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**SACRIFICE AND SASSWOOD:  
MIMETIC DESIRE AND RULE-OF-LAW DEVELOPMENT IN LIBERIA**

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2011

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An abstract of  
A thesis submitted to the Faculty of the  
Candler School of Theology  
in partial fulfillment of the requirements for the degree of  
Masters of Theological Studies  
2011

## Abstract

### **SACRIFICE AND SASSWOOD: MIMETIC DESIRE AND RULE-OF-LAW DEVELOPMENT IN LIBERIA**

By T. Brian Green

One of the most intractable problems for rule-of-law development in Liberia involves the “Sasswood” trial by ordeal and the difficulty of getting its indigenous Liberian practitioners to submit to the official legal process. This paper proposes that the work of Rene Girard on the structure of Mimetic Desire has much light to shed on this field, light that may reveal possible reasons for the rejection of the Western system as well as reasons for the Western incredulity at that rejection. It suggests that the structure of mimetic desire is evident in the bedrock assumptions of the American legal system (which is the dominant model both for the official Liberian legal system and for Western rule-of-law projects in general), and that this structure is replicated in the Liberian constitution, legal system, and cultural dynamic, in a way that has both led to destructive social violence and, left unacknowledged, prevents social healing. This paper will then attempt to explain the resilience of the sasswood ordeal within indigenous Liberian culture. To do so, it will again begin with Girard, whose insight that religion arises as a means to quell the social violence inherent as a result of mimetic desire provides a powerful hermeneutic for understanding sasswood. This analysis will show that the project of eliminating the ordeal amounts to asking community members to let go not just of a so-called “superstitious belief”, but of an entire cosmological structure that provides order to the community itself, removal of which potentially opens the community to the contagion of social violence. Picking upon this notion of violence as “contagion”, this paper will then apply the work of Paul Ricoeur, showing that the particular type of experience evident in conversations about the sasswood ordeal suggests that Liberia is undergoing a kind of cosmological crisis, one tantamount to the introduction of a radical evil into the Liberian symbolic framework. In conclusion, this paper will point toward a radical new frame for rule-of-law development in Liberia, one in which development workers view themselves as working for healing and reconciliation not just among Liberians, but between Liberia and the West.

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## ACKNOWLEDGEMENTS

This paper would not have been possible were it not for the ongoing support of the Center for the Study of Law and Religion at Emory University School of Law, as well as the unreserved encouragement and assistance provided by the members of the Center: John Witte, Jr., April L. Bogle, Linda B. King, Anita W. Mann, and Amy Wheeler. It would also not have been possible without the support of the Catholic Justice and Peace Commission, especially Thomas Mawolo, or of the Carter Center rule-of-law project in Liberia, especially Laurie Reyman, Chelsea Payne, David Kortee, and Pewee Flomoku. My family, to whom I will be always grateful for their love, has provided unlimited emotional and moral support to me throughout this process. Finally, this thesis is dedicated to the valiant and important work done by the Justice and Peace Commission field human rights monitors, especially Michael Worjlo (and his family, who generously welcomed me into their home in Pleebo), Tyler Wleemogar, and Wendoe Sloh, with whom I lived and worked in Maryland County. The efforts of these workers will undoubtedly lead to a brilliant future for Liberia.

**SACRIFICE AND SASSWOOD:  
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The traditional aspect of law, its sense of ongoing-ness, cannot be explained in purely secular and rational terms, since it embodies man's concept of time, which itself is bound up with the transrational and with religion. – Harold Berman, *The Interaction of Law and Religion*<sup>1</sup>

A conflict resolution culture that defines itself as exclusively rational tends to see itself as categorically opposed to religious systems of belief and practice, which are characterized, or caricatured, as rooted in the irrational. That cuts off the possibility of constructive engagement with religious societies and traditions in all of their complexity. – Marc Gopin, *Between Eden and Armageddon*<sup>2</sup>

**I. Introduction: A Morning Dialogue**

On the morning of July 13, 2010, I rode on the back of a motorbike to a small, Kru-speaking village called Little Wlebo, in Maryland County in southeastern Liberia. My companions were Michael Worjlo and Tyler Wleemogar, two Liberian human rights monitors with the Catholic Justice and Peace Commission; the purpose of our visit was to explain the law regarding the administration of “sasswood”, a traditional Liberian trial by ordeal. Ethnographic accounts describe the process of administering sasswood in the following way:

Sasswood ordeals involve drinking an infusion of water and the poisonous bark of *erythrophleum guineense*, which contains an alkaloid, erthroplein, which is ‘an irritant poison producing vomiting, purging and collapse.’ (citation omitted)...the rules for the ordeal included that it be taken voluntarily and publicly, in specified areas outside the town. Sasswood bark could be easily collected in the polity and a piece of it could be lodged above a lintel as a prophylactic against witches, locally called ‘witchcrafts’ in English. It would be pounded with water in a mortar to make an infusion which the accused drank. The sasswood bark (jlu) was explained to me as having the power to discover the *we*—‘witch’ in Liberian English—in a *wedio*, a ‘witchcraft’ (literally ‘eater of *we*’), who could be male or female. When sasswood is ingested, it runs through the body looking for *we*; if it does not

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<sup>1</sup> Harold Joseph Berman, *The Interaction of Law and Religion* (S.C.M. Press, 1974).

<sup>2</sup> Marc Gopin, *Between Eden and Armageddon: The Future of World Religions, Violence, and Peacemaking* (Oxford University Press US, 2002).

find any, it will ‘leave’, excreted or vomited from the body. If it finds *we* it will stop, and the accused will ‘fall down’, and die.<sup>3</sup>

Earlier in the week, Michael (who had seen the ritual performed) had explained to me how the administration worked in his experience: the accused was brought out to the center of the community, made to strip naked and kneel, and then asked to confess. If the accused denied being a *wedio*, they were then led out into the forest, where they were made to drink a potion made from the bark of the sassafras tree. If they vomited the potion out, they were exonerated; if they died, their guilt was deemed determined, and their body was then taken to a special rock outcropping where it was left to rot.

Once we gathered the community members for our presentation and had engaged in the welcoming ritual of eating kola nut and drinking cane juice, Michael, who spoke Kru, began to speak. He explained that while, in the past, trials were done “in our own traditional way”, with the “country doctor” administering the sassafras without predetermination or agenda, things were no longer the same; now, people claiming to be country doctors would give you any answer you wanted for money, and evil people would accuse innocent people of crimes because of past grievances, mixing acids and poisons into the sassafras concoction to ensure a deadly outcome. Such things had corrupted the traditional way, he said, and so now, when two or three country doctors will give you different answers depending on who paid them, the time had come for another way—the court way, with the presentation of evidence and the hearing of arguments. If some of the old ways are to survive—as they should, he said—they will have to show evidence of their usefulness.

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<sup>3</sup> Elizabeth Tonkin, “Autonomous Judges: African Ordeals as Dramas of Power,” *Ethnos: Journal of Anthropology* 65, no. 3 (2000): 366 - 386. “*E. guineense* is a widely distributed handsome tree with a number of undefined varieties or sub-species which have been the cause of some confusion. The plant is also reputed for its uses as an ordeal poisons for executing capital punishments for witches, [and] to kill or scare away stubborn pests from cultivated farms.” B. A. Adeoye and O.O. Oyedapo, “Toxicity of *Erythrophleum Guineense* Stem-Bark: Role of Alkaloidal Fraction.” *Afr. J. Traditional*, no. 1 (2004): 45 - 54.

Many of the people in the room nodded their heads as Michael spoke; his argument, that sasswood “used to work”, seemed to have some sticking power. However, one older man, sitting to the side of the room, had listened patiently with his arms crossed and his eyebrows furrowed. When Michael finished, he raised his hand, and Michael called on him. He first thanked us for coming, as he recognized the importance of knowing the law. However, he was not satisfied with Michael's lecture. He said, with increasing emphasis and animation, that “we Africans *know*” that there are people out there who can become invisible and creep through the forest at night; they fly above the treetops, looking for people to take. These people leave no eyewitnesses; no evidence; nothing that might convict them in a criminal court. The only way to determine who did the crime is with the bark of the sasswood tree. Some of the other men nodded in agreement, speaking Kru to one another with serious voices. After engaging in some further discussion, we soon left the village.

After the discussion, I asked Michael how he felt it had gone, and he replied with a sense of hope: at least the people are listening now—before, they would just laugh or get angry. I asked him about his message on sasswood, which had struck me as a curious and interesting argument: that there was something of a temporal divide, before which sasswood “worked”, but after which a new system was needed. He said that that argument, developed during workshops with the Justice and Peace Commission, seemed to have the most adhesive power, and that was why he used it. Personally, he believed it as well; as he explained one night, he believed fervently that the sasswood ritual he had witnessed as a child in his village had legitimately identified witchcraft. However, in his mind, cultural elements that had invaded the country—amorphous concepts that he labeled “greed”, or “selfishness”—had corrupted and corroded the “country doctors” (shaman-like figures known as “Zo’s”) such

that now they could be, and often were, bought. However, his point wasn't just that the Zos were corruptly applying a legitimate spiritual power, or that their corruption disabled their potency—it was that the spiritual power of the Zo's itself was rendered ineffective by these “evil” forces. The most obvious proof of this, in his mind, was the recent civil war itself.

I saw Michael and Tyler deliver their argument several times over the course of the Summer, each time with varying results—sometimes receiving near-unanimous agreement, sometimes vehement dispute. Although it could not be said to have been an irrefutable argument, it did seem to be at least a toe-hold in solving what many see as one of the most difficult problems of developing the “rule of law” in Liberia: how do you convince people to give up the practice of the sasswood ordeal in favor of an adversarial, evidence-based judicial process? From a Western perspective, the problem is one with profound human rights implications, as the victims of sasswood tend to be those on the margins of society, and the ritual itself is obviously deadly—the result, in Western eyes, is that an innocent victim is poisoned for no reason. However, arguments from human rights have largely been ineffective, as one development worker has described: “People in rural Liberia definitely don't believe that sasswood is just superstition. And a suggestion that it violates human rights upsets people because they don't want criminals to go free.”<sup>4</sup>

Western-trained development organizations often view witchcraft and the sasswood ritual as essentially a problem of superstitious belief, manipulated by persons for personal gain. The following account of witchcraft, written in the context of female genital mutilation (FGM), is typical:

Superstitious beliefs are very much a reality. Communities profoundly believe in the evil spirits...and in the need for them to be annihilated.

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<sup>4</sup> Email conversation with Jeffrey Austin, Carter Center Liberia Harper Field Office Director from 2006-2009; Dec. 14, 2010 (email on file with author).

However, these beliefs and fears are usually exploited by a few community members who have ulterior motives in suggesting that a woman is a witch; in order to expropriate her, to exploit her sexually, or to exact vengeance for past grievances or family feuds. Once a woman has been named as a witch and the accusation has been verified by a witch doctor, action against her is swift and remorseless.

The role of a [village witch doctor] is crucial. Faith in their powers and skills is deeply entrenched in people's minds. 'All evils: worry, sorrow, disease, even death are caused by bewitchment involving some individual, some spirit...'; the role of the witch doctor 'is the removal of the numerous ills that afflict the community'. It is common and simple to use this person to collaborate with any accusation made against a local woman, especially if the witch doctor is amply compensated for doing so. It is very lucrative for him to identify a woman as a witch since he charges the hapless woman and her family exorbitantly for exorcizing evil spirits.<sup>5</sup>

Such accounts effectively re-cast the problem of witchcraft as having victims on the one side and villains on the other: the "villains", desiring something possessed by the victim, accuse them of witchcraft and then, by manipulating the outcome of the (superstition-based) adjudicatory process, use that accusation to gain access to what they want. From a Western perspective, the problem is simply exposure of this structure.

However, is this account accurate, or is there more going on? If the problem is merely malevolent actors manipulating the "superstitious fears" of a population, why does the sasswood ritual maintain so strong a presence in Liberia, despite years of work and millions of dollars spent trying to eradicate it? It is not the purpose of this paper to deny that such manipulation occurs, or that traditional societal power structures are not contributors to the intransigence of the sasswood ordeal. However, this paper presupposes that the "superstition-manipulating villain" theory of the sasswood ordeal is woefully incomplete as a starting place for developing an effective response to it. While such manipulation

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<sup>5</sup> Puja Roy, "Sanctioned Violence: Development and the Persecution of Women as Witches in South Bihar (Violence sanctionnée: le développement et la persécution des femmes en tant que sorcières dans le sud du Bihar / Violência Sancionada: desenvolvimento e perseguição de mulheres acusadas de bruxaria em Bihar do Sul / Violencia sancionada: desarrollo y la persecución de mujeres como brujas en Bihar del Sur)," *Development in Practice* 8, no. 2 (May 1, 1998): 136-147.

undoubtedly occurs, and often, understanding sasswood in this way does nothing to explain the underlying beliefs of indigenous Liberians, including where this ordeal came from and why, and what role it plays in society that makes it so resilient. What's more, it fails to explain why the Western legal system is so vehemently rejected as an alternative. The old man in Little Wlebo did not argue directly against Michael's argument; his point was that the Western legal system was inferior, and could not meet the needs of his community—the implication being that even if some Zo's were corrupt, or if some nameless evil had defiled the order of nature, the “traditional way” was still preferable to adjudication in a court of law. This was not because of the functional incapacity of the legal system, in his view, but of a fundamental incapacity to deal with the crime at hand. His response suggests that there is some issue that Michael's argument simply does not redress—something rooted deeply in his identity as an indigenous Liberian. This answer points to a serious problem for rule of law development projects in Liberia: no matter how functional the capacity of the legal system, as long as it does not contemplate the fundamental belief structure of indigenous Liberians, it will continue to lack authority over the sasswood ordeal.

What is needed, this paper proposes, is a fuller understanding of why the Western legal system is rejected, as well as an exposition of the underlying role played by sasswood in indigenous Liberian society. It suggests that because the problem sits at the nexus of law and belief, religion and “demystification”, religious studies might have much to offer by way of exposing both the underlying assumptions embedded within Western rule-of-law development projects and in examining the underlying structures of the sasswood ordeal.

Unfortunately, there is generally a lack of understanding of the connection between religion and law on the part of development agents, suggesting “a deep fear of and aversion

to this entire phenomenon on the part of government bureaucrats, journalists, and secular intellectuals and activists. They seem to unconsciously wish that it would go away so that everyone could continue unperturbed in simplistic diplomatic or conflict resolution paradigms.”<sup>6</sup> Writing in the context of peace and conflict transformation, Marc Gopin writes that in many ways, this unconscious fear has led to a kind of “strategic paralysis on the part of the very actors placed in charge of peacemaking by modern culture.”<sup>7</sup> Gopin observes that it is two separate communities, the diplomatic community (including governmental and media elites) and the liberal intelligentsia, whose development paradigm rests on a humanistic, agnostic set of assumptions, who have conspired (in a way) to resist religious analysis of rule-of-law development.<sup>8</sup> Part of the purpose of this paper is to erode some of this resistance, in the hopes of showing that religious analysis has much to offer development theorists and practitioners—although the implications of that analysis might require a change in the way rule-of-law development is done.

Admittedly, such analysis is not without its problems, especially when applied from the West toward other cultures. According to Steven D. Kepnes,<sup>9</sup> “traditional religious studies” has always been characterized by a profound “identity crisis” with regard to its methodology and purpose, particularly on the question of whether religious studies are best focused as “reductionistic”<sup>10</sup> (“functional”, tending towards objectivity and materialism) or “nonreductionistic” (“substantive”, tending towards subjectivity and empathy). To this

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<sup>6</sup> Gopin, *Between Eden and Armageddon*, at 37.

<sup>7</sup> *Ibid.*

<sup>8</sup> *Ibid.*

<sup>9</sup> Steven D Kepnes, “Bridging the Gap Between Understanding and Explanation Approaches to the Study of Religion,” *Journal for the Scientific Study of Religion* 25, no. 4 (1986): 504 - 512.

<sup>10</sup> The “reductionistic/nonreductionistic” dualism is taken from Robert Segel, “Have the Social Sciences Been Converted?,” *Journal for the Scientific Study of Religion* 24: 321-24 (1985) The Functional/Substantive dyad, on the other hand, is taken from Peter Berger, “Some Second Thoughts on Substantive Versus Functional Definitions of Religion”, *Journal of the Scientific Study of Religion* 13, 125-133 (1974).

complex mixture, Paul Ricoeur adds a further, and potentially unifying, organizing scheme distinguishing between “understanding” (*verstehen*) and “explanation” (*erklären*) models of religious studies, as well as a “dialectical hermeneutic to interrelate them.”<sup>11</sup> For Ricoeur, the study of religion “involves us in an act of interpretation which necessarily requires both methods of understanding and explanation”; the poles of reductionistic and nonreductionistic are not mutually exclusive, but “can complement each other and aid in the complex process of interpreting religious phenomena.”<sup>12</sup> Precisely because scholars of religion may not have access to a direct religious or cosmological experience, some reliance on explanatory tools is necessary—on the other hand, even though complete empathizing with the religious experience of another may be “both impossible and undesirable” for the scholar of religion, we may still attempt to understand the “possible world” in which the practitioner operates.<sup>13</sup> In Ricoeur’s words, “understanding precedes, accompanies, encloses, and thus envelops explanation. In return, explanation develops understanding.”<sup>14</sup>

Thus, this paper attempts to strike a balance between “understanding” and “explanation”, presupposing that the work of rule-of-law development requires both working in harmony. It proposes that the work of Rene Girard on the structure of mimetic desire has much light to shed on this field, light that may reveal possible reasons for the rejection of the Western system as well as reasons for the Western incredulity at that rejection. Part I is devoted to these questions. It suggests that the structure of mimetic desire is evident in the

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<sup>11</sup> Kepnes, “Bridging the Gap Between Understanding and Explanation Approaches to the Study of Religion.” at 505.

<sup>12</sup> Ibid. The terms “*verstehen*” and “*erklären*” come from Wilhelm Dilthey, and can be summarized as follows: *verstehen* involves “a total awareness of a mental state and its reconstruction based on empathy”, while *erklären* “is taken from the natural sciences following the canons of inductive logic...[h]ere one explains a phenomena by subsuming it under a universal law.” *Id.*; see also Wilhelm Dilthey, *Laws and Explanation in History*, Oxford University Press: 1957.

<sup>13</sup> Ibid. at 510.

<sup>14</sup> Ibid. at 512, citing Paul Ricoeur, “Explanation and Understanding”, in C. Reagan and D. Stewart, Eds., *The Philosophy of Paul Ricoeur*, Boston: Beacon Press, 1978. (149-166)

bedrock assumptions of the American legal system (which is the dominant model both for the official Liberian legal system and for Western rule-of-law projects in general), and that this structure is replicated in the Liberian constitution, legal system, and cultural dynamic, in a way that has both led to destructive social violence and, left unacknowledged, prevents social healing. Section A begins with an explication of the structure of mimetic desire, including its two primary forms, “externally-mediated” and “internally-mediated.” Section B then shows, in a limited way (given the scope of this paper), how the establishment of the United States was based on externally-mediated models, a process which elevated certain concepts underlying “the law” to mythical status. Essentially, it argues that three foundational myths, in the philosophical traditions of Aristotle and Montesquieu and the religious tradition of Judeo-Christian theology, both demonstrate externally-mediated desire and include structures that lead inexorably to internal mediation. Section C then turns to the history of the establishment of Liberia itself, showing how the impetus for its creation arose from the fears of conflict arising from internally-mediated desire, and how its foundation laid the groundwork for the eventual fulfillment of those fears. Finally, section D will examine how Western rule-of-law projects, entering into Liberia after the civil war that was the inevitable outcome of these underlying structures, are essentially engaged in the project of replicating them. Viewed in this context, resistance to the official legal system is not only understandable; it should be expected.

Having suggested an understanding, based on the structure of mimetic desire, of the rejection of Western-style “rule of law” by indigenous Liberians, Part II of this paper will then attempt to understand the resilience of the sasswood ordeal within indigenous Liberian culture, while pointing toward potential ways that Liberians might move beyond it. To do so,

it will again begin with Girard, whose analysis of mimetic desire is equally applicable to the indigenous Liberian context. Section A will therefore show that Girard's mimetic analysis provides a hermeneutic for explaining the existence and cultural/mythical origins of the sasswood ordeal. Girard's insight is that religion arises as a means to quell the social violence inherent as a result of mimetic desire, initially through diverting violent impulses through sacrifice. This section will therefore analyze the sasswood ordeal through this lens, showing that it is a type of ritual expected where "law" and "religion" are viewed as inseparable. This analysis will show that the project of eliminating the ordeal amounts to asking community members to let go not just of a so-called "superstitious belief", but of an entire cosmological structure that provides order to the community itself, removal of which potentially opens the community to the contagion of social violence. For a further understanding of how this structure is experienced—or how it can be understood as experienced, from a Western perspective—Section B will begin with this notion of "contagion" as an experience of fault, and will apply the work of Paul Ricoeur to an examination of that experience. Building on Girard, this section will show that violence is the original source of the "stain" of defilement, which religion seeks to expunge and protect against. It will show that the particular type of experience evident in the sasswood ordeal suggests that attempts to remove sasswood amount to the instigation of a kind of cultural crisis, one tantamount to the introduction of a radical evil into the Liberian cosmological framework. Given this recognition, the potential power of Michael's argument becomes evident, as it provides a possible insight into how Liberians might negotiate this difficult transition.

The purpose of this paper is to provide a theoretical framework, based on a phenomenological approach, for understanding the problem of sasswood in a rule-of-law development context. Thus, although the conclusion will point toward some pragmatic applications, it will be the work of Liberian development workers themselves to develop them. This paper will only present a different perspective on the problem—like one of the proverbial blind men feeling the elephant—in the hopes of enhancing the relationships between Liberian development workers and their Western counterparts.

## **II. Mimetic Desire, the American Legal Tradition, and the Rule of Law in Liberia**

Harold Berman’s observation, cited at the beginning of this paper, that law is inherently bound up with the mysterious—that it “cannot be explained in purely secular and rational terms”—is striking exactly because it seems so counter-intuitive: what is the law but “rational” and “secular”? It is no earth-shattering observation to note that these reified terms are embedded at the very foundation of Western legal systems—the entire premise of which assumes that “truth” can be determined using reason and logic, that like cases should be (and can be) treated alike, that fault can be accurately divined, and recompense (societal or otherwise) justly allocated. However, even a cursory reflection reveals that these philosophical assumptions are intertwined with other notions that are less easy to identify as “objective”—notions of “sin”, of “penitence”, of “covenant”, and so forth are at least as important in the establishment and maintenance of our legal system, and are based in very particular notions of human personhood that are ultimately religious, or mythological, in origin. These principles, rooted in a Western tradition going back as far as Aristotle and Deuteronomy, likewise find themselves expressed in the very structures of our government,

from the Electoral College to the separation of powers. The philosophical tradition of the enlightenment forms with the religious claims of Judeo-Christianity the double-helix of our judicial system—a normative heritage informed by, and aspiring to, mythical models of justice.

While none of these observations is especially new, they are all worth reconsidering in the context of rule of law development programs, which often result in—or are the product of—tectonic interactions between this Western heritage and other traditions rooted in other cosmologies. In such traditions, these assumptions about the nature and purpose of law may not be shared (or at least, may not be expressed in similar ways). In order to understand fully this complex interaction, we must first understand the deep structures by which these “transrational” aspects of the Western tradition become reified, and how that reification affects and defines the normative goals of our legal system. It is only by understanding this broad range of spiritual and religious influences on the development of the law that creative, constructive approaches to “development problems” like sasswood can be determined.

This section proposes that one means by which we may understand this complex process can be found in Rene Girard’s theory of mimetic desire. Because our legal structure is normative—that is, informed by a desire to achieve a certain kind of society—questions may be asked as to from where this desire arises, how it is modeled, what its object is, and who is its subject. Girard offers a distinctive hermeneutic on each of these questions—an interpretive framework within which we might begin to understand not only the mythical roots of our legal assumptions but also how those roots inform our cross-cultural interactions.

It is beyond the scope of this paper to provide a comprehensive overview of Western legal systems, or even a comprehensive description of the American system, within this

framework. It will therefore only seek to paint, in broad strokes, a narrative of two experiments in constitutional democracy, the American and the Liberian, tracing how the structure of mimetic desire is present at the foundation of both and following the effects of that structure through the history of their interactions with one another. It will then explore the ways in which contemporary rule of law programs replicate this very structure, asking whether—and how—such replication can have the results ostensibly sought by those programs. In so doing, it will ultimately ask whether another kind of interaction, one based on a critical understanding of our own mythological foundation and seeking to understand the role of myth in the social structures of others, might be more effective.

#### A. Defining the Lens: Girard and the Basic Structure of Mimetic Desire

Girard’s “mimetic model” offers a unique and profound insight into understanding the structure of *desire*—one of the most fundamental attributes of humanity.<sup>15</sup> “The seminal insight and contribution of mimetic theory to the human sciences is the realization that desire is mimetic and acquisitive. More precisely, through desire the subject imitates a model who becomes focal for the subject’s desire.”<sup>16</sup> The logic of Girard’s observation is fairly straightforward, beginning with the observation that the ability to imitate others is core to our ability to function as social animals—in other words, socialization and enculturation are “contingent on learning how to do things through detailed processes of tacit and explicit imitation.”<sup>17</sup> Girard claims that at the heart of this process is the subject’s desire for *being*, which the subject perceives herself to lack, and the other to possess.<sup>18</sup>

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<sup>15</sup> René Girard, *Violence and the Sacred* (The Johns Hopkins University Press, 1979).

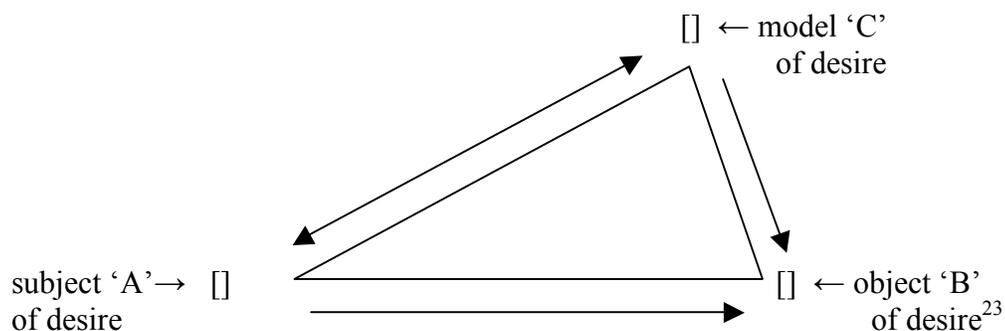
<sup>16</sup> Thee Smith, “Loving Mimesis, or: Standing Girard on His Head”, 2011 unpublished (copy on file with author).

<sup>17</sup> Chris Fleming, *Rene Girard: Violence and Mimesis* (Polity, 2004), 10.

<sup>18</sup> Girard, *Violence and the Sacred*.

Girard then extends this claim to include desire—that is, as desire is a behavior, and behaviors are learned through imitation, desires are also learned through imitation. Thus, as Girard states, “[t]o say that our desires are imitative or mimetic is to root them neither in their objects nor in ourselves but in a third party, the *model* or *mediator*, whose desire we imitate in the hope of resembling him or her.”<sup>19</sup> Human desire, therefore, is constitutionally imitative, and mimesis is constitutionally acquisitional in nature. Importantly, “desire” as used by Girard does not refer to basic needs, such as food or shelter, or exactly to the psychoanalytical notions of desire as understood by Freud and his intellectual progeny; it only refers to objects within the symbolic universe, not those with some intrinsic value.<sup>20</sup> “What Girard offers us here is an eminently parsimonious hypothesis about human subjectivity; however, as Sandor Goodhart warns us, the ‘simplicity and elegance of this theory should not blind us to the enormity of its explanatory power.’”<sup>21</sup>

This model of mimetic desire can be best visualized in the form of a triangle, in which the subject A desires object B not because of its intrinsic worth, but because model C also desires it.<sup>22</sup>



<sup>19</sup> René Girard and James G. Williams, *Resurrection from the underground: Feodor Dostoevsky* (Crossroad, 1997), 144; cited in Fleming, *Rene Girard*.

<sup>20</sup> Ibid.

<sup>21</sup> Ibid.

<sup>22</sup> Thee Smith, “Loving Mimesis, or: Standing Girard on His Head”, 2011 unpublished (copy on file with author).

<sup>23</sup> This diagram is from Smith, Ibid.

Thus, according to this schema, desire is “not a straight line of force which extends between a (desiring) subject and (desired) object, but a complex of lines running from the subject to the mediator of desire and back again.”<sup>24</sup> It is the model that is important for desire, and the relationship between the subject and the model, that are of primary importance—not the “intrinsic value” of or investment in the object itself. This fixation on the model can be described as “desire according to the other,” oriented to the *other* as a model—“as a kind of icon or idol proffered to the self and empirically constituted or filtered through the conditions of existence.”<sup>25</sup>

Beyond this basic structure, Girard understands the phenomenon of mimetic desire as including two basic, often overlapping, types: “externally mediated” and “internally mediated.” The difference between these categories has to do with the proximity—in space, time, or ontological level—between the subject and the model. “External mediation” occurs when the distance between the subject and the model is so great that there can be no rivalry between them for the object in question. “Internal mediation”, on the other hand, occurs when the two are proximate such that rivalry over the object can occur.

External mediation especially occurs when the model is mythological in nature. Like Amadis of Gaul did for Don Quixote, a mythical model can provide for the subject an impossible goal for which to strive, as complete imitation is fundamentally impossible.<sup>26</sup> Such models can provide a structure for the creation of meaning, a way of adjudicating behaviors and perceptions of those behaviors—“it provides not simply a model for how goals

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<sup>24</sup> Fleming, *Rene Girard*.

<sup>25</sup> Thee Smith, “Loving Mimesis, or: Standing Girard on His Head”.

<sup>26</sup> René Girard, *Deceit, Desire, and the Novel: Self and Other in Literary Structure* (The Johns Hopkins University Press, 1976), cited in Fleming, *Rene Girard*, 16.

are pursued, but exemplars of which goals are actually worth pursuing.”<sup>27</sup> This type of imitation cannot become emulation because the objects of desire can be obtained without threatening the status of the model: no matter how heroic the subject becomes, the gods will still be the gods. This type of mediation therefore depends on reification of the model, and often of the objects-as-desired, for stability.

Internal mediation, on the other hand, is inherently instable. When the subject and model are proximate in ontological level, space, and time, the model and the subject can become rivals in attempting to obtain the object-as-desired. Girard writes,

Two desires converging on the same object are bound to clash. Thus, mimesis coupled with desire leads automatically to conflict. However, [people] always seem half blind to this conjunction, unable to perceive it as a cause of rivalry...By a strange but explicable consequence of their relationship, neither the model nor the disciple is disposed to acknowledge the inevitable rivalry. The model, even when it has openly encouraged imitation, is surprised to find himself engaged in competition. He concludes that the disciple has betrayed his confidence by following in his footsteps. As for the disciple, he feels both rejected and humiliated, judged unworthy by his model of participating in the superior existence the model himself enjoys.<sup>28</sup>

Importantly, it is not scarcity that is the cause of the threat, which exists even if the object is something intangible. Rather, it is the “double bind” of the relationship itself—the contradictory double imperative, or whole network of such imperatives—that is the source of conflict, and ultimately, of violence.

Applying this model to the development of human society, Girard then hypothesizes that this structure of mimetic desire—and the inherent conflict it contains—leads to the development of religious ritual, particularly via the structure of sacrifice, as a means of redirecting violent impulses.<sup>29</sup> Religious ritual is thus a means of protecting social order

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<sup>27</sup> Ibid., 17.

<sup>28</sup> Girard, *Violence and the Sacred*, 146.

<sup>29</sup> Ibid., at 98-99.

against the threat of violence run amok; myths are cultural narratives enshrouding this process by reification.<sup>30</sup> Read with this insight, the rituals and mythology of a society reveal this structure and provide insight into how that society constructs and preserves social order.

#### B. Focusing the Lens: American Notions of the Law

Girard's tripartite model of desire is fundamentally a social phenomenon, describing not just an individual dynamic, but one that actually requires a social relationship. Like a pattern of fractal geometry, the repetition of this phenomenon at the individual level can also result in societal and historical patterns of a similar nature. These social structures of mimetic desire reach across time, forming part of the fundamental mythology of a society and creating structures with present-day and future implications. This section will attempt to identify some of those patterns in the context of American history, with a view toward how those historical patterns influence contemporary rule-of-law projects in Liberia.

As stated previously, it is beyond the scope of this paper to trace all of the possible threads that informed the development of American notions of the rule of law. Nevertheless, beginning with the work of Judith Sklar, it will seek to place in conversation two broad threads of the Western philosophical tradition (here termed the "Aristotelian" and "Lockean") and the Judeo-Christian religious mores that were present in forming this country's government, ultimately showing how these threads exemplify externally-mediated mimetic desire.<sup>31</sup> Its thesis is that, although these models of the American project are often considered to be the forebears of demystification, in fact they are reified through the process of mimetic desire, forming the foundation of Western/American notions of the rule-of-law within a particularly Western mythic structure.

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<sup>30</sup> Ibid.

<sup>31</sup> Judith N. Sklar, "Political Theory and the Rule of Law", in Allan C. Hutchinson, *The Rule of Law: Ideal or Ideology* (Transnational Pub, 1987).

Additionally, two parallel historical patterns, which will be important later, should also be kept in mind, both of which mirror the narrative of demystification in Western culture. The first is the typology of sin and human response developed by Paul Ricoeur in *The Symbolism of Evil*.<sup>32</sup> In this work, Ricoeur examines the basic phenomenon of fault as rooted in a community experience with a minimal sense of the individual.<sup>33</sup> “In this context sin is understood as that which contaminates the entire community”, that is, it is experienced as contagious defilement, a quasi-physical stain.<sup>34</sup> As Western society developed over time, a sense of individual identity, expressed in relationship with the community, began to emerge; as such, sin began to be experienced as the breaking of communal laws and violating the integrity of the community (and also God).<sup>35</sup> At this stage, the community was still primary.<sup>36</sup> Eventually, however, individuality and interiority became primary, such that the individual became solely responsible for his or her actions before God.<sup>37</sup>

Understandings of suffering developed along a similar line as evil. At the stage of defilement, all suffering originated in intentional acts—nothing occurred simply “because,” but because of the agency of malevolent or indifferent forces, and was therefore explainable as directly tied to evil.<sup>38</sup> Ricoeur notes that the first major social crisis of Western civilization—and a continuing source of anxiety and anguish—was the splitting of the “ethical” from the “physical”, such that suffering became radicalized and scandalous.<sup>39</sup> This occurrence allows for an interior understanding of fault that finds expression in later

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<sup>32</sup> Paul Ricoeur, *The Symbolism of Evil*, New title. (Beacon Press, 1986). See Infra notes 167-201 and accompanying text.

<sup>33</sup> This description comes from Charles Hackett, “Shame, Guilt, and the Rites of Reconciliation”, 1994 (unpublished; on file with author).

<sup>34</sup> Ibid.

<sup>35</sup> Ibid.

<sup>36</sup> Ricoeur, *The Symbolism of Evil*.

<sup>37</sup> Ibid.

<sup>38</sup> Ricoeur, *The Symbolism of Evil*.

<sup>39</sup> Ibid.

understandings of the law, especially in the very notion that intention is something that must be “proved,” while the absence of intention is either negligence or accident. This development will become important later; for now, suffice to say it is an alternative, and parallel, lens through which to view the development of Western legal theory.

The second parallel historical pattern comes from Girard, and will also be important to later discussions: the movement of social mechanisms for the prevention of mimetic violence from the preventative, to the compensatory, to the curative.<sup>40</sup> Again, more discussion will be forthcoming on this subject, but for now, it is important to note just two things: first, as already discussed, that internally-mediated mimetic desire leads inexorably to conflict and violence, and second, that in order to function society must develop means of coping with that violence and keeping it in check. One of the most basic ways in which societies do this is through sacrificial rites, which Girard understands as preventative measures meant “to divert the spirit of revenge into other channels.”<sup>41</sup> When these measures lose their efficacy, compensatory measures, such as trials by combat (and possibly ordeal), are used to divert vengeance; finally, a judicial system, which is a curative procedure, develops as a means to satisfy the causes of vengeance.<sup>42</sup> All of these systems have a common purpose: the prevention of the escalation of violence that would cause the breakdown of society.

Keeping these two parallel threads in mind, we now turn to the main subject of this section: the identification and description of patterns of mimetic desire in American legal history. The American Revolution was an “extraordinary revolution, and no more so than to

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<sup>40</sup> Girard, *Violence and the Sacred*.

<sup>41</sup> *Ibid.*

<sup>42</sup> *Ibid.*

the Revolutionaries themselves.”<sup>43</sup> Gordon Wood writes that because of this sense of the extraordinary, the colonists “attempted to turn their decades-long controversy with England into a vast exercise in the deciphering and applying of the philosophy of the age...it seemed indeed to be a peculiar moment in history when all knowledge coincided, when classical antiquity, Christian theology, English empiricism, and European rationalism all could be linked.”<sup>44</sup> Americans were searching, in other words, for models on which to form their new nation.

Judith Sklar provides a scheme that will prove useful for interpreting this daunting array of philosophical influences, given the scope and brevity of this paper. Sklar argues that informing Western notions of the “rule of law” are actually two separate concepts, one with its foundation in Aristotle and the other with roots in Montesquieu.<sup>45</sup> Aristotle, she writes, “presented the rule of law as nothing less than the rule of reason.”<sup>46</sup> This decidedly end-result notion of the law is appealing to intellectuals and elites, for the “single most important condition for the Rule of Law is the character one must impute to those who make legal judgments.”<sup>47</sup> In this view, “justice is the constant disposition to act fairly and lawfully...To achieve [it those who judge] must understand exactly just how forensic rhetoric and persuasive reasoning work, while their own ratiocination is free from irrational imperfections.”<sup>48</sup>

This Aristotelian trend finds its expression in the aspirations of the American framers such as Thomas Jefferson toward “classical republicanism” or “civic humanism”, in which

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<sup>43</sup> Gordon S. Wood and Institute of Early American History and Culture (Williamsburg, Va.), *The creation of the American Republic, 1776-1787* (UNC Press Books, 1998), 3.

<sup>44</sup> *Ibid.*, 7.

<sup>45</sup> Judith N. Sklar, in Hutchinson, *The Rule of Law*.

<sup>46</sup> Judith N. Sklar, “Political Theory and the Rule of Law”, in *Ibid.*

<sup>47</sup> *Ibid.*

<sup>48</sup> *Ibid.*, 3.

naturally social “citizens” would come together as individual moral actors to form a virtuous *polis*.<sup>49</sup> J.G.A. Pocock described this paradigm thusly:

[T]he civic humanist paradigm...makes its starting point a certain early modern articulation of the idea of virtue. In this sense, the term ‘virtue’ referred not simply to morally desired practices or the inner disposition of the self towards them, but to the practice of citizenship in the classical or Greco-Roman sense of that term. It entailed the maintenance of a civic equality among those who passed the often severe tests prerequisite to equality, and the moral disposition of the self towards the maintenance of a public (a better adjective than common) good, identifiable with the political association, *polis* or *respublica*, itself...Authority occurred either as that of a master over an inferior, an equal over a non-equal—the classical republic was an open conspiracy of equals—or in a more moral sense, within the republic itself, as that of a few to which the many deferred without sacrificing their equality...To qualify for citizenship, the individual must be master of his own household, proprietor along with his equals of the only arms permitted to be borne in wars which must be publicly undertaken, and possessor of property whose function was to bring him not profit and luxury, but independence and leisure.<sup>50</sup>

Thus, the Aristotelian “reasonable citizen” provided one of the foundational, externally-mediated models for the fledgling nation, a model which they faithfully sought to imitate—a circumstance which was not without its negative consequences. Sklar notes that this theory—and the supreme moral judge as its actor—is ultimately compatible “not only with the slave society of ancient Athens, but with the modern ‘dual state’”—a state with a perfectly fair and balanced system for some, but with some of the population defined as excluded from the public order entirely (even to the point of being declared subhuman, public dangers).<sup>51</sup>

For Sklar, the alternative trend to this Aristotelian vector is that of Montesquieu, who argued that “[n]o less than monarchies or aristocratic oligarchies...democracies ‘are not in

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<sup>49</sup> Garrett Ward Sheldon, *The Political Philosophy of Thomas Jefferson* (The Johns Hopkins University Press, 1993), 150.

<sup>50</sup> J.G.A. Pocock, “Cambridge Paradigms and Scotch Philosophers”, in *Wealth and Virtue*, eds. Hont and Michael Ignatieff (Cambridge: Cambridge University Press, 1983), 235-36; *cited in* Ibid.

<sup>51</sup> Hutchinson, *The Rule of Law*. Sklar provides the examples of the United States until the Civil War (the American South until quite recently), Nazi Germany, and Apartheid South Africa.

their own nature free.”<sup>52</sup> In order to avoid oppression, the law “must take certain types of human conduct entirely out of public control, because they cannot be regulated or prevented without physical cruelty, arbitrariness and the creation of unremitting fear in the population.”<sup>53</sup> In other words, government—even ruled by such ‘noble citizens’ as postulated by Aristotle—becomes coercive when it tries to regulate certain human behaviors, such as religious belief and practice, consensual sex, and expressions of public opinion; in order to prevent its doing so, these fields must be protected as rights. Thus, “the rule of law is meant to put a fence around the innocent citizen so that she may feel secure in these and all other legal activities.”<sup>54</sup> The emphasis here is on the law’s ability to hamper government intrusion, thereby protecting the ruled against the aggression of those who rule.<sup>55</sup> The emphasis is not on any kind of virtue; all that is necessary is “a properly equilibrated political system in which power [is] checked in such a way that neither the violent urges of kings, nor the arbitrariness of legislatures could impinge directly upon the individual in such a way as to frighten her and make her feel insecure in her daily life.”<sup>56</sup> In contrast to Aristotle’s emphasis on the end-result of reason, the emphasis here is on process: “the idea is not so much to ensure judicial rectitude and public confidence, as to prevent the executive and its many agents from imposing their powers, interests, and persecutive inclinations upon the judiciary. The magistrate can then be perceived as the citizen’s most necessary, and also most likely, protector.”<sup>57</sup> Liberty, not Virtue, is paramount.

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<sup>52</sup> Ibid.; Brian Z. Tamanaha, *On The Rule of Law: History, Politics, Theory* (Cambridge University Press, 2004), 52.

<sup>53</sup> Hutchinson, *The Rule of Law*.

<sup>54</sup> Tamanaha, *On The Rule of Law*, 53.

<sup>55</sup> Hutchinson, *The Rule of Law*.

<sup>56</sup> Ibid., 4.

<sup>57</sup> Ibid. at 5.

John Locke, who was probably of more influence in the English-speaking American colonies, originally articulated many of these ideas in some form. Although Locke's influence on the theory of the Revolution has been called into question,<sup>58</sup> his articulation of the doctrine of separation of powers is often considered of primary influence on the formulation of the American constitution.<sup>59</sup> In fact, Locke's model of Liberal government, founded in contract theory and based on the hypothetical "state of nature", was a primary inspiration of Montesquieu's articulation of rights.<sup>60</sup> Surprisingly, Locke's articulation focused primarily on separation between the executive and legislative; he gave scant attention to the judiciary.<sup>61</sup> It was Montesquieu, in fact, who advocated for the centrality of an independent judiciary for the protection of rights.<sup>62</sup>

Likely, both Locke and Montesquieu provided theoretical exemplars for the creation of the American state, and can be viewed as Girard-ian, externally-mediated models for that eventual society. The very exemplars of enlightenment political philosophy, these thinkers, like Aristotle, provided a model of the state ostensibly based solely on reason—and therefore ironically provided the very means for reification of "reason" in American political mythology. The establishment of the United States was and continues to be seen, in terms of political philosophy, as the success of a demystifying project in Western history, the conquering of the feudal mythologies supporting kings. However, in terms of Girard's theory, one system of reified models—the king and aristocracy, ostensibly models of medieval honor and virtue—was replaced with another—one that modeled civic reason and

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<sup>58</sup> See John Dunn, *The Political Thought of John Locke: An Historical Account of the Argument of the "Two Treatises of Government"* (Cambridge University Press, 1983).

<sup>59</sup> Wood and (Williamsburg, Va.), *The creation of the American Republic, 1776-1787.*, 251; see also Bertrand Russell, *A History of Western Philosophy*, 1st ed. (Simon & Schuster/Touchstone, 1967)., 640.

<sup>60</sup> Tamanaha, *On The Rule of Law*.

<sup>61</sup> Russell, *A History of Western Philosophy*.

<sup>62</sup> Tamanaha, *On The Rule of Law*. at 51-53.

republicanism, and political liberalism. Here symbolized by Aristotle, Locke, and Montesquieu, these models have provided the basis of American philosophical assumptions about the rule of law.

Alongside these philosophical traditions, however, existed another tradition at least as important, and overtly religious: the Judeo-Christian heritage. As already noted, at the founding of the nation the colonists were engaged in a raucous and vibrant political discussion about the nature of humankind and the state.<sup>63</sup> Some of the most potent voices in this conversation were those articulating particular visions of society and the human person based on Judeo-Christian principles.<sup>64</sup> Some of these were nearly invisible, embedded in the Anglican culture of the colonies themselves; for instance, several foundational facets of modern jurisprudence can be traced to the medieval church, including the coexistence of legal systems and the growth of the law in a legal tradition.<sup>65</sup> However, Although Catholicism had long been the dominant political force in Europe as a whole, and Anglicanism the dominant such force in England, these highly state-entwined religious traditions would not prove to be dominant in America, where the religious tradition was overwhelmingly Protestant, especially following evangelical and puritan persuasions.<sup>66</sup> Thus, perhaps more important in the American context might be the particularly Protestant concept of the power of the individual, “by God’s grace, to change nature and to create new social relations through the exercise of [his or her] will.”<sup>67</sup> Protestant notions of the will became central to the development of the modern law, especially evident in the fields of property,

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<sup>63</sup> Wood and (Williamsburg, Va.), *The creation of the American Republic, 1776-1787*.

<sup>64</sup> See John Witte, *Religion and the American Constitutional Experiment* (Westview Press, 2004).

<sup>65</sup> Berman, *The Interaction of Law and Religion*, 64.

<sup>66</sup> Witte, *Religion and the American Constitutional Experiment*, 15-16. This is not to say that the Anglican and Catholic traditions were not present; only to say that they were not, at the foundation of the United States, the dominant forces in religious discourse.

<sup>67</sup> Berman, *The interaction of law and religion*.

contract, and the penal (or “penitentiary”) system.<sup>68</sup> In fact, it could be said that it was out of Protestantism that “the religious basis of our concepts of social contract and government by the consent of the governed” arise.<sup>69</sup> Essential to this tradition, of course, was the disenfranchisement of religion, articulated in the First Amendment.<sup>70</sup>

Thus, added to the political philosophical exemplars of Aristotle, Locke, and Montesquieu must also be Luther and Calvin, among others. In the development of the legal tradition of a brand-new society, yet one rooted in a particular Western philosophical and religious tradition, old models—or at least, old understandings of models—were rejected in favor of new externally-mediated models, with corresponding changes in the objects of national desire. Following these models, one object, a society defined by a hierarchical vision of God’s ordained order, was replaced by a new object, a society founded on “liberty” defined both in terms of political philosophy and religious conviction. These models thus form a fundamental part of the American identity, and are mythologized accordingly—for only by being modeled on mythological figures, existing on another ontological level, can a society achieve stability.

### C. The American Model Mirrored: The Foundation of Law in Liberia

This idealized state of affairs was different than the imperial reality that the colonists left, in which the supposed “models” in society (the Aristocracy and landed classes) could literally be conflicted with, as they existed in the same time and space as their subjects—hence, the social upheavals in Europe, including the French Revolution. It was also different than the reality in America itself. The fact that early American society was infected with its own hypocrisies—notably the sub-citizen status of women and African-American slaves—

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<sup>68</sup> Ibid.

<sup>69</sup> Ibid.

<sup>70</sup> Witte, *Religion and the American constitutional experiment*.

only confirms the effectiveness with which the Founders imitated their models. Embedded within the externally mediated models already described was another mimetic structure, with “Citizens” (those with rights, especially white landowners) as the models, and all others (women and African Americans) as subjects. It is perhaps one of the most treacherous ironies of American history that “the American Revolution, deriving its rationale from the dictum that ‘all men are created equal,’ gave birth, paradoxically, to a republic marked by the institution of slavery.”<sup>71</sup> These inequalities would eventually lead to immense social upheaval, including the Civil War, the Jim Crow South, and the Civil Rights era. America is still, to this day, struggling with this structure.

The history of the American colonization of Liberia as a means to solve the problem of American slavery is a narrative in which the Founders—ostensibly modeling themselves on the idealized, mythical exemplars already described—recreated a mimetic structure in which they themselves became the model; only this time, there was no ontological difference between themselves and those to whom they admonished “imitate me.” Thus, a nascent realization that a threat of violence existed began to creep into the minds of many, who sought some way to expel the threat. Although the experiment of deportation was unsuccessful, and ultimately aborted as a national project, the mimetic structures present in that experiment laid the seeds for future conflict in Liberia. The history of the resettlement project shows that the impetus for mimetic desire does not have to come from the “subject”—the “model”, itself a subject in another mimetic triad, is the origin of the double imperative, issuing the antithetical commands “imitate” and “do not imitate”. This can exist even where the ideals by which the “model” sets itself up as such are *not* desired by the

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<sup>71</sup> Allan E. Yarema, *American Colonization Society: an avenue to freedom?* (University Press of America, 2006).

“subject”; if the model possesses mostly material objects, such as wealth, access, or power, the dynamic of mimetic desire can still occur.

This narrative is self-evident in the history of the colonization project itself. “Beyond a coterie of New England ministers, some Southerners, sensitive to the incompatibility of their ‘peculiar institution’ with Enlightenment ideals and notions of Christian brotherhood, found the concept [of deportation and resettlement of slaves] attractive. To such men as Thomas Jefferson, deportation offered the only means of achieving gradual emancipation without inviting race war and social anarchy.”<sup>72</sup> By 1816, numerous movements were afoot to advance the cause of colonization, some motivated by abolitionist sentiments, but others motivated by fears of slave revolt and desires to expel black criminals beyond the borders of the U.S.<sup>73</sup> By 1822, resettlement had begun, aided by the American Constitutional Society.

This account from the World Bank summarizes the process:

The American Colonization Society (from 1822) envisaged the development of a property owning settler society subduing an African wilderness. Little thought was given to integration of the settlers with local populations. Notions of African-Americans ‘coming home’ to Mother Africa were a much later development. Local populations were seen, initially, as foreign. The institutional foundations were laid for a society regulated by American conceptions of property and administration. Jeffersonian agrarianism proved impractical. Survival required engagement in trade, in a wider region in which the Atlantic slave trade remained an active force until the mid-19th century.<sup>74</sup>

Thus, from the very beginning of Liberia’s establishment, it was assumed that Liberians should “want their society to be” like America—that is, to have the same ideals as objects.

The white American leaders of the ACS effectively re-created the mimetic structure with

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<sup>72</sup> Ibid.

<sup>73</sup> Douglas R. Egerton, “‘Its Origin Is Not a Little Curious’: A New Look at the American Colonization Society,” *Journal of the Early Republic* 5, no. 4 (December 1, 1985): 463-480.

<sup>74</sup> Paul Richards, Steven Archibald and Beverlee Bruce and Watta Modad and Tornorlah Varpilah and James Vincent, “Community Cohesion in Liberia: A Post-War Rapid Social Assessment” 21, *Conflict Prevention and Reconstruction* (January 2005), [siteresources.worldbank.org/INTCPR/214578.../WP+21-web.pdf](http://siteresources.worldbank.org/INTCPR/214578.../WP+21-web.pdf).

themselves as models, validation of which served as evidence that the US, itself a subject “modeled” on mythological figures and ideas, has advanced along the way toward the imitation it desires—By becoming a model, it becomes the *Polis*, the *Republic*. With such a stake in the outcome of the Liberian experiment, it is no surprise that the ACS retained certain influence in the settlement’s development:

Between 1822 and 1841, the Liberian settlements were placed under white American Governors, appointed by the American Colonization Society and assisted by several Liberian officials and by a legislative council elected by the colonists. The final authority lay with the Board of Managers of the Society in Washington, D.C., which ratified, modified or annulled laws formulated for the colony by the Governor and legislative council.<sup>75</sup>

This direct oversight of the Liberian project continued until the early 1840’s, when shortages of funds and criticism of the motives of the ACS led to a decline in the influence of the society over the fledgling colony.<sup>76</sup>

To the extent that the Americans sought to set themselves up as reified, externally-mediated models, they were in some ways highly successful:

The settlers on whom the Government of Liberia thus devolved as from 1841 were essentially American rather than African in outlook and orientation. They retained a strong sentimental attachment to America, which they regarded as their "native land." They wore the Western mode of dress to which they had been accustomed in America however unsuitable this dress was to Liberia's tropical weather: a black, silk topper and a long, black frock coat for men, and a "Victorian" silk gown for women.' They built themselves frame, stone or brick-porticoed houses of one and a half or two stories similar to those of the plantation owners of the Southern States of America." And they preferred American food like flour, cornmeal, butter, lard, pickled beef, bacon, and American-grown rice, large quantities of which they imported annually, to African foodstuff like cassava, plantain, yams, palm-oil, sweet potatoes, and "country rice" grown by Africans in the Liberian hinterland. They were Christians, spoke English as their "mother tongue," and practiced monogamy. They held land individually in contrast with the communal

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<sup>75</sup> M. B. Akpan, “Black Imperialism: Americo-Liberian Rule over the African Peoples of Liberia, 1841-1964,” *Canadian Journal of African Studies / Revue Canadienne des Études Africaines* 7, no. 2 (January 1, 1973): 217-236.

<sup>76</sup> *Ibid.*

ownership of the African population. And their political institutions were modeled on those of America with an elected president and a legislature made up of a Senate and a House of Representatives."<sup>77</sup>

Along with these Western economic and cultural assumptions, the settlers brought with them the basic assumptions of a Western legal system, among them a belief in constitutional democracy. In 1847, the settlers founded, with the support of the American Colonization Society, the Republic of Liberia, “the land of the free”; its capital was named “Monrovia”, after President James Monroe.<sup>78</sup> “The preamble to the Independence Constitution of 1847 stated that the objective of the Constitution was ‘to secure the existence of the body politic, to protect it, and furnish the individuals who compose it, with the power of enjoying in safety and tranquility, their natural rights and the blessings of life...their safety, prosperity and happiness.’”<sup>79</sup> That constitution provided for the separation of powers between an Executive, Legislative and Judiciary.<sup>80</sup>

Thus, with America itself an ocean away, the American model of society, with its embedded philosophical assumptions, became the reified and—spatially distant—externally-mediated model. In fact, the only question was whether the Liberians could handle the burdens of the “obviously superior” civilization they brought with them. This question was apparently still open in 1891, when an American historian assessed the “experiment” thusly:

Is the Negro capable of receiving and maintaining a superimposed civilization? Froude declares that ‘the worst enemies of the blacks are those who persist in pressing upon them an equality which nature has denied them. They may attain it in time if they are fairly treated, but they can attain it only on condition of going through the discipline and experience of hundreds of years, through which the white race had to pass before it was fit for political

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<sup>77</sup> Ibid.

<sup>78</sup> Stephen Ellis, *The Mask of Anarchy: The Destruction of Liberia and the Religious Dimension of an African Civil War* (NYU Press, 2001).

<sup>79</sup> International Legal Assistance Consortium, “Mission Report, Liberia 2003” (International Legal Assistance Consortium, December 2003), <http://www.ilac.se/category/term/7>.

<sup>80</sup> Ibid. That constitution was abrogated because of a political coup in 1980, and was replaced in January 1986 with a new constitution, enacted under pressure from Western supporters of then-president Samuel Doe.

rights'...Upon the truth or error of this view how much depends! It is shared by many; some even believe that the condition of Liberia tends to confirm it, thinking they discern signs of incipient decay...[But the] weight of evidence shows the colonists have at the lowest estimate retained the civilization they took with them. Many maintain there has been a sensible advance.<sup>81</sup>

Based as it was on the American reified models and created as a consequence of American “modeling” itself, it should be no surprise that the Liberian colonists replicated this very structure, setting themselves up as the “models” for the indigenous subjects and mirroring the very structure of mimetic desire in which they themselves had been forced subjects. Thus, almost from the outset, the constitutional legal structures were not the impartial arbiters of justice, but were blatantly manipulated to maintain and legitimize the power of the elites.<sup>82</sup> One result was the establishment of a social hierarchy, or caste system:

In 1923, Abayomi Karnga, a scholar and politician of receptive parentage, noted that the status divisions among the Liberians eventually evolved into a hierarchical caste system with four distinct orders. At the top were the Americo-Liberian officials, consisting largely of light-complexioned people of mixed Black and White ancestry (also known as “Mulattos”). They were followed by darker skinned Americo-Liberians, consisting mostly of laborers and small farmers. Then came the recaptives [also known as “Congos”] the Africans who had been rescued by the U.S. Navy while aboard U.S.-bound slave ships and brought to Liberia. At the bottom of the hierarchy were indigenous African Liberians.<sup>83</sup>

Now, however, the models were no longer separated by spatial, temporal, or ontological distance; the “models” of society had turned, finally, from externally- to internally-mediated.

The treatment of the indigenous Liberians during expansion of the Liberian state by the Americo-Liberian colonists bears striking resemblance to treatment of Native Americans by white settlers in the Americas.

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<sup>81</sup> J. H. T. McPherson, *History of Liberia* (Kessinger Publishing, 2004).

<sup>82</sup> International Crisis Group, “Liberia: Resurrecting the Justice System” (International Crisis Group, April 6, 2006), <http://www.crisisgroup.org/en/regions/africa/west-africa/liberia.aspx>.

<sup>83</sup> Peter Dennis, “A Brief History of Liberia”, Report for the International Center for Transitional Justice, 2006, available online at [www.ictj.org/static/Africa/Liberia/BriefHistory.pdf](http://www.ictj.org/static/Africa/Liberia/BriefHistory.pdf) (last accessed March 10, 2011)

[T]he methods by which the expansion was effected were hardly different from those later employed by European, colonial powers to acquire territory in Africa, namely, by "purchase" with European trade-goods, often of doubtful worth and quality; by voluntary cession of territory by the smaller and weaker tribes like the Deys and Queahs, anxious to secure Liberia's protection against powerful, slave-raiding chiefs further inland like the Golahs and Condos; by formal treaties of cession with some African chiefs, like Bob Gray of Little Bassa, who hoped to profit from trade with the Liberian settlers and to have schools established in their territories by the Liberian Government; and by forceful acquisition, especially after military victory over the African peoples gained mostly through the aid of American naval officers and men-of-war.<sup>84</sup>

Once their land was acquired, the indigenous inhabitants of the land were usually required (or forced) to accept the sovereignty of the Liberian Government, including acknowledgement of the Liberian legal system and reference of all inter-clan and intertribal disputes to the Liberian courts, and rejection of "uncivilized" customs like the sasswood ordeal.<sup>85</sup> In practice, the centralized authorities were often too weak to truly exert enough coercive power to stop these practices, and as a result most continued to follow their traditional practices.<sup>86</sup> Perhaps the most problematic aspect of Settler-African relations during this period, therefore, was not political but cultural. "Like European settlers in Algeria, Kenya, and Zimbabwe, the Liberian settlers, reared up in Western culture, and possessing some knowledge of modern, political organisation [sic] and modern, technological science regarded their own culture as superior to that of the African population. They, for instance, disapproved of the scanty dress worn by many of the African peoples, whom they regarded as semi-nude, 'untutored savages.'"<sup>87</sup> These perceptions were mirrored, in turn, by indigenous attitudes toward the colonists, which often focused on the slave antecedents of the colonists: thus an American observer could comment that "many of the

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<sup>84</sup> Akpan, "Black Imperialism."

<sup>85</sup> Ibid.

<sup>86</sup> Ibid.

<sup>87</sup> Ibid.

natives look with contempt of the colonists and do not hesitate to tell them that they are merely liberated slaves.”<sup>88</sup>

Liberia’s “Native Policy” did include an avowed intent to incorporate the indigenous Africans through political and cultural assimilation. However, despite these official policies and the settler’s own experience at having been disenfranchised, most political rights were denied to the indigenous population. The fears of the settlers replicated those of the white settlers in America—fears that are a consistent side-effect of mimetic “modeling”:

[T]hey greatly feared that any substantial extension of the franchise to the African peoples, who greatly out-numbered them, would cause the Africans to swamp them politically, and in consequence to take control of the government. Dissatisfied with the situation, both the educated Africans and the illiterate African masses found common cause to resent the settler oligarchy which yielded political power out of all proportion to its numbers, or to its material contributions by way of revenue to sustain the state.<sup>89</sup>

Thus, the de facto behavior of the Liberian officials toward the indigenous population was one of wholesale harassment bearing “striking similarity to the often rough and shabby methods employed by the British and the French, for example, in their dealings with the African masses in neighboring colonies.”<sup>90</sup> The consequence was ongoing social unrest and resentment, including several rebellions during the 20th century by the Grebo, Kru, Golah, and Joquelle Kpelle tribes. These rebellions were invariably crushed by the Liberian government “using superior arms and sometimes resources and men-of-war supplied by America, which on account of historical ties, was generally regarded as ‘Liberia’s best friend.’”<sup>91</sup> Despite occasional attempts at reform, in general the treatment of the indigenous population by the settlers only grew worse throughout the 20th century.

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<sup>88</sup> Ibid.

<sup>89</sup> Ibid.

<sup>90</sup> Ibid.

<sup>91</sup> Ibid.

[T]he African peoples of Liberia were subjected by the Liberian Government in general, and certain of the Americo-Liberians in particular, to the worst possible forms of exploitation. This included the use of forced and unpaid labour [sic] for private Americo-Liberian farms and plantations including those of President King himself and some members of his cabinet. More sensational was the disclosure of the forcible recruitment of Africans with the aid of the Liberian Frontier Force soldiers, some of the district commissioners and their aides, some county superintendents and customs officials, and African chiefs and agents willing to collaborate and their shipment to Fernando Po to labour in Spanish plantations there.<sup>92</sup>

This treatment was bound to lead to further conflict, and so it did. In 1971, William Tolbert, a member of one of the most influential families in Monrovia, became President of Liberia amid charges of nepotism.<sup>93</sup> In 1979, a proposal to raise the price of rice—which the government claimed was meant to promote more local farming, but from which Tolbert (who controlled the rice monopoly) stood to personally benefit—was met with violent opposition.<sup>94</sup> Left vulnerable by these “rice riots”, the Tolbert administration was overthrown (and Tolbert murdered) in a coup d’etat by an illiterate Army Master Sergeant, Samuel Doe—the first indigenous Liberian to assume control of the government. The next decade saw increasing tensions under the increasingly paranoid Doe regime, which was marred by fraudulent elections and brutal political violence.<sup>95</sup> Finally, on December 24, 1989, the National Patriotic Front of Liberia, a rebel group led by American-educated Charles Taylor, entered the country from Cote d’Ivoire, and began to attack Samuel Doe’s forces, launching a civil war that lasted over fourteen years.

#### D. Mimetic Desire and Rule-of-Law Development in Liberia

During the war, almost all of the pre-existing judicial structures were completely obliterated; the courts simply did not function, and almost all records of both criminal and

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<sup>92</sup> Ibid.

<sup>93</sup> Brief History of the Liberia, ICTJ.

<sup>94</sup> Ibid.

<sup>95</sup> Ibid.

civil activity were destroyed. After the war ended, the courts were unable to restart, owing to the lack of judicial infrastructure, lack of trained legal practitioners, and general unawareness of the law. As one rule-of-law organization put it, “after fourteen years of civil war, the system is in shambles. The culture of corruption and impunity helped spark and nurture the conflict, and the numerous challenges continue to paralyze the justice system.”<sup>96</sup> Without mitigating the accuracy of this account, it is notable that it primarily blames the Liberian “culture of corruption and impunity”—there is no sense that the structures of the justice system themselves played any role. In fact it was the historical denial of justice to vast swaths of the population, rooted in the models of society brought by the settlers, that continues to breed distrust to this day; “the state has been conspicuous by its absence in the daily lives of the overwhelming majority of its citizens, particularly with regard to access to justice. Military dictatorship and the civil war exacerbated this.”<sup>97</sup> Today, the rule-of-law situation remains exceedingly dire. The following description by another Western rule of law organization is typical:

UNMIL [the United Nations Mission in Liberia] estimates over half of the 300 justices of the peace, whose main qualification is supposed to be literacy, are illiterate. Only three of 130 magistrates are lawyers. Circuit courts are dysfunctional, allowing cases to stall in the preliminary hearing stage without reaching trial. Incidents of mob violence are a direct result of lack of faith in the police, corrections systems, criminal investigations and the justice system as a whole. Chiefs applying customary law under the ministry of internal affairs levy high fines, adjudicate criminal cases outside their jurisdiction and are complicit in forced labor practices. The judicial branch has always been little more than an appendage of the presidency, with successive presidents appointing all judicial officers and removing those showing any independence. Dependence on the executive is entrenched practice.<sup>98</sup>

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<sup>96</sup> International Crisis Group, “Liberia: Resurrecting the Justice System.”

<sup>97</sup> Ezekiel Pajibo, “Traditional Justice Mechanisms: the Liberian Case” (International Institute for Democracy and Electoral Assistance, February 4, 2008), [http://www.idea.int/publications/traditional\\_justice/tjm\\_liberian\\_case.cfm](http://www.idea.int/publications/traditional_justice/tjm_liberian_case.cfm).

<sup>98</sup> International Crisis Group, “Liberia: Resurrecting the Justice System.”

Thus, today—with the exception of those able to wield influence over politicians and state officials through corruption—the majority of Liberians continue to seek “traditional justice mechanisms as the vehicle for redress and the settling of scores.”<sup>99</sup> Such as it exists, “the Liberian justice system today is an amalgam of internal and imported statutory law; U.S. common law; state-sponsored African customary law, in which chiefs and local administrators exercise judicial powers; and African customary law that operates beyond state oversight, within Poro and Sande power associations, councils of elders, and other forms of dispute resolution.”<sup>100</sup>

This situation has led to Liberia’s being the focus of a host of international rule-of-law development organizations, including UNMIL, The Carter Center, USAID, The International Center for Transitional Justice, The International Institute for Democracy and Electoral Assistance, The World Bank, the American Bar Association, and The International Crisis Group, just to name a few.<sup>101</sup> While a few of these organizations are involved in direct services, the majority of these organizations “commission scholarship, craft ‘white papers’ of various sorts, send staff and consultants around the country and around the world to make presentations, and, in various ways, engage with public officials and private citizens...to fashion institutions and governance structures that ostensibly promote the Rule of Law.”<sup>102</sup>

These organizations come with established notions of what is meant by “the rule of law”—notions that are rooted in Western experience and tradition. Thus, one of the key

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<sup>99</sup> Ezekiel Pajibo, “Traditional Justice Mechanisms: the Liberian Case.”

<sup>100</sup> International Crisis Group, “Liberia: Resurrecting the Justice System.” The Poro and Sande power associations is a reference to the Poro and Sande secret societies, which are among the most important socio/political organizations in Liberia. For a full discussion of these societies, see Beryl L. Bellman, *Village of Curers and Assassins: On the Production of Fala Kpelle Cosmological Categories* (de Gruyter Mouton, 1975). And George Schwab, *Tribes of the Liberian Hinterland: The Museum Papers* (Kraus Reprint, 1968).

<sup>101</sup> Keith Henderson, Charles Jakosa, , and , Charles Gibson, “Evaluation of Rule of Law Programs in Liberia” (USAID, 2009), pdf.usaid.gov/pdf\_docs/PDACO233.pdf.

<sup>102</sup> Daniel B Rodriguez, Mathew D McCubbins, and Barry R Weingast, “THE RULE OF LAW UNPLUGGED,” *Emory Law Journal* 59, no. 6 (2010): 1455 - 1494.

theorists used for program development is A.V. Dicey, the Oxford Scholar credited with coining the phrase, for whom “the principle objective of the Rule of Law [was] to discipline and regulate official power.”<sup>103</sup> Dicey identified three basic requirements of the Rule of Law: (1) the supremacy of law over arbitrary power, (2) equality before the law of all, including government officials, and (3) the establishment of a constitution.<sup>104</sup> Lon Fuller identified a series of moral qualities essential to “good law”, encompassing and broadening Dicey’s list to include: (1) generality (rules that are widely applicable and impartially applied); (2) publicity (rules that are available); (3) prospectivity (so that there is no threat of retrospective change); (4) understandability (clarity); (5) consistency; (6) possibility (that is, enforceability); (7) stability, and (8) congruence (between the stated rules and their actual administration).<sup>105</sup> Despite broad agreement as to these elements in principle, “disagreement remains about which of these Rule of Law characteristics are ‘essential’, which just facilitates law’s purposes and objectives, and which ought to be reconsidered as only valued contingently.”<sup>106</sup> Moreover, this list of characteristics is largely independent of the political situation in which a legal system is situated—an important omission, as it is the political system that sustains the legal structure.<sup>107</sup>

Importantly, at least for those engaged in the project of rule of law development in non-Western countries, all of the aforementioned theories have their basis firmly within the Western philosophical tradition, reifying the same Aristotelian and Lockean models of the rule of law, and therefore stand to replicate exactly the structure of mimetic desire that was

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<sup>103</sup> Ibid.

<sup>104</sup> Ibid.

<sup>105</sup> Ibid.

<sup>106</sup> Ibid.

<sup>107</sup> Ibid., citing Jeremy Waldron, “The Concept and the Rule of Law”, 43 GA. L. REV. 1, 7-8 (2008).

established at the foundation of Liberia and which led to the civil war in the first place.<sup>108</sup> The hegemony of these philosophical notions in the international community, particularly in definitions of modernity, threatens to destabilize “traditional authorities and assurances;” additionally, it forces non-Western actors to figure out how “to effect change within the given framework of a colonial legacy, how to modify the adapted forms and institutions of modern governance in keeping with the prerequisites of tradition as well as with the current requirements” of modern society.<sup>109</sup> Furthermore, the primacy of the nation-state as chief protector of civil rights, liberty, justice, etc., is itself a part of the Western philosophical heritage and “may be acceptable only to a certain extent or for certain parts of the world.”<sup>110</sup> While on the one hand the primacy of the nation-state may be problematic for traditional and non-Western societies, on the other it may not even accurately fit the modern world, as today “multinational companies almost play with nation states when they simultaneously comply with and bypass their regulations...this applies in particular to the financial markets which evade all national controls.”<sup>111</sup>

Most importantly for the Liberian context, the “essential” institutions of the rule of law, whatever they are, are “usually evaluated by reference to American criteria. That is, the literature looks at how the American system configures constitutionalism, judicial review, separation of powers, and judicial independence and then projects these structures onto other

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<sup>108</sup> Marc Gopin writes that the approaches of diplomatic elites and the liberal intelligentsia, having coalesced to support the cause of “human rights”, express particular value choices and assumptions, including “the idea that the freedom of the individual is the highest priority, that rationality is the key to a better society, that Western and capitalist interests of opening up markets, as well as maintaining the nation-state boundaries, are the most important priorities, and many more.” Gopin, *Between Eden and Armageddon*, at 38. While the convenient convergence of Western governmental and intellectual interests around “human rights” and the goal of “opening up closed societies—and their closed economic markets” is not the focus of this paper, the implications of this narrative should not be overlooked. Ibid.

<sup>109</sup> Heiko Sievers, “Prefatory Remarks”, in Satish Saberwal and Heiko Sievers, *Rules, Laws, Constitutions* (Sage Publications Pvt. Ltd, 1998).

<sup>110</sup> Ibid.

<sup>111</sup> Ibid.

countries.”<sup>112</sup> This process of projection has a homogenizing effect on manners of evaluating the rule of law, as what is meant by each of these institutions in one country may differ greatly in another.<sup>113</sup> Additionally, “even supposing that we could transplant these essential institutions to developed and developing countries, the performance of these institutions will look quite different.”<sup>114</sup>

Examination of the publications Western rule-of-law organizations produce confirms a replication of the mimetic structures present at Liberia’s foundation. As one organization wrote, “Rebuilding Liberia is like transforming a large block of wood into a sturdy table. Although the raw material is rich, each of the four legs must be solid and stable or the entire table will collapse. In Liberia, the four legs are good elections, economic governance reform, a restructured military and justice reform.”<sup>115</sup> Statements such as these seem to imply that the agency, and expertise, for development comes from outside, as well as exhibiting a certain faith in a traditionally Western paradigm of development (and an assumption that Liberians will, eventually, develop a similar faith). On the other hand, this is not to say that all of the organizations are not self-aware of this fact, or that they are not open to alternative means of developing the rule of law, and even to alternative definitions of that concept. For instance, there are signs that some organizations are beginning to accept that the customary law system in Liberia may have a more important role in the development of the rule of law than previously thought. One such organization recently noted that

[T]he development community has often viewed formal statutory systems as logical entry points for justice reform, with the idea that ordinary citizens will prefer them, if they function adequately, to customary justice forums. This may be short-sighted...The Liberian state has historically been a predatory one

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<sup>112</sup> Rodriguez, McCubbins, and Weingast, “THE RULE OF LAW UNPLUGGED.”, at 1479.

<sup>113</sup> Ibid.

<sup>114</sup> Ibid.

<sup>115</sup> International Crisis Group, “Liberia: Resurrecting the Justice System.”

that has tried to co-opt traditional systems in order to strengthen its own power, resulting in skepticism regarding the state and its institutions...although the statutory system's inaccessibility and impenetrability partially accounts for rural citizens' hesitant reception of the U.S.-derived formal system, there may also be aspects of customary law that are simply more appealing to many.<sup>116</sup>

Leaving aside the slightly patronizing tone of customary law's being simply more "appealing"—those customs and traditions, after all, are imbedded in Liberian culture—statements such as these evince a slowly-developing openness to alternative models of rule of law development that involve Liberian voices. Still, many rule of law organizations continue their work with an uncritical stance toward the theoretical foundations of that work, often with disastrous results. As one observer surmised,

Participatory method tends to be only weakly informed by social theory, and practitioners devote insufficient attention to building empirical understanding of how local social institutions actually function. This was well captured in one story...about a community in which there were two chiefs, one of whom dealt with outsiders but had little influence over actual decision making, and a second more shadowy figure who seemed to control the real decisions. This is an especially typical circumstance for rural Liberian cultures, where social action is regulated by a language of secrecy and a politics of ambiguity.<sup>117</sup>

What's more, as the roots of the civil war can be understood as lying in the internally-mediated dynamic of mimetic desire—a structure embedded within the official legal system itself—the system self-evidently failed to achieve what, according to Girard, is the hidden purpose of a judicial system in the first place: the prevention of social violence. Even aside from replicating Western attitudes about Liberia, Western rule-of-law organizations seeking to establish an American model of the "rule of law" are inadvertently rebuilding the very structures that, from a Liberian perspective, precipitated the civil war.

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<sup>116</sup> Ibid.

<sup>117</sup> Paul Richards, Steven Archibald and Beverlee Bruce and Watta Modad and Tornorlah Varpilah and James Vincent, "Community Cohesion in Liberia: A Post-War Rapid Social Assessment."

Thus, the externally-mediated mimetic structures present at the foundation of the American system of government were replicated as internally-mediated structures in society itself, a process that was then mirrored in the establishment of the Republic of Liberia and which led to the civil war. Given this history, it is no surprise that indigenous Liberians are skeptical of the efficacy of the official legal system. In order to achieve success in the development of the rule of law in Liberia, it is imperative that this structure of internally-mediated mimetic desire be avoided—a difficult task, given that those internally-mediated structures are embedded within the externally-mediated models of the system on which the Liberian system is based.

Viewed this way, the strength of the old man's critique in *Little Wlebo* becomes clear: the American-based official judicial system cannot be trusted because it has failed on two counts. First, it created an internally-mediated structure that laid the foundation for the social conflict that ultimately led to the civil war. Second, the fact that the judicial system could not then mediate the social tension that it itself had caused invalidated it as an externally-mediated model. These failings are likely not experienced consciously, but the old man's focus on the symbolic failings of the judicial system—the critique that it does not contemplate his experience of the moral universe—suggests an intuitive distrust that the judicial system can succeed in preventing social violence. Thus, he maintains a hold on a traditional method of alleviating social tension that, whatever its shortcomings, at least does not have the failings he perceives the official judicial system to have.

### III. Sasswood and the Contagion of Violence

The preceding analysis of the structures of mimetic desire present in the history of Liberian rule-of-law assist in understanding part of what may be underlying the old man's response to my friend Michael, but does not give us the whole picture—including insight into the efficacy (limited though it may be) of Michael's argument. In order to complement this account, what is needed is a phenomenological analysis of the role sasswood plays in indigenous Liberian culture, which will provide insight into both the tenacity of the sasswood ordeal and into Michael's argument regarding it. This part aims to fill out this picture through an application of the work of Rene Girard and Paul Ricoeur. It will first show how this same structure of mimetic desire may be present in the sasswood ritual itself, arguing that once the role of sasswood in protecting social order is fully understood, the problem of resistance to its rejection—especially arising from outside pressure—becomes clearer. It will then show that the experience of fault apparently present through the sasswood ordeal suggests that the development of a new system amounts to a kind of cultural crisis—one that can only be mediated by those within the culture themselves, an example of which can be seen in Michael's argument with regard to a temporal cosmological divide. Hopefully, this part will suggest a phenomenological reading of sasswood that might assist development theorists in the West to begin to identify some potential problems and misunderstandings in the interaction between the traditional Liberian sasswood ritual and the current Liberian judiciary, and in identifying those misunderstandings, hopefully begin to formulate new ways forward.

Girard's seminal work, *Violence and the Sacred*, purports to identify the origins of religion in a physical experience common to all humans: violence. Girard offers a profound

thesis: it is violence, and the fear of that violence, that is the primeval source of dread in human culture, and thus the a priori cause of humanity's attempts to quell that dread: religion. Some of the sources from which he draws this conclusion are the same as Ricoeur's, particularly Greek and Hebrew mythology. However, he also relies on ethnographic research in a number of nonWestern cultures, drawing on cultures as diverse as the Nuer of the Upper Nile, ancient China, and the Chukchi people of northeastern Russia, among others. His aim is to offer "a series of hypotheses concerning the generation and stabilization of cultural order in 'primitive' societies—and, indeed, in communities more generally."<sup>118</sup> Girard's argument is universalizing, and may be considered problematic on that account; however, this paper does not argue that Girard provides an accurate *explanation* (*eklarern*) of the structure of sasswood, but only that his analysis is a useful understanding (*verstehen*) of it for Western development workers. The mechanism he identifies as the source of social stabilization, and its applicability to the sasswood ordeal in Liberia, will be the subject of the first section.

Girard's analysis points toward an experience of violence as a "contagion", threatening the stability of a society as much as decimation by plague. Ricoeur's phenomenology of evil, outlined in his seminal work *The Symbolism of Evil*,<sup>119</sup> provides insight in to how this fear of contagion is experienced by providing a phenomenology of *fault*—that is, the definition, development, and experience of evil within a religious context. In the Liberian rule of law context, such an understanding is vital, because central to the conflict between the sasswood ordeal and the Western-style judicial system is the question of fault, and how it is determined. While his analysis is limited (as he acknowledges) to a

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<sup>118</sup> Ricoeur, *The Symbolism of Evil*, 7.

<sup>119</sup> *Ibid.*

Western religious context, the principles he identifies have some uncanny parallels in accounts of the sasswood ordeal, and so might provide at least some point of departure for further analysis. Thus, an important caveat is warranted: as Ricoeur states, his orientation in a Western culture means that any analysis applied to non-Western cultures must be limited; as he says, “neither the history of religions nor philosophy can be a concrete universal capable of embracing all human experience.”<sup>120</sup> Still, as with Girard, the purpose here is not to offer a totalizing explanation of the Liberian experience of sasswood, but only to provide a means for understanding.

#### A. Girard and Sasswood as Sacrifice

This section will provide an overview of Girard’s theory of sacrifice and the “scapegoat mechanism” by which the social tension that is the inevitable product of internally-mediated mimetic desire is re-directed onto a victim without fear of reprisal. It will then analyze ethnographic accounts of the sasswood ritual, including descriptions given to this author, to show that the structure of sacrifice described by Girard can be seen in that ritual. As already stated, the purpose here is not to claim the ability to explain away a complex social structure—such a project is impossible, certainly for someone not a part of that culture. However, Girard’s analysis can provide insight into how Western development workers may understand that social structure, insight that may be helpful in working with Liberians to design newer, more effective capacity-building strategies.

##### *i. Sacrifice, The Sacrificial Crisis, and the Scapegoat Mechanism*

Girard begins *Violence and the Sacred* by pointing out that the physiology of violence “varies little from one individual to another, even from one culture to another.”<sup>121</sup> Violence

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<sup>120</sup> Ibid.

<sup>121</sup> Girard, *Violence and the Sacred*.

is characterized by both “blind brutality” and a certain “fundamental absurdity”; while it is easy to provoke, it is difficult to assuage, and once aroused, seeks an outlet.<sup>122</sup> Violence is also imitated and reciprocal; an act of violence spurs, demands, further acts of violence; retribution, revenge, and the original violence are thus inseparable. Underlying his analysis is his concept of mimetic desire, a socio-psychological phenomenon whereby desire, identity, and community are created and perpetuated by imitation.<sup>123</sup> “Pointing to the obvious centrality of imitative behavior in human social and cognitive development, Girard makes the (fairly uncontentious) point that, without the ability to copy the behavior and speech of others—what he calls a ‘mimesis of apprenticeship’—human socialization, our capacity to inhabit a culture, would be impossible.”<sup>124</sup> Girard identifies mimetic desire, particularly internally-mediated mimetic desire, as the basis of interpersonal conflict—as two subjects desire the same object, assuming that object cannot be shared, they will compete over it, and that competition will ultimately involve violence.<sup>125</sup>

This observation (for which he relies on “fieldwork and subsequent theoretical speculation”) leads him “back” to the hypothesis that substitution is the basis of sacrifice<sup>126</sup>—substitution gives violence “something it can sink its teeth into”, allowing the original object singled out for violence to fade from view.<sup>127</sup> However, this substitution requires that the original object not disappear completely; it must remain at least long enough for the act of transference to have efficacy.<sup>128</sup> Still, for Girard the act of sacrifice is ultimately about preventing or redirecting violence between two people or groups; the

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<sup>122</sup> Ibid.; see supra notes 15-30 and accompanying text.

<sup>123</sup> Ibid.; see supra notes 10-23 and accompanying text.

<sup>124</sup> Fleming, *Rene Girard*.

<sup>125</sup> Girard, *Violence and the Sacred*.

<sup>126</sup> Girard acknowledges, and then dismisses, the fact that this view has lost favor in much of social theory. Ibid. at 4.

<sup>127</sup> Ibid. at 5.

<sup>128</sup> Ibid. at 6.

theological “basis” for sacrifice comes afterward, as a means of obscuring this “true role of the sacrificial act”.<sup>129</sup> Thus, “it is the god who demands the victims...it is to appease his anger that the killings go on, that the victims multiply.”<sup>130</sup>

Girard is careful to point out that the “substitution” of sacrificial violence is not a one-to-one correlation (a life for a life).

The victim is not a substitute for some particularly endangered individual, nor is it offered up to some individual of particularly bloodthirsty temperament. Rather, it is a substitute for all members of the community, offered up by the members themselves. The sacrifice serves to protect the entire community from its own violence; it prompts the entire community to choose victims outside itself. The elements of dissention scattered throughout the community are drawn to the person of the sacrificial victim and eliminated, at least temporarily, by its sacrifice.<sup>131</sup>

Girard argues that the “outside” victims must maintain a “sharp resemblance” to those for whom the victim substitutes, “while still maintaining a degree of difference that forbids all possible confusion.”<sup>132</sup> Thus, those at the fringes of society are particularly vulnerable: prisoners of war, slaves, *pharmakos*, and so on—people whose rights are almost nonexistent, who are not fully integrated into the community.<sup>133</sup> Kings, too, are vulnerable to such sacrifice.<sup>134</sup> The point of selecting such individuals, Girard writes, is that because they are outside of the community, they can be exposed to violence without fear of reprisal.<sup>135</sup>

Girard then draws a connection between this “primitive” purpose of sacrifice and our own judicial system, which he argues is also fundamentally a means of preventing reciprocal

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<sup>129</sup> Ibid.

<sup>130</sup> Ibid. at 7.

<sup>131</sup> Ibid. at 8.

<sup>132</sup> Ibid. at 12.

<sup>133</sup> Ibid. “Pharmakos” refer to the population of individuals kept on hand in ancient Athens, should the need for a sacrifice occur.

<sup>134</sup> Ibid. Girard points out that the King, despite his privileged status, is also “outside” the community: “But it sometimes happens that the king himself is sacrificed, and that (among certain African societies) in a thoroughly regulated and highly ritualistic manner.” Id.

<sup>135</sup> Ibid. at 13.

vendettas and mimetic vengeance.<sup>136</sup> Girard argues that Western judicial systems serve to deflect the menace of vengeance, not by suppressing it, but by focusing it on a single act of reprisal “enacted by a sovereign authority specializing in this particular function.”<sup>137</sup> The fundamental problem, in societies both with and without a formal judicial structure, is the prevention of escalating violence; thus, both “primitive” religion and the judiciary tame, train, arm, and direct “violent impulses as a defensive force against those forms of violence that society regards as inadmissible.”<sup>138</sup> Between these poles, Girard writes, is another stage, in which vengeance is harnessed by compensatory measures, trials by combat, and so on; while he does not mention “trials by ordeal”, these procedures would certainly fall under this category.<sup>139</sup> While these might be viewed as “fumbling efforts to improvise a judicial system” by Western eyes, they in fact serve the same function as the judiciary—the quelling of violence.<sup>140</sup> If Western judicial systems are more effective at doing so, it is not because of their relative demystification, but because they are actually more mysterious—their purpose is more radically concealed, and enforced by more potent constraining power.<sup>141</sup>

Thus, ritual violence—whether sacrificial, ordeal, or judicial—serves to prevent, redirect, or ameliorate interpersonal violence; the act of sacrifice by the community serves to reinforce the community, at the same time as it protects the community from itself.<sup>142</sup> But how is this process experienced? Here, a connection between Girard and Ricoeur becomes evident: violence is *contagious*.<sup>143</sup> Girard argues that all forms of “violence”—whether

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<sup>136</sup> Ibid. at 15. See also notes

<sup>137</sup> Ibid.

<sup>138</sup> Ibid. at 20.

<sup>139</sup> Ibid. at 20-21.

<sup>140</sup> Ibid. at 21.

<sup>141</sup> Ibid.

<sup>142</sup> Ibid.

<sup>143</sup> Ibid. at 28.

originating in human beings or microbes—have undeniable similarities.<sup>144</sup> As Girard states, “the essential religious concern here is ritual purity. And the cause of ritual impurity is violence.”<sup>145</sup> The spilling of blood renders a person impure, and unchecked, that impurity will spread, contaminating all others in the community.<sup>146</sup> Girard thus identifies the central paradox of the sacrificial ritual:

How can one cleanse the infected members of all trace of pollution? Does there exist some miraculous substance potent enough not only to resist infection but also to purify, if need be, the contaminated blood? Only blood itself, whose purity has been guaranteed by the performance of appropriate rites—the blood, in short, of sacrificial victims—can accomplish this feat.<sup>147</sup>

Thus, just as Ricoeur’s murderer is deemed “defiled” through language and symbol<sup>148</sup>, so too is the sacrificial victim deemed “sacred”, and for fundamentally the same reason: to protect the community from the spread of violence. For Girard, the sacrificial ritual serves as both antiseptic and palliative for the disease of violence—“[t]he function of ritual is to ‘purify’ violence; that is, to ‘trick’ violence into expending itself on victims whose death will provoke no reprisals.”<sup>149</sup>

Two other concepts of Girard’s are important for the analysis of the sasswood ritual, both related to the above structure of sacrifice and rooted in mimetic desire: ‘monstrous doubling’ and the “scapegoat mechanism”. For Girard, mimetic antagonists—locked in the self-perpetuating cycle of desire and competition—eventually come to mirror one another; “as rivalry and combativeness between individuals intensifies, characteristics that had previously distinguished them begin to dissolve—the antagonists become ‘doubles’ of one

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<sup>144</sup> Ibid. at 32. This analysis suggests a connection with Ricoeur’s intermingling of the “ethical” and the “physical” worlds, which will be further developed in the next section. See *infra* notes 176 to 183 and accompanying text.

<sup>145</sup> Ibid.

<sup>146</sup> Ibid.

<sup>147</sup> Ibid. at 36.

<sup>148</sup> See *infra* notes 189 to 193 and accompanying text.

<sup>149</sup> Ibid. at 36.

another.”<sup>150</sup> Conflict both produces and depends upon the symmetry of this “monstrous doubling”, and continues on until differences have been effaced completely—at which point the antagonists resemble one another so completely that they have effectively become one and the same.<sup>151</sup> This “double bind” is a societal threat; deeply contagious, it threatens to erode all systems of social order, even corroding culture itself.<sup>152</sup>

How, then, does culture survive? Not by the introduction of some external process, or some internal biological limit, but by the intensification and polarization of mimetic violence itself. At the very point at which society threatens to break down, the violence will converge upon a mutually-agreed adversary, a “surrogate victim”, and focus all of its energies thereon.<sup>153</sup> As Girard writes, “the crisis is seen as a mysterious illness introduced into the community by an outsider. The cure lies in ridding the community of the sole malignant element...The cure must depend on the identification and expulsion of the individual whose presence pollutes the community. In other terms, everybody must agree on the selection of the guilty individual.”<sup>154</sup> Thus, the surrogate victim mechanism serves as a brake, an “automatic control that goes into effect before everything is destroyed.”<sup>155</sup> Indeed, Girard claims even more: that the violence directed at the surrogate victim “might well be radically generative in that, by putting an end to the vicious and destructive cycle of violence, it simultaneously initiates another constructive cycle, that of the sacrificial rite—which protects the community from that same violence and allows culture to flourish.”<sup>156</sup>

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<sup>150</sup> Chris Fleming, *Rene Girard: Violence and Mimesis*, at 42.

<sup>151</sup> *Ibid.*

<sup>152</sup> *Ibid.*

<sup>153</sup> *Ibid.*

<sup>154</sup> Rene Girard, *Violence and the Sacred*, at 83.

<sup>155</sup> *Ibid.* at 67.

<sup>156</sup> *Ibid.* at 93.

Inevitably, however, the efficacy of this system begins to slip, a process that threatens to undermine the entire cosmological structure. Often, this occurs because the victim and community are either too similar, or too dissimilar; regardless, the result is that “the elimination of violence is no longer effected; on the contrary, conflicts within the community multiply, and the menace of chain reactions looms ever larger.”<sup>157</sup> This “sacrificial crisis”—the disappearance of the sacrificial rites—“coincides with the disappearance of the difference between impure violence and purifying violence. When this difference has been effaced, purification is no longer possible and impure, contagious, reciprocal violence spreads throughout the community.”<sup>158</sup> Once the distinction between pure and impure violence is effaced, all other cultural distinctions vanish as well—“institutions lose their vitality; the protective façade of the society gives way; social values are rapidly eroded, and the whole cultural structure seems on the verge of collapse.”<sup>159</sup> Inevitably, the breakdown of the sacrificial system “seems to result in the emergence of reciprocal violence. Neighbors who had previously discharged their mutual aggressions on a third party, joining together in the sacrifice of an ‘outside’ victim, now turn to sacrificing one another.”<sup>160</sup>

*ii. Sassafras as Scapegoat Mechanism?*

To what extent does the sassafras ordeal fit Girard’s analysis? The following ethnographic account might be instructive:

The missionaries tell of rumors that an ordeal is impending; counter-accusations in a feud-like sequence of revenge which was openly interpreted as part of political conflict, and then a longish time during which those accused first drank a quantity of the poison liquid and then are driven around by a man with a stick until they either fall or vomit. Even if they survived at

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<sup>157</sup> Girard, *Violence and the Sacred*. At 39.

<sup>158</sup> *Ibid.* at 49.

<sup>159</sup> *Ibid.*

<sup>160</sup> *Ibid.*

first, victims sometimes died days later. The innocents displayed themselves in the ways I had observed.<sup>161</sup>

Another ethnographer writes, “once it is known that a person has a witch his life is made miserable until he either gets rid of it or is killed by it or by his fellows. All misfortune, sickness, and death occurring in his town are laid to him.”<sup>162</sup> Taken together, both of these accounts seem uncannily to match Girard’s analysis: an escalating cycle of violence and accusations (interestingly, this is “openly interpreted” as political conflict) continues, with the various sides increasingly imitating and resembling the other, until the community settles on an individual who is identified as the cause of all the conflict; once identified, that person is effectively an outsider. It seems at the very least plausible that the origins of these accusations lie in some psychosocial structure of mimesis.

However, the ordeal itself is obviously not a sacrifice *per se*; at least, not in the way Girard describes. It seems more accurately to fit the description of the “compensatory measures” that Girard identifies as lying between a purely sacrificial scheme and a judiciary—and certainly, anecdotal descriptions of the “traditional law” of indigenous Liberia match Girard’s expectation that Westerners will view such procedures as “fumbling” attempts to create a legal system.<sup>163</sup> Girard’s intuition that the focus of these events is not on the actual guilt or innocence of the accused, but on the threatened violence by the victims, also seems accurate. The “substitutionary” aspect of the ordeal likewise seems appropriate; there is no single endangered individual, nor is there a bloodthirsty villain, but the community seems to identify from among itself someone to undergo the ordeal, which in its administration eliminates the communal dissension that is escalating beforehand.

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<sup>161</sup> Tonkin, “Autonomous Judges: African Ordeals as Dramas of Power.” at 370.

<sup>162</sup> Schwab, *Tribes of the Liberian hinterland*. at 333.

<sup>163</sup> In my experience especially, the treatment of the sasswood ordeal as “quasi-judicial” by development practitioners is common.

The identification of a person to undergo the ordeal from within the community likewise satisfies one of Girard's most essential requirements: that the "outside" victim maintain a "sharp resemblance" to those for whom he substitutes. In fact, here the sasswood ordeal seems a superb example: the person is not even identified as "outside" until after they have ingested the sasswood; the appearance of similarity is therefore almost perfect, and it is the ritual itself that determines, even as it eliminates, difference. To be sure, those on the margins are often selected for the ordeal: "some who were accused seemed weak and vulnerable, while others held positions in local government and were categorized as 'civilized' in an over-arching administration...I also heard about alleged ritual murders for which elderly men and women were seized as subjects so that they could be subjected to ordeal."<sup>164</sup> However, what is fascinating from a Girardian perspective is the manner in which their "outsider-ness" may be accused, but is not determined until after the adjudication—and that the manner of divination and the expiation are coextensive.

Thus, whether or not Girard's universal thesis is correct, the sasswood ordeal (at least as sometimes experienced) does seem to exemplify some features of the "sacrifice," particularly including the escalation of accusatory mimesis and a final expulsion of violence onto one individual. His analysis is therefore deserving of some further consideration in the context of rule of law programs generally, and especially those interacting with a phenomenon such as sasswood. Understanding the sasswood ritual in this way shows that the resilience of the ritual is directly related to its role in maintaining social order. The questions

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<sup>164</sup> Tonkin, "Autonomous Judges: African Ordeals as Dramas of Power." at 369. The Liberian distinction between "civilized" and "uncivilized" is a classic insider/outsider dyad: those who are descended from African American settlers on the coast, and who maintain aspects of Western culture, were historically called "civilized", while the indigenous Liberians living in the "hinterlands" were called "uncivilized." The identification of "civilized" persons to undergo ordeal by members of a traditional society is consistent with selecting an "outsider", as many view "civilized" Liberians to have rejected traditional culture.

raised by human rights activists regarding the “guilt” or “innocence” of the “victim” are ultimately missing the point of the ordeal: it is not really meant to determine guilt, but to quell social violence by the *placement* of guilt. The fact that the source of the adjudication is cosmic—the power of the sasswood to locate the *we*—only confirms its purpose: Girard writes that societies “can dispose of their violence more efficiently if they regard the process not as something emanating from within themselves, but as a necessity imposed from without, a divine decree whose least infraction calls down terrible punishment.”<sup>165</sup> In this analysis, the terrible defilement of violence is expunged and prevented by a symbolic, imitative act of ritual purification; the social and cosmic order are thereby protected.

Girard’s suggestion that such a structure is necessary in a place without a functioning state also deserves some consideration in the context of Liberia. As described, Liberia’s state mechanisms are, despite the diligent work of the international community and local practitioners, still largely dysfunctional; the “rule of law” in many areas is essentially meaningless, and even where it does exist, corruption is rampant. Girard’s analysis suggests that part of the reason for the resistance of many people to move towards the centralized system has to do with the lack of faith that the official system can or will quell social violence—a suggestion that may be expressed in the common fears that the judicial system cannot effectively adjudicate witchcraft. In other words, the deeper fear here might not be of witchcraft, but of social violence run rampant.

Finally, Girard’s concept of the “contagion” of violence, as applied to the sasswood ritual, does seem to expose at least part of the underlying mechanism of sasswood, as well as pointing toward some understanding of the experience of it among Liberians. Girard’s more mechanical analysis of the purpose and function of the sasswood ritual provides a useful

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<sup>165</sup>Girard, *Violence and the Sacred*, at 14.

complement to Ricoeur's more theoretical attempt to understand the ordeal's symbolic experience, which will be explained further in the following section. One of the implications of the connection be to show the value of understanding sasswood as a symbolic structure, for if Ricoeur is correct in his assertion that the primordial symbols of our culture do not become irrelevant, but adapt—and if Girard is correct that the development of a judiciary involves not just the building of structures, but an understanding of the deeper connection between sacrificial ritual and a judicial system—then it may be that the only way to develop a judicial system in Liberia is to work towards the incorporation of specifically Liberian symbolic language into the Liberian legal framework.

Thus, Girard has shown us that a ritual like sasswood arises when a fear of contagious violence dominates society, and that such rituals are experienced as preventative and curative of that epidemic. However, while Girard's analysis of the structure of such rituals is helpful, he does not provide a broadly sympathetic phenomenology of how this fear of contagion is experienced. Such an explanation is necessary in order to enable a deeper understanding of the experiential hold that the sasswood ritual has on practitioners. Paul Ricoeur's work on the experience of fault as defilement, stain, and most importantly, infection thus stands to offer a thickening of Girard's analysis that should prove useful in developing the phenomenological understanding of the sasswood ordeal.

#### B. Ricoeur and Sasswood as Ritual of Defilement

In *The Symbolism of Evil*, Ricoeur is concerned with the development and meaning of specifically Western symbols of evil; his subject is Western philosophy, a philosophy (like

all others) that is “situated” even as it claims universal intentions and pretensions.<sup>166</sup> Ricoeur himself acknowledges the culturally-circumscribed nature of this project in his introduction:

First there are symbols; I encounter them, I find them; they are like the innate ideas of the old philosophy. Why are they such? Why are they? This is cultural contingency, introduced into discourse. Moreover, I do not know them all; my field of investigation is oriented, and because it is oriented it is limited. By what is it oriented? Not only by my own situation in the universe of symbols, but, paradoxically, by the historical, geographical, cultural origin of the philosophical question itself.<sup>167</sup>

Still, Ricoeur notes that other cultures are not “excluded in principle” from his analysis, claiming only that relations of “‘proximity’ and ‘distance’” characterize any comparisons between Western (rooted in Greek and Hebrew) cultures and non-Western ones.<sup>168</sup> For Ricoeur, to the extent that ethology discovers “objective” (explanatory) likenesses between the texts<sup>169</sup> of Western culture and texts originating in civilizations not belonging to the Western cultural memory (he specifically lists the civilizations in Africa, Asia, and Australia), those likenesses are primarily useful in diagnosing “our own past, suppressed or buried in oblivion.”<sup>170</sup> By studying the texts of other cultures, Ricoeur suggests, we learn more about ourselves.

Thus, it is important to note that whether or not this phenomenology of sassafras “accurately” explains the ordeal, it does reveal how a Western development practitioner can understand that ritual. The danger here, of course, is appropriation of other cultures as mere tools of Western self-discovery. However, must the analysis really be so one-sided? If Ricoeur’s analysis of cultural semiotics can show similarities between the typological

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<sup>166</sup> Ricoeur, *The Symbolism of Evil*.

<sup>167</sup> Ibid.

<sup>168</sup> Ibid.

<sup>169</sup> Here the term “text” is used in a Ricoeurian sense, including discourses of “meaningful actions” as well as spoken and written language. See Yoshihisa Kashima, “Is Culture a Problem for Social Psychology?”, *Asian Journal of Social Psychology* (2005) 8: 19-38, at 25.

<sup>170</sup> Ibid. at 21.

frameworks of Western and other cultures, then it can potentially provide powerful tools for intercultural dialogue, as well as for “development” projects dependant on such a dialogue. Perhaps no development field provides a better test case for this hypothesis than the rule of law, in which it is vitally important that both Western and local practitioners understand the overlaps between their own culture and local cultural experiences, especially inasmuch as legal systems are inseparable from cultural frames. In the Liberian context particularly, the development of the “rule of law” means a tectonic interaction between a particular Western (Anglo-American common law) and non-Western symbolic system, in which it is incumbent upon practitioners not only to explain and understand the cultural semiotics inherent to the Western legal tradition, but also to understand those of the indigenous Liberians.

*i. Ricoeur and The Experience of Fault*

Ricoeur begins the *Symbolism of Evil* by describing the primordial phenomenon of defilement,<sup>171</sup> which as he writes is “in the background of all our feelings and all our behavior relating to fault.”<sup>172</sup> Ricoeur postulates that this sense of defilement is a foundational aspect of the Western mythical/religious experience, and argues that it contains two traits, one “objective” and one “subjective.” Objectively (that is, externally), defilement is perceived as a quasi-material substance that literally “infects” or “stains”.<sup>173</sup> Subjectively (or internally), defilement contains (or is experienced) as a particular form of terror, termed “dread” by Ricoeur, which can best be described as a sense of both ethical and physical danger. The two traits, objective and subjective, are inseparable; it is because of the sense of “dread” that a person seeks to avoid the “infection” of defilement, infection imbues the

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<sup>171</sup> This overview owes much to an unpublished document by Charles Hackett, entitled “Paul Ricoeur and the Phenomenology of Guilt”, 1994 (on file with author).

<sup>172</sup> Ricoeur, *The Symbolism of Evil*.

<sup>173</sup> *Ibid.* at 28.

infected with dread, and so on. Furthermore, dread is synthesized with vengeance, or a sense of divine punishment; in other words, the “ethical” and the “physical” are interwoven: “[e]thics is mingled with the physics of suffering, while suffering is surcharged with ethical meanings.”<sup>174</sup> In this scheme, all sufferings become symptoms—as fault, originating in someone, leads inexorably to suffering, so all suffering must come from fault.<sup>175</sup> Defilement is both the state of having committed a fault, and the vengeance for that action. According to Ricoeur, modern Westerners cannot fully comprehend this sense of defilement any more, with its dual sense of quasi-physical infection and moral unworthiness, except as a historical stage in the representation of evil in Western culture.<sup>176</sup>

It must be noted that in this context, fault seems to be understood as a contamination of the entire community.<sup>177</sup> Its explanatory power is rooted in this particularly communitarian understanding of the human person; faults are those things that place the entire community at risk—including the risk of a loss of communal identity.<sup>178</sup> It is through understanding the specifically communal nature of defilement that one can approach an understanding of something external that infects and yet also imbues with moral unworthiness: the infection places the community in danger. Furthermore, this structure of fault and suffering is bound within a particular cosmic structure, one with a deep and powerful rationalization: If you suffer, if you are ill, if you die, it is because *someone* has sinned.<sup>179</sup> This structure serves to protect the cosmic order as a whole: “if it is true that man suffers because he is impure, then

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<sup>174</sup> Ibid. at 31.

<sup>175</sup> Ibid.

<sup>176</sup> Ibid. at 33. This is not to suggest that Western society has “advanced” beyond other societies, but merely to note that the experience of this phenomenon in the West has changed over time.

<sup>177</sup> See Hackett, “Ricoeur and the Phenomenology of Guilt:” “This is primarily a community experience and belongs, in its essence, to a form of human organization in which there is almost no sense of the individual...To the extent that the individual has a sense of identity it is as a functioning member of the community.”

<sup>178</sup> Ricoeur, *The Symbolism of Evil*.

<sup>179</sup> Ibid. at 31

God is innocent.”<sup>180</sup> In this understanding suffering and punishment are interwoven; interdictions and taboos thus include within themselves “the shadow of the vengeance which is will be paid if [they are] to be violated,”<sup>181</sup> and contain both communal and cosmic potency.

This structure of rationalization is incredibly strong; According to Ricoeur, when this structure begins to break down, a society will undergo its first cosmological crisis—that is, the dissociation of the ethical world of sin from the physical world of suffering.<sup>182</sup> When this happens, wrongs and sufferings become decoupled from human intention; thus evil is radicalized and scandalized, making it inexplicable—now it is possible to conceive of the paradoxical figure of the just person suffering.<sup>183</sup> This development allows for a profound abstraction of the ethical world, to include, in Ricoeur’s words, “the fear of not loving enough.” However, the ability to do so means that suffering and evil are no longer able to fit neatly together in a causal relationship. “Hence it is in the era before this crisis of the first rationalization, before the dissociation of misfortune (suffering, disease, death, failure) and fault that the dread of the impure deploys its anxieties: the prevention of defilement takes upon itself all fears and all sorrows.”<sup>184</sup>

However, this crisis is not the end of the story for Ricoeur. Ricoeur is especially concerned with the way in which this language of defilement—including the “objective” and “subjective” traits of stain and dread—manages to survive this cosmological crisis and re-emerge as a powerful symbol—in fact, the basis of an entire imaginative “matrix of meaning”—in an entirely new context. Beginning with the objective experience of

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<sup>180</sup> Ibid. at 32.

<sup>181</sup> Ibid. at 33.

<sup>182</sup> Ibid.

<sup>183</sup> Ibid.

<sup>184</sup> Ibid.

defilement as stain, Ricoeur notes that both Greek and Hebrew texts demonstrate this survival, which he finds puzzling—at least, if defilement is considered merely to be an archaic system of beliefs without contemporary relevance.<sup>185</sup> He concludes that, in order to make this transposition, defilement must have always had the power of a symbol.<sup>186</sup> The truth of this is evident in the rites of ablution and purification that have long been employed to cleanse defilement; the fact that the rite is “a partial and fictive act” means that it is not merely a literal cleansing, but an act “which stands for a total action addressed to the person taken as an undivided whole.”<sup>187</sup> Furthermore, by expressing the acts or gestures of the rite in language, the symbolic nature of the acts themselves is communicated: it is through language that the opposition of “pure” and “impure” is therefore established, and thus the “impure” enters the symbolic universe of Western culture.<sup>188</sup> The expression of the ritual through language is therefore a creative process, whereby the meaning of the symbol is generated; it is also the source of the symbol’s resilience.<sup>189</sup>

The manner in which this process takes place becomes evident when Ricoeur examines the case of the murderer as one “defiled”. In a passage with profound connections with Girard’s work in *Violence and the Sacred*, Ricoeur writes that the murderer, stained with blood, is perhaps the foundation for the literal interpretation of defilement in the West.<sup>190</sup> However, the case of the murderer is also evidence of the symbolic nature of the stain; the “defilement that comes from spilt blood cannot be removed by washing,” even as

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<sup>185</sup> Ibid. at 34.

<sup>186</sup> Ibid. at 35.

<sup>187</sup> Ibid.

<sup>188</sup> Ibid.

<sup>189</sup> Ibid. Thus, For Ricoeur, the enduring power of the symbol of defilement, even after the decoupling of the ethical and physical worlds in Western culture—indeed, its foundational role in the development of Western Culture as a whole—demonstrates that defilement is more than an artifact of a bygone era, but a “matrix of meaning” with an “unlimited potentiality for symbolization and transposition”. The meaning of the symbol might mutate, but the symbol remains in a form related to its prior meaning.

<sup>190</sup> Ibid.; see *supra* notes 141-147 and accompanying text.

“the maleficent power of which the murderer is the bearer” is not some absolute state of being, but something defined in reference to the community through the language of defilement.<sup>191</sup> In other words, it is through language that the murderer is *identified* as defiled: “a murderer is defiled in the sight of certain men, in the language of certain men...only he is defiled who is regarded as defiled.”<sup>192</sup> In the Greek context, therefore, a murderer could be both “voluntary” or “involuntary”—but even the “involuntary” murderer is subject to interdictions that annul his defilement, which have their origin in the rites of purification or cleansing of a stain; the resilience of the language, and symbolism, of defilement is what demands his exile, because the community must be purified of his infection. Thus, “the exile is not simple excluded from a material area of contact; he is chased out of a human environment measured off by the law.”<sup>193</sup> For Ricoeur, it is this element of human relationship that is paramount—thus, “it is always in the sight of other people who excite the feeling of shame and under the influence of the word which says what is pure and impure that a stain is defilement.”<sup>194</sup>

Finally, although described as a subjective feeling, dread is a symbol—its expression in language, as a *confession*, is likewise the means by which it enters the universe of meaning.<sup>195</sup> Confession works similarly to the rite of ablution: it is a spitting out, a burying, a banishment.<sup>196</sup> However, because the ejection in this case is verbal, comprised of both a cry and an avowal, it contains both a physical aim (the release of the dread in verbal form) and an ethical aim; it is the latter that is paramount.<sup>197</sup> Ricoeur identifies three degrees of

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<sup>191</sup> Ibid.

<sup>192</sup> Ibid.

<sup>193</sup> Ibid. at 40.

<sup>194</sup> Ibid.

<sup>195</sup> Ibid.

<sup>196</sup> Ibid.

<sup>197</sup> Ibid.

that ethical aim.<sup>198</sup> First is a demand for a just punishment. This demand is implicit in the logic of defilement: “if a man is punished *because* he sins, he *ought to be* punished *as* he sins.”<sup>199</sup> Second is an expectation: that the punishment will be just, and that thereby justice itself, and order, will be restored (even if that restoration demands the annihilation of the confessor).<sup>200</sup> Ultimately, the expectation that order will be restored through the punitive act involves a hope that fear will finally be conquered—a hope that may be impossible to realize, except in an eschatological sense, but which is nonetheless indicative of the future sublimation of dread in human consciousness.

*ii. Defilement and the Sasswood Ordeal*

The overview of Ricoeur’s theory of defilement just presented is rooted in Western culture and history; nevertheless a number of correlations and overlaps between this theory and the descriptions of the sasswood ordeal as described to me and as reported by ethnologists are almost immediately apparent. The presence of Ricoeur’s “objective” trait of defilement is the first and most obvious correlation. As noted, Ricoeur describes this trait as a “quasi-material” substance, perceived as symbolically infecting or staining an individual or community. In fact, this quasi-physical character seems consistent with descriptions of southeastern Liberian witchcraft, as provided to ethnologists. As commonly understood, “*we*” is apparently something, analogous to a spirit, with which a person is born: “An infant can be born with a witch, but none can go into it later. Such an infant can humbug its parents and others even before it can creep. When it is left alone in the house, its witch helps it stand up, walk around, eat food, and do mischief.”<sup>201</sup> Historically, children recognized as

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<sup>198</sup> Ibid. at 42.

<sup>199</sup> Ibid.

<sup>200</sup> Ibid. at 43.

<sup>201</sup> Schwab, *Tribes of the Liberian hinterland*.

containing *we* at an early age were eventually charged of being a “witch person”; if they deny the charge, they were made to drink sasswood.<sup>202</sup> The essential point is that being a “witch person” (*wedio*) is a *quality*—similar to an inherent trait, but one defined in reference to the community through language (a fact evident in the interchangeability of the phrases “is a witch” and “has a witch”)—and therefore correlative to the concept of defilement as described by Ricoeur.<sup>203</sup> The quasi-physical nature of the substance is revealed (in much the same way as Ricoeur’s symbol of defilement is revealed through ablution) through the procedure of sasswood ordeal, which seems to consider *we* to be a substance which the sasswood potion can find:

The sasswood bark (*jlu*) was explained to me as having power to discover the *we*—witch, in Liberian English—in a *wedio*, a “witchcraft” (literally ‘eater of *we*’) who could be male or female. When sasswood is ingested, it runs through the body looking for *we*; if it does not find any, it will leave, excreted or vomited from the body. If it finds *we* it will stop, and the accused will “fall down”, and die.<sup>204</sup>

*We* is also directly tied to infection, illness, and death; as some ethnographers have noted, “causing illness and death seems to be its favorite pastime.”<sup>205</sup> Additionally, the language of being a “witch-eater”, or being “entered into” by a witch, appears consistent with the infection theme; a witch is spoken of as though it were a parasite infecting a “host.”<sup>206</sup> This theme is also closely linked with poisoning (which Ricoeur does not mention, but seems appropriately similar): “The term ‘witch’ (commonly, *wi*)...means, for one thing, a poison, or a medicine that by its magic has the same effect as a poison...thus, when it is said that a person ‘makes witch’ or ‘gets witch’, it may mean that he has and uses poisons or ‘poisonous

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<sup>202</sup> Ibid. at 335.

<sup>203</sup> Ibid. at 333.

<sup>204</sup> Tonkin, “Autonomous Judges: African Ordeals as Dramas of Power.”

<sup>205</sup> Ibid.

<sup>206</sup> Schwab, *Tribes of the Liberian Hinterland.*, 335.

medicines.”<sup>207</sup> This language of infection or poison is also linked to contagion: “during epidemics, such as the influenza, the Half-Grebo smear the blood of a sacrificed fowl or animal on the uprights of the door frame and the lintel, because these epidemics are believed to be due to a *we*.”<sup>208</sup>

It is much more difficult, if not impossible, to determine definitively whether the subjective sense of dread is also present in the Liberian experience of *we*. Still, there is some evidence. One ethnologist reports, “[a] constant dread of the decent, law-abiding tribesman is that some day the charge of witchcraft may be brought against him.”<sup>209</sup> On the other hand, it is possible that a person might be a witch and not know it, and be subject to vengeance: “if the ordeal should ‘catch’ such a person, he is convinced that he has been guilty in some mysterious way of which he was entirely unaware.”<sup>210</sup> It is plausible that this sense of one’s being ignorant of one’s “infection” by *we* might carry with it a fundamental questioning of one’s moral worth—one can never be too sure that one is not “entered into” by *we*.

More broadly, the ethnographic descriptions of Liberian cosmology involving *we* and the sasswood ordeal place those concepts within a cosmological frame that seems consistent with that of Ricoeur’s defilement scheme, particularly with regard to the intertwining of ethical and physical reality and the “rationalization” structure. “Accidents”, according to one ethnographer, do not exist in this cosmology; they are “really the effect of a ‘witch’ deliberately thrown in the individual’s direction by some other person.”<sup>211</sup> This includes accidental deaths by animal, such as a leopard; when a person dies by such means, it must be

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<sup>207</sup> Ibid. at 333. It thus also has close parallels to the typology of *pharmakon*, that is, “poison and antidote for poison”, described by Girard: “The *pharmakon* is thus a magic drug or volatile elixir, whose administration had best be left by ordinary men in the hands of those who enjoy special knowledge and exceptional powers—priests, magicians, shamans, doctors, and so on.” Girard, *Violence and the Sacred*.

<sup>208</sup> Schwab, *Tribes of the Liberian Hinterland*, 336.

<sup>209</sup> Ibid., 380.

<sup>210</sup> Ibid., 427.

<sup>211</sup> Ibid., 381.

because someone either sent or “went into” that animal.<sup>212</sup> The same can be said of sickness or death: “the severe illness or death of another person seems generally to be a climactic piece of evidence against an accused man or woman who might then choose, or feel compelled, to take sasswood.”<sup>213</sup> Thus, the cosmic order is protected: if one suffers, it is directly because of the actions of others—there is no radicalization of evil.

The sasswood ordeal itself seems particularly amenable to a Ricoeurian analysis. The ritual contains elements both of the rites of purification (for the innocent) and confession (for the guilty). Purification comes with exoneration: someone who takes sasswood and expels it without dying has proven themselves clean of *we*.<sup>214</sup> Such people display themselves publicly as exonerated.<sup>215</sup> On the other hand, the rite of sasswood also takes the form of confession: if a person is guilty, that guilt is confessed before the community, even as a “just” punishment (death) is meted out.<sup>216</sup> The process by which this happens follows the linguistic and symbolic scheme Ricoeur identifies: a person is accused of being a witch, a communally-defined state of being which threatens the entire community; the person is then held up to measure against a cosmic adjudicator, and if guilty, expelled (through death) from the community as impure. When this occurs, the body of the victim is treated as shameful and defiled. Among the Kru, it is said that “people who died of sasswood should be flung in the bush, as bad deaths.”<sup>217</sup> In my own experience with the Kru, I was told that the body of someone taken by sasswood would be left exposed on a special rock outcrop far out into the

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<sup>212</sup> Ibid., 428.

<sup>213</sup> Tonkin, “Autonomous Judges: African Ordeals as Dramas of Power.”, 370.

<sup>214</sup> Ibid., 368.

<sup>215</sup> Ibid., 368-370.

<sup>216</sup> Ibid. at 370.

<sup>217</sup> Ibid. at 368.

jungle.<sup>218</sup> Other means of disposing of such a defiled body include burning, being thrown into a deep pool in a “witch stream”, or simply left in a shallow grave for animals to dig up.<sup>219</sup>

Perhaps most importantly for a Ricoeurian symbolic analysis, the ritual itself mirrors the cosmological reality it both defines and legislates. From a Ricoeurian perspective, the rite may be described as thus: a poisonous, yet magical substance is ingested; the person is thus literally defiled, even as they are symbolically made impure by their imbibing. In this state, they literally and symbolically represent the state of infection by *we*. In the Liberian experience, the ingested sasswood then seeks to locate the stain or infection of *we*; if it does not, it then “leaves the body” by vomiting, literally expelling the poison even as it symbolically purifies the participant who “spits it out”; this process is like an ablution, a ritual purification. On the other hand, if the sasswood does find the “infection” of *we*, it “stops”; the person falls down, and dies. Sasswood has thus literally poisoned the person, but more importantly, it symbolically represents that the person is poisoned, poisonous—that is, defiled, impure. The defiled body is then cast out from the community, replaying the same casting out that happens at the individual level with the sasswood concoction. The entire ritual is a drama that replays the structure of defilement: the individual ingests; proves their purity by “casting out” the poison; or is poisoned, and cast out by the community.<sup>220</sup> Thus, “along with the dread of being stricken, annihilated, there is perception of the movement by

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<sup>218</sup> Conversation with Michael Worjlo, July 15, 2010. This means of burial, incidentally, was also reserved for chiefs. See also discussion of Girard and sacrifice, *supra*.

<sup>219</sup> Schwab, *Tribes of the Liberian hinterland*, at 428.

<sup>220</sup> This drama is similar to the drama experienced in medieval European ordeals. See Tonkin, “Autonomous Judges: African Ordeals as Dramas of Power.” at 378.

which order—whatever order it may be—is restored. That which has been established and which has now been destroyed is re-established. By negation, order reaffirms itself.”<sup>221</sup>

If this analysis rings true, then it has profound implications for projects seeking to establish “the rule of law” in Liberia. As this ritual both signifies and creates the social order of which it is a product, the elimination of such a ritual means undergoing the kind of crisis Ricoeur identifies in his work: the sundering of the ethical and physical realms and the radicalization of evil (by removing it from human intention). The appearance of the “victim” of sasswood, dead because of a “superstition” in Western eyes, is predicted by Ricoeur’s analysis: “the prevention of defilement takes upon itself all fears and all sorrows; man, before any direct accusation, is already secretly accused of the misfortunes in the world; wrongly accused—thus does man appear to us at the origins of his ethical experience.” It would appear that from within this perspective, however, the “victim” of sasswood is not “wrongly accused” at all—he is guilty, because a universe in which evil originates first with humanity has determined him guilty. Moving from the latter to the former is not a stripping of superstitions; it is a cosmological crisis.

#### **IV. Conclusion: A Dialogue in Mourning**

The Girardian and Ricoeurian readings of sasswood just presented overlap to provide a unique insight into the workings of the ordeal. The experience of the contagion of violence, described by Girard as the impetus for the development of sacrificial ritual, can be understood through the phenomenon of defilement (and corresponding dread) provided by Ricoeur; likewise, Ricoeur provides a reading of how that experience leads to the specific forms of the ritual itself (ingestion, ablution). Both interact and interweave to reveal an

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<sup>221</sup> Ricoeur, *The Symbolism of Evil*. at 43.

understanding of both the social function of the sasswood ritual and the symbolic experience of it.

These readings also provide a means of understanding the symbolic logic of Michael's lecture, which though apparently simple in fact exhibits a profoundly astute cultural move. Michael's division of time into a past in which sasswood "used to work" and a present in which the traditional ways have become "corrupted" aligns closely with a temporal divide that would be predicted by Ricoeur's analysis—the moment of the cosmological crisis, before which the ethical and the physical are indistinct and after which the two have become severed. His articulation of this moment, phrased in culturally significant language, provides for him a means for both the protection of the traditional belief (as historically valid) and a current acknowledgement of the introduction of "radical evil" into society. Deftly, his argument negotiates and mediates the Ricoeurian, cosmological crisis by arguing in effect that Liberian culture has already undergone the Girardian "sacrificial crisis" with regard to the sasswood ritual: it has now become impossible, because of the corruption of sasswood by the introduction of radical evil, to differentiate between "pure" and "impure" violence. Essentially, his argument mirrors that of the old man: for Michael, it is sasswood that has lost validity in contemporary Liberia, both symbolically and as a means of quelling social violence. Once the ritual is shown to be incapable of distinguishing between pure and impure violence, it has lost all efficacy as a provider of social stability. Michael's argument reveals his deep sense of the Girardian sacrificial crisis Liberia is undergoing and contextualizes it within Ricoeur's cosmological crisis, the synthesis of which provides for him a means of protecting the traditional belief while

advocating for the development of a new system able to engage with contemporary, post-crisis reality.

Again, this paper does not claim that these Ricoeurian and Girardian lenses provide the “final word” explaining what the sasswood ritual “means”; only that they provide a means for understanding, in a limited way, how the ritual is experienced by those who practice it. It is evident that using these lenses reveals significant correlations between the practice of sasswood as described by ethnologists and the claims by Ricoeur and Girard regarding human experience more generally. The sheer extent of this correlation, in fact, is surprising, suggesting three possibilities: (1) that, as inheritors of the Western tradition, I and these ethnographers are describing observed phenomena through our own lens (in effect, seeing what we expect to see); (2), that some symbols and meaning schema can be understood, at least on some level, across cultural lines; or (3), perhaps, some combination of the two.

Regardless of which of these possibilities (or others) is true, the lesson for Western development organizations and practitioners may well be the same, a lesson especially revealed in the conversation between Michael and the Old Man. When read through the lenses provided by Ricoeur and Girard, it becomes clear that Michael and the Old Man are not simply engaged in an argument about the relative merits of two competing legal systems. Although advocating for the official legal system, Michael sympathizes with and deeply respects the position of the Old Man; likewise, although the Old Man rejects the official system as insufficient, he seems resigned to Michael’s notion that the world has changed. Both are in fact struggling to come to terms with the cosmological crises undergone by Liberians—crises rooted not just in the recent and devastating civil war, but in the mimetic

structures embedded within the entire history of the Liberian state. They can be viewed as being engaged in a process of cultural mourning over the loss of a certain sense of Liberian identity, rooted in deep memory—standing, as mourners do, in the liminal space between that lost past and an unknown, uncertain future.

Marc Gopin has written about the experience of social groups, especially religious groups, undergoing this process of mourning in his work on peacebuilding and deep conflict resolution:

A peacemaking mourning process must speak to the deepest identity needs of a group and also to the group's sense of threat to its future, its fear of annihilation. Often what is mourned, but mourned in ways that create violence, is a loss of the group's honor, security, or sense of confidence in its future. There is also a sense of loss of some romanticized time—real, imaginary, or a combination thereof—in which the group had a fulfilled, secure existence...If mourning over this loss is to be complete, the peace process itself or that part of it that deals with past wounds should take on an indigenous, religious character. If it does not, if, for example, it smacks of some dominant culture that has been implicated in persecution of the group...then the mourning process cannot really resonate deeply, at least not for the most wounded members of the group. If, on the other hand, the process has deep cultural roots, then it affirms their identity and does honor to them, even as it heals the wounds of the past and simultaneously builds peace.<sup>222</sup>

Gopin's insight drives right to the heart of the problem of rule-of-law development in Liberia: the incoherence of using the very structures that led to social collapse to rebuild that society. For all their good intentions, the posture of such development projects is one smacking “of some dominant culture that has been implicated in persecution of the group”—the persecuted group here being indigenous Liberians. And this is the lesson of Girard and Ricoeur for Western rule-of-law development practitioners: the West, especially through America, is complicit in the infliction of these cosmological wounds on the Liberian people. The history of the American-modeled legal system in Liberia is not simply a narrative of

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<sup>222</sup> Gopin, *Between Eden and Armageddon*, at 171

failure by the Liberian settlers to establish a non-corrupt government in Africa, but a story about the internal failings—the internally-mediated mimetic structures—of that legal system itself. Western rule-of-law development workers therefore come to Liberia not in the position of neutral third parties seeking to build the Liberian legal capacity, but as actual parties to the injury itself. Because of the effects of the mimetic structures present in the Liberian legal system, Liberians need reconciliation among themselves—but just as much, the West, and especially America, needs reconciliation with Liberia.

Thus, Girard and Ricoeur help us to name the problem. But, as Gopin suggests, they also point toward resolution. As long as the true depth of the Liberian cosmological crisis goes unrecognized, the mourning process will be frustrated, the wounds will be left to fester, and the real work of deep healing—of creating “a new spiritual hermeneutic, reworked legitimately through the old one, that gives [Liberians] permission to move forward in new relationships to the world and its inhabitants”—will remain undone.<sup>223</sup> However, Girard and Ricoeur reveal that it is exactly this work in which Michael and the Old Man are engaged. If rule of law development practitioners truly want to build the capacity of the Liberian legal system, the importance of this work must be first acknowledged, and then actively supported, encouraged, and participated in. Those working for the development of the “rule of law” must not view the work as simply stamping out superstitious beliefs in favor of “rational” Western principles, but must come to see religious understanding as “an underutilized and powerful tool” in resolving conflict—a conflict between “civilized” and indigenous practitioners, but also between the West and Liberia.<sup>224</sup>

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<sup>223</sup> Ibid.

<sup>224</sup> Mohammed Abu-Nimer, *Reconciliation, Justice, and Coexistence: Theory and Practice* (Lexington Books, 2001) at 343.

Liberian indigenous rituals of conflict resolution may provide a rich source of reconciliation processes between development organizations and practitioners and Liberians themselves. “Utilizing indigenous methods, instead of relying on imported Western methods or on ‘modern’ and pure legal practices of conflict resolution, can certainly be more effective, and oftentimes appropriate and necessary in reaching genuine and lasting agreements among the parties.”<sup>225</sup> In addition, “[r]econciliation and conflict resolution processes can be enriched and strengthened by integrating rituals as part of the resolution process.”<sup>226</sup> This is especially true where the conflict to be resolved is of a cosmological nature. As Gopin writes,

Wherever possible, the old tribal religions of Africa need to be studied for their insights on how peace is maintained and how relationships are restored between enemies. There are many insights on peace combined, as they are with all religions, with violent alternatives that emanate from these religions. There are no romantic illusions here about indigenous cultures. Rather, the assumption is that peacemaking also has a deep place in African culture and society, largely hidden by those who have been made over centuries to feel shame for their culture.<sup>227</sup>

Liberia has a vibrant tradition of such methods, including the “house palaver”, described in a 1963 article by anthropologist James Gibbs:

The Kpelle *berei mu meni saa*, or ‘house palaver’, is an informal airing of a dispute which takes place before an assembled group which includes kinsmen of the litigants and neighbors from the quarter where the case is being heard. It is a completely ad hoc group, varying greatly in composition from case to case. The matter to be settled is usually a domestic problem: alleged mistreatment or neglect by a spouse, an attempt to collect money paid to a kinsman for a job which was not completed, or a quarrel among brothers over the inheritance of their father’s wives...The moot is most often held on a Sunday—a day of rest for Christians and non-Christians alike—at the home of the complainant, the person who calls the moot. The mediator will have been selected by the complainant. He is a kinsman who also holds an office such as town chief or quarter elder, and therefore has some skill in dispute settlement.

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<sup>225</sup> Ibid.

<sup>226</sup> Ibid. at 344

<sup>227</sup> Gopin, *Between Eden and Armageddon*, at 220.

It is said that he is chosen to preside by virtue of his kin tie, rather than because of his office.<sup>228</sup>

As a ceremony of peace and conflict resolution, the moot is highly ritualized and rich with symbolism:

The opening blessings are chanted with rhythmic responses by the assembly, serving to unite the group in common action. In describing the problem, the complainant speaks first, followed by the accused (or respondent). The statement of either party may be subject to interruption by the other party. All those present may then question disputants and witnesses. At the end of this discussion, the mediator interprets the consensus of the assembly as to fault. The person found at fault apologizes by giving gifts to the wronged party. These gifts, representing both restitution and apology, are never so large as to cause the giver to experience renewed resentment against the recipient. In an important aspect of the resolution, the recipient also gives token gifts, which serve to acknowledge and accept the apology. Following the exchange of gifts, the beer or rum presented to the mediator and assembled group is consumed. The elder pronounces blessings, gives thanks for restored harmony, and asks that all parties continue to live in harmony.<sup>229</sup>

Thus, the moot may offer to rule-of-law practitioners a way to seek reconciliation with Liberian individuals and society that both affirms Liberian identity and does honor to them. By doing so—by acknowledging the Western role in the Liberian cosmological crisis, and therefore allowing the mourning process to occur—practitioners may assist in the healing of Liberian society, a necessary step in the building of the rule of law. More research can and should be done into how this practice, and others like it, may be used not only as a means of reconciliation between Liberians, but also as a means of reconciling Liberia and the West.

This paper, admittedly brief given the enormity of the problems herein described, has set out to advocate for Western development organizations and practitioners to take the first step in that process, by seeking to reveal how the West, through the exportation of the

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<sup>228</sup> James L. Gibbs, "The Kpelle Moot: A Therapeutic Model for the Informal Settlement of Disputes," *Africa: Journal of the International African Institute* 33, no. 1 (January 1, 1963): 1-11, at 3.

<sup>229</sup> Robert Bendham and Ansley Boyd Barton, "Alternative Dispute Resolution: Ancient Models Provide Modern Inspiration," 12 GA. ST. U. L. REV. 623, 632-633 (1996).

American legal system, has contributed to the structures that led to social conflict in Liberia. It has in part sought to do so by example as well as by argument, beginning with a conversation between Liberians about the cosmological crisis revealed in the interface between rule-of-law development and the sasswood ritual. In exploring the cultural meanings underlying this conversation, it has first applied a Girardian lens to Liberian history. This analysis reveals that the Americans who supported the American Colonization Society and the foundation of Liberia had reified, externally-mediated models on which they based and measured the success of their society; these externally-mediated models contained within them, however, the structures of internally-mediated desire that would lead inexorably to social conflict. However, in imitating these models, they set themselves (and their society) as the model for the Republic of Liberia, thereby exporting those very same mimetic structures—an exportation that would lead to brutal reverberations in Liberian society, the oppression of the indigenous Liberian people, and eventually to violent conflict. Thus, the “official”—exported American—legal system has not only failed as a means of preventing the violence caused by internally-mediated conflict (the purpose of a legal system as well as religious structures such as sasswood), but has also invalidated the very externally-mediated models on which the “official” system was based. The wounds caused by this trauma are part of the reasons why the Old Man, and other Liberians like him, reject the legal system and hold tight to practices like the sasswood ordeal.

Turning then to an analysis of the sasswood ritual, this paper has shown that the sasswood ritual is not simply a “superstitious” practice, but is perceived as a social structure meant to redirect mimetic violence and thereby protect social order; Liberians are therefore understandably reluctant to let go of this practice, especially since the only alternative is a

system that has demonstrably led to exactly the kind of social violence it is meant to prevent. Seeking a deeper understanding of how this state of being is experienced, this paper has used Girard's analysis of mimetic desire and Ricoeur's phenomenology of evil to examine the nature of the Liberian cultural crisis. This analysis has shown that the tectonic interaction between indigenous Liberian and Western (American) cosmologies has led periodically to violent eruptions, most recently in the tragic civil war, creating a cosmological crisis in the social experience of many Liberians. It has thus re-characterized the opening conversation between Michael and the Old Man not as an argument between two competing legal systems, but as a dialogue in mourning by two Liberians who have deeply felt the effects of that crisis, who stand in a liminal space between a lost past identity and the uncertain future of their society. By identifying the role of the West in precipitating this crisis, it has also sought to re-characterize the relationship of Western development workers and agencies with Liberians, arguing ultimately that real healing—and therefore a real conversation about sasswood—cannot occur without reconciliation between the West and Liberia. Finally, it has concluded with an argument that Liberian culture itself contains mechanisms for exactly this kind of reconciliation, mechanisms that must be explored through further research, practice, and conversations with Liberians.

In conclusion, it is incumbent upon the rule-of-law development community to understand and appreciate the value of religious analysis in doing development work, and in seeking to find ways to incorporate ritual and indigenous practice into the work itself. If, in a spirit of humility, the development community truly offers respect to indigenous Liberian culture, it will thereby open pathways for the protection of human rights and a true, equal

relationship will take root—a relationship that will be the product and facilitator of real healing. As Gopin writes,

One cannot really escape the morass of deadly conflict and discover life again after death without this kind of healing of memory. Nor can conflict resolution occur without the theoreticians of conflict coming to terms with the need that most humans have to literally be with the dead or with what they have lost. We must take care of the victims of yesterday's carnage, even if they are unsympathetic now or aggressors themselves. We must crawl together with the victims back to life, out of the mass grave of the past where their imaginations hold them prisoner, and into a more rational, hopeful space of trust building and peacemaking. Presently, we simply deny this need, and therefore it haunts and destroys peace processes the world over.<sup>230</sup>

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<sup>230</sup> Gopin, *Between Eden and Armageddon*, at 174.

## WORKS CITED

- Abu-Nimer, Mohammed. *Reconciliation, justice, and coexistence: theory and practice*. Lexington Books, 2001.
- Akpan, M. B. "Black Imperialism: Americo-Liberian Rule over the African Peoples of Liberia, 1841-1964." *Canadian Journal of African Studies / Revue Canadienne des Études Africaines* 7, no. 2 (January 1, 1973): 217-236.
- Bellman, Beryl L. *Village of Curers and Assassins: On the Production of Fala Kpelle Cosmological Categories*. de Gruyter Mouton, 1975.
- Berman, Harold Joseph. *The interaction of law and religion*. S.C.M. Press, 1974.
- Dunn, John. *The Political Thought of John Locke: An Historical Account of the Argument of the "Two Treatises of Government"*. Cambridge University Press, 1983.
- Egerton, Douglas R. "'Its Origin Is Not a Little Curious': A New Look at the American Colonization Society." *Journal of the Early Republic* 5, no. 4 (December 1, 1985): 463-480.
- Ellis, Stephen. *The Mask of Anarchy: The Destruction of Liberia and the Religious Dimension of an African Civil War*. NYU Press, 2001.
- Ezekiel Pajibo. "Traditional Justice Mechanisms: the Liberian Case". International Institute for Democracy and Electoral Assistance, February 4, 2008. [http://www.idea.int/publications/traditional\\_justice/tjm\\_liberian\\_case.cfm](http://www.idea.int/publications/traditional_justice/tjm_liberian_case.cfm).
- Fleming, Chris. *Rene Girard: Violence and Mimesis*. Polity, 2004.
- Gibbs, James L. "The Kpelle Moot: A Therapeutic Model for the Informal Settlement of Disputes." *Africa: Journal of the International African Institute* 33, no. 1 (January 1, 1963): 1-11.
- Girard, René. *Deceit, Desire, and the Novel: Self and Other in Literary Structure*. The Johns Hopkins University Press, 1976.
- . *Violence and the Sacred*. The Johns Hopkins University Press, 1979.
- Girard, René, and James G. Williams. *Resurrection from the underground: Feodor Dostoevsky*. Crossroad, 1997.
- Gopin, Marc. *Between Eden and Armageddon: The Future of World Religions, Violence, and Peacemaking*. Oxford University Press US, 2002.
- Hutchinson, Allan C. *The Rule of Law: Ideal or Ideology*. Transnational Pub, 1987.
- International Crisis Group. "Liberia: Resurrecting the Justice System". International Crisis Group, April 6, 2006. <http://www.crisisgroup.org/en/regions/africa/west-africa/liberia.aspx>.
- International Legal Assistance Consortium. "Mission Report, Liberia 2003". International Legal Assistance Consortium, December 2003. <http://www.ilac.se/category/term/7>.
- Kashima, Yoshihisa. "Is Culture a Problem for Social Psychology?", *Asian Journal of Social Psychology* (2005) 8: 19-38, at 25.
- Keith Henderson, Charles Jakosa, , and , Charles Gibson. "Evaluation of Rule of Law Programs in Liberia". USAID, 2009. [pdf.usaid.gov/pdf\\_docs/PDACO233.pdf](http://pdf.usaid.gov/pdf_docs/PDACO233.pdf).
- Kepnes, Steven D. "Bridging the Gap Between Understanding and Explanation Approaches to the Study of Religion." *Journal for the Scientific Study of Religion* 25, no. 4 (1986): 504 - 512.
- McPherson, J. H. T. *History of Liberia*. Kessinger Publishing, 2004.

- Paul Richards, Steven Archibald and Beverlee Bruce and Watta Modad and Tornorlah Varpilah, , and , James Vincent. "Community Cohesion in Liberia: A Post-War Rapid Social Assessment" 21. *Conflict Prevention and Reconstruction* (January 2005). [siteresources.worldbank.org/INTCPR/214578.../WP+21-web.pdf](http://siteresources.worldbank.org/INTCPR/214578.../WP+21-web.pdf).
- Ricoeur, Paul. *The Symbolism of Evil*. New title. Beacon Press, 1986.
- Rodriguez, Daniel B, Mathew D McCubbins, and Barry R Weingast. "THE RULE OF LAW UNPLUGGED." *Emory Law Journal* 59, no. 6 (2010): 1455 - 1494.
- Roy, Puja. "Sanctioned Violence: Development and the Persecution of Women as Witches in South Bihar (Violence sanctionnée: le développement et la persécution des femmes en tant que sorcières dans le sud du Bihar / Violência Sancionada: desenvolvimento e perseguição de mulheres acusadas de bruxaria em Bihar do Sul / Violencia sancionada: desarrollo y la persecución de mujeres como brujas en Bihar del Sur)." *Development in Practice* 8, no. 2 (May 1, 1998): 136-147.
- Russell, Bertrand. *A History of Western Philosophy*. 1st ed. Simon & Schuster/Touchstone, 1967.
- Saberwal, Satish, and Heiko Sievers. *Rules, Laws, Constitutions*. Sage Publications Pvt. Ltd, 1998.
- Schwab, George. *Tribes of the Liberian Hinterland: The Museum Papers*. Kraus Reprint, 1968.
- Sheldon, Garrett Ward. *The Political Philosophy of Thomas Jefferson*. The Johns Hopkins University Press, 1993.
- Tonkin, Elizabeth. "Autonomous Judges: African Ordeals as Dramas of Power." *Ethnos: Journal of Anthropology* 65, no. 3 (2000): 366 - 386.
- Witte, John. *Religion and the American constitutional experiment*. Westview Press, 2004.
- Wood, Gordon S., and Institute of Early American History and Culture (Williamsburg, Va.). *The creation of the American Republic, 1776-1787*. UNC Press Books, 1998.
- Yarema, Allan E. *American Colonization Society: an avenue to freedom?* University Press of America, 2006.