

THE INTERROGATION OF THE CONSTITUTION AND THE RELIGIOUS PRACTICES IN NIGERIA

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Abstract

This paper reviews the provision of the 1999 Constitution of the Federal Republic of Nigeria (CFRN, 1999) on religion vis-à-vis the religious practices in Nigeria. Historically, Nigeria has witnessed and experienced religious tension often associated with the two major religious groups; Christians and Muslims. This has resulted in the destruction of several lives and property. Certainly, these huge losses have deprived the nation of the needed manpower and services for the growth of its wobbling economy. This conflict can be blamed on the agitation by these religious groups, to gain dominance in the country despite the provision of section 10 CFRN 1999 which clearly states that “The Government of the Federation or of a State shall not adopt any religion as State Religion”. This is in consequence of the fact that the Nigerian state being a pluralistic one, with diverse religious beliefs, cannot logically or practically adopt any religions as state religion. The finding is that the constitutional provisions on this subject are generally sufficient to forestall religious extremism if strictly adhered to. The radical departure from the constitutional provision when brought to the light of actual practice stems from a lack of dedication to the written words of the Constitution which is a problem plaguing the actualization of the letters of the constitution on freedom of religion and its limitation. The general repudiation of the supremacy of the constitution by Islamic law evidenced in twelve states in northern Nigeria declaring Sharia to be the ultimate source of their laws plays an active role in this regard.

1.1. Introduction

Nigeria is a multi-ethnic and multi-religious state comprising of citizens who subscribe to different religious beliefs ranging from African Traditional Religion (ATR), Christianity, Islam and even the absence of religion (irreligion). However, the two main religions practiced in the country are Islam and Christianity as they have the majority of devout followers. Various sects, denominations and branches are also attached to these religions making the country a religiously

diverse one. By virtue of this, no religion is allowed to take precedence over the other. Our constitution declares the absence of a state religion.¹ It is in the light of this constitutional provision that some people say that Nigeria is a secular state, though not expressly stated as such. If it is accepted that secularism means that a state is neutral when it comes to religious affairs and uninfluenced by religious beliefs, then the country should be void of practices that depicts the influence of religion. This article seeks to examine the constitutional provisions on religion in Nigeria with a view to ascertaining if the present religious practices are in compliance with these provisions.

1.2. Constitutional Provisions on Religion in Nigeria

The Constitution of the Federal Republic of Nigeria (CFRN, 1999) and other laws and policies generally protect religious freedom. A careful look at the provisions of the CFRN 1999 on religion reveals the twist of how the CFRN portrays Nigeria to be secular, partially secular, non-secular and even multi-religious at various point. Hence, if we are to go by the pervasive secular state that Nigeria is often designated as, then it becomes very complex to demonstrate this choice at an empirical level.

For ease of reference in this paper, the provisions of the CFRN relating to religion are set out below;

Section 1 (1) – “This Constitution is supreme and its provisions shall have binding force on the authorities and persons throughout the federation.”

Section 1 (3) – “If any other law is inconsistent with the provisions of this Constitution, this Constitution shall prevail, and that other law shall, to the extent of the inconsistency be void.”

Section 10 – “The Government of the Federation or of a state shall not adopt any religion as a state religion.”

Section 14(2) (a) – “sovereignty belongs to the people of Nigeria from whom Government through this Constitution derives all its powers and authority.”

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¹ Section 10 CFRN, 1999.

Section 15 (2) – “discrimination on the grounds of place of origin, sex, religion ... shall be prohibited.”

Section 17 (3) – “The state shall direct its policy towards ensuring that ... (b) there are adequate facilities for leisure and for social, religious and cultural life.”

Section 23 – “The National Ethics shall be discipline, integrity, dignity of labor, social justice, religious tolerance, self-reliance and patriotism.”

Section 38 (1) – “Every person shall be entitled to freedom of thought, conscience and religion, including freedom to change his religion or belief, and freedom (either alone or in community with others, and in public or in private) to manifest and propagate his religion or belief in worship, teaching, practice and observance.”

Section 38 (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 observance if such instruction, ceremony or observance relates to a religion other than his own, or a religion not approved by his parent or guardian.”

Section 38 (3) – “No religious community or denomination shall be prevented from providing religious instruction for pupils of that community or denomination in any place of education maintained wholly by that community or denomination.”

Section 42 (1) – A citizen of Nigeria or of a particular community, ethnic group, place of origin, sex, religion or political opinion shall not, by reason only that he is such a person:

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, places of origin, sex, religious or political opinions are 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.

1.3. The Concept of Secularism

Secularism is the concept that government or other entities should exist separately from religion and/or religious beliefs.² Secularism, as defined in the Merriam-Webster dictionary, is the “indifference to, or rejection or exclusion of, religion and religious considerations.” In certain context, the word can refer to anticlericalism, atheism, desire to exclude religion from social activities or civic affairs, banishment of religious symbols from the public sphere, state neutrality toward religion, the separation of religion from state, or disestablishment (separation of church and state).³

Okeke⁴ defined secularism as a system of social organization that does not allow religion to influence the government. It is the belief that religion should not influence the government. He further explains that a secular state is therefore a state or country that purports to be officially neutral in matters of religion, supporting neither religion nor irreligion. A secular state also claims to treat all its citizens equally regardless of religion, and claims to avoid preferential treatment for a citizen of a particular religion/non-religion over other religions/non-religion. Although secular states do not have a state religion or equivalent, the absence of a state religion does not guarantee that a state is secular. He opines that secularism is commonly regarded as an ideology that holds that religious issues should not be the basis of politics, or, in the extreme, that religion has no place in public life. Secularism, therefore, seeks to preserve the religious neutrality of government and cultures. While secularism is most commonly viewed as “the separation of religion from civic affairs and the state, it may nonetheless, also connote anticlericalism, atheism, naturalism, banishment of religious symbols from the public sphere and

²<https://www.slideshare.net/beethikasarkar/understanding-secularism> accessed on 24th August, 2020.

³ Merriam Webster’s Collegiate Dictionary, Eleventh Edition

⁴ Godwin Okeke, “The Ambivalence of the 1999 Nigerian Constitution in Matters relating to Secularism: A Case for a Constitutional Review” [2013] 2(3) *International Journal of Humanities and Social Science Invention* 65-69.

much more.”⁵ Secularism may also mean the separation of state and religion, or it may mean the equality of all religions.

In its first connotation, secularism refers to a precondition where there exists no state religion and the state is not concerned with any kinds of religious beliefs or practices. It extends to mean the state allowing the citizens to choose any religion of their choice, and the state is not to discriminate against citizens on the basis of their religions. The second interpretation is peculiar, where secularism means treating all religious groups equally.⁶ Secularism permeates all facets of our society: education, government, the criminal justice system, the news media, the entertainment industry, etc. Secularists believe that man is the measure of all things, that morals are man-centered, not God-centered. Therefore, no one is entitled to determine right from wrong, and morality is best determined by what is good for today’s culture.⁷

Different meanings are attached to the word ‘Secularism’ by different nations, societies and people. Some of the interpretations of the word areas follows;

1. Separate treatment of religion and state;⁸
2. Treating all the persons belonging to different religion equally by giving religious freedom to all the communities;⁹ and/or
3. In Communist states, it may mean even the absenteeism of religion in the functioning of the state and concentration on the economic or material welfare of citizens.¹⁰

The first person to use the word “Secularism” was “George Holyoake” a British writer. He invented the term in 1851¹¹ in order to describe his view on promoting a social order which is separate from religion. He succeeds in describing his views without actively dismissing or

⁵Nader Hashemi, “Secularism” in John L. Esposito (ed.), *The Oxford Encyclopedia of the Islamic World* (Oxford: Oxford University Press, 2009)

⁶<https://www.sociologygroup.com/secularism/> accessed on 24th August 2020.

⁷<https://www.gotquestions.org/what-is-secularism.html> accessed on 24th August 2020.

⁸ Hana M. Ryman and J. Mark Alcorn, “Establishment Clause (Separation of Church and State)” *The First Amendment Encyclopedia* (2009).

⁹ Sridhar Acharyulu, “Equality is the Essence of Secular Constitution” *The Week - Weekend Special* (January 12, 2018).

¹⁰A. A. Paravathy, “Secularism vs. Communalism” *Third Concept* (July 2003); 28.

¹¹G. J. Holyoake, “English Secularism: A Confession of Belief” *Library of Alexandria* (1896)

criticizing the religious belief by the term. The term Secularism comes from the Latin “Speculum” meaning an age or era. In the western dictionary, it is defined as “something which has nothing to do with God and is opposed to religion, and with anything supernatural or transcendental.” It raises the spirit among the citizens that religion will not influence the law that governs their daily lives. Secularism has played a significant role in shaping the state of modern societies.¹²

It has been argued that secularism is a movement toward modernization, and away from traditional religious values. In political terms, secularism is a movement towards the separation of religion and government (often termed the separation of Church and State). This can refer to: reducing ties between a government and a state religion, replacing laws based on scripture (such as Torah and Sharia law) with civil laws and eliminating discrimination on the basis of religion.¹³

1.3.1. Principles of Secularism

The principles of secularism which protect and underpin many of the freedoms we enjoy are:

1. Separation of Religion from State

The separation of religion and state is the foundation of secularism. It ensures religious groups don't interfere in affairs of state, and the state doesn't interfere in religious affairs.¹⁴

2. Secularism Protects both Believers and Non-believers

Secularism seeks to ensure and protect freedom of religious belief and practice for all citizens. Secularists want freedoms of thought and conscience to apply equally to all – believers and non-believers alike. They do not wish to curtail religious freedoms.

3. Religious Freedom

Secularism seeks to defend the absolute freedom of religious and other belief, and protect the right to manifest religious belief insofar as it does not impinge on the rights and freedoms of

¹²<https://www.lawandaudience.com/the-concept-of-secularism/> accessed on 25th August, 2020.

¹³<https://www.slideshare.net/beethikasarkar/understanding-secularism> accessed on 24th August, 2020.

¹⁴<https://www.secularism.org.uk/what-is-secularism.html> accessed on 23rd August, 2020.

others. Secularism ensures that the right of individuals to freedom of religion is always balanced by the right to be free from religion.

4. Secularism is about Democracy and Fairness

In a secular democracy all citizens are equal before the law and parliament. No religious or political affiliation gives advantages or disadvantages and religious believers are citizens with the same rights and obligations as anyone else.

Secularism champions universal human rights above religious demands. It upholds equality laws that protect women, LGBT people and minorities from religious discrimination. These equality laws ensure that non-believers have the same rights as those who identify with a religious or philosophical belief.

5. Equal Access to Public Services

We all share hospitals, schools, the police and the services of local authorities. It is essential that these public services are secular at the point of use, so no-one is disadvantaged or denied access on grounds of religious belief (or non-belief). All state-funded schools should be non-religious in character, with children being educated together regardless of their parents' religion. When a public body grants a contract for the provision of services to an organization affiliated to a particular religion or belief, such services must be delivered neutrally, with no attempt to promote the ideas of that organization's faith.

6. Secularism is not Atheism

Atheism is a lack of belief in gods. Secularism simply provides a framework for a democratic society. Atheists have an obvious interest in supporting secularism, but secularism itself does not seek to challenge the tenets of any particular religion or belief, neither does it seek to impose atheism on anyone.

Secularism is simply a framework for ensuring equality throughout society – in politics, education, the law and elsewhere – for believers and non-believers alike.

7. Secularism Protects Free Speech and Expression

Religious people have the right to express their beliefs publicly but so do those who oppose or question those beliefs. Religious beliefs, ideas and organizations must not enjoy privileged protection from the right to freedom of expression. In a democracy, all ideas and beliefs must be open to discussion. Individuals have rights; ideas do not.

Secularism is the best chance we have to create a society in which people of all religions or none can live together fairly and peacefully.

1.3.2. Constitutional Provision Relating to Secularism in Nigeria

In attempting to evaluate the concept of secularism from its definitions and explanations in the light of Nigerians constitutional provision, secularism appears to draw its root and strength from Chapter One and section 10 of the 1999 CFRN, 1999 which states that, “The Government of the Federation or of a state shall not adopt any religion as state religion.” The meaning of this is that the state should not actively support or propagate any particular religion in preference to or above others, particularly in a multi-religious society like Nigeria.

Similarly, the CFRN, 1999 states in section 15(2) of chapter two that, “National Integration shall be actively encouraged, whilst discrimination on the grounds of place of origin, sex, religion, status, ethnic or linguistic association or ties shall be prohibited.” People are expected to be free to follow whichever religious tenets they like without any fear, intimidation, victimization or favor. The central and state administrations should be managed in such a way that no one is victimized because of his/her religious profession. Nonetheless, it is doubtful if in practice these constitutional provisions are effective in ensuring secularism as expected? This and other issues that constitutes obstacles to secularism in Nigeria are what this paper intends to investigate.

Section 15(4) CFRN 1999, states that, “The state shall foster a feeling of belonging and of involvement among the various peoples of the Federation to the end that loyalty to the nation shall override sectional loyalties.” Equally, Section 17(3a) CFRN,1999 buttresses this stand when it states that, “all citizens without discrimination on any group whatsoever, have the opportunity for securing adequate means of livelihood as well as adequate opportunity to secure suitable employment”. In the same vein, Section 17(3c) says that, there is equal pay for equal work without discrimination on account of sex, or any other ground whatsoever.

The provision in section 10 is further strengthened by another section of the Constitution¹⁵ which guarantees the freedom of thought, conscience and religion. Section 38 CFRN, 1999 follows the general pattern of recognized rights in chapter IV of the CFRN, 1999. The section contains the primary right protecting the freedom of religion. There are also a number of protected secondary rights which reinforce the freedom of religion: such as the freedom of association,¹⁶ the right to private and family life,¹⁷ the right to freedom of expression¹⁸ and the right to freedom of movement.¹⁹ Subsection 2 of section 38 CFRN further extends religious liberty to the receiving of religious instructions in places of education, religious ceremony or observance. Subsection 3 of section 38 CFRN also guarantees the liberty of providing religious instructions by religious adherents to persons in the communities wholly maintained by them.

Section 42 CFRN, 1999, provides inter alia, that no person shall be discriminated against based on his or her religion. This ensures that people are allowed to embrace any religion they choose without fear or favor.

In Nigeria, however, apparent conclusions can be drawn from constitutional provisions in sections 10 and 38 CFRN, 1999 that:

1. A particular religion should not be taken as the official religion in the country.
2. Religious practices according to one's conviction is allowed for each and every individual citizen.
3. The teaching of religion is allowed in public institutions
4. There should be no compulsion in matters of religious education.

It is clear from its provisions that the constitution protects religious freedom. By these constitutional provisions, Nigeria is presumed to be a secular state though not expressly stated as such but given the meaning of the concept of secularism it clearly reveals that Nigeria is secular.

¹⁵ Constitution of the Federal Republic of Nigeria, 1999 as amended, s 38.

¹⁶ CFRN, 1999, s 40.

¹⁷ Ibid, s 37.

¹⁸ Ibid, s 39.

¹⁹ Ibid, s 41.

By this therefore, the state is prevented from interfering in religious affairs. But in matching this with actual practice in Nigeria, a scenario of a clear contradiction to this is revealed. This contradiction as revealed from actual practice is largely as a result of reliance on other constitutional provisions that run contrary to the provisions in support of secularism.

1.4. Constitutional Contradictions

The CFRN 1999, like every other charter, was adopted after much deliberation on the issue of religion. Some leaders sought to impose Sharia on a federal level for all Muslims, while others argued for a secular state. The result was a compromise that left the existing federal arrangement intact: "The Government of the Federation or of a State shall not adopt any religion as a State Religion."²⁰ By this provision, the constitution sought to separate religion from the state thereby portraying the state to be a secular one. The Nigerian constitution also presupposes that an individual has freedom to practice the religion of his/her choice without the government's interference.²¹ But under Nigeria's federal system, the constitution also allows individual states to establish their own courts²² for matters not covered by federal law and explicitly allows states to institute their own Sharia courts of appeal²³ in civil matters. A constitution that portrays Nigeria as a secular state by forbidding the government from adopting any religion as state religion at the same time makes room for a Sharia Court of Appeal and Customary Court of Appeal is in contradiction with itself. Also, there is the unsavory judicial divide in the country: common law in the South; and penal code in the North, ostensibly so because of religious differences which still exists in Nigeria after about 60 years of independence. All these purportedly run contrary to the secular image created in section 10. The provision in Section 38, is subject to differing interpretations. It states that "every person shall be entitled to freedom of thought, conscience, and religion" as well as the "freedom to manifest and propagate his religion or belief in worship, teaching, practice and observance." This provision presupposes that an individual has freedom to practice the religion of his/her choice without the government's interference. There seem to be no problem with the exercise of freedom to believe in a religion since belief resides in the mind of the believer. But conflict however arises in the course of

²⁰ Ibid, s 10.

²¹ Ibid, s 38.

²² Ibid, s 280.

²³ Ibid, s 275.

propagation of one's religion by religious adherents. This is an area of conflict when followers of a particular religious belief in the exercise of their right do so in a manner considered offensive, insensitive or provocative to people of other religious beliefs. This apparent blanket right to propagate one's religion in Section 38 CFRN 1999 constitutes a source of religious conflict when practiced in Nigeria, in many instances it arises from the act of evangelising, where there could be misinterpretation of the message being conveyed. An example of this is the religious crisis that happened in Kafanchan²⁴ in 1987 that started from the College of Education when a convert from Islam to Christianity was said to have misinterpreted the Holy Quran while preaching. This was considered as blasphemous and ultimately led to a fight between Christians and Muslims on the campus which later spread to the town and also extended to six other towns in Kaduna state. In the process a large number of casualties were recorded and valuable properties destroyed. More recent is the death sentence that was pronounced by a Sharia Court in Kano State on one Yahaya Sharif a singer, who was alleged of blasphemy. He was said to have made "a blasphemous statement against Prophet Mohammed in a WhatsApp Group" which is contrary to the Kano State Sharia Penal Code and is an offence which carries death penalty. Several other instances abound on this area even till date. Again, the right to change one's religious faith although guaranteed by the constitution cannot easily be leveraged upon by the adherents of the Muslim faith without treading the road to Apostasy with very dire consequences in strict Sharia law practice. Though not applicable as such in Nigeria, converts may be denied right of inheritance in Islam and of being ostracized by families and members of the religious belief to which the convert formerly belonged. Similarly, the Right to manifest one's religious belief also meets with conflict in certain instances. In the bid to manifest their religious belief adherents of Islamic faith particularly Muslim female students usually wear the headscarf, called hijab. The exercise of this right has led to some unrest and tension and litigations in some parts of the country in recent times. In *Miss Asiyat Abdulkareem (minor) & 20 ors v. Lagos State Government & 3 ors*²⁵, two 12 year old girls who are students of Aturase Junior High School, Surulere Lagos under the aegis of the Muslim Students Society of Nigeria (MSSN) Lagos State Area Unit instituted an action against the Lagos State Government before an Ikeja High Court for banning the use of hijab not being part of the approved school uniform for pupils, asking for a declaration that the ban was a

²⁴Jibrin Ibrahim, "The Politics of Religion in Nigeria: The Parameters of the 1987 Crisis in Kaduna State" [1989] 45 *Review of African Political Economy* 65.

²⁵(2016) 15 NWLR(PT.1535)177

violation of their rights to freedom of thought, religion and education. The trial court on 17th October, 2014, dismissed the suit of the pupils against the Lagos State Government on the ground that the ban did not violate Sections 38 and 42 CFRN 1999 and that since Section 10 CFRN 1999 made Nigeria a secular state, the ban on the use of hijab by female Muslim students was in maintenance of neutrality by the State Government in a public school maintained by it. Dissatisfied with the dismissal of their suit the pupils appealed to the Court of Appeal, Lagos division for the setting aside of the decision of the trial court and protection of their constitutional rights. The Lagos division of the Court of Appeal in a unanimous decision reversed the decision of the trial court and held that the ban on the use of hijab by the appellant was discriminatory against Muslim pupils in the State. In the judgment delivered by A. B. GUNMI, JCA the court held inter-alia “the use of the hijab is an Islamic injunction and also an act of worship hence it will constitute a violation of the appellants’ right to stop them from wearing hijab in public schools” (Advocates of Sharia claim that Islamic law is integral to Islamic "worship, teaching, practice, and observance"; many Christians and secularists argue that Sharia infringes their beliefs and practices²⁶ but to Islamic adherents, Sharia regulates all aspects of their lives and as such is reasonably justified by the provision in section 45(1)(a) and (b) CFRN, 1999).

Despite the portrayed secular nature of Nigeria as evinced by the CFRN 1999, religion has become increasingly important in the public sphere because of political liberalization and the degree of autonomy accorded to state governments in a federal system.²⁷ Where the constitution prescribes freedom of worship and association, issues are often interpreted from religious angles. This in most cases sparks off religious intolerance flowing from misconceptions among adherents of the two main contending religions, Christianity and Islam.

In a secular state, both recognition of and involvement in religion are not constitutionally and practically pronounced as such.

On the other hand, the CFRN 1999 in chapter II under the Fundamental Objectives and Directive Principle of State Policy enjoins the state to provide facilities for, among other things religious

²⁶<https://democracyweb.org/freedom-of-religion-nigeria> accessed on 20th August, 2020

²⁷Insa Notte, Abubakar Oladeji and Nathaniel Danjibo, “Religion, Politics and Governance in Nigeria” *Religions and Development Research Programme* (January 2009).

life.²⁸ This provision on its own reveals government's involvement in religious affairs which is contrary to the secular intent of section 10.

It is clear from its provisions that the constitution seeks to protect religious freedom but at the same time makes provision that can contradict its intentions as given above.

1.5. Religious Practices in Nigeria

The diverse regions and territories now collectively known as Nigeria had a long history of state-imposed religious practices, especially in the Muslim northern regions. From a historical perspective, it can easily be recalled that while Islam entered the country from the North, Christianity came in from the South. While Christianity expands through verbal and moral persuasion; Islam puts its point across with the sword. As Christianity moved up to the North, Islam started pushing its way down to the South.

1.6. Politics of Religion

The first point that Christians should note in relating to Islam is that under the religion of Islam, there is no separation of politics and religion or government and religion. Under Islam, both are the same. It is Christianity that practices the separation of the State and Religion, Islam does not. To the Muslim, sharia ought to govern the totality of life from cradle to the grave and as such religion cannot be separated from the state.

When Nigeria gained independence, however, it adopted a federal constitution declaring the separation of church and state²⁹ and guaranteeing freedom of religion.³⁰ This is in recognition of its different religious and ethnic communities and their intermixture in the northern, central, and southern regions. In general, the national government has protected freedom of religion for Christians, Muslims, and African Traditional Religious communities, but the adoption of Sharia law by twelve northern states has threatened religious freedom for many non-Muslim residents. More significantly, violent attacks by fundamentalist Islamic groups like the Boko Haram sect demonstrate a frightening intolerance of religious differences and religious freedom. The

²⁸ CFRN, 1999, s 17(3) (b).

²⁹ Ibid, s 10.

³⁰ Ibid, s 38.

situation is compounded by the, often, brutal actions taken against the terror attacks by police and security forces. At stake are Nigeria's political stability, economic growth, and hard-won freedoms.³¹

Religious practices in Nigeria are just as varied and diverse as the population, creating a complex and fascinating situation that arises from its "triple heritage" of indigenous religious traditions Islam and Christianity³². In Nigeria, Christianity, Islam and African Traditional religions are most widely practiced. Ideally, religion is not an area of conflict rather it is man's attempt at finding and maintaining peaceful relations with supernatural powers and his fellow human beings³³.

According to a 2010 survey conducted by the Pew Forum, Nigeria's population has both Christians and Muslims in a nearly equal ratio, with a small percentage of the population following other religious beliefs such as indigenous faiths and no affiliations at all. Muslims make up 48.8% of the country's population while Christians add up to 49.3%. The remaining 1.9% is either practitioners of indigenous religions or no affiliations.³⁴

Unfortunately, the management of religion and the organization of different body of religious adherents have given rise to conflicts in Nigeria. Christians and Muslims together with their sects have clashed over situational supremacy, access to prestige and dominance, power and privilege, information management, especially to the political sphere in Nigeria. There are however evidence of abuse of religious freedom by the government from its practices in the country. Certain government practices negate the image of secularism as portrayed by the constitution.

Government's involvement in Religious affairs in Nigeria can be seen in the following:

1. Laws Establishing Religious Institutions- The law requires Christian and Muslim groups planning to build new churches to or mosques to register with the Corporate Affairs Commission. There exist laws establishing institutions wholly funded by the government. The Muslim National Hajj Commission of Nigeria is established by Law and funded from the

³¹<https://democracyweb.org/freedom-of-religion-nigeria> accessed on 20th August 2020.

³² Nigeria Religious Literacy project at <https://rip.hds.harvard.edu> accessed on August 18, 2020.

³³Tunde Charles Iruonagbe, "Religion and its Attendant Conflicts in Nigeria: A Paradox" [2006] 1 *International Journal of Theology and Reformed Tradition* 152.

³⁴ www.worldatlas.com/articles/religious-beliefs-in-nigeria-html accessed on 20th August, 2020.

federation account, likewise the Nigerian Christian Pilgrims Commission (NCPC). The federal government approved the use of air carriers for religious pilgrimages to Mecca for Muslims and Jerusalem or Rome for Christians; it also established airfares and negotiated bilateral air service agreements with the concerned countries to support these services.

2. Religious Influence on Legislative Activities at the National Assembly- Outcome of legislative activities at the National Assembly demonstrates religious bias. A classic example was the resistance posed by legislators to legalizing prostitution based on religious reasons.

3. Laws laden with Religious substance- Some Nigerian laws are laden with religious substance. For example, the penal code act which is operational in the North has significant Sharia flavor, while the enactment of some laws like the same sex prohibition Act 2014, were mainly influenced by religious arguments.

4. Observance of Muslim and Christian Holidays- Christian and Muslim holidays are observed without recourse to traditionalists. The law that establishes public holidays in Nigeria is the public holiday Act which was enacted on the 1st of January, 1979. The Act creates public holiday for the entire Nation. The Holidays are of 3 types; Christian holidays like Christmas, Muslim Holidays like Salah and general holidays such as Labour Day.

5. Government Sponsorship of Pilgrimage- So much money is expended by the government for the sponsorship of pilgrims to Jerusalem or Mecca especially among the Christian and Muslim religion faithful. The point here is that such a practice, irrespective of its moral rightness, with respect to an objective appraisal, is unconstitutional, especially in view of the said section 10 which has left religion to private decision. Secular countries do not use public funds to subsidize private spirituality.

6. Commemoration of National Occasions- Special prayers in churches and mosques across the country are usually done in commemoration of national occasions in the country. For example, a new judicial year is ushered in with special prayers in churches and mosques; the annual armed forces Remembrance Day is commemorated in same manner and it usually has top government functionaries in attendance.

7. Taking Oath of Office- Public office holders are made to swear on a copy of the Quran, Bible or an object –depending on the belief they profess when taking oath of office. Similarly, litigants are also subjected to such before presenting their case in court.

8. Inclusion of Religious Education in Public School Curriculum at All Levels- This is implemented and backed up by government has done and backed up with the provision of necessary human and material facilities. The federal and state governments regulate mandatory religious instructions in public schools against the constitutional mandated that students do not receive religious instructions in any religion other than their own³⁵. Contrary to the constitutional mandate, it is seen in northern schools that there are no teachers capable of teaching Christian Religious Studies and vice versa in southern schools. In these regions therefore students are made to compulsorily take to the particular religious teaching wherever they find themselves regardless of their religious inclinations.

Going by these involvement and connections with religion, it may be argued that the government of Nigeria has not been entirely indifferent to matters related to religion. Though Nigeria cannot be said to be a religious country in the pattern of the Vatican³⁶, Saudi Arabia³⁷ or Kuwait³⁸ where Christianity and Islam is emphatically declared as the states religion, Christianity and Islam majorly are seen to enjoy official recognition to the extent that majority of state affairs are conducted with due consultation to their religious principles. Going by the above scenarios, it is apparent that religious practices in Nigeria are in breach of the constitutional provision that portrays the country in the light of a secular state.

1.7. Proposed Reforms

Although the CFRN 1999 emphatically forbids the state from having an official religion, however, in the light of Nigeria's constitutional position by virtue of its provisions which gives room for recognition, sponsorship and protection of religious institutions and values, it may be arguably inferred that Nigeria is not a Secular state where the influence of religion on state

³⁵ CFRN,1999, s 38(2).

³⁶ Religion in the Vatican City, <https://encyclopedia2.thefreedictionary.com/Religion+on+in+the+Vatican+city>

³⁷Article 1,Saudi Arabia Constitution of 1992 with Amendments through 2013,which states that "*The kingdom of Saudi Arabia is a Sovereign Arab Islamic State*".

³⁸ Article 2, Kuwait's Constitution of 1962 Reinstated in 1992 which states that "The religion of the state is Islam, and the Islamic Sharia shall be the main source of legislation."

affairs is rigidly kept in check. Hence, some recommendations for reform have been outlined below, to create a balance in constitutional provision and actual religious practice in Nigeria. They include:

1. Addressing the constitutional ambivalence by means of a constitutional review. This appears to be a major flaw in the constitution that gives it a 'dual ideology', while it tries to guarantee freedom of choice of religion to all citizens in one breath, it promotes one religion above another. Also, while the constitution prohibits the federal government from adopting a state religion, it violates this itself by recognizing one religion above all others. The constitution should be thoroughly reviewed to conform to the actual practice which would provide a level playing ground for all religious adherents without any form of molestation from any person or group of persons.
2. Severe sanctions for violation of the provisions set out in section 10 should be included in the constitutional provision for offenders.
3. Section 10 should be subjected to further clarification by means of subsections to clearly state what should and should not be done under the section.
4. Practices which contravene the provision of secularism as revealed in section 10 should be brought to an end. The government at all level should cease from meddling in religious affairs under any guise.
5. The history of some western civilized countries like France, have shown that Secularism works and it is the best way out of religious conflicts/crisis in multi religious countries like Nigeria.
6. Nigeria must be clearly described as a secular state in the Constitution and secularism or secular state must equally be defined in the interpretation section of the same Constitution.

It is therefore hoped that the current Constitutional amendment exercise being undertaken by the National Assembly will extend to this very important section of the Constitution which will go a long way to determine our progress, prosperity, unity, peace and wellbeing as a people. To completely erode religious disharmony and ensure peaceful coexistence among the adherents of

different religions, the apparatus of secularism must be employed and earnestly put into practice.³⁹

1.8. Conclusion

In spite of the constitutional provisions on religion as reviewed by this paper which reveals a contradiction of Nigeria's actual status, experience and situation shows that it is secular only in principle and not in practice. It could therefore be safe to conclusively say that Nigeria is not a secular state as portrayed by the constitution in section 10. The contradicting provisions to section 10 and overwhelming practices which is seen from day to day, contravenes true secularism. These no doubt acts as the springboard and triggers for religious uprising and crisis in Nigeria.

The only antidote to recurring religious uprisings and ceaseless agitations and counter-agitations of different religious bodies in a multi-religious state like Nigeria is the adoption of true secularism. It is expedient for the government at all levels to desist from meddling into religious affairs. No religious group should be singled out for preferential treatment or victimization. The government should be more proactive to strengthen the secular status of the country. In other words, unless the government is seriously committed to upholding the principles of secularism in public affairs, all efforts to stamp out religious unrest in the country will be counter-productive.

Adopting true secularism would remain the only and lasting solution to the religious unrest and agitations in the Nigeria. A truly secular nation would provide a level playing ground for all citizens regardless of their religious affiliations which would ultimately translate to peaceful coexistence and mutual interdependence that would promote the desired development in the Nation.

³⁹Rev James Pam, jamespam2004@yahoo.com<https://www.thecable.ng/review-secularity-nigerian-1999-constitution>