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# 1. INTRODUCTION

One of the most critical developments in international affairs in modern times is the evolution of human rights law into an overarching ethical framework guiding interpersonal and interstate relations. The notion that all human beings are the concern of the global community, and that the violation of the rights of anyone anywhere, either by omission or commission, is a violation of international law is indeed revolutionary. The global conviction is that when the human rights of all people are assured, conflicts will be minimized and the peace and stability of the world will improve.

African nations have not been excluded from this development. Human rights have become very prominent in the politics of Africa; and although in some instances politicians have argued against what they perceive to be an imposition of a foreign understanding of human rights on their people, most African countries are signatories to the Universal Declaration of Human Rights (UDHR), and several other human rights instruments. With the coming into being of the African Charter on Human and Peoples' Rights (ACHPR)<sup>1</sup> on 21 October 1986, Africa has not only voted in favour of a global human rights regime but has also made a distinctive contribution to its development. In spite of the criticisms<sup>2</sup> the Charter has attracted, it serves as evidence that African states take seriously the global concern for the implementation of human rights norms and are ready to submit to a common standard for holding their governments accountable on issues of human rights.

Governments in Africa have also become more sensitive to their democratic and human rights credentials than they used to be in the immediate post-independence period up to about the early 1990s. The linking of human rights to development cooperation;<sup>3</sup> the proliferation of non-governmental organizations (NGOs) dedicated to advocacy for the rights of the marginalized, and the fresh attempts to re-establish constitutional rule in Africa have combined to give a new impetus to the pursuit of human rights. Consequently, African nations have been quick to sign human rights instruments.<sup>4</sup> Ghana, for example, is said to have been the first country to ratify the United Nations Convention on the Rights of the Child (UNCRC).

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<sup>1</sup> The African Charter on Human and Peoples' Rights (also known as the Banjul Charter) was adopted at the 18<sup>th</sup> Assembly of Heads of State and Government of the Organization of African Unity in 1981. The final draft was produced in Banjul, hence its name, 'Banjul Charter'. It came into being upon ratification by a simple majority of the member states of the OAU on 21 October 1986.

<sup>2</sup> The Banjul Charter has been widely criticized, primarily because it departs significantly from other human rights instruments such as the three documents that are commonly referred to as the International Bill of Rights (the Universal Declaration of Human Rights (UDHR, 1948); the International Covenant on Civil and Political Rights (ICCPR, 1966); and the International Covenant on Economic, Social and Cultural Rights (ICESCR, 1966). For discussions on aspects of the African Charter, see R. Gittleman, 'The African Charter on Human and Peoples' Rights: A Legal Analysis', *Virginia Journal of International Law*, 22, (1982) 667- 714; U. O. Umozurike, 'The African Charter on Human and Peoples' Rights', *American Journal of International Law*, 77 (1983) 902 -912; and B. H. Weston et al., 'Regional Human Rights Regimes: A Comparative Appraisal,' *Vanderbilt Journal of International Law*, 20/4 (1987) 585-637.

<sup>3</sup> Karin Arts, *Integrating Human Rights into Development Cooperation: The Case of the Lome Convention* (The Hague: Kluwer Law International, 2000) 43.

<sup>4</sup> As at December 1998 European Union (EU) countries had registered more "far-reaching" reservations than the African -Caribbean-Pacific (ACP) countries in respect of very fundamental Human Rights instruments as follows:

Yet the ratification of human rights instruments does not normally translate into compliance by states. There is often a gap between human rights laws that are supposed to be in force and their application. Weiss and Jacobson have identified some factors that undermine the capacity of nations to implement international treaties.<sup>5</sup> They include the lack of administrative capacity, absence of rigorous enforcement mechanisms, unfavourable political environment and unfavourable economic environment. African nations face additional challenges. They are also confronted by factors such as the high rate of illiteracy and the persistence of cultural and customary beliefs and attitudes that restrict the growth of a healthy human rights regime.

Most of the modern nation-states of Africa are in transition from originally separate ethnic states to modern democratic nation-states. The long period of transition has meant that, in most cases, the customary arrangements for the enforcement of norms such as those that could assure basic rights have been allowed to lie fallow, while modern equivalents have not been properly integrated. In Ghana, for example, human rights issues have largely been the concern of a few lawyers, politicians, and NGOs. In most cases, ordinary citizens do not seem very enthusiastic about pursuing their own rights or those of others; or, if they are concerned, they often do not have the capacity to pursue them.

Due to this display of general apathy, or incapacity, (as the case may very well be), many violations of human rights continue to occur. Reports issued periodically by institutions reveal extensive abuse of human rights in Ghana.<sup>6</sup> It appears that the human rights of people are so easily denied them or abused, especially by governments and their institutions, because, in some cases, citizens seem to have no sense of being entitled to them. Traditional customary norms, administrative bottlenecks, poverty and physical and psychological distance between the people and state agencies serve as barriers to the realisation of human rights. However, if the human rights regime is to enjoy any good fortune in Africa, and for that matter, in Ghana, the concept must be integrated into the value system of the country's culture. This is because in most of sub-Saharan Africa, religion and customary law remain the immediate context within which strictly personal matters relating to important stages in life are settled.<sup>7</sup>

### **1. 1 Human Rights as a Legal Regime**

The modern human rights system seeks to achieve for the world general ethical principles to which everybody would subscribe; and which when upheld and protected can lead to stability between and within nations. This means that modern human rights may be regarded as a tool for 'social engineering.' They aim at the transformation of the behaviour of people and societies to conform to the ideals they represent.

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International Covenant on Civil and Political Rights - (ICCPR) EU= 53%; ACP=2%. International Covenant on Economic, Social and Cultural Rights (ICESCR) – EU=33%; ACP=2%. Convention on All Forms of Discrimination against Women (CEDAW) - EU=20%; ACO=11 %.( See Karin Arts, *Integrating Human Rights into Development Cooperation*, 385 – 389.

<sup>5</sup>Edith B Weiss and Harold K. Jacobson (eds.) *Engaging Countries: Strengthening Compliance with International Environmental Accords* (Cambridge: MIT Press, 1998) 19-37.

<sup>6</sup> Reports issued annually by the Commission on Human Rights and Administrative Justice(CHRAJ) reveal extensive abuse of Human Rights in Ghana. See also Mike Oquaye, *Government and Politics in Contemporary Ghana (1992- 1999) – A Study*, (Accra: African Governance Institute, 2000) 44 – 49.

<sup>7</sup> E.B. Idowu, *African Traditional Religion: A Definition* (London: SCM, 1973) 206.

Human rights have often been presented mainly as a legal issue. Yet legal regimes alone have not ensured better protection and promotion of human rights.<sup>8</sup> Legislation and legal enforcement alone have not always proved sufficiently effective in changing people's behaviour and transforming societies.<sup>9</sup> In fact, the law and institutions related to it have sometimes been used to legitimise and maintain 'policies and practices of political exclusion and marginalization of minorities or economically disadvantaged groups throughout Africa.'<sup>10</sup> Although once a law is passed it may be said to be valid, even so its provisions may not necessarily enjoy automatic compliance.<sup>11</sup> Neither does the mere existence of a law ensure effective enforcement. There are limits to what the law alone can achieve in transforming a society. Voluntary compliance with the Law is better assured when laws fit properly into the value system of a society.

Value systems often converge with custom and religion. This raises the question of the role of religion in the promotion of human rights. According to Gerrie ter Haar, 'it is becoming clear that legal instruments are not enough if human rights are to be firmly grounded in different cultures, as people's understanding of human rights is informed by their own world views and cosmologies. It is plain that in many countries human rights ideology finds its theoretical justification in religion.'<sup>12</sup> The position taken here does not represent, in any way, the diminishing of the significance of the law in the promotion and protection of human rights. The law is important, among other things, for the implementation and enforcement of human rights norms.<sup>13</sup>

## 1.2 Religion and Human Rights

Human rights have been thought of in the earliest declarations as 'natural', 'self-evident', and 'Creator-endorsed.'<sup>14</sup> While not intending to wade into the controversies normally provoked by these terms, it is important to recognize that, from the very beginning, the framers of human rights instruments have sought to ground these rights in what we may call a 'validating foundation.' Generally, a 'validating foundation' tends to be religious in character. A 'validating foundation' provides grounds from which human rights could draw their legitimacy in a given context. It attempts to answer the question, 'What is it about human beings that makes them entitled to be treated in certain ways and not to be treated in other ways?'<sup>15</sup> We

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<sup>8</sup> As John Finnis argues, 'the Rule of Law does not guarantee every aspect of the common good, and sometimes it does not secure even the substance of the common good. Sometimes, moreover, the values to be secured by genuine Rule of Law and authentic constitutional government are best served by departing, temporarily but perhaps drastically, from the law and the constitution.' See John Finnis, *Natural Law and Natural Rights* (Oxford: Clarendon Press, 1980) 274-275.

<sup>9</sup> Antony Allott, *The Limits of Law* (London: Butterworth, 1980) 45-72.

<sup>10</sup> Abdullah A. An-Na'im, (Ed), *Cultural Transformation and Human Rights in Africa* (London/New York: Zed Books Ltd., 2002) 4 & 5.

<sup>11</sup> Antony Allott, *The Limits of Law*, xi.

<sup>12</sup> Gerrie ter Haar, *Rats, Cockroaches and People Like Us: Views of Humanity and Human Rights* (The Hague, Institute of Social Studies, 2000) 3.

<sup>13</sup> A. A. An-Na'im, *Cultural Transformation*, 4.

<sup>14</sup> The United States declaration of Independence speaks about "self-evident" truths and "inalienable rights" endowed by the "Creator". John Locke maintained that natural rights derive from our human nature and that they are self-evident and God-given.

<sup>15</sup> Michael Perry *Human Rights: Four Enquiries* (New York/Oxford: Oxford University Press, 1998) 13.

shall discuss in detail the idea of a validating foundation in the next chapter. Modern formulations that are contained in such instruments as the Universal Declaration of Human Rights, the two covenants that together constitute the 'International Bill of Rights' and most regional instruments avoid the use of explicit religious categories.

Yet the attempt to construct a purely secular scheme of human rights seems ruined by the use of such terms and phrases as, 'inherent dignity...of all members of the human family' and 'the dignity and worth of the person.' For example, the African Charter on Human and Peoples' Rights (1986) states, as part of its preamble, that 'fundamental human rights stem from the attributes of human beings.' In relation to human rights, the human being is also spoken of as being 'sacred' and 'inviolable.' Based on a critical examination of such terms and phrases, Michael Perry concludes that human rights are 'ineliminably religious.'<sup>16</sup> He rejects Dworkin's position that there can be secular versions of the conviction that every human being is sacred.<sup>17</sup>

As interesting as this debate may be, this study does not intend to join in it. However, the discussion led in this research opposes any attempt to exclude either religious or non-religious constituencies from the global effort to promote and protect human rights. Neither Perry nor Dworkin shows any such tendency. Yet, in agreement with Amy Gutmann, 'there is ... good reason for a human rights regime to welcome a plurality of nonexclusive claims concerning the ways in which human rights can legitimately be grounded, in religious and secular claims of various sorts.'<sup>18</sup>

Notwithstanding the views expressed above, there remains a certain paradox with regard to religion as a force in relation to human rights. It can be used to either promote or abuse human rights.<sup>19</sup> The perceived or real ability of religions to give validation to human rights could be easily recognised as positive. Nevertheless, the relevance of religion in relation to human rights does not consist only in its validating ability, as religion has also proven to be a powerful ally in advocacy.<sup>20</sup> Consequently, in recent times, the role of religion as a positive force in the promotion of human rights has been widely noted.<sup>21</sup>

Human rights do not seem to be making the expected impact on grassroot societies in Africa because there has not been sufficient attempt to establish essential and relevant linkages between these rights and the largely religious cultures of such societies. In ordinary everyday usage in Ghana, a cultured person is a person refined in manners, habits, ideas, language, dressing, and action. Such a person is considered an integrated person and reflects, in his or her ways, the generally accepted values of the society. This shows that culture has something to do

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<sup>16</sup> Perry, *The Idea of Human Rights*, Chapter 1. Michael Ignatieff argues that such claims are controversial metaphysical claims that are intrinsically contestable. See Michael Ignatieff, *Human Rights as Politics and Idolatry* (Princeton and Oxford: Princeton University Press, 2001) 54.

<sup>17</sup> Perry, *The Idea of Human Rights*, 11.

<sup>18</sup> Amy Gutmann, 'Introduction' in Michael Ignatieff, *Human Rights as Politics and Idolatry*, .xxiii

<sup>19</sup> Irene Bloom, 'Introduction,' in Irene Bloom, J. Paul Martin, and Wayne L. Proudfoot, eds., *Religious Diversity and Human Rights* (New York: Columbia University Press, 1996) 1-11.

<sup>20</sup> Lowell W. Livezy, 'U.S Religious Organizations and the International Human Rights Movement,' *Human Rights Quarterly*, vol .11 no. 1(1989) 14- 81.

<sup>21</sup> Gerrie ter Haar(2000), John Witte Jnr,(1996), Max L. Stackhouse (1999) and many others have argued for the tapping of positive resources of religion to support human rights.

with society; indeed it is a creation of society. The Ghanaian philosopher, Kwame Gyekye, giving a more academic description of culture, states that: 'As it has evolved, the word has come to refer to patterns of thought and ways of acting and behaving that have been created, fostered, and nurtured by a people over time and by which their lives are guided and, perhaps, conditioned.'<sup>22</sup> Such 'patterns of thought and ways of acting and behaving' are evident in beliefs and value-systems, and in the structure and operations of political, legal, and social institutions. They are also expressed in the Arts and Sciences. In this work, 'Ghanaian culture' refers to the shared patterns of thought and ways of acting and behaving that have been created, fostered, and nurtured by the people of the modern nation-state of Ghana, and which guide individuals, groups, and state institutions. This subject is explored further in chapter four.

Perhaps the purely secular presentation of the concept does not fit the context of African societies in which the point of reference for most fundamental issues is religious. The religious factor has always exerted great influence on processes of social transformation in Ghana because the culture is largely religious,<sup>23</sup> as will be demonstrated later. In short, it may be said that, in Ghana, there is a general belief in spirit beings and in the existence of an invisible spiritual universe. Hence, if, in the promotion of human rights, the religious factor is neglected, these rights will continue to remain unenforceable claims that the intellectual elites make on behalf of the masses that neither know about nor understand them.

Great possibilities exist for profitable collaboration between religion and law in the process of transforming cultures.<sup>24</sup> Admittedly, as An-Na'im observes, 'religions are no easy allies to engage;' yet 'the struggle for human rights cannot be won without them, particularly in Africa.'<sup>25</sup> The human rights record of many religious traditions over the years has been very poor. It has not been easy for them to accommodate human rights in their theologies. With respect to issues of gender equality, the right of people to change their religion and the treatment of minorities, religious traditions have been found wanting in the past.<sup>26</sup> In Ghana itself, religious and customary beliefs and practices have been implicated in human rights abuses. Human rights reports issued by the Commission on Human Rights and Administrative Justice (CHRAJ) and other bodies have often cited such beliefs and practices as implicating factors in human rights abuses. Yet these traditions have rich resources that can be harnessed to serve the interest of human rights. John Witte Jr. sees religions as 'indispensable allies in the modern struggle for human rights.' According to him, to exclude them from the struggle is catastrophic.<sup>27</sup> John Pobee, referring specifically to Africa, writes, 'Religion of one type or

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<sup>22</sup>Kwame Gyekye, *Tradition and Modernity: Philosophical Reflections on the African Experience* (New York/Oxford: Oxford University Press, 1997) 107.

<sup>23</sup> Max Assimeng, 'Historical Legacy, Political Realities and Tensions in Africa' in Rajesheker & J. S. Pobee (eds.), *Encounter of Religions in African Cultures* (Lutheran World Federation, Report and papers of a Consultation sponsored by the Lutheran World Federation World Council of Churches, University of Malawi, 1989) 7.

<sup>24</sup>An-Na'im, *Cultural Transformation*, 8.

<sup>25</sup>An-Na'im, *Cultural Transformation*, 4.

<sup>26</sup> Louis Henkin, 'Human Rights: Religious or Enlightened?' in Carrie Gustafson and Peter Juviler (eds.), *Religion and Human Rights: Competing Claims* (New York/London: M. E. Sharpe, 1999) 31-35.

<sup>27</sup> John Witte, Jr., 'Introduction' in John Witte, Jr. and John D. van der Vyver (eds.) *Religious Human Rights in Global Perspective: Religious Perspectives* (The Hague/Boston/ London: Martinus Nijhoff Publishers, 1996) xix.

other is a living spring of life, especially of *homo africanus*, and therefore has a special place in the nurture and fostering of human rights.<sup>28</sup>

### 1.3 Problem Statement

In Ghana, as in many other countries elsewhere and in Africa, the majority of people do not seem to be aware of their human rights. They also do not seem to be sufficiently sensitive to other people's rights. Citizens seldom demand their rights from governments or state institutions. Using Ghana as a case study, this work seeks to find out how religion may help or is already helping in the inculturation of human rights into African societies. It is basically, an explorative work, seeking ways in which the largely religious cultural environment of contemporary Ghana may translate, or is already translating, the modern concept of human rights into its peculiar context without undermining the concept's universal orientation.

Although the term inculturation has been borrowed from Christian theology, this study's focus on religion is not limited to Christianity. As a term in scholarly discourse, inculturation has become prominent in Christian missiological discussions since the 1960s. It has been used to describe the process by which the Christian gospel gradually roots itself into a culture until it becomes part of it, expressing its truths in the symbols and images of that culture without compromising its universal nature. Inculturation occurs in the context of dialogue between two cultures with common grounds. That is, inculturation is possible because affinity exists between what is inculturated and the values of a specific socio-cultural context, in this case, Ghana.

The decision to use inculturation rather than the more general term, enculturation, used in the social sciences is deliberate. The relatively wide and growing acceptance of inculturation in theological discourse has already marked it out as a technical term with its own peculiar nuances that is employed in a field related to the study of religion. Indeed, one of the most recent usages of the term outside the context of Christian theology was by Gerrie ter Haar in her inaugural lecture where she talked about the 'inculturation of human rights.'<sup>29</sup>

In the present thesis, the focus is not on specific religious traditions in the first instance, but on 'popular religion' in Ghana, which has several strands that converge in common beliefs and practices and which generate important attitudes that cut across the various traditions. 'Popular religion' as against 'official,' 'formal' or 'orthodox' religion is mostly the realm from which most ordinary Ghanaians draw resources to explain events and to attempt to cope with life's problems. The concept of popular religion is revisited in chapters two and five.

Religion possesses certain unique resources that may be exploited in the cause of human rights. Such resources include its tendency and ability to provide explanations for normative prescriptions as well as its natural capacity to mobilize individuals and groups to act in concert.<sup>30</sup> Furthermore, the growing recognition of religious and cultural forces as powerful

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<sup>28</sup> John S. Pobee, 'Africa's Search for Religious Human Rights' in Johan D. van der Vyver and John Witte, Jr. (eds.) *Religious Human Rights in Global Perspective: Legal Perspectives*, (The Hague/Boston/London: Martinus Nijhoff Publishers, 1996) 414.

<sup>29</sup> ter Haar, *Rats, Cockroaches*, 4.

<sup>30</sup> Mark Stackhouse and Stephen E. Healey, 'Religion and Human Rights: A Theological Apologetic' in John Witte, Jr. and Johan D. van der Vyver (eds.) *Religious Human Rights in Global Perspective: Religious Perspectives*, 491.

factors in the definition of identity and as categories for conceptualisation in a theoretically presumed secularised<sup>31</sup> world makes most relevant what An-Na'im has called the 'cultural transformation approach' to human rights.<sup>32</sup> It also fits in with the proclamation of 'A Year of Dialogue among Civilizations' by the United Nations General Assembly.<sup>33</sup> Dialogue in this context includes dialogue between religious and secular constituencies, between religions, between cultures and between ideologies. The proclamation offers a fresh opportunity to societies in Africa, which were prevented from clarifying and contributing their positive cultural values to modern international norms due to their sudden conscription into artificially created modern states.<sup>34</sup>

Africa has been denied the claim that human rights are part of its indigenous cultural value-systems.<sup>35</sup> It is important to explore concepts cognate to human rights that existed in Africa before 1948, the year of the promulgation of the Universal Declaration of Human Rights (UDHR). However, it is even more important to explore elements in contemporary cultures that may facilitate a purposeful conversation with international human rights norms. An understanding of human rights in a cultural context is necessary for any meaningful international dialogue on them.

#### 1.4 Objectives

The present study has sought to explore the following:

- (i) how Ghanaian religious and cultural values may contribute or are already contributing to the promotion of human rights and contribute to global efforts to achieve a consensus on human rights;
- (ii) how the universal concept of modern human rights translates into the largely religious culture of contemporary Ghana;
- (iii) how social policy may be strengthened to protect and promote human rights at the grassroots by paying closer attention to the influence of religion.

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<sup>31</sup> Peter Berger has pointed out the falsity of the 'secularisation theory' and has drawn attention to the influence of powerful counter-secularisation movements (See Peter Berger, 'The Desecularization of the World: A Global View' in Peter Berger (ed.) *The Desecularization of the World: Resurgent Religion and Politics*, Grand Rapids: W.B. Eerdmans Publishing CO., 1999) 1-18. See also, Antony Allott *The Limits of Law* (1980) 182- 202.

<sup>32</sup> Abdullahi A. An-Na'im 'Introduction' in A. A. An-Na'im (ed.) op.cit (2002) 1-11.

<sup>33</sup> The UN General Assembly declared the year 2001 as 'A Year of Dialogue among Civilizations' (UN Doc. A/RES/53/22, November 16, 1998)

<sup>34</sup> According to Mutua, few Africans owe allegiance to the modern nation-state. He argues that 'many identify with an ethnic group – a loyalty that predates colonialism –or the pan -Africanist idea of Africa as home. The colonial state and its successor have been so alienated from the people that the development of national consciousness was not possible.'(Makau wa Mutua, 'UN Must Make Rwanda a Priority,' *Oakland Tribune*, 25 May, 1994) 13.

<sup>35</sup>R. Howard, for example, rejects the claim that human rights as a concept was known in pre-colonial African societies. (Rhoda Howard, "Group Versus Individual Identity in The African Debate on Human Rights", in A. A. An-Na'im and F. M. Deng (eds.) *Human Rights in Africa: Cross-Cultural Perspectives*, Washington, DC: Brookings Institution, 1990) 159, 167.

## 1.5 Hermeneutical Model

In her inaugural lecture in 2000, Professor Gerrie ter Haar argued forcefully in support of Vaclav Havel, highlighting ‘the spiritual dimension and spiritual origins of the values guarded by the United Nations’ and their translation into the ‘organization’s practical activities.’<sup>36</sup> The basis of her argument is that the purely secular expression of human rights does not appear to be sufficiently meaningful to many cultures since the ‘human being’- the central concern of human rights - is conceived by most cultures in religious terms. ‘Clearly,’ she states, ‘if we wish for a successful inculturation of human rights, we must give serious thought to the role played by religion.’<sup>37</sup>

Other people share Ter Haar’s views. In an article published in 1992, the Jewish Rabbi Julia Neuberger called on British Jews, Christians, and Muslims, ‘who see themselves as within the prophetic tradition’ to press for the incorporation of the European Convention of Human Rights in British Law. She traces the ‘prophetic’ origins of human rights and argues for a commitment to human rights inspired by the prophets.<sup>38</sup> Pobee, in outlining what he calls, ‘wells of Living Water’ from which human rights may flow, makes the following points among others: That ‘religion of one type or the other is a living spring of life, especially of *homo africanus*, and therefore has a special place in the nurturing and fostering of human rights;’ and that ‘a tested and renewed tradition, often undergirded by religion, is the living well from which the streams of human rights will rise and flow.’<sup>39</sup> The theoretical perspective of this study is in consonance with the position that ordinary people will better assimilate human rights if attention is paid to the spiritual dimension of the values they represent.

So far, this study has proceeded on the presupposition that although the modern normative system of human rights largely operates with Western cultural and idiomatic paraphernalia, the values it represents have existed in all cultures and that the cultures contain original seeds of human rights that can both benefit from and profit the modern movement. Such original seeds make possible the embedding of human rights in local cultures. This conviction primarily determined the choice of inculturation as a hermeneutical model for the research. Even though the starting point for the discussion of human rights in this work is what the Universal Declaration of Human Rights and the other documents, which together constitute the International Bill of Rights, define, this study remains alert to the prospect of discovering fresh dimensions of the human rights concept in the culture to be studied.

The relevance of this approach to the African, and for that matter to the Ghanaian context is manifold and extensive. Academically, it is an African contribution to the ongoing global discussion about the relationship between religion and human rights. It also provides leads to a clearer understanding of the role cultural and religious elements play in the transformation of societies. Practically, it has as an aim to inform the social policy of governments, religious institutions and non-governmental organizations working in Ghana and in similar situations in

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<sup>36</sup>Ter Haar, *Rats, Cockroaches*, 5.

<sup>37</sup> Ter Haar, *Rats, Cockroaches*, 4.

<sup>38</sup> Julia Neuberger, ‘The Prophetic Tradition and Human Rights’ in Dan Cohn-Sherbok and David McLellan (eds.) *Religion in Public Life* (London: The Macmillan Press, 1992) 71.

<sup>39</sup> John S. Pobee, ‘Africa’s Search for Religious Human Rights’ in Johan D. van der Vyver and John Witte, Jr. (eds.) *Religious Human Rights in Global Perspective: Legal Perspectives*, (The Hague/Boston/London: Martinus Nijhoff Publishers, 1996) 414.

other parts of Africa. Since most of the human rights issues that the government and NGOs are currently battling with are not simply legal and customary but have religious underpinnings, the potential utility value of such an approach cannot be in doubt. Issues under reference here include the inhuman treatment of people accused of witchcraft, female genital surgeries (appropriately called female genital mutilation by campaigners for its abolition), cult slavery, people with disability, some forms of traditional widowhood rites, and ill-treatment of children and other vulnerable members of the society. After the failure of legislation and administrative interventions, it is, mostly, the religious NGOs, both local and international, which make new efforts to eliminate such abuses.<sup>40</sup>

Social activism in pursuit of human rights receives a boost only when the masses that stand to benefit from such activism give their support. Most people at the grassroots level will give their support when they understand and identify with the principles being fought for. Perhaps it was in recognition of this fact that the first Pan-African Human Rights Conference held in Accra in November, 2008, had as part of its declaration, the resolve to ‘revitalize and strengthen the African human rights movement by making it more dynamic and ensuring the participation of the masses of our peoples.’<sup>41</sup> If there is a successful inculturation of human rights, social activism will receive a boost and individuals at the grassroots will begin to demand their rights and respect those of others.

### **1.6 Research Questions**

This work focuses on how cultural and religious values, ideas and symbols of contemporary Ghanaian society may contribute to the theory and practice of international human rights, and enhance the fortunes of human rights in Ghana. Therefore, the main question that guides this research is: How can religious and cultural values contribute to the inculturation of human rights in Ghana? In seeking to respond to this question, the following sub-questions are explored:

- a) What ideas about human rights (or ideas cognate to human rights) do people hold in contemporary Ghana?
- b) To what extent do Ghanaian religious values reflect modern human rights ideas?
- c) To what extent do Ghanaian religious values enable a dialogue with the normative concept of human rights as stated in the UDHR?

### **1.7 Methodology**

Following the well-established traditions of the modern academic study of religions, the focus of this research has been the concrete situations in which people seek to live their daily lives. What this means is that the views, attitudes and practices examined have not been, primarily, the classic ones stated in official documents, or even of scholars; but the views, attitudes and

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<sup>40</sup> In Ghana, it is the NGOs, including the religious bodies that have been working to abolish certain oppressive customary practices, which have persisted in spite of legislation proscribing them. For example, a Christian NGO, International Needs, has been working hard to abolish the notorious *Trokosi* system. The Presbyterian Church of Ghana and the Roman Catholic Churches are engaged in similar schemes seeking to liberate and empower women who are maltreated because they have been accused of witchcraft. Many other religious groups are involved in similar projects in various parts of the country.

<sup>41</sup> *The Accra Declaration on Human Rights in Africa* (Pan- African Human Rights Conference, Accra, Ghana, November 21 – 23, 2008). Information obtained from [www.myjoyonline.com](http://www.myjoyonline.com) (accessed on Friday, November 28, 2008, 12.59GMT).

practices as expressed in concrete situations of contemporary life. As Ter Haar explains, ‘Any analysis of religion and human rights requires empirical study of the actual situations in which these ideas are expressed.’<sup>42</sup> This means obtaining and working with analysable facts.<sup>43</sup> The collection of data was done in such a way as to establish, the *what* and to find out the *how* in order to understand the *why* of the phenomena encountered. Both religion and human rights are cultural phenomena encountered not primarily as abstract concepts but manifestly as issues of practical reality of life, and therefore they neatly fit the stated approach.

Religion and human rights are multidimensional subjects; and in recognition of this, we have adopted a multidisciplinary approach. Disciplines including history, ethnography, law, and political science, therefore, play an indispensable ancillary role in this study. This is not out of place with the norms of modern history of religions. Scholars of religion have long overcome the suspicion, which led to the initial insulation of their field of study, against the alleged intrusion of the social sciences.<sup>44</sup>

Since what is intended here is more than the ethicist approach to the issues concerned, the analytical variables of this research have been those that are related to the popular beliefs, theology, or the metaphysical assumptions from which religious and ethical philosophies of Ghanaians are derived. However, beliefs, theologies, or metaphysical assumptions are expressed in social arrangements, behaviours, rituals, and in the practices of political and judicial institutions as well as, in the particular case of Africa, in oral traditions such as proverbs, songs and anecdotes. Such ethnographic materials have therefore been included as texts in the discussions and analyses.

### **1.8 The Study Locations: Anlo, Gomoa, La, Accra and Kumasi**

Three traditional areas<sup>45</sup> in southern Ghana and two major cities in the south of Ghana served as the study locations (see maps 2, 3 and 4). Findings are, therefore, mainly about southern Ghana; though, in several cases, they apply also to other parts of the country. The traditional areas are La in the Greater Accra region; Anlo in the Volta region; and Gomoa in the Central region. The cities are Accra and Kumasi. The selection of these areas was guided by certain practical reasons. First there are sufficient relevant studies done on the larger ethnic groupings to which these traditional areas belong. These are the Ga-Adangme, the Ewe and the Akan. Many of such studies focus on the mentioned traditional areas as microcosms of the larger ethnic groupings. Secondly, Accra, the capital city of Ghana, and Kumasi, the most prominent city in the central part of Ghana, currently host people from different parts of the country. Each of the two cities can be described as a microcosm of Ghana and a melting pot of Ghanaian cultural ideas.

Traditional areas in Ghana, while maintaining their traditional political structures made up of the Paramount Chief, sub-Chiefs and elders also fall under the governmental structures of the

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<sup>42</sup> ter Haar, *Rats, Cockroaches*, 5.

<sup>43</sup> Anthony Giddens, *Sociology* (Cambridge & Oxford: Polity, 1989) 17.

<sup>44</sup> John Hick, *An Interpretation of Religion* (London: Macmillan Press, 1989) 1.

<sup>45</sup> In this study ‘Traditional area’ refers to a geopolitical area governed by a paramount chief, sub-chiefs and elders. Usually (though not always), a traditional area is populated by people of the same or similar ethnic and linguistic background. Urbanisation and economic activities such as farming and trading in contemporary times have ensured that most traditional areas have large numbers of settlers of different ethnic and linguistic backgrounds.

modern nation-state. In the relatively large towns, the authority of the traditional institutions has been eroded by the local government structures. However, in the smaller towns and villages removed from the modern administrative structures of the district capitals, the traditional rulers continue to be relied upon by the majority of the people for judicial settlement of disputes. They also continue to be the focus for the mobilization of citizens towards the development of the area. It is appropriate at this point to give a brief description of each of the traditional areas that form the location for this study.

### ***1.8.1 Anlo Traditional Area***

Anlo Traditional area shares boundaries with the South Tongu district in the west, Ghana-Togo border to the east and stretches along the Atlantic Ocean in the south and north into the Akatsi district (See Map 2). It encompasses the whole of the modern administrative district of Keta, the southern and central parts of the Ketu district and south east Akatsi district. Both the people and their language are referred to as Anlo and belong to the larger Ewe ethnic and linguistic group. Anloga is the traditional capital and also the seat of the *Awoamefia*, the paramount chief.

The early and long contact with European missionaries, scholars, merchants and colonisers led to the projection of their dialect and culture as representative of Ewe culture in general.<sup>46</sup> Although the general Ewe ethnic group is bound together in unity on the basis of language and common traditions of origin.<sup>47</sup> In terms of the colonial experience, Eweland was caught up in the crossfire of the rivalries between the cosmopolitan powers. Before the First World War it was a German colony. In the aftermath of the War it was divided between the British and the French under a mandate of the League of Nations. A referendum prior to Ghana's independence resulted in a decision that 'Trans-Volta Togoland,' the part under British rule should become part of independent Ghana. Ghanaian Ewes share great cultural affinities with the Ga-Adangmes and have had close interactions with some of the other ethnic groups, especially the Akwamu and the Asante. As is the case with many of the ethnic groups in the country, there are clear evidences of mutual cultural influence between the Ewe and the other groups. The Ewe and for that matter, the Anlo, therefore share several cultural affinities with the other ethnic groups in Ghana. The Anlo traditionally, engage in three occupations: fishing, farming and *kente* weaving.

The impact of the missionary era is evident in the close association between Eweland and the Evangelical Presbyterian and the Roman Catholic churches whose parent mission bodies concentrated their energies in that area, establishing churches and opening schools for the education of African children. Since the Missionary era, other Christian groups, especially of the Pentecostal type have emerged and proliferated in the area. This has significantly changed the religious landscape of the area. The resulting pluralistic situation sometimes causes considerable tension, especially, between Pentecostal groups and custodians of the indigenous traditions.<sup>48</sup>

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<sup>46</sup> Kathryn Linn Geurts, *Culture and the Senses: Bodily Ways of Knowing in an African Community* (Berkeley/Los Angeles/London: University of California Press, 2002) 21.

<sup>47</sup> G. K. Nukunya, *Kinship and Marriage among the Anlo Ewe* (London: Athlone Press, 1969) 1.

<sup>48</sup> Sandra Greene, 'Sacred Terrain: Religion, Politics and Place in the History of Anloga (Ghana)' *The International Journal of African Historical Studies*, Vol. 30, No.1 (1997) 1-22.

### **1.8.2 Gomoa**

Gomoas are part of the Akan Mfantse sub-ethnic group.<sup>49</sup> Their language is the Mfantse dialect of the Akan language. The people of Gomoa had three original divisions: Gomoa Assin, Efua Ajumako and Gomoa Ajumako. The second group, Efua Ajumako is now mostly known simply as Ajumako and their home-area constitutes the Ajumako Traditional Area, which is part of the Ajumako-Enyan-Esiam administrative district. In the context of this study the 'Gomoa Traditional Area' refers to Gomoa Assin (also known as Akyempem) and Gomoa Ajumako.

Their home area stretches along the Atlantic coast in the south and shares borders with the Awutu-Efutu-Senya District, Mfantseman Municipal District to the west, Ajumako-Enyan Esiam District to the northwest and Agona Municipal District to the north (see Map 3). Until 2008, Gomoa constituted one administrative district with Apam as its capital. However, in 2008 it was divided into two separate administrative districts: Gomoa West, which has Apam as its capital, and Gomoa East, which has Afranse as its capital.

Nevertheless, Gomoa like other areas in Ghana still maintains the traditional structures of governance with paramount chiefs, sub-chiefs and their elders. It has two divisions, Gomoa Assin and Gomoa Ajumako, each with a separate paramount chief. As is the case with other Akan communities, queen mothers in Gomoa have considerable influence in the affairs of the communities. Traditional occupations of the people are farming, fishing and salt production from the lagoon in Apam.

The coastal belt of Gomoa had close contacts with European traders, missionaries and colonizers whose legacy is seen in the growth of Christianity, with its wide network of basic educational institutions and churches that are scattered around the area. A European trading fort, Fort Patience, which was built by the Portuguese still stands in Apam, the capital of the Gomoa West district. Like, Anlo, Gomoa is affected by the pluralistic situation of the country, the leading traditions being Christianity and the Ahmadiyya version of Islam. Several important African Independent Churches have originated or have started their spread from Gomoa. For example, the Mozano township which is built as the headquarters of Musama Disco Christo Church (MDCC) is situated there.

### **1.8.3 La**

The La Traditional Area is one of the traditional settlements of the Ga people who are believed to have migrated from Benin in Nigeria in the sixteenth century.<sup>50</sup> Its southern border is marked by the Atlantic Ocean. It is bordered on the southeast by Teshie-Nungua and on the north by Oyarifa and Amanfro (see Map 4). The people of La, probably, might have moved to settle in their present home-area in the seventeenth century.<sup>51</sup>

The growth of urbanization has affected the traditional, political and social life of the people. This means, La is an area where tradition and modernity exist side by side. The physical

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<sup>49</sup> J. B. Crayner, *BôrBôr KunKumfi* (Accra: Bureau of Ghana Languages, 1989) 67 -79.

<sup>50</sup> Margaret J. Field, *The Social Organisation of the Ga People* (London: The Crown Agent for the Colonies, 1940) 142.

<sup>51</sup> A. A. Akrong, 'Sacrifice in Labadi (Ga) Religion' (MA thesis, University of Ghana, 1978) 3.

evidence of this is the dual nature of the township: the old section, marked by old buildings and traditional occupational activities such as fishing by men and fish-smoking and mongering by their women; and the new section, characterised by modern residential areas and a vibrant commercial centre. When Margaret Field studied La (or Labadi) in the 1930s, she observed that ‘some members of every family are always “away in the bush” in one or other of Labadi’s twenty or so large villages or smaller farming settlements.’<sup>52</sup> These ‘large villages’ and ‘smaller farming settlements’ have now become large townships and home to multitudes of immigrants from other parts of Ghana and the West Africa sub-region to Accra, the national capital. These townships include Shiashie, Achimota, Madina, Adenta, Ashale Botwe and Agbogba. Some of the plush residential areas and important landmarks in Ghana are also located on La lands. They include Cantonments, the Burma Camp (which is the headquarters of the Ghana Armed Forces), the Kotoka International Airport, the Trade Fair site and the University of Ghana. This means farming, the other traditional occupation apart from fishing, no longer exists in La. Already in the 1930s several La residents were employed as clerks and were commuting daily between La and their offices in the city of Accra.<sup>53</sup>

La, like many other traditional communities in Ghana, retains the influence of traditional culture and custom despite the long exposure to forces of modernity such as education and Christianity. It was an important mission station of the Basel Mission whose school there produced a number of scholars and professionals. Yet, even in contemporary times, its traditional priests still exert considerable influence on the traditional rulers, elders and the community. The occasional tensions caused by the situation of religious pluralism in several traditional areas in the country afflict La and other townships of Accra in a more intense manner due to their urban nature.

### **1.9 Data collection methods**

Collection of data involved extensive review of literature on the history of the political, legal and socio-religious customs of the Anlo, La, and Gomoa areas. Qualitative techniques such as semi-structured interviews, focus group discussions, and in-depth interviews with key informants were employed in the fieldwork.

Since the study is generally a qualitative one, purposive sampling strategies were deemed most appropriate and were, therefore, mostly employed. For each of the selected traditional areas, elders, including traditional rulers and people identified as ‘knowledgeable’ or opinion leaders in the communities were interviewed. In this case traditional rulers and their elders, the traditional/established authorities on the subject in the various study sites, were interviewed. Then also, for each traditional area, views of identifiable groups such as men’s, women’s and youth groups were captured in focus group discussions.

In the cities of Accra and Kumasi, sampling was random. Data were collected by speaking to randomly selected respondents in the main business districts of the cities. Contacts were also made with state institutions with direct responsibility for ensuring the protection and promotion of human rights, such as the national, regional and district offices of the Commission for

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<sup>52</sup> M. J. Field, *Religion and Medicine of the Ga People* (London/New York/Toronto: Oxford University Press, 1937) 39.

<sup>53</sup> Field, *Religion*, 39.

Human rights and Administrative Justice (CHRAJ) as well as non- governmental organisations (NGOs) dedicated to human rights advocacy.

### **1.10 Field Research**

Information about the contemporary human rights situation in Ghana may be quite conveniently gathered from various reports published annually by state agencies such as the Commission on Human Rights and Administrative Justice (CHRAJ) and international and local NGOs. It may also be gleaned from reports issued annually by embassies such as the United States Embassy in Accra. However, this work is not primarily about the human rights situation in Ghana as the elites – persons involved in NGOs and bureaucratic institutions – appreciate it; though their views were sought on aspects of the research. It is about how ordinary Ghanaians in contemporary times appreciate human rights, conceptually and in practice. As has already been indicated, the research sites are the three traditional areas of Anlo, La and Gomoa, and the two leading cities of Accra and Kumasi. Most of these places have had a long encounter with modernising forces from pre-colonial through colonial times and in the post-Independence era; and yet they have retained, over the years, traditional institutions and related practices, including religious ones, though with some modifications. Thus they are typical of Ghanaian communities, where modernity and tradition exist together in ways that look so natural. Accra and Kumasi are cities in the modern sense that are home to heterogeneous populations drawn from all parts of the country. In these places modern political and religious ideas and institutions blend with traditional ones to constitute the ‘life-world’ of people.<sup>54</sup>

Since this work aimed at gauging the general appreciation of human rights in Ghana, a general survey conducted in Accra and Kumasi was included. Focus group discussions were used as a complementary method to the in-depth interviews conducted in the traditional areas. This was in order to find out how much the views of the key informants coincide with, or diverge from, that of the generality of the population. It was also to help determine how much continuities exist between traditional and modern ideas about the research subject.

The objective of resorting to ethnographic research has been to explore the extent to which local values and ideas about human rights and those cognate to them are engaging with the normative concept of human rights and are mutually influencing each other. This methodology is relevant for the overarching hermeneutical model of inculturation that is proposed in this work, which shall be taken up further in chapter seven. A qualitative method of collecting and interpreting data enables insight into the thought processes of the participants in the research and how they relate to issues of human rights in the context of everyday challenges of life. Against the background of what has been identified as traditional elements that are conducive for the growth of human rights culture, (ch. 6), the study attempts an evaluation of the participants’ understanding of, and attitudes to the norms of modern human rights and, on the basis of the derived data, further attempts some generalisations.

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<sup>54</sup> According to Jurgen Habermas the life-world is ‘represented by a culturally transmitted and linguistically organized stock of interpretive patterns.’ (J. Habermas, *The Theory of Communicative Action: A Critique of Functionalist Reason*, [T. McCarthy, Trans. Vol. 2 *Life-world and System* ] (London: Polity Press, 1987) 124.

### 1.11 Research population

The stated aim, as indicated, is to explore how religion may contribute to the inculturation of human rights in Ghana, using the selected research locations as case studies. For the in-depth interviews, research participants were people regarded as ‘knowledgeable’ in their own communities, opinion leaders, and office-holders. This means that the emphasis has not been on equal or proportionate number of participants for each traditional area. The concern being the discovery of meaning rather than the appreciation of human rights in quantitative terms, so much emphasis was not placed on issues of sampling population. However, in each traditional area, the decision was to interview not less than five persons, including at least two women, as key informants. The focus group discussions involved separate groups of women, men and youth. With the exception of the women’s group in Anloga which had ten members, none of the groups had more than seven members. There were separate groups for men, women and youth because we thought that that would give the women and the youth the confidence to express their views freely. It was also assumed that perspectives would differ according to gender and generational peer groups.

An important characteristic to note about the participants was their religious backgrounds. Most of the participants were Christians of the various denominations, a few were Muslim. In Anlo and La there were a few participants who identified themselves as ‘traditionalists,’ that is, practitioners of indigenous religions; but in Gomoa there was hardly any such person among the participants. Several of the traditional chiefs who are supposed to be the custodians of the indigenous religious traditions, professed Christianity.<sup>55</sup> Although in La a man was encountered who claimed to be agnostic, almost everybody who participated in the research belonged to one religion or another; thus, it was presumed that belief in spirit beings and in the existence of an invisible spiritual universe was a common feature of them all. Nevertheless, this assumption could not be taken for granted; therefore, a series of four preliminary questions were asked (in addition to the biographical questions, which included the participants’ religious denominations): 1. Do you believe in God? 2. Do you believe in spirits? 3. Do you believe spirits can harm or help you? 4. If you do, how do you ensure that you stay safe from being harmed by them? This was to ensure that the assumption was right across traditions. The picture that emerged confirmed the earlier views about ‘popular religion’ and helped identify its elements and features as described in chapter five.

As indicated above, a survey was conducted in the business districts of the cities of Accra and Kumasi. This was done in order to gauge the current awareness of human rights by the general public. The survey covered fifty respondents in each city; therefore, in all, one hundred respondents were interviewed. They were randomly selected.

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<sup>55</sup> Four of the five chiefs we interviewed in Gomoa, including two queen- mothers, claimed to be Methodists while one claimed to be an elder of the Presbyterian Church. In Anloga, of the two chiefs and three elders interviewed, two claimed to be Roman Catholics; one belonged to the Presbyterian Church and one belonged to the Apostles’ Revelation Society(ARS), a Pentecostal denomination that broke away from the Presbyterian denomination. In La, as I have already hinted at, the chief was facing opposition from some of his elders and the state priests for refusing to perform some rituals on the basis that he was a Christian.

## **1.12 Summary of Contents**

The current chapter introduced the main research problematic, the research questions, and research locations. Methods of data collection and factors that influenced the process were also briefly discussed. It also briefly introduced the hermeneutical model.

Chapter 2 takes up general theoretical issues in current discussions about human rights in relation to religion. Working definitions of religion and human rights are discussed in a manner that links them to issues such as secularisation, globalisation, universality and relativism. The chapter proceeds from the position that the concept of human rights, though modern in its normative form, has not been unknown to traditional cultures; that human rights represent 'dream values' common to all humanity, which thinkers, sages, prophets of various nations and eras envisioned and preached. Societies that have not produced prophets or such individual thinkers have expressed such ideals in proverbs, legal norms and certain forms of taboo.

The hermeneutical model of the study - inculturation - is taken up again and discussed more comprehensively in chapter 3. This is done against a background discussion of some approaches to the issue of cultural relativism in current academic discourse on human rights. The chapter outlines the main elements of the model as the main framework for the theoretical exploration of how human rights may be embedded, or are already being embedded, in the contemporary culture of Ghana.

The question that chapter 4 seeks to explore is whether Ghana has a common culture. Answering the question in the affirmative, it proceeds with an attempt to map out cultural features that have come to be associated with the people of the modern nation-state called Ghana. It traces the historical, political, social, and other factors that have marked the evolution of that culture.

To what extent is religion interwoven into modern Ghanaian society? What is the extent of its influence at the various levels of life? These and related questions are the issues that constitute the burden of chapter 5. Chapter 6 is a discussion of the understanding and practice of human rights in indigenous societies and their development before and after the advent of foreign political, religious and social forces. Ideas cognate to human rights such as those that define human dignity and the practices they generated are explored. In chapter 7, we discuss the evolution of human rights as part of the values protected by law and promoted as a matter of public policy in modern Ghana. It also attempts to find out and discuss how traditional elements such as religious beliefs and ideas influence people's views and attitudes toward human rights in contemporary Ghana.

Discussions in chapter 8 involve a critical exploration and examination of popular ideas, symbols and imagery that have some relevance for human rights in Ghana. A discussion of the promise that such ideas, imagery and symbols hold for the enrichment of the global human rights doctrine is also held, within the framework of an inculturation model. Chapter 9 is the concluding chapter. It pulls together the various strands of arguments presented in the work. It concludes that human rights will find a natural boost if the appropriate steps are taken to link them with important religious values of the culture of Ghana. Social policy implications of the findings of the research are highlighted and suggestions for future research are also made in the chapter.



