Has Religious Freedom Served or Failed African Traditional/Indigenous Religions?

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I have been observing and analyzing religious trends in various parts of sub-Saharan Africa for several decades, with a particular focus on new religious movements, variously termed "minority religious groups," "sects," or "unconventional religious groups." My years of living in southern Nigerian cities afforded me valuable insights into the workings of complex religious landscapes. As democratization, neoliberalism, media deregulation, and global religious activism increasingly change the stakes of coexistence between religious groups, and between such groups and the state, the management of Africa's increasingly competitive religious public spheres has become a more compelling area of investigation. How do state and non-state agents act to facilitate or limit the public functioning and recognition of some or all religious organizations? How do the resources on which they draw, such as globally circulating ideas about "international religious freedom," serve to frame what counts as (good or bad) religion? Which constitutional or statutory provisions are they informed or bound by in negotiating religious diversity? How much do local histories, politics, and demographics continue to influence the balancing of majoritarian and minoritarian religious interests?

In a recent article on "Regulating Religious Freedom in Africa" I explore the legal and non-legal strategies of keeping religious groups in check. Elsewhere I have also paid some attention to the recent liberalization of the media sector across Africa and how this replicates or even

generates patterns of exclusion and discrimination through the granting of licenses, transmission power, broadcasting access, and program content.

The angle I will pursue here is the treatment of indigenous forms of African belief and practice in light of these post-colonial reconfigurations. NOTE re SSRC BLOG   While it is Muslim-Christian relations in Africa that command current geopolitical attention, I contend here that sub-Saharan Africa provides some of the most instructive examples of how indigenous religions are still religious freedom misfits. African traditional religions were particularly vulnerable during the earlier phases of Christian and Muslim missionary activity and colonization. Christianity and Islam now dominate in most areas of public, communal and individual life in contemporary Africa.

Indigenous religions are still largely perceived as pre-modern with ambiguous status as either religion or culture; they struggle for public recognition and equal treatment under the law. Moreover, they are hampered by being part of a generalized and heterogeneous category, with no clear designation or centralized leadership. This recalls some of the legal battles that American Indians faced in trying to prove that their traditions are "religious" so that they could enjoy constitutional protection, as Tisa Wenger discusses in her appositely titled book on the 1920s Pueblo Indian Dance Controversy, *We Have a Religion*.

Let me keep on the American detour here with some reference to the annual US State Department International Religious Freedom reports since 1999), in order to raise some critical terminological questions. In a recent conference paper I analyzed the Africa reports for their inclusion and treatment of what the report writers term "traditional

indigenous religions". The IRFA report is not an agreed on yardstick but it does reveal the challenges faced by those trying to quantify, and evaluate the rights pertaining to, religious entities in national contexts. To begin with, the report writers face a problem of **sources** for demographic data**.** If the source is a census, it is not always clear whether there was an entry for traditionalists or was it rather a default category such as "other" or the "remainder." In other words, some of the politics of recognition is embedded right there in the check box and I do not see that being questioned in the reports. Nor is the possible bias of mainstream religious sources for data on non-mainstream religious groups. Clearly there is some reliance on data derived from the registration of religious organizations (and that is a politically charged process right there, especially if there are tax preferences and legal benefits), but in the majority of instances governments do not register traditional religions. They may also be missed off official or unofficial **lists** as astutely noted by the Cote d'Ivoire reports of the early 2000s, constituting a cumulative strategy of exclusion. Only occasionally is the relative absence of traditional religious leaders from state or public events mentioned. The fact that traditional religion is often represented at public events by traditional rulers (who are not religious functionaries and who may actually be Muslim or Christian, or some other religious affiliation).

The IRFA country reports are predicated on the status and activities of distinct religious organizations or groups. Several of the report writers make reference to the challenges of **categorizing** traditional religions, mainly because of their conflation with ethnicity and cultural practices. There are frequent references to the fact that many Africans (overtly or covertly) incorporate traditional beliefs and practices (such as visits to

diviners and healers and ancestral veneration) into their Christian and Muslim lifestyles or practice them "in tandem" (Burkina Faso 2011). Another major challenge for the report writers, as for any researcher trying to analyze a religious landscape, is how to classify those eclectic, often urban, groups or movements that draw on elements from a variety of religious sources (eg indigenous, mystical, metaphysical, Indian, Christian, Muslim). These neo-traditional (or some might say pseudo-traditional) movements end up in the "syncretist" box which seems guaranteed to lessen the chances of public recognition on most fronts. The report writers do not draw out the implications of this on the religious freedom credit or debit scale.

In sum, this brief excursus into the IRFA reports at very least throws up the data deficit in relation to indigenous African religions. <mark>SHOW sheet *****</mark>

DELEGITIMATION STRATEGIES

Kenyan legal scholar Makau Mutua has made the most forceful case that local forms of religious belief and practice have been subject to ongoing delegitimization by the state in collusion with missionary religions and post-colonial elites. He writes pointedly of a "constitutional silence" and an "absolute refusal to acknowledge the existence of African religions or cultures" in the country of his birth. Moreover, Mutua contends that the "liberal generic protection of religious freedoms," with its guarantees of the right to manifest, propagate, and change one's religion, favors mission-related religions and is ultimately inimical to indigenous African religions and lifestyles. (Wole Soyinka makes similar arguments about the aggressivity of the so-called world religions in his latest book, *Of Africa*).

Furthermore, Mutua argues, limitations on religious freedom for reasons of "public morality" and "public health" target the elements of traditional religious practice that many colonial states found problematic, even abominable. Such fears and statutory tests perdure in modern times (cf. Enyinna S. Nwauche on Nigeria, E. K. Quashigah on Ghana). In sub-Saharan Africa, harassment is generally linked to accusations of witchcraft, ritual sacrifice, and charlatanistic healing practices. Nigeria's booming video-film market, known as Nollywood, has helped perpetuate negative stereotypes across Africa about traditional cultural practices. So, too, has the sensationalist media coverage in Africa and the diaspora of purported ritual abuse of African children suspected of witchcraft. Evangelical and Pentecostal movements generally lead the fray in demonizing indigenous religious and cultural practices.

Let me quickly connect back to the IRFA reports on this question of **content focus**. The reports have to follow a tight formulaic structure, but one can still detect some recurring topics highlighted by the various report writers that might have bearing on the perceptions and treatment of traditional religions in a specific national context. Two stand out, in my view, namely ritual killings and witchcraft. [While this is a sensitive and generally negative area of public concern, some report writers managed to capture the complexity of the phenomenon.]

DEBATES AND INITIATIVES

South Africa is one of the optimal places to explore current debates over the status of traditional African religion(s) in a modern, democratic, post-colonial state. On the face of it, traditional forms of

religious belief and practice appear to be almost nonexistent (0.3%), according to the country's 2001 census. Nearly 80% of the population identify as Christian. But, as the contributors (mainly legal experts) to a most valuable 2011 book, *Traditional African Religions in South African Law*, underscore, the defining and classifying of these religions is still a live issue. These contributors discuss a number of recent legal cases that have tested the even-handed treatment of traditional religions under the new constitutional protections for religious freedom. The conflation of traditional religion and culture, and an emphasis on communal identity, proved problematic in some human rights cases, as exemplified in the public outcry and lawsuit (the *Smit* case, 2009) over a ritual bull slaughtering in a revived Zulu First Fruits Festival. While the case brought by animal rights activists was eventually dismissed for want of factual evidence, Christa Rautenbach argues that demonstrating that the festival was "religious" and not "cultural" in nature (despite the interdependency in practice of religion and culture) would have afforded greater protection from the judiciary. Similarly, Jewel Amoah and Tom Bennett note in a 2008 article the surprising lack of reference to religious beliefs in legislative efforts to reform the laws of African customary marriage. They see this as ongoing evidence of the way that indigenous African religions are being treated as "incidents of African culture," and the effect of this to deprive practitioners of the legal deference shown to other religious communities. In their view, this makes African religions particularly vulnerable to state involvement as the 1996 Constitution only protects religions to the extent that they "mirror the religious characteristics of non-African religions."

Another critical and contentious issue, ably discussed by Nelson Tebbe, is the outlawing of witchcraft by government and human rights

organizations. While the practice of [naming witches](#) may be permitted under free speech and religious freedom, so too limits on the practice may be allowed because of its often violent consequences. Furthermore, the problems of trying witches in state courts and allowing religious experts to give evidence would compromise constitutional prohibitions on government involvement in religious affairs.

Because of her background in politics, broadcasting, and higher education, Nokuzola Mndende, one of the leading advocates of "African Traditional Religion" in South Africa today, is highly critical of the ways her religious heritage continues to be misrepresented or underrepresented by media organizations. Dr Mndende therefore calls for "affirmative action" by the South African government to redress the fate of "disadvantaged religious communities." It remains to be seen if the proposed South African Charter of Religious Rights and Freedoms (in whose drafting Mndende has participated) will provide any such benefits.

Marleen de Witte's insightful [work](#) on the neo-traditionalist Afrikania Mission here in Ghana also addresses the challenges facing such revivalist political-religious movements as they seek to be modern *and* African. These local struggles are bound up in decades of subjugating encounters with missionaries, colonialists, and scholars. Witte provides a rich discussion of how Afrikania seeks to negotiate the new media opportunities and constraints, knowing that how it represents its "traditions" and "spiritual power" to the predominantly (Pentecostal) Christian Ghanaian public is critical to its survival as the principal face of "ATR" in Ghana. She argues that this overly intellectualist focus on "representation" comes at the expense of the shrine practitioners'

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practices and concerns. Some feel that traditions of secrecy have been sacrificed in the quest to produce a modernized, "world religion." Furthermore, Witte describes Afrikania's position as "difficult and ambiguous" as it seeks to defend "superstitious" religious practices, such as libation, as part of its nationalist heritage project, even when these run afoul of "universal" human rights norms embedded in the Ghanaian constitution.   DIPO?

In his latest book on the wild and surprising religious creativity of South Africa, Chidester discusses how, under the post-apartheid national motto, "Unity in Diversity," political leaders have drawn on indigenous religion as a national resource, whether as the spiritual dimension of heritage projects or through rituals at key national and international events, such as the World Cup in 2010. Chidester also considers how traditional religion finds its way into religious tourism, school syllabi, global Zulu spirituality, New Age neo-shamanism, and traditional sovereignty.

While the government of South Sudan is taking encouraging steps to include traditional religions in its new political dispensation, the reality is that only one African state, the People's Republic of Benin, officially recognizes traditional religion in its constitution, granting it a national public holiday. In Nigeria, the International Congress of Traditional Religion and Culture has advocated (unsuccessfully) for similar state recognition. So in the absence of such recognition, traditional religious leaders have explored alternative avenues. Cultural tourism, especially if it receives the UNESCO World Heritage imprimatur, is a way to attract state support for traditional religious festivals. Another strategy is for traditional religious practitioners, especially healers, to create associations that promote their interests in the public sphere. The

Zimbabwean National Traditional Healers Association (ZINATHA) and OrisaWorld, a global association to promote Yoruba religion, are cases in point. The latter is a vivid example of the strategic role that diasporic communities can play in the promotion and protection of traditional religious practices in their home countries. We should not neglect to mention the capacity of academic publications to legitimate the category of traditional religions for wider audiences, from the landmark work of John Mbiti from 1969 onwards through to recent texts with such legitimizing titles as *Orisa Devotion as World Religion.* It would be remiss of me not to point to the influence of national school curricula in the dynamics and politics of recognizing traditional religion(s). There exists some scholarship to date around Africa on this question, but there is room for more research on both policy and implementation in relation to freedom of religion and belief.

While indigeneity is arguably more strategic than ethnicity in protecting the rights of traditional African religions, the indigenous rights option as a tool for social and political mobilization turns out to be a less viable alternative. In the view of Dorothy Hodgson, the criteria in Africa for deciding who is indigenous are far "murkier" compared to the first peoples of the Americas. It tends to be used to refer to those with distinctive lifestyles, such as pastoralists and hunter-gatherers. In contrast, others would claim that all Africans are indigenous.

Moreover, Ronald Niezen's trenchant discussion of the ambiguity and paradoxes surrounding the concept of "indigenous religion" leaves us in no doubt about the effects of human rights activism and public and popular mediations of human difference in a globalizing era. Recent moves to grant institutional, protective space to indigenous expressions of "spirituality" not only essentialize and objectify traditional forms of

belief and practice, but also translate and recast them to appeal to cultural outsiders who formally or informally adjudge these rights claims.

CONCLUDING REFLECTIONS

- Despite the undermining of African states by neoliberal policies and unreliable or unstable governance, is not the national level still more strategic for thrashing out respect for what Lorens CHECK du Plessis (2011) terms a "jurisprudence of difference"?
- Is not the interpretation of the relationship between religion and culture currently more consequential for traditional African religions than individualized notions of religious freedom in relation to a secular state?
- In that connection, don't traditional African religions throw up an interesting synergy between group/individual rights that is alluded to in the African Union charter but that has not been legally explored (as far as I know)?
- If African traditional religions are less likely to survive as separate legal entities, but in a more aspectual manner, as elements of or traces in cultural or economic practice, do they still qualify for protection under religious freedom, or is it rather business law or intellectual property rights?
- There would appear to be more cause for pessimism than optimism regarding how African traditional religions have been served by the principle of religious freedom or the values of modern religious pluralism. But maybe we should we remind ourselves of how recently the concept and values of religious

freedom were construed (Gunn) and that it may take longer for indigenous religions (as it did for the Declaration on the Rights of Indigenous Peoples [2007])?