

**A LEGAL EXAMINATION OF ASPECTS OF THE RIGHTS OF MINORITY RELIGIOUS GROUPS
IN NIGERIA***

Abstract:

The Right to Freedom of Religion is one of the fundamental rights enshrined in the Constitution of the Federal Republic of Nigeria 1999 (as amended) and other regional and international laws. However, this right, like many other fundamental rights is not given the desired enforcement. The situation is even worse when it concerns minority religious groups. The majority religious groups have intimidating and overwhelming advantages over the minority religious groups. This article shall examine the effectiveness of this right in Nigeria. The research methodology adopted in this work is doctrinal whereby primary sources such of statutes, case laws, and secondary sources such as text books and journal articles are considered. Findings show that some of the minority religious groups and beliefs are viewed as being fetish and unacceptable. Government at all levels clearly favour majority religious groups for political and selfish reasons, it is recommended among others that, workable measures for the enforcement of laws on the rights to freedom of religion be put in place. specialized laws and institutions be put in place to keep these abuses in check.

Keywords: Minority Religious Groups, Right and Freedom, Thought, Conscience, Nigeria

1. Introduction

Religion is an integral part of human existence. Almost every human being belongs to one religion or the other. Because of its importance, national and international laws have copious provisions on religious rights. Consideration will in the main be given to analysis of relevant legal provisions in the Constitution of the Federal Republic of Nigeria 1999 (as amended) and other laws on the right to freedom of religion. Despite these laws, this right had never been taken seriously or effectively enforced.

2. Evolution of The Right to Freedom of Religion.

Before the advent of the missionary religions; Christianity and Islam in the 15th Century, Nigerians were practicing the African Traditional Religion (ATR). Islam and Christianity have been accommodated by the African Traditional Religions. As a result, most adherents of Islam and Christianity are drawn from or made up of former African Traditional Worshipers and up till now, that blend of worshipping or adhering to a combination of Christianity and African Traditional Religions or Islam and African Traditional Religions still exist¹. The issue of religious intolerance did not start in the modern world². For instance, in the 4th Century AD, Emperor Constantine of the Roman Empire embraced Christianity; reason being that he perceived it as a veritable platform upon which the people can be unified through social, cultural and geographical divides³. This singular act by the emperor has to a very large extent made the Roman culture, administration and Christianity almost undistinguishable as the interplay is so strong that it seems impossible for one to exist without the other⁴.

In Islam, theocracy prevails in the sense that religious bodies hold unlimited power that an entire nation can officially follow one religion that is also in power or governs the nations⁵. This has been the history of Islam, which is said to be synonymous with the history of theocracy that was said to have sprang in the Arab world in the 7th Century⁶ and by this, a very strong structure was created for Islam to flourish through the caliphate setting.

Apart from Rome, England is another nation where historically the Church is so integrated and plays very serious role in governance. From the early middle-ages and beyond, England has been predominantly Christian until the reformation. England was Catholic but in 1534 the Church of England; the Anglican Church was given independence, which led to the eventual adoption of a regulated protestant theology and the resultant adoption of Christianity as the official religion of England. King Henry viii started the process of creating the Church of England after his split with the Pope in the 1530s.⁷

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¹ See GT Ngbea and H C Achunike, 'Religion: Past and Present in Nigeria' [2014] (17) (2) *International Journal of Sciences, Basic and Applied Research* (IJSBAR) 156-174

² DT Irvin, 'Specters of a New Ecumenism: In Search of a Church 'Out of Joint'' in LD Leo (ed) *Religion, Authority and the State: From Constantine to the Contemporary Words*, (New York: Palgrave Macmillan, 2016) pp 3-32

³ *ibid*

⁴ See S Huntington, *The Clash of Civilization and the Remaking of World Order* (New York: Simon & Schuster, 1996) pp 60-70.

⁵ *ibid*

⁶ *ibid*

⁷ *ibid*. see also, Islamic States include, Libya, Iran, Saudi Arabia, Afghanistan etc

The above stated developments and many others that clearly show some coercion on religious grounds led to the introduction of the right to freedom of thought, conscience and religion for the first time by the United Nations General Assembly under Article 18 of the Universal Declaration of Human Rights on 10th December, 1948. This Declaration became the cradle of global recognition of human rights as a whole and the right to freedom of thought, conscience and religion.

3. Religious Demography in Nigeria

The last census conducted by the National Population Commission (NPC) was in 2006 and the Population of Nigerians was put at 140,431,790 people.⁸ However in 2023, it was estimated that the population of Nigeria is as of 2015 made up of 50 percent Muslim and 48.1 percent Christians while approximately 2 percent belong to other religions and those who have no religion at all⁹ It was also reported that many adherents to these religions combine other traditional or indigenous animism¹⁰ or practices with Christianity or Islam¹¹. It was also estimated that among the Muslims, exist some sects such as the Sunni who are 38 percent of the Muslim population, most of the members belong to the Maliki school of jurisprudence, a reasonable minority of the Sunni identify with the Shafi. While 37 percent are either Sufis which has the largest number or the Tijaniyyah 39 percent and Salafism also known as Izala in Nigeria. It was also estimated that 13 percent of Muslim claim to belong to the Shia sect while 42 percent refused to identify with any Sect and preferred to be identify as just a Muslim. There are also minority Kala Koto (Quraniyoon) Muslims¹²

In the estimated 48.1 percent of Christians in Nigeria, approximately, 25 percent are said to be Catholics while protestants, Pentecostal, orthodox, and other denominations all put together are estimated to be approximately 75 percent¹³. The protestants include the Anglican and Methodist who are estimated between 20 to 30 percent of Christians in Nigeria while the Pentecostals include, the Evangelical Christians all put at 10 percent of the Christian population while the African originated and organized churches and other Nigerian indigenous church such as the Christ Apostolic Church, the Cherubim and Seraphim are estimated to be 5 to 10 percent of the Christian population in Nigeria¹⁴

There are other smaller non-denominational churches and Christian groups such as, the Rosicrucian, Jehovah Witness, Hindus, Bahairs, Sikhs, Buddhists, the Jewish community who are divided into community of Hashem, Messianic, and other orthodox groups¹⁵

4. Secularism and the Rights of Minority Religious Groups

There is no facet of modern human existence that religion has not had tremendous influence on. It would not be an over-emphasis if it is opined that, the world over, religion is the most influential aspect of human existence¹⁶. Religion shapes human thoughts, relationships, aspirations, governance and even trade¹⁷ Religion has added so much in human existence and it has taken a lot also from humanity.¹⁸ Most nations' leaderships have, especially in recent times, established policies that clearly insisted on the existence of such nations on religion. That is to say, they do not recognise or apply the principle of separation of the nations from religion. This separation is the main principle of true secularism.¹⁹ Secularism refers to the view that, human activities and decisions, especially political engagements should be based on evidence and facts not on biased religions influence.²⁰ Subham argued that, the reasons and logic in support of secularism differ on a very large extent. For instance, in Europe Laicism, it has been argued that, secularism is a movement towards and a departure from traditional religious values. It likened this type of secularism to where the state operates or encourages the existence of a state church or religion on a social or philosophical level. In the United States of America, it is argued that state secularism has to a large extent played the role of stopping religion from interfering in government²¹. The Supreme Court of Nigeria in a

⁸Legal Notice on Population of 2006 Census Final Result; Federal Republic of Nigeria Official Gazette, Government Notice No. 2, 2nd February, 2009 Vol. 96. K Nweze, Census Will not Consider Religion, Ethnicity Says NPC. *ThisDay Newspaper*, (Lagos, 10th June 2021) ThisDayLive, accessed 3rd April, 2023

⁹Pew Research Center report as contained in the US Department of State, 2023 Report on International Religion Freedom: Nigeria, *op cit*.

Oxford Dictionary of Current English (4th edn) C Soanes, et al, (eds) New York: Oxford University Press, 2006)

¹¹ US Department of State, 2023 Report on International Religious Freedom: Nigeria, *op cit*

¹²*ibid*

¹³*ibid*

¹⁴*ibid*

¹⁵*ibid*

¹⁶ D Irvin, *op cit*.

¹⁷ J Subham, Concept of Secularism (March 16, 2016) at <<https://ssrn.com/abstract=3517967>> or <<http://dx.doi.org/10.2139/ssrn.3517967>> accessed 8th February, 2024.

¹⁸ S Huntington, *op cit*.

¹⁹ S J Subham, *op cit*.

²⁰ *ibid*.

²¹ *ibid*

like manner in the case of *Medical and Dental Practitioners' Disciplinary Tribunal v Okonkwo*²², per Ayola JSC, held thus;

The right to freedom of thought, conscience and religion implies a right not to be prevented without lawful justification, from choosing the course of one's life fashioned on what one believes in and a right not to be coerced into acting contrary to one's religious belief. The limits of these freedoms, as in all cases are when they impinge on the right of others or where they put the welfare of society or public health in jeopardy.

Before now, some writers²³ have argued that, secularism is a process of social change strongly attached with the emergence of the modern world as well, a historic movement to a future society where religion would have little or no public influence, social utility or remarkable place of authority.²⁴ Ironically, the above assertion and optimism seem not to be the reality on ground. Religion and religious influence have rather increased tremendously in recent times.²⁵

It has also been argued that the spate of extremism and fundamentalism the world over is a new response or resistance to the attempts to enshrine secularism in the societies²⁶. Hardly can one experience any violence presently that can be unrelated to a resistance to secularism either in support or in opposition of a religion.²⁷ No religious organization wants to see the other grow or be in any dominating position. This rivalry is sternly against secularism or the existence of a secular environment. Those in power who of course belong to theses religious groups or beliefs shy away or consciously pretend to be insisting on freedom of thought, conscience or religion or on secularism with obvious bias dispositions in favour of their religion or belief²⁸

The Canadian Supreme Court in the case of *R. V Big M Drug Mat Ltd*²⁹ explained the concept of freedom of religion thus;

The essence of the concept of the freedom of religion is the right to entertain such religious beliefs as a person chooses the right to manifest belief by worship and practice or by teaching and dissemination. But the concept means more than that. Freedom primarily be characterized by the absence of coercion or constraint. If a person is compelled by the state or the will of another to a course of action or inaction which he would not otherwise have chosen, he is not acting of his own volition and he cannot be said to be truly free.

In Nigeria, section 38 (3) of the Constitution of the Federal Republic of Nigeria 1999 (as amended)³⁰ provided clearly that, every person shall be entitled to freedom to change his religion or belief and freedom to either alone or in association with others, in public or private manifest and propagate his religion or belief in worship or teaching, practices and observance. Section 10 of the said Constitution of the Federal Republic of Nigeria, provides that, government of the federation or a state shall not adopt any religion as a state religion.

Subsections (2), (3) and (4) of the said Section 38 of the Constitution of the Federal Republic of Nigeria, only particularised some of the places and aspects such as, educational institutions, religious community, and ceremonies, where the fundamental right to freedom of religion shall be observed and the prohibitions of any one joining a secret cult in the name of exercising the right to religious freedom and provided further that;

(2) 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 observation if such instruction, ceremony or observance relates to a religion other than his own or a religion not approved by his parents or guardian.

²² (2001) 10 WRN 1 @ 41 cited in JO Ezeanokwasa, *et al. op. cit* p.60

²³ G Philips, *Introduction to Secularism* (London: National Secular Society, 2019) Pp 10-20; E S Hurd, 'The Political Authority of Secularism in International Relations' [2004] (10) (2) *European Journal of International Relations*, SAGE Publications and ECPR-European Consortium for Research, 235-262 and R Warner, 'Secularism and its Discontents in Culture and Religion' [2012] (13) (4) *An Inter-Discipline. Journal*, 2-4

²⁴ *ibid.*

²⁵ B Akeel, *Secularism, Identity and Enchantment*, (London: Harvard University Press, 2014) pp 5-10

²⁶ U Azak, *Islam and Secularism in Turkey: Secularism, Religion and the Nation State*, (London: I.B. Tauris & Co Ltd, (2010) pp 30-60 and E Kanfmann, *Shall the Religious Inherit the Earth? Demography, and Politics in the Twenty-Frist Century*, (London: Profile books, 2010) pp 18 -30).

²⁷ *ibid.*

²⁸ *ibid.*

²⁹ (1985) 18 DLR(4th) 321 cited in Y Olomjobi 'Legal Dimensions to Religious Freedom in Nigeria' (September 24, 2016) at SSRN <<https://ssrn.com/abstract=2858616>> or <<http://dx.doi.org/10.2139/ssm.2858616>> accessed 20th March, 2023

³⁰ Constitution of the Federal Republic of Nigeria (CFRN) 1999 (as amended) s.38 (2-4)

- (3) No religious community or denomination shall be prevented from providing religious instruction for pupils of that community or denomination in any place or education maintained wholly by that community or denomination.
- (4) Nothing in this Section shall entitle any person to form, take part in the activity or be a member of a secret society³¹.

By these provisions of the law, Nigeria, ought to be a secular state where government or its institution are forbidden by the Constitution³² to recognize or treat or have any religions or belief as State religion or belief or accord any religion or belief any favour or advantage against any other. Recent killings and destruction of property in Nigeria, particularly in most areas of the north central of the Nigeria, where unarguably suggested that, Christians were the targets and victims of the killings that are variously described by many as genocidal. This attracted the attention and interest of the United State of America and the government condemn the attacks and took a bold step to ensuring that, this does not continue.

Nigeria was designated as a Country of Particular Concern under the International Religious Freedom Act, 1998 due to, allegations of religious prosecution against Christians in Nigeria. The recent killings in the middle belt of Nigeria attracted serious concerns and attention of the US government that was promptly followed by the introduction of a bill at the US congress aim at designating Nigeria as a 'Country of Particular Concern'³³

Secularism is also battered on the altar of the rivalry between Christianity and Islam in the Nigerian. Each of them does not want the other to dominate or over influence the political sphere of the nation. With the fact that, Muslims in Nigeria are projected to increase in population to an overwhelming majority of 60 percent of Nigerian population by 2060³⁴ has increase the struggle and quest of the religion to increase in numbers and in influence while the other religions are also working hard to ensure that such overwhelming dominance and its perceived consequences do not take place.³⁵ To achieve secularism as provided in various laws and governmental policies and programs, some writers have made conscious and concerted attempts at providing various ways of which this can be actualized. These include, separation of religion from political authority and the states for the sake of the neutrality of the states in religious matters and the sake of providing access for all to participate in democracy and governance³⁶

The paradox of Nigerian Secularism extends even to laws made in the land. Where for instance the nations legislature made a law that seems to be secular in nature and favourable to one of the two major religions, there is always this protest that starts from the point of making the law as the legislature themselves are usually sharply divided on religious lines arguing for and against the proposed law or part of it that seems not to be favourable to them or that is secular in nature³⁷ This is also the situation at the various States level of law making, when secular laws are being made in states houses of assembly having minority religious bodies and non-indigenes or residents who are members of adverse religious groups. When the corona virus law was made for Lagos State, there were protest reactions from the Muslim community in that State because according to the Muslims, the law was against their religion³⁸ Some of these antagonistic tendencies are variously and frequently displayed in informal ways and fora. For instance, in Anambra State some persons had allegedly asserted that, persons from a particular majority Christian denomination shall continue to be governors of the State and can only be deputed by another Christian majority denomination. The Catholic are unarguably, the majority religious organization taking about 50 percent of the citizens followed by the Anglicans who have about 30 percent while the remaining 10 percent is held by the Pentecostals and the traditional worshippers in the State³⁹ The above stated assertion has seemingly remained

³¹ CFRN 1999 (as amended) s 38(2), (3) & (4).

³² CFRN (as amended) s. 10

³³See O Ariemu, 'Breaking: 'Genocide: Trump Threatens Military Action in Nigeria, Alerts US Department of War' in *Daily Post*, 1st November, 2025, at <https://dailypost.ng> accessed 1st November, 2025, and B Ogundele, 'Tinubu Faults U.S Designation of Nigeria as Religious Freedom Violator' the Nation Newspaper, 1st November, 2025 at <https://thenationonlineng.net/breaking-tinubu-faults-u-s-designation-of-nigeria-as-religious-freedom-violator> accessed 1st November, 2025

³⁴ See *Yearbook of International Religions Demographics* 2018, Brain Grim j.et al (eds), Brill, Leiden 2018) and C Hackett and M Lipka, 'The Demographic Factors that Make Islam the World's Fastest Growing Major Religion Group', [2018] (22) *the Religion and Ethnic Future of Europe*, Scripta Institute Donneriams Aboensis, 11-14

³⁵ *Ibid*

³⁶ Arvid-Pals, et al, (eds), 'Introduction: Modernity, Religion-Making and the Post Secular' in *Secularism and Religion* (Oxford University Press, London 2011) Pp.3-8, Erin K Wilson, *After Secularism: Rethinking Religion in Global Politics*, (Palgrave Macmillan, Hampshire 2012) Pp 29 - 31

³⁷ J P Magbadelo, 'The Politics of Religion in Nigeria. In World Affairs' [2023] (7) (2) *The Journal of International Issues*, Pp 64 - 88.

³⁸DO Laguda, *op cit*, Pp 380-415.

³⁹ Statistic Situation as of July, 2023, Onitsha Archdiocese at a Glance, at <<https://onitsha-archdiocese.org>> accessed 12th February, 2024.

the norm and prevailing situation since democratic rule started in Nigeria⁴⁰. There are some powerful religions that have overwhelming influence in Nigeria Politics to the extent that they seem to be the deciding factors in who becomes a political leader depending on the location⁴¹. In that line, it has been posited that, from the early period of Nigeria Politics, Clergymen have made tremendous use of their positions as spiritual leaders and the wealth got from their churches to gain access to political power and also, as means of political influence⁴².

On the part of the other major religious organization or belief; the Islam, they come in form of protests against the government actions and policies which they perceive as Western and nonsecular. They also insisted on establishing leading influence on the national political sphere, riding on the machinery of preventing what they termed; westernisation of the nation to achieve their aims. This partly led to the introduction of the Sharia legal system indiscriminately in most parts of northern Nigeria to ostensibly, exert firm control over the political engagements in that region⁴³.

The Jama'atu Nasril Islam (JNI)⁴⁴ has questioned the rationale behind the adoption of what they called; a Christian Political System, and an English legal system which they said is also Western. The declaration of a permanent Christian Sunday as a holiday because Christians hold their church services on Sundays as against Saturdays which are the worship day for Muslims is also kicked against by this Islamic organisation. They also questioned the use of Christian cross as a symbol of medical and health services⁴⁵ even in government own medical and health facilities, thereby undermining the Islamist crescent which they claim serves the same purposes. They also condemned the use of the Gregorian calendar in Nigeria which designate 1st January as a public holiday as against the Islamic calendar and 1st Mubarram public holiday⁴⁶.

Succession in government is generally decided on religious lines not also as it may seem or suggested, to enhance secularism or promote freedom of religious practices but to enhance their huge presence in government and grow the influence they have derived from such positions. Still working against secularism in Nigerian by religious bodies, even though the Constitution⁴⁷ recognises only English, Hausa, Igbo and Yoruba as our official languages, emblems, Logos, Symbols, insignias, seals etc of most national establishments, bear conspicuous Arabic engraving or alphabets, even though Arabic language is not among the official languages in Nigeria⁴⁸.

5. Nigerian Legal System and the Rights of Minority Religious Groups

It is without saying that, the Nigeria legal system historically and otherwise is highly influence by religion contents and values. Though the colonial master who designed and handed over the legal system to Nigeria, were all Christians, this has little or no influence on the present and even past legal system in operation in Nigeria. The two major religions; Islam and Christianity are predominantly considered in every aspect of the Nigerian legal system with little or nothing provided for the minority religious groups such as the African Traditional Religion.⁴⁹

The Nigerian legal system comprises of institutions, rules, principles, standards, concepts, doctrines, procedure and theories of laws adopted and practiced in Nigeria⁵⁰ it is made up of three separate systems of laws namely; the Indigenous Customary Law⁵¹, the Municipal or Local Legislation and the received English Law⁵². Before

⁴⁰ A Uka, 'Banishing Miracles, Politics and Policies of Religions Broadcasting,' [2011] (5) (1) *Nigeria, Politics and Religion*, Pp 55-56.

⁴¹ *ibid*

⁴² R Marshall, *Political Spiritualities: The Pentecostal Revolution in Nigeria* (University of Chicago Press, 2009) Book Review by A Uka, *op cit*.

⁴³ DO Laguda, *op cit*

⁴⁴ The JNI is an umbrella body for the Nigerian Muslim Community with its Headquarters in the City of Kaduna lead by the Sultan of Sokoto.

⁴⁵ See ON Ogbu, 'Is Nigeria a Secular State? Law Human Rights and Religion context', [2019] (1) *The Transnational Human Rights Review*, 135 – 178.

⁴⁶ *ibid*

⁴⁷ See CFRN (as amended) s.55

⁴⁸ Arabic Language is said to be an official language of Islam. See M A S Abdel Haleem, 'Arabic as the Official Language of Islam', from the Book; *The Semitic of Language* (Hague; De Gruyter Muoton, 2012) p.811.

⁴⁹ A.O. Obilade, *The Nigerian Legal System*, (London, Sweet & Maxwell 1979) pp 1-15 and M.A. Ajanwachukwu 'A Legal Analysis of the Nebulous Concept of Childhood in Nigeria' [2016] (7) (2) *Beijing Law Review*, at <<https://www.scirp.org>> accessed 30th June, 2023

⁵⁰ BN. Okpalaobi et al, History of Nigerian Legal System – 1882 Till Date, in G C. Nwokoby, et al (eds) *Fundamentals of the Nigerian Legal Systems*, (India; Bekaam Printers PVT Ltd, 2011) pp 15 - 34

⁵¹ Under, the Nigeria Legal system. Sharia, the Islamic legal system is classified as Customary Law. See, J M Busari, Sharia as Customary Law? An Analytical Assessment from the Nigerian Constitution and Judicial Precedents' [2021] (20) (1). *Ahkam: Jurnal Ilmu Syariah* (UIN Jakarta), 26-29.

⁵² BN Okpala, et al *op ci*.

colonialism, the various ethnic groups that make up Nigeria applied native laws and customs in their engagement and in resolving disputes amongst them.

Nwauche⁵³ argued that putting together the colonial legal bequest to Nigeria and the superiority or ascendancy, of the followers of the two major religions; Islam and Christianity in Nigeria, the Nigerian Legal System is obviously dominated by the said two major religions in its contents, operations and application. The indigenous religions are obviously in the minority although in some case, the two major religions can also be said to be in the minority depending on the particular location one is considering this from.⁵⁴

It has been argued that Christianity dominates the Nigerian legal system because it is the foundation of English common law which is superior to customary law and Islamic law in Nigeria⁵⁵ and the dominance of Christian values or morals in English common law. The Nigerian legal system gives some level of preference to Christianity in the marriage laws in Nigeria. Once a person is married under the Act, he or she lacks the capacity to contract any other marriages particularly customary law marriage.⁵⁶ Whereas, a person who contracted customary law marriages are at liberty under the law to contract a marriage under the Act, hence people conduct customary marriages before solidifying it with marriages under the Act. It has been argued that one can be arrested and tried for entering into another marriage including customary law marriages after contracting a marriage under the Act. And if found guilty, such a person can be convicted and sentenced to a five-year term of imprisonment.⁵⁷ This is against the belief and practices of the African Traditional Religion believers or beliefs where adherents are at liberty to contract as many marriages as they wish, even under the Act and under customary law.⁵⁸

Customary law marriages are therefore inferior to the marriage under the Act or Christian marriages, which is said to have more advantages or security than marriages under customary law. The Criminal Code defines a husband and wife as spouses married under Christian marriages while the Evidence Act defines husband and wife as spouses married under a monogamous marriage.⁵⁹ A wife under a Christian marriage cannot be criminally held liable for being an accessory after the fact for aiding the escape of her husband from criminal liabilities.⁶⁰

The minority religions as earlier pointed out, are seen particularly by the major religious groups, especially the Christians as being occult groups, fetish and secret cults while the Christian religion is seen by the followers as open without any secrets. The Supreme Court in the case of *Registered Trustees of the Rosicrucian Order (AMORC Nigeria) v. Awoniyi*⁶¹ held per Iguh JSC that;

It cannot be seriously suggested that, there was anything secret in the teaching of Jesus Christ which in my view is entirely public and properly documented in the scriptures. Clearly to assert as the plaintiff did, that Jesus Christ was a member of secret society and that he was an advocate of occult teaching is speaking for myself, satanic, blasphemous and entirely unacceptable.

While the brilliant pronouncement of the Court stated above is commendable, we have earlier in this work demonstrated that there are certain practices in Christianity that none members are not allowed to know, therefore making them secrets as well.⁶² It is correct as held by the Court that, the plaintiff in the acted blasphemously against the Christian faith and its founder; Jesus Christ.

Also, against the minority religious groups is the recent introduction of and sponsorship of Sharia Legal system or in over twelve states in Northern Nigeria⁶³. Even though Christians are one of the two major religions in Nigeria after Islam, they are minority in northern Nigeria where Islam dominates both in numbers and influence. At the point of introduction of Sharia in the first State; Zamfara, Christians' existence in that region justifiably felt threatened and were actually threatened by some of the provision of the Sharia Penal Code so introduced⁶⁴.

⁵³ ES. Nwauche *op cit*

⁵⁴*Ibid.* in the northern parts of Nigeria, Muslims are in an obvious majority while Christians are in the minority.

⁵⁵ *ibid*

⁵⁶ Marriage Act Cap M6, LFN 2004, ss. 35, 35 & 48

⁵⁷*Ibid.* It seems the prohibition is restricted to only Customary Law Marriage and not Islamic Law Marriage, since it is posited to be distinct from customary law. See the Marriage Act, s 33 allowing someone who had married under customary law to marry under the Act.

⁵⁸ P I Odozor, (no.91)

⁵⁹ ES Nwauche *op cit*, and the Evidence Act, s 1 (2)

⁶⁰ *ibid.* and see also the Criminal Code Act (Cap C38 LFN 2004) s.10

⁶¹ (2000) LLJ R-SC, also cited in ES Nwauche *op cit*

⁶² JO Ezeanokwasa et al 'Religious Freedom and Limitations Under the 1999 Constitution of Nigeria' [2016] (7) in *Nnamdi Azikiwe University Journal of International Law and Jurisprudence*, 55-69

⁶³ MT Ladan, The Development and Application of Sharia in Northern Nigeria; Issues and challenges, Friedrich –Ebert-Stiftung at <http://library.fee.dre> accessed 20th February, 2024.

⁶⁴ *ibid* and see also ES Nwauche *op cit*.

The introduction of Islamic legal system through sharia in Nigeria was born out of the resistance, or the fear by Muslims and claim that, the Nigerian legal system as a whole is dominated by Christians and English beliefs and values.⁶⁵ The bases for fear is Islamization of Nigeria as many Christians were justifiably afraid of the effect the development may have on them. Flowing from the above argument, certain suggestions were made by influential public figures and commentators on that. For instance, and according to Abdullahi *et al.*⁶⁶ Byang drew the attention of the Christians to the danger of Sharia and made the following statement: 'There are only three alternatives for dealing with the non-Muslims under the Islamic legal system: (1) they must be converted; (2) they must be subjugated; (3) they must be eliminated'.⁶⁷

In northern Nigeria, the influence of the major religion, Islam on the legal system is emphatic, in the sense that, even when government pretend to have a secular state or states, the judiciary has two sets or species of Court; the Christian courts so to say and Courts for the Islamic legal system. The northern Nigeria operates a dual court system; that is the regular or what they call the English Courts such as the State's High Court and the Sharia or Islamic courts which they argue is to balance the lopsided and bias establishment and operations of English law in common law courts in the area⁶⁸.

The establishment of these religious institutions are done by state government with public funds against section 10 of the Constitution that prohibits in clear terms, any recognition of any religion as state religion or any government acting in favour of any religion. Islamic scholars have argued that, Shariah Islamic law was the only legal system existing in Nigeria before the advent of colonialism, and that British common law and procedures were later introduced in Nigeria⁶⁹. This cannot with due respect, be the correct or factual situation in Nigeria, because Africans and Nigerians in particular or the various nations that later on makeup Nigeria, had bodies of rules⁷⁰ institutions and persons working in those institutions⁷¹ procedures or processes of administering laws or rules and penalties attached to them from origin. The writer⁷² sees the English common law and Shariah as rival legal systems.⁷³

6. Assessment of the Effectiveness of the Rights of Religious Minorities in Nigeria

The key relationship between law, religion and human rights in Nigeria situates in the incomprehensible dominance of Islam and Christianity which are seemingly, treated as state religions in practices, that come with an obvious neglect of other religions. That, it is this pretentious attitude of those in power that characterised the relationship of Nigerian State and religion.⁷⁴ The exact population of religions adherent in Nigeria is unknown. This is undoubtedly due to the faulty⁷⁵ and inaccurate census figures in Nigeria.⁷⁶ This leaves the exercise fabricated census figures that are very unreliable.⁷⁷ What is certain and beyond argument is that, Muslims dominates the 19 Northern States in Nigeria while Christians are more populated in the remaining 17 Southern states in Nigeria; where also a reasonable number of minority religious groups exist.⁷⁸

Within the two dominant religions are also some sects among them where issues of majority and minority are also of some importance. In the Islamic religion, the *sunni* is the dominant or major sect and they also have the *shia* believers⁷⁹. In the Christian religion we have the Catholics who seems to have an obvious larger population than

⁶⁵ L Abdullahi and A Argunya, 'Shariah and the Challenge of Muslim – Christian Peaceful Co-existence in Nigeria' 2019, in *Saudi Journal of Humanities and Social Sciences*, Scholars Middle East Publishers, Dubai, United Arab-Emirates at <<http://scholarsmepub.com/sthss>> accessed 20th February, 2024.

⁶⁶*ibid* and see also M Kiwwin, 'Popular Perception of Sharia Law in Nigeria', [2009] (58) *Afrobarometer Briefing Paper*, 1-10

⁶⁷D. Byang, *Sharia in Nigeria: A Christian Perceptive* (Nigeria Challenge Publication 1988) and A M Yakubu, A.M Kani, *et al* (eds) *Understanding Shariah in Nigeria* (Abuja, Spetrum 2001)

⁶⁸L Abdullahi *et al*, *op cit*

⁶⁹L Abdullahi, *op cit*, 45

⁷⁰Rules that though unwritten, have binding force in the people such as punishment for stealing, rules guiding community services etc

⁷¹Institutions such as traditional rulers, age grades, masquerades etc

⁷²L Abdullahi *op. cit*, E S Nwauche, *op cit* and M.T Ladan *op cit*

⁷³*ibid*. Some writers have in some cases referred to Sharia as a legal system while some call it, the Islamic Legal System

⁷⁴E S Nwauche, 'Law, Religion, and Human Rights in Nigeria' [2008] (8) *Africa Human Right Law Journal*, Pp568-595

⁷⁵Bias in the sense that, most people wanted the census figures to favour their ethnic groups, locality or religions, leading to falsification of figures in some cases in the last census in 2006. See BA. Ahonsi, 'Deliberate Falsification of Census Data in Nigeria', [1988] (87) (349) in *African Affairs Journal*, 553-562. And A Simwa, 'Problems of Population Census in Nigeria', at legit.ng ,accessed 17th February, 2024.

⁷⁶ *ibid*

⁷⁷ *ibid*

⁷⁸See ES Nwauche, *op.cit*

⁷⁹*Ibid*. There are also some other minority sects in Islam such as Izala, sufi and salafist minorities

other denominations such as Anglican Communion.⁸⁰ Apart from the African Traditional Religion worshippers, it has been reported that there exist few adherents of Bahais, Hindus, Sikhs, Buddhist, Animists, and individual who do not follow any religion⁸¹. In all this, none of the above mention religions enjoys any favour from government or given any role in the government as it is done to the two major religions. None of these religions have their members sponsored or financed for any religious activities or accorded any respect or place in National events or ceremonies as done to the two main religions. No budgeting allocation for them, no public holidays declared or observed for their members or activities. They are on daily basis being intimidated, anchored and made to feel inferior among other religions. They are seen and treated as strangers, uncivilized, unknown, dirty and fetish.⁸².

Granted that, no right no matter how fundamental it might be is absolute. The right to freedom of thought, conscience and Religion in Nigeria seems to be wrongly and unjustifiably rampantly derogated from at various instances.⁸³ The Constitution prohibits any discrimination against anybody on grounds of religion. Section 42 1(b) prohibits the according of any privilege or advantage to any citizen of Nigeria that it is not accorded to other citizens of Nigeria of other communities, ethnic group, place of origin, sex, religion or political opinions.⁸⁴

However, there is, the Advisory Council on Religious Affairs Act⁸⁵ which establishes the Advisory Council on Religious Affairs⁸⁶. The Council is made up of 24 members; 12 members are Christians and the remaining 12 are Muslims from the two major religions and there are no representatives from the minority religious groups. The Act⁸⁷ provided that, government shall be allocating funds for the running of the Council yearly. The Council is charge with functioning as an avenue for articulating cordial relationship amongst the various⁸⁸ religious groups and between them and the Federal Government which should include the minority religious groups who are not represented in the Council.

In the case of *Medical and Dental Practitioners Disciplinary Tribunal v. Okonkwo*⁸⁹, the Supreme held; The right to freedom of thought, conscience or religion implies a right not to be prevented, without lawful justification from choosing the course of one's life fashioned on what one believes and the right not to be coerced into acting contrary to one's belief. The limits of those freedom as in all cases are where they impinge on the right of others or where they put the welfare of society, or public health in jeopardy.

If the emphatic holding of the Supreme Court above, per Ayoola JSC, which involved the right to freedom of thought conscience and religion of a Jehovah Witness, who rejected a medical advice of blood transfusion on grounds religions or belief is anything to add to the need for the full enjoyment of the freedom of religion and belief, then government at all levels and public functionaries must at all times avoid favouring a particular religion against the other or giving some advantages to major religious groups against those in minority.

Nwauche⁹⁰ argued that, a combined effect of Sections 10, 38 and 42 of the 1999 Constitution is a mandatory duty on Nigerian government to make sure that, the two major religions; Islam and Christianity are treated equally with all other religions. It has been further argued that, the Constitution of the Federal Republic of Nigeria⁹¹ gives both the Federal and State legislatures, the exclusive powers to make laws for the peace and good government of the nation and its federating units. That, the legislatures are allowed to determine what public good is and that the conception or perception of what public good is, is largely bases on religion and the two major religions; Islam

⁸⁰ Timothy, Robinson et al, 'Religious Minorities in Nigeria', House of Common Library, Uk, 19 April, 2023 at NS Library Parliament. Uk, accessed 17th February, 2023 and E S. Nwauche, *op.cit* and I Zarif, 'Rights of Religious Minorities in Nigeria' [2002] (10) (1) *Human Rights Brief*, 22-26

⁸¹ T Robinson, *et al, op. cit*

⁸² *ibid*

⁸³ I Zarif *op cit*, E S Nwauche *op cit*, Y Olomjobi, 'Legal Dimension to Religion Freedom in Nigeria' at <https://ssrn.com/abstract=2858616> accessed 4th May, 2024 and D.O. Aihe and P.A Olufede, *Cases and Materials on Constitutional Law in Nigeria* (Oxford University Press 1979) 47 and B Heiner, 'Misperception of Freedom of Religion or Beliefs' [2013] (35) (1) *Human Rights Quarter*,

⁸⁴ See 'Tinubu donates N20 Million as Church marks 100 years anniversary', *Premium Times Nigeria* at <https://www.premiumtimes.com> accessed 18th February, 2024. See also Kaduna donates N100 million to rebuild Churches, Mosques, *Premium Times*, November, 2016 at <<https://www.premiumtimesng.com> accessed 18th February, 2024.

⁸⁵ Cap. A8, Laws of the Federation of Nigeria (LFN) 2004

⁸⁶ Advisory Council on Religious Affairs Act (ACRA) s.1

⁸⁷ ACRA s 7 (1-2)

⁸⁸ ACRA s 3 (1)

⁸⁹ (2001) 7 NWLR (pt 711) 200 also cited by E S. Nwauche, *op.cit*. See also the case of *Adamu v. Attorney General, Borno State* (1996) 8 NWLR (Pt 45) 203 where the right to freedom of thought, conscience and religion was also upheld.

⁹⁰ ES. Nwauche, *op cit*

⁹¹ CFRN 1999 (as amended) s 4.

and Christianity are the parameters upon which conclusions are drawn in deciding what public good is. No religious group in the minority can assert this importance or influence on government, as Nigerian government think of and consider the number of votes that these better populated religious bodies will give them in the next election more than public good or even good governance when handling religious matters.⁹² The above stated fact, extends to what is seen as public morality which everybody seems to value in a very religious society as Nigeria. This also point at what the majority religions assert or see as moral as against what the minority religious groups perceive as morality.

7. Conclusion and Recommendations

The intention of the draft man of the Constitution of Nigeria and other laws on religious freedom are simply clear and purposeful. The Constitution of Nigeria for instance made clear provisions for the right to freedom of thought, conscience and religion as a fundamental right and for the secular nature of Nigeria and prohibits government from adopting any religion as state religion. These provisions of the law are largely not effectively enforced or even recognized by those in positions of authority and others who violate religious rights on daily basis especially those of the minority religious groups who lack the numerical strength and resource for the protection this right. The study recommends the separation of religion. Strengthening the laws and institutions on religion. Regular and effective inter-religious interface and dialogue between various religious groups. Adequate and proper education and enlightenment of leaders and members of various religious groups. More effective governmental checks and control on foreign sponsorship and interference on religious affairs in Nigeria. Restrictions of religious activities on security concerns. Establishment of a commission on religious security in Nigeria.

⁹² IL Umenolue, 'Religious Influence on Politics in Nigeria: Implication for National Development' [2020] (15) in *Ogirisi: A new Journal of African Studies*. 141 – 156, O.B.C. Nwolize; 'Military Government an Assault on Nigeria's Secularity' [1989] (1) (1). in *Bodija Journal* 75-95 and JO Awolalu, 'Religion and Society'.in A S Adewole (ed) *Religion and State: The Nigeria Experience* (Ibadan; Orita Publication, 1988) pp 1-11.