



**INFRINGEMENT ON THE UNITED NATIONS
UNIVERSAL DECLARATION OF HUMAN RIGHTS
THROUGH RELIGIOUS VIOLENCE IN NIGERIA:
THE WAY FORWARD**

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Abstract

The recent news of the murder of Deborah Yakubu Samuel, a student of Shehu Shagari College of Education in Sokoto, Sokoto State, Nigeria came as a shock to the whole nation. She was burnt to death for blasphemy by an irate mob believed to be fellow students. This unfortunate incident necessitates the need to reiterate the sanctity of human life, the right to a fair hearing, and the upholding of the fundamental human rights as provided in the United Nations Universal Declaration of Human Rights and the Nigerian 1999 constitution. The question that begs an answer that is whether there are truly fundamental human rights in Nigeria. This article examines the provisions of the UN Universal Declaration of Human Rights with the Nigerian 1999 Constitution and the Criminal laws. After an extensive discussion of the above, the article observes that there are double standards in the administration of laws as it relates to people's rights in Nigeria. It concluded by recommending that total protection of human rights should be the priority of the government through the observance of the fundamental human rights as enshrined in the United Nations Declaration of Human Rights, African Charter on Human and People's Rights, and the 1999 Constitution.

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Introduction

A female student of Shehu Shagari College of Education, Sokoto, Nigeria identified as Deborah Yakubu Samuel was burnt to death for blasphemy on Thursday, May 12 2022 by an irate mob believed to be fellow students. Deborah was said to have been whisked to the school security outpost in the college for protection by some students. However, a mob overpowered the officials, killed the lady, and burnt her remains to ashes. In a video that surfaced online, one of her attackers admitted in the Hausa language that he lit the fire that burnt the student to death.¹ Yakubu, a member of the Evangelical Church Winning All (ECWA) in her native Tungan Magajiya town, Rijau County in Niger state, was falsely accused of blaspheming Muhammad by a Muslim whose advances she had refused, said David Ayuba Azzaman, senior pastor at The King Worship Chapel and Ministries, Incorporated. in Kaduna city.² The Sokoto State Police Command had on Monday, May 16 arraigned two suspects, Bilyaminu Aliyu and Aminu Hukunchi, before the Sokoto State Magistrate Court for allegedly participating in Deborah's killing. The suspects, who were represented by 34 Muslim lawyers led by Prof Mansur Ibrahim, were arraigned on controversial charges of "criminal conspiracy and inciting of public disturbance."³ The arraignment of the two for something less than an offence of murder has shown clearly the level of religious intolerance plaguing the country. This article is in six sections, the first section is the introduction, the second section discusses religion as a concept, the third section discusses the United Nations Universal Declaration of Human Rights, and the fourth section discusses African Charter on Human and People's Rights, the fifth section discusses the provision of the Nigeria 1999 Constitution on fundamental human rights, the sixth section discusses the current position of religious practice in Nigeria and the seventh section which is the final section is the conclusion and recommendation.

Religion as a Concept

¹'Christian Student Stoned to Death and set on Fire for Blasphemy'
<<https://www.youtube.com/watch?v=MQsEB8gTiSc>> accessed 19 May 2022

² 'Christian Student in Sokoto, Nigeria Stoned to Death'
<https://morningstarnews.org/2022/05/christian-student-in-sokoto-nigeria-stoned-to-death/>> accessed 19 May 2022

³'Deborah's Mother, Sibling Down With Sickness, Yet To Recover – Father of Slain Sokoto Student'
<<https://saharareporters.com/2022/05/21/deborah%E2%80%99s-mother-sibling-down-sickness-yet-recover-%E2%80%93-father-slain-sokoto-student>> accessed 21 May 2022.

Religion is one of the most prominent and wide-reaching social institutions, touching and shaping virtually every sphere of culture and society.⁴ According to Mariam Rawan Abdulla⁵, freedom of religion is often invoked to defend against human rights violations and to protest against the introduction of provisions providing for gender equality. She opines further that a large part of why "freedom of religion" is specified as a legal right is the sacredness with which religion or belief is considered to be held. Individual conscience, the freedom to believe and express that belief in public, is considered fundamental to the preservation of democracy.⁶ Rafał Prostack⁷ in describing religious freedom opines that religious freedom is understood as a set of rights related to human spirituality and activity undertaken in response to 'conscience calls' (manifestation of beliefs) like the whole concept of human rights, is a product of western civilisation. Kevin Schilbrack⁸ discussing the definition of religion uses two strategies which are: functional strategies and substantive strategies. On functional strategies, he opines as follows:

On the one hand, functionalist strategies seek to define certain beliefs, practices, institutions, and communities as religious in terms of what such phenomena do for the participants. These functional or, as I will also call them, pragmatic definitions of religion identify cultural phenomena as religious when they address a certain problem or need that is defined as distinctive of religious phenomena. On functionalist-pragmatist approaches, religion is, for example, what unifies a people, integrates an individual's conscious will and unconscious drives, or guides in the quest for life's meaning. The best-known and most popular functionalist definition of religion is that of Emile Durkheim and his followers, who identify beliefs and practices as religious when they unite those who adhere to them into a single community. On this account, the focus of a religion can be God, but it can also be one's nation or a sense of team spirit, whatever generates the sentiments that integrate a collective. When some concern brings people together and unites them

⁴ Christopher D. Ives and Jeremy Kidwell, 'Religion and Social Value for Sustainability' (2019) 14 *Sustainability Science* 1355–1362 <https://doi.org/10.1007/s11625-019-00657-0>

⁵ Mariam Rawan Abdulla, 'Culture, Religion, and Freedom of Religion or Belief' (2018)(16)4 *The Review of Faith & International Affairs* 102-115 102 DOI: 10.1080/15570274.2018.1535033

⁶ Trigg, Roger. "Freedom, Toleration, and the Naturalness of Religion" In 'Religion, Intolerance, and Conflict: A Scientific and Conceptual Investigation' edited by Steve Clarke, Russell Powell, and Julian Savulescu, (2013 Oxford: Oxford University Press) 163–179, 164

⁷ Rafał Prostack, '(Non)Religious Freedom: A Critical Perspective on the Contemporary Understanding of Freedom of Conscience and Religion' (2021) 71 *Politeja* 183-202, 184

⁸Kevin Schilbrack, 'What Isn't Religion?' (2013) (93) 3 *The Journal of Religion* 291-318, 293-294

as a moral community, the beliefs and practices related to that function would be religious, according to this strategy. The required marker of religion here is that the phenomena in question address that specific problem or need.⁹

On substantive strategy, he opines as follows:

On the other hand, substantive strategies seek to define certain beliefs, practices, institutions, and communities as religious in terms of their focal object. These substantive or ontological definitions of religion identify cultural phenomena as religious when they refer to certain content or reality that is defined as distinctive of religious phenomena. On substantive-ontological approaches, religion is an engagement with supernatural, spiritual, or superhuman realities. The best-known and most popular substantive definition of religion is that of Edward Tylor and his followers, who identify beliefs and practices as religious when they involve spiritual beings.¹⁰

Piotr Siuda¹¹ believes that religion is recognised as a social-cultural system of designated behaviours and practices, morals, beliefs, world views, texts, ethics, organisations, and other elements that relate to the supernatural, transcendental, spiritual, and sacred. David Harrington Watt¹² is of the view that to many scholars in religious studies, it seems clear that the concept of religion, refers to an amalgamation of institutions, relationships, and practices that are grouped not by the dictates of nature or logic but rather by a set of historical accidents. Robert Audi¹³ in discussing religion and democracy advocates that liberty and equality principles should be adopted by the government in treating all religions:

The multitude of relevant considerations supporting either the liberty principle or, especially, the equality principle cannot be considered here, but in my view, both democracy and religion are better served if the liberty principle is integrated with an equality principle to the effect that (other things equal) government should treat different religions equally. Other things are not equal if a religion practices human sacrifice or violates basic human rights. These rights prominently include not only

⁹ *Ibid.*

¹⁰ *Ibid.*

¹¹ Piotr Siuda, 'Mapping Digital Religion: Exploring the Need for New Typologies' (2021) 12 *Religions* 373. . <https://doi.org/10.3390/rel12060373>

¹² David Harrington Watt, 'Losing Our Religion' (2009) (41)3 *Religion & Literature* 119-126, 120.

¹³ Robert Audi, 'Religion & Democracy: Interactions, tensions, Possibilities' (2020) (149)3 *Daedalus* 5-24, 9.

protection from bodily injury but also liberty rights. This is an indication that the liberty principle is a constraint on the application of the equality principle, as the latter principle may be on the former.

James R. Lewis and Lorne L. Dawson¹⁴ in discussing the relationship between religion and violence opine that in the end religion and violence are often seen together, but it remains unclear whether they are close friends sharing a journey or just chance companions brought together by circumstance.

Universal Declaration of Human Rights

The Universal Declaration of Human Rights was proclaimed by the United Nations General Assembly in Paris on 10 December 1948 through General Assembly resolution 217A as a common standard of achievements for all peoples and all nations.¹⁵ It sets out, for the first time, for fundamental human rights to be universally protected.¹⁶ These rights are recognised all over the world. This UN document has thirty sections (articles). The relevant provisions of the Declaration are discussed below:

Article 1 recognises equality when it provides that all human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood.

Article 2 of the instruments provides that:

Everyone is entitled to all the rights and freedoms outlined in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinions, national or social origin, property, birth, or other status. Furthermore, no distinction shall be made based on the political, jurisdictional, or international status of the country or territory to which a person belongs, whether it

¹⁴James R. Lewis and Lorne L. Dawson 'Introduction: Religion and Terrorism' (2018) (65)2-3 *Numen* 117-124, 122.

¹⁵ United Nations, 'Universal Declaration of Human Rights, History of the Declaration' <<https://www.un.org/en/about-us/udhr/history-of-the-declaration>> accessed 6 April 2022.

¹⁶ The preamble of the *United Nations Universal Declaration of Human Rights* states that:

The General Assembly, Proclaims this Universal Declaration of Human Rights as a common standard of achievement for all peoples and all nations, to the end that every individual and every organ of society, keeping this Declaration constantly in mind, shall strive by teaching and education to promote respect for these rights and freedoms and by progressive measures, national and international, to secure their universal and effective recognition and observance, both among the peoples of Member States themselves and among the peoples of territories under their jurisdiction.

be independent, trust, non-self-governing, or under any other limitation of sovereignty.

Article 3 provides that everyone has the right to life, liberty, and the security of person while

Article 4 provides that no one shall be held in slavery or servitude and that slavery and the slave trade shall be prohibited in all their forms.

Article 5 provides that no one shall be subjected to torture or cruel, inhuman, or degrading treatment or punishment and Article 6 provides that everyone has the right to recognition everywhere as a person before the law.

Article 7 in reiterating equality before the law provides that all are equal before the law and are entitled without any discrimination to equal protection of the law. All are entitled to equal protection against any discrimination in violation of the UN Declaration and any incitement to such discrimination.

Article 8 provides that everyone has the right to an effective remedy by the competent national tribunals for acts violating the fundamental rights granted him by the constitution or by law and

Article 9 provides that no one shall be subjected to arbitrary arrest, detention, or exile. On equal and fair hearing, Article 10 provides that everyone is entitled in full equality to a fair and public hearing by an independent and impartial tribunal, in the determination of his rights and obligations and any criminal charge against him.

On the presumption of innocence, Article 11 provides that everyone charged with a penal offence has the right to be presumed innocent until proved guilty according to the law in a public trial at which he has had all the guarantees necessary for his defence. It provides further that no one shall be held guilty of any penal offence on account of any act or omission which did not constitute a penal offence, under national or international law, at the time when it was committed nor shall a heavier penalty be imposed than the one that was applicable at the time the penal offence was committed. Articles 12 and 13 provide for the right to privacy and freedom of movement

respectively.¹⁷ the Declaration gives everyone the right to seek asylum from persecution in other countries.¹⁸

Article 18 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.”

On the freedom of expression, Article 19 provides that everyone has the right to freedom of opinion and expression and that this right includes the freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers. On freedom of association, Article 20 provides that everyone has the right to freedom of peaceful assembly and association and that no one may be compelled to belong to an association. Article 28 provides that everyone is entitled to a social and international order in which the rights and freedoms outlined in the declaration can be realised.

The final section of the Declaration which is Article 30 provides that nothing in the Declaration may be interpreted as implying for any State, group, or person any right to engage in any activity or to perform any act aimed at the destruction of any of the rights and freedoms outlined in the Declaration.

Though, the Declaration is not, in itself, a legally binding instrument. However, it contains a series of principles and rights that are based on human rights standards enshrined in other international instruments that are legally binding such as the International Covenant on Civil and Political Rights¹⁹ and the International Covenant on Economic, Social, and Cultural Rights.²⁰

The provisions of the above instrument had been codified in the Nigerian 1999 Constitution.

¹⁷ On the right to privacy, Article 12 provides that no one shall be subjected to arbitrary interference with his privacy, family, home, or correspondence, nor to attacks upon his honour and reputation. It reiterates that everyone has the right to the protection of the law against such interference or attacks. Also, on the freedom of movement, Article 13 provides that everyone has the right to freedom of movement and residence within the borders of each State and everyone has the right to leave any country, including his own, and to return to his country.

¹⁸ Article 14 provides that everyone has the right to seek and enjoy in other countries asylum from persecution and this right may not be invoked in the case of prosecutions genuinely arising from non-political crimes or acts contrary to the purposes and principles of the United Nations.

¹⁹ International Covenant on Civil and Political Rights. Adopted by the General Assembly of the United Nations on 19 December 1966.

²⁰ International Covenant on Economic, Social, and Cultural Rights which entered into force on 3 January 1976.

African Charter on Human and People's Rights

The African Charter on Human and People's Rights was adopted on 27 June 1981 and came into force on 21 October 1986. The Charter is the brainchild of the Organisation of African Unity (OAU) which is now known as the African Union (AU)²¹

The Charter has three parts and 68 sections (known as Articles). The most relevant sections to this work are under Part 1 (Rights and Duties) which consists of Articles 1 to 26.

Article 2 provides that: "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, colour, sex, language, religion, political or any other opinion, national and social origin, fortune, birth or other status."

Article 3 provides that every individual shall be equal before the law and every individual shall be entitled to equal protection of the law. Article 4 provides that every human being shall be entitled to respect for his life and the integrity of his person.²² Article 6 provides for rights to personal liberty and Article 7 provides for the right to a fair trial.

Article 8 specifically provides for the right to practice religion. It provides 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".

All these provisions had been codified in the Nigerian 1999 Constitution.

Fundamental Human Rights in Nigeria

The 1999 Constitution of the Federal Republic of Nigeria is the *grundnorm* that provides for fundamental human rights. Section 39(1) provides that 'every person shall be entitled to freedom of expression, including the freedom to hold opinions and to receive and impart ideas and information without interference', Section 40 guarantees that 'every person shall be entitled to assemble freely and associate with other persons'²³

²¹ The African Union (AU) is a continental body consisting of the 55 member states that make up the countries of the African Continent. It was officially launched in 2002 as a successor to the Organisation of African Unity (OAU, 1963-1999).

²² The Article 4 full provision states that "Human beings are inviolable. Every human being shall be entitled to respect for his life and the integrity of his person. No one may be arbitrarily deprived of this right."

²³ The term "grundnorm" is commonly used to describe a country's constitution which simply means that the constitution is the basic and the highest law of the land and no law must be contrary to its provisions. It is a German

These are the provisions that give the citizens of Nigeria the constitutional right to engage in religious propagation within the shores of Nigeria; to associate and hold opinions or to impart ideas without any hindrance.

The Constitution provides under section 10 that “the Government of the Federation or a State shall not adopt any religion as State Religion.” Section 38(1) of the Constitution provides that:

Every person shall be entitled to freedom of thought, conscience, and religion, including the 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 provision is the law that specifically provides for the freedom of persons to practise their religion. This provision further provided that no person should be forced against his will to practise any religion.²⁴ The law also allows a religious community or denomination to provide religious instruction for pupils of that community.²⁵ This freedom of religion does not include joining a secret cult.²⁶

The 1999 Constitution also provides for the right from discrimination in section 42(1) to (3). This right includes the right against discrimination on the ground of religion.

Section 42(1) provides that:

word and a concept in the Pure Theory of Law created by Hans Kelsen, a jurist, and legal philosopher. Kelsen used this word to denote the basic norm, order, or rule that forms an underlying basis for a legal system.

Section 1(1) to (3) of the Constitution provides that:

(1) This Constitution is supreme and its provisions shall have binding force on the authorities and persons throughout the Federal Republic of Nigeria.

(2) The Federal Republic of Nigeria shall not be governed, nor shall any persons or group of persons take control of the Government of Nigeria or any part thereof, except by the provisions of this Constitution.

(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.

²⁴ Section 38(2) further provided that:

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.

²⁵ Section 38(3) provides that: “No religious community or denomination shall be prevented from providing religious instruction for pupils of that community nor denomination in any place of education maintained wholly by that community or denomination.”

²⁶ This can be seen in section 38(4) which provides that: "Nothing in this section shall entitle any person to form, take part in the activity or be a member of a secret society."

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, religion 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 citizens of Nigeria of other communities, ethnic groups, places of origin, sex, religious or political opinions.

Section 42(2) further provides that no citizen of Nigeria shall be subjected to any disability or deprivation merely because of the circumstances of his birth. The “circumstance of his birth” can be interpreted as circumstances of birth to a religious group.

Section 42(3) provides that the provision in section 42(1) shall not render invalid, any law that restricts the appointment of any person to any office under the State or as a member of the armed forces of the Federation or a member of the Nigeria Police Force or to an office in the service of a body corporate established directly by any law in force in Nigeria.

Section 45(1) to (3) of the 1999 Constitution provides for a situation under which infringement of these fundamental human rights may be justified. It provides as follows:

- (1). 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. to protect the rights and freedom of other persons.²⁷

²⁷ Section 37 provides that "The privacy of citizens, their homes, correspondence, telephone conversations, and telegraphic communications is hereby guaranteed and protected." Section 38 provides for freedom of religion, freedom of opinion, thought, and conscience. Section 39 provides for freedom of expression, and freedom of the press. Section 40 provides that:

Every person shall be entitled to assemble freely and associate with other persons, and in particular, he may form or belong to any political party, trade union, or any other association for the protection of his interests: Provided that the provisions of this section shall not derogate from the powers conferred by this Constitution on the Independent National Electoral Commission concerning political parties to which that Commission does not accord recognition.

Section 45(2) further provides that:

An act of the National Assembly shall not be invalidated by reason only that it provides for the taking, during periods of emergency, of measures that derogate from the provisions of section 33 or 35 of this Constitution; but no such measures shall be taken in pursuance of any such act during any period of emergency save to the extent that those measures are reasonably justifiable to deal with the situation that exists during that period of emergency: Provided that nothing in this section shall authorise any derogation from the provisions of section 33 of this Constitution except in respect of death resulting from acts of war or authorise any derogation from the provisions of section 36(8) of this Constitution.²⁸

Section 45(3) defines a “period of emergency” as follows:

In this section, a "period of emergency" means any period during which there is in force a Proclamation of a state of emergency declared by the President in the exercise of the powers conferred on him under section 305²⁹ of this Constitution.

The Constitution provides that any person who alleges that any of the provisions of the fundamental human rights has been, is being, or likely to be contravened in any state concerning him may apply to a High Court in that state to seek redress.³⁰

²⁸ Section 33 provides for the right to life. Section 35 provides for protection from unjustified restraint.

Section 33 provides that:

(1) Every person has a right to life, and no one shall be deprived intentionally of his life, save in execution of the sentence of a court in respect of a criminal offence of which he has been found guilty in Nigeria.

(2) A person shall not be regarded as having been deprived of his life in contravention of this section, if he dies as a result of the use, to such extent and in such circumstances as are permitted by law, of such force as is reasonably necessary

- a. for the defence of any person from unlawful violence or for the defence of property;
- b. to effect a lawful arrest or to prevent the escape of a person lawfully detained; or
- c. to suppress a riot, insurrection, or mutiny.

Section 36(8) provides that “No person shall be held to be guilty of a criminal offence on account of any act or omission that did not, at the time it took place, constitute such an offence, and no penalty shall be imposed for any criminal offence heavier than the penalty in force at the time the offence was committed.”

²⁹ Section 305 provides for emergency provisions.

³⁰ Section 46 1999 Constitution of the Federal Republic of Nigeria.

From the above, it is clear that the provisions of the 1999 Constitution made adequate provisions for the protection of the Nigerian citizen from the injustice that may arise as a result of a breach of fundamental human rights. What then went wrong?

Current Position of Religious Practice in Nigeria

This section discusses the current position of the law relating to religious practice in Nigeria. It discusses the present situation of the laws and what is wrong with them.

State Religion adoption in Northern Nigeria

The Constitution provides under section 10 that “the Government of the Federation or a State shall not adopt any religion as State Religion.” The objectives of the statutes on freedom of religion are to guarantee individual and group freedom to hold and practise their belief and to secure that freedom by preventing the forceful conversion of individuals and groups into dominant beliefs.³¹ By creating a different legal system in the northern part of Nigeria, the state has adopted a religion that is contrary to section 10 of the 1999 Constitution and the 1948 United Nations Universal Declaration of Human Rights.

Also, with the adoption of Sharia law in the northern part of Nigeria, there is an absence of national integration as provided for under section 15 of the 1999 constitution. Section 15(1) and (2) provides that “the motto of the Federal Republic of Nigeria shall be Unity and Faith, Peace and Progress. Accordingly, 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”.

Separate Criminal Codes for the South and the North

The issue of separate criminal laws for the northern part of Nigeria is a clear indication that there is no freedom to practice religion in Nigeria. The northern states are governed by the Penal Code Act³² while southern Nigeria is governed by the Criminal Code Act³³ section 1A of the Criminal

³¹ Through jihad, Muslim leaders forcefully converted most of the Northern part of Nigeria to Muslims and created a legal system known as sharia law rooted in the tenets of the Islamic Religion the Arabic term jihad means a “struggle” or “striving.”

³² Cap P3 Laws of the Federation of Nigeria 2004. The full description of the law is “Penal Code (Northern States) Federal Provisions Act” the preamble describes the law as “An Act to supplement the Penal Code of the Northern States in respect of matters within the exclusive legislative competence of the National Assembly, and for purposes ancillary thereto.”

³³ Cap C38 Laws of the Federation of Nigeria 2004.

Code Act makes the Act subject to the Penal Code Act when it provides that “The provisions of this Act shall take effect subject to the provisions of the Penal Code (Northern States) Federal Provisions Act.”

The Penal Code (Northern States) Federal Provisions Act³⁴ in section 6 repealed the Criminal Code Act when it provides that:

The Criminal Code Act, in so far as it has effect as if it were a law enacted by the
The legislature of the Federation and as it applies in the Northern States is repealed:
Provided that such repeal shall not, in respect of proceedings taken outside the
the Northern States, affect the operation of the Criminal Code solely because some
element or elements of the offence are alleged to have occurred within the Northern
States.

By the above provisions of the Penal Code Act, the Criminal Code Act is restricted to Southern Nigeria. In examining the provision of section 2(1) of the 1999 Constitution, it provides that "Nigeria shall be one indivisible and Indissoluble Sovereign State to be known by the name of the Federal Republic of Nigeria." There is no doubt that the country is divided as it is unthinkable for a sovereign state to run a federal law in the south separate from the federal law in the north on the same subject matter.

Inclusion of Blasphemy in the Criminal and Penal Code

The Criminal Code and Penal Code provide for sanctions for blasphemy. Though the laws did not specifically mention blasphemy the provisions of the laws show that the offence and punishment being referred to is blasphemy. Blasphemy has been described as the act of insulting or showing contempt or lack of reverence for God, the act of claiming the attributes of a deity.³⁵

The Criminal Code Act³⁶ provides under section 204 that any person who does an act which any class of persons considers as a public insult to their religion, with the intention that they should consider the act such an insult, and any person who does an unlawful act with the knowledge that

³⁴ Cap P3 Laws of the Federation of Nigeria 2004.

³⁵< <https://www.merriam-webster.com/dictionary/blasphemy>> accessed 3 June 2022.

³⁶ Criminal Code Act Cap C38 Laws of the Federation of Nigeria 2004.

any class of persons will consider it such an insult, is guilty of a misdemeanour and is liable to imprisonment for two years.

Section 210 of the Penal Code provides that:

Whoever by any means publicly insults or seeks to incite contempt of any religion in such a manner as to be likely to lead to a breach of the peace shall be punished with imprisonment for a term which may extend to two years or with a fine or with both.

With the above provisions, one wonders why the laws on blasphemy in Northern Nigeria are different in wording from that of Southern Nigeria. While the Criminal Code of southern Nigeria does not carry the option of a fine, the Northern Penal Code gave an option of a fine.

Conclusion

Creating a state religion is an invitation to anarchy; the country should not have allowed any state to adopt any religious law where all citizens are not of the same religion and belief. Adopting state religion by the northern states is a flagrant breach of the United Nations Declaration of Human Rights, and that of the Nigerian 1999 Constitution. The only way to resolve this issue is for the federal government to proclaim and repeal all adopted state religious laws.

Nigeria should operate a uniform criminal code devoid of any religious flavour, there is no reason for running separate criminal laws in a sovereign state like Nigeria. All citizens are equal before the law and they are entitled to the same rights as enshrined in the laws.

Any religious practice that encourages the killing of human beings must be met with strong opposition by the government. Only the court has the power to determine the guilt or otherwise of an accused person for blasphemy and when found guilty the maximum punishment is two years imprisonment with an option of a fine or both imprisonment and fine. There is nowhere in the Penal Code where the death sentence is made the punishment for blasphemy.

The blasphemy laws are instruments of abuse of human rights, including the rights to life, freedom of religion or belief, and freedom of expression. Blasphemy laws are provided for in the Criminal Code Act for the South and the Penal Code Act for the North. It is also ironic that these laws are rarely invoked, except in the Muslim-dominated states of Northern Nigeria. Blasphemy laws breach the provisions of the United Nations Universal Declaration of Human Rights 1948, and the

1999 Constitution of the Federal Government of Nigeria. These laws should be expunged from Nigerian criminal law.

The murder of Deborah shows clearly that there is religious intolerance in Nigeria, and there should be policies put in place by the government to curb this ugly trend. The government should ensure that the killers of Deborah are tried and punished for the murder they committed just as the Supreme Court of Nigeria in the case of *Abubakar Dan Shalla v The State*³⁷ upheld the death by hanging judgment passed on Musa Yaro, Abubakar Dan Shalla, and others, for the brutal murder of one Alhaji Abdullahi Umaru of Randali village in Kebbi, for allegedly blaspheming against Prophet Mohammed. The Appellant had earlier been found guilty of murder and sentenced to death by the High Court in Kebbi and an Appeal Court, before the judgment was finally affirmed by the Supreme Court.

In dismissing the appeal and affirming the death sentence on the Appellant, Oguntade JSC as he then was, stated thus:

I have given a very careful consideration to the two issues raised by the appellant in this appeal. Both must be decided against the appellant. The evidence against the appellant by prosecution witnesses was neither challenged nor contradicted. More than that is the admission in Exhibits G and G1 by the appellant that he actually slit the throat of the deceased. In any case, even on the assumption (although without any proof) that the deceased had in some way done anything or uttered any word which was considered insulting to the Holy Prophet Mohammed, was it open to the appellant and others with him to constitute themselves into a court of law and pronounce a death sentence on another citizen? Plainly, this was jungle justice at its most primitive and callous level. The facts of this case are rather chilling and leave one wondering why the appellant and the others with him committed this most barbaric act. It cannot escape notice that the victim of this reckless and irresponsible behaviour is another Moslem, an Alhaji. I am greatly pained by the occurrence. In the final conclusion, this appeal fails. It is dismissed. I affirm the judgment of the two courts below.

³⁷ (2007) 7-10 SC. 107.



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The murder of Deborah was unfounded and in using the words of the learned Justice of the Supreme Court, the murder was clearly a jungle justice at its most primitive and callous level.