

**RELIGIOUS PLURALISM AND THE SITUATION OF  
RELIGIOUS RIGHTS IN NIGERIA**

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## 1.0 INTRODUCTION

Nigeria is a plural religious state. Like most African peoples, Nigerians are, generally speaking, deeply religious peoples and religion shapes their lives significantly. Nigeria's religious diversities feature mainly Christians, Muslims, adherents of various forms of African traditional religions (ATRs). For its cosmopolitan nature, Nigeria also has among its citizens and foreign residents those who are adherents of other religious faiths such as Ba'hai, Eckankar, Grail Message and Buddhism, to mention a few.

### *Religious demographics*

Although Christians and Muslims in Nigeria are about equally distributed, it is not unusual to hear descriptions of parts of Nigeria as Muslim North and Christian South. These descriptions generally becloud the more complex nature of the distribution of Nigeria's Christian and Muslim population and it may be argued that these sweeping generalisations are, in part, responsible, for some religious tensions that have resulted in threats to religious freedom in some parts of the country.

While it is true that in terms of numbers, the states of the North-east and North-west geo-political zones have significantly more Muslim population, they also have visibly large Christian communities. The states of the North-central, in turn, are, at present, almost equally divided (50:50) between Christians and Muslims. In the states of the South-south and South-east geo-political zones, the Muslim population is very small. Arguably, amongst the ethnic communities, the figure is

insignificant but when expanded to include non-ethnic residents, the population is sizeable. In the South-west states, the pattern of distribution of Muslim and Christians mimics the North-central zone.

You might ask why I am not putting precise figures to the distribution. The answer is that these precise figures are not available. In recognition of the volatility of religion among these two religious communities and high possibility of manipulative use of such demographic data, the Nigerian government excluded information on religion in the last national census.

Nigeria's religious plurality is not only acknowledged by the Constitution and other legal frameworks, these frameworks provide endeavour to provide different mechanisms to forge harmonious coexistence of the various religions as well as protect the religious rights of all. While not denying the place of religion in defining the identities of citizens, whether as individuals or as groups, the Constitution reflects an ultimate aspiration that national identity will moderate the differences that the different religious identities sustain. For example, Section 15 directs the State to foster national integration by encouraging inter-marriage among persons of different places of origin or of different religious, ethnic or linguistic associations or ties...

## **2.0 LEGAL STATUS OF FREEDOM OF RELIGIOUS OR BELIEFS**

The legal status of religious rights in Nigeria rest on 2 fundamental philosophies – the secularity of the state and the fundamentality of the right to freedom of religion. These two philosophies are legitimised by the Constitution. It is important to note that the Nigerian Constitution is the supreme law and

has binding force on all authorities and persons throughout the country (section 1). The Constitution also declares its supremacy over all other laws so that any law that is inconsistent with the Constitution is void to the extent of its inconsistencies. In effect, any person can challenge the constitutionality or otherwise of any law or action of any government or individual.

### *Secularity of the Nigerian State*

The 1991 Constitution of the Federal Republic of Nigeria affirms the Nigerian state as a secular state. Section 10 of the Constitution states:

**The Government of the Federation or of a state shall not adopt any religion as a State religion.**

From this provision, the meaning and scope of Nigeria's secularism can be deduced. It appears that all that is required to satisfy the constitutional standard is that the government at any level does not "adopt" any religion as a state religion. It is such reading of the provisions of section 10 that have led some to contend that Nigeria's secularism does not prescribe **absolute non-involvement** of the State in Religion and for this reason argue that governments' support including providing financial support to the activities of religious communities such as construction of places of worship and supporting individuals on holy pilgrimages are not unconstitutional. On the other hand, there are those who argue that to the extent that the intention of the Constitution is that Nigeria be a secular state, there can be no room for the overt and intense level of engagements with religion as governments in Nigeria are known for. They also contend that it is only in ensuring that government keeps its distance from religion (keeping religion at the level of the personal and private) that it is possible to safeguard against ubiquitous adoption of one religion or the other as state religion. In any case, they present evidence to

show how governments have not only failed to maintain equal treatment of the religions in their engagements but demonstrate ubiquitous “adoption” of one religion as state religion through their privileging of the religion and the members of that religious community in terms of access to social goods and political power. They also argue that when government engages too directly in support of religion, where a particular religion is dominant in a state, a wrong message is often sent to (or shall I say: construed by) the adherents of the religion that the State has adopted the religion. This is made worse when the individuals occupying government office are adherents of the dominant religion.

*Fundamental right to freedom of religion*

**Section 38(1) of the Constitution affirms that every person is entitled to freedom of thought, conscience and religion, including freedom to change his religion or belief, and freedom (either alone or in community with others, and in public or in private) to manifest and propagate his religion or belief in worship, practice and observance.**

Although this legal provision serves to provide effective legal protection for many Nigerians as individuals and as religious communities. I would argue that it is because of this provision that individuals of contending faith and beliefs are able to jostle for space and hold entitlements of protection against individual others and the state.. However, the constitutional safeguard is also all too often violated. A number of Nigerians experience gross violations of this right especially in the private sphere. Too many individuals face extreme persecution when they publicly indicate a decision to change their religion or belief. In extreme cases, individuals have been hounded to death or subjected to serious deprivations for such decisions. Religious communities are also not exempt from attacks. Only in the last fortnight, there were media reports of the invasions

of the shrines/ worship places of some ATRs by some over-zealous Christians seeking to show the “powerlessness” of the deities worshiped at these places.<sup>1</sup> The reports also state that the Police would prosecute the Pastor for malicious damage to property. It is unclear what level of support is being given to the religious community affected to seek civil remedies for the breaches of their religious rights entailed in the conduct.

Other known instances when the right to peaceably enjoy the constitutional guarantee of religious freedom has been violated include instances when Muslims have demanded the removal of a place of worship of another religious community or even engaged in outright destruction of such. A case in point was when some Muslim students of the University of Ibadan demanded the removal of the huge cross at the University Chapel on the grounds that it overlooked the mosque. This was in spite of the fact that both places of worship had, by then, co-existed as neighbours for decades even though the presence of cross preceded the mosque in time.

Even before the emergence of Boko Haram there have been numerous records of violent attacks on Christians and churches especially in the Northern states aimed at restricting their opportunities for freedom of worship. What is worrisome is the fact that these are still not historical incidents. In July 2016, a female Christian evangelist was gruesomely murdered on the streets of Abuja, the capital city of Nigeria While she was preaching. Although her assailant(s) have not been identified, it is considered that she was murdered for proselytising and it is widely believed that her assailant must have been a Muslim. Her killing came on the heels of another killing in Kano State of a Christian by a Muslim who considered it offensive that the

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<sup>1</sup> The Punch Newspaper, September 27, 2016 (online version) available at [punchng.com](http://punchng.com)  
<last accessed on September 28, 2016>

Christian ate his lunch in public during the Ramadan season and an attempted killing of another Christian in Kaduna for the same offence. Although there is little evidence of direct state-sponsored violence against people of any religion, the failure of governments to bring the perpetrators of these acts to justice often fuel the suspicion that government is tacitly supportive or approving of their conduct. This viewpoint is reinforced when there is evidence of discriminatory treatment of religious communities by governments through formal and informal policies and practices.

**Subsection (2) provides that no person attending any place of education shall be required to receive religious instruction or to take part in or attend any religious ceremony or observance if such instruction or observance relates to a religion other than his own, or religion not approved by his parent or guardian.**

Now, I would say that this provision is more respected in breach than in observance. Nigerians are deeply religious and overt in their religious practices such that religious invocations have become formally institutionalised as aspects of public life. The problem with this is that although there is usually accommodation of the two major religions – Islam and Christianity such that adherents are often provided with the alternatives to choose from or religious invocations might be divided between the two religions, there is little or no room for recognition of other religions. School children of other religions and beliefs are often coerced to participate in the religious activities shaped by the two dominant religions. Few of such children or their parents ever assert their constitutional right for a number of reasons ranging from a concern that asserting the rights might lead to stigmatisation and unpleasant consequences for the child, a religious tendency towards syncretism which fosters some level of tolerance as well as lack



of confidence in the efficacy of the legal protections and possibly, complete ignorance as to the scope of the right to freedom of religion.

**Subsection 3 provides that no religious community or denomination shall be prevented from providing religious instructions for pupils of that community or denomination in any place of education maintained wholly by that community or denomination**

Subsection 4 is perhaps the most troubling when it comes to religious rights of individuals and communities of with less openness. The section provides that “nothing in the section shall entitle any person to form or take part in the activity or be a member of a secret society.” It has been argued that this constitutional provision removes the level playing field granted to all religions in subsection one. It has been argued by Akin Ibidapo--Obe that this constitutional provision unfairly targets ATRs as many of these religions have secrecy or shall I say exclusivity as distinguishing marks of their modes of worship.

In practice however, the government has done little, in fact, to curtail the religious rights of those who are members of religious groups that may fall within the class secret societies. Some religious communities whose religious practices require some measure of secrecy/exclusion impose restrictions, with tacit governmental support, on the right to freedom of movement of other citizens whenever they have to carry out some of their religious rites. For example, ORO religious rites prohibits any woman being in public when the rite is carried out on pain of instant death. There is an never been an effort on the part of any government to address the challenge to other fundamental rights of other citizens by the ORO worshippers’ exercise of their religious rights. The political will to prosecute

the Pastor who invaded the a shrine also lends to the view that ATRs are being given more religious space.

For what it's worth, let me note that there is much to support the view that the government is now giving formal recognition to ATR. The subject West African Traditional Religion is now being studied and examined by the National Examination Commission, the examination body that issues the Senior Secondary School level (equivalent to the High School Certificate).

#### *Recognition of Sharia Law under the formal legal system*

Sharia law has always had some measure of recognition under Nigerian Law even during the colonial period. The colonial government permitted Sharia Law to wholly govern as the personal law for Muslims and allowed Sharia law to apply to commercial transactions as well as property rights subject to some limitations. It also permitted Sharia law to be partially applied to the field of crime until 1945 when it Islamic Criminal Law was abolished.

The formalisation of Islamic Law as an integral aspect of the Nigerian legal system started in 1979 with the formal recognition of the Sharia legal system in the formal court structure. The 1979 constitution created the Sharia Court of Appeal and provided for the merging of the Sharia legal system with the common law legal system at the point of the Supreme Court. In 1999, some states of Northern Nigeria formally adopted Sharia-based criminal legislation and that completed the formalisation of Sharia law and its legal system in Nigeria.

### **3.0 RELIGIOUS FUNDAMENTALISM AND THREATS TO RELIGIOUS RIGHTS**

As religious fundamentalism especially within Christianity and Islam rises, there are growing calls to government to take actions that may necessarily entail interference with religious rights. Recent cases bordering on exploitation and manipulation of church members as well as Islamic radicalisation have led to increasing calls for more stringent supervision of churches and mosques. Such pressures emanate from cases such as that of Reverend King of the Christian Praying Band whose conviction for the murder of a church member was upheld by the Supreme Court. Reverend King sexually exploited and disciplined female members of his church through severe physical assaults. In the case that brought him to light he doused a female member of his church who was also one of his victims (of sexual abuse) with petrol and set her ablaze for the offence of 'fornication'. The decision of the Kaduna State government to enact a legislation for the regulation and licensing street preaching (Regulation of Religious Preaching Bill) is rationalised by the government as being directed at curbing religious extremism and hate speech with the aim of ensuring public safety. The idea of the government, arguably is to reduce the opportunities for provocation by pushing religious activities to the private and rendering them less visible. For Christians in Kaduna State, aside their distrust of the government which makes them think the law is specifically targeted at them to disadvantage their religion relative to Islam, they argue further that the law does not serve to foster religious harmony as it only seeks to pander to the needs of those with low tolerance threshold for other religions. They argue that the constitutional aspiration is that Nigerians must learn to accept one another's differences and learn to live with these.

*Boko haram*

Although Boko Haram introduced a new dimension to religious fundamentalisms in Nigeria, I note that long before the contemporary manifestation of religious fundamentalisms, there have been tensions between the two dominant religions fuelled by fundamentalism. . Although there is some history of tensions between either of Muslims and Christians on the one hand and African Traditional Religions on the other hand, the tensions and conflicts between Muslim and Christian communities have been more commonplace and have nearly always been characterised by serious outbreaks of violence. Religious leaders of both communities have been known to define themselves by the “zero-tolerance” for ATR as exemplified by the Islamic Preacher whose alias was “Ajagbemokeferi” (transliteration: the one who shouts down infidels).

Nigeria’s history of attacks on religious freedoms of individuals and religious communities with features such as:

- Burning of churches
- Attacks on individuals
- Attacks on religious communities

### *The state, the politicisation of religion and implications for religious rights*

It is quite hard to place the Nigerian state at both the federal and state government levels when it comes to the stance towards religious freedom. All too often, the state approbates and reprobates. Although there is no direct evidence of state-sponsored violence against any religious community, the pattern of governmental inaction in the face of violence aimed at infringing religious freedoms and the failure to bring individual perpetrators of violations of religious rights to justice have often led many to conclude that governments in some states are partial to some religious communities. In the same vein, unequal access to state-controlled resources lends to

the belief that religion is a basis for discrimination. For example, the facts in the case of *Adamu v Attorney-General of Borno State* (1996) 8 NWLR 203, bear out how governments may deny equal access social good and protection to all citizens on ground of religion. The Gwoza Local Government decided to provide teachers for Islamic Religious Studies at cost to the government while asking that parents of Christian students bear the cost of providing teachers of Christian Religious Studies. The policy also had the effect of compelling the pupils to be taught Islamic Religion and Arabic Language. It took the courts to declare the policy decision discriminatory and so unconstitutional.

Also, because of mutual distrust, even when state actions may be innocent, they are often construed and interpreted in the light whether they are calculated to privilege one religion over the other. Examples of how governmental decisions may be construed and misconstrued are offered by some recent government actions/decisions of the Kaduna state government. The Kaduna State government decision to enact legislation for the regulation and licensing street preaching (Regulation of Religious Preaching Bill) to protect against extremism has drawn the ire of citizens who fear that the proposed law portends the onset of a “police state” which can only have the effect of undermining religious freedom. Although the state provides reasons for the proposed legislation, namely: the need to curb religious extremism and hate speech and the duty of government to provide public safety by reducing the threats of religious violence, a phenomenon that has ravaged the state for years. Nonetheless, Christians would have none of this law convinced as it were that it would undermine Christian evangelistic activities.

Some provisions of the Bill include:

- The two major religions in the State shall be regulated by the following bodies:
  - a) A committee of the Jama'atul Nasri Islam with equal representation of Izala and Darika religious groups in the case of Muslims; and
  - b) A committee set up by the Christian Association of Nigeria, in the case of Christians;
  - c) An inter-faith Ministerial Committee appointed by the Governor.
- All religious leaders including visiting preachers must obtain a licence before they can preach in the state and the licences must be renewed annually.
- Playing of cassettes, CDs, flash drives or any other communication gadgets containing religious recordings from accredited preachers may be played in the following places only: inside one's house, entrance porch (azure), church, mosque and any other designated place of worship.
- Any individual who violates any provision of the proposed legislation will be liable on conviction to a maximum of two years fine or a fine of N200,000 or both and where applicable, revocation of licence.

*The balancing act* – in recognition of high level of distrust and the awareness that any governmental act that fosters the perception that one religion is being privileged has led to political efforts by the state at some balancing acts. For example, there is some unwritten rule that at the federal level and in states where the two religions are almost evenly represented in the population, political power is shared between the two religions. For example, if the President is Muslim, then the Vice-President must be a Christian and the same applies vice-versa.

The nature of the Nigerian State may offer some opportunities for strengthening government accountability for promoting respect for religious rights. Nigeria's federal arrangement means that government is not one and while government may act untowardly at one level, government may be brought under the Rule of Law by the government still. On the one hand are the courts that have the power to determine the constitutionality or otherwise of governmental action, laws and policy and in fairness to the Nigerian judiciary in these regard, they appear to have maintained a respectable measure of independence from the executive. For example, in *Adamu v Attorney-General of Borno State*(1996) 8 NWLR 203, the court boldly declared unconstitutional the policy of the Gwoza Local Government to provide teachers for Islamic Religious Studies at cost to the government while asking that parents of Christian students bear the cost of providing teachers of Christian Religious Studies. The policy also had the effect of compelling the pupils to be taught Islamic Religion and Arabic Language, which the court declared discriminatory and so unconstitutional. In recent times, the courts have stoutly defended the right of Muslim students to wear hijab to school. Admittedly, the last has not be heard on the issue as there is conflicting jurisprudence on the issue and 2 cases in which conflicting decisions have been given have gone on appeal.

Also notable is the boldness of the Kaduna State Judicial Commission of Inquiry's indictment of the Nigerian Army for the killing of 348 Shi'ite Muslims by soldiers in December 2016. I must not fail to mention here that the killing hallmarks the growing tension between the majority Sunni Muslims and the minority Shi'ite Muslims.

