

## EXAMINING NIGERIA AS A SECULAR OR MULTI-RELIGIOUS STATE WITHIN THE MICROSCOPE OF ITS RIGHT TO RELIGION

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### Abstract

*Nigeria, a nation of over 370 ethnic groups and two major religions (Islam and Christianity), has generated discussions on whether it is a secular or multi-religious state. The Nigerian Constitution guarantees religious freedom and forbids discrimination based on religion, yet some states are allowed to implement Sharia law. Tensions within religious communities have resulted from this. The purpose of this study is to evaluate Nigeria's position as a secular or multi-religious state and look at the country's legal framework for religious freedom. The paper will compare Nigeria's legal system to that of other secular and multi-religious states, as well as regional, international, and constitutional legal frameworks and the interpretation*

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*and implementation of religious freedom in legal proceedings. The paper will add to existing scholarly and policy discussions on the character of the Nigerian state by focusing on the laws, case law, opinions of scholars and constitutional provisions that guarantee religious rights. The findings can be used as a basis for future studies on religious freedom in Nigeria and other countries with comparable religious dynamics.*

**Keywords:** Religious Freedom, Religious Diversity, Secular

## 1.0 Introduction

Nigeria, a country in West Africa, is well known for having a population that is diverse in terms of religion, ethnicity, and cultural practices. It is home to more than 370 different ethnic groups and practices Christianity and Islam as its two main religions<sup>1</sup>. Furthermore, hardly any people follow the traditional African religions. Discussions on the character of the Nigerian state specifically, whether it is secular or Multi-religious have arisen as a result of this religious diversity<sup>2</sup>. Despite forbidding religious discrimination and guaranteeing religious freedom, the Nigerian Constitution (1999) permits the application of Sharia law in some states<sup>3</sup>. Danfulani and Fwatshak assert that this dynamic has occasionally led to violence and strained relations within religious communities<sup>4</sup>. It is crucial to comprehend the legal underpinnings of religious liberty in Nigeria as well as the state's role in overseeing religious matters since doing so can

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<sup>1</sup>Suberu, R. T., Religion and institutions: Federalism and the management of conflicts over Sharia in Nigeria. *Journal of International Development* (2011) 23(4), 547–560.

<sup>2</sup>Ilesanmi, S. O., Constitutional treatment of religion and the politics of human rights in Nigeria. *African Affairs* (1997) 96(385), 529–554.

<sup>3</sup>Onapajo, H., & Uzodike, U. O., Boko Haram terrorism in Nigeria: The international dimension. *South African Journal of International Affairs* (2012) 19(3), 337–357.

<sup>4</sup>Danfulani, U. H. D., & Fwatshak, S. U., Briefing: The September 2001 Events in Jos, Nigeria. *African Affairs*, (2002) 101(403), 243–255.

foster social cohesiveness and harmonious cohabitation amongst various religious groups<sup>5</sup>. By analysing the nation's religious freedom laws, this research seeks to ascertain if Nigeria is a secular or multi-religious state.

The following research questions will be looked at in this task:

1. What legal structures protect religious freedom in Nigeria, such as international human rights treaties, regional agreements, and constitutional provisions?
2. In significant court cases, how has the Nigerian judiciary interpreted and applied the idea of religious freedom?
3. In comparison to other secular and multi-religious states, how does Nigeria's legislative framework for religious liberty measure up? The study will first look at the regional, international, and constitutional legal frameworks relating to Nigerian religious rights before evaluating the questions. After that, it will examine how Nigerian courts interpret and protect religious liberty. Thirdly, it will evaluate the parallels and discrepancies between Nigeria's legal system and those of other secular and multi-religious governments. In a fourth effort, Nigeria's legal system and court rulings will be examined in order to determine whether the country is a secular or multi-religious state.

The study's significance and justification stem from Nigeria's multifaceted religious environment, which is as follows: the residence of several diverse religious groups, such as Muslims, Christians, and followers of traditional African faiths. To foster religious tolerance and peaceful coexistence among these diverse groups, it is imperative to comprehend Nigeria's legislative framework pertaining to religious rights. The second is striking a balance between social peace and public order. Nigeria, like other secular, multi-religious democracies, has to figure out how to combine religious freedom with public order. This study makes it clear how likely it is to find this balance within Nigeria's judicial interpretations and legal system. This study tackles the underlying causes of religious

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<sup>5</sup>Ibrahim, J., The politics of religion in Nigeria: The parameters of the 1999 constitution of the federal republic of Nigeria, *Review of African Political Economy*, (2010) 37(123), 25–40.

conflicts, the impact of religious laws, the role of religious leaders and civil society organisations in promoting religious tolerance, and the investigation of alternative dispute resolution mechanisms for resolving religious disputes. Third, it offers insights and recommendations for future research and policy development in Nigeria. This study can contribute to the acceptance and tolerance of Nigerian society by directing legislative and policy changes.

The analysis of Nigeria in relation to other nations comes in fourth. The paper employs a comparison analysis with other secular and nonreligious governments in this regard, offering Nigeria valuable insights and management lessons pertaining to religious diversity. By examining the experiences of other countries, Nigeria can identify best practices, develop a legal framework and judicial interpretations that protect religious freedom, and promote cooperation and communication between diverse religious communities. The fifth is handling the current religious conflicts and tensions, which continue to be a big issue in Nigeria and cause deaths, carnage, and social instability. Our research helps policymakers prevent the escalation of conflicts and promote peaceful coexistence among Nigeria's numerous religious communities by illuminating the fundamental causes of these tensions and disagreements.

The study, however, is restricted to Nigeria's legislative guarantees of religious liberty. This study will primarily focus on the legislation, case law, and constitutional articles that protect religious freedom, even though social, historical, and cultural variables surely influence the country's religious environment. The study will not examine the wider social implications or provide recommendations on how to address the religious diversity in Nigeria. Furthermore, the comparative analysis of the study will only include a small number of secular and multi-religious states. We made this decision with time and money constraints in mind, among other practical considerations. All things considered, the research will significantly contribute to the continuing scholarly and policy debates over the nature of the Nigerian state and offer insightful information about the country's legislative framework for religious freedom.

Ultimately, the study attempts to clarify Nigeria's designation as a multi-religious or secular state by examining case law, laws, and constitutional provisions. Additionally, it makes analogies between the legal systems of other secular and multi-religious states and Nigeria. Throughout the nation, encouraging social cohesion, peaceful cohabitation, and religious tolerance requires information of this nature. Notwithstanding the limits of the study, the results might be used as a foundation for further research on religious freedom in Nigeria and other nations with comparable religious dynamics. The study might also provide guidance for the creation of laws and policies that support religious harmony and address problems brought on by Nigeria's religious diversity.

## **2.0 Methodology**

This research design focuses on understanding the legal foundations, interpretations, and implications of religious rights provisions in Nigeria. It aims to compare Nigeria's legal framework for religious rights with that of other secular and multi-religious states to identify similarities, differences, and best practices. Data collection includes primary sources like the Nigerian Constitution, legislation, and judicial decisions, as well as secondary sources like legal commentaries and academic articles. The analysis involves legal analysis and interpretation, comparing Nigeria's legal framework with other secular and multi-religious states, and thematic analysis to uncover underlying themes and issues related to religious rights. The research used triangulation of data from primary and secondary sources for accuracy and reliability. Cross-checking between sources and expert opinions will enhance the study's credibility. Ethical considerations included in the work are proper citation, respect for intellectual property rights, and acknowledging potential biases in the interpretation and analysis of legal sources.

## **3.0 Literature Review Organized Into Several Thematic Areas:**

This literature review attempts to give a thorough summary of the body of knowledge regarding Nigeria's legal framework for religious freedom. It looks at the impact of religious law, theoretical viewpoints on religion, secularism, and the state, the legal underpinnings of religious rights in Nigeria, the role of the Nigerian judiciary in interpreting and upholding these rights, and comparative viewpoints on these issues and state-religion relations. The section lays the groundwork for a more in-depth examination of whether Nigeria can be classified as a multi-religious or secular state, as well as the consequences of doing so for managing religious diversity and promoting religious tolerance and peaceful coexistence. It does this by summarising the body of current literature.

In order to comprehend the link between religion and state in many circumstances, including multi-religious and secular states, the literature study starts with an examination of the theoretical viewpoints on religion, secularism, and the state. These theoretical frameworks, developed in part by eminent scholars like Casanova<sup>6</sup>, Fox<sup>7</sup>, and Taylor<sup>8</sup>, are crucial for analysing Nigeria's legal system's treatment of religious rights. The analysis then digs into Nigeria's legislative framework for religious freedom, which is protected by the country's constitution as well as a number of regional and international human rights treaties. Enyinna<sup>9</sup>, Ilesanmi<sup>10</sup>, and Ojo<sup>11</sup> have all conducted in-depth analyses of these provisions, providing insightful viewpoints on the legal basis for religious rights in the country.

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<sup>6</sup>Casanova, J., *Public Religions in the Modern World* (University of Chicago Press, U.S.A, 1994).

<sup>7</sup>Fox, J.A *World Survey of Religion and the State* (Cambridge University Press, London, 2008).

<sup>8</sup>Taylor, C., *A Secular Age* (Harvard University Press, U.S.A, 2007).

<sup>9</sup>Enyinna, N., The Nigerian Constitution and the Protection of Religious Freedom: A Critical Analysis. *Journal of Politics and Law* (2014) 7(3), 1-12.

<sup>10</sup>Ilesanmi, S. O., *Religious Pluralism and the Nigerian State* (Ohio University Press, U.S.A, 1997)

<sup>11</sup>Ojo, M. A., The Relationship between State and Religion in Nigeria: Muslims and Christians in Perspective. *Journal of Muslim Minority Affairs* (2009) 29(1), 61-78.

Another important part of the literature is the Nigerian judiciary's involvement in interpreting and upholding religious rights. Academics that have studied important court cases pertaining to religious rights, judicial interpretation of religious freedom legislation, and the function of the Nigerian judiciary in defending religious rights and resolving religious conflicts include Bamgbose<sup>12</sup>, Okafor<sup>13</sup>, and Uzodike<sup>14</sup>. The integration of religious law, specifically Sharia law, within Nigeria's legal framework has garnered considerable attention in scholarly works. Academics like Peters<sup>15</sup>, Salihu<sup>16</sup>, and Sanni<sup>17</sup> have all studied the historical development of Sharia law in Nigeria, its impact on religious rights, and its connection to the Nigerian Constitution.

The literature assessment concludes by comparing and contrasting various viewpoints on state-religion interactions and religious rights. Studies comparing Nigeria with other secular and multi-religious governments, such as those by An-Na'im<sup>18</sup>, Fetzer & Soper<sup>19</sup>, and Hurd<sup>20</sup>, offer useful insights into the challenges and potential for managing religious plurality and balancing religious freedom with public order.

<sup>12</sup>Bamgbose, O., Legal Pluralism and Human Rights in Nigeria: Towards a New Approach. *African Human Rights Law Journal*, (2010) 10(1), 49-72.

<sup>13</sup>Okafor, O. C., *Legitimizing Human Rights NGOs: Lessons from Nigeria*. Trenton: *Africa World Press* (2011)

<sup>14</sup>Uzodike, U. O., Religion-State Relations in Nigeria: Perceptions of Nigerian Muslims. *Journal of Muslim Minority Affairs* (2016) 36(4), 518-532.

<sup>15</sup>Peters, R, *Islamic Criminal Law in Nigeria* (Spectrum Books, Ibadan, 2003).

<sup>16</sup>Salihu, A., *Sharia and the Making of the Nigerian Constitution*, In A. Sarat (ed.), *Constitutional Topographies: Values and Constitutions* (Ashgate, U.S.A, 2010) 99-118.

<sup>17</sup>Sanni, A. O., The Shari'a Conundrum in Nigeria and the Zamfara Model: The Domain of Islam in a Secular Polity. *Islam and Christian-Muslim Relations* (2005) 16(3), 197-214.

<sup>18</sup>An-Na'im, A. A., *Islam and the Secular State: Negotiating the Future of Shari'a* (Harvard University Press, U.S.A., 2008)

<sup>19</sup>Fetzer, J. S., & Soper, J. C., *Muslims and the state in Britain, France, and Germany* (Cambridge University Press London, 2005).

<sup>20</sup>Hurd, E. S., *The Politics of Secularism in International Relations* (Princeton University Press, U.S.A., 2007)

By providing a thorough examination of the existing literature on these themes, this literature review sets the groundwork for the research paper's main argument and analysis, contributing to a better understanding of the legal approach to religious rights in Nigeria and the classification of the country as a multi-religious or secular state.

i. ***Conceptual frameworks about religion, secularism, and government***

The exploration of the concepts of religion, secularism, and the state by a number of researchers<sup>21</sup> has established a foundation for understanding Nigeria's legal approach to religious liberties. These theoretical stances contribute to the development of a framework for investigating the connection between the state and religion in various situations, such as secular and multireligious states.

ii. ***Nigeria's legal framework for religious freedom***

The Nigerian Constitution as well as a number of regional and international human rights treaties serve as the legal foundation for religious rights in Nigeria<sup>22</sup>. Studies have examined the provisions of the Nigerian Constitution, the Universal Declaration of Human Rights (UDHR), the International Covenant on Civil and Political Rights (ICCPR), and the African Charter on Human and Peoples' Rights (ACHPR) in relation to religious rights<sup>23</sup>.

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<sup>21</sup>Casanova, J., *Public Religions in the Modern World* (University of Chicago Press, U.S.A., 1994). See also, Fox, J., *A world survey of religion and the state* (Cambridge University Press, London, 2008). and Taylor, C., *A Secular Age* (Harvard University Press, U.S.A, 2007)

<sup>22</sup>Enyinna, N., The Nigerian Constitution and the Protection of Religious Freedom: A Critical Analysis. *Journal of Politics and Law*, (2014) 7(3), 1-12. Also see, Ilesanmi, S. O., *Religious Pluralism and the Nigerian State* (Ohio University Press, U.S.A, 1997) and Ojo, M. A., The Relationship between State and Religion in Nigeria: Muslims and Christians in Perspective. *Journal of Muslim Minority Affairs*, (2009) 29(1), 61-78.

<sup>23</sup>Omotola, J. S. Nigeria's Sharia Revolution: Law and the Islamization of the Nigerian State. *Journal of Third World Studies*(2009) 26(1), 141-162 and Nwauche, E. S.,

*iii. Nigerian courts' interpretation and implementation of religious freedom*

Numerous academics have examined how the Nigerian judiciary interprets and upholds the country's religious rights laws<sup>24</sup>. The major court cases pertaining to religious rights, the judicial interpretation of religious freedom legislation, and the function of the Nigerian judiciary in defending religious rights and resolving religious conflicts have all been the subject of these studies.

*iv. Nigeria's use of religious law*

A major subject in the literature has been the integration of Sharia law, in particular, with Nigeria's legal system<sup>25</sup>. Academics have studied the historical development of Sharia law in Nigeria, its effects on religious freedom, and its relationship to the Nigerian Constitution<sup>26</sup>.

*v. Comparative viewpoints on state-religion interactions and religious rights*

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Religious Rights and the Nigerian Constitution: The Courts and the Resolution of the Shari'a Controversy, *Journal of African Law* (2004) 48(2), 117-131.

<sup>24</sup>Bamgbose, O., Legal Pluralism and Human Rights in Nigeria: Towards a New Approach. *African Human Rights Law Journal* (2010)10(1), 49-72., Okafor, O. C., Legitimizing Human Rights NGOs: Lessons from Nigeria. Trenton: *Africa World Press*(2011) and Uzodike, U. O., Religion-State Relations in Nigeria: Perceptions of Nigerian Muslims. *Journal of Muslim Minority Affairs* (2016) 36(4), 518-532.

<sup>25</sup>Salihu, A., Sharia and the Making of the Nigerian Constitution, In A. Sarat (ed.), *Constitutional Topographies: Values and Constitutions*(Ashgate, U.S.A, 2010) 99-118, Peters, R., *Islamic Criminal Law in Nigeria* (Spectrum Books Ltd, Ibadan, 2003) and Sanni, A. O., The Shari'a Conundrum in Nigeria and the Zamfara Model: The Domain of Islam in a Secular Polity, *Islam and Christian-Muslim Relations* (2005)16(3), 197-214.

<sup>26</sup>Enyinna, N., The Nigerian Constitution and the Protection of Religious Freedom: A Critical Analysis, *Journal of Politics and Law*(2014) 7(3), 1-12., Egwu, S. G., *Ethnic and Religious Violence in Nigeria* (St. Martin's Press, Nigeria, 2001) and Oba, A. A., Islamic Law as Customary Law: The Changing Perspective in Nigeria. *International and Comparative Law Quarterly*, (2002)51(4), 817-850.

Scholars An-Na'im<sup>27</sup>, Fetzer & Soper<sup>28</sup>, and Hurd<sup>29</sup> have done comparative analyses aimed at elucidating the similarities and differences between Nigeria and other nations concerning state-religion relations and religious rights. By contrasting Nigeria with other secular and multireligious states, these studies have shed light on the potential and difficulties associated with managing religious plurality and striking a balance between religious freedom and public order.

This literature review, which synthesises the body of research on these themes, paves the way for a more in-depth examination of Nigeria's legal framework regarding religious rights. This examination will centre on the issue of whether Nigeria belongs in the category of a secular or multireligious state and how that classification will affect the country's ability to manage its religious diversity and promote tolerance and peaceful cohabitation.

#### **4.0 Theoretical Framework: Religion, Secularism, and the State**

##### **4.1 Defining Religion and Secularism**

Religion is a multifaceted phenomenon that includes many different institutions, practices, and beliefs. The exact meaning of religion has long been a topic of discussion among academics. Some have focused on the belief in supernatural beings<sup>30</sup>, while others have highlighted the social implications and purposes of religious practices<sup>31</sup>. According to James<sup>32</sup>,

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<sup>27</sup>An-Na'im, A. A., *Islam and the Secular State: Negotiating the Future of Shari'a* (Harvard University Press, U.S.A, 2008)

<sup>28</sup>Fetzer, J. S., & Soper, J. C., *Muslims and the State in Britain, France, and Germany*, (Cambridge University Press, London, 2005).

<sup>29</sup>Hurd, E. S., *The Politics of Secularism in International Relations* (Princeton University Press, U.S.A, 2007)

<sup>30</sup>Tylor, E. B., *Primitive Culture: Researches into the Development of Mythology, Philosophy, Religion, Art, and Custom* (John Murray, London, 1871)

<sup>31</sup>Durkheim, E., *The Elementary Forms of the Religious Life* (Free Press, n.p., 1912).

and Geertz<sup>33</sup>, religion is defined for the sake of this study as a system of rituals, practices, and beliefs that are connected to a transcendent reality or divine power that gives life meaning and purpose. Conversely, secularism advocates for religious neutrality in public life and the disentanglement of religious organisations from governmental institutions<sup>34</sup>. Secularism can take many different forms, from the United States' absolute separation of church and state to many European countries' more moderate approaches that permit some degree of official engagement in religious matters<sup>35</sup>.

#### 4.2 Models of State-Religion Relations

To explain the many ways in which states handle religious variety and strike a balance between religious freedom and social cohesiveness, a number of models of state-religion relations have been put forth (Fox, 2008)<sup>36</sup>. Typical models consist of: 1. Secular state: This model has no official state religion and no preference for any one religious group. Instead, the state upholds a strong division between religious institutions and state institutions<sup>37</sup>. 2. Established religion: Under this paradigm, a state-recognised religion is granted certain rights and government assistance. Other religious communities, however, are also permitted to freely practice their beliefs<sup>38</sup>. 3. Multi-religious state: Under this framework, the government accepts and accommodates a variety of

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<sup>32</sup>James, W., *The Varieties of Religious Experience* (Longmans, Green, and Co, London, 1902).

<sup>33</sup>Geertz, C., Religion as a cultural system, In M. Banton, *Anthropological Approaches to the Study of Religion*, (ed.) (Tavistock Publications, n.p., 1966).

<sup>34</sup>Berlin, I., Four essays on liberty (Oxford University Press, London, 2009).

<sup>35</sup>Ferrari, S., *Religion and the secular state: National reports. International Center for Law and Religion Studies*, Milan, 2012)

<sup>36</sup>Fox, J., A World Survey of Religion and the State. (Cambridge University Press, London, 2008).

<sup>37</sup>Kuru, A. T., *Secularism and state policies toward religion: The United States, France, and Turkey* (Cambridge University Press, London, 2009).

<sup>38</sup>Madeley, J. A framework for the comparative analysis of church-state relations in Europe. *West European Politics* (2003) 26(1), 23-50.

religious traditions, frequently giving them some latitude over issues of religious legislation and education<sup>39</sup>. 4. Theocratic state: In this model, religious organisations have a major influence on national political and legal matters, and the state is run by religious leaders or in accordance with religious law<sup>40</sup>.

#### **4.3 The Role of the State in Religious Matters**

Depending on the particular model of state-religion relations that a nation chooses, the state's role in religious concerns might vary greatly. Generally speaking, the state is involved in managing religious matters in a number of important ways, including: 1. Preserving religious liberty: States must make certain that people and groups are allowed to practice their religions without hindrance or bias<sup>41</sup>. 2. Encouraging social cohesiveness and religious tolerance: In order to preserve social harmony and avoid disputes, states must endeavour to cultivate an atmosphere of respect and understanding among various religious groups<sup>42</sup>. 3. Regulating religious institutions and practices: If necessary, reasonable, and nondiscriminatory interventions are made in religious matters to safeguard public health, public order, and other people's rights and freedoms, then states may be obliged to take such action<sup>43</sup>. 4. Encouraging interfaith cooperation and dialogue: States may help bring religious leaders and communities together to discuss issues, develop mutual trust,

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<sup>39</sup>Stepan, A., Religion, democracy, and the "twin tolerations". *Journal of Democracy* (2000) 11(4), 37-57.

<sup>40</sup>Haynes, J. *Religion in global politics* (Longman, London, 1998).

<sup>41</sup>Donnelly, J., *Universal human rights in Theory and Practice*. (Cornell University Press, U.S.A, 2003)

<sup>42</sup>Ghanea, N., Religion or belief, toleration, and its limits under the European Convention on Human Rights, In P. Weller, N. Ghanea, & A. S. Park, *Religion or Belief, Discrimination and Equality: Britain in Global Contexts*, (eds.) (Bloomsbury Academic, U.S.A, 2011).

<sup>43</sup>Evans, M. D., *Religious liberty and international law in Europe* (Cambridge University Press, U.S.A., 2008).

and work together on issues like social welfare, education, and peace building<sup>44</sup>.

The research will advance knowledge of the legal facets of religious rights in Nigeria by investigating these theoretical ideas and models. The research will examine how Nigeria's legal framework for religious rights fits into different state-religion relations models and how the state's handling of religious issues affects whether it is categorised as a secular or multireligious state. In the study sections that follow, this theoretical framework will provide the basis for analysing the legal underpinnings, judicial interpretations, and comparative analysis.

## 5.0 Legal Foundations of Religious Rights in Nigeria

### 5.1 The Nigerian Constitution

The Nigerian Constitution serves as the country's supreme legislation and the legal foundation for the defence of religious freedom there. Numerous clauses pertaining to religious freedom and the outlawing of discrimination based on religion may be found in the Constitution.

#### i. *Essential Rights and Freedom of Religion*

The Federal Republic of Nigeria's 1999 Constitution, Section 38, protects the freedom of conscience, religion, and thought. This clause states that everyone has the freedom to openly declare, practice, and spread their religion, whether alone or in a group (Federal Republic of Nigeria, 1999 Constitution). According to Section 38(2) of the Constitution, parents and guardians are also permitted to teach their children religion and morality in line with their personal beliefs.

#### ii. *Prohibition of Discrimination Based on Religion*

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<sup>44</sup>Marshall, K., *Global Institutions of Religion: Ancient Movers, Modern Shakers* (Routledge, London, 2013)

The Nigerian Constitution, in Section 42, forbids discrimination on the basis of religion, in addition to other categories including race, sex, and national origin. This clause guarantees that no citizen shall be subjected to limitations or impairments because of their religious beliefs (Federal Republic of Nigeria, 1999 Constitution).

### **5.1 International Human Rights Law**

Nigeria has ratified a number of international human rights treaties that safeguard religious freedom and forbid discrimination based on religion. The International Covenant on Civil and Political Rights and the Universal Declaration of Human Rights are two examples of these documents. 1. The Human Rights Declaration of Universal The 1948 United Nations General Assembly adopted the Universal Declaration of Human Rights (UDHR), a non-binding statement outlining the fundamental freedoms and rights to which every person is entitled. Article 18 of the UDHR protects the right to freedom of thought, conscience, and religion. This includes the freedom to alter one's religion or belief and to express it through instruction, practice, worship, and observance (United Nations, 1948). 2. The Framework Convention on Civil and Political Rights of 1988 The International Covenant on Civil and Political Rights (ICCPR), which the United Nations ratified in 1966, further protects religious freedom. While Article 26 of the ICCPR forbids discrimination on the basis of any number of factors, including religion, Article 18 of the treaty guarantees the right to freedom of thought, conscience, and religion (United Nations, 1966). Nigeria pledged to uphold and protect these rights for every person residing on its territory when it ratified the ICCPR in 1993.

### **5.2 Regional Human Rights Instruments**

#### *i. The Human and Peoples' Rights Charter of Africa*

The Organisation of African Unity, which is currently known as the African Union, adopted the African Charter on Human and Peoples' Rights (ACHPR) in 1981 as a regional human rights document<sup>45</sup>. Nigeria pledged to uphold and defend the rights included in the Charter when it ratified the ACHPR in 1983. Article 8 of the African Charter on Human and People's Rights (ACHPR) forbids discrimination based on religion and ensures the freedom of conscience, profession, and practice of religion (African Union, 1981). In conclusion, the Nigerian Constitution, international human rights treaties, and regional human rights treaties all uphold the legal underpinnings of religious rights in Nigeria. These laws forbid discrimination based on religion and ensure the freedom of conscience, thinking, and religion. As a result, they offer a robust legal foundation for the defence of religious liberties in the nation.

## 6.0 Analyzing Nigeria's Legal Framework

### 6.1 Constitutional recognition of Multiple Religions

The Nigerian Constitution recognises and protects various religions within its legal framework, even if it does not specifically declare Nigeria to be a secular or multi-religious state. The Federal Republic of Nigeria's 1999 Constitution, Section 10, specifies that no religion may be adopted as the official state religion by the federal government or any of its states. This clause essentially creates religious neutrality in the constitution that permits different faith communities to coexist in the nation. The regulations pertaining to religious education further demonstrate the recognition of other religions. The Federal Republic of Nigeria's 1999 Constitution, Section 38(3), permits the creation of religiously affiliated educational institutions as long as those institutions do not discriminate against anyone based on their religious beliefs. This clause encourages

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<sup>45</sup>African Union. (1981). African Charter on Human and Peoples' Rights. Retrieved from <https://au.int/en/treaties/african-charter-human-and-peoples-rights>

religious pluralism in Nigeria and supports the existence of various religious institutions.

### **6.2 The Role of Sharia Law in Nigeria**

In Nigeria, Sharia law is very prevalent, especially in the mostly Muslim northern states. Section 275-279 of the 1999 Federal Republic of Nigeria Constitution permits the creation of Sharia Courts of Appeal at the state level<sup>46</sup>. These courts will have authority over cases pertaining to Islamic personal law, including guardianship, marriage, and inheritance. These clauses acknowledge the significance of Sharia law for the Muslim community in Nigeria and successfully incorporate it into the country's legal framework. Sharia law is only applied to private and family concerns in Nigeria; it does not apply to criminal law. This makes sure that the application of religious law does not compromise the values of equality before the law and religious freedom that are guaranteed by the Constitution and international human rights agreements.

### **6.3 The Balance between Religious Freedom and Public Order**

Nigeria's legal system aims to achieve a balance between upholding public order and safeguarding religious freedom. As long as the limitations are legitimately justified in a democratic society, Section 45(1) of the Constitution allows for the denial of some fundamental rights, such as religious freedom, in the service of public order, morality, and health (Constitution of the Federal Republic of Nigeria, 1999). This clause gives the state the right to get involved in religious affairs when it's necessary to maintain public order, acknowledging the possibility of conflicts between religious practices and more general social interests. In a number of instances, like *Nasrul-Lahi-L-Fatih Society of Nigeria v Kehinde*<sup>47</sup>, where the court upheld a prohibition on religious processions to prevent public

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<sup>46</sup>Constitution of the Federal Republic of Nigeria, 1999. Retrieved from <https://www.wipo.int/edocs/lexdocs/laws/en/ng/ng014en.pdf>

<sup>47</sup>*Nasrul-Lahi-L-Fatih Society of Nigeria v Kehinde* (2000) 2 NWLR (Pt. 643) 582.

unrest, the Nigerian judiciary has been instrumental in understanding and applying this constitutional balancing.

In conclusion, the legal framework for religious rights in Nigeria illustrates the intricate interactions between the necessity to maintain public order while respecting the plurality of religions, the application of Sharia law, and the legal framework for religious rights. This analysis suggests that Nigeria can be seen as a multi-religious state rather than a fully secular one, as the country's legal structure allows for a variety of religious practices while upholding constitutional neutrality towards religion.

## **7.0 Nigerian Judiciary and Religious Rights**

In order to maintain the integrity of the Nigerian Constitution and international human rights treaties, the judiciary is essential in interpreting and applying the laws pertaining to religious freedom. The important court decisions pertaining to religious freedom, the judicial interpretation of religious freedom laws, and the function of the Nigerian judiciary in defending religious rights will all be covered in this part.

### **7.1 Important Judicial Pronouncements pertaining to religious freedom**

A number of court cases involving religious rights in Nigeria have highlighted the role of the judiciary in resolving disagreements and conflicts resulting from religious problems. Among these notable cases are:

- i. The case of *Nasrul-Lahi-L-Fatih Society of Nigeria v Kehinde*<sup>48</sup> highlights the necessity to strike balance between religious freedom and public order, as stipulated in Section 45(1) of the Constitution. The court supported the prohibition on religious processions as a means of preventing public unrest.

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<sup>48</sup>*Nasrul-Lahi-L-Fatih Society of Nigeria v Kehinde* (2000) 2 NWLR (Pt. 643) 582.

- ii. The court determined in *Abiodun v Attorney-General of Oyo State*<sup>49</sup> that the state government's imposition of a religious tax (Zakat) was illegal because it contravened Section 10 of the Constitution's ban on the adoption of any religion as a state religion.
- iii. The court determined that the creation of a Christian pilgrimage board by a state government was constitutional in *Adegbite v Attorney-General of Ogun State*<sup>50</sup> because it did not amount to the state's acceptance of Christianity as a religion and did not discriminate against other faiths.
- iv. In *Ezeuko v Ezeuko*<sup>51</sup>, the court determined that a widow's right to freedom of religion was violated since the customary law required her to perform specific ceremonies before she could inherit her late husband's property. The rites were based on a religion she did not practice. The aforementioned ruling underscores the judiciary's responsibility to safeguard religious liberty and guarantee that customary law procedures comply with both international human rights instruments and the Constitution.
- v. In the 2003 case of *Eweka v Iyayi*<sup>52</sup> the court determined that prohibiting the wearing of hijabs in public schools was against the right to freedom of religion since it unjustly interfered with Muslim pupils' religious practices. This ruling emphasises how crucial the judiciary is to ensuring that state laws respect religious liberty and do not target particular religious' communities unfairly.
- vi. In *Okafor v Governor of Lagos State*<sup>53</sup>, the court determined that the state government's demolition of a church building without providing sufficient Notice or compensation violated the church's right to freedom of religion because it hindered the church's

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<sup>49</sup>*Abiodun v Attorney-General of Oyo State* (2000) 1 NWLR (Pt. 640) 210.

<sup>50</sup>*Adegbite v Attorney-General of Ogun State* (2004) 9 NWLR

<sup>51</sup>*Ezeuko v Ezeuko* (2005) 11 NWLR (Pt. 937) 460.

<sup>52</sup>*Eweka v Iyayi* (2003) 2 NWLR (Pt. 807) 602.

<sup>53</sup>*Okafor v Governor of Lagos State* (2009) 1 NWLR (Pt. 1122) 169.

capacity to practice and spread its faith. This ruling highlights the judiciary's responsibility to hold the government responsible for policies that violate religious freedom.

## **7.2 Judicial Interpretation of Religious Freedom Provisions in the Context of Educational Institutions**

The following instances show how the Nigerian judiciary has aided in interpreting and upholding the nation's laws pertaining to religious freedom in the context of educational institutions:

- i. *M.A.B. Yusuf v Governor of Katsina State*<sup>54</sup>: In this case, the court ruled that the state government's policy of separating students in public schools according to their religious affiliation was unconstitutional because it contravened Section 42 of the Constitution's ban on religious discrimination.
- ii. In the 2009 case of *Okuji v Imo State Government*<sup>55</sup>, the court determined that the state government's policy of forcing public school students to attend religious services in accordance with the dominant faith of the school infringed on their right to freedom of religion by compelling them to engage in religious activities that went against their personal beliefs.

These instances show how committed the Nigerian judiciary is to upholding equality and religious freedom in educational settings, as well as ensuring that governmental policy respects the rights of all people to practice their religion.

To sum up, the Nigerian judiciary has been essential in interpreting and upholding legislation pertaining to religious rights in a variety of settings, including educational institutions, state policies that impact religious practices, and customary law practices. The court has helped Nigeria's legal system foster tolerance and religious pluralism by supplying a venue for conflict settlement and guaranteeing adherence to international human

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<sup>54</sup>*M.A.B. Yusuf v Governor of Katsina State* (2000) 5 NWLR (Pt. 658) 536.

<sup>55</sup>*Osuji v Imo State Government* (2009) 12 NWLR (Pt. 1153) 523

rights treaties and the Constitution. These cases serve as examples of the Nigerian judiciary's involvement with various aspects of religious rights and its dedication to upholding the Constitution and international human rights treaties.

### **7.3 Judicial Interpretation of Religious Freedom Provisions**

The Nigerian judiciary has greatly aided in the interpretation of the Constitution's and international human rights instruments' provisions pertaining to religious freedom. The courts have provided direction on the interpretation of these clauses in particular settings by making clear the extent and restrictions of religious rights through their rulings. For example, the Nigerian Supreme Court ruled in *Medical and Dental Practitioners Disciplinary Tribunal v. Okonkwo*<sup>56</sup> (2001) that a patient's refusal of medical treatment on the basis of religion was not protected by the right to freedom of religion because the patient's life could be in danger. This ruling highlighted the necessity of striking a balance between opposing rights and interests, such as the right to life, the preservation of public health, and religious freedom.

### **7.4 The Role of the Nigerian Judiciary in protecting Religious Rights**

By resolving conflicts arising from religious issues, interpreting and upholding pertinent legal provisions, and making sure the government and other actors abide by the Constitution and international human rights instruments, the Nigerian judiciary plays a critical role in defending religious rights. Through their rulings, the courts support the creation of a legal framework that encourages religious tolerance and plurality while also advancing a more complex and context-specific interpretation of religious rights. Furthermore, the Nigerian judiciary ensures that the legislative and executive arms of government do not violate the religious liberties of individuals or communities by acting as a check on their

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<sup>56</sup> (2001) 3 SCNJ 1; (2001) 7 NWLR (Pt 711)

actions. By carrying out this function, the judiciary supports, Nigeria's upholding of the rule of law and the defence of human rights. In conclusion, the Nigerian judiciary is essential to the preservation of religious freedom because it offers a conflict-resolution forum, interprets and applies pertinent laws, and makes sure that the government and other actors behave in a way that upholds the Constitution and international human rights treaties. This function emphasises how crucial the court is to creating a legal framework that promotes religious tolerance and pluralism in Nigeria.

### **8.0 Comparative Analysis: Nigeria and Other Countries**

The legal approaches to religious rights in Nigeria and other secular and multi-religious states will be compared in this section. We can learn from these comparisons and obtain an understanding of the opportunities and challenges Nigeria faces in navigating religious plurality by comparing and contrasting the legislative frameworks and judicial interpretations.

#### **8.1 Comparison with other secular states**

India: Because its Constitution protects religious freedom and forbids discrimination based on religion, India is frequently seen as a secular state. India, like Nigeria, has a history of religious strife and conflicts, making it difficult to manage religious plurality. Similar to the judiciaries in Nigeria and India, these bodies have been crucial in interpreting and upholding laws pertaining to religious freedom, frequently attempting to strike a balance between religious liberty and public order<sup>57</sup>. The Indian Constitution and Secularism France: Adhering to the idea of laïcité, which keeps religion and state matters apart, France is another illustration of a secular state. While the French legal system protects religious liberty, it also places limitations on religious activities in public areas, such as prohibiting the wearing of religious insignia in public schools. In contrast

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<sup>57</sup>Ghosh, P. K. , The Indian Constitution and Secularism. *The Indian Journal of Political Science*, (2010) 71(1), 65-78.

to Nigeria, where religious symbols and practices are typically accepted in public areas, this attitude is different<sup>58</sup>.

### **8.2 Comparison with other multi-religious states**

i. Indonesia: Recognising six official religions under its legal system, Indonesia is a multi-religious state. Although religious freedom is protected by the Indonesian Constitution, the legal system of the nation includes elements of religion law, such as Islamic law for Muslims. This strategy is comparable to Nigeria's application of Sharia law in family and personal affairs<sup>59</sup>. South Africa: This multi-religious society also has laws that forbid discrimination based on religion and provide religious freedom. Similar to the judiciaries in Nigeria and South Africa, the former has been crucial in interpreting and upholding religious rights legislation and resolving conflicts and disagreements resulting from religious issues<sup>60</sup>.

### **8.3 Deductible Lessons from Comparative Analysis**

The comparative research makes it abundantly clear that both secular and multi-religious states struggle with managing religious plurality and striking a balance between religious freedom and public order. The judiciary's interpretation and enforcement of religious rights laws makes it possible to maintain this balance, which is necessary for the legal system to accept a variety of religious practices. The comparative analysis can teach us a few things, including:

- i. The significance of a legal framework that, as the constitutions of South Africa, Indonesia, and India demonstrate, upholds religious freedom and forbids discrimination based on religion.

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<sup>58</sup>Fetzer, J. S., & Soper, J. C.. *Muslims and the State in Britain, France, and Germany* (Cambridge University Press, London, 2005).

<sup>59</sup>Crouch, M. (2014). Law and Religion in Indonesia: The Constitutional Court and the Blasphemy Law. *Asian Journal of Comparative Law*, 9(1), 75-103.

<sup>60</sup>De Vos, P. (2009). Same-sex marriage, human dignity, and the African Renaissance. In The Globalization of Sexuality (pp. 49-63). Palgrave Macmillan, London.

- ii. The necessity of a nuanced and situation-specific approach to religious liberty, as exemplified by Nigeria's application of Sharia law to personal and family concerns and the French approach to laïcité.
- iii. The court cases in South Africa and India serve as examples of the judiciary's duty to ensure that governmental actions and policies respect religious freedom and refrain from discriminating against particular religious communities. To sum up, the comparative examination between Nigeria and other secular and multi-religious states provides insightful information about the opportunities and challenges Nigeria faces in navigating religious plurality. Nigeria may continue to evolve its legal system and judicial interpretations to support a variety of religious practices and guarantee the protection of religious rights for all citizens by taking note of the experiences of these other nations.
- iv. In order to promote religious tolerance and peaceful coexistence, there is a need for ongoing communication and collaboration between religious groups and the government, as Indonesia's efforts to uphold harmony among its many religious communities demonstrate.
- v. The significance of tackling the fundamental social, economic, and political elements that give rise to religious disputes and strains, as exemplified by India and South Africa's experiences in tackling communal violence and past injustices.

By developing its legal framework and judicial interpretations in a way that respects religious freedom, encourages communication and collaboration among various religious communities, and addresses the underlying causes of religious conflicts and tensions, Nigeria can work to create a more inclusive and tolerant society by taking these lessons to heart.

## **9.0 Summary of Findings**

The findings demonstrate that Nigeria's legal system forbids religious discrimination and safeguards religious freedom, as provided for by the Nigerian Constitution and other international and regional human rights instruments. When it comes to resolving conflicts and disagreements originating from religious affairs, the Nigerian judiciary has been instrumental in interpreting and upholding statutes pertaining to religious rights. The comparative analysis has demonstrated that promoting tolerance and peaceful cohabitation among various religious communities, as well as striking a balance between religious freedom and public order, are difficulties faced by both secular and multi-religious states. Nigeria can benefit greatly from the experiences of nations such as South Africa, France, Indonesia, India, and others in handling religious plurality.

## **9.1 Is Nigeria a multi-religious or secular state?**

It is arguable from the analysis that Nigeria is a multi-religious state as opposed to a strictly secular one. The Nigerian legal system includes elements of religious law, such as Sharia law for Muslim citizens, and permits the recognition of multiple religions in various aspects of public life, despite the country's Constitution guaranteeing religious freedom and outlawing discrimination based on religion. This strategy takes into account Nigeria's diverse religious landscape and the requirement for a nuanced, situation-specific approach to religious liberties.

## **10 Conclusion**

In order to investigate the potential and challenges associated with managing religious diversity, this research has looked at the legal framework and judicial interpretations of religious rights in Nigeria. It has done this by comparing Nigeria to comparable secular and multi-religious states.

## **11 Recommendations for Further Research and Policy Development**

Drawing on the results of this study, the subsequent suggestions can be put forth for additional investigation and policy formulation in Nigeria:

- i. To inform policy discussions and legal reforms, carry out in-depth research on how religious rules, such as Sharia law, affect religious freedom and interfaith harmony in Nigeria.
- ii. Examine how civil society organisations and religious leaders can support religious tolerance and harmonious coexistence among Nigeria's various religious communities and determine the most effective ways to promote interfaith collaboration and conversation.
- iii. Analyse the underlying political, social, and economic issues that fuel religious tensions and conflicts in Nigeria. Then, create policy interventions to deal with these issues at their core and stop the violence from getting worse.
- iv. Examine how alternative dispute resolution procedures, such as mediation and arbitration, might be used to settle conflicts and disputes involving religion in Nigeria. This would support the work of the court and help create a more open and accessible legal system.

By following these suggestions, Nigeria can keep advancing its legal system and judicial interpretations in a way that upholds religious liberty, encourages communication and collaboration between various religious communities, and deals with the underlying issues that lead to religious conflicts and tensions. In the end, this will help Nigeria create a society that is more accepting and tolerant.