

Vol. 3, No. 1, January 2015

ISSN: 2338-8617

*Jurnal Ilmiah*  
**PEURADEUN**  
*Media Kajian Ilmiah Sosial, Politik, Hukum, Agama dan Budaya*



**THE ROLE OF CROSS-CULTURAL COMMUNICATION COMPETENCE:  
EFFECTIVE TRANSFORMATIONAL LEADERSHIP ACROSS CULTURES**

*Elena Lvina*

**EARLY FEMINIST CONSCIOUSNESS AND IDEA AMONG MUSLIM  
WOMEN IN 1920s INDONESIA**

*Farid Muttaqin*

**RELIGION, CHURCH, INTIMATE CITIZENSHIP AND GENDER EQUALITY  
(An Analysis of Differences in Gender Equality Policies in  
European Catholic Countries)**

*Mieke Verloo*

**EPISTEMOLOGI ISLAM DAN REFORMASI WAWASAN PENDIDIKAN**

*Kamrani Buseri*

**DIRECTION OF MORAL EDUCATION TEACHER TO ENRICH  
CHARACTER EDUCATION**

*Mohd Zailani Mohd Yusoff & Aswati Hamzah*

**ART AND ENTERTAINMENT IN ISLAM**

*Misri A. Muchsin*

**JIP**  
International Multidisciplinary Journal  
OA.JI: 745/1396982282-2014/R-6.465  
ORCHID iDs: 0000-0001-8492-315X

Thomson Reuters: RID-F-6135-2014  
ISI Impact Factor Value 2014 ICR: 0.479  
Copernicus ICV 2013: 4.05  
Google Scholar Index-h:3, i10: 3

 Copernicus Publications  
The Innovative Open Access Publisher



**SCAD Independent**  
IAO Accreditation  
4-8362/387/IAO/2014



## RELIGION, HUMAN RIGHTS AND THE CHALLENGES OF FREEDOM

Rhoda Asikia Ige Nee Karibi<sup>1</sup>

### Abstract

*All over the world, Religion holds a primal place. Every man is said to believe in a 'god'. Ordinarily there should be no feud in matter of religion, because religion is a personal decision. However, in recent times religion has become an issue and many crimes are committed on the basis of faith. In the 21<sup>st</sup> century with the promotion of human rights, this ought not to be so. We must note that religion has always been a thorny issue, not with the Christian crusades and the Islamic Jihads. We believe times have changed and each individual should be able to practice his faith without necessarily the follow his fellow. With this at the back of our mind we seek to examine religion, human rights and the challenge of freedom by offering some proposals towards religious harmony in the 21<sup>st</sup> century.*

### مستخلص

في جميع أنحاء العالم، الدين يحتل مكانا البدائية. وقال كل رجل الى الاعتقاد في "الله". عادة يجب أن يكون هناك عداء في أمور الدين، لأن الدين هو قرار شخصي. ومع ذلك، في الآونة الأخيرة أصبح الدين قضية وملتمون العديد من الجرائم على أساس من الإيمان. في القرن الـ2 مع تعزيز حقوق الإنسان، وهذا لا ينبغي أن تكون كذلك. يجب أن نلاحظ أن الدين كان دائما مسألة شائكة، وليس مع الحروب الصليبية المسيحية والإسلامية الجهادية. ونحن نعتقد أن الزمن قد تغير ويجب أن يكون كل فرد قادرا على ممارسة

<sup>1</sup> Lecturer, Department of Jurisprudence & International Law University of Lagos Nigeria and Doctoral Candidate Keele University, Keele United Kingdom. Teaching International Human Rights Law and International Law of the Sea to Law Undergraduates. Solicitor and Advocate of the Supreme Court of Nigeria. Email: rige@unilag.edu.ng/asikiaige@gmail.com.

إيمانه دون بالضرورة اتباع زملائه. مع هذا في الجزء الخلفي من عقولنا نحن نسعى لدراسة الدين، وحقوق الإنسان وتحد من حرية من خلال تقديم بعض المقترحات نحو الوثام الديني في القرآن

**Keywords:** *Religion, Human Rights, Challenges, Freedom*

## A. Introduction

Up until the early 1990s there was a clear disparity between the growing significance of religion on the world stage and the literature one could read on this score in either scholarly or popular publications.

Historian Scott Applesby states candidly that “Western myopia on the subject of religious power has been astounding” for a long time scholars predicted that as religions were assumed to be carriers of “tradition” they would enter into decline because of secularization and privatization. Because use of these blinkers or blinders, scholars and observers missed the religious roots of the Civil Rights Movement in the United States and misread the surge of the Iranian revolution (Hackett, 2005: 76).

This paper seeks to contribute to the debate by arguing that implementation of Human rights principles at the international, national and individual levels will tackle the war of religion. Furthermore the key to peaceful co-existence in the global world rests on religious tolerance at all levels of human interaction.

In setting out this vision section A of the paper examines the idea of religion, section B states a brief history of the rights discourse. Section C discusses the concept of religion vis-à-vis rights. Section D examines religion and the challenge of freedom. Section E proffers solutions on how to achieve religious harmony in the 21<sup>st</sup> century.

## B. The Idea of Religion

The concept of “religion” connotes a belief in a supreme being and his worship through a specified ritual. Religion is based on a moralistic outlook or way of life. In its doctrinal perspective, it may be defined as a system of general truths which has the effect of transforming characters when they are sincerely held and vividly apprehended.

There are more earthy explanations of religion, though Karl Max described it as the opium of the masses, the implication being that it makes people insensitive to the pressing problems of survival. Another view is that religion is “merely an instrument to contain man’s primordial fears- fear of the present, fear of the future, fear of life and death (Akin Ibidapo-Obe 2005:143). The connection between religion and human rights arises as a problem globally because of diversity of homosapiens.

Religion is often viewed today as having a negative role in world politics, particularly in cases where a religious revival is perceived to be taking place. After decades during which religion seemed to be largely and effectively relegated to the private realm, religious activists are staking out a new claim for religion as a central feature of public life. The wish to restore religion to what is considered its rightful place at the heart of society is the most notable common denominator of today’s religious fundamentalist movements. In order to achieve their aim, members of such movements may employ several tactics, including violent ones. They justify their use of violence by reason, often referring to a perception that we are not living in normal times, and that exceptional circumstances ask for exceptional measures. As a result, an unusual alliance has been forged in many cases between religion and politics.

The emergence of certain interest groups that do not shun violence and seem to be inspired by a particular religious ideology has tempted many observers, notably in the West, to assume an intrinsic connection between religion and violence. Hence, it is common today to consider religion as a source of conflict rather than a resource for peace. The logical conclusion then is to try and reduce the influence of the religious factor in the political arena. Typically in such a view, religion is deemed to be a private affair, something between individual beliefs and their god(s), a relation that should not spill over into the public domain. Whereas religion is expected to limit itself exclusively to regulating human relations between the visible and invisible worlds, it is politics, on the other hand, which is deemed solely responsible for regulating their relations with the state that they live in. The formal separation between the fields of religion and politics has been the hallmark of Western democracies for centuries and was introduced to other parts of the world, notably those which were colonized by Europe, and by extension, countries

that were long under the influence of Western Europe and North-America. The worldwide resurgence of religion is increasingly seen as challenging the basis of secular state.

Many commentators, at least in the West, have lamented the fact that religion is reassuming a public role, bringing together again two fields of operation that in the Western tradition of the enlightenment have long be kept apart.

Due to recent conflicts in which religion also played a role, and notably after the events of September 2001, religion is often associated in the West with violence. The question is, however, are we simply dealing here with religious conflict, as is so often suggested, or has religion become a suitable instrument for political mobilization, providing a resource that-like any other- can be effectively exploited for rather mundane purposes.

For anybody to answer that question, it is of vital importance to analyze the role of religion in society, and to do so from a historical perspective. This is important, first to be able to understand today's world better, and second, in order to analyze the specific properties, and therefore the potential of religion (Haar 2005:303-306).

### **C. The Human Rights Discourse**

The Atrocities and Depravities of the Second World War underlined the need to take international action to protect and promote Human Rights. They were no longer to be consigned to the domestic jurisdiction of states. The UN charter aptly contained in its preamble and in a few substantive provisions references to human rights. The few references were so tense that the first assignment given to the UN commission when it was constituted in 1946 was to elaborate on those provisions. These encouraged studies on different aspects and the issue of cultural relativism reared up its head. Could these be common standard for all or are standards related to the culture, traditions and circumstance of each people. The universality approach won the day and human rights standards are now for all people despite their cultural background. The inevitable differences among people compel the admission of peculiarities and specificities in human rights even in the context of universality, (Umozurike, 2001:1). The Universal Declaration of Human Rights prepared by the UN commission on Human Rights became an embodiment of the standards

of human rights, an achievement for some but an aspiration for others. It became the bottom line for elaborating different aspects of human rights.

Human Rights are said to be inherent in man, arising from the very nature of man as a social animal (Ajomo, 1989:1). Dowric viewed Human Rights as *those claims made by men, for themselves or on behalf of other men, supported by some theory which concentrates on the humanity of man, or man as a human being, member of human kind. These include claims, demands or aspirations of human being to attain a better life irrespective of their colour, race, religion and status* (Ibrahim 2003:11-12).

Obaseki J.S.C. (as he then was) described Human Rights as *rights of men which should be legally recognized and protected to secure for each individual the fullest and freest development of personality and spiritual, moral, unobstructed independent life* (supra).

According to Kofi Annan, the UN secretary-General *Human rights are what make us human. They are the principles by which we create the sacred home for human dignity.*

Man has successfully struggled for and has gotten human rights on the understanding of them being entrenched into their constitutions and the political traditions of their respective societies (Ajomo, 1989: 42). The development of human rights at both national and international levels has resulted in a modern concept of human right quite different from the philosophy of natural law of the past 16<sup>th</sup> and 17<sup>th</sup> century.

The conceptual forerunners to what are now described as human rights were referred to as natural rights. The concept of natural rights was first developed by the stoics (Roman philosophers) and were regarded as having universal application (although it needs to be pointed out that this was only to the free born as Roman laws did not regard slaves as human being). They, that is, the rights were regarded as superior to any possible law and embodied in the fundamental principles of justice which were apparent to reason.

The first documents which enshrine some kind of Bill of rights were the English Magna Carta of 1215 and the English Bill of Rights (1688). These documents however, had severely restricted scope in terms of the objectives covered and subjects protected. The French Declaration on the Rights of Man (1789) is describable as the first real Bill of Rights, in which individual rights

were generally and clearly postulated. The declaration reflected the nature of human rights as an inherent part of man and so inalienable.

Many modern states acknowledge a wide variety of civil rights on the part of their citizens. These rights are usually secured in a sovereign document, which is the constitution or basic law of that polity. One of man's most cherished rights is the freedom of the individual to practise a religion of his choice (Ibidapo-Obe, 2005:145).

#### **D. Religion vs. Rights**

Religious belief and practice by an individual most often takes place within a community of fellow believers. Religious practices possess a strong communitarian nature. As put by Professor Robert Wilken of the University of Virginia:

*Religion, like culture, does not float free of institutions. Without the discipline of law and the structure of institutional life, our energies are dissipated and our lives impoverished... nor are institutions simply instrumental. They tutor our affections and lift us beyond ourselves. As Cardinal Newman once remarked, we need objects on which our "holier and more generous feelings may rest ... Human nature is not republican, (Brown, 2000:575).*

Freedom of conscience is of course the basis of freedom of religion and no person can be penalized or discriminated against because of their religious views, but this does not prevent government from either requiring the doing of some act or forbidding the doing of some act merely because religious beliefs underlie the conduct in question. In this case the Government would not be interfering with religious belief but with conduct (Akande, 1982: 35).

Peace and security constitute the primary limit to religious freedom. For instance, the majority in *R.V Gruenke* (1991) 3 S.C.R 263 refused to recognize a priest penitent privilege in common law because they maintained the state's right to search for truth in the judicial process. While all the justices rejected the appellant's claim that her communications were confessional in nature (even according to her own religion) the majority also found on basis for such a privilege in common law:

*The existence of a limited statutory religious privilege in some jurisdictions does not indicate that a common law privilege exists; rather, it indicates that*

*the common law did not protect religious communications and that the statutory protection was accordingly necessary.*

In *Ross v. New Brunswick School District No. 15* (1996) 1 S.C.A 825 religious freedom can be limited by values such as tolerance. This case involved a teacher who made anti-semitic statements, which preempted a Jewish man, David Attis, to sue a school board in lieu Brunswick's maramichi region. The court ruled that Ross religious freedoms under S. 2 (a) could be limited by a S.1 test. It argued that his demeaning statements actually undermined religious freedom by making it difficult for others to enjoy religious freedom and individual autonomy.

It is commonplace for scholars and judges to regard Canada and modern society in general, as secular. For example, in addition to former Chief Justice Lamer, one federal court judges argued that *Canada is a secular state and although many of its laws reflect religious tradition, culture and values, they are nonetheless secular or positivistic in nature.* A commentator now on the Canadian Human Rights Commission argues that secularization requires that religion be defined as individual conscience: *This emphasis on individual autonomy may require further elaboration in other contents, but it is a convincing way to justify the expansion of freedom of religion in a relatively secular change.*

The Canadian courts while recognizing religious practices in a communal nature did not fail to address the issue of individual rights. The Supreme Court defined religious freedom, under S. 2(a) of the charter in two cases *R. v. Big M Drugmart* and *R. v. Edwards Books and Art Ltd.* In them, the court explicitly upheld individual rights where freedom of religion is protected against state intrusion. These two cases show that the court understood itself as a secularizing force in society, while mutedly recognizing, then neglecting, the importance of religion.

In Nigeria, section 10 of the 1999 Constitution of the Federal Republic of Nigeria states:

*The Government of the federation or of a state shall not adopt any religion as state religion.*

Section 38 provides: *Every person shall be entitled to freedom of thought, conscience and religion including change his religion or belief, and freedom to manifest and propagate his religion or belief in worship, teaching,*

*practice and observance.* The same section provides for religious education and for place of worship. The right to freedom of religion is not an absolute right. It is a right curtailed by the general public interest, as well as the individual rights and freedom of other persons.

Thus in *Agbai v. Okagbue* (1991)7 NWLR (Pt. 204) 391 one of the issues for determination was whether the respondent who objected to membership of an age grade association on religious grounds could be compelled to do so or could be deemed to be a member willy-nilly. The appellants who were members of the Umuskalu age grade of Amankalu Alayi had seized the respondent's sewing machine for his refusal to pay age grade levies for purposes of building a health centre in the village. The respondent sued for return of his sewing machine and damages. The appellants contended that as a native of Amankalu Alayi, the respondent was obliged by custom to belong to the age-grade and to pay all levies. The respondent maintained that he was not a member of the age-grade and that his religion as a Jehovah-Witness forbade him to join. At the Chief Magistrate's Court judgment was entered in favour of the respondent. The High Court on appeal reversed the judgment. The respondent's appeal to the Court of Appeal restored the judgment of the Chief Magistrate. The appellants then appealed to the Supreme Court. Dismissing the appeal, the Supreme Court per WALI J.S.C. held:

*The 1963 Constitution, Section 24(1) guaranteed all Nigerian citizens freedom of conscience, thought and religion. The respondent is entitled to hold to the tenet of his religion, thought and conscience which prohibit him from joining the age grade. Any custom that holds otherwise is contrary to the Constitution and therefore null and void to that extent.*

However, in the recent cases of *Safiya Tungar* and *Amina Lawal* in which the two women were sentenced to death by stoning on account of adultery. The two sentences were quashed on appeal as it violated their rights to life, right to human dignity and right to fair hearing.

The appeal court in coming to their decision are adverted their mind to public interest. Since the pronouncements of the verdict by Sharia Court, the Nigerian people from all walks of life cum International community condemned the Judgment(s).

Nigeria, may lay claim to secularity, but she is secular? Consider the instance, the interest taken by the Federal and State Governments in the organization, implementation, and even sponsorship of religious activities and events such as pilgrimages, Quranic recitations, building of churches and mosques, unofficial bill deliberate appointment of government offices on the basis of faith, and most recently, the inclusion of sharia in the constitution.

What comes to the fore in the Canadian and Nigerian cases examined is the balance of religious practices with rights (whether communal or individual).

It is ironic to think that religion can be divorced completely from society. What we need is a reunderstanding and redefinition of the word secular and a broader understanding of faith of that both *religion* and *conscience* can be adequately protected, nurtured, and encouraged in society.

*Religion and the challenge of Freedom Believers with different opinions and convictions are necessary to each other ... we cannot afford to waiver in our determination that the whole humanity shall remain a united people, where Muslims and Christians, Buddhist and Hindu shall stand together, bound by a common devotion not to something behind but to something ahead, not to a radical past or a geographical unit, but to a great dream of a work society with a universal religion of which the historical faiths are but branches. (S. Rddhakrisnon-Kindu Philosopher).*

The issue germane to us in this part is to examine whether religious claimant has a sincere belief that behavior conflicting with state regulation is required of him by his religion, not whether the religious belief in question is somehow within acceptable boundaries.

In *Zaheeruddin v. State* 26.S.C.M.R.(s. CT) 1718 (1993) *Pakistan*, a decision of the Supreme Court of Pakistan. The case involved a challenge to an ordinance forbidding Ahmadis from using the symbols of Islam and claiming to be Muslim. The Ahmadis are an offshoot of Islam but they are regarded by most Muslims as heretical because of their belief that ascertain person after the time of the Prophet Muhammad was also a prophet. As a result, they have been the target of considerable persecution in Pakistan. The court upheld; the ordinance:

*The court acknowledged that religious freedom is not confined to religious beliefs, but rather extends to "essential" and "integral" religious practices. It*

*claimed, however, that the appellants (the Ahmaddis challenges the ordinance) had not explained how the prohibited epithets and public rituals were an essential part of their religion.*

By limiting religious freedom to *essential and integral* religious practices, the Pakistan Supreme Court opened a door to the substantial limitation of religious freedom, and any rule leaving it. Open to the courts to determine what types of religious practice qualify to be protected could have a similar effect.

The German constitutional court used similar language, which indicated that it might reserve to itself the power to restrict freedom of religion to those religious ideas and practices it deemed acceptable. In rejecting a free exercise claim by a prisoner to whom parole was defined because he tried to persuade fellow inmates to give up their Christian faith by offering them tobacco, the court stated: *one who violates limitations erected by the basic law's general order of values cannot claim freedom of belief.* The Basic Law does not protect everyman festation of belief but only those historically developed among civilized people on the basis of certain fundamental moral opinions. *Tobacco Atheist case 12, BVerfGE, 4-5 (1960).*

However, the court backed away from that statement in subsequent cases, thus in *Religious Oath Case, 33 BVerfGE 23(19762)* upholding the evangelical pastor's right not to take the oath required of witnesses in court., the court noted that the dissident pastor's refusal to take the oath found some support in the Bible and "is espoused by a school of newer theology", but it also stated that *the state may not evaluate its citizen's religious convictions or characterize these beliefs as right or wrong.*

Of course, the courts must be convinced of the sincerity of the religious liberty claimant, but the test of sincerity must not be deformed into a test of what religious beliefs and practices are *acceptable.*

The United States Supreme Court took its earliest approach on this issue in the case of *Reynolds v. United States 98 U.S. 145 (1879)* a case that took place against the backdrop of rather savage persecution of the mormons in the nineteenth century and their sometimes violent response. In *Reynolds*, the court upheld the bigamy conviction of a leading mormon. Under the *Reynolds* approach, the state could not tell a person what their religious beliefs should

be, but the state could regulate action, even action thought to be required by one's religion, as the mormons then regarded polygamy to be.

By the middle of the twentieth century, the *Reynolds* approach had been soundly repudiated in favour of the *strict scrutiny* standard. Thus in *Employment Division v. Smith* 494 U.S. 872 (1990) two members of the Native American Church, which incorporates certain native American religious practices, were fired from their jobs with a private organization providing drug rehabilitation service in the state of Oregon because they had ingested peyote in religious services within the church. Especially because they were in the business of helping rehabilitate drug users, their use of a proscribed drug was regarded as *work related misconduct* and they were therefore denied unemployment compensation by the state of Oregon. Peyote is a hallucinogenic drug and its use is generally proscribed by both federal and state law.

Adherents of the Native American Church believe that the peyote plant embodies their deity and that eating it is an act of worship and communion. Federal drug law and the drug laws of 23 other states at that time made an exception for the sacramental use of peyote, but the Oregon statute did not and the Oregon Supreme Court had ruled that it would not read such an exception to the statute. In these circumstances, is the state's denial of unemployment compensation an impermissible restriction on the free exercise of religion? The courts in the states have always adopted two modes of reasoning:

- 1) *"Minimum scrutiny" which means no further review under principles of freedom of religion. Once the statute in question is non-discriminatory, statutory distinctions are also subject to general regulation by the Equal Protection Clause of the fourteenth Amendment.*
- 2) *We also find as other level of religious freedom called "strict scrutiny" because it adds to review for non-discrimination the requirement that the reviewing court invalidate the challenged law unless it is narrowly tailored to achieve a compelling state interest strict scrutiny applies to equal protection cases, to review laws which involve fundamental constitutional rights, or "suspect classifications" like race, religion, or national origin, which have historically been used for invidious discriminatory purposes.*

In between *Reynolds* and *Smith*, the U.S. Supreme Court had seemed to settle on the "compelling state interest" test as the appropriate standard for judging statutes of general applicability challenged by free exercise claims.

The 1950 European Convention for the Protection of Human Rights and Fundamental Freedom (ECHR) uses a standard similar to strict scrutiny. Article 9 states:

- 1) *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 in public or private, to manifest his religion or belief, in worship, teaching, practice and observance.*
- 2) *Freedom to manifest one's religion or beliefs shall be subject only to such limitations as are prescribed by law and are necessary to a democratic society in the interests of public safety, for the protection of public order, health or morals, or for the protection of the rights and freedoms of others.*

This article came to force in *Kokkinakis v. Greece* 17 E.H.R.R. 387 (1993) involved a Jehovah's Witness who had been imprisoned several times for violating Greek law which criminalized "proselytism" by a six-to-three decision the European Court of Human Rights ruled that by his conviction Greece violated Mr. Kokkinakis's religious freedom. The ECHR had no trouble finding that the criminal sanctions interfered with his freedom to manifest his religion or belief. The court stated *Bearing witness in words and deeds is bound up with the existence of religious convictions.*

The foregoing discussion has revealed a surprising degree of consensus among the legal regimes surveyed with respect to issues of religious freedom (Reitz, 2005: 196, 198).

### **E. Achieving Religious Harmony in the 21<sup>st</sup> Century**

No one living in the 21<sup>st</sup> century will feign ignorance of the diversity of the human race. The Telecommunication Industry has made the world a global village and open vistas never dreamt off by generations gone by. Beyond the diversity of the human race also lie the conflicts ranging in many regions especially as a result of religion. It will be foolhardy to pretend that religion has not been a source of major conflicts in centuries past, however religious intolerance has raised its ugly head in the early part of the 21<sup>st</sup> century. Ever since the event of September 11, 2001 a new chapter opened in the religious turf.

The reality of the human rights situation in the world today is a picture of stark contrast, on the one hand, undeniable progress on the other, the painful reality of widespread violations. Over the last few years amazing changes have taken place in many parts of the world (Martenson, 1993: 927).

We must be quick to add that the said changes that have taken place in the world have not affected human relations. Difference is perceived as inferiority and in-equality, and an avenue to perpetuate actions detrimental to human race and relations.

The theory of Race Relations have always pointed out that there is no scientific proof and backing on some of the assumptions peddled by the dominant group. The question is: How do we achieve religious harmony in the 21<sup>st</sup> century? To this we now turn.

Achieving religious harmony in the 21<sup>st</sup> century is the job of all; beginning with the state, institutions and individuals.

### **1. The Role of the State in Achieving Religious Harmony**

The state is the political system of a body of people who are politically organized. From the definition of a state, we construe a state to be that organ of government which is responsible to people but locally and internationally (Black, 2000: 1137).

Many modern states have signed and ratified Human Rights instruments such as Universal Declaration of Human Rights (UDHR), International Covenant on Economic, Social and Cultural Rights (ICESCR), International Covenant on Civil and Political Rights (ICCPR), Convention on the Elimination of all forms of Discrimination Against Women (CEDAW), Convention on the Rights of the Child (CRC) e.t.c. What is important is the implementation of all these instruments.

Religious harmony cannot be devoid of human rights, it is the respect for human rights that will curb religious disharmony. State must ensure that these principles are part of National Laws and their citizens must be educated on the importance of adhering to rights principles in human relations.

### **2. The Role of Institutions in achieving Religious Harmony**

The United Nations through its various arms such as United Nations High Commissioner for Human Rights, United Nations High Commissioner for Refugees, are saddled with the responsibilities of seeing to the implementation of human rights in various regions of the world.

The United Nations must maintain and reinforce existing international machinery for the protection of human rights. The UN must ensure that all states

irrespective of their economic and social systems, to work for the basis of humane order based on freedom, justice and peace, correcting inequalities, redressing injustices, and accelerating economic and social development would help to eliminate wrong notions and ideas about society, and expectations.

It should be noted *in today's world many situations involving gross violations of human rights are marked by emotions and expressions of deep ethnic, national, racial and religious conflict* (Boven, 1993: 1944).

Under international law there is clearly a duty on the part of states to prevent violations of human rights. The most forceful legal declaration to this effect can be found in the judgement of the Inter-American Court of Human Rights in the *Velasquez Rodrightz Cases, July 29, 1988* which concerned the disappearance of Angel Manfredo Velasquez Rodriguez in Honduras. The court was requested to determine whether Honduras had violated Articles 4 (right to life), 5(right to humane treatment) and 7(right to personal liberty) of the American Convention on Human Rights, and to rule that *the consequences of the situation that constituted the breach of such right or freedom be remedied and that fair compensation be paid to the injured party or parties.*

The court went further to state:

*An illegal act which violates human rights and which is initially not directly imputable to a state (for example, because it is the act of a private person or because the person responsible has not been identified) can lead to international responsibility of the state not because of the act itself, but because of the lack of due diligence to prevent the violation or to respond as it as required by the convention.*

While, the United Nations need to hold states accountable for the acts of private persons especially when it relates to religious intolerance, it is pertinent that the UN and its various agencies must develop capacity to identify human rights violations at an early stage and act swiftly and effectively to bring them to an end.

### **3. The Role of Individuals in Achieving Religious Harmony**

The society and the state is made up of individual, it is the individual who gives effect to laws and polices. Every individuals mirror his society. In tackling religious intolerance, a concerted effort must be geared towards individual enlightenment on the imperative of religious harmony. Violations of human rights often start with individual before it becomes a collective phenomenon. When individuals accept the norms of both democratic and

human rights principles and strive to live it, then the state and human rights agencies will have less work to do.

It is trite at this juncture to stress a social disease which has exacerbates religious crisis in recent times i.e. Racism. Racism is the theory or idea that there is a causal line between inherited physical traits and certain traits of personality, intellect or culture and combined with it, the notion that some races are inherently superior to others, (Encyclopedia Britannica, 1980: 360).

While, it is accepted that in nearly all the worlds societies, men have apparently developed pride in the cultural accomplishment of their own groups and a corresponding derogation of those of their neighbors. However, the idea that certain groups of people are superior to others because of their genetic make up does not appear to have been widespread.

The menace of Racism and Religious fundamentalism is a backlash of colonial expansion and slavery. While, many states have gained independence, and are not longer subjects of other nations, what starves us now is reaction to perceived earlier grievance, which has now metamorphose to terrorism.

Solving the scourge of racism, religious fundamental and terrorism is the work of all. The whole world must unite in condemning acts inimical to human rights, but we also must be part of the healing process. No one thinks, this fight will be easy, but it our belief that Religious Harmony can be achieved in the 21<sup>st</sup> century and beyond.

## **F. Conclusion**

Religion occupies a special place in the life of man, so also human rights has become as accepted way of living. Our problem has been balancing religious freedom with human rights principles.

In this paper, we examined the idea of religion, we examined the rights discourse stating its evolution, we discussed religion and rights in the light of notable cases from two countries (Canada and Nigeria), and we also examined the limits of religious freedom in several jurisdictions and suggested means of achieving religious harmony.

It is our submission that Religion and Human Rights can co-exist if all and sundry will believe, accept and practice human rights principles and ideas alongside the tenets of their religion.

## Bibliography

- Agomo M.A. 1989. *Individual Rights and the 1989 Constitution of the Federal Republic of Nigeria* (ed) M.A. Ajomo and Bolaji Owasanoye Nigerian Institute of Advanced Legal Studies, Lagos.
- Akande, Jadesola. 1982. *Introduction to the Nigerian Constitution*. Sweet & Maxwell, London.
- Black. 2000. *Black's Law Dictionary Abridge Seventh Edition*. West Group Publishers.
- Boven Theo Van. 1993. "Prevention of Human Rights Violations" *Human Rights in the Twenty-first century: A Global Challenge*, (ed) Kathleen E. Machoney and Paul Mahoney Martinus Nijhoff Publishers Netherland.
- Brown, David. 2000. "Freedom from or Freedom For?: Religion as a case study in Defining the content of Charter Rights". University of British Columbia Law Review, Vol. 33, Special Edition.
- Haar Gerrieter. 2005. "Religion: Source of Conflict or Resource for Peace", *Comparative Perspective on shariah in Nigeria*. (ed) Philip Ostien, Jamila M. Nasir, Franz Kogelmann; Spectrum Books Limited, London.
- Hackett Rosalind I.J. 2005 "Rethinking the Role of Religion in the public sphere: Local and Global Perspective" *Comparative Perspectives on Shariah in Nigeria* (ed) Philip Ostien, Jamila in Nasir, Franz Kogelmann, Spectrum Books Limited Ibadan.
- Ibidapo-Obe Akin. 2005. "The Right to Freedom of Religion in Nigeria" *Essays on Human Rights Law in Nigeria*. Concept Publications Limited, Lagos.
- Ibrahim Auwal. 2003. "Linking Democracy and Good Governance with Human Rights", Paper presented at 39<sup>th</sup> Annual Law Teachers Conference of the Nigerian Association of Law Teachers held at University of Maiduguri, Borno State Nigeria, October 13-17<sup>th</sup>.
- Martenson Jan. 1993. "The United Nations and the Human Rights Today and Tomorrow" *Human Rights in the Twenty-first century. A Global Challenge* (ed) Kathleen E. Mahoney and Paul Mahoney, Martinus Nijhoff Publishers, Netherlands.
- Reitz John C. 2005. Freedom of Religion and its Limitations: Judicial standards for Deciding particular cases to maintain the state's secular role in Protecting Society's Religious Commitments.
- Umозurike U. O. 2001 "Teaching Human Rights in Law Faculties" paper presented at a 2 day Workshop for Law Faculties in Nigeria, February 6-7.

\*\*\*\*\*