
**ANALYSIS OF THE PRINCIPLE OF RELIGIOUS FREEDOM IN BIBLICAL AND CONTEMPORARY
LEGAL SYSTEM***

Abstract

The right to freedom of religion or belief is among the most ancient and prestigious of the globally recognised human rights. It is enshrined in the 1999 constitution (as amended) and is addressed in important sections of all major international human rights instruments. The ability to choose one's beliefs and to follow one's conscience are both aspects of religious freedom. In this perspective, religious freedom encompasses not just personal devotions but also religiously significant actions carried out by authorities or the government. People are also free to give up on religion, to deny religious views, and to stop engaging in religious rituals and practices. This paper aims to explore the principles of religious freedom from the biblical and modern legal systems view using the doctrinal method. This paper also discovers that although the principles of religious freedom is protected by both the Bible and the modern legal system, it is eschatological under the biblical concept and not an absolute right under the modern legal system. The conclusion of this paper is that, despite many similarities between principles of religious belief in the Bible and the modern legal system, the concepts of religious freedom are derived directly from the Bible.

Keywords: Religious freedom, Bible, Constitution, Legal system

1. Introduction

The first rights that spring to mind when the term 'freedom of religion or belief' is used are the freedom to practise one's own conscientious beliefs, to worship or not worship, and to live in a society where one is not subjected to discrimination because of one's religious convictions. Practically speaking, however, the legal frameworks that religious groups can use to manage their business play a crucial role in determining how these fundamental rights to religious freedom are exercised. From the beginning of human history, when the people of Israel and their neighbours faced difficulties regarding their right to freedom of religion, through the Greek and Roman eras, to the present, when the United Nations is mediating the global order, these questions have plagued mankind. This paper aims to investigate the idea of religious freedom, biblically grounded concepts of religious freedom, the relationship between biblical religious freedom and the modern legal system, and their intersection. The paper is divided into six parts. Part one is on the general introduction, part two examines the concept of religious freedom, and part three accesses religious freedom under the Bible. Part four considers the religious freedom under the contemporary legal system, part five discusses the intersection between Biblical principles and religious freedom in the contemporary legal system, Part six deals with conclusion and recommendation.

2. Concept of Religious Freedom

What is liberty? Humans are naturally endowed with the capacity for freedom or free will. This innate tendency is regarded as a gift from the Creator, known in religion as God, to all people.¹ In its theological sense, freedom of religion—that is, the constitutional right to practise and hold one's freely chosen religion—protects the believer first and foremost. When the state forbids people from engaging in a certain activity that they assert is required by religion, they invoke the constitutional guarantee² On the other hand, religious freedom, often known as freedom of religion, refers to the idea that followers of any religion can freely practise their beliefs without facing any opposition³. The ability to choose one's beliefs and to follow one's conscience are both aspects of religious freedom. In this perspective, religious freedom encompasses not just personal devotions but also religiously significant actions carried out by authorities or the government. Moreover, the concept of religious freedom upholds the right of an individual, group, or society to express their religious views, teachings, and worship in public or private. Inscribed in the constitutions of a great number of democratic states, religious freedom is recognised as a fundamental human right and is included in the main international human rights treaties. Collective liberty, which permits a group of people to hold beliefs collectively, is a component of religious freedom. Religious organisations are free to create their own policies and goals as long as they don't violate the law. The Canadian Supreme Court's judicial definition of religious freedom in *R v. Big M Drug Mart Ltd*⁴ provides a helpful explanation of the concept.

The essence of the concept of the freedom of religion is the right to entertain such religious beliefs as a person chooses, the right to declare religious beliefs openly and without fear of hindrance or reprisal, and the right to manifest belief by worship and practice or by teaching and dissemination but the concept means more than that. Freedom can primarily be characterized by the absence of coercion or constraint. If a person is compelled by the State or the will of another to a

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¹ Lipset, Seymour Martin, *Some Social Requisites of Democracy: Economic Development and Political Legitimacy* (1959) 53 (1) *American Political Science Review* 69-105.

² Robbers Gerhard, *The Permissible Scope of Legal Limitations on the Freedom of Religion or Belief in Germany*. (2005) 19 *Emory International Law Review* 841-888.

³ Egwu Roberts, *Religious Freedom and the Law* (2001) 1: 2, *African Law Review* 71-76

⁴ [1985] 18 DLR (4th) 321

course of action or inaction which he would not otherwise have chosen, he is not acting of his own volition and he cannot be said to be truly free.⁵

The Canadian Court clarifies the meaning of religion by stating that a person is entitled to the freedom to practise any religion they want. As a result, the Court grants the right to reject. The right to freedom of religion is an individual one. It has to do with each person's right to conscience⁶ to safeguard a person's religious identity. This ensures that all religious beliefs are respected by the state. The US case of *Sherbert v. Verner*⁷ from 1963 serves as an example of how the allowance of religion gives people the freedom to disobey laws that would otherwise be lawful but conflict with their religious convictions. In this instance, it was decided that the denial of benefits to a Seventh Day Adventist due to her inability to work on Saturdays violated her religious convictions; to guarantee that social, political, and interreligious harmony coexist in the state; and to outlaw the use of religious symbols in public spaces. The protection of an individual's religious freedom as a citizen by the legislature and the state's inability to interfere with that freedom are two aspects of the right to religious autonomy. It also suggests that the people would not be forced to adopt a particular religion by the state. Importantly, the respect for human dignity and the right to religious freedom are closely related since religion grants people the freedom to live their lives as they see fit, free from government intrusion or force.⁸

3. Religious Freedom under the Bible

The internal nature of faith and the futility of coercion in questions of religion are implied by Christian theology. It was argued that while we cannot find direct references to religious liberty/freedom in such a way that we can speak of a theology of religious liberty, sufficient implications are in the major theological doctrines of the Christian faith to argue that God has granted humankind the freedom to choose who or what they want to worship in a way that they like. This is true even though there is no verse in the Bible that explicitly demands 'religious liberty/ Freedom.' Instead, the concept is implicit on nearly every page of Scripture. Stated differently, the concept of religious liberty is derived.⁹ God's assurance of religious freedom is demonstrated by various stories, such as the one about Adam and Eve in the Garden of Eden,¹⁰ the tale of Cain and Abel,¹¹ Noah's invitation to salvation extended to his community,¹² in Abraham's *lech lekha*,¹³ etc. These incidents are all instances of religious freedom, disobedience to God's will, or the people's assertion of unfavourable interests in relation to God's intentions. God not only granted them freedom from His will, but also religious freedom because He respected their decisions.¹⁴

The parable of the wheat and tares is the most often quoted narrative in the Bible to support the concept of religious freedom.¹⁵ For two millennia, discussions about religious liberty have revolved around this verse. Modern interpreters generally agree that the story supports an expansive interpretation of religious liberty, even if opinions on the parable's implications for religious liberty have not always been unanimous.

In the well-known tale of Jesus, his neighbor's field is covertly sown with weeds, or tares, by an enemy. Upon discovering the plot, the farmer gives his staff the order to let the tares and wheat coexist in order to prevent the wheat from being harmed in the process of pulling weeds. 'Gather the weeds first and bind them in bundles to be burned but gather the wheat into my barn.'¹⁶ The farmer gives his reapers instructions at harvest. The reapers are the angels who the Lord says will 'gather out of his kingdom all causes of sin and all law-breakers.' Whereas the righteous will 'shine like the sun in the kingdom,' the wicked will be 'thrown into the fiery furnace.'¹⁷ When asked about the explanation of the parable, Jesus identifies the tares as 'the sons of the evil one' and the wheat as 'the sons of the kingdom.' It has been understood by interpreters that there will be unsaved individuals in the church before to Jesus' second coming, who are symbolised by the tares. These individuals should be left alone even if they do not fit into the community of faith because God's judgement is eschatological, meaning that at the end of time, God will remove the tares from the field of unbelief. According to this understanding, Jesus was adamantly against forcing people to adopt a certain religion.

The narrative of the rich young ruler is another passage in the Bible that demonstrates the support for religious tolerance and freedom¹⁸. A man questions Jesus about eternal life in this story. The man responds to Jesus by saying, 'If you would be perfect, go, sell what you possess and give to the poor, and you will have treasure in heaven; and come, follow

⁵ Ibid at 353-4

⁶ Yinka Olomoojobi, 'Legal Dimensions to Religious Freedom in Nigeria' (2016) SSRN eLibrary <https://papers.ssrn.com> accessed 10 November 2023

⁷ 374 US 398 [1963]

⁸ Ibid. Olomoojobi

⁹ Barrett Duke, *The Christian Doctrine of Religious Liberty, in First Freedom: The Beginning and End of Religious Liberty*, (Nashville: B&H Academic, 2016), 92.

¹⁰ Genesis 1:27; 5:1.

¹¹ Genesis 4: 1-18

¹² Genesis 6: 13-22

¹³ Genesis 12: 1-17:27

¹⁴ Blumoff, Y. Theodore (1999-2000). An Essay on Liberalism and Public Theology'. *Journal of Law and Religion*, Vol. XIV, No. 2, St. Paul.

¹⁵ Matt 13:24- 30.

¹⁶ Matt 13:30.

¹⁷ Matt 13:36-43

¹⁸ Matt 19:16-30, Mark 10:17-31, Luke 18:18-30

me.’¹⁹ Scripture describes the man's reaction as follows: ‘When the young man heard this, he went away sorrowful, because he had great possessions.’²⁰ While the man's tragic decision to choose his possessions over Jesus is important to note, it is also noteworthy that Jesus does not chastise the man for leaving. Rather, Jesus accepts the man's choice and gives him permission to turn down the invitation. As Jesus respected the man's decision, he emphasised how unique faith is. Faith is an internal affair that cannot be compelled, coerced, or forced. Put differently, external threats are meaningless because they are unable to bring about true conscience-level change. This story's emphasis on the spiritual aspect of religion also informs Jesus' advice in Matthew 10, where he states, ‘And do not fear those who kill the body but cannot kill the soul.’²¹ Jesus' teachings subtly support religious freedom, even if the primary message of this chapter is that a person's everlasting destiny is determined by their spiritual state. Instead, fear him who has the power to destroy one's body and soul in hell. It is impossible to alter a person's deepest interior convictions even if they subject their physical body to torture, abuse, and persecution. Stated differently, although external pressure can successfully create outward conformity, it is incapable of altering an individual's internal beliefs. The state (or any other external power) cannot force someone to adopt theological truths if they are not willingly embraced, no matter how hard they try. This is so because faith cannot be coerced.²² These are the fundamental ideas that the Bible uses to explain the individualised character of faith, which is why Christians hold that the civil state ought not to impose a particular religion or theological viewpoint on its people. According to Matthew 19, it is preferable to let the wealthy young ruler go rather than try to convert him. Maybe later on, he will be convinced to reevaluate the call to follow Jesus.

The Old and New Testaments' consistent use of argument and appeal rather than force is more proof that the Bible supports the idea of religious liberty. Paul's sermons and evangelistic experiences in the book of Acts are notable instances in this regard. For example, Paul addresses the Areopagus philosophers in Athens during his preaching tour. The text states that Paul ‘reasoned’ as he preached the gospel, as opposed to employing misleading or forceful rhetoric. He ‘reasoned in the synagogue with the Jews and the devout persons, and in the marketplace every day with those who happened to be there.’²³ The word ‘*Dielegeto*’ is derived from the Greek word *διελέγετο*, which means ‘to draw arguments from Scripture.’²⁴ It is evident that Paul's method of evangelization involved engaging in discourse, conversation, and persuasion with the help of the Old Testament. Despite the fact that the verse claims that Paul's spirit was ‘provoked’ by the sight of idols, Paul does not lash out or attempt to convert anyone. Instead, he takes his time explaining the Bible and puts his faith and repentance in the hands of the Holy Spirit, who convicts people of sin.

Further illustrations of the spiritual aspect of religion and the necessity of addressing the conscience come from Paul's evangelistic activity. ‘And I was with you in weakness and in fear and much trembling, and my speech and my message were not in plausible words of wisdom, but in demonstration of the Spirit and of power, so that your faith might not rest in the wisdom of men but in the power of God,’²⁵ Paul states in his first epistolary to the church at Corinth. It is obvious that Paul did not wish to persuade anyone to think something they were not comfortable with. Paul really reminded his audience that his first gospel address was tinged with nervousness and evidence of his own frailty. Rather than Paul's ability to persuade a multitude, their confidence in Christ was based on the work of the Spirit. Furthermore, it seems that even if Paul had wanted to, he would not have been able to force the Corinthians to declare anything they did not genuinely believe, based on his own memory of his weakness, fear, and trembling.

Jesus himself declares, ‘Behold, I stand at the door and knock,’ in John's vision in Revelation. I will come in to him and we shall dine together if someone hears my voice and opens the door²⁶. The fundamental idea of each of these verses is crystal clear: salvation is a spiritual issue that requires voluntary acceptance. Jesus does not compel the Laodicean church to change, despite the fact that their pathetic faith was enough to make him want to spit them out.²⁷ Instead, he demonstrates patience—symbolized by the image of him waiting outside and banging on the door. Finally, Luke 9:52–55 demonstrates how Jesus declined to force anyone to believe in him. When a Samaritan hamlet rejects Jesus in this narrative, the disciples become furious. They ask Jesus if they can call fire down from heaven to destroy the community in order to exact punishment. ‘But he turned and rebuked them’²⁸, Jesus says in response to the plea, reiterating his reluctance to force anyone into the kingdom. Jesus flatly rejected any attempt to try to force people to follow him or believe in him.²⁹

The Bible plainly opposes religious coercion and emphasises that people follow Christ of their own free will, which is sufficient justification for saying that the Bible supports religious liberty. An additional rationale is that it is essential to the church's mission and the Great Commission's fulfilment³⁰.

¹⁹ Matt 19:21.

²⁰ Matt 19:22.

²¹ Matt 10:28.

²² David Closson, *Biblical Principles for Religious Liberty: Evidence from Scripture and Church History* (family research council 2019)

²³ Acts 17:17

²⁴ Joseph Henry Thayer, trans., *Greek-English Lexicon of the New Testament* (New York: Harper & Brothers, 1889), 139

²⁵ 1 Corinthians 2:3-5

²⁶ Revelations 3:20)

²⁷ Revelation 3:14-22.

²⁸ Luke 9:55

²⁹ Wayne Grudem, *Christian Ethics: An Introduction to Biblical Moral Reasoning* (Wheaton: Crossway, 2018), 453

³⁰ Matt 28:16-20

4. Religious Freedom under the Contemporary Legal System

Nigeria recognises that all people are religiously diverse, which is why the country's Constitution includes a guarantee of the right to freedom of religion. Section 38 of the 1999 Constitution (as amended) provides:

(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.

(2) No person attending any place of education shall be required to receive religious instruction or to take part in or attend any religious ceremony or observance if such instruction, ceremony or observance relates to a religion other than his own, or a religion not approved by his parent or guardian.

(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.

(4) Nothing in this section shall entitle any person to form, take part in the activity or be a member of a secret society.’ Section 38’s wording emphasises that a person’s religion is a characteristic of who they are as a person, not just of their citizenship. ‘Everyone’ is entitled to this protection. This is not the same as other fundamental rights that citizens enjoy under the Constitution, like the freedom of movement, the right to privacy and family life³¹, the right to freedom of movement,³² and right to freedom from discrimination.³³ The Oxford Advanced Learners’ Dictionary defines ‘person’ as ‘a human as an individual’.³⁴ The same dictionary defines ‘citizen’ as ‘a person who has the legal right to belong to a particular country’.³⁵ Even if a person does not hold national citizenship, they are still considered human beings in their individual capacity. The fact that everyone in Nigeria has the right to religious freedom implies that this protection extends to all people living in the nation, even those who are not citizens. This is only justified by the fact that religion is a fundamental feature of human nature. The state did not create it. According to the Constitution’s wording, everyone else has a legal obligation to respect an individual’s right the operative word in this section, ‘shall’ denotes duty when used in the second and third person. Everyone else, whether real or imagined, owes it to a person to provide them this privilege.³⁶ Every other person, physical or legal, has the duty to accord this right to a person. The Nigerian Constitution is not the only document that recognises religion as a fundamental quality of humanity. Numerous global legal frameworks do. Article 18 of the United Nations Universal Declaration of Human Rights³⁷ contains a definition echoed in many subsequent international and domestic instruments.³⁸ It states:

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.³⁹

Religious freedom is not absolute and is limited by public order considerations of the sort found in article 18(3) of the International Covenant on Civil and Political Rights: ‘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. Others include the African (Banjul) Charter on Human and Peoples’ Rights,⁴⁰ the European Convention on Human Rights (ECHR),⁴¹ the Arab Charter on Human rights (ACHR) 2004,⁴² and the American Convention on Human Rights.⁴³ The only difference amongst them is in the words used to convey the idea. Rather than use the words *every person* most of these legal instruments use the word *everyone*. For instance, the ICCPR provides in article 18(1): ‘Everyone shall have the right to freedom of thought, conscience and religion....’ The African (Banjul) Charter on Human and Peoples’ Rights uses neither ‘every person’ nor ‘everyone’. It simply makes an impersonal guarantee of the freedom thus: ‘Freedom of conscience, the profession and free practice of religion shall be guaranteed.’⁴⁴ All the same everyone can be read into it from the other provision of the article 8 relative to the derogation of freedom of religion where it uses everyone in the negative sense: ‘No one may, subject to law and order, be subjected to measures restricting the exercise of these freedoms.’

The 1999 constitution’s guarantee of religious freedom is not a single right to practise one’s own religion; rather, it is a compound right that encompasses other freedoms that define religion as involving a rational process and a social reality that thrives in interpersonal dynamics and tangible civic presence. It is guaranteed alongside freedom of thought and conscience, which is not an exception because religion typically involves thought and conscience, even though these

³¹ Constitution of the Federal Republic of Nigeria 1999 (as amended) Section 37

³² Ibid, Section 41

³³ Ibid, Section 42

³⁴ *Oxford Advanced Learners’ Dictionary*, (New York: Oxford University Press, 2010) p.1092.

³⁵ Ibid., p.253

³⁶ S O Imhanobe, *Legal Drafting & Conveyancing*, (Abuja: Temple Legal Consult, 2002) p.44.

³⁷ GA Res. 217(R), UN GAOR, 3d Sess., Supp. No. 13, UN Doc. A/810 (1948) 71. 70

³⁸ See e.g. the International Covenant on Civil and Political Rights, 19 December 1966, 999 U.N.T.S. 171, Can. T.S. 1976 No. 47, 6 I.L.M. 368 (entered into force 23 March 1976) [ICCPR]; ECHR, supra note 2, art. 9(1);

³⁹ Supra note 69, art. 18

⁴⁰ The African (Banjul) Charter on Human and Peoples’ Rights 1981 (Entry into force in 1986), art. 8.

⁴¹ The European Convention on Human Rights 2010, art. 9(1).

⁴² The Arab Charter on Human rights 2004 (Entry into force in 2008), art. 30(1)

⁴³ The American Convention on Human Rights 1969 (Entry into force in 1978), art. 12(1).

⁴⁴ The African (Banjul) Charter on Human and Peoples’ Rights, art. 8.

qualities can exist without necessarily leading up to having a religious belief.⁴⁵ The Oxford Advanced Learner's Dictionary defines 'thought' as 'something that you think of or remember; a person's mind and all the ideas that they have in it when they are thinking; the power or process of thinking; the act of thinking seriously and carefully about something, power or process of thinking; a feeling of care or worry; an intention or a hope of doing something'. One idea central to these nuances of thought is that it deals with the mind and its operations. The same dictionary defines 'conscience' as 'the part of your mind that tells you whether your actions are right or wrong'.⁴⁶ Conscience also is connected with the mind but it is that part that performs the role of a judge. Thus, there is a link between 'thought' and 'conscience'. At the thought level, the mind critically examines an experience from the point of view of its being beneficial to him or proper to be done. After a decision is reached at this level, the decision taken becomes a standard that guides future actions. This is the conscience level of the mind. Actions are judged right or wrong depending on whether or not they agree with the standard already set by the mind.⁴⁷ As will be briefly mentioned, 'thought' and 'conscience' are not religion in and of themselves; rather, they are the preconditions for religion. 'Thought' and 'conscience' are the starting points for relationships with the divine. Adults have a relationship with God because they are thought to have matured analytical faculties and have evaluated the relationship as beneficial to them. Infants and children, on the other hand, relate with the object of religion on the authority of their parents or guardians.⁴⁸

Freedom of Thought and Conscience

The right to freedom of thought and conscience shields a person from any form of coercion or restriction on the thoughts they can hold, regardless of whether they are religious, atheistic, or purely philosophical. It also safeguards the most fundamental feature of the human person, which is their rational faculty—man's greatest asset—from any force or inhibition that might seriously impair their mental processes and beliefs.⁴⁹

Freedom of Religion

The Human Rights Committee of the UN directs that the terms 'belief' and 'religion' in article 18 of the ICCPR be broadly construed to embrace theistic, non-theistic, and atheistic beliefs, as well as the right not to profess any religion or belief. This means that 'belief' can be similarly joined to the first mention of 'religion' in section 38(1) and in all the sections.⁵⁰ In *Medical and Dental Practitioners Disciplinary Tribunal v. Okonkwo*,⁵¹ Ayoola JSC stated:

The right to freedom of thought, conscience and 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 religious belief. The limits of these freedoms, as in all cases, are when they impinge on the rights of others or where they put the welfare of society or public health in jeopardy.' In other words, the state cannot prescribe any religion or proscribe any⁵²

Freedom to Change Religion

This freedom has been controversial, especially in the modern era when article 18 of the Universal Declaration of Human Rights was being drafted.⁵³ Some opinions held that this freedom did not need to be explicitly stated, but it is a crucial component of the freedom of religion, which must be explicitly guaranteed in order to avoid being denied or suppressed.⁵⁴ Thought and conscience are integral parts of religion and are dynamic in nature, meaning that they may change over time, leading to a change in religious belief. The freedom to change one's religion is an acknowledgement of a person's dignity to follow his or her thoughts, conscience, feelings, and most importantly, their will.

Freedom to Manifest and Propagate Religion or Belief

The Oxford Advanced Learner's dictionary defines 'to manifest' as 'to show something clearly, especially a feeling, an attitude or a quality; to appear or become noticeable'.⁵⁵ The same dictionary defines 'to propagate' as 'to spread an idea, a belief or a piece of information among many people'.⁵⁶ Manifestation deals with presenting something that is not entirely visible; it entails proving something's existence in a way that makes it understandable and known. By contrast, propagation refers to disseminating an idea or belief in order to persuade listeners to adopt it; in matters of faith, this involves proselytising or winning converts. A person can wear a religious symbol without meaning to convert people with that. All the same, one does not necessarily need to intend to propagate a religion by wearing a religious symbol. A symbol speaks by itself. But it cannot speak anything new to people who already know what it symbolizes. The right

⁴⁵ Jude O. Ezeanokwasa, Religious freedom and its Limitations Under the 1999 Constitution of Nigeria (2016) *NAUJILJ*, 57.

⁴⁶ *Oxford Advanced Learners' Dictionary* (n. 13) p.307

⁴⁷ *Ibid.*

⁴⁸ *Ibid.*

⁴⁹ I K E Oraegbunam, 'Islamic Law, Religious Freedom and Human Rights in Nigeria' (2012) *African Journal of Law and Criminology*, vol 2. No. 1, 1

⁵⁰ Australian Human Rights Commission, > <https://www.humanrights.gov.au/freedom-thought-conscience-andreligion-or-belief> accessed 20 January 2016. See *The Church of the New Faith v. The Commissioner of Pay-Roll Tax*, 154 CLR 120, 57 ALJR 785, 14 ATR 769, 49 ALR 65, 83 ATC 4652, where it was held *per incuriam* that 'The test of religion should not be confined to theistic religions.'

⁵¹ (2001) 10 WRN 1 SC at 41.

⁵² See 1999 Constitution of Nigeria, s. 10.

⁵³ M D Evans, *Religious Liberty and International Law in Europe*, (Cambridge-U.K.: Cambridge University Press, 1997) p. 291.

⁵⁴ *Ibid.*

⁵⁵ *Oxford Advanced Learner's Dictionary*, (n.12) p. 904

⁵⁶ *Ibid.*, p.1176.

to manifest and propagate is actualized in worship, and through teaching, practice and observance. This right can be exercised either alone or in community with others, and in public or in private. The express provision of this freedom strikes a death-nail on the old jurisprudence that put a steel sieve between the freedom of religion or belief on the one hand, and the freedom to take actions motivated by religion or belief. The U.S. Supreme Court in *Reynolds v. United States*,⁵⁷ held that, though the constitution protected religious belief and opinions, actions inspired by religion were not all that protected.⁵⁸ The effect of the distinction was that actions inspired by religion could very easily be sacrificed if it conflicted with the least state interest. This jurisprudence is reflected in section 38(1) of the 1999 Constitution which includes in freedom of religion the right to manifest and propagate religion in worship, teaching, practice and observance. Section 7 of the United Nations Declaration on the Elimination of all Forms of Intolerance and Discrimination based on Religion or Belief takes further the extent of the freedom to manifest and propagate one's religion to include freedom:

- (a) To worship or assembly in connection with a religion or belief, and to establish and maintain places for these purposes;
- (b) To establish and maintain appropriate charitable or humanitarian institutions;
- (c) To make, acquire and use to an adequate extent the necessary articles and materials related to the rites or customs of a religion or belief;
- (d) To write, issue, and disseminate relevant publications in these areas;
- (e) To teach a religion or belief in places suitable for these purposes;
- (f) To solicit and receive voluntary financial and other contributions from individuals and institutions;
- (g) To train, appoint, elect or designate by succession appropriate leaders called for by the requirements and standards of any religion or belief;
- (h) To observe days of rest and celebrate holidays and ceremonies in accordance with the precepts of one's religion or belief;
- (i) To establish and maintain communications with the individuals and communities in matters of religion and belief at the national and international levels.

The United Nations Human Rights Commission commenting on article 18(1) of the ICCPR which has provisions similar to section 38(1) of the 1999 Constitution indicated that the range of manifestation of religion or belief includes: '... not only ceremonial acts but also such custom as the observance of dietary rights, the wearing of distinctive clothing, head coverings, participation in rituals associated with certain stages of life, and the use of particular language customarily spoken by the group'.⁵⁹

Despite the broad legal protections afforded to religious freedom, this right is not unassailable; rather, its exercise is constrained by a variety of circumstances

Limitations to Right to Freedom of Religion

The legal right to freedom of religion is thus interfaced with the legal duty to respect other important social interests. While religion is an inherent aspect of the human condition, the right to freedom of religion is not a licence for one's religion to be manifested however, wherever, and whenever a person desires. Its manifestation in the society that has to be balanced out with other social values and interests. This fact is incorporated in section 45(1) of the 1999 Constitution which provides:

Nothing in sections 37, 38, 39, 40 and 41 of this Constitution shall invalidate any law that is reasonable justifiable in 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 persons.

Apart from the freedom of thought, conscience and religion contained in section 38(1), section 45(1) limits the exercise of the rights in sections 37, 39, 40 and 41 of the Constitution. By including section 38 amongst the sections of the Constitution to be limited under section 45(1), it means that every right granted under section 38 is liable for restriction including freedom of thought and conscience. But most international legal instruments restrict only the manifestation of religion or belief in social actions without including thought and conscience. Such instruments include the UDHR,⁶⁰ ICCPR,⁶¹ UN Declaration on the Elimination of All Forms of Intolerance and of Discrimination based on Religion or Belief,⁶² the African (Banjul) Charter on Human and Peoples' Rights,⁶³ and the European Convention on Human Rights, 2010.⁶⁴ Others are the American Convention on Human Rights⁶⁵ and the Arab Charter on Human Rights 2004.⁶⁶ The couching of the provision differs but the same idea runs through them. The UDHR for instance provides in article 29(2):

⁵⁷ 98 U.S. 145 (1879).

⁵⁸ Ibid.

⁵⁹ C.C. PR/C/21/Rev: 1/Add 4 adopted July 20, 1993, reprinted.

⁶⁰ Art. 29(2).

⁶¹ Art. 18(3).

⁶² Art. 1(2 & 3).

⁶³ Art. 8.

⁶⁴ Art 9(2)

⁶⁵ Art. 12(3).

⁶⁶ Art. 30(2)

In the exercise of his rights and freedoms, everyone shall be subject only to such limitations as are determined by law solely for the purpose of securing due recognition and respect for the rights and freedoms of others and of meeting the just requirements of morality, public order and the general welfare in a democratic society.

5. Intersection between the Biblical Principles of Religious Freedom and Religious Freedom in the Contemporary Legal System

The philosophical theory of natural law holds that laws must be morally right or ethical in order to be considered valid. In other words, natural law emphasises morality, ethics, or conscientious correctness in lawmaking. It has been described as the ultimate measure of right and wrong.⁶⁷ What is known as natural law rights, human rights, or fundamental rights today, are products of the natural law school. The right to freedom of religion and the other rights are regarded as 'natural,' universal, and inalienable, because they were not given by any man or even the State. The constitutional law of many modern countries is influenced by religion.⁶⁸ The constitutional law of many modern countries is influenced by religion. This is invariably the case for England, which is officially a Christian State which Nigerian laws are modelled after. The right to freedom of religion provided in the constitutions of most of the countries of the world today is itself a biblical principle, because God gave the first couple the freedom to obey or disobey His commandment regarding the forbidden fruit.⁶⁹ In fact, conversion through persuasion or freedom of religion permeates the teachings of Jesus and His disciples in the New Testament Bible.⁷⁰ The truth is that the international human rights of today, which have now been entrenched in the constitutions of the countries, are substantially Christian in concept. The idea of God or religion was even clear from the wordings of the American Declaration of Independence proclaimed on July 4, 1776 by the American Congress, after it had been drafted by Thomas Jefferson and edited by Congress:

We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty and the pursuit of Happiness. That to secure these rights Governments are instituted among Men, deriving their just powers from the consent of the governed, that whenever any Form of Government becomes destructive of these ends, it is the Right of the People to alter or to abolish it, and to institute a new Government. ...⁷¹

6. Conclusion and Recommendations

This paper points out that, despite the fact that there is still a lot of overlap between religion and the law and that religion clearly influences international law, the principles of religious freedom under biblical and modern legal systems are similar but it is *eschatological* under the biblical aspect while it is not absolute under the contemporary legal system. The concept of religious freedom and its guiding principles were specifically examined in this paper, along with the principles found in both the Bible and the contemporary legal system. The conclusion reached was that the Bible respects and acknowledges the fundamentally spiritual nature of faith, and as such, the state should never try to force someone to adhere to or believe in a particular religion—which is ineffective anyway—because, although it might be possible to force someone to confess their faith while they are being tortured, it will not be genuine, and as Christians, we want to see genuine faith in ourselves and others. Instead, civil authorities should guarantee religious freedom for adherents of all religions, since the Bible teaches that salvation cannot be coerced. It is found that religious freedom is a concept that is recognised in Nigeria and the majority of other countries, but it is not an unqualified right because it is susceptible to restrictions. Therefore, the governments of those countries where religious fundamentalists and extremist groups continue to murder, maim, or threaten people because of their faith must be held accountable. The UN Human Rights Council and the Commission on Human Rights must effectively call these countries like North Korea and China to order. Recently, there have also been reports of persecution of Christians in Northern Nigeria. The United States has set a good example for other countries to follow. Through the United States Commission for International Religious Freedom (USCIRF), the Executive Order Advancing International Religious Freedom 2020, and the International Religious Freedom Act of 1998, the US has been giving religious freedom adequate consideration for decades, both domestically and internationally.

⁶⁷ Jalaye, D. A. *Natural Law and the Nigerian Experience*, quoting A. P. d'Entreves, *Natural Law*, 1970, in T. O. Elias and M. I. Jegede (Eds), *Nigerian Essays in Jurisprudence*, Lagos: MIJ Professional Publishers Limited, 1993, p. 25.

⁶⁸ The rights are in Chapter IV of the Constitution of the Federal Republic of Nigeria 1999, Universal Declaration of Human Rights 1948, International Covenant on Civil and Political Rights 1966 and the African Charter of Human and Peoples' Rights 1981, among others.

⁶⁹ Genesis 2: 16-17, Bible

⁷⁰ Matthew 10: 16; 26: 52; 1 Corinthians 10: 32, Bible.

⁷¹ Mulrairie, Loren E., 'Religious Freedom: The Original Civil Liberty', *Howard Law Journal*, Vol. 61 (1), 2017, p. 151.