

RELIGIOUS AND OTHER MINORITIES' RIGHTS:
NIGERIA AS A CASE STUDY: BEING A PAPER
PRESENTED BY

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INTRODUCTION

The term ‘Minority Rights’ embodies two separate concepts: first, normal individual rights as applied to members of racial, ethnic, class, religious, linguistic or sexual minorities, and second, collective rights accorded to minority groups. The term may also apply simply to individual rights of anyone who does not belong to majority group in any setting.

The term “minority group” often occurs alongside a discourse of civil rights and collective rights which gained prominence in the 20th century. Members of minority groups are prone to different treatment in the countries and societies in which they live. This discrimination may be directly based on an individual’s perceived membership of a minority group, without consideration of that individual’s personal achievement. It may also occur indirectly, due to social structures that are not equally accessible to all¹.

Religious minorities refer to non-dominant faith or belief groups. These communities lack access to power, face discrimination, persecution and human rights abuses. They have developmental policies of the religious majorities imposed on them by the state.

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www.wikipedia.org/wiki/Minority_group

The first minority rights were created by revolutionary Parliament of Hungary in 1849. Minority rights, as applying to ethnic, religious or linguistic minorities and indigenous peoples, are an integral part of International Human Rights Law. Those rights include meaningful political participation, the protection and preservation of culturally distinctive identities, such as language and religious identity, and the right to participate equally in and benefit from the economic life of the States in which minorities live.

Minority rights are a legal framework designed to ensure that a specific group which is in a vulnerable, disadvantaged or marginalized position in a society, is able to achieve equality and is protected from persecution².

BACKGROUND

The rise of religious nationalism, the economic marginalization of religious minorities and the abuse of counter-terrorism laws have all led to a growing pattern of persecution against religious minorities globally³. On every continent, religious minorities are facing attack, detention, torture and the repression of their fundamental freedoms. “Religious intolerance is the new racism”.⁴ Many communities that have faced racial discrimination for decades are now being targeted because of their religious belief. Ethnic cleansing in various parts of the world in recent years is proof of this new friendship trend.

² http://en.wikipedia.org/wiki/Minority_rights

³ www.religiousliberty.tv/religious-intolerance-now-driving-persecution-of-minorities-across-the-world-minority-rights-group.html

⁴ See the statement of Mark Lattimer, Director of Minority Rights Group International at a news conference to launch the organization’s “State of the World Minorities 2006” report.

The targeting of minorities on religious and other grounds are now increasingly becoming a trend in some countries, while in parts of Asia and Africa⁵, religion is fast overtaking race or ethnicity as the key factor driving discrimination and violent attacks against communities. In many states, from the United Kingdom to Ethiopia to Bangladesh, poverty is increasingly correlated with religion⁶.

Minorities, particularly Muslims, across the United State of America and Europe, have been targets of increased state controls as well as nationalist campaigns by right-wing groups. In Switzerland, following a campaign by the ultra-Conservative Swiss People's Party, a majority of participating voters backed a referendum, which proposed a ban on the building of new minarets in mosques⁷. The unnecessary been imposed on Muslims in France on the use of head coverings is also very recent.

Also, in some Islamic countries, especially Egypt, Indonesia, Iran among others, Christian minorities are not given equal rights like their Muslim counterparts. There had been allegations that some Christians had been denied the right to build churches or other places of worship. Non Muslims are subject to the Islamic Legal System which is the applicable law in some of these countries.

⁵ See especially the violent attacks in Palestine, Pakistan, Iraq, Afghanistan, Somalia, Ethiopia, Eritrea, Rwanda, Nigeria to mention but a few.

⁶ Ibid.

⁷ www.religiousliberty.tv/religious-intolerance-now-driving-persecution-of-minorities-across-the-world-minority-rights-group.html. Retrieved on 21st January, 2011.

INTERNATIONAL LEGAL INSTRUMENTS ON THE PROTECTION OF THE RIGHTS OF MINORITIES.

Universal human rights are often expressed and guaranteed by law, in the forms of treaties, customary international law, general principles and other sources of international law. International human rights law, lays down obligations of governments to act in certain ways or to refrain from certain acts, in order to promote and protect human rights and fundamental freedoms of individuals or groups.

The principle of universality of human rights is the cornerstone of international human rights law. This principle, was first emphasized in the Universal Declaration on Human Rights in 1948, has been reiterated in numerous international human rights conventions, declarations, and resolutions. The 1993 Vienna World Conference on Human Rights, for example, noted that it is the duty of States to promote and protect all human rights and fundamental freedoms, regardless of their political, economic, religious and cultural systems.

It is as a result of this, that the United Nations, has in recognition and respect for human rights and for fundamental freedoms for all, without distinction as to race, sex, language or religion, adopted ***Resolution 47/135 of 18 December 1992***, in order to ensure the dignity and worth of the human person, in the equal rights of men and women and of nations large and small.⁸ In the promotion and protection of the rights of persons, belonging to national or ethnic, religious and linguistic minorities, contribute to the political and social stability of States in which they live⁹.

Adopted by General Assembly resolution 47/135 of 18 December 1992

⁹ See www2.ohchr.org. Retrieved on 21st January, 2011.

In addition, the African Charter on Human and Peoples Rights,¹⁰ of which Nigeria is a signatory, also provides for human rights and fundamental freedoms for all irrespective of colour, race, sex, religion and language. Article 2 of the Charter provides:

"Every individual shall be entitled to the enjoyment of the rights and freedoms recognized and guaranteed in the present Charter without distinction of any kind such as race, ethnic group, color, sex, language, religion, political or any other opinion, national and social origin, fortune, birth or other status. "

Other International Conventions on the protection of the Rights of Minorities include: Universal Declaration of Human Rights;¹¹ the international Convention on the Elimination of All Forms of Racial Discrimination;¹² the International Covenant on Civil and Political Rights;¹³ the International Covenant on Economic, Social and Cultural Rights;¹⁴ the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief,¹⁵ and the Convention on the Rights of the

¹⁰ Adopted 27 June 1981, OAU Doc. CAB/LEG/67/3 rev. 5, 211.L.M. 58 (1982), entered into force 21 October 1986

¹¹ It is a declaration adopted by the United Nations General Assembly (10 December 1948 at Palais de Chaillot, Paris). The Declaration arose directly from the experience of the Second World War and represents the first global expression of rights to which all human beings are inherently entitled. It consists of 30 articles which have been elaborated in subsequent international treaties, regional human rights instruments, national constitutions and laws

¹² The convention was adopted and opened for signature by the United Nations General Assembly on December 21, 1965, and entered into force on January 4, 1969. As of October 2009, it had 85 signatories and 173 parties.

The International Covenant on Civil and Political Rights (ICCPR) is a multilateral treaty adopted by the United Nations General Assembly on December 16, 1966, and in force from March 23, 1976. It commits its parties to respect the civil and political rights of individuals, including the right to life, freedom of religion, freedom of speech, freedom of assembly, electoral rights and rights to due process and a fair trial. As of December 2010, the Covenant had 72 signatories and 167 parties.

¹⁴ The International Covenant on Economic, Social and Cultural Rights (ICESCR) is a multilateral treaty adopted by the United Nations General Assembly on December 16, 1966, and in force from January 3, 1976. It commits its parties to work toward the granting of economic, social, and cultural rights (ESCR) to individuals, including labour rights and the right to health, the right to education, and the right to an adequate standard of living. As of December, 2008, the Covenant had 160 parties.

¹⁵ The Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief was proclaimed by General Assembly resolution 36/55 of 25 November 1981

Child,¹⁶ as well as other relevant international instruments that have been adopted at the universal multilateral or by-lateral or regional levels and/or those concluded between individual State Members of the United Nations.

DOMESTIC LA W ON THE PROTECTION OF THE RIGHTS OF RELIGIOUS AND OTHER MINORITIES RIGHTS IN NIGERIA.

Nigeria is a multi-religious federation consisting of multi-ethnic and religious communities. In this system, a strong federal government controls, states that possess some level of local autonomy. Although state governors may decide matters concerning their own states, all states are bound to respect the Nigerian Constitution.¹⁷ Liberal federalism also allows states to make decisions, satisfying the interests of their residents, without affecting the residents of other states.¹⁸

In Nigeria, there are laws that are made for the protection of the Right of Religious Minorities. Constitutionally, Nigeria has no state religion. Section 10 of the Constitution of Nigeria¹⁹ prohibits the adoption of any religion as state religion. The section provides thus:

¹⁶ The United Nations **Convention on the Rights of the Child** (commonly abbreviated as the **CRC, CROC, or UNCRC**) is a human rights treaty setting out the civil, political, economic, social, and cultural rights of children. The Convention generally defines a child as any human being under the age of eighteen, unless an earlier age of majority is recognized by a country's law. The United Nations General Assembly adopted the Convention and opened it for signature on 20 November 1989 (the 30th anniversary of its Declaration of the Rights of the Child). It came into force on 2 September 1990, after it was ratified by the required number of nations. As of November 2009, 194 countries have ratified it, including every member of the United Nations except Somalia and the United States of America.

¹⁷ See S.I of the Nigerian Constitution.

⁸ Rights of Religious Minorities in Nigeria Ismene Zarifis. See www.wcl.american.edu. Retrieved on 22nd January, 2011.

⁹ See Constitution of The Federal Republic of Nigeria 1999, Cap..... Laws of The Federation of Nigeria.

S.(10) "The Government of the Federation or of a State shall not adopt any religion as State Religion ".

The rights to freedom of religion or belief and to non-discrimination are guaranteed in the constitution. This provision is contained in S.38 of the Nigerian Constitution thus:

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 ".

The above stated constitutional provision succinctly shows, that all persons are free to worship and manifest their religious beliefs and that the state is expected to be neutral in matters of religion. The right to freedom from discrimination under the Nigerian Constitution is not only limited to the right of religion, it also applies to others like sex, race, status, gender e.t.c. The Nigerian Constitution provides in S. 42 thus:

42. (1) A citizen of Nigeria 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, religions 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, religions or political opinions.

(2) No citizen of Nigeria shall be subjected to any disability or deprivation merely by reason of the circumstances of his birth.

(3) Nothing in subsection (1) of this section shall invalidate any law by reason

only that the law imposes restrictions with respect to the appointment of any

person to any office under the State or as a member of the armed forces of the

Federation or member of the Nigeria Police Forces or to an office in the

service of a body corporate established directly by any law in force in Nigeria.

It is clear from the above constitutional provisions that minority rights are entrenched in the highest law of Nigeria and the government is under the force of the Constitution and the law not discriminates against any person or group of persons, whether it is in the majority or minority.

THE NIGERIAN EXPERIENCE

In Nigeria, Islam and Christianity constitute the religious majorities. Traditional Religion, Jehovah Witnesses, Brotherhood of Cross and Star, Bahai Faith, Grail Message, Eckankar, Rosicrucian, Gordian Religion, Devotees of Guru Maharaji and Satya Sai Baba and many others are the religious minorities . Again, in some parts of the country, Islam and Christianity are religious minorities. For instance, in the South-East and South-South, Islam is a minority faith. While in North-East, North Central and North-West, Christianity is in the minority.

Unfortunately, the Nigerian government has refused to acknowledge the existence of minority faiths/beliefs in the country. It continues to conduct its affairs as if these communities do not exist or deserve recognition and respect. The Nigerian government recognizes and in fact has adopted by practice or implication, the two major religions -Islam and Christianity- as state religions contrary to the clear provisions of the 1999 Constitution²¹. It grants them favours and privileges, that are not extended to the minority groups.

²⁰ See Leo Igwe, 'The Rights of Religious Minorities'. Retrieved from www.culturekitchen.com

²See S. 38 of the 1999 Constitution as amended.

Officially, religious minorities in Nigeria suffer systematic exclusion, discrimination and violation of their rights. And this has caused a lot of tension, division, alienation and conflict. For instance, only Muslim and Christian prayers are allowed at state functions. There has never been any instance in the history of Nigeria, where a person that is neither a Christian nor a Muslim, is asked to pray or to make an invocation at a state function.

Also, the Nigerian government uses state resources indirectly, to build and maintain mosques and churches across the country. It grants public holidays to Nigerians, only on Muslim and Christian feast days²². The Nigerian government sponsors and subsidizes the pilgrimages of only Christians and Muslims. It allows only the teaching of Christian and Islamic religious education in schools²³.

In Northern Nigeria, especially in the Muslim majority states-religious minorities are systematically marginalized and disadvantaged. And this has become more pronounced, since the adoption of Sharia law by some of the States. In some of these states, people are forced to practice their faith or beliefs in private, and to live publicly in line with Islamic norms. Politically, members of religious minorities can vote but they can hardly be voted for. Nigeria has yet to elect any president or governor that does not belong to the two dominant religions. There are allegations that members of religious minorities in

²² See the schedule to the Public Holidays Act, CAP P40, Laws of the Federation of Nigeria, 2004.

²³ This has been made compulsory in some schools particularly the Secondary schools where the pupil is compelled to either choose Christian Religious studies or Islamic Religious Knowledge.

some states in Northern Nigeria, are subjected to the Islamic justice system.

Also, in some parts of the Southern States in Nigeria, especially those areas where Christians are in the majority, most of the rights stated above are denied the minority muslims in these States. Islamic religion encourages women to use Hijab as stipulated by Islamic injunctions. However, some institutions of learning have proscribed the use of such Hijab, which is tantamount to the deprivation of their right to practice and manifest their religion as provided for in S.38 of the Nigerian Constitution. There had been widely reported cases of denial of grant of land to Muslims to build Mosques and or schools in some of these States.

In Northern and Southern Nigeria, religious minorities face restrictions in building centers of worship and learning. They are denied access to land or to rented apartments for religious activities. Also, religious minorities are targeted during riots and clashes. Because of the mistaken view in Nigeria that every citizen is either a Christian or a Muslim, members of minority religious and belief groups, often fall victim during religious uprisings.

Many of those killed during the Maitatsine riots of the 80s, the Kano riots of 1990, the ethno-religious clashes in Jos in 2004, 2009, 2010 and even 2011 and in other cases of bloodletting between Christians and Muslims, were members of minority faith or belief communities.

NIGERIA'S INTERNATIONAL HUMAN RIGHTS OBLIGATIONS

Nigeria is a party to a number of international human rights treaties, which bind Nigeria to respect and ensure the human rights of all individuals within its territory. Nigeria is a party to the International Covenant on Civil and Political Rights (ICCPR), the Convention on the Elimination of All Forms of Racial Discrimination, the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), the Convention on the Elimination of All Forms of Discrimination against Women, and the African Charter on Human and Peoples' Rights, among others.

In addition, a number of international instruments such as the Universal Declaration of Human Rights and the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities (Minorities Declaration) are binding as rules of Customary International Law.²⁴

According to Article 14 of the Vienna Convention on the Law of Treaties, once these international treaties have been ratified,²⁵ a state party is bound to carry out its international obligations and may not invoke its domestic law as justification for non - implementation. Thus, the Federal Government of Nigeria has

²⁴ See Rights of Religious Minorities in Nigeria' by Ismene Zarifis. Retrieved from www.wcl.american.edu on 20th January, 2011.

²⁵ S. 12 of the Nigerian Constitution gives the National Assembly of Nigeria the powers to ratify such treaties. The National Assembly comprises of the Senate and the House of Representatives. It is the highest law making body in Nigeria.

²⁶ This is also contained in S.12 of the Nigerian Constitution.

the ultimate responsibility to ensure that human rights are respected and protected within its territories.²⁷

The recognition of minority rights is critical to the realization of a just, peaceful, harmonious and progressive society. So, the time has come for the Nigerian government, to acknowledge the existence of religious minorities and put in place the necessary mechanisms to protect their rights. The government should abolish immediately, the “*official*” discrimination against these vulnerable groups and stop privileging the dominant religious groups at the expense of national equity, unity and justice.

Human rights are inherent, universal and inalienable, and therefore should be enjoyed by all individuals, whether they belong to dominant or non-dominant faith or belief communities. Moreso, Nigeria is a party to the African Charter on Human and People’s Rights and other human rights treaties, which oblige it to respect and ensure the human rights of all individuals within its territory.

ROLES OF THE STATE IN THE PROTECTION OF MINORITY RIGHTS.

All States have not only moral but also legal, obligation to ensure that religious minorities are protected. The recent ethno-religious attacks in Jos, North Central, Nigeria are a tragic reminder that protection of minority rights is not only a human rights imperative but also a key element in preventing conflict, before it

²⁷ Ibid

gets out of hand,²⁸ States everywhere can and should ensure that their educational approach, legal systems and political policies promote tolerance of different beliefs system. They must also ensure that incitement to religious hatred is punishable by the panel law.

Respect for minority rights as shown in places like the United States of America assists in achieving stable and prosperous societies, in which human rights, development and security are achieved and shared by all. The dynamics of majority/minority relationships lead to the emergence of a range of minority issues, which provide challenges and opportunities for States and societies as a whole. Such issues, in all spheres of life, are identified and articulated both by minorities and by States seeking to manage diverse societies.

The history and story of all Countries of the world have shown that the denial of rights to minorities in a country cuts across the countries of the North and South. The recent history of the United States of America and Great Britain bear eloquent testimony to this.

The practice of slavery and its attendant socio, political and economic problems in most advanced countries of the world, is a sad reminder on-the problems of discrimination, against religious and minority groups everywhere in the world.

²⁸ www.un.org/apps/news/story

One can make bold to state that what has been identified as the Nigerian experience hold equally true for most Commonwealth Countries that have plurality of citizens.

CONCLUSION

Nigeria, being a multi-religious state and being a signatory to many of the international conventions on the rights of minorities, is under an obligation to protect the interests of these minority groups. Minority rights should be understood as a necessary element to ensure all round integration of the society and to promote socio, economic inclusion and cohesion.

It is critical that the Government ensures that its economic growth is achieved without negatively impacting on the lives of minorities or deepening their poverty. That they share fully in the benefits of growth and prosperity, while maintaining their distinct cultures and identities.

If this is done, various national, ethnic, religious and linguistic groups will be able to live confidently together, practice their religions, speak their own languages and communicate effectively, recognizing value in their differences and in their society's cultural diversity. Indeed there could be strength in diversity.