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Beyond the Sacred Text: Examining the Confusion, Conflicts and Complications at the Intersection of Religion and Law in Zimbabwe

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Abstract: There is a widespread tendency in modern, secular society to view law and religion as unrelated except insofar as they may, from time to time, come into conflict. However, intimate relations between the two have been constituted and constantly changed throughout history. Law and religion are two great interconnecting values and belief structures with their own normative, authoritative sources and mechanisms, as well as their own legislation and amendment processes and steps. However, at the practical level, the relationship between the two has not often been smooth sailing. This paper seeks to untangle the confusion, conflicts and complications that have arisen, especially in the Zimbabwean context, when legal statutes have appeared to be in opposition with religious beliefs and practices. The major question arising from such a scenario is: How are communities of faith across the religious divide supposed to react when laws demand that they act in ways that conflict with either their sacred text whether written or oral? The focus of this paper, therefore, is to simultaneously examine the place of religion in the public sphere as well as explore the impact of enacted laws on religion in Zimbabwe. This paper made use of public discourse, as presented in a WhatsApp group chat of a Bible Challenge Group which took place on 21 February 2021. Secondary sources were utilised in informing this paper's conceptualisation of religion and the law.

Keywords: religion; law; confusion; conflict; complications; African indigenous religions; Christianity; public sphere

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1. Introduction

The intention of this article is to examine the confusion, conflicts and the complications that are evident at the intersection of law and religion, with special reference to Zimbabwe. It is apparent that there is a widespread tendency in modern, secular society to view law and religion as unrelated except insofar as they may, from time to time, come into conflict. However, intimate relations between the two have been constituted and constantly changed throughout history. While law and religion are two great interconnecting values and belief structures with their own normative, authoritative sources and mechanisms, as well as their own legislation and amendment processes and steps, it is evident that at the practical level, the relationship between the two has not often been smooth sailing. This article seeks to untangle the confusion, conflicts and complications that have arisen, especially in the Zimbabwean context, when legal statutes have appeared to be in opposition with religious beliefs and practices. The major question arising from such a scenario is: How are communities of faith across the religious divide supposed to react when laws demand that

they act in ways that conflict with either their sacred text whether written or oral? The focus of this paper, therefore, is to simultaneously examine the place of religion in the public sphere as well as explore the impact of enacted laws on religion in Zimbabwe. This paper makes use of public discourse as presented in both print and online media (social media included). Secondary sources were utilised in informing this paper's conceptualisation of religion and the law. The study is premised on a WhatsApp chat that occurred on a Christian group in which the authors are members. For ethical purposes, permission was sought to use the chats of 21 February 2021. The group has 228 members who engage on the WhatsApp platform. These members are Zimbabweans whose membership lies in different Christian denominations across the world. For qualitative research, this group can be regarded as representative of the general perspectives of the generality of Zimbabweans on issues pertaining to law and religion. It is important to note that in order to strengthen this paper's argument, examples taken from the Zimbabwean context are proffered. These examples are selected not only for their relevance and contemporariness, but for the fact that they have generated debate within Zimbabwean society in general as well as scholarship in particular.

2. The Intersection of Religion and Law

Scholarship on law and religion has shown various points of convergence and divergence of the two concepts. Moon (2008, p. 1) observes that there are many connections between law and religion. From his perspective, there are ways in which state laws support some religious values and practices as well as interfering with others while on the other hand, religious beliefs often inform or shape state laws. Berman (1959) has shown the influence of religion, particularly Christianity, on the enactment of legal frameworks. He argues, from his own perspective, that all branches of the Christian church can agree that Christ demands of his followers a passionate love for justice, a belief that law should be an instrument of justice and a desire to convert law and justice into instruments of Christian love (Berman 1959, p. 86). He notes that the singleness of mind of the churches regarding the Christian's responsibility for law and justice is obscured by certain theological controversies. He highlights the anti-legal tendencies of both the so-called liberal and the neo-orthodox schools. For him, both schools have stressed for different purposes, the view that Christian love is opposed to law, that Jesus Christ freed us from law and from legalism of the Old Testament.

He argues that much of the theological discussion of the contrast between law and love confuses different meanings of the word 'law'. It is one thing to speak of the moral and religious law—the Torah—revealed by God in the Old Testament. It is quite another thing to speak as St Paul did, of 'the law of sin and death', that is, the human inclination toward pride and self-love. It is a third thing to speak of law in the sense of the law of contracts or of American Constitutional law and physical laws. Moreover, law in any of these senses is one thing, and faith in law is quite another . . . There is indeed a fundamental conflict between the gospel of faith in salvation through Christ and the belief that law in any sense, law of any kind, can in itself save men's souls.

In another publication, Berman (1974) examines the interaction of law and religion. He opines that it is dangerous to separate religion and law not only for the two concepts but for society as well. From his perspective, there is no religion that does not possess a legal element that guides the religious community on how to relate both within and without that community. He argues that in all religions, even the most mystical, there is a concern for social order and social justice, a concern for law, both within the religious community itself and in the larger social community of which the religious community is a part (Berman 1974, p. 5). In his analysis, though religion and law have existing tensions, they are interrelated aspects and one cannot flourish without the other. In the same vein, Rudolf (1987, p. 5326) traces the historical connections between law and religion. He posits that his intention is aimed at initiating a conversation between legal studies and religious studies. He sees law and religion historically converging in what he calls "religious law", a

term which he uses to refer to "those parts of many religious traditions that prescribe and regulate norms of conduct as encoded in such sources as the Ten Commandments (Exodus 20), The Shariah and the Hindu Laws of Manu, and which include many aspects of conduct that are now within the purview of secular law". Focusing specifically on the Western countries, Rudolf (1987, p. 5327) observes that the history of law exposes the historical complex interactions among tribal laws of Europe, Roman law and the institutions of the Roman Church. He further argues that in Europe, law was a highly diffuse collection of local customs and institutions, which depended on local religious ideologies and symbols. Hence, for Rudolf (1987, p. 5326), law derived its initial narrative from religion and located its authority in an increasingly written canon of reified tradition.

Scholarship on law and religion sees the attempt to separate law and religion as an influence of particular religious developments that either originated in or accelerated during the Protestant Reformation (Rudolf 1987, p. 5326). From Berman's (1959, p. 94) analysis, "the 16th century Reformation broke the medieval dualism's two official hierarchies, two official legal systems- that of the church and that of the states". What the Reformation did was to perceive the church as invisible in the public sphere, thereby presenting it as apolitical and a-legal while thrusting the responsibility of enacting laws on the secular state (Berman 1959, p. 94). To a large extent, therefore, the reformation freed law from theological doctrine and church influences. The reason behind this development was to confine religious passions, which they regarded as dangerous and irrational to the non-political realm (Hirschl and Shachar 2018, p. 428). For proponents of secularism, the public sphere was portrayed as the realm of reason while the private sphere was viewed as the realm of faith (Hirschl and Shachar 2018, p. 428). This was meant to ensure that religion would not interfere in political processes. Thus, Guterman (1963, p. 440) views law and religion as having parted ways due to the growth of the community and as a result of the diversification of religious affiliations which made it necessary to find a common standard of justice among men who belong to different religions. Though the above scholarly works do not speak directly to the Zimbabwean context, they are insightful in the way they inform discourses of law and religion in this context. For example, the enactment of laws in Zimbabwe after colonization was done by people who were greatly influenced by Western civilization as well as Christianity. The influence of Christianity on the contemporary Zimbabwean State is evidenced by the use of the Bible in courts and parliament among other public places. The 2013 Constitution acknowledges the supremacy of God. It also implores the Almighty God to guide and support the people of Zimbabwe as they commit themselves to the document, which they should regard as the fundamental law of the land. Despite such declarations, contestations have arisen in the way that religion and law should relate more specifically. In the next section, we examine the way religion has been captured in the Zimbabwe 2013 Constitution and the challenges that arise from such a presentation.

Religion vs. the Zimbabwean Constitution

This history of Constitution-making in Zimbabwe dates back to the pre-independence period. The birth of a new Zimbabwe was made possible through a negotiated settlement at Lancaster House. As a result, the document that was produced then has always been referred to as the 'Lancaster House Constitution'. Due to the weaknesses of the agreement, other attempts were made to try and come up with a home-grown Constitution (See Many-onganise et al. 2017). The historical development of Constitution-making in Zimbabwe is beyond the scope of this article. This article focuses on the 2013 Zimbabwe Constitution in order to establish the place of religion therein. While the Constitution makes reference to religion, it is not clear how the latter is regulated by law. Tarisai Mutangi (2008, p. 537) correctly notes that "there is not much legislation dealing with the practice of religion and human rights in Zimbabwe". From Mutangi's perspective, what the law only requires is that religious practitioners do not infringe on the rights of others be they believers or not. Mutangi's reference is to the Lancaster House Constitution. However, it appears that the new Constitution enacted in 2013 resembles the old document when it comes to religion

and cultural issues. The mention of religion appears in section 60 of the 2013 Constitution. Section 60 of the Constitution is on freedom of conscience and it states that:

(1) Every person has the right to freedom of conscience, which includes,
    (a) Freedom of thought, opinion, religion or belief: and
    (b) Freedom to practice and propagate and give expression to their thought, opinion, religion or belief; whether in public or in private and whether alone or together with others
(2) No person may be compelled to take an oath that is contrary to their religion or belief or to take an oath in a manner that is contrary to their religion or belief.
(3) Parents and guardians of minor children have the right to determine in accordance with their beliefs, the moral and religious upbringing of their children provided they do not prejudice the rights to which their children are entitled under this Constitution, including their rights to education, health, safety and welfare.
(4) Any religious community may establish institutions where religious instruction may be given even if the institution receives a subsidy or other financial assistance from the state.

Apart from the above, other sections acknowledge the values and principles upon which Zimbabwe as a nation has been founded. Some of these are the nation's diverse cultural, religious and traditional values which compel it to recognise the diverse ethnic, racial, cultural, linguistic and religious groups. In Sections 280–282, the Constitution then goes further to itemize the duties of traditional leaders, one of which is the upholding of customs, traditions, history and heritage of their communities. The role of traditional leaders is recognised under customary law. In terms of culture, Section 16 of the Constitution implores all institutions and agencies of government at whatever level to (i) promote and preserve cultural values and practices which enhance the dignity, well-being and equality of Zimbabweans; (ii) preserve and protect Zimbabwe's heritage and (iii) take measures to ensure due respect for the dignity of traditional institutions.

While the mention of religion and culture in the Constitution is commendable as it guarantees freedom of religion Muzambi (2017, p. 71), Mutangi (2008, p. 535) notes challenges that arise. One of the challenges is that religion and culture are not established or constituted by law. It is not clear in the Constitution what amounts to religion or which beliefs and practices qualify for protection. It was left to the courts to determine what amounts to religion or belief yet for Mutangi (2008, p. 535) courts do not involve themselves in defining religion. This could be the source of the challenges existing at the intersection of law and religion in Zimbabwe. As shall be shown later, it is not clear how the two concepts ought to influence each other in the public sphere. In the next section, we seek to examine the various ways in which law and religion have interacted within the context of Africa in general and for purposes of this paper, Zimbabwe in particular.

3. Religion and Law in the Zimbabwean Context: A Focus on the Practical Challenges

The study of law and religion in Africa is seen as a recent phenomenon. Kirkham and Durham (2014, p. 64) note how in pre-modernity periods, it was difficult to distinguish law from religion because they were closely intertwined, a position that was greatly challenged by modernity. Van der Vyver and Green (2008) discuss at length the work of the Center for Law and Religion (CSLR) at the Emory University School of Law which funded the Henry Luce Foundation to convene a conference in Durban South Africa which ran from 30 April to 3 May 2008. The conference according to them was "the first of several regional conferences designed to identify ongoing and future problem areas relating to the relationship between church and state and the intersection of religion and law in countries of the world". From their explanation, the Durban conference was designed to discover common ground in perception and practices pertinent to the relationship between church and state and the interaction of religion in countries around the world but most importantly in sub-Saharan Africa. Zimbabwe was included as one of the focus areas of this project. Zimbabweans have

been participating at yearly conferences of the African Consortium for Law and Religion Studies (ACLARS) which are hosted in chosen African countries since 2013. ACLARS is an initiative of the International Centre for Law and Religion Studies. What has been clear is the fact that the interaction between law and religion within the Zimbabwean context has not been unique from other social contexts. There have been areas where the law has contradicted religion and vice versa. This warrants us to examine areas of confusion, complexity and contradiction

This current study was motivated by a discussion that happened on 21 February 2021 on a Bible Challenge WhatsApp chat group. The purpose of the group is to challenge and encourage one another to read the whole bible within a year. Each book is led by one or more members who table or explain topical issues. Topical issues arising from the biblical texts are then discussed by members. On 21 February, the group was reading 1 Corinthians 6. The one who was leading the reading of this book raised issues pertaining to the Corinthians suing one another in secular courts. 1 Cor 6:1–7 says

> Dare any of you, having a matter against another, go to law before the unjust, and not before the saints? Do ye not know that the saints shall judge the world?
>
> And if the world shall be judged by you, are ye unworthy to judge the smallest matters? Know ye not that we shall judge angels? How much more things that pertain to this life? If then ye have judgements of things pertaining to this life, set them to judge who are least esteemed in the church. I speak to your shame.
>
> Is it so, that there is not a wise man among you? No, not one that shall be able to judge between his brethren? But brother goeth to law with brother, and that before the unbelievers. Now therefore there is utterly a fault among you, because ye go to law one with another. Why do ye not rather suffer yourselves to be defrauded?
>
> (King James Version)

In his explanation on 1 Cor 6:1–7, the leader said that Paul was rebuking the Corinthians who were suing one another before judges who are unbelievers/unrighteous and that Paul considers it an utter failure. From his analysis, Paul guides the wronged party to 1. Allow matters to slide away; 2. If not possible, there should be wise people designated in the church who can judge in the matters. This explanation raised a furore of questions, which led to a heated debate on the platform. For example, one female member had the following questions:

1. Where does one draw the line whether a case is to be dealt with within the church or in 'secular' courts?
2. Does the church have structures to deal with all cases that may arise between believers?
3. What if one feels that the church has tended to silence believers on certain topics? A case in point being gender-based violence where a sizeable number of believers are angels in church and monsters at home. Are women who are the majority of victims wrong if they seek redress in secular courts because at most times the church is silent on such issues?

These questions elicited varied responses from group members. For example, one member felt that the church does not have the capacity or at least the licence to deal with criminal cases against believers partly because society does not recognise the church as part of the judiciary system. Another felt that the church is in the world and is subject to Constitutions and laws in host nations to the extent that failure to report certain issues is actually a criminal offence. Another member sought to strike a middle ground and felt that the wrong party should seek peace with the offended before the case is escalated to the secular courts. He, however, also felt that issues to do with abuse particularly of children must never be concealed. In such cases, the law should be allowed to take its course. Yet another brother cross referenced Matthew 18:15ff, which explains the protocol

to be followed if one member in the church wrongs another. The woman who had raised the initial questions asked follow-up questions from this and she said

> What happens if this brother or sister has sexually abused my child? Do all cases have to wait for this church protocol or may be the less dangerous cases can be subjected to this process while others need the nation's judiciary to deal with? Certain evidence may be lost as I wait for this brother or sister to show remorse Or in certain times is remorse enough to let go?

The discussions that followed showed that group members were divided with some feeling that criminal offences such as rape, murder, burglary etc. should be reported to the police for prosecution while civil matters like debt could be left to be dealt with by the church. One member said

> We have an obligation to hand over an issue to the courts. A child molester, or a rapist needs not only be [excommunicated] but to be incarcerated (thrown into prison). They are a danger to society, a modern jail is correctional and rehabilitational.
>
> The church doesn't have the facilities to incarcerate, but knows that human beings tend to have 'sin that so easily besets' them. So it is not hatred for us to judge this way.

The other group members appeared to be fundamentalist and maintained that the church is a unique institution which should not allow the secular courts to prosecute and judge its members. Such divisions show the ambivalences that are apparent when the law intersects with the sacred text, be it written or oral.

4. Law and the Sacred Text: The Ambivalences

From the foregoing, it is apparent that faith communities in Zimbabwe are at a crossroads on how they should interact with the law. What comes out clearly is that they are at times comfortable to mediate on cases that are of a civil matter but uncomfortable when the case becomes criminal. One member in the above mentioned group opined that there was need to have all systems in place; what he called an effective internal system and an open referral system. What this points to is the fact that when it comes to issues of law, both institutions are important in correcting the offender. The question that arises then is who decides what fits to be tried by the church and what has to be referred to the State courts? As one member highlighted "it is difficult for Christians to even decide on the criminal cases . . . " There exists, therefore, some kind of conflict between religious law and secular law. Within the Zimbabwean context, there have been cases where perpetrators of rape, gender-based violence in all its forms among other ills have gone scot free because either culture or the Bible has pressured the victims to keep silent or to withdraw the case from the courts claiming that it is possible to resolve the cases through cultural as well as religious processes. Yet this is against Section 80(3) of the Constitution which states that "all laws, customs, traditions and cultural practices that infringe the rights of women conferred by [the] constitution are void to the extent of the infringement." However, commenting on the role of religion in influencing the choice of legal recourse, Decimo (2018, p. 10) argues

> It is not difficult to imagine a future in which religious arbitration courts are preferred by citizens in order to achieve the religious goals. In this way, private interest in juridicial issues can be delegated to private courts. In this scenario, religious background/preferences influence which kind of court the person will choose.

Following from the above, while we agree that it is possible for the community or the church to resolve minor cases pertaining to gender-based violence, we contest the ability of these groups to deal with major cases. Using religious law in such cases is detrimental to the processes of justice. Rudolf (1987, p. 5327) is of the view that religious law is effective at a more local level and that it cannot act as an instrument of state legitimacy, authority and

power. From his analysis, religious sanctions lack the certainty to create valid and binding legal norms (Rudolf 1987, p. 5327). Hence, in order to avoid complications, religious believers need to allow the State to enforce the law particularly on cases that are criminal. We strongly agree with Hirschl and Shachar when they argue that

> Once a faith-based claim is brought before a court of law, it not only gets translated to the language of legalese, but the Constitution also gains an upper hand over religion in the struggle over determining who, or which entity defines the boundaries between the spheres, or the lexical priority of state and altar. Once the Constitution is defined as the supreme law of the land, it has the authority to clarify the confines and validity of claims for non-compliance made in religion's name in cases of direct confrontation or competition between them. (Hirschl and Shachar 2018, p. 437)

Hence, while the fact of freedom of religion still subsists, religions need to subject themselves to the dictates of the laws of countries they find themselves in.

Zimbabwe is a multi-religious society. Christianity is perceived as having the most members with statistics placing the membership at around 80 percent, though Mutangi (2008, p. 530) contests this view. Even when Christianity has a majority followership, it comprises diverse formations which may have different perspectives on how to utilise the sacred text as a source of law or how to subscribe to the dictates of secular law. De Bois (2010, p. 94) notes that there exists a potential conflict between religious and secular law in complex multi-cultural societies. Religious communities may have certain practices that are condemned or criminalised by secular law. Within the Zimbabwean context, secular law condemns child marriage yet certain Christian formations, such as some African Initiated Churches (AICs), practice child marriage (Machacha et al. 2016). From Sithole and Dziva's (2019, p. 573) analysis, child marriage takes away the fundamental rights of the bride and exposes her to abuse, violence and other forms of human rights violations. For example, in 2021, there was an outcry in Zimbabwe when a 14-year-old girl, Anna Machaya, died while giving birth at a shrine belonging to the Johane Marange Church. She had been married by a man much older for her age. It is possible that she might have been married at that young age either due to poverty or religious beliefs. This is despite the fact that the Legal Age of Majority Act (LAMA) of 1982 enacted in Zimbabwe recognises an adult as a person who is 18 years. The Marriage Act (05:11), however, places the age of consent at 16 years for girls and 18 years for boys, yet still the Customary Marriages Act (05:07) is silent on both aspects (of legal age of majority as well as the age of consent) something which has been condemned as bringing confusion on how the law should be enforced. Generally, child marriages are prohibited by law in Zimbabwe though in practice, these are happening all over the country with communities turning a blind eye. However, in the Machaya case, due to demonstrations that ensued after her death, the law enforcement agencies were eventually forced to investigate the case and bring the perpetrator to book. In October 2021, some women's organisations sued the church as well as the government as a way of forcing the church to condemn child marriage publicly. They wanted the church to put up posters at all their shrines condemning child marriage. In response, the State refused to interfere with how this church runs its activities and argued that the enacted laws were enough to regulate the activities of the church. There is a contradiction, therefore, when religion chooses to ignore enacted laws and the State turns a blind eye to this blatant disregard. Moon (2008, p. 9) is of the view that though the State is required to treat religion as a private matter as well as remain neutral on the question of what is true faith or the right way to worship God, it cannot remain neutral toward all religious beliefs and practices, particularly those that have public implications. He further argues that "it may sometimes be appropriate for the State to intervene to protect individuals from oppressive or harmful religious practices".

The issue of gender equality has proved to be contentious within most religious institutions in Zimbabwe. Zimbabwe is a signatory to the Convention on the Elimination of all Discrimination Against Women (CEDAW) as well as other protocols that seek equality of

the genders. However, Zimbabwean society has remained largely patriarchal. Patriarchy finds expression in religious beliefs and practices. The enactment of the Domestic Violence Act in 2007 was meant in a way to ensure that women in Zimbabwe, who are the majority of domestic violence victims, are protected. However, various scholars have shown that implementing the law is being impeded by religio-cultural beliefs and practices. This is despite Section 25 of the 2013 Constitution directing the State and all its institutions to protect the family and to prevent domestic violence (Sithole and Dziva 2019, p. 577). In their study on the responses by women in Masvingo (a city in the South of Zimbabwe), Makahamadze et al. (2011) found that most women did not have confidence in the Domestic Violence Act because it is contrary to the teachings of their Christian denominations. Manyonganise (2019, p. 178) opines that the Domestic Violence Act is a failure due among other factors to the failure by the police to enforce the legal statute as well as the cumbersome process required when women want to sue domestic violence perpetrators. As a result, this law has remained largely on paper while the vulnerable (mostly women) who are supposed to be protected by it continue to be victimised.

The other challenge is the extent to which the state can, through legal statutes, intervene in religious matters. The traditional view, as posited by Mutangi (2008, p. 535), has been to separate law from religion within the Zimbabwean context. From Mutangi's perspective as alluded to earlier, religion and culture are not established or constituted at law. She avers that it is only because of jurisprudence that the law sought to define religion as well as the beliefs and practices which qualify for protection under the Constitutional provisions. Generally, the State has maintained a 'healthy' distance from religious matters, particularly religious conflicts, except where it has vested interests. This causes confusion as the public tries to understand the role of the State in religious matters. Prior to 2000, the State did not pay attention to religious conflicts for as long as they did not interfere with the state. However, when the Zimbabwean government felt its power base threatened by the coming into politics of a strong opposition party, the Movement for Democratic Change (MDC), it sought to narrow the gap between the church as well as traditional leaders who are perceived as custodians of culture. Such a move was intended for the ruling party to gain political capital more than anything else. As a result, the law was weaponised to deal with political opponents within religious circles. A case in point is the Anglican conflict that occurred in 2007. In this conflict, Archbishop Kunonga[1], who split from the main Anglican grouping, the Anglican Church of the Province of Central Africa (CPCA), was supported by the State to the extent that the law was used to disenfranchise the CPCA of its properties in Zimbabwe. With the help of the police, Archbishop Kunonga's group took some properties from the CPCA and locked out congregants from their places of worship. Though Kunonga gave the reasons for the breakaway as centred on disagreements within the Anglican Church on how to proceed with the issue of homosexuality, this was widely seen as a political move by government to remove Anglican leaders who were critical of government from close proximity to the parliament building.[2] In this case, Archbishop Kunonga abused the law because of his proximity to power, knowing fully well that in Zimbabwe the independence of the judiciary from political influence is questionable. This, therefore, shows the intricate relationship between law and politics. Berman (1983, p. 41) avers that "the view that law transcends politics, that it is distinct from the state has yielded increasingly to the view that it is at all times basically an instrument of politics and a means of effectuating the will of those who exercise political authority". This further complicates the relationship between law and religion particularly when religion abuses the law to advance social injustices in society yet both concepts are seen as social justice tools. This puts into perspective Moon's contention that "the significance of religion in the life of the individual and group raises real concerns about any alliance between law and religion, about the use of law to support religious practices and values in the religiously plural political community, and about the legal restriction of particular religious practices" (Moon 2008, p. 17).

A further challenge at the intersection of law and religion arises when the state disregards religion in the enactment of laws that directly affect religious communities. Berman (1983, p. 41) observes the weakened position of the church in particular to create a real legal counterweight to the State. The 2019 draft Marriages Bill that was tabled in Zimbabwe brought to the fore the tensions that arise when the state disregards religion in the enactment of secular law. Manyonganise and Mhuru (2021) have discussed the responses from Zimbabwean traditional leaders, Christian leaders as well as the general public to the draft bill. They show how the responses were largely influenced by African cultural beliefs and practices on one hand and the Bible on the other hand. Traditional leaders appealed to their culture while the church cited biblical texts as they resisted the draft Bill which had sought to recognise civil partnerships at law. Section 40 of the draft Bill stated that a civil partnership is

1. a relationship between a man and a woman who-
    (a) are both over the age of eighteen years; and
    (b) have lived together without legally being married to each other; and
    (c) are not within the degrees of affinity or consanguinity as provided in Section 7 (see Zimbabwe's 2013 Constitution); and
    (d) having regard to all the circumstances of their relationship, have a relationship as a couple living together on a genuine domestic purpose shall be regarded as being in a civil partnership for the purposes of determining the rights and obligations of the parties on dissolution of the relationship.

Traditional and Christian leaders in Zimbabwe saw this section as sanitising adultery by married people. It was also castigated for recognising co-habitation which is seen as taboo in both Shona culture (which is the dominant culture in Zimbabwe) and some Christian denominations (Manyonganise and Mhuru 2021). Yet the State had seen this as an opportunity to align marriage laws with international standards which encouraged governments to harmonise marriage laws as a way of dealing with challenges emanating from having multiple laws governing marriage. Moon (2008, p. 7) observes that "many religious adherents see the State's reliance on secular or non-religious values in the design of law as a rejection of their spiritual values and as unequal treatment. This usually leads to resistance from religious communities. Such resistance shows that the separation of law from religion can only be done at the expense of the State in certain contexts such as Zimbabwe. Due to the public outcry against this section, the clause on civil partnerships was later withdrawn on the grounds that such unions were foreign to Zimbabwe and were not consistent with the country's cultural and Christian values. This was celebrated as the triumph of African culture and Christian ideals. However, a political analysis of this whole issue reveals that it was difficult for the State to ignore this resistance because it largely relies on religious communities in its bid to retain power. Moreso, the responses from the religious communities in Zimbabwe in this case shows the difficulties that the State faces when it expects adherents to leave their beliefs behind when they participate in public life (Moon 2008, p. 5).

5. Conclusions

This paper examined the confusion, complications and contradictions that lie at the intersection of law and religion generally and specifically within the Zimbabwean context. A discussion on the intersection of law and religion showed that there are two schools of thought; one that seeks to view the two concepts as interdependent while the other seeks to separate them. Beyond the sacred text, be it written or oral, this paper showed that faith communities are at odds on how to align secular law with religious law. It became apparent that there are complications that arise as believers seek to be regulated by secular law, which at times may contradict their religious beliefs. While the above view may be true, this paper also highlighted conflicts that arise when the State ignores religio-cultural beliefs and practices when enacting laws that have a direct bearing on faith communities. The Zimbabwe 2019 Marriages Bill was given as a case in point. In the final analysis, it was

shown that while religion and law have points of divergence, in most cases they converge in as far as they endeavour to regulate social behaviour for the common good of society. In conclusion, it is apparent that within the Zimbabwean context as in other contexts, the relationship between religion and law is not a straightforward one; rather it is fraught with contradictions, confusion and complexities. Further research may be required to ascertain how these can be dealt with as a way of harmonising the two concepts as they constantly interface with each other within the Zimbabwean context and beyond.

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Notes

[1] Kunonga formed an independent province which he called the Anglican Province of Zimbabwe.

[2] The Anglican Cathedral in Harare is situated next to Parliament building.

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