

Dividing Stereotype and Religion: The Legal Implications of the Ambiguous References to Voodoo in U.S.  
Court Proceedings

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# ARTICLES

## DIVIDING STEREOTYPE AND RELIGION: THE LEGAL IMPLICATIONS OF THE AMBIGUOUS REFERENCES TO VODOO IN U.S. COURT PROCEEDINGS

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Freedom of religion is generally defined in human rights law as possessing three main components<sup>1</sup>: the right to freedom of thought and

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1. This assessment of the components of freedom of religion is a combined analysis based on the Universal Declaration of Human Rights, G.A. Res. 217 (III) A, art. 18(1),

conscience,<sup>2</sup> freedom to manifest religion or beliefs,<sup>3</sup> and freedom to profess, disseminate, or share religion or beliefs.<sup>4</sup> The latter two

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U.N. Doc. A/RES/217(III) (Dec. 10, 1948) (UDHR); the European Convention on Human Rights (European Convention) created under the Convention for the Protection of Human Rights and Fundamental Freedoms, art. 9, *adopted* Nov. 4, 1950, C.E.T.S. No. 005; the International Covenant on Civil and Political Rights, G.A. Res. 2200 (XXI) A, art. 18(1), U.N. Doc. A/RES/2200(XXI) (Dec. 19, 1966) (ICCPR); the Organization of American States, American Convention on Human Rights, Nov. 22, 1969, O.A.S.T.S. No. 36, 1144 U.N.T.S. 123 (American Convention); and the African Charter on Human and Peoples' Rights, art. 8, June 27, 1981, 21 I.L.M. 58 (African Charter). Though the UDHR is not a binding document, and neither the African Charter nor the European Convention are applicable in the United States or Haiti, an analysis of all these documents provides some helpful insight into what definitions of freedom of religion are generally accepted. Since it is my intention to expand on the general view of this term, it is necessary to determine how it is defined in its many forms in order to show that the author's definition does not extend beyond those of the legal definitions as expressed. Both Haiti and the United States are parties to the ICCPR, the former since 1991 and the latter since 1992. *International Covenant on Civil and Political Rights*, U.N. TREATY COLLECTION, [http://treaties.un.org/pages/ViewDetails.aspx?src=TREATY&mtdsg\\_no=IV-4&chapter=4&lang=en](http://treaties.un.org/pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-4&chapter=4&lang=en) (last visited Oct. 6, 2011). Haiti has been a party to the American Convention since 1977. The United States is not a party to the American Convention; however, according to the Inter-American Commission on Human Rights, the United States is nonetheless bound by the American Declaration on the Rights and Duties of Man (American Declaration) by virtue of its membership in the Organization of American States (OAS). The American Declaration also contains a provision on freedom of religion. See American Declaration of the Rights and Duties of Man, Ninth International Conference of American States, 1948, O.A.S. Res. XXX (identifying in Article III the right of religious freedom). For a more detailed explanation of the above treaties and organizations see Terrence Rogers, *Using International Human Rights Law to Combat Racial Discrimination in the U. S. Criminal Justice System*, 14 SCHOLAR 375, 425–30 (2011).

2. All of the above-mentioned conventions include this aspect of freedom of religion (at least thought or conscience if not both) with the exception of only the American Convention. Universal Declaration of Human Rights, *supra* note 1; Convention for the Protection of Human Rights and Fundamental Freedoms *supra* note 1; International Covenant on Civil and Political Rights, *supra* note 1; African Charter on Human and Peoples' Rights, *supra* note 1. This part of the definition addresses the internal component of freedom of religion.

3. Universal Declaration of Human Rights, *supra* note 1; Convention for the Protection of Human Rights and Fundamental Freedoms *supra* note 1, art. 9(2); International Covenant on Civil and Political Rights, *supra* note 1; American Convention on Human Rights, *supra* note 1, art. 12(3). The African Charter utilizes slightly different terminology to express a similar component. It states that an individual has the right to practice and profess his religion. African Charter on Human and Peoples' Rights, *supra* note 1.

4. Universal Declaration of Human Rights, *supra* note 1; International Covenant on Civil and Political Rights, *supra* note 1; American Convention on Human Rights, *supra* note 1, art. 12(3); African Charter on Human and Peoples' Rights, *supra* note 1. The UDHR, ICCPR and the European Convention all describe this component as the right to manifest religion whether privately or with others. Whereas the American Convention and the African Convention use more active words like “profess” and “disseminate,” which

components are usually subject to restrictions such as public safety, health, morals, and the rights and freedoms of others.<sup>5</sup> These two components, perhaps by virtue of their expressed limitations, are the aspects of freedom of religion that are most often litigated.<sup>6</sup> Similarly, the reason that there is not frequent litigation regarding the right to freedom of thought and conscience could be due to the fact that this aspect of religious freedom seems clear, and direct infringement on this component is rare (i.e., one is less likely to encounter forced religious conversion than restrictions on religious use of mind-altering substances or restrictions on religious attire).

While this Article will certainly address the popularly litigated manifestation and profession of religion, it will also focus upon the third aspect—free thought and conscience. This Article will discuss what the freedom to choose one’s religion means by expanding on the factors that create that freedom and consider how far a State’s duty to ensure that freedom goes. Haitian Vodou and other religions referred to as “Voodoo” are perfect examples on which to base a discussion of this component of freedom of religion because, like other African-based traditions in the Americas, their practitioners spent many centuries deprived of this freedom which we now consider so fundamental and necessary.<sup>7</sup>

In *Introducing Religious Reparations: Repairing the Perceptions of African Religions through Expansions in Education*, I proposed a concept that I have coined “religious reparations.”<sup>8</sup> In that work, I underscored

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could indicate such actions as proselytism, rather than the passive use of public manifestation, which could be interpreted as meaning nothing more than wearing religious attire or praying in public. However, I am not aware of any distinction that has been made in case law between these regions, granting greater rights to share, disseminate, or profess based on this language.

5. Convention for the Protection of Human Rights and Fundamental Freedoms, *supra* note 1, art 9(2); International Covenant on Civil and Political Rights, *supra* note 1, art 18(3); American Convention on Human Rights, *supra* note 1, art 12(3). Note that the limitations on freedom of religion are specifically applicable to manifestation, with no other aspects mentioned. However, manifestation and profession—or sharing—are inextricably linked, as noted above.

6. *E.g.*, Leyla Sahin v. Turkey, App. No. 44774/98, Euro Ct. H.R. (2005); HUMAN RIGHTS COMM., INT’L COVENANT ON CIVIL & POLITICAL RIGHTS, SELECTED DECISIONS OF THE HUMAN RIGHTS COMMITTEE UNDER THE OPTIONAL PROTOCOL, at 176, U.N. Doc. CCPR/C/OP/8, U.N. Sales No. E.07.XIV.11 (Communication No. 931/2000 submitted by Raihon Hudoyberganova).

7. *See generally* Danielle N. Boaz, *Introducing Religious Reparations: Repairing the Perceptions of African Religions through Expansions in Education*, 26 J.L. & RELIGION 213 (2010) (discussing the historical hardships African-Americans endured when it came to freedom of religion).

8. *Id.* at 216.

the common history of the prosecution of African-based religions in the Western Hemisphere.<sup>9</sup> In many, if not all, countries in the Americas, the proscription of these African-based religions, such as Vodou, Santeria, Candomblé, and Obeah, originated as a means of controlling the lives of slaves and of suppressing revolts.<sup>10</sup> Therefore, I argue that the “state action” element of these prosecutions creates the necessity for affirmative measures to rectify the harm each state has done to the African-based religions within its borders and abroad.<sup>11</sup> This Article is an effort to put this theory of religious reparations into more specific terms and describe how the United States can create an atmosphere that is more conducive to the practice of African-derived religions. Specifically, I will argue that although the United States no longer regularly enforces laws with the express intent of suppressing Voodoo or Vodou, the social and legal environment of the United States is not conducive to the free practice of these religions. Haitian Vodou, New Orleans Voodoo, and other religions that are popularly referred to as “Voodoo” have been so stigmatized and distorted that individuals who practice these religions do not feel free to admit that they subscribe to these belief systems. In fact, the prejudice against them is so great that numerous individuals have sued alleging racial discrimination, religious discrimination, and slander when someone referred to them as a Voodoo practitioner.

In addition to fear of social ridicule and ostracism, U.S. court decisions suggest that admission of Voodoo beliefs and practices can be used as evidence of insanity, unfit parenting, and grounds for divorce. Although it is not clear what is meant by the use of the word Voodoo, I will argue that the fact that Voodoo is the term used to refer to Haitian Vodou, New Orleans Voodoo and other African-derived belief systems indicates that practitioners of all of these religions are inhibited by the allegations and decisions in these cases.

Since Voodoo has become a catchall term in the United States to refer to many different religions, beliefs, practices, and superstitions,<sup>12</sup> I will begin this Article with a cursory introduction to some of the beliefs and practices of New Orleans Voodoo and Haitian Vodou. In Part II of this Article, I will provide a background to the development of prejudices and stereotypes involving Haitian Vodou. Then, I will describe the historical prosecutions of New Orleans Voodoo and I will explain the increasing breadth of the word “Voodoo” through examples of its social and political application. In Part III, I will underscore and connect the

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9. *Id.* at 213–48.

10. *Id.* at 216–20.

11. *Id.* at 240–48.

12. *See infra* Part I.

essential barriers to freedom of religion for “Voodoo” practitioners. This part will begin with an examination of contemporary cases and conclude with a discussion of the lack of availability of courses and concentrations in African and African-diaspora religions in colleges and universities. In Part IV, I will then illustrate how references to Voodoo in modern court cases violate the principles espoused by the Supreme Court’s rulings about freedom of religion and finally I will suggest some solutions to rectify this problem.

### I. DEFINING VOODOO & VODOU

Haitian Vodou is a combination of rituals, beliefs, and practices that originate from Africa, indigenous Caribbean populations, and other influences.<sup>13</sup> Beliefs and practices vary because the religion is not organized under a central hierarchical authority, but instead is divided into various houses or families led by a priest or priestess.<sup>14</sup> While the specifics may change, practitioners generally believe in the existence of only one God, who is remote and does not communicate directly with people.<sup>15</sup> One of the central practices of Haitian Vodou is the worship of spirits, known as *loa*. The *loa* have been described as “a pantheon of anthropomorphic deities, vaguely linked to natural forces and figured as members of an extended family, with all the virtues and vices of mortals.”<sup>16</sup> Families and villages each have their own *loa* that they worship.<sup>17</sup> The relationship between practitioners and the *loa* is often described as reciprocal, or a relationship of mutual benefit.<sup>18</sup> Practitioners sing, dance, and drum for the *loa* and provide them with various offerings, including animal sacrifices and food.<sup>19</sup> They also set aside certain days of the week to worship and honor their *loa*.<sup>20</sup> In return, the *loa* assist their followers, providing guidance, protection and other spiritual benefits. They communicate with their followers by possessing, or “mounting” a worshipper and speaking, acting, and dancing through that individual.<sup>21</sup> As of 2002, there were an

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13. MILO RIGAUD, *SECRETS OF VOODOO* 31 (Robert B. Cross trans., City Lights Books 1985) (1969).

14. *Id.*

15. Herbert Marks, *Voodoo in Haiti*, in *AFRO-CARIBBEAN RELIGIONS* 58, 59 (Brian Gates ed., 1980).

16. *Id.*

17. Jessie Ruth Gaston, *The Case of Voodoo in New Orleans*, in *AFRICANISMS IN AMERICAN CULTURE* 115 (Joseph E. Holloway ed., 2d ed. 2005).

18. *Id.* at 111, 123.

19. RIGAUD, *supra* note 13, at 91–98, 111–23, 135–36, 139–41.

20. Gaston, *supra* note 17.

21. Laurent Dubois, *The Citizen’s Trance: The Haitian Revolution and the Motor of History*, in *MAGIC AND MODERNITY: INTERFACES OF REVELATION AND CONCEALMENT*

estimated eight-to-ten million Vodou practitioners in Haiti and throughout the African diaspora.<sup>22</sup>

In addition to Vodou in Haiti—known to the United States and many other places as “Voodoo”—there are also other beliefs and practices referred to as “Voodoo” in the United States. First, certain religious practices in New Orleans are frequently referred to as “Voodoo” to distinguish them from Haitian Vodou.<sup>23</sup> Occasionally, a broader spectrum of southern Black spiritual practices, known as Hoodoo, is also included in this term,<sup>24</sup> but those beliefs and practices are not the focus here. There are also other popular applications of the term Voodoo, where the term is used to refer to a variety of beliefs and practices unrelated to Haiti or New Orleans. This component of Voodoo will be explored more closely in Part II.B.

New Orleans Voodoo has recently become a topic of renewed interest among scholars. Modern works typically describe the origins of New Orleans Voodoo as a conglomeration of the practices of African slaves imported directly into the region and other slaves from French Caribbean colonies that were brought to Louisiana.<sup>25</sup> Unfortunately, there are no trustworthy reports of Voodoo as it was practiced in nineteenth century New Orleans.<sup>26</sup> Scholars generally rely on newspapers and other sources that had a tendency to sensationalize their descriptions.<sup>27</sup> These accounts recorded that annual Voodoo celebrations were held as early as June 23, 1831, which is both St. John’s Eve and the summer solstice.<sup>28</sup> These ceremonies included “bonfires, ritual bathing, drumming, singing, dancing, and a communal meal.”<sup>29</sup>

Like many other African and African-derived religions, New Orleans Voodoo includes animal sacrifice, singing, drumming, and prayers to the deities.<sup>30</sup> However, throughout the history of New Orleans Voodoo, the focus of songs and praise was often the priestesses and “queens” who

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103, 124 (Birgit Meyer & Peter Pels eds., 2003); Marks, *supra* note 15, at 62; RIGAUD, *supra* note 13, at 46, 49–50.

22. Terry Rey, *Vodou*, in 4 RELIGIONS OF THE WORLD: A COMPREHENSIVE ENCYCLOPEDIA OF BELIEFS AND PRACTICES, 1402, 1403 (J. Gordon Melton & Martin Baumann eds., 2002)

23. CAROLYN MORROW LONG, SPIRITUAL MERCHANTS: RELIGION MAGIC AND COMMERCE 37 (2001).

24. *Id.* at 52.

25. *Id.* at 38 (2001); Gaston, *supra* note 17, at 112.

26. LONG, *supra* note 23, at 40.

27. *Id.* at 40–42.

28. *Id.* at 50.

29. *Id.*

30. Gaston, *supra* note 17, at 121, 123.

were the most powerful figures in the religious hierarchy.<sup>31</sup> These priestesses and queens have offered their services to both Black and White clientele for over a century.<sup>32</sup> By the end of the nineteenth century, some of their services included providing good luck charms, and removing or setting curses.<sup>33</sup>

Little information is known about Voodoo in the early twentieth century because, as I will discuss in detail in Part III, Voodoo went underground beginning in the 1930s and 1940s, and ceremonies were inaccessible to non-initiates. Although certain ritual practices were hidden from the public, practitioners openly sold talismans and herbs, but claimed to be merely root doctors or spiritualists.<sup>34</sup> Despite the outward portrayal of Voodoo services as only consisting of root works and charms, other scholars have confirmed that religious ceremonies still continue in New Orleans and that African deities continue to be worshiped.<sup>35</sup> However, the religious practice of Voodoo continues alongside “tourist Voodoo,” where visitors are taken on an excursion to the landmarks of Voodoo queens and witness staged ceremonies and dances.<sup>36</sup>

## II. ORIGINS OF THE PREJUDICE

After this brief introduction to Haitian Vodou and New Orleans Voodoo, it is important to explore the historical developments of public opinion concerning these religions. It is essential to identify how the myths and misconceptions about “Voodoo” arose in the eighteenth and early nineteenth centuries, as plantation owners and colonial officials began to fear African-derived religious practices and their organizing power amongst slaves. As Haiti became the first independent Black nation in the Western Hemisphere, travelers, Marines, and U.S. and British officials constantly pointed to Haitian Vodou as a barrier to the ability of Haitians to govern themselves in a civilized fashion. Haitian Vodou was

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31. *Id.* at 129.

32. *Id.* at 133.

33. *Id.* at 137.

34. *Id.* at 143–45.

35. Gaston, *supra* note 17, at 147.

Such services and rituals are often performed in flats around the city or in people’s backyards as well as in established voodoo churches. The ceremonial rites remain secret because of their nature. Of course, the number of those faithful to voodoo is lower than the figures claimed by self-styled doctors and reverends who have chosen to foster hoodoo. One only has to look deep enough and to ask the right questions to find evidence that voodoo believers, both [B]lack and [W]hite, continue to flourish in New Orleans and Algiers.

*Id.*

36. LONG, *supra* note 23, at 67.

so frequently discussed in a pejorative context that “Voodoo” became a catchall term like “witchcraft” and was frequently associated with cannibalism and human sacrifice.<sup>37</sup> These stereotypes about “Voodoo” have thrived in recent decades, resulting in multiple media references to Voodoo and complete distortion of the practices of Haitian Vodou and New Orleans Voodoo into the prejudicial stereotypes that are well known today.

#### A. *Vodou in Haiti*

Voodoo, more properly known as Vodou in the context of its practice in Haiti,<sup>38</sup> was outlawed when the country was still a slave-holding colony of France known as St. Domingue.<sup>39</sup> The colonial officials feared Vodou practitioners because they were believed to have the ability to make poisons and talismans that were used in slave rebellions to make slaves feel invulnerable to the weapons of the masters.<sup>40</sup> One slave, a purported Vodou priest named Francois Makandal was captured in 1758 after leading an unsuccessful rebellion that allegedly involved over six thousand slaves.<sup>41</sup> After Makandal’s attempted insurgence, two laws were promulgated that forbade the making, selling, and distributing of talismans and spells that had become known as makandals.<sup>42</sup>

However, the greatest source of infamy for Haitian Vodou was the ceremony of Bois-Caïman, which allegedly began the Haitian Revolution of 1791.<sup>43</sup> Bois-Caïman was a Vodou ceremony held near Cap-Français in August of 1791.<sup>44</sup> Legend says that enslaved individuals from plantations in that region of the island gathered and sacrificed a pig to their *loa* and drank the blood of that pig, while swearing an oath to break free of their

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37. See Bruce Jackson, *The Other Kind of Doctor: Conjure and Magic in Black American Folk Medicine*, in *AFRICAN AMERICAN RELIGION: INTERPRETIVE ESSAYS IN HISTORY AND CULTURE*, 421 (Timothy E. Fulop & Albert J. Raboteau eds., 1997) (discussing how the role of the voodoo doctor was to get rid of disease supposedly linked to magic or witchcraft); Colby M. Chester, *Haiti: A Degenerating Island*, 19 *NAT’L GEOGRAPHIC MAG.*, 200, 215 (1908) (describing the belief that the practice of voodoo included human sacrifice and cannibalism).

38. LESLIE G. DESMANGLES, *THE FACES OF THE GODS: VODOU AND ROMAN CATHOLICISM IN HAITI* 25 (1992).

39. *Id.*; LAËNNEC HURBON, *VOODOO: SEARCH FOR THE SPIRIT* 39–40 (Lory Frankel trans., 1995); RIGAUD, *supra* note 13, at 13.

40. HURBON, *supra* note 39, at 40.

41. *Id.*

42. MICHEL S. LAGUERRE, *VOODOO AND POLITICS IN HAITI* 59 (1989).

43. DESMANGLES, *supra* note 38, at 34.

44. *Id.*

enslavement.<sup>45</sup> Boukman Dutty, a Vodou priest, presided over the ceremony. Many sources now repeat a speech allegedly made by Boukman, calling for vengeance against Whites in the name of the African God(s).<sup>46</sup> Whether or not this ceremony occurred is contested today because first reports of the ceremony occurred decades later, in 1814, and nineteenth century accounts vary greatly.<sup>47</sup> However, the significance of the ceremony for the purposes of this analysis does not depend on whether or not it occurred, but rather on the reputation it obtained.

After the ceremony of Bois-Caïman purportedly occurred, the colony of St. Domingue erupted in a major slave rebellion.<sup>48</sup> The role of Vodou in the revolution was used to underscore the barbaric nature of the Blacks of St. Domingue and to justify the war in St. Domingue.<sup>49</sup> For this reason, the major figures in the revolution were associated with Vodou. For instance, one of the rebellion leaders, Jean Francois, was known for fighting surrounded by Vodou “sorcerers,” and allegedly his tent was packed with “multicolored cats, snakes, bones of the dead” and other Vodou materials.<sup>50</sup> Even the famous general Toussiant Louverture was thought to have been a known root doctor and is said to have worshiped the *loa* Ogou Feraille as his personal protector.<sup>51</sup>

This background about Haitian Vodou is not only relevant for understanding where the term “Voodoo” came from but also for comprehending the type of reputation that Vodou obtained. Haiti became an independent nation in 1804.<sup>52</sup> It was the only independent Black nation in the western hemisphere, and the slave rebellion that started the war for independence is generally considered to be the only successful slave rebellion in the Americas.<sup>53</sup> The context of the formation of the State of Haiti is critical because the island was surrounded by large slaveholding

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45. Dubois, *supra* note 21, at 110 (providing an account of the ceremony as imagined and written by Antoine Dalmas).

46. HURBON, *supra* note 39, at 45.

47. DAVID PATRICK GEGGUS, HAITIAN REVOLUTIONARY STUDIES 81–83 (2002). However, Laurent Dubois argues that although the ceremony was first reported in the 19th century, Dalmas was present and working as a surgeon on plantations in that region at the time and could have obtained information about the ceremony from slaves in the area. Dubois, *supra* note 21, at 110–11.

48. HURBON, *supra* note 39, at 42–43.

49. Dubois, *supra* note 21, at 104.

50. JOAN DAYAN, HAITI, HISTORY, AND THE GODS 29 (1995).

51. LAGUERRE, *supra* note 42, at 65.

52. *The History of Haiti*, TRAVELINGHAITI.COM, [http://www.travelinghaiti.com/history\\_of\\_haiti/independence\\_haiti.asp](http://www.travelinghaiti.com/history_of_haiti/independence_haiti.asp) (last visited Oct. 16, 2011).

53. *Id.*

States with economies dependent upon coerced labor.<sup>54</sup> These nations feared that news of the rebellion in Haiti would inspire uprisings amongst their own slave populations.<sup>55</sup> Largely because of this apprehension, recognition of Haiti as an independent nation came slowly. The French recognized Haiti in a qualified way in 1825, pending the resolution of claims for reparations to the White landowners displaced by the Haitian Revolution.<sup>56</sup> The United States did not recognize Haiti as a nation until 1862, over half a century after it gained independence.<sup>57</sup>

In addition to breaking ties with the fledgling State, other countries portrayed Haiti as a failed nation of barbarians and they “presented the racist argument that Haiti’s devastating economic decline was an example of what happens when Africans govern themselves.”<sup>58</sup> Many mid-nineteenth century letters, articles and books were written about Haiti, focusing on Vodou as a symbol of savagery.<sup>59</sup> Stories were published about Vodou worship to support pro-slavery arguments during the U.S. Civil War, arguing that Vodou is the type of barbarism that Blacks will revert to if they are not restrained by White control.<sup>60</sup> Further, in 1884, Spenser St. John, a former British consul, announced that Vodou was the cause of Haiti’s regression, and he described its practice as including cannibalism and human sacrifice.<sup>61</sup> St. John’s book, *Hayti or the Black Republic*, be-

54. For instance, although the United States and the British abolished the international slave trade in 1807, the British Caribbean did not abolish slavery until 1834, and the United States did not officially abolish slavery until 1865. Schomburg Ctr. for Research in Black Culture, *Timeline: The Abolition of The Slave Trade*, N.Y. PUB. LIBRARY, <http://abolition.nysl.org/timeline/> (last visited Oct. 16, 2011). Brazil abolished slavery in the 1880s. *Id.*

55. GEGGUS, *supra* note 47, at 171. In fact, at least one modern scholar has argued that several slave rebellions in the United States were actually inspired by the Santo Domingo revolution, which resulted in the formation of Haiti. Monroe Fordham, *Nineteenth Century Black Thought in the United States: Some Influences of the Santo Domingo Revolution*, 6 J. BLACK STUD. 115, 116–22 (1975).

56. Dubois, *supra* note 21, at 116; BRENDA GAYLE PLUMMER, HAITI AND THE UNITED STATES: THE PSYCHOLOGICAL MOMENT 38–39 (1992).

57. PLUMMER, *supra* note 56, at 37.

58. PAT CHIN ET AL., A SLAVE REVOLUTION: 200 YEARS AFTER 1804, 104 (2004); Laurent Dubois, *Vodou and History*, 43 COMP. STUD. IN SOC’Y & HIST. 92, 92 (2001).

59. Alasdair Pettinger & Lorna Milne, *From Vaudoux to Voodoo*, 40 F. OF MOD. LANGUAGE STUD. 415, 417–18 (2004).

60. *Id.* at 415, 418. See also PHILIP JENKINS, MYSTICS AND MESSIAHS: CULTS AND NEW RELIGIONS IN AMERICAN HISTORY 116 (2000) (noting that depictions of Voodoo in books and movies “rarely lost an opportunity to stress the quintessentially African character of the devotees, how in fact the worshipers are reverting to their ancient tribal selves, freeing themselves of the veneer of Christian and Western civilization”).

61. MARTIN MUNRO, DIFFERENT DRUMMERS: RHYTHM & RACE IN THE AMERICAS 26 (2010).

came a bestseller in France, England, and the United States.<sup>62</sup> For many years, it was considered to be the authority on Haitian Vodou.<sup>63</sup>

At the turn of the twentieth century, these types of arguments increased, often citing alleged instances of human sacrifice, which were crucial in proving both that Haiti was unfit for self-governance and that outside intervention on the island was necessary.<sup>64</sup> In 1900, explorer Hesketh Prichard authored a book entitled *Where Black Rules White: A Journey Across and About Hayti*, devoting an entire chapter to Vodou.<sup>65</sup> He explained that Vodou practice was widespread and based on a foundation of serpent worship and human sacrifice.<sup>66</sup> Prichard further stated that Vodou involved a type of cannibalism where a man offers human flesh to appease his god.<sup>67</sup> He argued that Vodou sacrifices and orgies were unrestrained in Haiti because practitioners were greatly feared.<sup>68</sup> Prichard underscored the importance of White restrictions on Black freedom by comparing Vodou in Haiti to African-derived religious practices in Jamaica, which he said were “kinship in a puny degree with the hideous Haytian sect.”<sup>69</sup> He argued that the danger of Afro-Jamaican religion was that “if unchecked it would only too easily merge into the enormities and crimes which distinguish true Vaudoux [Vodou] worship.”<sup>70</sup>

Further illustrating the importance of White presence in civilizing Black people, Prichard stated that the few remaining White men in the coastal areas of Haiti were the only thing preventing “an almost universal terrorism.”<sup>71</sup> He compared the role of Whites in Haiti to the efforts in Africa to suppress the practices of witchdoctors, stating that “they succeed in so far that superstition moves slowly backwards into the heart of Africa.”<sup>72</sup> In the final chapter, however, Prichard dispensed with all analogies and directly addressed Haiti, listing all of the country’s flaws over

62. *Id.*

63. *Id.*

64. See HESKETH PRICHARD, *WHERE BLACK RULES WHITE: A JOURNEY ACROSS AND ABOUT HAYTI* 78–79 (Books for Libraries Press 1971) (1900) (believing himself to be the first White man to venture across Haiti, Major Hesketh Prichard wrote of his experiences and observations while attempting to discredit Black self-governance).

65. *Id.* at 74–101.

66. *Id.* at 74–75.

67. *Id.* at 78–79. Cannibalism is comprised of two stages. *Id.* at 78. In the first, “the savage eats human flesh as an extreme triumph over an enemy.” *Id.* “Vaudoux is cannibalism in the second stage . . . wishing to propitiate his god, offers him that which he himself most prizes.” *Id.* at 78–79.

68. *Id.* at 75.

69. PRICHARD, *supra* note 64, at 95–96.

70. *Id.* at 96.

71. *Id.* at 100.

72. *Id.*

the course of its one hundred years of self-governance.<sup>73</sup> Based on this analysis, Prichard concluded that clearly, the Black man cannot rule himself.<sup>74</sup>

A few years later, in 1908, Rear Admiral Chester of the U.S. Navy gave an address to the National Geographic Society called “Haiti: A Degenerating Island,” which was then published in *National Geographic Magazine*.<sup>75</sup> Chester described the history of Haiti, from its supposed discovery by Christopher Columbus to the revolution and the administrations of its early rulers, such as Jean Jacques Dessalines and Henri Christophe.<sup>76</sup> Chester then addressed what he perceived as Haiti’s “degeneration.” He began by noting that “Haiti is getting [B]lacker and [B]lacker,” and that “it is the one country in the world where [W]hite blood is at a discount.”<sup>77</sup> He asserted that it was undeniably true that Haitians practiced “Voodoo,” which he referred to as “horrible sorcery,” including sacrifice of children followed by cannibalism. Chester admitted that there was little evidence of cannibalism in Haiti but explained that fact by stating that “no [W]hite man could long live on the island after having given testimony leading to conviction of culprits in such cases.”<sup>78</sup> To prove the veracity of this statement, he referred to an eyewitness account of a Vodou ceremony by an officer of the U.S. Navy; the unnamed officer allegedly happened upon a Vodou ceremony when he was hunting in the woods one day.<sup>79</sup> When the practitioners noticed his presence, the officer was sure that he would be ritually murdered.<sup>80</sup> According to Chester, the only thing that saved the officer was that the Haitians were distracted by a white rooster that had just been produced for sacrifice, and the officer was then able to escape with his life while the rooster was killed.<sup>81</sup> Although he saw nothing more of the ceremony, the officer was certain that the sacrifice of a child immediately followed the rooster.<sup>82</sup> In

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73. *Id.* at 277–84. Prichard’s list of problems with the Black run of Haiti include spoiling of the bountiful natural resources and degradation of the beautiful island. *Id.* at 284. The country was established with “excellent French laws” and ready to govern. *Id.* at 278. The government became nothing but corrupt. *Id.* at 281.

74. PRICHARD, *supra* note 64, at 284.

75. Chester, *supra* note 37.

76. *Id.* at 201–11.

77. *Id.* at 214.

78. *Id.*

79. *Id.* at 216.

80. Chester, *supra* note 37 at 216.

81. *Id.*

82. *Id.* A news report from 1915 also mentions that “[f]ew [W]hite men have seen these dreadful rites and escaped alive . . . the [B]lacks still gather at night around a naked priestess, who holds in her hand the sacrifice, this is sometimes a rooster, or sometimes the ‘goat without horns’ or a live human child.” *Haiti, More Turbulent than Mexico Ever Thought of Being*, NEV. STATE J., Sept. 26, 1915, at 10.

analyzing the story of the officer, Chester concluded that any man would revert to such wild behavior if they were not reined in by civilization. He warned, "It is well for us to consider whether we too may not expect some such acts of savagery to break out in our country if our own colored people are not educated for better things."<sup>83</sup>

Clearly, these accounts of human sacrifice and cannibalism among Haitian Vodou practitioners in the first part of the twentieth century were used to argue that Haiti was an example of the barbarism that Blacks would revert to if they were not civilized and educated by Whites. These arguments quickly became more specific in the U.S. media; instead of using Vodou as a basis for the general need for Whites to intervene in Haiti, the United States used its disparagement of Vodou to justify the American invasion and occupation of Haiti from 1915 to 1934.<sup>84</sup>

Even in the early years of the occupation, articles about Vodou and human sacrifice littered American newspapers, solidifying the basis for the American presence on the island. For instance, in September of 1915, Louise James published an article in the *Syracuse Herald* citing President Wilson's declaration that "there must be peace in Haiti at any cost."<sup>85</sup> She wrote that cannibalism, human sacrifice, secret poisonings, and strange diseases thrived in Haiti.<sup>86</sup> Similarly, an article in the *Nevada State Journal* reported the landing of U.S. Marines in Haiti and predicted that Haiti might be a "permanent ward" of the United States to keep order on the island.<sup>87</sup> The author reported that Haiti was ruled by tyrants and illiterates and was "frantically opposed" to White people.<sup>88</sup> Murderers, the author claimed, were arrested then released the next day. However, the most hideous aspect of Haiti, and the one that the author felt most adequately represented the Haitian people, was their Vodou ceremonies, conducted by naked priestesses in dark forests.<sup>89</sup> According to "reliable witnesses," these ceremonies included both child sacrifice, in which the victim was ripped apart by the practitioners' bare hands, and acts of cannibalism.<sup>90</sup>

In addition to a plethora of newspaper articles, in 1920, *National Geographic* published an article called "Haiti and Its Regeneration by the

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83. Chester, *supra* note 37, at 216.

84. Dubois, *supra* note 58.

85. Louise James, *The Isle of Tragedy*, SYRACUSE HERALD, Sept. 19, 1915, at 9.

86. *Id.*

87. *Haiti, More Turbulent than Mexico Ever Thought of Being*, *supra* note 82.

88. *Id.*

89. *Id.*

90. *Id.*

United States.”<sup>91</sup> The article was designed to address the many problems of Haiti, which the author described as a complicated accumulation of “a hundred fevered, retrograde years.”<sup>92</sup> Amidst other alleged problems, the author declared that after Haiti became independent, “Cannibalism and the Black rites of voodoo magic of the African jungles were revived in all their horror, and the sacrifice of children and of animals to the mumbo jumbos of the local wizards was practiced in the appropriate seasons.”<sup>93</sup> The author went on to say that most of the presidents of Haiti were Vodou priests and that at least two of the presidents, Soulouque and Salnave, were cannibals and were trained in conducting Vodou ceremonies involving human sacrifice.<sup>94</sup> After describing the problems of Haiti, the author listed all of the improvements made since the beginning of the U.S. occupation to areas like health, sanitation, road-building, law, and security, and concluded that “[i]f the Americans were withdrawn from the Haitian government today, a speedy relapse to the conditions which preceded the intervention would follow.”<sup>95</sup>

While the media attacked Vodou in the United States, the Marines in Haiti also sought to stifle the religion. They set up surveillance of Vodou practitioners, burned ritual objects, and sentenced practitioners to hard labor when they were caught.<sup>96</sup> They also blamed all missing Marines on Haitian cannibalism and “such legends occasionally provoked massacres of civilians.”<sup>97</sup> After the American Marines left their post, many published accounts of their experiences in Haiti. One of the most sensational books was written in 1935 by U.S. Marine Corps Captain, John H. Craige, entitled *Cannibal Cousins*. In his book, Craige claims to have seen a man named Cadeus Bellegarde during his time in Haiti and wrote that one of his servant boys told him that Bellegarde was a bad man, a Vodou practitioner, and a cannibal.<sup>98</sup> He was curious so he asked a Captain from a neighboring district about Bellegarde.<sup>99</sup> Craige then recounts the story told to him by Captain Kelly.<sup>100</sup> Kelly allegedly said that Bellegarde was

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91. *Haiti and Its Regeneration by the United States*, 38 NAT'L GEOGRAPHIC MAG. 497, 497 (1920).

92. *Id.*

93. *Id.* at 500.

94. *Id.* at 503.

95. *Id.* at 511.

96. Dubois, *supra* note 21, at 117. The American occupation and the “post Duvalier era” were both particularly bad periods of persecution of Voodoo. MARGARITE FERNANDEZ OLMOS & LIZABETH PARAVISINI-GEBERT, CREOLE RELIGIONS OF THE CARIBBEAN: AN INTRODUCTION FROM VODOU AND SANTERIA TO OBEAH AND ESPIRITISMO 105 (2003).

97. JENKINS, *supra* note 60, at 113.

98. JOHN HOUSTON CRAIGE, CANNIBAL COUSINS 130 (1935).

99. *Id.* at 131.

100. *Id.*

notorious for being a Vodou doctor and that he performed regular ceremonies using child sacrifice, including consumption of the flesh of the child once it had been ritually killed and cooked.<sup>101</sup> After hearing such rumors, Kelly reported that some local informants told several officers about a forthcoming ceremony wherein Bellegarde intended to sacrifice children to the deity Oggun.<sup>102</sup> The Marines sent officers to catch Bellegarde in the act but found him alone.<sup>103</sup> According to Kelly, they searched the premises and uncovered human flesh in a pot and the bones of children.<sup>104</sup> Bellegarde was arrested and convicted for cannibalism and murder, but was ultimately released because of pressure from American authorities to not apply the death penalty to Haitians.<sup>105</sup> Craige claimed that Kelly told him that the report came back from Washington that because “none of those eaten had been American citizens,” Bellegarde had to be released for lack of jurisdiction.<sup>106</sup> He concluded the story by saying: “No civilized person would believe that such things could be true. But most of them are.”<sup>107</sup>

The role of Vodou within Haiti over the decades following the American occupation has been the subject of entire chapters in several books.<sup>108</sup> Such detail is not necessary here; however, several notable events stand out. First, in 1937, a few years after the U.S. Marines left Haiti, Rafael Trujillo, President of the Dominican Republic, led a three-day killing spree, executing at least 18,000 and as many as 35,000 Haitians living near the border of Haiti and the Dominican Republic.<sup>109</sup> When questioned about the motivation behind his actions, Trujillo replied that Haitians were dirty, cattle-rustling, Vodou practitioners and that “[t]heir presence within the territory of the Dominican Republic cannot but lead to the deterioration of the living conditions of our citizens.”<sup>110</sup>

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101. *Id.*

102. *Id.* at 134.

103. CRAIGE, *supra* note 98, at 134.

104. *Id.*

105. *Id.* at 135.

106. *Id.* Cadeus Bellegarde was the great-grandson of General Jean Louis de Bellegarde, a Duke and Marshall under Haitian President Soulouque. *Id.* at 132. Soulouque was elected president in 1847 after being born a slave and participating in the 1803 Revolution. *Faustin Elie Souliouque*, BRITANNICA.COM, <http://www.britannica.com/EBchecked/topic/555240/Faustin-Elie-Soulouque> (last visited Oct. 26, 2011). When Craige was told this he remarked “what a genealogy for a cannibal.” CRAIGE, *supra* note 98, at 132.

107. CRAIGE, *supra* note 98, at 135.

108. *See, e.g.*, HAROLD COURLANDER & REMY BASTIEN, RELIGION AND POLITICS IN HAITI (1966) (featuring such chapters as “Vodoun in Haitian Culture” and “Vodoun and Politics in Haiti”); LAGUERRE, *supra* note 42 (including chapters like “Revolutionary Voodoo Leaders” and “Politics and Voodoo During the Duvalier Era”).

109. PAUL FARMER, THE USES OF HAITI 89 (3d ed. 2005).

110. *Id.*

Later, in 1940 and 1941, the Catholic Church and Haitian president Elie Lescot attempted to suppress Vodou in Haiti.<sup>111</sup> The Catholic Church required all its members to make a public declaration that was deemed an “oath of rejection,” repudiating all Vodou practices, and declaring that Vodou was devil worship.<sup>112</sup> They also set fire to Vodou shrines and imprisoned or killed Vodou priests and priestesses.<sup>113</sup> Decades later, after dictator Jean Claude Duvalier was ousted from Haiti in 1986, executions of Vodou priests and raids on Vodou temples became prevalent once again, because of a perceived or real complicity of practitioners of Vodou in the oppressive Duvalier regime.<sup>114</sup> John Merrill, legal scholar and Deputy Director of the Haiti Task Force for the Department of Defense, asserts that at least 500 murders of Vodou priests were documented.<sup>115</sup> Vodou organizations claim that the number is much higher, somewhere around 2,000 deaths.<sup>116</sup>

During the Duvalier regime and the difficult times that followed, it is well known that many Haitians fled the island in search of a better life. In the 1980s, as the epidemic now known as AIDS was receiving large-scale media attention, scientists developed many theories about the origin of this disease. Based on an assessment of the AIDS rate in a small group of Haitian immigrants, all Haitians were identified as a “risk group.”<sup>117</sup> AIDS was then quickly linked to Vodou and cannibalism to explain the high rate of the disease in Haitians.<sup>118</sup>

Haitian Vodou received a renewed wave of negative press in the 1990s. For instance, in January of 1991, before the inauguration of President Jean-Bertrand Aristide, there was an attempted coup led by Roger

111. John Merrill, *Vodou and Political Reform in Haiti: Some Lessons for the International Community*, 20 FLETCHER F. WORLD AFF. 31, 43 (1996). Lescot became president in 1941 and resigned in January 1946 after an ineffective rule. *Haiti: 1941-1946-Elie Lescot*, GLOBAL SECURITY, <http://www.globalsecurity.org/military/world/haiti/history-13.htm> (last visited Oct. 26, 2011).

112. HURBON, *supra* note 39, at 57. Laguerre also notes that “Voodoo practitioners” who converted were forced to bring their voodoo paraphernalia to the priest and once converted, the priest told them they would miraculously die if they returned to practicing Voodoo. LAGUERRE, *supra* note 42, at 104.

113. HURBON, *supra* note 39, at 57.

114. Merrill, *supra* note 111, at 46. Duvalier served as president from 1957 until his death in 1971, and “is credited with politicizing Vodou in the modern era. Although earlier leaders and governments had tolerated Vodou, Duvalier distinguished himself by linking Vodou practice with the administration of political power in the countryside.” *Id.* at 43.

115. *Id.* at 46. This number was confirmed through such verifiable means as eyewitness accounts and firsthand gravesite visits. *Id.*

116. *Id.*

117. FARMER, *supra* note 109, at 278.

118. *Id.* at 279. Of course, there has never actually been any evidence linking voodoo to the AIDS epidemic. *Id.* at 280.

Lafontant, and as a result violence ensued in the capital. A U.S. newspaper reported this event as follows:

Burned bodies, cannibalism and torched homes give an aura of madness to the capital, but the violence in Haiti this week was anything but random.

. . . [O]n Tuesday, two photographers took pictures of two men eating the flesh of a man who had been burned as hundreds of people looked on.

Haitian religious experts say cannibalism has seldom occurred in Haiti but is indirectly linked to voodoo, an African religion exported by slaves.<sup>119</sup>

The most recent well-known attack on Vodou in Haiti came in 2010 and it provides a prime example of the persisting bias against Vodou. In the aftermath of the tragic earthquake that killed over 200,000 people, Reverend Pat Robertson claimed that the earthquake was God's retribution for Haitians making a pact with the devil (referring to the alleged Vodou ceremony at Bois-Caïman) to gain their freedom from France.<sup>120</sup> His words are reminiscent of comments made one hundred years ago, blaming Vodou practitioners for all the bad things that have befallen Haiti and asserting that only outside influence can rid them of these practices and allow the country to progress.

#### B. *Non-Haitian "Voodoo" in U.S. Courts and Media*

An examination of the history of the term Voodoo in the United States and its application to non-Haitian practices could potentially be a lengthier enquiry than the political history of Haitian Vodou. In an effort to avoid a book-length recitation of the various applications of the term Voodoo and the meaning surrounding its association with a particular act or practice, I will provide some examples that best illustrate the meaning of Voodoo in the United States. There are three things to take away from this information. First, at least as early as the mid-nineteenth century, the

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119. *Id.* at 136.

120. See Samuel G. Freedman, *On Religion; Voodoo, a Comfort in Haiti, Remains Misunderstood*, N.Y. TIMES, Feb. 20, 2010, <http://query.nytimes.com/gst/fullpage.html?res=990CE1DD1E30F933A15751C0A9669D8B63> (noting that in 2003, Vodou was designated as an official religion of Haiti); Carl Hiaasen, *Robertson Again Blaming the Victims*, MIAMI HERALD, Jan. 17, 2010, available at 2010 WLNR 997809 (calling Rev. Pat Roberson a "yammering fool" for his "idiotic comment" that the earthquake in Haiti was caused by God as retribution for slaves making "a pact to the devil"); Ker Than, *Haiti Earthquake & Voodoo: Myths, Ritual, and Robertson*, NAT'L GEOGRAPHIC DAILY NEWS, (Jan. 25, 2010) <http://news.nationalgeographic.com/news/2010/01/100125-haiti-earthquake-voodoo-pat-robertson-pact-devil-wade-davis/> (calling Robertson's comments "[c]ruel, ignorant, unforgivable, the ravings of a lunatic. He doesn't even know what he's talking about").

United States recognized that it had a hotbed of Voodoo within its own territory in New Orleans and sought to suppress this Voodoo through a series of laws regarding drumming, illegal congregation, fortune telling, fraud, and illegal practice of medicine. Second, by the early twentieth century, most likely because of the publications from Prichard, St. John, and others like them, Voodoo became synonymous with acts of cannibalism, human sacrifice, and devil worship. Over the next hundred years, the term Voodoo would be applied in the media to various groups unrelated to Haiti and often unrelated to any African-derived beliefs or practices. Finally, in the past few decades, movies and television shows about Voodoo have been common and they have reinforced longstanding stereotypes about Voodoo among the general population.

The earliest accounts of Voodoo within the United States referred to religious practices in the former French territory of New Orleans. Under French rule, the slaves in New Orleans were prohibited from gathering together due to fears of uprising and they were subjected to superficial efforts to convert them to Catholicism.<sup>121</sup> After the United States took control of Louisiana, it also imposed laws forbidding slaves from congregating, partially due to the realization of the organizing powers of Voodoo.<sup>122</sup> In addition to general concerns about slave congregation, there is some evidence that Voodoo was specifically targeted by authorities. For instance, in 1895 a report alleged that Voodoo “has been suppressed in great measure by the efforts of our municipal authorities.”<sup>123</sup> Further, modern scholars have documented numerous arrests of Voodoo practitioners that were made in this bustling port city in the mid-nineteenth century.<sup>124</sup> The accused were solely women, typically detained when the police interrupted their gatherings of singing, dancing, chanting, and performing rituals.<sup>125</sup>

Just before the turn of the nineteenth century, Louisiana passed the Medical Practice Act, which was used to limit the services of Voodoo practitioners.<sup>126</sup> Local statutes against fortune telling and obtaining

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121. ROBERT TALLANT, *VOODOO IN NEW ORLEANS* 10 (1990) (noting that not only were slaves punished for gathering, their owners could also be forced to “pay one hundred crowns to the treasury of the Church, and for the next offense of this kind, be sentenced to work for life on the King’s galleys”).

122. *Id.* at 18; LONG, *supra* note 23, at 38.

123. TALLANT, *supra* note 121, at 41.

124. See Pettinger & Milne, *supra* note 59, at 419 (noting that a New Orleans newspaper from 1863 reported that forty women had been found dancing naked, and twenty of them were subsequently arrested for practicing “Voudouism”).

125. See TALLANT, *supra* note 121, at 24–25 (noting that in August of 1850, fifty women were arrested for participating in an alleged Voodoo dance).

126. LONG, *supra* note 23, at 53. “The Louisiana Board of Health, under the 1894 Medical Practice Act, prosecuted persons accused of practicing medicine without a license.

money under false pretenses, passed in the late nineteenth and early twentieth century, were used for similar purposes.<sup>127</sup> However, it appears that despite this wide range of statutes, most charges against Voodoo practitioners were for malicious mischief or for disturbing the peace.<sup>128</sup>

In addition to real prosecutions of New Orleans Voodoo in Louisiana, by the turn of the twentieth century the U.S. media was filled with reports of other prosecutions of “Voodoo” practitioners. Outside of New Orleans, individuals arrested for “Voodoo” were usually Black males who were paid to provide some type of medico-religious services. Their treatments were unorthodox and the charges against them were typically fraud, unlicensed medical practice, and related offenses. These individuals, referred to as “Voodoo doctors,” were described as charlatans victimizing both Black and White populations.<sup>129</sup> For example, “Voodoo doctor” and “medicine man” George Gaines was arrested in 1926 for treating a White woman named Carmella who had been suffering from “nerves” and feeling generally rundown after her baby had died seven months earlier.<sup>130</sup> Carmella entered Gaines’ shop, which he advertised with a sign on the door stating “Spiritualist Healer.”<sup>131</sup> During a consultation, Gaines informed Carmella that he believed she had a curse upon her and applied a salve to her body to take away the curse.<sup>132</sup> Later, Carmella decided that she had been “victimized” and told her brother-in-law what had transpired.<sup>133</sup> At her brother-in-law’s urging, Carmella wrote Gaines a letter and asked him to come to her house.<sup>134</sup> When Gaines arrived Carmella had two policemen waiting for him and Gaines was placed under arrest.<sup>135</sup> Once he was in custody, Gaines’ home was searched and the police found herbal beverages, charms, and other items.<sup>136</sup> His arrest resulted in three charges: practicing medicine without a license, obtaining money under false pretenses, and criminal defama-

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A 1929 revision imposed a fifty- to one-hundred-dollar fine or a sentence of ten-to-ninety days in the parish prison.” *Id.*

127. *Id.* at 53 (noting that in addition, Vodou practitioners who conducted business via the mail were prosecuted under federal mail fraud statutes which carried a sentence of confinement).

128. TALLANT, *supra* note 121, at 198.

129. *Secrets of Vicious Voodoo Doctors Who Victimize Gullible Girls*, HAMILTON EVENING J. (Ohio), Oct. 9, 1926, at 22.

130. *Id.*

131. *Id.*

132. *Id.*

133. *Id.*

134. *Secrets of Vicious Voodoo Doctors Who Victimize Gullible Girls*, *supra* note 129.

135. *Id.*

136. *Id.*

tion of character for maintaining lists of his “socially distinguished” clients.<sup>137</sup> The arrest of George Gaines was reported with the title “Secrets of Vicious ‘Voodoo Doctors’ Who Victimize Gullible Girls,” and a subtitle of “Pretty Carmella’s Agonies with a Black ‘Priest’ and How Jungle Rites Are Practiced To-day in Many of Our Big Cities.”<sup>138</sup> The article reports that, by arresting Gaines, New Jersey was able to stop “exploitation of credulous girls and women.”<sup>139</sup>

Similarly, Samuel Pierce was indicted by the federal grand jury in St. Louis in 1927 for using mail to defraud.<sup>140</sup> Pierce owned a business called the African[-]American Institute for Science, and was accused of selling “voodoo charms” through the mail.<sup>141</sup> Pierce sold charms to keep a husband home or to bring a man back, to ward off evil spirits, or to bring luck to a business or love.<sup>142</sup> This “voodoo doctor” was reported to have “victimized hundreds of negroes” by selling them these mail order charms, for which his customers paid between \$5 and \$500.<sup>143</sup>

Another “voodoo doctor” was arrested in 1930, charged with “two counts of illegal practice of medicine and two counts false pretenses.”<sup>144</sup> The “voodoo doctor,” Clayton Miller, was accused of selling herbs and “crazy salts.”<sup>145</sup> Several of his clients, whom the newspaper reports refer to as his “victims,” testified against him.<sup>146</sup> The police collected additional evidence from Miller’s home, including charms, philters, perfumes, and powders.<sup>147</sup> Miller pled guilty to practicing medicine without a state license, admitting that he had dispensed herbs in violation of medical laws.<sup>148</sup> He was ordered to leave the county and pay a \$300 fine.<sup>149</sup>

These examples are representative of the types of media accounts Voodoo received in the United States at the beginning of the twentieth century, and they may or may not be related to the beliefs and practices

137. *Id.* The article reported that the names of Gaines’s patients included “names of beautiful, rich and socially distinguished women” and that “[W]hite people’s money, investigation has shown, financed many of the Voodoo ventures in New Jersey.” *Id.*

138. *Id.*

139. *Secrets of Vicious Voodoo Doctors Who Victimize Gullible Girls*, *supra* note 129.

140. *Mail Order Voodoo*, OIL CITY DERRICK (Pennsylvania), July 16, 1927, at 11.

141. *Id.*

142. *Id.*

143. ‘Voodoo’ Doctor Sold Powders to Keep Straying Husbands Home, FRESNO BEE, July 1, 1927, at 10; ‘Voodoo’ Doctor Held for Using Mails for Fraud, BRIDGEPORT TELEGRAM, July 1, 1927, at 9.

144. *Quack Doctor Held for Court Under \$3000 Bail at Hearing Last Night*, MONESSEN DAILY INDEP., Aug. 27, 1930, at 1.

145. *Id.*

146. *Id.*

147. *Voodoo Doctor’s Plea*, MORNING HERALD, Sept. 15, 1928, at 11.

148. *Id.*

149. *“Doctor” Sentenced*, MORNING HERALD, Oct. 31, 1928, at 3.

called Voodoo in New Orleans. However, there were many other widespread accounts of Voodoo that were much more clearly unconnected to New Orleans beliefs and practices.<sup>150</sup> One of the most interesting is that in the 1930s, a Black-Islamic community in the Detroit area (later to become known as the Nation of Islam) was referred to as the “Voodoo Cult of Detroit.”<sup>151</sup> This characterization of the Nation of Islam began in 1932, when one member of the movement murdered another member and called it a sacrifice to the “gods of Islam.”<sup>152</sup> Although the murderer, Robert Harris, was later declared insane and sent to an asylum, practices of human sacrifice were ascribed to the group as a whole.<sup>153</sup>

The Nation of Islam was not the only group labeled as Voodoo practitioners because of alleged incidents of human sacrifice. In the 1910s and 1920s in Cuba, there was a series of kidnappings of White children, these children either completely disappeared or were later discovered mutilated and murdered.<sup>154</sup> White Cubans assumed that these kidnappings and murders were the work of Black “brujos” or witchdoctors, who needed the body parts of White children to create charms and potions.<sup>155</sup> When the arrest of these alleged brujos was reported in U.S. newspapers, they were referred to as Voodoo practitioners.<sup>156</sup>

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150. See Erdmann Doane Beynon, *The Voodoo Cult Among Negro Migrants in Detroit*, 43 AMER. J. OF SOC. 894–907 (1938) (explaining accounts of Voodoo in Detroit).

151. *Id.*

152. “Called by Allah to Kill,” *Negro Slays Neighbor*, NEV. ST. J., Nov. 22, 1932, at 3; *Cult Leader Says Victim Gave Consent*, DAILY MAIL (Hagerstown, MD.), Nov. 22, 1932, at 1; *Cult Slayer Pleas Guilty*, DETROIT FREE PRESS, Nov. 25, 1932, at 1; *Negro Cult Leader Admits Killing Man in Voodoo Worship*, KOMOKO TRIB., Nov. 25, 1932, at 1; *Negro Cult Leader Held After Making Sacrifice*, CIRCLEVILLE HERALD, Nov. 21, 1932, at 1.

153. FBI, CORRELATION SUMMARY, WALLACE D. FARD, 27 (Jan. 15, 1958), available at <http://vault.fbi.gov/search> (type “Wallace D. Fard” in the search box and click “search,” select “Wallace Fard Muhammed Part 2 of 7” then enter “63” in the page locate box).

154. *Little Girls Victims of Voodoo; White Children Are Sacrificed*, BILLINGS GAZETTE, Nov. 9, 1919, at 1; *Negros Charged With Death of Girls Killed by Soldiers*, GALVESTON DAILY NEWS, July 1, 1919, at 10; *White Girl Burned on Jungle Altar?* MOBERLY-MONITOR INDEX, Dec. 8, 1922, at 4.

155. *Little Girls Victims of Voodoo*, *supra* note 154; *Negros Charged with Death of Girls Killed by Soldiers*, *supra* note 154; *White Girl Burned on Jungle Altar?*, *supra* note 154.

156. See, e.g., *Little Girls Victims of Voodoo*, *supra* note 154 (providing an example of how White children were believed to be sacrificed as victims of Voodoo); *Negros Charged with Death of Girls Killed by Soldiers*, *supra* note 154; *White Child Voodoo Victim*, VICTORIA DAILY ADVOCATE, Dec. 18, 1922, at 1 (describing story where authorities believed the murder of a five-year-old White girl was linked to Voodoo practices); *White Girl Burned on Jungle Altar?*, *supra* note 154 (describing the three Haitian negroes and two Cuban Blacks who allegedly stole a little White girl as “negro sorcerers”). The article refers to the kidnappers not as brujos but instead as “African Molach.” *Id.* Molach is the name used to describe an ancient god associated with fire and human sacrifice. See generally FREDERIC

The practice of labeling beliefs and practices as “Voodoo” in an effort to simultaneously sensationalize and discredit a person or group has continued, and expanded, in recent decades. For example, in the late 1980s during the U.S. invasion of Panama, American newspapers alleged that military leader Manuel Noriega possessed “Voodoo paraphernalia” and prayed to “Voodoo gods.”<sup>157</sup> In 1998, professor John Bartowski, published an article analyzing when and why specific claims of Voodoo are made against certain groups or individuals.<sup>158</sup> Bartowski argued that part of the basis for Noriega being portrayed as a Voodoo practitioner was that the military and the Bush administration were attempting to discredit Noriega (and thereby justify the U.S. invasion of Panama) through these allegations of religious deviance.<sup>159</sup>

A short time later, a college student from the University of Texas went missing near Matamoros, Mexico and was later discovered to have been one of twelve people tortured and murdered by a group of drug smugglers.<sup>160</sup> Newspapers described the murders in gruesome detail, calling them “ritualistic murders” to appease “Voodoo gods.”<sup>161</sup> They referred to the group of drug smugglers as a “Voodoo cult” and linked the leader of the “cult” to various Afro-Caribbean religious practices.<sup>162</sup> Bartowski noted that despite media associations between Voodoo and the Matamoros murders, these murders had no relationship to Haitian Vodou or any other Afro-Caribbean religion.<sup>163</sup> Further, there was evidence that the group had repeatedly watched a videotape of a horror movie called *The Believers*, which may have served as inspiration for their practices.<sup>164</sup>

Today, African-derived religious practices in the southern United States (particularly New Orleans) and in Haiti are still referred to as “Voodoo” and are still described in stereotypical and derogatory terms. Popular crime shows frequently feature segments about Voodoo practi-

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P. MILLER ET. AL., MOLOCH (2009). References to Moloch are seen in the Hebrew, Canaanite, Phoenician and related cultures in North Africa. In modern English usage, “Moloch” can refer derivatively to any person or thing which demands or requires costly sacrifices. *Id.*

157. John P. Bartowski, *Claims-Making and Typifications of Voodoo as a Deviant Religion: Hex, Lies, and Videotape* 37 J. FOR SCI. STUD. RELIGION 559, 562–63 (1998).

158. *Id.*

159. *Id.* at 560, 564–67.

160. *Id.* at 569.

161. *Id.* at 570.

162. Bartowski, *supra* note 157, at 569–70.

163. *Id.* at 571.

164. *Id.*

tioners attempting to kill people by inflicting strange curses on them.<sup>165</sup> Of course, the criminal investigative teams (who are usually White) are generally above such superstitions and they valiantly uncover these heinous acts and arrest those who committed them.<sup>166</sup> Further, horror films are regularly released featuring Voodoo practitioners or Voodoo curses as central characters and plots.<sup>167</sup> Even Disney's first fairy tale featuring a Black princess incorporated negative stereotypes of Voodoo practitioners into its plot. In *The Princess and the Frog*, released in 2009, the villain is an evil Voodoo doctor who promises to sell all the souls of the people in New Orleans to his "friends on the other side" if they help him capture the prince and steal his blood for a Voodoo ritual.<sup>168</sup>

These film and television representations reinforce centuries-old stereotypes about Voodoo and compound the overwhelming ambiguity about the meaning of the term. As scholar Leslie Desmangles says in his book on Haitian Vodou and Catholicism:

Thanks to Hollywood and the film industry, what average persons conjure up in their minds when they think of Voodoo is a picture of witches and sorcerers who, filled with hatred, attempt to inflict diseases or even death on other persons by making wax or wooden representations of them, and perforating them with pins.<sup>169</sup>

This relatively brief introduction into the history of Voodoo in the Western Hemisphere illustrates several things that must be kept in mind throughout the next section. First, early prejudices against Vodou and Voodoo were primarily racially based assumptions about the inferiority of Black religion and civilization. Second, the central purpose of early accounts of Voodoo and Vodou were to ascribe certain beliefs and practices to Black populations to show what "savage" behavior Blacks, not gov-

165. See *Law and Order, Criminal Intent: The Healer* (NBC television broadcast Apr. 23, 2006) (portraying Voodoo under negative circumstances).

166. See *Bones: The Man in the Morgue* (FOX television broadcast Apr. 19, 2006) (presenting a story about a character involved in a murder guided by Voodoo).

167. See, e.g., *TALES OF VODOO* (Videoasia 2007) (a five DVD series, released from 2005 to present); *ZOMBIE NATION* (Working Poor Productions 2004); *THE SKELETON KEY* (Universal Pictures 2005); *LONDON VODOO* (Zen Films 2004); *VODOO DAWN* (Bridge Pictures 2000); *VODOO ACADEMY* (Full Moon Entertainment 2000); *TALES FROM THE HOOD* (40 Acres & Mule Filmworks 1995); *VODOO* (Planet Productions 1995); *SERPENT AND THE RAINBOW* (Serpent & the Rainbow & Universal Pictures 1988); *ANGEL HEART* (Carolco International N.V. 1987); *CURSE OF THE VODOO* (Galaworld Film Production, Gordon Films 1965); *I WALKED WITH A ZOMBIE* (RKO Radio Pictures 1943); *WHITE ZOMBIE* (Edward Halperin Productions 1932).

168. *THE PRINCESS AND THE FROG* (Disney 2009).

169. DESMANGLES, *supra* note 38, at 1.

erned by Whites, would revert without intervention from Whites.<sup>170</sup> Yet, much of what travelers, officials, Marines, and the media were describing was not Haitian Vodou or New Orleans Voodoo. Third, incidents of alleged murder, cannibalism, and human sacrifice were assumed to be a component of Voodoo practices and later, Voodoo would be used to refer to any belief or practice that an individual wished to delegitimize.

The result is that society no longer really knows what the word Voodoo means. Although it has been broadly used to refer to a variety of practices and beliefs that are not derived from Haiti, New Orleans, or even Africa, the word is still regularly used to refer to Haitian Vodou and New Orleans Voodoo without distinction from these other meanings. Therefore, Haitian Vodou and New Orleans Voodoo absorb all of the negative press that the ambiguous term “Voodoo” receives, as if all the beliefs and rituals referred to as “Voodoo” actually belong to these religions.

### III. THE MODERN ATMOSPHERE

So far, this Article has focused on the historical development of the meaning of the term Voodoo and the basis for the negative public perceptions of religions categorized as Voodoo. Part III discusses two major factors affecting the freedom of religion of Vodou and Voodoo practitioners. Specifically, how public opinion has manifested into courtroom use of equally ambiguous claims of Voodoo practice, and even cases alleging discrimination when someone has been labeled a Voodoo practitioner. There are two major factors affecting the freedom of religion of Vodou and Voodoo practitioners. First and foremost, there have been numerous ambiguous references to Voodoo in domestic court cases, where parties and the court both make unchallenged negative assumptions about Voodoo practice.<sup>171</sup> These cases suggest that public misconceptions and prejudices have manifested in the U.S. court system. This section will explore how these cases pose serious challenges to Vodou and Voodoo practitioners.

Second, but no less important, Vodou, Voodoo and other African and African-derived religions are commonly ignored in religious studies departments at colleges and universities. The omission of these belief systems from educational institutions prevents public dialogue and academic exploration that might preclude stereotypes about Voodoo from continuing to thrive among the next generation.

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170. *Id.* at 2 (asserting that false stories about the savageness of untamed Blacks are prevalent throughout the world).

171. *See* *People v. Engram*, 549 N.E.2d 1333, 1337 (Ill. App. Ct. 1990) (using the term voodoo in association with mental instability).

### A. Cases

As described in Part II, both the United States and Haiti maintained laws that directly prohibited Haitian Vodou or New Orleans Voodoo, either through statutes that proscribed these belief systems or their practice by name, or through laws against slave congregation, drumming, fraud, and unlicensed medical practice.<sup>172</sup> The Supreme Court has clearly held that these forms of intentional religious discrimination are unconstitutional and has affirmed that African-derived belief systems fall within the meaning of “religion” within the U.S. Constitution.<sup>173</sup> However, what is not clear is whether discrimination can be considered intentional if an individual is simultaneously discriminating against both a sincerely-held religious belief and a sensationalized, ambiguous concept like Voodoo.

As described below, evidence of Voodoo belief, worship, or practice is frequently presented in various kinds of court cases. Voodoo is introduced by plaintiffs, defendants, and prosecutors alike to prove insanity, unfit parenting, inadequate defense, grounds for divorce, and numerous other arguments. In these cases, “Voodoo” is universally used as evidence to discredit the opposing party, generally without any interjection by the court or either party that religious belief should not be grounds to prove that someone lacks sound mind and judgment.

The pervasiveness of myths and stereotypes about Voodoo and Vodou may make it difficult to understand the problem with these cases. When reading about these cases, it is important to ask the question: if I insert the word “Muslim,” “Christian,” or “Jew” in place of “Voodoo,” would this be a clear case of religious discrimination? Would it make it less discriminatory if the practice or belief at issue was not actually a component of Islam, Christianity, or Judaism,<sup>174</sup> if the practices were still referred to as if they were a part of that religion? Furthermore, is it possible to picture any of these religions being used as evidence in the ways in which Voodoo is employed below?

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172. *Supra* Part II.B.

173. *See* Church of Lukumi Babalu Aye, Inc. v. City of Hialeah, 508 U.S. 520, 524 (1993) (holding that the city ordinance violated the First Amendment by targeting an African-derived religion). “Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.” U.S. CONST. amend. I.

174. Of course, by this statement I mean not a component of these religions as most members of these religions understand and practice them. I do not mean to imply that there is any right or true version of these religions.

i. Implications on Mental, Emotional, and Social Stability

Cases about Voodoo can be easily divided into two categories: (1) where Voodoo is evidence of some form of mental or emotional instability, and (2) where Voodoo is evidence of discrimination. This section addresses the first type of cases, including actions about insanity, divorce, and child custody. In these cases, Voodoo practices and beliefs are offered as evidence that the believer or practitioner is incapable of caring for himself or others because his beliefs are irrational and dangerous. The most common of these types of cases are actions where a psychiatrist or other mental health professional made the argument on behalf of a criminal defendant that he was not accountable for his actions because of delusional beliefs about Voodoo spells and curses.

a. Criminal Cases

In a 1990 criminal prosecution, a psychiatrist testified that Lillie Engram suffered from mental illness and could not be held responsible for attempting to kill her husband.<sup>175</sup> The psychiatrist described Engram's "original delusion" as the belief that a neighbor was trying to steal her husband and had cast a Voodoo spell on her.<sup>176</sup> Later, her delusions changed to the belief that her husband was the one under the spell and that the spell made him treat her poorly.<sup>177</sup> The psychiatrist noted that Engram had "consulted a witch doctor to have the voodoo spell removed."<sup>178</sup> The prosecution's psychiatrist, Dr. Tuteur, said that he did not believe that Engram was mentally ill or preoccupied with Voodooism; therefore, she did not shoot at her husband because she believed herself to be under a Voodoo spell.<sup>179</sup>

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175. *See Engram*, 549 N.E.2d at 1336 (explaining that Dr. Goldman had treated Lillie several times before she shot her husband).

176. *Id.* The court's opinion details that:

Defendant heard voices that belittled her and called her names. She had become distraught and called the police on some occasions. The police told defendant's husband to try to control her because she was irrational. She was hospitalized in confused and agitated states. She also had a delusion that some people had put a knife to her throat at a theater and made her drink poison; when she went to the emergency room to have her stomach pumped, the people that had attacked her would not let her in and chased her away.

*Id.*

177. *Id.* Engram also believed that family members were conspiring to kill her and had beaten her. *Id.*

178. *Id.*

179. *See id.* at 1336-37 (stating that Dr. Tuteur came to his conclusions about Engram after interviewing her for only an hour and a half and after hearing about her jealousy and her belief that her husband was cheating on her). This belief was contrary to that of the

Similarly, when Mary Appacrombie was appealing her conviction for second-degree murder in 2000, her sister offered testimony to support Appacrombie's defense of insanity.<sup>180</sup> She said that Appacrombie had "often accused her family of practicing voodoo against her," and "sought assistance in 'getting the voodoo off of her.'"<sup>181</sup> The doctor who conducted a psychiatric evaluation of Appacrombie opined that her accusations of Voodoo against her family were "consistent with psychosis."<sup>182</sup>

A further illustration is seen in the appeal of an order appointing a conservator over Maharaj M. The appeal was to determine whether a jury could have reasonably found that Maharaj M. suffered "from a grave disability as a result of a mental illness."<sup>183</sup> Psychologist Akira Suzuki testified that Maharaj suffered from "grandiose delusions," although he (Maharaj) believed that his illness was caused by witchcraft.<sup>184</sup> The court held that a jury could have reasonably found that Maharaj's "delusional beliefs" in Voodoo and witchcraft could have impeded his "ability to obtain food, clothing and shelter on a regular basis."<sup>185</sup>

These types of cases, where the alleged Voodoo believer has exhibited strong suspicions and preoccupations with spiritually induced illnesses and other supernatural causes of physical ailments, represent the vast majority of Voodoo-related insanity claims. It seems likely that most of these cases are nothing more than a societal practice of associating an excessive belief in the ability of others to cause harm through curses, possessions, poisons, and spells with Voodoo, and are not actually in any way related to African-derived religious practices like Haitian Vodou.<sup>186</sup> However, a number of other cases have been much more ambiguous about the use of the word Voodoo, identifying the individual as originat-

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psychiatrist for the defense who testified to a diagnosis of paranoid schizophrenia, purely based on her history of delusions and hallucinations. *Id.*

180. *See* State v. Appacrombie, 766 So. 2d 771, 774 (La. Ct. App. 2000) (explaining that Appacrombie underwent brain surgery to relieve her of her frequent seizures, but became violent and reclusive after the surgery).

181. *Id.*

182. *See id.* at 775. [The psychiatrist clarified that] 'psychosis' means that a person does not have proper reality testing and is not aware of what is really going on around him or her."

183. *Ex rel.* Maharaj v. Maharaj, No. F049409, 2006 WL 2356177, at \*1 (Cal. Ct. App. Aug. 15, 2006).

184. *See id.* at \*1, \*4 (pointing out that Maharaj claimed he was not mentally ill, and attributed his mental state to voodoo and witchcraft).

185. *Id.* at \*4. Expert testimony established that Maharaj could not clothe, feed, or provide shelter for himself, and that he suffered from a "grave disability." Furthermore, Maharaj often had to be prompted to take his medications, eat, and to take a shower. *Id.*

186. Consider the descriptions of television and movie references to Voodoo above. *Supra* notes 166-67. All of them have themes about these kinds of beliefs.

ing from Haiti, Louisiana, Africa, or citing practices that could be a component of an African or African-derived religion.

An illustration of this can be seen in the case of Alton Coleman. Alton Coleman sought habeas corpus relief in a U.S. district court after appeals of his death sentence for aggravated robbery had been unsuccessful.<sup>187</sup> Among other things, Coleman alleged ineffective assistance of trial counsel.<sup>188</sup> The court found that Coleman's counsel had failed to meet his obligation to investigate his client's personal history and present mitigating factors to the jury in the sentencing portion of the trial.<sup>189</sup> In part, the court's decision was because Coleman's counsel failed to report that his grandmother involved him in her voodoo practice by having him kill animals and collect their body parts for use in her magic potions, as well as instructing Coleman to eat food only prepared by her because she believed that their home was surrounded by enemies who wanted to poison them.<sup>190</sup> Coleman did not specify that his grandmother practiced Haitian Vodou or New Orleans Voodoo, but his references to certain practices like animal sacrifice certainly contained a component of the beliefs and practices of many Vodou or Voodoo practitioners.<sup>191</sup>

Similarly, in 1998, a jury convicted Dorethra Crawford of the aggravated assault of her sister Myra Obasi.<sup>192</sup> Dorethra, Myra, and a third sister Beverly travelled to Texas from their home in Louisiana, in efforts to flee another sister whom they believed "was going to kill one of them."<sup>193</sup> The testimony of several individuals indicated that Dorethra and her sisters were together when Myra began to behave strangely and speak in a manly voice.<sup>194</sup> The sisters believed that Myra was possessed by evil spirits, and reported to a police officer that they were helping rid

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187. *Coleman v. Mitchell*, 268 F.3d 417, 425 (6th Cir. 2001).

188. *Id.* at 431.

189. *See id.* at 449–50 (noting that the counselor did not contact either of the doctors who had prepared Coleman's psychological reports concerning his competency to stand trial). Although the doctors found Coleman mentally competent to stand trial for the federal kidnapping charges, they determined that Coleman probably suffered from antisocial, obsessive, and narcissistic features, coupled with mixed personality disorder. *Id.* at 450.

190. *See id.* at 450 (elaborating on the fact that there were various reports documenting that Coleman was abused by his primary caregiver, his grandmother, who abused him both psychologically and physically). Coleman's grandmother also neglected him while she operated a brothel and gambling business in her home. *Id.*

191. Karen McCarthy Brown, *Afro-Caribbean Spirituality, A Haitian Case Study*, in *VODOU IN HAITIAN LIFE AND CULTURE: INVISIBLE POWERS* 6 (2006).

192. *Crawford v. Texas*, No. 05-96-01512-CR, 1998 WL 420318, at \*1 (Tex. App.—Dallas July 28, 1998, no pet. h.) (mem. op., not designated for publication).

193. *Id.*

194. *Id.* at \*3.

their sister of these evil spirits.<sup>195</sup> Myra, however, was unable to recall what happened.<sup>196</sup> A psychotherapist who examined Myra diagnosed her possession as “a ‘dissociative disorder’ based on the cultural perspective that the family ‘inherited’ from a medicine man they visited in Louisiana.”<sup>197</sup>

One can only guess whether Myra and Dorethra were believers in New Orleans Voodoo and if Alton Coleman’s grandmother actually practiced Haitian Vodou or New Orleans Voodoo. Whether or not any of these references concern practitioners of African-derived religions, the association between Voodoo and excessive belief in spiritually-caused ailments is itself problematic and prejudicial because many people believe in supernatural causes of misfortune. Consider superstitions about crossing paths with a black cat, opening an umbrella indoors, and knocking on wood. Many cultures also have more specific beliefs that individuals can cause others harm by giving someone the “evil eye,” and wishing or praying that bad things befall someone. These types of beliefs are particularly prevalent in African cultures.<sup>198</sup> They are also present in many parts of the African diaspora, as evidenced by Vodou and New Orleans Voodoo practitioners’ beliefs that illness or even death can be caused by the performance of certain rituals.<sup>199</sup>

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195. *Id.* (explaining that a Dallas police officer saw Dorethra and Beverly shaking and pushing their sister, and one of these women told the officer that they were helping rid their sister of evil spirits). Another officer also testified that either Dorethra or Beverly had stated “that Myra was under a voodoo spell.” *Id.*

196. *Id.* at \*4.

197. *Crawford*, No. 05-96-01512-CR, at \*4. The Court in *Crawford* discusses the medicine man allegedly responsible for the sisters’ “cultural perspective”:

Presumably, the medicine man [the psychotherapist] referred to was Benny Morgan. Myra testified that she met Morgan twice. First, she went to have Morgan “check” her. Later, she took her sister Sherry to see him. Morgan told Myra he had special powers. Beverly testified she met with Morgan twice for headaches or a nervous condition. Appellant also testified her father had taken her to see Morgan. Later, appellant and Beverly learned that Morgan believed in either voodoo, hoodoo, or witchcraft.

*Id.* at \*4 n.3.

198. See ADAM ASHFORTH, *WITCHCRAFT, VIOLENCE AND DEMOCRACY IN SOUTH AFRICA*, 7–11 (2005) (describing the common belief in witches and evil spirits as causes of harm and death held by many South African healers).

199. FERNANDEZ OLMOS & PARAVISINI-GEBERT, *supra* note 96, at 126–27. See Bruce Jackson, *The Other Kind of Doctor: Conjure and Magic in Black American Folk Medicine*, in *AFRICAN AMERICAN RELIGION: INTERPRETIVE ESSAYS IN HISTORY AND CULTURE* 421 (Timothy E. Fulop & Albert J. Raboteau eds., 1997) (describing the Louisiana tradition’s similarities to old-world African religions, including the belief that one’s sickness and misfortune are caused by the ill-will or ill-action of others).

Declaring that belief in supernaturally inflicted ailments is evidence of insanity seems like the court is determining that such beliefs are not valid despite the Supreme Court's holding in *United States v. Ballard*.<sup>200</sup> In *Ballard*, the Court stated that the founding fathers "fashioned a charter of government which envisaged the widest possible toleration of conflicting views. Man's relation to his God was made no concern of the state. He was granted the right to worship as he pleased and to answer to no man for the verity of his religious views."<sup>201</sup> Any allegation that practitioners of African-derived religions are insane because they believe in supernaturally inflicted illnesses would certainly qualify as a judgment about the validity of their beliefs. Such contentions should be prohibited based on *Ballard*.

The same tendencies to accept or allow arguments that Voodoo practice and beliefs indicate dangerous and unstable personalities is seen in divorce cases and in cases involving the termination of an individual's parental rights. In both types of cases, claims of Voodoo belief and practice are made in conjunction with a series of other allegations, but specific beliefs and practices are not described. Further, and much more concerning is that, the court's decisions are not explicit about what weight is given to evidence of Voodoo practice.

#### b. Civil Cases

In divorce cases, the spouse seeking the separation relies on vague assertions of Voodoo practice to justify his or her inability to salvage the marriage. For example, in a 1954 case, *Lloyd v. Lloyd*,<sup>202</sup> the husband "objected to taking his wife to visit her mother because of the mother's interference and because she was instilling in her daughter belief in voodoo or witchcraft."<sup>203</sup> Nearly fifty years later, in 2000, Ian Morris claimed his wife "was involved in voodoo, sadism and the use of potions" to argue that the breakdown of their marriage was his wife's fault.<sup>204</sup> In 2003, Gloria Reed filed a divorce action against her husband on the grounds of habitual, cruel and inhuman treatment.<sup>205</sup> To establish the charge of cruelty, Reed, in part, asserted that her husband played mean tricks on her,

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200. 322 U.S. 78 (1944).

201. *United States v. Ballard*, 322 U.S. 78, 87 (1944). "The [*Ballard*] Court found that the *First Amendment* safeguarded one's religious belief and consequently forbade one's conviction for false religious views." *Id.* at 78.

202. 104 A.2d 596 (Md. 1954).

203. *Lloyd v. Lloyd*, 104 A.2d 595, 596 (Md. App. 1954).

204. *Morris v. Morris*, No. FA 990720358S, 2000 WL 1337486, at \*1 (Conn. Super. Ct. Aug. 28, 2000).

205. *Reed v. Reed*, 839 So.2d 565, 567 (Miss. Ct. App. 2003).

called her names, and engaged in the practice of Voodoo.<sup>206</sup> The trial court found sufficient grounds for a showing of habitual, cruel, and inhuman treatment, but did not specify whether Voodoo practice played a part in the court's decision.<sup>207</sup>

The problem with these cases is very simple. The wording of the cases suggests that courts are allowing an individual to testify that their spouse believes in, or practices, a particular religion, in this case "Voodoo," and that the spouse's affiliation with this religion illustrates that the marriage is beyond repair and that a reasonable individual would abandon the marriage in these circumstances. Since one could fairly assume that a person is familiar with her spouse's religious beliefs, the solution to these cases could be very simple: if the spouse practices Haitian Vodou or New Orleans Voodoo, evidence of their religious beliefs should not be relied on as a basis for the failure of the marriage. If the spouse does not practice Haitian Vodou, New Orleans Voodoo, or any other belief that the spouse himself refers to as Voodoo, then this ambiguous term should not be employed. If the petitioner for divorce uses the word Voodoo, the judge should require explanation and recitation of specific facts and circumstances that harmed the marriage. It is absurd to imagine that an individual could petition for divorce merely on the grounds that her husband was a Christian or his wife was a Muslim (to show fault or cause, not just merely irreconcilable religious differences). Requiring specificity in the petitioner's allegations and then including those details in the court's decision is an easy solution to place Vodou and Voodoo on par with other religions.

References to Voodoo in child custody cases are far more common and equally as vague. For instance, in a petition for termination of parental rights, the Department of Children and Families (DCF) in New London, Connecticut alleged that Emmanuel M. had been "allowed and permitted to live under circumstances that were injurious to his well-being."<sup>208</sup> To prove that allegation, DCF claimed that the parents failed "to keep Emmanuel away from the paternal grandmother who allegedly had been practicing voodoo on Emmanuel and who . . . had placed . . . wax in Emmanuel's ear."<sup>209</sup> While it is clear that part of the concern was that the paternal grandmother had allegedly placed wax in Emmanuel's ear as a part of a ritual, the conjunctive use of "and" in the court's decision

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206. *Id.* at 568–69.

207. *Id.* at 571. The appellate court, however, reversed the trial court decision. *Id.* at 567.

208. *In re Emmanuel M.*, 648 A.2d 904, 913 (Conn. Super. Ct. 1993) (explaining that the circumstances were injurious because Emmanuel's grandmother was practicing voodoo on him).

209. *Id.*

makes the breadth of their concern unclear. It appears that this specific ritual, which was speculated to have caused harm to the child's ear, was not the only "Voodoo" that concerned DCF and the Court. Unfortunately, the court's decision is not clear about the circumstances of Emmanuel's living situation that was injurious to his wellbeing.<sup>210</sup>

The facts of a 2005 case, *Sean M. v. City of New York*,<sup>211</sup> contain equally ambiguous statements about the role of "Voodoo" in neglect and abuse complaints.<sup>212</sup> The case concerns the claim made by two children that child protective services had failed to properly supervise their foster parents.<sup>213</sup> The court provided background information about the circumstances leading to the removal of these children, Sean and Debbie M., from their biological parents. As a part of that history, a next-door neighbor reported to child services that the father "practices voodoo" and made other claims about drug and sexual abuse in the family.<sup>214</sup> The children's caseworker investigated the allegations, but was unable to substantiate any of the complaints and was unable to locate the individual who called in the complaint.<sup>215</sup> Unfortunately, since the removal of the children from their parents is not the central focus of the case, there was no further discussion of the alleged Voodoo practice, or the role it may have played in the investigation.

Finally, Voodoo was used as evidence to support claims of insanity and the termination of parental rights in a 1999 case.<sup>216</sup> Savannah K. was removed from her mother's custody and placed in a foster home; however, she continued to have monthly-supervised visits with her mother, Yolanda.<sup>217</sup> The State of Illinois, on the recommendation of the caseworker and the child's psychiatrist, sought to terminate Yolanda's parental rights arguing that her visits with Savannah were harmful to the

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210. *Id.* (stating that the court found Emmanuel had been left to live under circumstances that were abusive and denied him proper care).

211. 795 N.Y.S.2d 539 (N.Y. App. Div. 2005).

212. *Sean M. v. City of New York*, 795 N.Y.S.2d 539, 545 (N.Y. App. Div. 2005) (stating that Debbie's father practiced voodoo and she was scared of him).

213. *Id.* at 541 (claiming the children sustained injuries from the foster homes they were placed into by the CPS agency).

214. *Id.* at 545 (explaining Debbie's father practices voodoo, throws cats out of the window, and threatens her life).

215. *Id.* (asserting the caseworker was never able to contact "Mrs. Garcia" to substantiate her claims and the children had no unusual marks when they were examined by medical staff).

216. *See* Brief and Argument for Minor-Respondent-Appellee, *Illinois v. Yolanda K.*, No. 1-98-3264 (Ill. App. Ct. Nov. 12, 1999), 1999 WL 33908449 (arguing that Yolanda's parental rights should be terminated and her visitation rights ceased because she is an admittedly unfit parent).

217. *Id.* at 2.

child.<sup>218</sup> The only allegation that the state set forth was that during the visits Yolanda talked to Savannah about “witchcraft and voodoo,” and “told Savannah to be very careful because people were after her.”<sup>219</sup>

Although child custody and divorce cases contain very similar references to Voodoo, child custody cases pose distinct challenges because one cannot assume that the individual making the allegation has any first-hand knowledge of the alleged Voodoo practitioner’s religious beliefs. Therefore, a problem arises in these cases and the following questions must be asked: (1) Do child protective services caseworkers rely on reports of Voodoo practice when determining if someone provides a suitable or safe home for a child? (2) Do the courts allow caseworkers to testify, or offer the testimony of others, about Voodoo beliefs and practices to support termination of parental rights? (3) How much of the investigation is focused on the meaning of Voodoo? (4) Is it sufficient that someone calls child services claiming that a family believes in Voodoo, or must a harmful ritual be involved? (5) If a harmful ritual is necessary, what constitutes harm?

In the context of divorce, child custody, criminal, and other proceedings, Voodoo is often referred to as a catchall term for various mental illnesses, or used by individuals to assert that Voodoo beliefs and practices are actually evidence of mental illness. Some cases have made references to beliefs and practices associated with Haitian Vodou, New Orleans Voodoo, and other African-derived religious practices. Other cases have indicated that the purported Voodoo practitioner originates from Haiti or Louisiana.

In the cases mentioned above, it may be impossible to determine the religious affiliation of the alleged “Voodoo practitioners”; however, it should require no stretch of the imagination to assume that Haitian Vodou and New Orleans “Voodoo practitioners” may be the target of such claims. Yet, even if they were not, these claims are problematic because there is no distinction between Voodoo connoting some African-derived religion’s belief system and Voodoo connoting its popular associations with curses, zombies, and supernatural murder. A practitioner would be unable to know what precedent is set by these cases because, while academics may object to the spelling, pronunciation, and application of the word Voodoo, in non-academic contexts such distinctions are virtually never employed. Further, there is no legal test to distinguish

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218. *See id.* at 2–3 (discussing the concerns the therapist and caseworker developed after Savannah informed them that her mother told her about her voodoo practices, and their subsequent decision to move the monthly visits to a more formal family service center, rather than the foster home; and have the therapist act as the supervisor rather than the foster mother).

219. *Id.* at 2.

religion from stereotypes and to confirm to individuals—who were not present during the presentation of evidence in a case—what role religious beliefs played in courtroom arguments and decisions.

ii. Discrimination and Defamation Cases

Due to the negative stereotypes about Voodoo and Vodou, numerous individuals (primarily African-Americans) have sued their employers alleging coworkers or supervisors have referred to them as “Voodoo practitioners” and that these references are evidence of racial discrimination. Similarly, evidentiary debates have arisen in criminal trials over the propriety of introducing testimony regarding belief in Voodoo and the prejudicial effects of such evidence. Regardless of the court’s decision in the following cases, the implication for Haitian Vodou and New Orleans practitioners (and practitioners of any other religion characterized as Voodoo) is clear. These cases show that their beliefs are so disfavored that others have filed legal complaints because they were alleged to be associated with Voodoo.

a. Employment Discrimination

In 1995, an African-American woman named Hope Briggs sued her employer and several co-workers claiming that she had been a victim of racial discrimination and intentional infliction of emotional distress.<sup>220</sup> One of the allegations in Briggs’s complaint was that the co-worker assigned to train her had directed racial slurs at her, such as “[B]lacks keep chickens in their refrigerators” and “[B]lacks practice voodoo.”<sup>221</sup> The court did not specifically address whether or not these statements constituted racial discrimination; however, the court did determine that the conduct of the co-workers was “deplorable,” although it did not meet the threshold for a claim of intentional infliction of emotional distress.<sup>222</sup>

Also in 1995, another African-American female, Donna Widermyre, alleged that she had been subjected to racial discrimination by two of her supervisors, resulting in the termination of her employment.<sup>223</sup> Like Briggs, Widermyre claimed that racial slurs had been directed at her. Specifically, she stated that one supervisor had used hip-hop phrases, like “yo,” when referring to her, and that he had referred to a piece of art-

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220. *Briggs v. N. Shore Sanitation Dist.*, 914 F. Supp. 245, 248 (N.D. Ill. 1996).

221. *Id.* at 247 n.2.

222. *Id.* at 252. The conduct included racial slurs, hanging a pickaninny doll in her office, and excluding her from office social activities. *Id.*

223. *Widermyre v. Transamerica Commercial Fin. Corp.*, No. 95-C-1329, 1995 WL 688709, at \*2–3 (N.D. Ill. Nov. 17, 1995).

work on her desk as “Voodoo.”<sup>224</sup> The court determined that these comments were not facially racist, and without further contextual evidence, they were little more than speculation of racism.<sup>225</sup> The court also disregarded these comments because Widermyre could not show a causal relationship between the discrimination and her termination.<sup>226</sup>

These cases are not unique. In fact, references to a person’s “Voodoo” practices or beliefs have frequently been a component of cases under Title VII of the Civil Rights Act of 1964 and other forms of complaints of employment discrimination.<sup>227</sup> For instance, Anderson Fleurcius, an African-American of Haitian descent brought a claim against his employer, a transit bus company in New Jersey, for discrimination on the basis of race, color, and national origin.<sup>228</sup> Fleurcius cited an incident where one of his supervisors asked if he was “doing voodoo here” as evidence of a discriminatory work environment.<sup>229</sup>

An African-American woman named Linda Thompson also claimed racial discrimination during her employment as a public school teacher in New York.<sup>230</sup> She cited several instances of racial comments, including allegations by her co-workers that she practiced Voodoo after they saw a Jamaican doll on her desk and allegations by the school principal of placing a Voodoo curse on him.<sup>231</sup> Similarly, Dino Petrocelli, who is Hispanic-American, claimed discrimination on the basis of national origin, citing an instance where his supervisor expressed surprise that he was a Catholic, stating that “Well, I thought you people practiced ‘Santaria’ [sic] or Voodoo or something like that.”<sup>232</sup>

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224. *Id.* at \*3.

225. *Id.*

226. *Id.* at \*4.

227. In a recent case, Freddrick MacMillan asserted that his employer violated Title VII of the Civil Rights Act of 1964 and New York law. *MacMillan v. Millennium Broadway Hotel*, No. 09-cv-6053 (S.D.N.Y. Sept. 16, 2011), 2011 WL 4357523, at \*1. In addition to the use of racial epithets the facts of the case detail the use of voodoo dolls to intimidate the plaintiff. *Id.* at \*1–2. In this case the court found “that a rational jury could conclude that Plaintiff was subjected to a hostile work environment. Plaintiff’s claim is founded on his supervisor’s display of a voodoo doll—with a black face and pink lips—from an office bulletin board, hung by a noose attached to the doll’s neck.” *Id.* at \*4.

228. *Fleurcius v. Short Line Hudson Transit Bus*, No. 99CIV.2754(DC), 2000 WL 1863536, at \*3 (S.D.N.Y. Dec. 20, 2000).

229. *Id.* at \*1. Fleurcius endured other harsh working conditions, such as, being instructed to clean the business’s garage alone for fifty weeks and being physically assaulted by one of his co-workers. *Id.* at \*2.

230. *Thompson v. City of New York*, No. 98 Civ. 4725(GBD), 2002 WL 31760219, at \*1 (S.D.N.Y. Dec. 9, 2002).

231. *Id.* at \*4 n.3.

232. *Petrocelli v. DaimlerChrysler Corp.*, No. Civ.A. 04-943-KAJ, 2006 WL 733567, at \*2 (D. Del. Mar. 22, 2006).

Typically courts do not directly analyze whether statements made about Voodoo practice were, or could ever be, evidence of discrimination or disparate treatment.<sup>233</sup> Instead, these cases were resolved based on some other issue, usually the plaintiff's inability to show a relationship between the alleged discrimination and the termination.<sup>234</sup> Although the court generally holds that referring to someone as a Voodoo practitioner is not evidence of racial discrimination, these cases are still problematic as they illustrate that socially, an individual can delegitimize a belief, item, practice, policy, or individual by referring to it as "Voodoo."<sup>235</sup> The word is meant to be an insult and a stereotype; one that often has particular racial implications.<sup>236</sup> The issue then becomes two-fold. It is problematic that such references are meant to be offensive. They most likely are evidence of racial discrimination, even if the court did not find it to be so. However, associating someone with Voodoo can only be a tool of racial discrimination because the prejudices against African-derived belief systems are so pervasive that African-Americans take offense if they are accused of engaging in such practices.

To further complicate the analysis, a 2006 Pennsylvania case suggests that even if it is not racial discrimination to call someone a Voodoo practitioner, it may be religious discrimination to repeatedly refer to someone's religion as Voodoo.<sup>237</sup> In *Young v. Medden*,<sup>238</sup> a Pennsylvania inmate alleged violations of his Fourteenth Amendment rights because prison officials at two different facilities failed to address his claims that he had been mistreated on the basis of his race and religion.<sup>239</sup> Young also claimed violations of his First Amendment right to practice his religion.<sup>240</sup> He alleged that a guard in one facility continuously insulted his

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233. See *Fleurcius*, No. 99CIV.2754(DC), at \*8-9 (deciding whether Fleurcius stated a cause of action for discrimination based on evidence that he was forced to clean the garage alone for weeks and that he was involved in a physical fight, but not on the fact that he was alleged to practice Voodoo).

234. See *Thompson*, No. 98 Civ. 4725(GBD), at \*5 (emphasizing that the plaintiff could not establish a causal connection between her termination and the racial comments that were made against her).

235. See, e.g., *Id.* at \*4 n.3 (illustrating that Thompson's co-workers thought of her as a Voodoo practitioner because they saw a Jamaican doll on her desk); *Petrocelli*, No. Civ.A. 04-943-KAJ, at \*5 (holding that the evidence as a whole should be considered in determining racial discrimination).

236. See *Petrocelli*, No. Civ.A. 04-943-KAJ, at \*2 (showing how the employer thought that Petrocelli practiced "Santeria" because Petrocelli was Hispanic-American).

237. *Young v. Medden*, No. Civ.A. 03-5432, 2006 WL 456274, at \*29 (E.D. Pa. Feb. 23, 2006) (holding that Young had a cause of action under the First Amendment for the violation of his freedom of religion).

238. No. Civ.A. 03-5432, 2006 WL 456274 (E.D. Pa. Feb. 23, 2006).

239. *Id.* at \*1.

240. *Id.* Young claimed that he practiced African Traditional Spirituality. *Id.* at \*6.

religion by calling it Voodoo and stating that the prison was a Christian and Muslim institution.<sup>241</sup> In the second facility, he cited two specific instances when his religion was referred to as Voodoo, and prison employees told him that Voodoo was not allowed.<sup>242</sup> In a preliminary hearing to determine whether or not Young's claim could survive summary judgment, the court found that Young might be able to show that the prison officials had interfered with Young's freedom of religion by being *openly hostile* to his religion and *insulting* his beliefs.<sup>243</sup>

b. Defamation

In addition to lawsuits alleging racial and religious discrimination, individuals have filed claims alleging defamation if someone claims they are involved with "Voodoo." In 1984, two professional psychics sued a newspaper, and the reporter, claiming that they had depicted the psychics in a false light and defamed them when the reporter referred to them as "Voodoo practitioners."<sup>244</sup> The court held that referring to someone as a "Voodoo practitioner" was not on its face defamatory because "[t]hese words are ambiguous in that while they might create connotations of evil and wrongdoing, they might also create a connotation of mysterious power and special ability."<sup>245</sup> The court also denied the plaintiffs' claim that the article had portrayed them in a false light, stating that calling someone a Voodoo practitioner "would not necessarily be highly offensive to a reasonable person. An ordinary person might not even understand the implication of such terms and might even believe they connote some special power or ability and not as putting one before the public in a false light."<sup>246</sup> Although the court did not find in favor of the plaintiffs, one gets the sense from the court's comments about Voodoo connoting a mysterious power or ability that there may have been a very different conclusion if the Plaintiffs had not been professional psychics.

Another example of an individual basing defamation claims on being connected to Voodoo occurred in 2005. In this case, Pastor Dempsey Ausley sued several members, officers, and deacons of his church for defamation.<sup>247</sup> He claimed that after his termination he was involved in a verbal altercation with these individuals at which time they called him a

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241. *Id.* at \*6.

242. *Id.*

243. *Young*, No. Civ.A. 03-5432, at \*25 (finding that the plaintiff may prove a violation of his free exercise of religion based on allegations that prison officials were openly hostile to his religious beliefs) (emphasis added).

244. *Buller v Pulitzer Pub. Co.*, 684 S.W.2d 473, 476 (Mo. Ct. App. 1984).

245. *Id.* at 479.

246. *Id.* at 483.

247. *Ausley v. Shaw*, 193 S.W.3d 892, 893 (Tenn. Ct. App. 2005).

“dog,” a “witch doctor,” and a “voodoo preacher.”<sup>248</sup> Unfortunately, the issue presented on appeal was not whether these statements constituted defamation, but instead was a question of whether the court was permitted to hear such a case, or whether the allegations were too intertwined in church business and would constitute an establishment problem if the court considered it.<sup>249</sup>

### iii. Evidentiary Concerns

In many cases where individuals claim discrimination and defamation from their alleged association with Voodoo, arguments have erupted over whether evidence of Voodoo belief and practice is appropriate at trial because of the prejudicial effects of such claims. Like the racial and religious claims analyzed above, rulings about the introduction of evidence of Voodoo references in court cases are very inconsistent. Some courts have seemed unconcerned with such references, while others have tried to protect the party from prejudicial effects of introduction of Voodoo.

In 2001, prison inmate Sylvain Nicolas sued parole board member Lisa Holley because Holley asked Nicolas during his parole hearing, “[h]ave you been practicing a lot of Voodoo and Black Magic?”<sup>250</sup> Nicholas argued that he had been traumatized by her question and that Holley’s question had “prejudiced the parole board against him and ruined his chance for parole.”<sup>251</sup> The court found that this lone question was not sufficient to sustain a cause of action for a Fourteenth Amendment Due Process violation.<sup>252</sup>

However, many courts have found it necessary to limit the introduction of evidence of Voodoo in criminal proceedings. For example, in a 2006 drug trafficking case in the Second Circuit Court of Appeals, Larz Nemorin’s defense was largely based on Voodoo. The defense attorney attacked the prosecution’s chief witness by claiming that the witness both lied about being a Voodoo priest and conducted rituals to prevent Nemorin from testifying.<sup>253</sup> Since Voodoo was a central component of the case, the prosecution and defense debated heavily about the instructions to the jury regarding the evidentiary use of Voodoo beliefs and practices in their deliberations.<sup>254</sup> The trial court decided upon, and the appellate court upheld, the simple instruction that “belief in Voodoo

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248. *Id.*

249. *Id.* at 894–95.

250. *Nicolas v. Rhode Island*, 160 F. Supp. 2d 229, 230 (D. R.I. 2001).

251. *Id.*

252. *Id.* at 232.

253. *United States v. Nemorin*, 173 F. App’x 65, 66–67 (2d Cir. 2006).

254. Reply Brief and Supplemental Appendix for Defendant-Appellant at 2–5, *Nemorin*, 173 F. App’x 65 (No. 04-0842CR).

alone” could not be considered a basis for discrediting the testimony of a witness or the defendant.<sup>255</sup>

Similar debates about references to Voodoo practices occurred in the 1994 case of Walter Anthony Webb, who was convicted of murdering his fiancée (Aurora Carney) and another woman.<sup>256</sup> At trial, an investigator testified that he interviewed Webb three days after the murder and that Webb described his fiancée’s drunkenness, and her belief in Voodoo.<sup>257</sup> Specifically, Webb claimed that his fiancée belonged to a necromanic society and owned a Voodoo doll in her ex-husband’s likeness, which she buried in the backyard to symbolize her desire for her ex-husband’s death.<sup>258</sup> On appeal, Webb asserted that a mistrial should be declared because the trial court allowed this evidence despite the fact that there was an order in limine “which prohibited any witness from testifying concerning the occult, witchcraft, or related subjects.”<sup>259</sup> The state argued that the testimony was admissible because “it was not offering the testimony to show that Carney was in fact involved in such activity, but rather to demonstrate the way in which Appellant was defaming the victim, the woman he was supposed to have loved enough to marry.”<sup>260</sup> The trial court allowed this testimony to show how the accused was “vilifying the woman he loved shortly after her murder.”<sup>261</sup>

If courts have to clarify that evidence of Voodoo does not discredit a witness and limit or prohibit evidence of Voodoo in criminal cases, what are practitioners suppose to do when their case revolves around a defense, alibi, or testimony related to Voodoo practice? Clearly in the cases of Webb and Nemorin, the parties were concerned that the practice of and belief in Voodoo would be used against a defendant, witness, or victim. If plaintiffs are continually making claims of defamation and discrimination based on attributions of Voodoo practices, one can reasonably infer that any practices or religious belief representing Voodoo will not be treated equally in legal matters.

A similar problem occurs in discrimination and defamation cases. When introducing Voodoo to undermine defendants in court, attorneys take advantage of the jury’s ignorance to incite fear and negative emotions. Therefore, when individuals are associated with Voodoo, it is not surprising that their instincts tell them that discriminatory intent is behind these comments.

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255. *Nemorin*, 173 F. App’x at 66.

256. *Webb v. Arkansas*, 938 S.W.2d 806, 808 (Ark. 1997).

257. *Id.* at 808–09.

258. *Id.*

259. *Id.* at 813.

260. *Id.*

261. *Webb*, 938 S.W.2d at 814.

Both of these types of cases have profound repercussions for practitioners of Vodou and related religions. These cases, at the very least, illustrate the pervasive continuing bias against them. At worst, they may show that their beliefs in Vodou have been, and could be, the basis for finding mental illness, reason for divorce, and grounds for removing children from their parents. To protect legitimate practitioners of Vodou the courts need to prohibit comments associating Voodoo with mental illness and unfit parenting. They also need to explicitly and consistently hold that references to Voodoo are not evidence of discrimination. Yet, for that to be true, the United States must actively take steps to eliminate the intentionally disparaging images of Voodoo or Vodou that it perpetuated to justify racial domination and the invasion of Haiti.

#### B. *Education*

Human rights experts have found that education and public dialogue are essential to freedom of religion and that cross-cultural interactions breed racial and religious tolerance. For instance, the U.N. General Assembly emphasized the importance of going beyond mere legislation declaring freedom of religion and urged Nation States to “undertake dialogue at all levels to promote greater tolerance, respect and understanding of freedom of religion or belief and to encourage and promote, through the educational system and by other means, understanding, tolerance and respect in matters relating to freedom of religion or belief.”<sup>262</sup> Similarly, in a joint report submitted by the Special Rapporteur on freedom of religion or belief and the Special Rapporteur on contemporary forms of racism, these experts recommended that States promote “multiculturalism, through education, information and communication,” in order to “combat against racism, discrimination and xenophobia.”<sup>263</sup> Further, the Working Group on Persons of African Descent encouraged States:

[T]o reform their educational systems to reflect the history and culture of people of African descent and the history of slavery . . . [and] to consider whether the educational system reflects the image and identity of people of African descent, and whether it serves to encourage multi-ethnic, multiracial and pluralistic societies.<sup>264</sup>

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262. G.A. Res. 59/199, ¶ 11, U.N. Doc. A/RES/59/199 (Mar. 22, 2005).

263. U.N. G.A. Human Rights Council Rep. of the Special Rapporteurs, 2d Sess., *Implementation of General Assembly Resolution of 60/251 of 15 March 2006 Entitled “Human Rights Council,”* U.N. Doc. A/HRC/2/3; GAOR, (Sept. 20, 2006).

264. U.N. Econ. & Soc. Council Comm’n on Human Rights, 59th Sess., *Racism, Racial, Discrimination, Xenophobia and All Forms of Discrimination*, ¶ 26, U.N. Doc. E/CN.4/2003/21 (Feb. 25, 2003).

As early as 1980, religious scholar Brian Gates argued that Afro-Caribbean religions must be incorporated into educational curriculum to show how these religions played a role in helping Blacks achieve political independence, to show the impact that these religions had on the transformation of Christianity, and to highlight that the descriptions of these religions have been sensationalized.<sup>265</sup> Gates and several other scholars even offered teaching suggestions including projects and sources, as a guide to how instruction about these religions could be incorporated into primary and secondary school classes.<sup>266</sup>

At least one State in the Western Hemisphere, Brazil, has taken such recommendations seriously. Brazil has passed a law prohibiting the publication of discriminatory information about Afro-Brazilians in textbooks and forming a Council to Palmares Cultural Foundation to conduct research on Afro-Brazilian culture and history.<sup>267</sup> Further, primary schools and universities in Brazil are required to include instruction about the Afro-Brazilian religion, Candomblé.<sup>268</sup>

The United States, unfortunately, has not adopted such progressive measures to ensure the inclusion of African-American culture, even at the university level. A major contribution to the continuing public perceptions of Voodoo and Vodou is that the majority of the top universities in the United States do not provide a major, or even offer courses, that would cover Vodou or Voodoo in a historical or theological context. Therefore, there is nothing to combat the negative portrayals of Voodoo and Vodou practitioners that have circulated for centuries.

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265. Brian Gates, *The Scope of Religion in Education*, in *AFRO-CARIBBEAN RELIGIONS* 98–99 (Brian Gates ed., 1980). The author proposes that Afro-Caribbean religious studies should be integrated into the other religions represented in school curriculum. *Id.* at 99.

266. *See generally id.* at 87–183 (sharing ways to integrate Afro-Caribbean religions into topics such as the European reconaissance and the slave trade; offering ways to teach themes from primal religions; and explaining how to incorporate Afro-Caribbean celebration elements into already celebrated holidays).

267. *Palmares Fundacao Cultural*, GLOBAL YOUTH INNOVATION NETWORK (May 2011), <http://gyin.org/rubriques.php?rubpage=26>.

268. *See* FREEDOM OF RELIGION AND BELIEF: A WORLD REPORT 99 (Kevin Boyle & Juliet Sheen eds., 1997) (indicating that “[t]he 1988 constitution states that religion must be taught as part of the basic school curriculum” and “[t]he Federal Council of Education decreed in 1993 that religion should be taught in Brazilian schools and colleges”); MIGENE GONZÁLEZ WIPPLER, *SANTERIA: THE RELIGION* 252 (2d ed. 2004) (regarding the wide spread growth of the religion and how “the Brazilian government has decided to teach the elements of the religion in the public schools”); Candomblé, a religion similar to Santeria, evolved in Brazil out of the Yoruba Tradition. *Id.* While Brazil, like most Latin American countries, has been predominantly Catholic, Candomblé is “now officially recognized as the country’s national religion,” with approximately 30 million people practicing Candomblé in Brazil. *Id.*

Out of the fifty highest ranked universities in the United States, every institution offering courses on religion provides classes focusing on Judaism, Islam, and Christianity. Moreover, at least eighty-eight percent also have courses in Asian religions such as Buddhism, Taoism, and Hinduism. In sharp contrast to those statistics, only two institutions offer concentrations in African religions and none offer a concentration in African diaspora or Caribbean religions.<sup>269</sup> However a few universities allow African or African diaspora courses to count toward concentrations in fields like “Ancient Religious Traditions” or “Religion in the Americas.”

None of the universities offering classes in African religions lists Voodoo or Vodou as the sole topic of a course.<sup>270</sup> In fact, only about one-fifth of the universities offer courses that were exclusively on African diaspora or Caribbean religions. Similarly, only about one-fifth of the universities present courses that were exclusively on African religions. The universities that do offer courses on African or African diaspora religion overlapped greatly, meaning that the total number of universities that offer courses exclusively on African religion, African diaspora religion, or some combination of the two together, was less than one-third. The fifteen institutions that do have courses directly related to African or African-derived religious practices generally had very expansive course offerings addressing dozens of belief systems, which include Christianity, Islam, Judaism, Buddhism, Taoism, Hinduism, Mayan, Incan, and Aztec religions. They also include Greek and Roman mythology, Shamanism, and even the religion of J.R.R. Tolkien (author of the *Lord of the Rings* and the *Hobbit*).<sup>271</sup>

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269. This information is based on my own research into the course offerings at the top fifty universities. The emphasis of this investigation was on religious studies departments but where possible it also included courses in history, anthropology, and African studies. Specific details are on file with the author.

270. This is not surprising and is not necessarily problematic if one evaluates the availability of religious courses in relation to the number of practitioners of a religion worldwide. The number of Vodou practitioners worldwide may only be around eight-to-ten million, while the number of Christians, Jews, Taoists, Muslims, and Buddhists worldwide are at least hundreds of millions each.

271. For a detailed explanation of the religious undertones of J.R. Tolkien's trilogy see Chris Mooney, *The Ring and the Cross, How J.R. Tolkien Became a Christian Writer*, BOSTON GLOBE, Dec. 29, 2002, at D1. In discussing the role Tolkien's work plays in Christianity, Mooney states:

The current emphasis on Tolkien's religiosity has its more immediate origins in Joseph Pearce's 1999 book "Tolkien: Man and Myth," which underscores Tolkien's deeply Catholic views. Since Pearce's writing - and, of course, the news that the "Lord of the Rings" books were coming to movie theaters - the theological ferment has been considerable. In April of 2000, Christianity Today ranked Tolkien's epic among the top 10 Christian books of the 20th century; the first slot went to C.S. Lewis's "Mere Christianity," which might not even have been written had Tolkien not helped Lewis to find

Further, determining the number of courses on African religions is very problematic. Courses with titles like “Religions of Africa” or “African religions” are often misleading because they either focus on Islam or Christianity in Africa, or they join the study of African religions with other religions like Buddhism and Shamanism. In fact, only about half of the courses on African religion appear to focus solely on indigenous religions. If one assumes that equal attention is devoted to Christianity, Islam, and indigenous religions in the courses that claim to cover all of these, that means that in a fifteen-week semester the various religions practiced throughout an entire continent would be covered in only five weeks.

Similarly, there are many universities that have courses on African-American religion, slave religion, or religion in the Americas that primarily address Afro-Christianity. Further, these courses that purport to cover African indigenous religions and African-derived religions alongside other religions are typically taught by individuals whose area of research and education was exclusively Christianity or Islam, and many of the professors were ordained ministers in Christian churches.

The problems facing Voodoo and Vodou practitioners in the United States are compounded by their exclusion from religious studies programs in many U.S. universities. Years of prejudicial information has been spread about these religions with little academic effort to combat these stereotypes and to provide a more accurate understanding of these religions in a safe, educational environment.

#### IV. RELIGION AND THE SUPREME COURT

As indicated in Part I, one of the goals of this Article is to question the meaning of “freedom of religion” and also to explore the unique impediments that face “Voodoo” practitioners. Specifically, whether freedom of belief can truly exist, and can the conscience of an individual that practices a religion be used as evidence of insanity or classified as a discriminatory term. These broad questions can be divided into two legal issues. First, is it proper for courts to allow the ambiguous concept of Voodoo as evidence in cases such as those described above? Second, is greater inclusion of Voodoo, Vodou, and other African-derived religions in university classrooms and majors an appropriate solution to the marginalization of Voodoo and Vodou practitioners? The central arguments of the Supreme

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God in 1931. More religiously infused books on Tolkien are on the way, including Kreeft’s “The Philosophy of Tolkien” and Baylor University theology and literature professor Ralph Wood’s “The Gospel According to ‘The Lord of the Rings.’”

*Id.*

Court about law and religion overlap in many ways to formulate a fairly cohesive response to these questions.

Although the Supreme Court's rulings in Free Exercise and Establishment Clause cases are inconsistent, there are several important trends and arguments to consider. First, the Court has held that the government violates the Establishment Clause when it favors a particular religion over a non-religion.<sup>272</sup> Second, some justices, especially O'Connor, have emphasized that the importance of the Establishment Clause is to ensure that citizens of the United States do not feel like outsiders because of their beliefs or non-adherence to beliefs that may be supported by the government.<sup>273</sup> Third, and along these same lines, other justices have argued that the principle behind the Establishment Clause is that religious minorities will be alienated by government support of one religion and

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272. See *Engel v. Vitale*, 370 U.S. 421, 429–30 (1962). (“[O]ne of the greatest dangers to the freedom of the individual to worship in his own way lay in the Government’s placing its official stamp of approval upon one particular kind of prayer or one particular form of religious services.”). Justice Souter makes a similar statement that the point of the religion clause is “to guard against the civic divisiveness that follows when the government weighs in on one side of religious debate.” *McCreary Cnty., Ky. v. ACLU of Ky.*, 545 U.S. 844, 876 (2005).

273. *Cnty. of Allegheny v. ACLU Greater Pittsburgh Chapter*, 492 U.S. 573, 627 (1989). It is important to note that not all Justices argue that the Establishment Clause was designed to go so far as to make people feel “included.” For instance, in the same case that O’Connor sets forth her inclusiveness argument, Justice Kennedy countered that if the Establishment Clause is designed to prevent feelings of exclusion then traditional practices such as opening the Court with “God save the United States and this honorable Court,” employing legislative chaplains, Congress directing the President to set aside a National Day for Prayer, along with “One Nation Under God” in our Pledge must be eliminated. *Id.* at 673. Kennedy argued that since these things have not been struck down, this argument about inclusion and exclusion as well as the Establishment Clause is not really appropriate. *Id.* Justice Scalia went much further than Kennedy, essentially arguing that in terms of in terms of public aid or assistance to religion, government can’t favor one religion over another, but in terms of public acknowledgment of religious belief, the Establishment Clause permits disregard of polytheists and atheists. *McCreary Cnty., Ky.*, 545 U.S. at 893 (Scalia, J., dissenting). He asserted that ninety-seven percent of the country believes in a monotheist religion so respecting monotheistic religions like Christianity, Judaism and Islam is respecting the beliefs of the people. *Id.* at 894. Justice Souter attacked Justice Scalia’s statement that the framers intended to support the God of monotheism, stating that this “view [ ] should trouble anyone who prizes religious liberty.” *Id.* at 880 (majority opinion). However, even if one agrees with Kennedy and Scalia that the Establishment Clause was not designed to prevent the feelings of exclusion that come as a result from the government’s ceremonial deism, this probably is distinguishable from government officials declaring religious beliefs (or those who hold those beliefs) insane or determining that belief in a religion can influence a child services caseworker to investigate a family.

may feel compelled to believe a certain thing or act a certain way.<sup>274</sup> Finally, many cases have taken into account the history of this nation or the people of this nation when deciding whether certain practices violate the Establishment Clause or impinge upon free exercise.<sup>275</sup>

These four principles easily translate into a guide for understanding how the problems facing Voodoo and Vodou practitioners need to be addressed. If the government may not favor one religion over another, it should be equally apparent that the government may not disfavor one religion (or group of religions) over others and may not exhibit a bias against one belief system. If a court finds that belief in “Voodoo” or general assertions about practice of Voodoo are evidence of insanity, unfit parenting, or grounds for divorce, that court is disfavoring Voodoo among religions unless we are to believe that the same court would likewise hold that a belief in Islam, Buddhism, Christianity, or some other religion can be used as evidence to support the same claims or arguments.

It is difficult to argue that practitioners of Haitian Vodou or New Orleans Voodoo do not feel alienated by a judicial system that allows references to their religion introduced as evidence in the ways described above, or to claim that practitioners do not feel compelled to change their beliefs when faced with such cases. Further, if history is an important factor in free exercise and Establishment Clause cases, then any evaluation of the problems facing practitioners of Vodou and Voodoo must take into account Voodoo’s extensive history within the United States, during the U.S. occupation of Haiti, and the more general history of widespread stigma associated with Voodoo and Vodou practice.<sup>276</sup>

Taking into account the history of Vodou and Voodoo would mean acknowledging (in the courtroom and the classroom) the United States’

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274. See *Marsh v. Chambers*, 463 U.S. 783, 805–06 (1983) (stating that no individual should feel alienated by his government simply because his government’s point of view on a matter of religion).

275. See, e.g., *Engel*, 370 U.S. at 446 (Stewart, J., dissenting) (regarding the constitutionality of prayer in school). In a case involving the constitutionality of official prayers in school, Justice Stewart wrote in his dissent that it is important to consider “the history of the religious traditions of our people, reflected in countless practices of institutions and officials of our government.” *Id.* See also *Marsh*, 463 U.S. at 792 (reflecting on the history of prayer in America). Similarly, in Justice Berger’s majority opinion in *Marsh*, he argues that the two hundred years of history of legislative prayer shows that it “[h]as become a fabric of our society.” *Id.*

276. The cases discussed generally take into account the history of majority religion in the United States and the fact that some of the founding citizens of this country fled religious persecution in England. However, judges should be just as sensitive to the prohibitions of Voodoo to prevent slave revolts in New Orleans. The history of the Black slaves in this country is just as important as the history of Europeans. Certainly the reflections of these Justices on the importance of history could not be intended to mean that only the religion of those in power at the time of our founding are to be taken into account.

prosecution of “Voodoo practitioners” in Louisiana, its arrests of Vodou practitioners in Haiti, and the role that goals of racial dominance played in these prosecutions. This supports the idea of an active effort to include Vodou and Voodoo in religious studies courses and majors, and to support conferences and research regarding these religions in ways that will be discussed more extensively below. History is also important in evaluating the way that “Voodoo” is referenced in court cases. The historical prosecution and persecution of Voodoo and Vodou practitioners warrants special consideration and evaluation of these circumstances.

There are many ways that extra steps can be taken to protect Vodou and Voodoo practitioners. For one, a law could be passed prohibiting mere belief in a religion, where no harmful practice is involved, from being a consideration in cases of divorce, child custody, insanity, and other cases.<sup>277</sup> Seminars could be developed to educate judges, particularly those in areas like Louisiana, New York, and Florida, where there are large numbers of Voodoo and Vodou practitioners. Perhaps if there is more discussion about these religions outside of the courtrooms, judges will not be ignorant about them.

Since it is clear that the way that the ambiguous term “Voodoo” is used in court cases is inconsistent with the ideas espoused in Establishment Clause and free exercise cases, it is also important to note that the court’s ruling in several cases supports the idea of expanding university religious studies programs to more adequately address Vodou, Voodoo, and other African-derived religions. First, regarding holiday and other public displays, the court has approved of the government’s celebration of this nation’s religious and cultural diversity.<sup>278</sup> Further, some Justices have gone so far as to say that driving religion out of public space promotes social conflict.<sup>279</sup> This argument is directly in line with the conclusions of inter-

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277. One might assume that this is the law of the land already established by the First Amendment and the manner in which the Supreme Court had interpreted the First Amendment. *See, e.g., Marsh*, 463 U.S. at 792 (stating that the Establishment Clause is an indication of a “tolerable acknowledgement of beliefs widely held by people of this country”). However, given the cases that I have described above, it seems apparent that these standards are not applied equally in all situations and probably need to be more explicitly stated.

278. *See Cnty. of Allegheny*, 492 U.S. at 619 (distinguishing between government endorsement of a particular religion and the freedom to celebrate as one wishes).

279. *Van Orden v. Perry*, 545 U.S. 677, 699 (2005) (Breyer, J., concurring). In *Van Orden* the Supreme Court decided whether the Ten Commandments monument on the grounds of the Texas State Capitol violated the First Amendment. *Id.* at 698, 700. The Supreme Court rejected the challenge to the monument, with Justice Breyer remarking that the First Amendment Establishment Clause does not require the government to “purge from the public sphere all that in any way partakes of the religious.” *Id.* at 698–99. Justice Breyer noted that the Ten Commandments tablets’ location being uncontested for

national experts on human rights and freedom of religion, who generally agree that public dialogue is the best way to achieve freedom of religion.<sup>280</sup>

In addition to a number of arguments presented in religion cases that illustrate that many Justices believe that pure secularism is not the answer to achieving a balance between religion and state, and that public acknowledgement of the nation's cultural diversity promotes tolerance, other Supreme Court cases provide guidance on this issue as well. For instance, the Court has upheld a number of affirmative action programs designed to remedy the government's past discrimination, assuming that program is narrowly tailored to eliminate that discrimination and its effects.<sup>281</sup> There is a fair amount of evidence of government action in the history of discrimination against Voodoo and Vodou, as well as current state action in any case where a judge allows discriminatory references to Voodoo and especially when they rely on these references in a ruling against the purported practitioner. Although affirmative action measures are typically taken to remedy racial discrimination, affirmative action can also be appropriate to remedy discriminations against belief systems that are intricately connected to racial discrimination.

The Supreme Court has also determined that there is "a compelling interest in obtaining the educational benefits that flow from a diverse student body"<sup>282</sup> in U.S. colleges and universities. Students who experience diverse classrooms and educational experiences learn cross-racial understanding and are better prepared for a diverse workplace.<sup>283</sup> It is unclear what good racial diversity in the classroom accomplishes without diverse

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forty years is indicative of "the religious aspect of the tablets' message as part of what is a broader moral and historical message reflective of a cultural heritage." *Id.* at 703.

280. See Boaz, *supra* note 7, at 236, 241–42, 248 (analyzing the historical proscription of African-based religions in the Western Hemisphere, particularly through the media, and suggesting educational reforms to ensure freedom of religion). See also U.N. G.A. Human Rights Council, 2d Sess., *Implementation of General Assembly Resolution of 60/251 of 15 March 2006 Entitled "Human Rights Council"*, ¶¶ 8, 55, 62, 63, U.N. Doc. A/HRC/2/3 (Sept. 20, 2006) (responding to the Human Rights Council's "[i]ncitement to racial and religious hatred and the promotion of tolerance" decision with recommendations on safeguarding freedom of religion).

281. *United States v. Paradise*, 480 U.S. 149, 166–67 (1987). The *Paradise* decision evaluated and affirmed a promotional requirement at the Alabama Department of Public Safety, requiring at least fifty percent of those promoted to corporal to be Black. *Id.* at 150.

282. *Grutter v. Bollinger*, 539 U.S. 306, 343 (2003). The University of Michigan Law School implemented an affirmative action admissions program, sometimes electing to deny admission to qualified White students in favor of diversity, and in *Grutter*, the Supreme Court decided that the admissions policy did not violate the Equal Protection Clause. *Id.* at 306–07.

283. *Id.* at 330.

curriculum.<sup>284</sup> Not all levels of cross-racial understanding are promoted if major groups of religious beliefs are silent from the religious studies departments of the American schools.

## V. CONCLUSION

I have illustrated that the term Voodoo and the religious beliefs that this term has been used to describe have a very unique and tumultuous history in the United States. African religions were persecuted in many areas of the Americas throughout the period of the Trans-Atlantic Slave Trade and during the years that followed.<sup>285</sup> African traditions were outlawed because the “civilization” of the African people was given as one of the justifications for slavery and religious conversion was a part of that “civilization.”<sup>286</sup> Vodou was specifically attacked because of the role it played in the Haitian Revolution and because it was a way to make the only Western nation ruled by Blacks appear barbaric and threatening.<sup>287</sup> The American occupation revived the persecution of Vodou. It enhanced the negative press for the Vodou religion by calling it cannibalism and devil worship, and utilizing Vodou as a reason for invading the island.<sup>288</sup>

Today, Voodoo is seriously threatened by the detrimental effects that political agendas have had upon modern perceptions of this religion, especially in the United States and Haiti. The media portrayals of Voodoo have told the story of a religion based on zombies, cannibalism, child sacrifice, and black magic. Popular misconceptions about this form of worship drive potential practitioners away because they want to avoid the

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284. See generally Danielle N. Boaz, *Equality Does Not Mean Conformity: Reevaluating the Use of Segregated Schools to Create a Culturally Appropriate Education for African American Children*, 7 CONN. PUB. INT. L.J. 1, 23–26 (2007). Voluntary segregation within the classroom may be a solution to providing a diverse curriculum, wherein the coursework in each classroom is tailored to the languages, beliefs, and customs of the particular minority. *Id.* at 24. However, segregation takes away from interaction with others, which is essential to furthering acceptance of African-Americans in American society. *Id.* at 25. A more comprehensive solution might require cultural inclusion in all classrooms, with the option for an Afro-centric curriculum. *Id.* at 25–26.

285. Boaz, *supra* note 7, at 216–21. “[S]lavery was integrally tied to the prohibition of and discrimination against African religions,” and the prohibitions continued after slavery ended. *Id.* at 216. The persecution of African religions are also “inextricably intertwined with . . . the racist portrayals of African culture during the colonial period.” *Id.* at 248.

286. *Id.* at 217–218 (2010). The “civilization” of the African people was synonymous with Africans being “Christianized.” *Id.* at 217. Today, the Western media has created intolerance towards African religions, further preventing African religious practices from “freely holding, practicing and expressing their beliefs.” *Id.* at 229. Hand-in-hand with this media-created intolerance is the increase in the abandonment of African traditions. *Id.* at 230.

287. See *supra* Part II.A.

288. *Id.*

imagery of barbarism associated with this African religion. If not protected, Vodou might be lost to those who purposely or unknowingly vilify it by repeating racist stereotypes of Voodoo worship. These stereotypes are the foundations for prejudicial legal arguments and decisions implying that the practice of “Voodoo” indicates social and mental deficiencies. These popular perceptions also motivate individuals to claim discrimination, and defamation when referred to as a Voodoo practitioner.

In order to truly cast off the bounds of slavery and racism, Vodou and Voodoo must be protected from the images of it that were cultivated during a time when it was beneficial to portray African views as barbaric to justify the subjugation of the African people. Courts must unequivocally refuse to allow vague allegations of “Voodoo” practice as evidence to avoid confusion about the role of religion in civil and criminal proceedings. Courts should further explicitly and unanimously hold that mere belief in Haitian Vodou, New Orleans Voodoo, or any other African-derived religion is not evidence of defamation, slander, unfit parenting, insanity, discrimination or grounds for divorce. To reduce the ignorance that fuels these claims, Afro-Caribbean and African religions should be included in courses and majors in U.S. universities to counteract the negative repercussions of slavery on traditional African systems of belief. Although probably still insufficient, these should be the first steps to ensuring and protecting the right to freedom of belief and conscience for Vodou and Voodoo practitioners.