sotho women unhappy with the marriage patterns and practices of their society, offering them at the same time higher social status. Proselytization in Africa and Eastern Europe takes place in a wider process of social change and also sets off its own processes of social change.

The acceptance of new beliefs includes a social statement about a person's and a group's social loyalties, needs and interests. In both nineteenth and twentieth century Africa and former socialist countries, massive social transformations are coinciding with heightened religious activity.<sup>42</sup>

#### *E. The Eventual Outcomes*

The long-term outcomes of religious tolerance involve assimilation and eventually more stable patterns of accommodation between the new and old traditions. One radical effect in Africa has been the large numbers of independent churches.<sup>43</sup> Many of them have memberships in the millions,<sup>44</sup> and their theologies and practices represent an amalgam of Christianity and traditional components.<sup>45</sup> The adaptation of mainstream Christianity to Africa is still a work in progress. The structure and forms of worship of the

---

42. See, e.g., HUNTINGTON, *supra* note 4, at 95 (attributing the revival of religion in Asia and Islamic countries to changing economics and demographics).

43. Cf. S. Talcott Camp, *Why Have You Been Silent? The Church and the Abortion Ban in South Africa*, 4 COLUM. J. GENDER & L. 143, 166 (1994) (discussing the Council of African Independent Churches).

44. See, e.g., ISICHEI, *supra* note 31, at 335 (discussing the newly founded Church of God Mission International, which has over 1000 branches).

45. See KWAME BEDIAKO, *CHRISTIANITY IN AFRICA: THE RENEWAL OF NON-WESTERN RELIGION* 63 (1995).

## 412 BRIGHAM YOUNG UNIVERSITY LAW REVIEW [1998

mainstream churches have evolved steadily with increasing use of African forms of music and worship.

Among Muslims, Arabic retains a place of pride for those capable of reading or at least reciting texts from the Koran, yet community activities and religious celebrations reflect traditional domestic concerns such as family relations and trade, even if informed by the basic tenets of Islam. The most important outcome common to both Christianity and Islam is their global and universalist characteristics. Both groups assure their members incorporation into a transnational global community based on a belief in a single omnipotent God and a single human race where all are equal. To an oppressed minority, this is an especially appealing message.

*F. The Normative Systems*

Governments have at their disposal many instruments to control religious organizations and their members: taxation; property and inheritance laws; allowing or restricting use of public property and institutions; access to press, print and other media; control of public and private assemblies and associations; and other powers that enable the civil authority to act in a less than neutral fashion.<sup>46</sup> Public policies have been the major determinant of Christian-Islamic relations.

While setting overarching legal systems based on their own traditions, colonial governments made use of Islamic and traditional laws and institutions to govern subunits within their jurisdictions.<sup>47</sup> Islamic family laws were generally enforced by colonial authorities and, in the interest of social peace, the activities of European Christian missionaries were restricted by colonial administrators in such heavily Muslim

---

46. See FREEDOM OF RELIGION AND BELIEF: A WORLD REPORT, *supra* note 22; Abdullahi A. An-Na'im et al., *Cultural Transformations and Human Rights in Africa: A Preliminary Report*, 11 EMORY INT'L L. REV. 287, 299-300 (1997).

47. See KEVIN SHILLINGTON, HISTORY OF AFRICA 355-58 (1995).

areas as the northern parts of the Sudan<sup>48</sup> and Nigeria.<sup>49</sup> Laws were used by the colonists to assure social order.

Until recently, neither administrators nor religious leaders gave any consideration or similar protection to the rights of African communities and their religions. Christian and Muslim missionaries simply believed that they should do all in their power to convert nonbelievers, pagans, and kaffirs, as they were routinely called. Strategies were chosen on the basis of their effectiveness rather than in recognition of the rights of the people.<sup>50</sup>

Recently, a few West African countries have introduced legislation to protect traditional religion. Today, most sub-Saharan countries can boast a high degree of religious freedom without sophisticated legal systems. Instead popular attitudes exist that are generally tolerant of other religions, including areas where Islam and Christianity are heavily intermingled.<sup>51</sup> Social tensions in Africa reflect ethnic rather than religious concerns,<sup>52</sup> however, religious tensions are evident at a national level in Sudan<sup>53</sup> and Nigeria.<sup>54</sup> In Sudan, there has been a long civil war, with the Islamic governments from Khartoum seeking to assert their administrative and religious control over

---

48. Cf. Guenther Auth, Book Note, 22 YALE J. INT'L L. 447, 448 (1997) (reviewing HURST HANNUM, *AUTONOMY, SOVEREIGNTY, AND SELF DETERMINATION* (1996), and noting religious intolerance in Sudan).

49. Cf. Akin Ibidapo-Obe, *The Dilemma of African Criminal Law: Tradition Versus Modernity*, 19 S.U. L. REV. 327, 334-35 (1992) (stating that Islamic law is correlated with African law—especially in Nigeria and Sudan).

50. In the classic work by David J. Bosch, there is no discussion on the rights of those to be “missionized.” See generally BOSCH, *supra* note 11. The evolution the book traces reflects the desire on the part of the Christian churches to improve interfaith relations.

51. Cf. Pobe, *supra* note 9, at 163-67 (discussing legal systems of African countries).

52. See, e.g., Chine du Reginald Ezetah, *International Law of Self-Determination and the Ogoni Question: Mirroring Africa's Post-Colonial Dilemma*, 19 LOY. L.A. INT'L & COMP. L.J. 811, 856 n.217 (1997) (describing ethnic conflict between the Hutu and Tutsi); Christopher A. Ford, *Watching the Watchdog: Security Oversight Law in the New South Africa*, 3 MICH. J. RACE & L. 59, 86 (1997) (dealing with ethnic conflict in South Africa); Gwendolyn Mikell, *Ethnic Particularism and the Creation of State Legitimacy in West Africa*, 4 TULSA J. COMP. & INT'L L. 99, 104 (1996) (discussing ethnic conflict in West Africa).

53. See Lino J. Lauro & Peter A. Samuelson, *Toward Pluralism in Sudan: A Traditionalist Approach*, 37 HARV. INT'L L.J. 65, 65 (1996); Auth, *supra* note 48, at 447 (mentioning the religious intolerance in Sudan).

54. See Mikell, *supra* note 52, at 103-04.

## 414 BRIGHAM YOUNG UNIVERSITY LAW REVIEW [1998

southern Sudan, an almost completely non-Muslim population.<sup>55</sup> In Nigeria, religious tensions fester beneath a complicated political situation that again pits an Islamic north against a non-Muslim south.<sup>56</sup> In both countries political factors interplay with religious ones, making it hard to define it as a predominantly religious tension.

## III. NEW THEOLOGICAL PERSPECTIVES

Many forces have come together in the last few decades to change the way Christians think about missionary work and their relationship with other churches and religions. A theological distinction is now made between “proselytism” and “witness.” It started at the beginning of the twentieth century, with Christian missionaries seeking ways to avoid competition among themselves and especially with Orthodox Christianity. Religious tolerance was furthered by Article 18 of the 1948 Universal Declaration on Human Rights,<sup>57</sup> which recommended that freedom of thought, conscience and religion be incorporated into national legal systems.<sup>58</sup> Words like proselytism, implying coercion, manipulation or deception, gave way to words such as dialogue and witness. The idea that faith and belief require free choice and should not be coerced also emerged. This approach was based both on the growing acceptance of the dignity of the human individual and the desire to reduce conflict with other religions. Most of the Christian churches have now produced documents that underline these perspectives and accept religious pluralism.<sup>59</sup>

---

55. *See id.* at 112-13.

56. *See id.*

57. G.A. Res. 217, U.N. Doc A/810, at 71 (1948).

58. Article 18 states that, “[e]veryone 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 or private, to manifest his religion or belief in teaching, practice, worship and observance.” *Id.* at 74; *see also* Lawrence Rosenn, *The Right to be Different: Indigenous Peoples and the Quest for a Unified Theory*, 107 YALE L.J. 227, 259 n.20 (1997).

59. *See* Developments in the Law—Religion and the State, *The Complex Interaction Between Religion and Government*, 100 HARV. L. REV. 1612, 1615 (1987) (citing H. COWARD, PLURALISM: CHALLENGE TO WORLD RELIGIONS (1985) (giving doctrinal statements in Judaism, Christianity, Islam, Hinduism and Buddhism in support of religious pluralism)).

Interfaith relations have progressed most evidently among the mainstream churches. Relations between mainstream churches and the new religions,<sup>60</sup> often referred to as cults,<sup>61</sup> have been more difficult. Dialogue between Christians and Jews has brought new understanding,<sup>62</sup> while dialogue with Muslims is still at a very early stage. In Africa, with the exception of South Africa, dialogue between Muslims and Christians is limited to occasional cooperation in the capital cities. On the other hand, in most parts of rural Africa, Christians and Muslims live amicably side by side and there is considerable intermarriage in countries along the Muslim-Christian line.<sup>63</sup> The two exceptions, Nigeria and the Sudan, seem to show that the tensions reflect their respective political, rather than religious, histories.<sup>64</sup> In this sense, the new Christian thinking in the West coincides with a grassroots sentiment in Africa that has promoted religious accommodation.

Unfortunately, with respect to religious tolerance and pluralism, most domestic and international laws remain at rudimentary levels in their capacity to protect freedom of religion and belief. The UN approved a Declaration on the Elimination of all Forms of Intolerance and Discrimination based on Religion or Belief in 1981,<sup>65</sup> but little in the way of a convention or treaty seems likely in the immediate future.

In addition to religious conversion, Christian and Muslim missionaries bring about many other tangible and far-reaching changes, often with significant social consequences. The results reflect both the cultural difference between the two religions and the more general political and cultural invasion affecting

---

60. See, e.g., ISICHEI, *supra* note 31, at 335 (discussing the Church of God Mission International).

61. See generally EILEEN BARKER, *NEW RELIGIOUS MOVEMENTS: A PRACTICAL INTRODUCTION* (4th ed. 1989).

62. Cf. Peter Steinfels, *Fordham's New Theologian: A Flair for Diplomacy*, N.Y. TIMES, Oct. 2, 1988, at 50 (describing the Catholic Church's attempts to improve relations with Protestants, Jews and others).

63. See KING, *supra* note 31, at 112.

64. Cf. Arthur E. Anthony, Comment, *Beyond the Paper Tiger: The Challenge of a Human Rights Court in Africa*, 32 TEX. INT'L L.J. 511, 512 (1997) (discussing political and human rights difficulties in Sudan and Nigeria).

65. See Declaration on the Elimination of All Forms of Intolerance and Discrimination Based on Religion or Belief, G.A. Res. 36155, U.N. GAOR, 36th Sess., Supp. No. 51, at 171, U.N. Doc. A/36/51 (1981).



## 416 BRIGHAM YOUNG UNIVERSITY LAW REVIEW [1998

Africa and the former socialist countries. Any measurement of outcomes should examine at least the following:

(1) the formation of new social groupings and the adoption of new normative reference groups, as well as new world views and visions that reorient the next generations with more inclusive and universalist visions;

(2) the adoption of new social practices that challenge previous practices and put into question the social institutions that supported them;

(3) the establishment of new relationships with the world beyond the immediate local community, reaching to Mecca, Rome or other religious centers, but also to other economies;

(4) the incorporation of new cultural traits and institutions ranging from words, music, art, social practices, and ceremonies to eating patterns and economic structures;

(5) integration of the missionaries' work and resources (e.g., funding, health and education services, communications, and equipment) and their impact on the physical well-being of the local community (e.g. educational and health services and standards as well as economic structures and systems of wealth).

All of these dimensions must be taken into consideration if we are going to evaluate the impact of a religion on a given society, but also if the government power is going to prepare itself to deal with potential points of conflict.

In a post-Universal Declaration of Human Rights world, we cannot neglect questions of social justice in this process. What are the rights and obligations of the various actors? To what extent can Islam and Christianity come together to assure that human rights standards are used to promote religious well-being, religious freedom, and religious outreach activities as well as general social order?

#### IV. THE NEED FOR COMMON STANDARDS

Empirical human rights studies show that the groups most in need of protection are populations without political power who suffer violations because of their relative weakness.<sup>66</sup> They

---

66. See generally Daniel Thurer, *National Minorities: A Global, European, and Swiss Perspective*, 19 FLETCHER F. WORLD AFF. 53 (1995) (describing difficulties of minorities in legal systems).

cannot resist an oppressive superior power. This weakness can stem from many reasons ranging from pressing needs such as hunger, physical plight, and outright coercion, to the lack of education and knowledge of the outside world. At what point are the rights of individuals or groups without the power to resist violated by religious forces? What criteria ought to be used to evaluate such situations?

There is a general moral and legal language that argues for a level playing field for all actors. The concept of a free market reflects this commitment in economics. Are there adequate international standards, agreements and/or examples of national provisions to protect against religious discrimination and persecution, or do we need more detailed and issue-specific legal and ethical codes to assure a level playing field? Is the principle of a level playing field acceptable as a general principle? For some religions the answer is no. However, more religions would answer yes today than a century ago.

The primary responsibility for any necessary standards belongs to the state. With respect to the religious authorities and activists, the most serious tensions come from accusations of the use of coercion and abuse of power. The tactics vary from withholding food from the hungry until they convert, a tactic reportedly being used in Khartoum to convert refugees from southern Sudan, to denying coveted access to religious schools.<sup>67</sup>

The state enters into this realm as the neutral guarantor of its peoples' rights and is required to respond should they be violated. It must, for example, decide on the right of foreign missionaries to enter the country and on their rights while they are there. The state must then respond to any resulting tensions or conflicts. History shows that states have played a range of roles that have been anything but neutral toward faith traditions within their borders. Indeed, in terms of extent and impact, persecution and other violations of religious rights by states have always been a much greater problem than the violation of rights by religious authorities and activists.<sup>68</sup>

---

67. See Donna E. Arzt, *Religious Human Rights in Muslim States of the Middle East and North Africa*, 10 EMORY INT'L L. REV. 139, 144-45, 155-56 (1996) (describing nominal conversions to Islam and various tactics employed).

68. See Samuelson, *supra* note 12, at 358 n.153 (citing Donna J. Sullivan,

## 418 BRIGHAM YOUNG UNIVERSITY LAW REVIEW [1998

Thus, there are two levels of need, domestic laws to assure religious rights and to prevent discrimination, and international institutions to respond when a state's own action or lack of action results in serious violations of religious rights. Much seems to be needed in both the domestic and international fields. Domestic standards vary significantly from country to country and international standards are very sketchy and enjoy little in the way of enforcement mechanisms.<sup>69</sup>

In a world where interaction is increasing, there is a trend toward and a need for more common domestic and international standards. International human rights standards have begun the move toward a level playing field. While religious rights are barely addressed, human rights are the most widely accepted standards of social justice in the world today<sup>70</sup> and many, such as freedom of assembly, association and expression, can be used to protect religious freedoms. These rights are defined in the various human rights documents developed by governments under the auspices of the United Nations<sup>71</sup> and some have been further refined through judicial decisions and legal opinions.<sup>72</sup>

In terms of foreign policy, the state has many interests to reconcile, including its own legitimate interest in the well-being of its people, national security, economy, language and culture, as well as such other concerns as public order and safety. Each of these may provide the state with a legitimate rubric for restricting or supporting religious activity. When a government violates the right to freedom of religion, the issue may become

---

*Advancing the Freedom of Religion or Belief Through the UN Declaration on the Elimination of Religious Intolerance and Discrimination*, 82 AM. J. INT'L L. 487, 499 (1988)).

69. See Strong, *supra* note 14, at 111.

70. See, e.g., Reginald Ezetah, *The Right to Democracy: A Qualitative Inquiry*, 22 BROOK. J. INT'L L. 495, 519 (1997) (stating that one of the purposes of the United Nations is to promote human rights and social progress); Ernst-Ulrich Petersmann, *Constitutionalism and International Organizations*, 17 NW. J. INT'L L. & BUS. 398, 434 (Winter-Spring 1996-1997) (stating that the promotion of social justice is one of the goals or major tasks of international organizations).

71. See Strong, *supra* note 14, at 111.

72. See generally Fionnuala Ni Aolain, *The Emergence of Diversity: Differences in Human Rights Jurisprudence*, 19 FORDHAM INT'L L.J. 101 (1995) (discussing judicial examination of human rights documents); Brenda Sue Thornton, *International Human Rights in American Courts: The Case of Nelson v. Saudi Arabia*, 86 AM. SOC'Y INT'L L. PROC. 324 (1992) (same).

of interest to other states. The various national communities of Islamic and Christian believers have the power, because they are international religions, to urge their governments to take diplomatic or other action to protect coreligionists in another nation. As far as Africa is concerned, religion is increasingly an international issue in the Sudanese conflict, which could lead to new policies and alliances.

#### V. CONCLUSION

The purpose of this Essay has been to lay out some of the elements of religious freedom that stem from Islam and Christianity in Africa, with an emphasis on their missionary and universalist perspectives. With the exception of Nigeria and Sudan, religion is not a primary element in any of the current violent conflicts. Nevertheless, precisely because there is little religious conflict and little explicit religious legislation or litigation, now is the time to examine the need and possibility of common standards. The common standards should be based on international human rights, as they are the only widely accepted standards that can be applied across countries. Such standards could include standards to govern the rights of populations targeted by missionary groups, but also protect the rights of the different religions.

In recent years, Christian missions have tended to become more responsive to the rights of their target populations. However, as established religions both Islam and Christianity have historically fought hard, in word and through politics, to exclude other religions from their territories.<sup>73</sup> Given the role that religion, as personal conviction and as institutional heritage, still plays in personal and national identity, and the dangers of the Hobbesian world outlined in Huntington's book<sup>74</sup>—that such social identities easily become lines of conflict—not only resolving tensions with religious dimensions

---

73. See, e.g., Arzt, *supra* note 23, at 385 (explaining the crusades and the bloodshed between different religions); James David Phipps, Comment, *Kiss of Death: Application of Title VII's Prohibition Against Religious Discrimination in the Kingdom of Saudi Arabia*, 1994 BYU L. REV. 399, 427 n.28 (1994) (citing ALBERT HOURANI, A HISTORY OF THE ARAB PEOPLES 35, 134, 139-40, 217-18 (1992)) (explaining that Islam required a poll tax by non-converting Jews and Christians but not by Muslims).

74. See HUNTINGTON, *supra* note 4, at 268-72.

## 420 BRIGHAM YOUNG UNIVERSITY LAW REVIEW [1998

but also setting up institutions to do so ought to be high priorities for all public authorities.

Religion is a large part of the social process in many African countries and state policies can play a very important role in inter-religious relations. So far, religious conflicts have not been a major problem for African governments. During crisis, however, it is difficult to differentiate between religion as a basic inspiration, mobilizing tool, demarcation of different interests, or as a pretext. The positive news is that Islam and Christianity preach a world of peace and brotherhood. However, can they promote a world of peace and brotherhood if the effective political apparatus is neutral?

Is it possible to create a system in which the state is both supportive and nonpartisan? This transposes into a question of political order, the most appropriate place along the spectrum between a U.S. position of maximum separation of religion and state and those that have instituted elaborate government ministries to monitor religion and interfaith relations. As each system has its merits, this Essay does not advocate either model or one of the many possible intermediates.

My additional conclusions are: (a) that while domestic and international legislation may help, critical factors to consider in order to achieve religious peace include common standards, and national administrative and educational institutions that, on a day to day basis, assure social peace; and (b) that to achieve religious peace, the people and government need to have a strong commitment to equal treatment, and to effective and appropriate rules and institutions.

Social structures require accepted rules protecting the rights of all individuals. Effective institutions mediate between potentially competing religious groups on the basis of principles of tolerance and equal treatment. Huntington is correct that religion is an important part of national identity, but he is likely incorrect that conflicts are inevitable and that we should aim to keep different religious communities separate from one another.<sup>75</sup> Rather, it is important that different religious communities be allowed to intermingle and that at the same time we develop the institutions necessary to resolve conflicts

---

75. *See id.*

401]                    CHRISTIANITY AND ISLAM                    421

and tensions before they reach situations such as those in present-day Yugoslavia and Israel.