Regulation of Freedom of Religion *Vis A Vis* Noise Pollution Arising from it in Nigeria.

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Abstract

In Nigeria, religion plays a central role in public and private life, with the right to freedom of religion constitutionally enshrined under Section 38 of the 1999 Constitution. However, the practical manifestation of this right—especially through amplified religious activities—has increasingly clashed with other fundamental rights, notably the rights to life, health, privacy, and a safe environment. This growing tension has prompted urgent legal and policy questions about how to appropriately regulate religious expression when it results in environmental harm, particularly noise pollution. This research aims to critically examine the legal framework governing the regulation of religious freedom in Nigeria, specifically as it intersects with public health and environmental protection concerns. It investigates the extent to which the Constitution and subsidiary legislation permit reasonable limitations on religious practices in the interest of public order, health, and the rights of others. Adopting a doctrinal methodology, the study relies on statutory analysis, judicial decisions, international human rights instruments, and regulatory frameworks such as the National Environmental (Noise Standards and Control) Regulations 2009. The findings reveal that while freedom of religion is fundamental, it is not absolute and may be lawfully restricted under Section 45(1) of the Constitution. Excessive religious noise constitutes a public nuisance and violates both environmental standards and individual rights. The paper recommends that Nigerian states adopt uniform noise control laws tailored to religious institutions, and that courts should more assertively interpret constitutional rights in a balanced manner to protect public health while respecting religious freedoms.

1. Introduction

Religion is an intimate aspect of human identity, shaping not only personal belief but also communal expressions of meaning, purpose, and morality. In a culturally and religiously diverse country like Nigeria, often described as one of the most religious nations in the world, the right to freedom of religion is both deeply cherished and constitutionally protected under Section 38 of the 1999 Constitution. It allows individuals and communities to profess, practice, propagate, and manifest their faith without fear or coercion.

Yet, as important as this right is, it must exist in harmony with other equally fundamental rights, such as the rights to health, life, privacy, and a clean and safe environment. In recent decades, the proliferation of religious activities and houses of worship often accompanied by loudspeakers, megaphones, and musical instruments has raised complex questions about the limits of religious freedom, especially when such expressions result in excessive noise that disturbs public peace and endangers the wellbeing of others.

This article critically examines the constitutional and legal dimensions of regulating freedom of religion when its manifestation leads to environmental degradation in the form of noise pollution. It explores the necessary balance between the exercise of religious rights and the legitimate interests of the broader society, drawing upon constitutional principles, judicial pronouncements, environmental regulations, and comparative human rights jurisprudence to argue that while religious freedom is inviolable in belief, its external manifestation must be subject to reasonable regulation in a democratic society.

2. Conceptual Clarifications

2.1 Religious Freedom

Religious freedom refers to the right of individuals and communities to practice, express, and live out their faith or beliefs openly—whether publicly or privately—through teaching, rituals,

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worship, and observance. It also encompasses the right to change one's religion or adopt non-religious or atheistic views without coercion. At its core, religious freedom is widely recognised as a cornerstone of human rights, protected in most modern legal systems and democratic societies.

By virtue of and pursuant to Section 10 of the Constitution of the Federal Republic of Nigeria 1999 (As Amended) but even in contexts where a single religion is officially endorsed by the state, religious freedom usually means that while the state may have a preferred faith, it does not suppress or discriminate against minority religions. Individuals are allowed to believe and worship as they choose, free from state persecution or enforced conformity.

The international community, particularly through instruments like the International Covenant on Civil and Political Rights (ICCPR), has affirmed the importance of this right. In 1993, the United Nations Human Rights Committee clarified that Article 18 of the ICCPR protects all belief systems—theistic, non-theistic, and atheistic alike. The Committee emphasized that this right includes not only holding or adopting a belief but also the freedom to convert or reject religion altogether. Importantly, signatory states are prohibited from using threats, force, or legal penalties to compel individuals to renounce or adopt a particular faith.[1] Despite this, religious minorities in many parts of the world continue to face discrimination and violence.

Historically, thinkers like Voltaire observed that religious tolerance was vital for social harmony. In his reflections on 18th-century English society, he argued that the diversity of religious sects in England contributed to peace and prosperity, especially compared to countries with rigid religious conformity. According to him, allowing only one religion risks authoritarianism; two religions might provoke violent rivalry; but a multitude of faiths compels tolerance, as no single sect is dominant.[2]

Adam Smith, drawing on ideas from David Hume, made a compelling case in *The Wealth of Nations* for religious freedom as a pragmatic strategy for political stability and social progress. He contended that when numerous religious groups coexist and compete freely, they moderate their doctrines and behaviours to attract followers. This competition leads to a natural tempering of extremism and discourages sectarian violence.[3]

Smith warned that state-imposed religious monopolies often breed complacency, stagnation, and corruption within the dominant faith. Religious leaders become more focused on maintaining privilege than genuinely engaging the public. In contrast, when religious sects are small and numerous, each is compelled to act with humility, tolerance, and outreach—qualities essential for coexistence in a pluralistic society. As Smith put it, religious zeal only becomes dangerous when concentrated within a few large, powerful groups acting in unison. When no single group holds disproportionate influence, public peace is more likely to be preserved.[4]

In legal terms, the right to religious freedom is understood to encompass not only the internal freedom to hold beliefs but also the external freedom to act upon them—provided such actions do not infringe upon overriding state interests. While Article 18 of the ICCPR appears to confer a broad liberty, its scope is subject to certain restrictions, particularly concerning public health,

[1] UN Human Rights Committee, 'General Comment No 22: The Right to Freedom of Thought, Conscience and Religion (Art 18)' (30 July 1993) UN Doc CCPR/C/21/Rev.1/Add.4, paras 1–4.
[2] Voltaire, *Letters on the English* (trans Leonard Tancock, Penguin 1980) letter 6.
[3] Adam Smith, *The Wealth of Nations* (first published 1776, Everyman's Library 1991) bk V, ch I.
[4] *Ibid*

safety, order, and morality. These limitations, detailed in Article 18(3), are meant to balance individual liberty with broader societal interests.

To help interpret these provisions, the Human Rights Committee issued *General Comment No. 22*, which clarified that the term "practice" includes a wide range of religious acts—such as building places of worship—and stressed that any restrictions must not be applied in a discriminatory way. Though not every specific manifestation is listed, the spirit of the provision supports broad accommodations for religious motivations, including exemptions from compulsory military service.[5] This reinforces the idea that legal frameworks should respect diverse expressions of conscience, provided they do not harm others or destabilize the public good.

In essence, religious freedom remains a dynamic, essential, and sometimes contested principle. It lies at the intersection of conscience, culture, and state authority. As societies grow increasingly diverse, upholding this right requires not only legal guarantees but also a cultural commitment to tolerance, dialogue, and mutual respect.

2.2 Noise Pollution

Noise is generally understood as any undesirable or intrusive sound, but this raises the question of what makes a sound unwanted in the first place. The term "noise" often implies a negative judgment, frequently used to criticise sounds that an individual finds irritating or disruptive. As one commentator has noted, people often label music they dislike as "noise"[6]. Another scholar describes noise as any audible sound that lacks order or structure, making it unpleasant to the listener[7]. Technically, noise refers to random or meaningless sound, often of excessive volume, emanating from sources like industrial machines, heavy traffic, generators, and electronic devices. In recent years, technological expansion and urbanisation, especially in developing countries, have broadened the sources of noise pollution to include religious gatherings and public address systems[8].

Fieidconceptualises noise pollution as an excess of sound that lacks harmony and causes physiological stress or disrupts societal functions, making it difficult for people to focus, rest, or maintain emotional balance[9]. Such noise often includes multiple jarring frequencies that result in discomfort, tiredness, and even pain. Wassermann and Parnell observe that societies have been grappling with the consequences of noise since ancient Rome, where early efforts were made to control it[10]. The modern challenge lies in measuring, understanding, and regulating noise, a task that has become more complex due to the diverse sources and subjective perceptions of sound.

In industrialised countries, scientific experiments like rocket launches and bomb tests are major sources of high-intensity noise. In contrast, in developing countries such as Nigeria, diesel

[5] UN Human Rights Committee (n 1) paras 8–11.

[6] R Murray Schafer, *The Soundscape: Our Sonic Environment and the Tuning of the World* (Destiny Books 1993) 182.

[7] John Picker, *Victorian Soundscapes* (Oxford University Press 2003) 6.

[8] J I Orisaleye, et al., 'Environmental And Health Effects Of Industrial And Vehicular Emissions In Lagos, Nigeria' [2018] 3 *International Journal of Engineering*

[9] L Goines and L Hagler 'Noise pollution: a modem plague' [2007] 100(3) *South Med J.* :287-94.

[10] T D Hill and C E Ross and R J Angel, 'Neighborhood Disorder, Psychophysiological Distress and Health' [2005] 46 (2) *Journal of Health Social Behaviour*. 2005 Jun;46(2):170-86. doi: 10.1177/002214650504600204. PMID: 16028456.

generators, motor traffic, and amplified religious services constitute the bulk of noise pollution[11]. Globally, noise has emerged as a significant environmental stressor, earning it the designation "noise pollution" because of its widespread and often unacknowledged effects on health and well-being.

Orisaleye, et al, reports that medical experts are increasingly warning about the health hazards of chronic exposure to loud noise. These include noise-induced hearing loss as well as stress-related illnesses such as hypertension, diabetes, and mental health disorders[12]. To safeguard public health, experts recommend that environmental noise levels should not exceed 60 decibels under normal circumstances; anything beyond this threshold poses arisk to auditory function[13].

According to research by Anomohanran, Iwegbue, Oghenerhoro, and Egbai, urban centres in Nigeria routinely exceed recommended noise limits, indicating a growing public health concern[14]. The quality of one's living environment plays a pivotal role in determining health outcomes. Hill, Ross, and Angel argue that to formulate effective policies, it is critical to understand the relationship between environmental stressors and health, as well as the role of well-planned neighbourhoods in improving public well-being and productivity[15]. Individuals living in environments with high noise levels are more likely to suffer from chronic illnesses and experience shorter life expectancies than those in quieter, more controlled settings.

A key dilemma is determining when a sound should be classified as noise. Perceptions vary, particularly in multicultural societies where religious expressions and cultural practices generate diverse soundscapes. People often tune out familiar sounds, and over time, what once seemed intrusive may become part of the background[16]. However, even if these sounds become less noticeable, this doesn't eliminate the possibility ofbroad consensusthatcertain loud sounds are harmful, regardless of cultural context. In this way, the modern era has ushered in what some have called a "new noisiness", a state where pervasive and often unacknowledged sound has become a constant backdrop to urban life[17].

3. The Legal Scope of the Right to Manifest and Propagate Religion in Nigeria

The Constitution of the Federal Republic of Nigeria 1999 (as amended) guarantees the right to freedom of thought, conscience, and religion as a fundamental human right. Section 38(1) provides that *"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"*[18]. This broad guarantee encompasses both the internal freedom to hold beliefs and the external freedom to manifest and propagate such beliefs. Hence, Oyigbo posits that the exercise of this right may be in private and in public without

[11] Anomohanran O and others, 'Assessment of Noise Pollution in Nigerian Urban Areas' (2013) 7 *Journal of Environmental Research and Development* 240, 243

[12] Orisaleye, et al (n 7) 24.

[13] World Health Organization, *Guidelines for Community Noise* (WHO 1999) 5.

[14] Anomohanran and others (n 6) 246.

[15] T D Hill and C E Ross and R J Angel, 'Neighborhood Disorder, Psychophysiological Distress and Health' [2005] 46 (2) *Journal of Health Social Behaviour*. 2005 Jun;46(2):170-86. doi: 10.1177/002214650504600204. PMID: 16028456..

[16] Emily Thompson, *The Soundscape of Modernity: Architectural Acoustics and the Culture of Listening in America* (MIT Press 2002) 41

[17] Jacques Attali, *Noise: The Political Economy of Music* (Brian Massumitr, University of Minnesota Press 1985) 3.

[18] Constitution of the Federal Republic of Nigeria 1999 (as amended), s 38(1)

intimidation but within the confines of the law such as contained in Article 14(3) of the Rights of the Child (United Nations)[19].

The distinction between freedom to hold a belief (forum internum) and freedom to manifest or propagate it (forum externum) is a well-established principle in international human rights jurisprudence. The former is considered absolute and inviolable, while the latter is subject to limitations in the interest of public safety, order, health, or morality, as recognised under Article 18(3) of the International Covenant on Civil and Political Rights (ICCPR)[20], to which Nigeria is a state party[21].

In Nigeria, the manifestation and propagation of religion include the right to preach, publish religious materials, establish places of worship, and conduct religious activities both publicly and privately. However, this right is not without legal constraints, particularly when such manifestation conflicts with other constitutional values or rights of others. For example, the Supreme Court of Nigeria has recognised that the exercise of religious freedom must not infringe on public safety or the rights of others. In *Medical and Dental Practitioners Disciplinary Tribunal v Okonkwo*, the court held that while the right to religion is fundamental, it is subject to restrictions necessary to protect public interest[22].

The scope of the right to propagate religion often becomes contentious in multi-religious and ethnically diverse states, especially in northern Nigeria where Sharia-based legal systems operate alongside the secular constitution. While propagation is constitutionally guaranteed, Section 38 must be interpreted harmoniously with Sections 10 and 45 of the Constitution. Section 10 prohibits the adoption of any religion as a state religion, reinforcing the secular character of the Nigerian state[23]. Section 45 further allows for limitations on fundamental rights in the interest of public morality, public order, and national security[24].

Significantly, the Court of Appeal in the case of *Kalu v State* affirmed that freedom of religion does not entail absolute licence to act in ways that are prejudicial to peace or public morality, especially where religious practice includes acts of criminality or incitement[25].

The right to manifest religion in Nigeria also includes institutional dimensions, such as the right to establish and maintain religious schools or charities. These institutions are protected under the Constitution, but they must operate within the framework of Nigerian law. For instance, religious bodies are not allowed to discriminate in employment or public services, except where religious affiliation is a genuine requirement for the role.

Furthermore, the propagation of religion through broadcast media is regulated under the National Broadcasting Commission Act, which prohibits hate speech and incitement while permitting

[19] S.C. Oyigbo, Rights of the Christian Citizens and the Church (Ambassadors & Advocates Assembly Inc., 2021) 97

[20] International Covenant on Civil and Political Rights (adopted 16 December 1966, entered into force 23 March 1976) 999 UNTS 171, art 18(3)

[21] Nigeria ratified the ICCPR on 29 October 1993

[22] *Medical and Dental Practitioners Disciplinary Tribunal v Okonkwo* [2001] 7 NWLR (Pt 711) 206 (SC).

[23] Constitution of Nigeria 1999 (as amended), s 10

[24] *Ibid* s 45(1)

[25] *Kalu v State* [1988] 4 NWLR (Pt 90) 503 (CA).

religious broadcasting subject to licensing[26]. Thus, propagation through modern platforms is also constrained by regulatory oversight to prevent abuse or divisive content.

Nigeria's plural legal and religious landscape creates jurisdictional tensions, especially in states enforcing Sharia criminal law. In *Salihu v Gana*, the Sharia Court of Appeal in Niger State upheld a conviction based on religious propagation considered blasphemous under Sharia law, despite constitutional guarantees[27]. This raises concerns about the uniformity of constitutional interpretation across different jurisdictions and the potential for legal pluralism to undermine national constitutional norms.

4. Freedom of Religion *vis a vis* Noise Pollution in Nigeria.

It is now settled law that the right to freedom of religion as well as some other rights enshrined in the 1999 Constitution is not guaranteed in absolute terms[28].Although religion is intrinsic to human identity, the constitutional right to freedom of religion does not confer an unfettered license to express or practise religion at will—anytime, anywhere, or in any manner. The public manifestation of religious beliefs must be reconciled with other social values and legal interests. In this sense, the legal entitlement to religious freedom is counterbalanced by a legal obligation to respect the broader social order. Hence, freedom of religion is not an absolute right; it is subject to specific legal limitations[29].

This principle is encapsulated in Section 45(1) of the 1999 Constitution of Nigeria, which stipulates that nothing in Sections 37 to 41, including Section 38 (which guarantees freedom of thought, conscience and religion), shall invalidate any law that is "reasonably justifiable in a democratic society" for reasons such as defence, public safety, public order, public morality, public health, or the protection of the rights and freedoms of others[30]. The inclusion of Section 38 within this restriction framework makes it clear that while individuals are free to hold personal beliefs and convictions, the *public expression* of those beliefs may be lawfully constrained to meet societal needs.

The rationale for this restriction lies in the inherent difficulty of regulating private thought or belief, which resides within the individual mind and, as such, is inaccessible to external control or policing. What can be regulated, however, is the *external expression* or manifestation of religion, which may have implications for public order and the rights of others[31].

Importantly, any restriction on the right to freedom of religion must be imposed by "law." Under section 318 of the 1999 Constitution, "law" is defined as legislation enacted by a State House of Assembly[32]. On the face of it, this suggests that only state laws can limit religious freedom. However, this interpretation creates a tension with section 45(1), particularly since one of the grounds for restriction is "defence," a matter exclusively within federal legislative competence under section 4(2) and the Second Schedule[33]. Accordingly, the term "law" as used in section 45(1) must be interpreted broadly to include federal statutes, subsidiary legislation, and arguably

[26] National Broadcasting Commission Act, Cap N11 LFN 2004, s 2; Nigeria Broadcasting Code (6th edn, 2019), paras 5.2.1 and 5.4.1

[27] *Salihu v Gana* [2003] Sharia Court of Appeal, Niger State, unreported

[28] S.C. Oyigbo, Your Rights Under the Law (Ambassadors& Advocates Assembly Inc., 2020) 87

[29] B.O. Nwabueze, *Constitutional Democracy in Africa* (Vol 1, Spectrum Books 2003) 175.

[30] Constitution of the Federal Republic of Nigeria 1999 (as amended), s 45(1)

[31] B.O. Okere, 'Fundamental Rights in Nigeria' (1983) 1 *Nigerian Journal of Human Rights* 3.

[32] Constitution of Nigeria 1999, s 318(1)

[33] *Ibid*, s 4(2) and Part I of the Second Schedule.

even customary law, provided such law meets the standard of being "reasonably justifiable in a democratic society"[34].

This interpretation is consistent with international human rights jurisprudence. For instance, in interpreting a similarly worded provision under Article 9(2) of the European Convention on Human Rights, the European Court of Human Rights held in *Sunday Times v United Kingdom* that the term "law" includes both written and unwritten legal norms, such as the common law[35]. Since common law in the UK is regarded as the customary law of the English legal tradition, it lends credence to the inclusion of Nigerian customary law under section 45(1).

The requirement that such laws must be "justifiable in a democratic society" speaks to their substance and legitimacy. While democracies may vary in institutional design, core principles such as the rule of law, due process, majority rule, and the protection of minority rights remain foundational. Consequently, laws that restrict religious freedom must not be arbitrary, authoritarian, or discriminatory[36].

Section 45(1) sets out specific and exhaustive grounds upon which religious freedoms may be curtailed: defence, public safety, public order, public morality, public health, and the rights and freedoms of others[37]. The absence of the word "includes" or similar terms indicates that this list is not illustrative but definitive. Therefore, any restriction outside these grounds is unconstitutional.

To interpret these terms, the Oxford Advanced Learner's Dictionary defines "public" as pertaining to society at large or services provided by the government; "safety" as the condition of being protected from harm; and "health" as the state of physical and mental well-being, including medical services[38].

Courts and human rights bodies have consistently emphasised that such limitations must be narrowly and strictly construed. In *Cole v Young*, the court underscored that religious restrictions must directly and substantially interfere with one of the listed public interests[39]. The United Nations Human Rights Committee (UNHRC), in its General Comment No. 22, also insists that any restriction under Article 18(3) of the International Covenant on Civil and Political Rights (ICCPR)—which aligns with section 45(1) of the Nigerian Constitution—must be necessary, proportionate, and directly related to the objective being protected[40].

This principle was also highlighted in *Singh v Canada*, where a Sikh man challenged the termination of his employment for refusing to wear a hard hat, which conflicted with his religious duty to wear a turban. The UNHRC held that even if the requirement to wear protective headgear affected his religious belief, the restriction was justifiable under Article 18(3) of the ICCPR as it served the legitimate purpose of workplace safety[41]. Supporting this decision, Evans

[34] T.O. Elias, *Groundwork of Nigerian Law* (2nd edn, Routledge 2005) 95
[35] *Sunday Times v United Kingdom* (1979) 2 EHRR 245 (ECtHR)
[36] A.V. Dicey, *Introduction to the Study of the Law of the Constitution* (10th edn, Macmillan 1959) 202.
[37] Constitution of Nigeria 1999, s 45(1)(a)–(b).
[38] *Oxford Advanced Learner's Dictionary* (10th edn, Oxford University Press 2020).
[39] *Cole v Young* 351 US 536 (1956).
[40] United Nations Human Rights Committee, General Comment No 22 (1993) on Article 18 of the ICCPR, UN Doc CCPR/C/21/Rev.1/Add.4.
[41] *Singh v Canada* (Human Rights Committee, Communication No 208/1986), UN Doc CCPR/C/35/D/208/1986 (1989).

argued that states are entitled to enforce "paternalistic legislation" aimed at protecting public health and safety[42].

To ensure fair application of such restrictions, Carrillo de Albornoz laid out four essential criteria: (a) any restriction must be clearly prescribed by law and not left to arbitrary discretion, (b) the law must apply equally to all citizens and religious groups, (c) no restriction should be based on the specific content of religious beliefs, and (d) any emergency-based limitation must be proportionate to the crisis and revoked once the emergency ends[43].

The restriction of religious freedom on the ground of "the rights and freedoms of others" under section 45(1)(b) reinforces the understanding that religious rights coexist with, and are limited by, the rights of other individuals. All the fundamental rights guaranteed under Chapter IV of the Constitution are equal in status and mutually limiting. As such, no right—including religious freedom—should unjustifiably overshadow or extinguish another[44].

In essence, the famous dictum applies: a person's right ends where another's right begins. Therefore, if the exercise of religious freedom infringes upon another individual's legal, political, civil, or economic rights, the state is constitutionally permitted to legislate appropriate limitations[45]. "Rights" in this context encompasses a wide spectrum, including property, civil, and political rights, while "freedom" arguably refers to the religious liberty of the other person. Hence, the Constitution affirms that everyone is equally entitled to religious freedom, and the exercise of one person's rights must not violate those of another.

Excessive noise is inherently detrimental to human health and constitutes a significant environmental pollutant. Scientific studies indicate that prolonged exposure to noise levels exceeding 85 decibels (dB) poses serious risks to the auditory system, including the potential perforation of the eardrum and subsequent temporary or permanent hearing loss.[46] Numerous individuals suffer from hearing impairments directly attributable to chronic noise pollution. Initial symptoms often present as damage to the auricle, but the implications can be far more serious. Experts assert that noise pollution is among the most insidious forms of environmental degradation due to its stealthy yet profound physiological impacts, including the risk of cardiovascular diseases and even premature death.[47]

In Nigeria, a major source of this menace arises from the indiscriminate use of horn speakers and amplifiers by religious organisations—including churches and mosques—as well as music vendors.[48] These entities often operate in densely populated residential areas, where high-decibel loudspeakers and musical instruments are routinely employed during religious events such as vigils, Ramadan sessions, and morning devotional calls. The resultant noise pollution violates the

[42]M Evans, *Religious Liberty and International Law in Europe* (Cambridge University Press 1997) 223.
[43]M Carrillo de Albornoz, *Freedom of Religion in International Law* (MartinusNijhoff 1989) 149.
[44]O A, Akintayo, "Perceived Effect of Noise Generated by Religious Houses on the Health of Osun State, Nigeria" 5(19) (2014) Journal of Education and Practice. P. 91
[45] Constitution of Nigeria 1999, s 45(1)(b)
[46]O A, Akintayo, "Perceived Effect of Noise Generated by Religious Houses on the Health of Osun State, Nigeria" 5(19) (2014) Journal of Education and Practice. P. 91
[47] WHO, *Environmental Noise Guidelines for the European Region* (World Health Organization 2018).
[48] E I Oforzie, 'Climate, Urbanization and Environmental Pollution in West Africa' *Sustainability* 2022, *14*(23), 15602

tranquility of neighbourhoods, keeping residents awake at night and contributing to significant mental and emotional distress.[49]

This persistent exposure of unwilling individuals to hazardous noise levels raises serious constitutional concerns. Section 33 of the 1999 Constitution of the Federal Republic of Nigeria guarantees the right to life, which implicitly includes the right to a safe and healthy environment.[50]Accordingly, the enforced exposure to harmful noise levels may amount to an infringement of this fundamental right. Likewise, the use of loudspeakers for religious purposes in public spaces without consideration for non-consenting individuals undermines the spirit of this constitutional protection.

It is also not uncommon to find massive loudspeakers affixed to churches and mosques across Nigerian urban centres, emitting religious chants, sermons, and songs at excessive volumes both day and night. Such acts display a blatant disregard for the residential right to environmental peace and violate the implicit social contract that individuals have to coexist without causing harm to others.

The exponential rise in religious centres, while arguably reflective of Nigeria's constitutional guarantee of freedom of religion—has simultaneously precipitated increased incidences of noise pollution. Many of these religious facilities occupy large tracts of land within residential communities and operate without time-bound restrictions, causing prolonged noise disturbances, especially during night hours when natural quietude should prevail.[51] Religious activities such as vigils, early morning calls to prayer, and amplified preaching are now common sources of nuisance within these environments.

Even though the fundamental rights, which includes the right to freedom of religion, are said to be sacrosanct, there are claw backs provisions in the constitution[52]. It follows, therefore, that the argument that freedom of speech or religious expression confers a right to cause noise pollution is deemed to be fundamentally flawed. Although the Constitution guarantees the right to freedom of expression under Section 39, this right is not absolute and does not include a license to force one's voice or religious messages upon others through amplified sound systems.[53] As noted in legal scholarship, freedom of expression must be balanced against the rights of others to peace, privacy, and health. Therefore, using loudspeakers in a manner that forcibly intrudes into others' private spaces constitutes what scholars call "aural aggression" and cannot be justified under any democratic framework.[54]

Recognising the dangers of unregulated noise, the Federal Government through the National Environmental Standards and Regulations Enforcement Agency (NESREA) introduced the Environmental (Noise Standards and Control) Regulations in 2009, pursuant to Section 34 of the NESREA Act 2007.[55] These regulations aim to safeguard public health by prescribing maximum permissible noise levels for various zones, including residential, commercial, and industrial

[49] E Nwangwu, 'Religious Noise Pollution and Public Health: A Legal Appraisal' (2019) 11(2) *Journal of Environmental Law and Policy* 157.
[50] Constitution of the Federal Republic of Nigeria 1999, s 33
[51] A Yusuf, 'Freedom of Religion and the Environment in Nigeria' (2022) 15(3) *Law and Society Review* 203
[52] S.C. Oyigbo, How to Enforce Your Rights (Ambassadors & Advocates Assembly Inc., 2020) 110.
[53] Constitution of the Federal Republic of Nigeria 1999, s 39.
[54] O.A, Akintayo, "Perceived Effect of Noise Generated by Religious Houses on the Health of Osun State, Nigeria" 5(19) (2014) Journal of Education and Practice. P. 91
[55] National Environmental Standards and Regulations Enforcement Agency (Establishment) Act 2007, s 34.

areas. Specifically, residential areas must not exceed 60 dB during the day and 40 dB at night; commercial areas 75 dB (day), 50 dB (night); and industrial areas 85 dB (day), 65 dB (night).[56]

Section 12 of the 2009 Regulation empowers the agency to confiscate or prohibit any equipment that emits noise beyond permissible limits. It can also dismantle or deactivate any source of excessive noise, including locking or sealing off such devices as a remedial measure.[57] Additionally, Section 247(1)(a) of the Criminal Code criminalises any act that vitiates the atmosphere to the detriment of public health and wellbeing, with offenders facing up to six months imprisonment.[58] The term "noxious," as defined by Merriam-Webster, includes anything physically harmful to living beings—clearly encompassing noise pollution.[59]

In a bid to localise the enforcement of noise control, the Kaduna State Religious Preaching (Regulation) Law 2019 was enacted. It prohibits the use of religious loudspeakers between 11:00 PM and 4:00 AM in public spaces and restricts the use of such devices outside worship centres and recognised prayer times. Offenders are liable to fines of ₦200,000 or imprisonment for up to two years, or both.[60]

It is crucial to recognise that individual rights are not limitless; one's rights end where another's right begin. While freedom of religion is guaranteed, it must not be exercised at the expense of others' constitutional rights. Section 37 of the 1999 Constitution guarantees every citizen the right to privacy of their home and communications. Intrusive noise from external sources, particularly when persistent and unsolicited, can constitute a violation of this privacy right.[61]

Under common law, persistent interference with a neighbour's use and enjoyment of their property amounts to a private nuisance, and the affected party is entitled to seek redress.[62] However, if the alleged noise falls within lawful limits, the perpetrator may be immune from liability. The jurisprudence of the European Court of Human Rights (ECtHR) supports this position. In *Moreno Gómez v Spain*, the Court held that the Spanish government's failure to control excessive noise from nightclubs violated the applicant's right to respect for her private and family life under Article 8 of the European Convention on Human Rights.[63]

Thus, the combined force of statutory regulation, common law principles, and constitutional rights supports the position that excessive noise—whether from religious activities or otherwise—is not protected under the guise of freedom of expression or religion. Laws and regulations that curtail noise pollution, such as those promulgated by NESREA or the Kaduna State law, are legitimate and justifiable in a democratic society. Their aim is the protection of public health, safety, and the rights of other citizens.

As observed in jurisprudence, no religion mandates that worship must be conducted in a manner that disrupts the peace of others. In a civilised society, religious expression must be exercised with restraint, especially when it causes distress to the elderly, infirm, students, infants, or other

[56] Environmental (Noise Standards and Control) Regulations 2009, s 2(5)–(7).
[57] *Ibid* s 12.
[58] Criminal Code Act, Cap C38, LFN 2004, s 247(1)(a).
[59] Merriam-Webster Dictionary, 'Noxious' https://www.merriam-webster.com/dictionary/noxious accessed 6 June 2025.
[60] Kaduna State Religious Preaching (Regulation) Law 2019, s 9.
[61] Constitution of the Federal Republic of Nigeria 1999, s 37.
[62] *Hunter v Canary Wharf Ltd* [1997] AC 655 (HL).
[63] *Moreno Gómez v Spain* App no 4143/02 (ECtHR, 16 November 2004).

vulnerable individuals. These groups deserve the right to sleep, study, or rest without being subjected to undue auditory disturbance.[64]

5. Conclusion

The right to freedom of religion, as enshrined under Section 38 of the Constitution of the Federal Republic of Nigeria 1999 (as amended), is undoubtedly a cardinal component of the broader framework of human rights. However, its exercise particularly when manifested through sound amplification in public spaces, raises complex legal and societal questions when juxtaposed with other constitutional rights, especially the rights to life, health, privacy, and a safe environment.

While religious expression is vital to human dignity and personal autonomy, its manifestation cannot be exercised in a vacuum, nor in disregard for the physical, mental, and environmental wellbeing of others. It is neither doctrinally nor constitutionally tenable to suggest that freedom of religion extends to creating an aural nuisance that impairs others' enjoyment of their constitutional rights. The maxim *sic uteretuoalienum non laedas, meaning* use your own property so as not to harm another, finds strong resonance in the context of noise pollution generated by religious activities.

The constitutional architecture of Nigeria acknowledges the need to strike a balance between competing rights and interests. Section 45(1) of the Constitution provides that fundamental rights, including religious freedoms, may be restricted where such restrictions are reasonably justifiable in a democratic society, particularly in the interest of public safety, public order, public morality, public health, or for the protection of the rights and freedoms of others. The jurisprudence of the European Court of Human Rights, particularly in *Moreno Gómez v Spain*, underscores that excessive noise—regardless of its origin—can violate the right to private and family life

Accordingly, the legal and regulatory framework in Nigeria, including the National Environmental (Noise Standards and Control) Regulations 2009, Section 247(1)(a) of the Criminal Code, and the Kaduna State Religious Preaching (Regulation) Law 2019, constitute justifiable mechanisms for curbing excessive religious noise, provided they are applied proportionately, non-discriminatorily, and within the bounds of constitutional legality for it is a crime to prevent minister of religion from discharging his duty, to disturb religious worship and to break and enter into building used for religious worship under Sections 205, 206 416 of the Criminal Code applicable in the southern part of Nigeria.

6. Recommendations

a. Enactment of Uniform State-Level Religious Noise Control Laws:
   Given the federal structure of Nigeria, it is imperative that all states, not only Kaduna, enact comprehensive religious noise regulation laws in line with Section 45(1) of the Constitution. Such laws should define acceptable noise thresholds, designate permissible hours for usage of amplified instrument of worship, and provide accessible complaint mechanisms for affected residents.

b. Strengthen Enforcement of Existing Environmental Noise Regulations
   The National Environmental Standards and Regulations Enforcement Agency (NESREA) must be adequately funded and empowered to rigorously enforce the 2009 Noise Standards and Control Regulations. Provisions such as Sections 2(5)–(7) and

[64]*Church of God (Full Gospel) in India v KKR Majestic Colony Welfare Association* (2000) 7 SCC 282 (Indian SC).

Section 12 must be operationalised by way of routine monitoring, community reporting platforms, and swift punitive measures against defaulters.

c. Judicial Interpretation to Define the Limits of Religious Expression
Courts should continue to adopt a purposive interpretation of Section 38 vis-à-vis Section 45(1), affirming that the manifestation of religious freedom does not extend to conduct that undermines public health or infringes the rights of others. This would bring Nigerian jurisprudence in line with persuasive international standards, as seen in *Singh v Canada* and *Evans v United Kingdom*.

d. Public Sensitisation and Religious Leadership Engagement
Government agencies, in collaboration with religious councils, should initiate public awareness campaigns about the health hazards of noise pollution. Religious leaders must be sensitised to view noise control not as an attack on faith but as a collective responsibility to uphold public health and civic co-existence.

e. Judicial Sanction of Non-Compliance as Public Nuisance
Where religious noise pollution causes persistent disturbance to residential dwellers, it should be classified and adjudicated as public nuisance actionable under tort law. This would reinforce civil responsibility and encourage self-regulation by religious institutions.

f. Codification of the Right to Quiet Enjoyment as Derivative of the Right to Privacy
Section 37 of the 1999 Constitution should be interpreted to include a right to "quiet enjoyment of home." Where religious noise trespasses into this zone, it should be viewed as an infringement on the privacy of the home, supported by the ruling in *Moreno Gómez v Spain*.