A Critical Overview of the Right to Freedom of Thought, Conscience and Religion in Nigeria

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Abstract

The right to freedom of thought, conscience and religion is an inalienable and justiciable right guaranteed under the Nigerian Constitution. In the same breadth, the same Constitution provides that there shall be no State Religion. This notwithstanding, Government provision for the enjoyment of the right to religious worship has led to formation of Faith Based Government Agencies like the National Hajj Commission of Nigeria and the Nigerian Christian Pilgrim Commission thereby throwing up the question whether the rights of non-religious or irreligious persons do not enjoy constitutional protection in Nigeria. Deploying the doctrinal research method, relevant international, regional and domestic laws on the right to religious belief were critically examined alongside judicial interpretations placed on them. The paper found that the right to freedom of thought, conscience and religion is interpreted broadly by the Courts to include the unfettered right of the non-religious or irreligious to practice their beliefs although they do not enjoy any support from government in this regard. It was suggested among other things that since religion is a private matter, government should discontinue sponsoring religious pilgrimages and channel the resources for that purpose to uplift the living standards of the generality of the citizens.

Keywords- faith, hajj, irreligious, pilgrimage, religious, secular

1. Introduction

The right to freedom of thought, conscience and religion is guaranteed as a fundamental and inalienable right in many universal, continental and domestic human rights instruments. In Nigeria, this fundamental right is often misunderstood to mean the right to profess only the major religious beliefs being either Christianity or Islam. Despite the provision in *section 10* of the Constitution of the Federal Republic of Nigeria, 1999 as amended that there shall be no State religion, yet Government at both the federal and state levels spend huge sums of taxpayer's money to sponsor both Christians and Muslims on yearly pilgrimage as though the right to religious belief does not include the right to be irreligious. The rift between adherents of these major religions in Nigeria is so strong that aside ethnicity, religion is seen as a major fault line in Nigeria. There are also many instances of heavy ethno-religious wars and conflicts in various parts of the country. In a disruptive manner, this paper challenges the *status quo* by advocating that since right to religious belief is a private concern, recognising the right of the irreligious within the constitutional right to freedom of thought, conscience and religion will among other things break the entitlement mentality of both Christian and Muslim adherents; de-escalate ethno-religious tensions; and save the stupendous amounts of public funds used every year to sponsor religious pilgrimages. The paper is divided into segments beginning with the introduction, consideration of the universal, regional and domestic guarantee of the right to freedom of thought, conscience and religion; judicial attitude towards the right to freedom of thought, conscience and religion; "no state religion" and the "secular state" misconception; derogation of right to freedom of thought, conscience and religion; why issues of religion should be de-emphasised in Nigeria and recommendations and conclusion.

2. Universal, regional and domestic guarantee of the right to freedom of thought, conscience and religion

The right to freedom of thought, conscience and religion is universally, regionally and nationally recognised and protected. For example, *article 18* of the Universal Declaration of Human Rights,

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1948,[1] provides that "Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance". In the same wise but in a more elaborate form, *article 18* of the International Covenant on Civil and Political Rights, 1966, provides that:

> 1. *Everyone shall have the right to freedom of thought, conscience and religion. This right shall include freedom to have or to adopt a religion or belief of his choice, and freedom, either individually or in community with others and in public or private, to manifest his religion or belief in worship, observance, practice and teaching.*
> 2. *No one shall be subject to coercion which would impair his freedom to have or to adopt a religion or belief of his choice.*
> 3. *Freedom to manifest one's religion or beliefs may be subject only to such limitations as are prescribed by law and are necessary to protect public safety, order, health, or morals or the fundamental rights and freedoms of others.*
> 4. *The States Parties to the present Covenant undertake to have respect for the liberty of parents and, when applicable, legal guardians to ensure the religious and moral education of their children in conformity with their own convictions.*

Under *article 8* of the African Charter on Human and Peoples Rights, 1981,[2] applicable in Nigeria,[3] having been ratified as required in *section 12* of the CFRN 1999 as amended, it is provided that "Freedom of conscience, the profession and free practice of religion shall be guaranteed. No one may, subject to law and order, be submitted to measures restricting the exercise of these freedoms". With particular reference to Nigeria, *section 38* of the CFRN, 1999 as amended guarantees the right to freedom of thought, conscience and religion wherein it is provided as follows:

> *(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.*
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> *(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 religion not approved by his parent or guardian.*
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> *(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.*
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> *(4) Nothing in this section shall entitle any person to form, take part in the activity or be a member of a secret society.*

Various aspects of the above right to religion were interpreted in the 2022 decision of the Supreme Court in *Lagos State Government & Ors v Miss Asiyat Abdulkareem (Minor) & Ors*,[4] Kekere-

[1] Hereinafter abbreviated and referred to as "UDHR".
[2] Hereinafter abbreviated and referred to as "ACHPR".
[3] African Charter (Ratification and Enforcement) Act, Cap. A9 LFN 2004.
[4] (2022) LPELR-58517(SC) (Pp. 42-44, para. C-C).

Ekun, JSC (as he then was). In that case, the apex Court defined religion and exhaustively explained the ramifications of its protection under the extant Nigerian Constitution as follows:

> *There is no doubt that Chapter IV of the 1999 Constitution, (as amended), makes provision for the establishment and protection of the fundamental rights of every Nigerian citizen. Section 38 provides for the right to freedom of thought, conscience and religion. It provides in sub-section (1) that the freedom of thought, conscience and religion includes: 'Freedom... to manifest and propagate his religion or belief, in worship, teaching, practice and observance.'*
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> *Blacks' Law Dictionary, 8th Edition at page 1317 defines "Religion" thus: 'A system of a faith and worship usually involving a belief in a Supreme being and usually containing a moral or ethical code, especially such a system recognised and practiced by a particular Church, sect or denomination. ...Courts have interpreted the term religion quite broadly to include a wide variety of theistic and nontheistic beliefs.' 'Freedom of Religion' is also defined at page 689 thereof as follows: 'The right to adhere to any form of religion or none, to practice and abstain from practicing religious beliefs, and to be free from governmental interference with or promotion of religion.'*
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> *The word 'manifest' as used in section 38 is a verb meaning: 'show clearly or appear' See: Oxford Dictionary Thesaurus and Word Power Guide. In Dictionary. Com for iPad, it is defined as: 'to make clear or evident to the eye or the understanding; show plainly.' 'Practice' is defined as: 'to follow or observe habitually or customarily: to practice one's religion'. 'Observance' is defined as: 'the practice of obeying a law, celebrating a festival or behaving according to a particular custom.' 'Propagate' means 'to spread an idea, a belief or piece of information among many people.' See: Oxford Advanced Learner's Dictionary, International Student's Edition.*
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> *The plain or ordinary grammatical meaning of section 38(1) of the 1999 Constitution, as amended, is that every person is entitled to freedom of thought, conscience and religion, including the freedom to manifest and spread his religion or belief in the manner in which he worships, teaches, disseminates or observes the rules or customs of his religion. Sub-sections (2) and (3) further affirm the protection of these rights."*

Having shown the statutory or legal framework for protection of the right to freedom of thought, conscience and religion at the universal, regional and domestic levels, the next ensuing discussions will be limited to examination of constitutional guarantee of the right to freedom of thought, conscience and religion in Nigeria.

3. Judicial attitude towards the right to freedom of thought, conscience and religion

The right to freedom of thought, conscience and religion, guaranteed in *section 38* of the Constitution of the Federal Republic of Nigeria, 1999 as amended has variously been stamped with judicial approvals. In *Medical and Dental Practitioners Disciplinary Tribunal v Okonkwo*,[5] the apex Court considered the provisions of *section 38* of the 1999 Constitution and held that the right to freedom of thought, conscience or religion implies a right not to be prevented, without lawful justification, from choosing the course of one's life, fashioned on what one believes in, and a right

[5] (2001) LPELR-1856(SC). Pp. 45-46, paras. G-F) per Ayoola, JSC.

not to be coerced into acting contrary to one's religious belief. The limits of these freedoms, as in all cases, are where they impinge on the rights of others or where they put the welfare of society or public health in jeopardy. The sum total of the rights of privacy and of freedom of thought, conscience or religion which an individual has, put in a nutshell, is that an individual should be left alone to choose a course for his life, unless a clear and compelling overriding state interest justifies the contrary.

In *Agbakoba v A-G Federation & Ano*r,[6] it was held by the Court of Appeal that *section 38(1*) of CFRN, 1999 as amended guaranteed freedom of religion, and the freedom to manifest and propagate one's religion or belief in worship, teaching, practice and observance. This right implies that every individual citizen has full freedom of religion. No one can be subjected to any social, economic or political discrimination simply on grounds of religion. No one should be discriminated against in public employment on grounds of religion. These provisions underscore the secular state of the Nigerian nation. It was further held that the terms "religious freedom" and "religious liberty" is "for a person or group to have the freedom to hold different religious beliefs, to express those beliefs, to assemble with others at religious services, to proselytize freely, ... without little or no oppression or interference, and few restrictions"**.**

The right to freedom of thought, conscience and religion is a fundamental right" the breach of which is justiciable in a Court of law. A fundamental right is a right that stands above the ordinary laws of the land; it also includes any rights stipulated in the African Charter as held variously in *Lagos State Government & Ors v Abdulkareem & Ors (supra)* relying on *Chief Dr. (Mrs.) Olufunmilayo Ransome-Kuti & Ors v Attorney General of the Federation & Ors*[7] and *Fajemirokun v Commercial Bank Nig Limited & Anor*.[8] The Fundamental Rights (Enforcement Procedure) Rules, 2009 also contain such generous definition of fundamental rights. The right to freedom of thought, conscience and religion in *section 38* of the CFRN, 1999 as amended has always been construed and reinforced by the courts alongside prohibition of State religion in *section 10* of the Constitution of the Federal Republic of Nigeria, 1999 (as amended). For instance, in *Okafor & Ors v Ntoka & Ors*,[9] it was decided that by the provision of this section, 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. While the Government of the Federation or of a State shall not adopt any religion as a state religion, every person has a right to practice his religion in Nigeria.

In the controversial case of *Lagos State Government & Ors v Abdulkareem & Ors (supra),* the Supreme Court in a majority judgment considered the right to religious worship alongside the right to freedom from discrimination to arrive at the judgment that wearing of Hijab is a religious obligation. Government has responsibility to ensure that the rights of citizens are protected; any policy designed in flagrant violation of the right of a citizen is a clear violation of the Constitution and must be held to be so. Competent authorities or Government must justify derogation from the fundamental rights of citizens by showing facts suggesting that the act or policy complained of is reasonably justifiable in a democratic society. It must be shown that the derogation is in the interest of public safety, public order, public morality or public health, or that the policy or action is for

[6] (2021) LPELR-55906(CA) (Pp. 28-31 paras. F-F) per Otisi JCA.
[7] (1985) LPELR-2940(SC).
[8] (2009) LPELR- 1231 (SC).
[9] (2017) LPELR-42794(CA) (Pp. 27 paras. A). See also *Agbakoba v A-G Federation & Ano*r (2021) LPELR-55906(CA) on the secular state of the Nigerian nation.

the purpose of protecting the rights and freedom of other persons as required by *section 45(1)* (a) *and (b)* of the CFRN, 1999 as amended. In the instant appeal, the appellants failed to show any good cause. It was therefore held that Islam is the religion of the respondents and it is within their fundamental rights to wear Hijab and so doing does not in any way constitute danger to the safety or security of other persons. The right of the respondents is guaranteed and protected by s*ection 38* of the Constitution of the Federal Republic of Nigeria 1999 (as amended). Apart from the express provision of the *section 38* of the Constitution, *section 42(1) (a) and (b*) also clearly provides that 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 be subjected either expressly by or in the application of any law in force in Nigeria, or any executive or administrative action of government to disabilities or restrictions to which citizens of Nigeria or other communities, ethnic groups, places of origin, circumstances of birth, sex, religious or political opinions are not made subject, or 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, religious or political opinions.

Conclusively, from the provisions of *sections 38 and 42* of the Constitution of the Federal Republic of Nigeria 1999 (as amended), the policy of the appellants preventing the 1st and 2nd respondents from wearing head scarf (Hijab) was adjudged a flagrant violation of their right to freedom of thought, conscience and religion. It was held to be a clear misconception of the law by the trial Court as rightly found by the lower Court that "There is an obligation for every student enrolled in the school system to obey the regulations laid down by constituted authority." The regulations are in conflict with the provisions of the Constitution, and the Constitution of the Federal Republic of Nigeria 1999 (as amended) being the fundamental legal order of State is supreme, and shall prevail over any other law to the extent of the inconsistency.[10]

4. "No State Religion" and the "Secular State" misconception

It is apposite in this segment to clear the misconception about the provision on No State Religion and Secular State status of Nigeria. Nigeria is not a secular State although it is often misunderstood that the import or purport of *section 10* of the CFRN 1999 as amended as regards "State Religion" is that Nigeria is a secular State. *Section 10* of the CFRN, 1999 as amended provides that "The Government of the Federation or of a State shall not adopt any religion as State Religion." In the case of *Registered Trustees of Apostolic Church of Christ v Registered Trustees of Grace Church of Chris*,[11] the Supreme Court held that religion, under the Constitution, is not a business or purpose any Government in Nigeria should engage itself in since *section 10* of the CFRN, 1999 as amended provides clearly and unambiguously that the Government of the Federation or of a State shall not adopt any religion a State religion. It was further held that *section 10* of the CFRN, 1999 as amended is the outright proclamation of the non-spiritual or non-religious nature of our government and governance that must be, and is, civil, earthly, non-clerical, temporal and unsacred. Based on the facts of the case, the apex Court held that it is an act of great Constitutional profanity for a government, under the Constitution, to compulsorily acquire land for overriding public purpose or interest to allocate the same land for religious purpose or a place of worship.

[10] Per Abubakar, J.S.C, in *Lagos State Government & Ors v Abdulkareem & Ors* 2022) LPELR-58517(SC) (Pp. 96-101 paras. D). See also *First Bank of Nigeria PLC v T.S.A. Industries Limited* (2010) LPELR-1283 (SC) where this Court held as follows: "By virtue of the provision of *section 1(3)* of the 1999 Constitution, the doctrine of supremacy of the Constitution demands that if any law is inconsistent with the provision of the 1999 Constitution, the Constitution shall prevail and the other law shall to the extent of the inconsistency be void."

[11] (2021) LPELR-55340(SC) (Pp. 46-47 paras. E) per Eko, JSC.

The import or purport of *section 10* of the CFRN 1999 as amended as regards "State Religion" and the misconception that Nigeria is a secular State received detailed attention and admirable judicial clarification in *Aminu v A-G of Kano State & Anor*.[12] In that case, the Court of Appeal per Lamido, JCA held as follows:

> *The word secular or secularism is defined in the Oxford Dictionary as the principle of separation of the State from religious institutions, or a thing not connected with religious or spiritual matters. It is to be noted that the Constitution itself did not expressly state that Nigeria is a secular State. That was the reason Tobi, JSC (of blessed memory) in Law, Religious & Justice, Essays in Honour of Justice Obaseki at page 7 stated thus: "There is a great notion that section 11 of the 1989 Constitution (which is similar to section 10 of the 1999 Constitution) makes Nigeria a secular nation. That is not correct. 19 (2021) LPELR-55340(SC) (Pp. 46-47 paras. E) per Eko, JSC. 20 (2022) LPELR-58522(CA) (Pp. 20-22, paras. F-B).*
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> *The word secular etymologically means pertaining to things not spiritual, ecclesiastical or not concerned with religion. Secularism, the noun variant of the adjective secular means, the belief that state, morals, education etcetera should be independent of religion. What Section 11 is out to achieve is that Nigeria cannot, for example, adopt either Christianity or Islam as a State religion. But that is quite different from secularism."*
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> *The Constitutional provision relating to religion which guaranteed the right of every citizen to practice a religion of his or her choice in a multireligious and multi-cultural society as can be found in this country would appear to suggest that the opinion of Tobi, JSC are valid.*
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> *What the Constitution did is to prohibit the adoption of any religion as a State religion by either the Federal or State Governments; it only entrenches religious neutrality of the State and this cannot be termed secularism. While Nigeria is not a secular State, the national Constitution recognises the right to religion.*

It bothers repeating that what comes out clearly from the above decision is that Nigeria is not a secular State although the national Constitution recognises the right to religion. Hence, citizens are free to practice their religious beliefs but it is prohibited for the State or Federal Government to adopt any State religion.

5. Derogation of right to freedom of thought, conscience and religion

It is important to accentuate that while the right to freedom of thought, conscience and religious belief is a justiciable right, meaning that an aggrieved person can approach the court for redress in the event of actual, likely or threatened breach, infraction, or violation, it is however subject to certain lawful derogations. Thus, *section 45(1)* of the CFRN, 1999 as amended provides that

> *Nothing in sections 37, 38, 39, 40 and 41 of this Constitution shall invalidate any law that is reasonably justifiable in a democratic society (a) in the interest of defence, public safety, public order, public morality or public health; or (b) for the purpose of protecting the rights and freedom or other persons.*

In sum, this means that the right to religion is a qualified right, not an absolute right. The freedom to manifest a religion or belief can be limited, so long as that limitation is reasonably justified in a

[12] (2022) LPELR-58522(CA) (Pp. 20-22, paras. F-B).

democratic society under a law made in the in the interest of defence, public safety, public order, public morality or public health; or for the purpose of protecting the rights and freedom or other persons. This was the kernel of the decision of the Court of Appeal in *Anambra State Government & Ors v Asiegbu*[13] relying on the old but classical decision of the Supreme Court in O*sawe & Ors v Registrar of Trade Unions*.[14] It is significant to note that the right to freedom of religious worship is not to be derogated because of politics or election into political office under *section 45(1)* of the Constitution of the Federal Republic of Nigeria, 1999 (as amended). Recently, in *Eziegbo & Anor v ASCO Investment Ltd & Anor*,[15] it was reiterated by the Supreme Court that the rights guaranteed in the constitution are not absolute or sacrosanct, but rather qualified, as shown in the exceptions stipulated therein.

6. Does the right to freedom of thought, conscience and religion include the right to be irreligious or non-religious?

The critical question begging for answer is whether the right to religion includes the right to be irreligious, non-religious, impious or unbelieving? The International Religious Freedom or Belief Alliance, while expressing deep concern about the persecution of atheists, humanists, non-practicing and non-affiliated individuals for exercising their freedom of conscience, reiterated that *article 18* of the ICCPR, 1966 provides for the right of individuals to freedom of thought, conscience, religion, or belief, and as part of that right to hold non-religious beliefs. The said *article 18* protects theistic, non-theistic and atheistic beliefs, as well as the right not to profess any religion or belief. The terms 'belief' and 'religion' are to be broadly construed. The freedom to 'have or to adopt' a religion or belief necessarily entails the freedom to choose a religion or belief, including the right to replace one's current religion or belief with another or to adopt atheistic views.[16]

As a direct answer to the question whether the right to religion or belief under *section 38(4)* of the CFRN, 1999 as amended includes the right to be irreligious or no religion at all, it is answered in the positive with the rider that it does not entitle any person to form, take part in the activity or be a member of a secret society. In *section 318* of the "Secret society" is interpreted to include any society, association, group or body of persons (whether registered or not)-

(a) that uses secret signs, oaths, rites or symbols and which is formed to promote a cause, the purpose or part of the purpose of which is to foster the interest of its members and to aid one another under any circumstances without due regard to merit, fair play or justice to the detriment of the legitimate interest of those who are not members;

(b) the membership of which is incompatible with the function or dignity of any public office under this Constitution and whose members are sworn to observe oaths of secrecy; or

[13] (2022) LPELR-58483(CA)

[14] (1985) LPELR – 2792 (SC). In that case, Oputa, JSC, held among other things that one has to bear in mind that the rights guaranteed under sections 34, 35, 37 and 38 of the 1979 Constitution (which are similar to the provisions of *sections 37, 38, 39, 40 and 41* of the 1999 Constitution (as amended) are qualified rights. They are not absolute rights. They are subject to any law that is reasonably justifiable in a democratic society: (a) in the interest of defence, public safety, public order, public morality or public health or (b) for the purpose of protecting the rights and freedom of other people.

[15] (2022) LPELR-56864(SC).

[16] US department of State, "IRFBA Statement on the Non-Religious", available at https://www.state.gov/irfba-statement-on-the-non religious#:~:text=We%20reiterate%20that%20Article%2018,to%20hold%20non%2Dreligious%20beliefs. Last accessed 10/11/24.

(c) the activities of which are not known to the public at large, the names of whose members are kept secret and whose meetings and other activities are held in secret;

Thus, while any person can profess or practice any form of religious belief, membership of secret society is expressly outlawed for all public officers.[17]

It may therefore be asked, how is the right of the irreligious or non-religious being taken care of by the government in view of the fact that both the Nigerian Christian Pilgrim Commission created by Nigerian Christian Pilgrim Commission (Establishment) Act, 2007 and the National Hajj Commission of Nigeria established under the National Hajj Commission of Nigeria Act, 2006 all exist to take care of the religious needs of Christians and Muslims respectively? It is submitted that these Faith Based Government Agencies are discriminatory to the extent that there are no corresponding bodies for citizens that are not Muslims and Christians. It was held in *Medical and Dental Practitioners Disciplinary Board v Emewulu* [18] per Ayoola, JSC (now CJN) that the right to freedom of thought, conscience or religion implies a right not to be prevented, without lawful justification, from choosing the course of one's life, fashioned on what one believes in, and a right not to be coerced into acting contrary to one's religion's belief. The limits of these freedoms as in all cases are where they impinge on the rights of others or where they put the welfare of society or public health in jeopardy.

To establish these Commissions that do not accommodate other religious beliefs or no corresponding government organisations for the irreligious is discriminatory under *section 42* of the Constitution of the Federal Republic of Nigeria, 1999 as amended. *Section 17(2(a))* of the Constitution of the Federal Republic of Nigeria, 1999 as amended provides that "in furtherance of the social order every citizen shall have equality of rights, obligations and opportunities before the law".[19] Hence, it could be argued that FBGAs in Nigeria are inclusive in theory and sectarian in practice.

7. Why issues of religion should be de-emphasised in Nigeria

It is contended that the right to religion should be de-emphasised in Nigeria on the following grounds namely:

(a) Religion is neither a ground for qualification or disqualification from public office in Nigeria.[20] There is no State religion under *section 10* of the CFRN, 1999 as amended.

(b) Right to freedom of thought, conscience and religion is a private right. In addition, under *section 45* of the CFRN, 1999 as amended, the freedom to manifest a religion or belief can be limited, so long as that limitation is reasonably justified in a democratic society under a law made in the in the interest of defence, public safety, public order, public morality or public health; or for the purpose of protecting the rights and freedom or other persons. In sum, this means that the right

[17] *Section 66(1)(g)* of the Constitution of the Federal Republic of Nigeria, 1999 (as amended) provides that no person shall be qualified for election to the Senate or the House of Representatives if he is a member of a secret society. See similar provisions in *section 107(1)(g)* for State House of Assembly; *section 137(1)(h)* for President; *section 142(2)* for Vice- President by incorporation; *section 182(1)(h)* for Governor; and *section 187(1)(2)* to Deputy Governor by incorporation.

[18] (2001) 3 SCNJ 106 at 224.

[19] This is one of the planks upon which the Supreme Court upheld the right of the Muslim girl child to wear Hijab in school in the case of *Lagos State Government & Ors v Miss Asiyat Abdulkareem (Minor) & Ors* (2022) LPELR-58517(SC).

[20] For example, the qualifying and disqualifying conditions for President and Vice President are as provided in *sections 131 and 137* of the CFRN, 1999 as amended. The qualifying and disqualifying conditions for Governor and Deputy Governor are found in *sections 177 and 182* of CFRN, 1999 as amended.

to religion is a qualified right, not an absolute right. This was the kernel of the decision of the Court of Appeal in *Anambra State Government & Ors v Asiegbu*[21] relying on the old but classical decision of the Supreme Court in O*sawe & Ors v Registrar of Trade Unions*.[22] It is significant to note that the right to freedom of religious worship is not to be derogated because of politics or election into political office under *section 45(1)* of the Constitution of the Federal Republic of Nigeria, 1999 (as amended). Recently, in *Eziegbo & Anor v ASCO Investment Ltd & Anor*,[23] it was reiterated by the Supreme Court that the rights guaranteed in the constitution are not absolute or sacrosanct, but rather qualified, as shown in the exceptions stipulated therein.

(c) The right to freedom from discrimination guaranteed in *section 42 of the* Constitution of the Federal Republic of Nigeria, 1999 as amended provides that a citizen of Nigeria of a particular community, ethnic group, place of origin, sex, religion or political opinion shall not be discriminated against. The right to freedom from discrimination was upheld by the Supreme Court in *Lafia Local Government v Executive Governor of Nasarawa State & Ors*[24] wherein it was held that by the provisions of the *section 42* of the Constitution of the Federal Republic of Nigeria, 1999 (as amended), 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 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, religion or political opinions are not made subject; or 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. No citizen of Nigeria shall be subjected to any disability or deprivation merely by reason of the circumstances of his birth.

(d) National integration shall not be achieved at the expense of discrimination on account of religion as provided in *section 15* of the CFRN, 1999 as amended. While the provisions of *section 15(2), (3)(c) and (d)* of the Constitution impose a duty on the State (being the Federal Government) to use various measures to encourage national integration but not through discrimination on account of place of religion amongst others. In *NMCN v Adesina*[25] "discrimination" was interpreted as "Differential treatment; especially; a failure to treat all persons equally when no reasonable distinction can be found between those favoured and those not favoured."

(e) The Electoral Act, 2022 limits qualification or disqualification criteria for party aspirants and candidates only to those set out in the Constitution and criminalize political campaign based on religion or tribe.

(f) Sponsoring some individuals to Hajj and Pilgrimage at heavy expense from the public treasury has not reduced hunger and poverty in Nigeria. It has not also helped in tackling insecurity, insurgency, militancy, banditry and terrorism whether at the national or subnational levels.

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[21] (2022) LPELR-58483(CA)
[22] (1985) LPELR – 2792 (SC).
[23] (2022) LPELR-56864(SC).
[24] (2012) LPELR-20602(SC) (Pp. 55-56 paras. F) per Ariwoola, JSC. See also *Uzoukwu v Ezeonu ll* (1991) 6 NWLR (Pt. 200) 708; *Anzaku v Governor of Nasarawa State* (2005) ALL FWLR (Pt. 303) 308 at 339- 340 per Nzeako, JCA and *Oloja & Ors v Governor of Benue State* (2015) LPELR-24583(CA) and *SDP v Gana* (2019) LPELR-47177(CA).
[25] (2016) LPELR-40610(CA) (Pp. 22-23, paras. F-A).

8. Recommendations and Conclusion

The right to freedom of thought, conscience and religion is a fundamental and inalienable right but it should not be elevated to state policy contrary to the provisions of the Constitution outlawing state religion. Hunger, poverty, disease, insecurity have no religious or faith colouration, hence as a matter of compelling priority, resources of state should be channeled towards fighting poverty, hunger and diseases instead of maintaining religious bodies or agencies that arguably have outlived their usefulness or are not contributing meaningfully to national development. All these religious bodies should be scrapped so that issues of religion or faith will remain pure private rights and not excess baggage to be carried at the expense of the public.