

**DENIAL OF RIGHTS TO FREEDOM OF THOUGHT, CONSCIENCE
AND RELIGION IN NORTHERN NIGERIA***

Abstract

Nigeria is in her fourth Republic in the history of democratic government which was intermittently punctuated by the military rule. Since 29th May, 1999 the country has enjoyed the longest civilian government. This work recognizes that democratic rule has ushered in numerous democratic values and concomitant advantage of human rights protection. Acceptably, human rights more often than not, are not absolute but where, by law, they are not derogable, it behooves all and sundry including government to uphold the tenets of human right. For the purpose of this work, it is probably just enough to do three things. The first is to clarify the concepts of human rights and the constitutional application in Nigeria. The second is to interrogate the assumption about Nigeria situation by attempting a catalogue of some instances where human rights protection to freedom of religion, so far amounts to rhetoric's. The third, by way of conclusion, is to ask how we might apply our constitution, democracy and order as Nigerians to address the issue at stake.

Keywords: Denial, Human Rights, Violence, Access, Religion, Christian/Muslim.

1. Introduction

Nigeria has ratified many international human rights instruments. Nigeria as a nation was not only a signatory to many conventions but also ratified them.¹ Indeed chapter four of the constitution provides for the fundamental human right inherent in every human being while chapter two contains socio-economic rights that are incapable of judicial enforcement by virtue of the same constitution.² Human rights that are enforceable in Nigeria include Right to life³, Right to dignity of the human person⁴, Right to liberty⁵, Right to fair hearing⁶, Right to privacy⁷, Right to freedom of thought, conscience and religion⁸, Right to freedom of expression⁹, Right to associate freely¹⁰, Freedom of movement¹¹, Freedom from discrimination¹², Right to property¹³. It should be noted further that African charter on Human and People's Rights (ACHPS)¹⁴ states that: 'Every individual shall be entitled to the enjoyment of the right and freedom recognized and guaranteed in the present charter without distraction of any kind such as race, ethnic group, colour, sex, language, religion or any other opinion, national or social origin, fortune, birth or other status. These rights in the constitution are the rights that are capable of mostly theoretical enjoyment or enforcement in Nigeria. The phrase 'theoretical enjoyment or enforcement' is used advisedly. Many of those rights are outside the reach of the in assess of our people who still wallow in poverty and ignorance as a result of corruption, insensitivity and negligence on the part of the state and its functionaries. Respect for fundamental human rights and freedom is a major feature of any democratic state, yet abuse of human right is becoming more rain pant in Nigeria's especially right to freedom of thought, conscience and religion.

*By **A.O. OKESOLA, PhD**, Lecturer, Department of Private and Business Law, Ajayi Crowther University, Oyo, Nigeria.
Email: alabioto6gmail.com. Phone: 08038280472.

¹ See Section 12 of the Constitution (as amended) of the Federal Republic of Nigeria, 1999.

² See section 6(6)(c)

³ S. 33, *ibid*,

⁴ Sec. 34, *ibid*

⁵ Sec. 35, *ibid*

⁶ Sec. 36, *ibid*

⁷ S.37, *ibid*

⁸ Sec. 38, *ibid*

⁹ Sec. 39, *ibid*

¹⁰ Sec. 40, *ibid*

¹¹ Sec. 41, *ibid*

¹² Sec. 42, *ibid*

¹³ Sec. 43, *ibid*

¹⁴ African Charter on Human and Peoples Rights (ACHPR) (Ratification and Enforcement) Act, Cap. 10 Laws of the Federation of Nigeria 1990.

2. Myths and Realities of State Failure

In Nigeria, the relations between Christians and Muslims have been a source of serious concern since independence, although the strain only became quite noticeable in recent times. A prolonged period of military rule, the struggle for power, the effects of a three-year civil war, corruption and inequalities have placed the nation on the boil and put the issue of religious differences on the ground. The result has been a powder keg of frustration which often explodes at the slightest provocation based on anything from arguments over the results of elections by politicians, students, ethnic groups or any other social formation on the landscape. There was a particular outburst of violence in the last couple of years under the aegis of faceless group of criminal elements, allegedly members of a *salafist* movement known as *Jaina atu, Ahlis Sunna Ladda' awatih wal-jilied*. The group has however come to be called by a default name, *Boko Haram*, arising from their rejection of what they see as the pervasive and corrupting influence of western values and ideas of Islam.¹⁵ Over the years, perhaps the thorniest issue that has continued to cause the greatest tension in relations between Christians and Muslims has been the issue of the status of Islamic law, known as *sharia* in Nigeria's public life. Beyond the political mileage and the hypocrisy by Nigerian politicians, a majority of Nigerians simply want to live their lives and practice their religion in peace. Indeed, this may be the reason why Boko Haram continues to hide its criminality by claiming it wishes to establish *sharia* law in Nigeria.¹⁶ The havoc wreaked has across the country and mosques as well all churches come under the preview of this dastardly acts. Although the attacks on churches in Nigeria has been going on for over twenty years, Boko Haram's resort to suicide bombings and targeting of churches during worships have raised the level of concern to a different level.

To scholars and observers, the Boko Haram insurgency in Nigeria is a product of an attempt by some northern states to Islamize the entire country. According to Olagunju: 'We thought that Boko Haram people, because they say they do not want western education, were really illiterates. We can see now that they are not. It is an ideological war that they are fighting.'¹⁷ The most notorious act of Boko Haram so far took place in April 2014, when 276 girls from Chbok town (a predominantly Christian populated settlement) were kidnapped. Although over 50 of them managed to escape, the incident, the incident brought the group pervasive attention. The girls kidnapped were mostly Christians. The girls' plight featured on 'Bring Back Our Girls' posters all over the world. Within the same period, Boko Haram announced the formulation of Islamic caliphate which included Gwozo a strategic town north-eastern Nigeria. The town of Bama, 70 kilometers from Maduguri was equally captured (increasing the reach of the new caliphate) despite the aggression of the Nigeria security forces against Boko Haram and suspected collaborators since 2009, the group continues to recruit new members. The upward trend in violence since then suggests that the more security forces have intervened the worse the crises has become. Indeed, more than 13,000 people have been killed and some 1.5 million made homeless in the Boko Haram conflict since 2009. In addition, cross-border attacks launched from Boko Haram strongholds in Nigeria have threatened to destabilize neighbouring countries of Cameroon, Chad and Niger in the sub-region with increased security threats. To combat this menace, sub-regional coalition force supported by African Union Force was created. After series of negotiations, on 30th November, 2014, a coalition force made up of soldiers from Benin, Cameroon, Chad, Niger and Nigeria was constituted. Its task was primarily to fight Boko Haram in insurgency in the sub-region.

The outgoing religious insurgencies in the northern Nigeria have received universal coverage. Not only has the attention of the international audience been irked by the criminal activities of the Boko Haram sect, human rights organizations (both local and international) have strongly opposed and condemned such atrocities. Some governments (like the United States of America) have branded Boko Haram a terrorist group and had offered a reward of US\$7m dollars for information about where about of its leader, Abubakar Mohammed Shekau.

¹⁵Matthew Hassan Kukah: *Boko Haram: Some reflections on Causes and Effects* (Mission 34, Human Rights Monographs Series, 2009)

¹⁶ National Human Rights Commission News letter vol.12 pg.2 (Se July-September 2011)

¹⁷<http://www.globalismjournal.net/issues/on-global-risks/articles/boko-haram-and-the-nigeria-state-a-different-perspectives.k> accessed of December, 2019

3. Denial of Access to Land for the Building of Churches

In many major cities in the Northern States of Nigerian, the state continues to see Christians as strangers, settlers and non-indigenes. Some states governors have openly stated that there are no settlers in their states, but they are still to provide the real framework. To this end, most of the churches have remained locked in areas that the colonial administration designed as strangers' quarters.¹⁸ These areas first housed a huge non-Muslims population of southern artisans, trades and civil servants who laid the foundation for the post-colonial bureaucracy in the late 50^s and 60^s. These areas were considered to be the habitats of non-Muslims whose cultural practices, such as music, consumption of alcohol and other social practices were considered un-Islamic.¹⁹ However, things have changed and urbanization has ensured that people are now living side by side. Despite the huge populations, Christians spread around the cities have no new places of worship. In places like Kano and Kaduna, it is not uncommon to find over 20 churches of different denominations in one street because of the restrictions.

4. Denial of Freedom to Embrace Christianity

Under a very strange belief that, somehow, Christianity is a foreign religion, some Muslims continue to tout the notion that it is impossible for a Muslim to convert to Christianity or any other religion. Despite the clear provisions in the constitution,²⁰ and the section of Qur'an²¹ preaching equality of believers, Muslim wishing to convert to Christianity are occasionally threatened with death on the ground that it is not possible to abandon faith.²² These claims fly in the face of the much touted Qur'anic injunction which says that *there is not compulsion in religion*²³ they also fly in the face of the freedom of conscience and freedom to change religion that are also provided for in the constitution.²⁴ At a second level, there is the issue of marriage between members of the two faiths. Some Muslim continues to believe that whereas Muslim men can marry non-Muslim women (and convert them to Islam). Muslim women cannot marry non-Muslims on the ground that it is contrary to the Religion. It is to be noted these tendencies are by far the most common among the Muslims in Northern Nigeria. Muslims who contemplate embracing Christianity have to do so either silently or leave the immediate environment.²⁵

5. Denial of the Right of Inheritance to Christian Women Who Marry Muslims and Remain Christian

Perhaps more than any social institution, marriage is the greatest glue that holds diverse people together whether they are divided by faith, religion, or race. In South West of Nigeria and in many other countries around Africa, such as the Gambia and Senegal among others, marriages between Muslims and Christians happen as a matter of course and are very much celebrated as a means of bringing families and communities together. In south-western Nigeria this is also very common. But in Northern Nigeria, where as many Christian women have married Muslim men, it is considered a taboo for a non-Muslim man to marry a Muslim woman even with assurances that she will continue to practice her faith.²⁶ This is one of the reasons why the north has remained closed and consequently combustible when people live in ignorance and fear of one another. The few Muslim men who have married Christian women and have allowed them to practice their faith (very few, but largely professional women) prefer to keep their head low and not show their action as a best practice.

¹⁸ Communiqués of the CBCN taken from P. Schnineiler ed., *The voice of the Voiceless Pastoral Letters and Communiqués of the Catholic. Bishops' Conference of Nigeria, 1960-2002*, Ibadan, 2002 p.82

¹⁹ *ibid*

²⁰ Sec. 38 *Ibid*

²¹ Qur'an 33:35

²² Olomajobi. Yinka (2013) *Islam and Conflict in Northern Nigeria*: Lagos: Mulhouse press Ltd pg. 66

²³ Qur'an 2: 256-There is no compulsion in religion. Truth stands out clear from error

²⁴ *Ibid* ch.4, 38(1)

²⁵ Rev. E. Kolo. 'The pursuit of Religion and Policies in Northern Nigeria' *Daily champion*, Tuesday 15, 2000 p.26. A radio Programme presenter narrated, how a few Muslim men who have approached him seeking further clarifications about Jesus after listening to him. Some have given their life to Christ, but they have decided to do that in secret, a secret that they have kept away even from their wives.

²⁶ Olomajobi, Yinka. *Ibid*.

6. Denial of Access to the State Media

In some states of the northern part of Nigeria, access to be media by Christians is severely restricted. Occasionally, you might get the usual thirty-minute slot that is offered as a token to the Christians, or some pastors might buy up sometime from the Television station, though this is rare. Whereas it is not uncommon to see offensive programmes that caricature Christianity on state Television, it is almost impossible to find a full one-hour programme on Christianity on television in most of the Northern states.²⁷ It has been taken as the norm for example that the headship of these media institutions, whether Federal or State, will be by Muslims. Even in the case of a place like Kaduna, from the 60s till date, no non-Muslim has even headed such Federal organs like the Federal Radio Corporation of Nigeria (FRCN) and the Nigerian Television Authority (NTA).²⁸ This creates the wrong impression about the Federal ownership of these institutions.

7. Denial of Access to State Employment

In many states in the North where Christians are indigenous, individuals often complain that they are denied job placements on the ground that the states are Muslim states. In most of these states, it is almost impossible to find a Christian holding a senior position such as the Head of State parastatals or the positions of a director or permanent secretary in the state civil service. Christians complain that often when individuals convert to Islam their social and economic status changes almost immediately.²⁹

8. Denial of Access to State Patronage

Christian businessman and women complain that they are also often denied state patronage in the area of the award of contracts and other forms of government patronage.³⁰

9. Non-Payment of Compensation for Destroyed Churches and Institutions

From the middle of the 80s when the issue of urban violence and attack against places of worship started, Christians, their churches and businesses have suffered the most. At the beginning, a few states government such as Kaduna, offered some token compensation, but this is no longer the case.³¹ Perhaps this is right since it tended to wrongly encourage dubious claims from an individual while creating a sense of impurity among criminals. However, since neither federal nor state governments have brought anyone to trial for their involvement in these crimes, Christians feel bitter and consider themselves victims of persecution.³² This has led to deepening of grievances and the decision by Christian youth to occasionally wage preemptive or so-called reprisal attacks since it is clear that the state government will not address the issue of compensation of their properties nor go after and punish culprits.

10. Skewed Location of Federal Presence in the Northern States

There are concerns among Christians that the sitting of the state and federal projects by ways of infrastructure is often skewed in favour of Muslim dominated areas.³³ In state like Adamawa, Bauchi, Kaduna, Kastina, Kano, Kebbi, federal structures such as tertiary institutions (Universities, Polytechnics, Colleges of Education etc), and general hospital which are located to states, are never sited anywhere outside the Muslim dominated communities.³⁴ These facts are venerable Non-Muslim minorities such as the non-muslim Naguzawa communities complain of lack of Schools, health services and roads.³⁵ It is interesting to note that in some states in the southern parts of Nigeria, Christian State Governors, seeking political mileage, have gone out of their way to build Mosques for Muslim communities in places like Akwa Ibom, Abia, Benue and Edo State.³⁶

²⁷ *ibid*

²⁸ Maryam, a convert from Christianity by marriage headed the NTA in Kaduna. See generally, Sanusi, L. Sanusi Religion, the Cabinet and a Political Economy of the 'North. *The Guardian Newspaper*. May 30th, 2018. P. 45.

²⁹ Kathleen McCyarvey, *Muslim and Christian Women in Dialogue: The case of Northern Nigeria*, Peter Long Academic Publishers, Bern 2009, P.55.

³⁰ Sept 10-13 1991 'Save the Nation' in P.schinaller, ed.250

³¹ *ibid*

³² *ibid*

³³ Sept. 9-11, 1992, 'The Truth shall make us free in P. Schinelle, ed. P.250

³⁴ *ibid*

³⁵ *ibid*

³⁶ See the SUN Newspaper, 14th October, 2009. P.56

11. Kidnapping and Forced Marriages for Non-Muslim Girls

In parts of Northern there have on various occasions been stories of kidnapping of young non-Muslim in some cities in Northern Nigeria. The vulnerability of the girl child is legendary in the Northern states where they are forced into marriages at early ages. A good number of these cases have been documented.³⁷ Indeed one of the catholic dioceses in the North has had to set up a private accommodation for some of the girls who have been rescued from these forced marriages.³⁸

12. Lack of Access to Christian Religious Education in Schools in the Northern States

Although guaranteed in the constitution.³⁹ Most public schools in the Northern states do not allow the teaching of Christian religious knowledge in Primary and Secondary Schools. Even in the Tertiary Institutions, the issues of Christian chaplaincies are a serious challenge. Many vice chancellors of Universities, Provost of college of Education or Rectors of Polytechnics are out rightly hostile to the idea of Christian chaplaincies.⁴⁰ In most of these institutions, since their inception many years ago, religious worship for the Christians takes place in classrooms. Indeed, in some of the federal institutions, even where provision have been made for the building of these places of worship in the original plans, the head of the institutions have remained adamant using different excuses of insecurity. It is instructive to note that after over 30 years of the establishment of Bayero University, the Catholic who were killed were worshipping in the classrooms since they had been denied a place of worship on the university.⁴¹

The issue raised above may sound inconceivable and controversial, many Nigerians way express surprise. However, what the country is dealing with is the accumulation of bad practices and abuse of power which was allowed to gestate for long. Successive Nigeria governments have hardly ever attempted to address this issue despite the fact that over the years, the human rights group, at local, national and international levels have continued to bring up these issues. Clearly, what is required is enough commitment by the political class to adhere to the spirit and letter of the constitution. It is conceivable that, like other minority groups who suffer violations of their fundamental rights, religious groups, Christian, Muslim and Traditionalist should begin to explore the best ways of claiming the rights enshrined in the constitution of Nigeria.⁴²

13. Conclusion and Recommendation

It is apparent that there is need for a major push by legal and policy instruments to improve the enforcement of human rights at levels of sphere in Nigeria. Premised on the above, the paper hereby recommends firstly, that sad as these times are, Nigeria must look forward with confidence and work hard to build strong institutions which can support and energize our democracy. Democracy and its culture of accommodation and collaboration, consensus building and trust, is at its infancy in Nigeria, like many African Countries. Corruption continues to deepen poverty and misery in the midst of plenty and various forms of violence continue to haunt our people. Despite all this, democracy offers us the best chance of fully creating a harmonious, just and peaceful society. Political parties, where they project themselves beyond the limits of religion or ethnic group can serve as a rallying point for men and women of good will or a plural society such as ours. We must therefore continue to encourage our political class to bring the strengths of their religious convictions to the political space and to avoid the constant manipulation of religion for ephemeral political aids.

Secondly, the Christian religion especially the Catholic Church must draw from its history and universal reach and must seek a greater role in the public space through dialogue. It must encourage its politicians to lead by example while rallying other faith towards the goal of unity. Through the ages, the church has

³⁷ See for example Amina Lawl-v-kastina state.us/FT/CRTA/1/02. and G., Ameh 'Nigerians Demand Justices for 13 year old Ochanya Ogbajewwww.dailypost.g/2018/10/23/Nigeria>last accessed on 28/11/2019

³⁸ According to the paper presented by His Grace Archbishop Kaigama, titled 'Catholic Church and Women Emancipation in Northern Nigeria' on the occasion of the 70th Anniversary of the Archdiocese.of Kaduna Nigeria, Nov. 12, 2010. The Archbishop said that in Kotangora Kano and Sokoto Dioceses we have had to provide these services for maguzawa Boys and girls. *The maguzawa are ludiaogenous Hausa most of whon have not converted to Islam. It is one of the surest ways of keeping the girls in schools and keeping them safe*'.

³⁹ Sec. 39 ibid

⁴⁰ ibid

⁴¹ Daily Trust, Abuja 30/10/12 p. 41

⁴² Sec. 42 (1) & (2) 1999 Constitution (as amended) ibid

provided the moral foundations for civilization.⁴³ The persistence of violence in the name of religion has deepened fear and suspicion among Nigerians. Stakeholders have to start seeing themselves as part of a network of partners who can in fact stem the tide for example, in over to villages in northeastern Nigeria, an inter faith peacemaking approach has demonstrated effective gains in both conflict prevention and community-led development. Instead of pursuing a secular solution to religious violence and sidestepping Nigerian's profound religious commitments, this approach capitalizes on them: interfaith peacemaker Teams (IP Teams) enlist local religious leaders to work to across ethic and faith-based lines to secure, support, and sustain their communities⁴⁴. In northern Nigeria, one of the ways forward is not away from religion, but perhaps through interfaith collections action. It is important that all religions practiced in Nigeria bring their moral weight to help their countries grow. In a country like Nigeria, the persistence of these conflicts has continued to erode peoples` confidence in religion. Faced with the increasing and corrosive role of secularism, religious faith must find common ground.

Thirdly and more importantly is the issue of enthroning constitutionalism, as an expression of the manifestation of the ethos of rule of law, due process and respect for human rights. The country has sunk deeper and deeper into crises and violence falsely pinching one religion against the other, when in reality, what the country face is the fact of a country living below the radar of constitutionalism. The Nigeria Constitution prohibits discrimination. This provision states that a citizen of Nigeria of any particular community, ethnic group, place of origin, sex, religion or political opinion, shall not be discriminated against, by reason only that he is such person. It further stated that no citizen shall.

- a) Be subjected either expressly by, or in the practical application of any law in force in Nigeria or any executive or administrative action of the government, to disabilities or restrictions to which citizens of Nigeria of other communities, ethnic groups, place of origin, sex, religion or political opinions as not made subject or
- b) Be accorded either expressly by, or in the practical application of, any law in force in Nigeria or any such executive or administrative action, any privilege or advantage that is not accorded to citizens of Nigeria of other communities, ethnic groups, places of origin, sex, religion or political opinions
- c) No citizen of Nigeria shall be subjected to any disability or deprivation merely by reason of the circumstances of his birth.⁴⁵

It seems clear from these provisions of the constitution, that discrimination should be interpreted to mean that everyone is equal before the law. What is understood is that equality is guaranteed in all facts of life by international⁴⁶ and domestic law but in reality, there is a wide bridge between adherents of one faith and the other in terms of inequality. Finally, our democracy in Nigeria has been weakened by the corruption in the judiciary and the lack of the political will to end impurity and enthrone the rule of law rather than the rule of men which was encapsulated in its long history of the oppression of big chiefs and series of military dictatorships. The dust raised by the independent corrupt practices and other Relation Offences Commission (ICPC) in its claiming report, which indicated that the judiciary is a top of the Nigeria corruption index between 2018 and 2020 is yet to settle. According to the report,⁴⁷ 'Overall, the justice sector had the highest level of corruption with a score of 63. The level of corrupt in the justice sector was heightened by stupendously high amounts of money offered as bribes and other political cases. A large percentage, 73% of justice sector respondents did not experience a situation of outright demand or offer bribe. Nevertheless, it remains alarming that 16% respondents had experienced such blatant demands or offer of bribes. The ICPC through its chairman Prof. Bolaji Owasanoye (SAN), said six female judges reported that they were offered ₦3, 307,444,000 billion and five males judged reported ₦392, 220 million. The anti-corruption agency explained that cases of outright demand and offer of bribes were mostly linked to election matters.⁴⁸ A robust and honest judiciary will punish criminals for their crimes no matter what they claim as the reasons for their violation of other people rights.

⁴³Benedict xvi, *Address to members of the special council for Africa of the synod of Bishops* (Younba, 19 March, 2009): AAs/01/ (2009), 310

⁴⁴Abare Kalah, Iso Buba and Shanta Premawandhana 'Solving religious conflict: Beyond the moral case'. *The Guardian* Thursday, January 28, 2021, p.13.

⁴⁵ See 43 ibid

⁴⁶ The international Convention on Civil and Political Rights (1966)

⁴⁷ Nigeria Corruption Index: Report of a pilot survey: 2018-2020: Govt. Press p. 180

⁴⁸ *The Guardian*, Thursday, January 26, 2021 P. 30.