

Abstract

Minority Religious Organisations and Registration in Africa: A Constitutional Inquiry

by

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It is often argued that the registration of religious organisations in Africa is pursuant to the aim of African States to protect and promote public interest order morality as well as being reasonably justifiable in open and democratic society. This paper argues that the registration of religious organisations in some African States appears to be unconstitutional since as a measure of derogation from the fundamental rights of freedom of association and the freedom of religion it is disproportionate to the purposes it seeks to address and especially so as it unfairly targets minority religions and sects. Available evidence of the registration of religions in some African States would suggest that the registration of religions is a colonial legacy that targets the 'other' religions and sects as well as an orthodoxy that has largely been unquestioned. Using a broad limitation of human rights jurisprudence, the paper demonstrates that a constitutional scrutiny of the exercise of regulatory oversight over religions in Africa occasioned by registration is crucial in the protection of minority religions and sects because of the demonstrable lack of equality in the treatment of different religions and sects. In particular it will be demonstrated that the conditions of registration in legislations such as the Societies Act in many African States appear suited to secular organisations and when applied to minority religions often mimic the understandings of majority religions and sects. Issues that will be considered in the paper include the conditions of registration; the administrative and judicial review of registration decisions; and the intrusion that registration affords directly and indirectly into the autonomy of religious organisations. The paper concludes that there exists in many African States sufficient legal safeguard to ensure that religious organisations conform to the laws of the land without a requirement for registration.