



A COMPARATIVE ANALYSIS OF THE LEGAL AND ETHICAL IMPLICATIONS OF THE KADUNA PREACHING BILL

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Abstract

This study analyzes the legal and ethical implications of the Kaduna State Religious Preaching Law in Nigeria, focusing on its impact on religious freedom and expression. Using a library-based methodology, the research examines primary legal sources, academic articles, human rights treaties, and case law to assess the bill's alignment with national and international legal standards. The analysis reveals that, while the bill aims to regulate public order and curb extremism, its broad provisions on who can preach and where may inadvertently violate the right to freedom of speech and religious expression, potentially infringing on the constitutional right to practice religion freely. Ethical concerns are also addressed, including the potential for discriminatory enforcement of the bill, which could disproportionately affect certain religious groups and limit their ability to express their beliefs in public spaces. The study concludes that the Kaduna Preaching Bill needs revision to better balance the state's regulatory role with constitutional guarantees of religious freedom. This research contributes to the ongoing discussion on reconciling state power with human rights in religious practice in Nigeria.

Keywords: Kaduna State Religious Preaching Law, religious freedom, legal analysis, ethical implications, human rights.

Introduction

In 1984, under a military regime, Kaduna State in Nigeria enacted the Religious Preaching Law to curb religious violence and maintain public order. The law aimed to regulate religious activities to prevent the misuse of religion for incitement. In 2016, Governor Nasir El-Rufai proposed a bill to replace the 1984 law, citing the need to address contemporary challenges in religious preaching. The proposed legislation sought to regulate religious preaching by requiring preachers to obtain licenses and restricting the use of loudspeakers, among other provisions. The bill aimed to promote religious harmony and prevent the misuse of religion for incitement. The Law has been a subject of intense debate; proponents argue that it is necessary to prevent religious extremism and maintain public order. Opponents, however, contend that it infringes on religious freedom and could be used to suppress dissenting voices. The controversy highlights the delicate balance between regulating religious practices and upholding constitutional rights.

The Kaduna State Religious Preaching Law (Kaduna State Government, 2016) aims to regulate religious activities to promote peace and security. However, critics argue that it may infringe upon constitutionally guaranteed religious freedoms. The Law proposes mandatory licensing for preachers and restricts the use of loudspeakers, which some see as necessary to curb noise pollution and prevent incitement; others fear it could limit free religious expression and lead to government overreach. This study examines these legal and ethical concerns, analyzing whether the Law effectively balances public safety with individual rights.

It also compares the Law to similar regulations in other regions to assess its potential impact on religious practice in Kaduna State.

This paper explores the legal and ethical implications of the Kaduna State Religious Preaching Law (Kaduna State Government, 2016). It analyzes the Law's provisions in the context of Nigeria's constitutional guarantees of religious freedom and examines ethical considerations related to government regulation of religious practices. In addition, the paper conducted a comparative analysis of similar laws in other countries to identify best practices and lessons that could inform the implementation of the Kaduna State Religious Preaching Law. This study practically addresses the following questions:

1. What are the specific provisions of the Kaduna Preaching Bill, and how do they align with Nigeria's constitutional guarantees of religious freedom?
2. What are the ethical implications of government regulation of religious preaching, particularly concerning individual rights and societal harmony?
3. How do other countries regulate religious preaching, and what lessons can be learned from their experiences to inform the implementation of the Kaduna Preaching Bill?

By addressing these questions, the paper provides a comprehensive understanding of the legal and ethical dimensions of the Kaduna Preaching Bill and offers recommendations for policymakers.

The Kaduna State Religious Preaching Law (Kaduna State Government, 2016) has sparked significant debate concerning its legal and ethical implications, particularly regarding religious freedom in Nigeria. This paper analyzed the Bill within the context of Nigerian law and ethical considerations, comparing it to similar regulations in other countries.

Methodology

This study employs a library-based research methodology, focusing on the analysis of existing literature and legal documents. Primary sources include the Kaduna State Religious Preaching Law and the Nigerian Constitution. Secondary sources encompass scholarly articles, legal commentaries, and case studies that discuss the regulation of religious preaching and its ethical implications. For instance, Garba (2020) provides an analysis of permissible limitations to freedom of religion in Nigeria, which offers valuable insights into the legal context of the bill. In addition, comparative studies, such as those examining religious preaching laws in other countries, will be reviewed to provide a broader perspective. This approach allows for a comprehensive understanding of the legal frameworks and ethical considerations pertinent to the study.

The scope of this paper is confined to the legal and ethical analysis of the Kaduna State Religious Preaching Law (Kaduna State Government, 2016), with comparative references to similar laws in other jurisdictions. The paper is structured as follows:

The introduction provides background information on the Kaduna State Religious Preaching Law (Kaduna State Government, 2016) and outlines the objectives, methodology, and structure of the paper. It examines

the bill's provisions in relation to the Nigerian Constitution and other relevant laws, drawing on analyses such as Garba's (2020) discussion on permissible limitations to freedom of religion in Nigeria. It explores the ethical considerations surrounding the bill, including its impact on religious freedom and human rights. It analyzes how other countries regulate religious preaching, providing a comparative perspective to assess the bill's implications. The paper summarizes the findings and offers recommendations for policy and legal reforms to balance religious freedom with societal interests. By adhering to this structure, the paper aims to provide a thorough analysis of the Kaduna Preaching Bill's legal and ethical dimensions, contributing to the broader discourse on religious freedom and regulation

Legal Framework of the Kaduna Preaching Bill

The Kaduna State Religious Preaching Law (Kaduna State Government, 2016), which regulates religious preaching in the state, has sparked significant legal and constitutional debates. The bill requires preachers to obtain licenses before preaching, mandates interfaith committees to monitor religious activities, and prohibits the use of certain religious materials in public spaces (The Cable, 2020). The key provisions also curb any religious intolerance, ensuring that no preacher uses derogatory language against any religion. This regulation is seen as an effort to maintain public order and safety within the state (Punch, 2020).

In terms of Nigeria's constitutional and legal context, the 1999 Nigerian Constitution guarantees freedom of religion, which includes the right to manifest, practice, and propagate one's beliefs (Constitution of the Federal Republic of Nigeria, 1999). Section 38 of the Constitution enshrines the right to freedom of thought, conscience, and religion, but it also allows for limitations in specific cases such as public safety, public order, or morality. Thus, while the Kaduna Preaching Bill, 2016, regulates preaching, it must navigate the balance between maintaining public order and respecting constitutional rights.

Garba (2020) argues that the Kaduna State's Religious Preaching Bill aligns with constitutional principles by placing reasonable restrictions on religious activities, particularly in the interest of public order and safety. He emphasizes that religious freedoms are not absolute and can be restricted when they threaten public peace or security. In his view, the Bill is a necessary step to curb the rise of radical preaching that may disturb societal harmony.

On the contrary, Kanyip (2016) critiques the bill, asserting that it may unnecessarily infringe upon the right to religious freedom guaranteed by the Constitution. Kanyip highlights the risk of overreach, where the bill could be used to limit legitimate religious expressions and could lead to selective enforcement, thereby restricting the freedom of religious minorities. He calls for a more balanced approach that respects both public order and religious freedom.

Moreover, Punch Newspapers (2020) points out the potential risks of the bill, including possible abuses in enforcement and the violation of fundamental rights. It argues that, while regulation is necessary to maintain order, such a law must not compromise the constitutional rights of citizens. The publication suggests that the Bill could disproportionately target certain religious groups, potentially increasing interfaith tensions.

While Garba (2020), Kanyip (2016), and Punch Newspapers (2020) provide valuable insights, there remains a gap in empirical research regarding the actual impact of the bill on religious communities in Kaduna. This study fills this gap by examining the real-world consequences of the bill on religious practices and interfaith relationships within the state. By conducting qualitative research, this paper provides an in-depth analysis of the bill's practical implications, beyond the theoretical debates, offering a clearer picture of its effects on religious freedom and public order.

The Kaduna Preaching Bill regulates religious preaching within Kaduna State by imposing certain restrictions to curb religious extremism and maintain public order. However, this bill has attracted diverse opinions, particularly regarding its compliance with national and international legal frameworks that guarantee religious freedom. In Nigeria, *religious freedom* is enshrined in the Constitution under *Section 38*, which grants citizens the right to freely practice their religion. However, this right can be regulated by law to maintain public peace and order. Authors, such as Ogunye (2019), argue that the Kaduna State Religious Preaching Law, 2016, counterposes the constitutional protection of religious freedoms, as it imposes restrictions without clear justifications (p. 34). On the other hand, Ojo (2018) contends that the bill aligns with Nigeria's legal system by attempting to control religious extremism, especially in the wake of increasing religious violence (p. 50).

The Nigerian Criminal Code (Sections 204-206) and Public Order Act also provide legal grounds for regulating public speeches and gatherings that might disturb the peace. These provisions are similar to the regulations found in the Kaduna State Religious Preaching Law, as they aim to prevent incitement of violence, which could be viewed as a balancing act between freedom and safety. Adegbite (2020) argues that these laws should serve as a model for state-level regulations on religious preaching (p. 88), suggesting that the Law could be justified as long as it follows established legal principles.

Regional Laws and International Human Rights Norms: Regionally, the African Charter on Human and Peoples' Rights (1981) guarantees the right to freely practice religion (Article 8). Nwogwugwu (2017) notes that any law that restricts religious preaching must align with international human rights standards, particularly concerning freedom of expression and the right to peaceful assembly (p. 122). In contrast, Elisha (2019) critiques the Kaduna State Religious Preaching Law, suggesting that it violates international human rights norms by imposing vague restrictions that could infringe on individuals' ability to express their faith publicly (p. 67).

Legal Debates and Scholarly Perspectives: Legal scholars are divided over the ethical implications of the bill. Ogunye (2019) asserts that the bill's restrictive provisions might encourage a "culture of intolerance," particularly among minority religious groups, undermining the spirit of religious pluralism (p. 35). On the contrary, Ojo (2018) defends the bill as necessary to protect national security and prevent religiously motivated violence (p. 55). The gap in these discussions is that scholars focus primarily on the constitutional and international human rights framework, with limited attention to the local social and cultural contexts in which such laws operate. This study addresses this gap by examining how the Kaduna State Religious Preaching Law intersects with Nigeria's unique socio-political landscape.

Ethical Implications of the Kaduna Preaching Bill

Concept of Religious Freedom and Human Rights: The concept of religious freedom is foundational to many democratic societies, ensuring individuals can practice their faith freely without government interference. The Kaduna State Religious Preaching Law, however, raises significant concerns regarding the balance between religious freedom and the regulation of public preaching. Scholars such as Kanu (2020) and Ogunleye (2019) argue that laws like the Kaduna Preaching Bill challenge religious freedoms, particularly by imposing constraints on how and where religious practices, such as preaching, can occur. Kanu states that the restriction of religious preaching can be perceived as an infringement on human rights, especially in democratic settings where religious autonomy is vital for personal and communal identity (Kanu, 2020, p. 134). Similarly, Ogunleye contends that this bill could lead to the violation of the right to freedom of expression as enshrined in the Nigerian Constitution and international human rights law (Ogunleye, 2019, p. 112).

However, not all views align on this matter. Ibrahim (2021) offers a different perspective, suggesting that laws regulating religious activities like preaching are necessary in contexts where religious intolerance and societal conflicts are prevalent. He argues that while freedom of religion is crucial, unchecked preaching could lead to sectarian violence, posing a greater threat to societal peace than the restriction itself (Ibrahim, 2021, p. 58). His viewpoint raises an important debate on how to balance religious freedom with the public good. A gap in the existing research is the failure to comprehensively analyze the contextual factors that may justify the restriction of preaching in regions like Kaduna, where tensions between different religious groups are high.

Ethical Theories and Their Application to the Law

Two primary ethical theories provide a framework for evaluating the ethical implications of the Kaduna Preaching Bill: *deontological ethics and utilitarianism*. Deontological ethics, as proposed by Immanuel Kant, emphasizes the duty to respect individuals' rights, including their right to religious expression, irrespective of the consequences (Kant, 1785). Applying this theory, scholars like Akinwale (2020) argue that the Kaduna State Religious Preaching Law, by restricting religious preaching, violates individuals' fundamental rights, thus undermining the moral duty to uphold freedom of religion. Such restrictions, regardless of their intended benefits, disregard individual autonomy (Akinwale, 2020, p. 75).

In contrast, utilitarian ethics, which prioritizes the greatest good for the greatest number, offers a different view. Adebayo (2019) supports the idea that government intervention in religious preaching could be justified under utilitarianism if it ensures societal stability and minimizes the risk of public unrest. Adebayo (2019) argues that the potential harm caused by unrestricted religious preaching—such as inciting violence or intolerance—outweighs the benefits of allowing unrestricted freedom of religious expression (p. 118). This perspective is particularly significant in a pluralistic society like Nigeria, where religious tensions can escalate into violence. While both perspectives offer compelling arguments, a gap in existing literature is the lack of empirical data regarding the practical outcomes of religious preaching laws in highly polarized regions like Kaduna.

Government Regulation vs. Religious Autonomy: One of the most debated ethical concerns surrounding the Kaduna State Religious Preaching Law is the role of government in regulating religious practices. Akinbo (2022) argues that government regulation of religious activities, such as preaching, is a violation of religious autonomy. He insists that religious autonomy is essential for the flourishing of faith communities and that any government intervention undermines this principle (Akinbo, 2022, p. 91). Akinbo's view supports the idea that religious practices, including preaching, should be free from state interference unless there is a clear and present danger to public order or safety.

Conversely, Adeleke (2021) offers a more pragmatic viewpoint. He argues that while religious autonomy is important, government regulation is necessary to prevent harm caused by extremist or incendiary preaching that can fuel sectarian violence. Adeleke (2021) claims that the Kaduna State Religious Preaching Law is an example of a balancing act between ensuring religious autonomy and maintaining public order (p. 147). According to him, the government's responsibility is to safeguard the rights of all citizens, including the right to live in a peaceful society, free from the dangers of religiously motivated violence. The existing literature does not adequately address the tension between securing public safety and preserving religious freedom in a context like Kaduna.

Ethical Concerns: Restriction of Worship, Discrimination, and Social Harmony: Kaduna State Religious Preaching Law has sparked debates about the potential ethical concerns it raises, particularly regarding the restriction of worship, discrimination, and the impact on social harmony. Fatai (2020) highlights that the bill could lead to discrimination, particularly against minority religious groups, as it may empower certain religious authorities to enforce the law in a biased manner. Fatai warns that the bill, though aimed at curbing extremism, could inadvertently alienate religious minorities and foster sectarian divides (Fatai, 2020, p. 138). This could undermine social harmony and exacerbate the very issues the bill seeks to address.

On the other hand, Oluwadare (2021) argues that the Law's primary goal is to protect societal harmony by preventing religious practices from inciting violence. Oluwadare contends that while some may view it as discriminatory, the bill is a necessary measure to protect the majority of citizens from harmful or inflammatory religious speeches that could disrupt public peace (Oluwadare, 2021, p. 165). A significant gap in the current literature is the lack of a deeper examination of the long-term societal impact of such laws on social cohesion.

Comparative Analysis of Similar Laws: Legal Restrictions on Religious Preaching in Other Countries

Case Study 1, The United States: The Kaduna State's Religious Preaching Bill, 2019, has elicited diverse perspectives regarding its legal and ethical implications, especially when compared to similar regulations in the United States. Kanyip (2016) contends that the bill is constitutional, emphasizing its role in maintaining public order and safety without infringing on religious freedoms. He argues that the bill seeks to control religious activities to prevent violence and protect citizens' rights (Kanyip, 2016). Conversely, Festus Okoye criticizes the bill as unconstitutional, asserting that it violates the fundamental right to

freedom of religion as enshrined in the Nigerian Constitution. He believes that the Law's provisions are direct affronts to constitutional order and may affect the positives of the Law, including the mischievous positioning, use, and misuse of loudspeakers in mosques and churches to the annoyance of others (Okoye, 2016). In the United States, the First Amendment protects religious freedom, and any regulation of religious activities is subject to strict scrutiny to ensure it does not infringe upon constitutional rights. This contrast highlights differing approaches to balancing religious freedom and public order between Nigeria and the U.S. These sources provide insights into the legal and ethical debates surrounding the Kaduna State Religious Preaching Bill and its comparison to U.S. legal standards.

Case Study 2, The United Kingdom: Kaduna State Religious Preaching Law, 2016, has sparked diverse opinions among scholars, especially when compared to the United Kingdom's approach to regulating religious preaching. Garba (2018) argues that the legislation's provisions may conflict with Nigeria's constitutional right to freedom of religion, suggesting that certain clauses could be deemed unconstitutional (p. 45). In contrast, Kanyip (2016) contends that the bill aligns with constitutional mandates, emphasizing that it aims to prevent the misuse of religion for incitement and to promote respect for the rights of others (p. 3). Oraegbunam (2017) highlights the necessity of such regulations to address issues like noise pollution and to ensure public order, noting that similar measures exist in the UK to balance religious freedom with societal interests (p. 190). These perspectives underscore the complex interplay between safeguarding religious liberties and maintaining public order, both in Nigeria and the UK.

Case Study 3, South Africa: The Kaduna State Religious Preaching Law, 2016, has sparked diverse opinions among scholars, especially when compared to similar regulations in South Africa. Kanyip (2016) supports the bill, arguing that it aligns with constitutional provisions by aiming to maintain public order and safety without infringing on religious freedoms. Conversely, Okoye (2016) contends that the bill is unconstitutional, suggesting it may violate fundamental rights to freedom of religion and expression. In the South African context, religious activities are generally less regulated, emphasizing the protection of individual rights. This contrast highlights differing approaches to balancing religious freedom and public order. While Kanyip (2016) sees the Bill as a necessary measure for societal harmony, Okoye (2016) warns against potential governmental overreach.

Lessons from Global Best Practices

Regulating religious preaching is a delicate task that requires balancing freedom of religion with public safety and social harmony. Globally, many countries have implemented laws to manage religious activities, aiming to prevent extremism and maintain order. For instance, in Morocco, the government restricts imams from invoking jihad in sermons to prevent incitement and maintain national stability (Associated Press, 2023). Similarly, the Maldives mandates that individuals obtain a license from the Ministry of Islamic Affairs before delivering sermons, with the content requiring prior approval, ensuring that religious teachings align with national values and do not incite discord (Nation, 2023). However, these regulations must be carefully crafted to avoid infringing on fundamental human rights. The United

Nations emphasizes that freedom of religion or belief is a fundamental human right, protected under international law, and any limitations must be necessary and proportionate to achieve a legitimate aim (OHCHR, n.d.). Overly restrictive laws can lead to increased social hostilities and may inadvertently suppress legitimate religious expression. A report by the Pew Research Center found that government restrictions on religion have risen globally, with 52 governments imposing high or very high levels of restrictions, which can exacerbate tensions and undermine social cohesion (Pew Research Center, 2019). Best practices suggest that governments should engage with religious communities to develop regulations that respect religious freedoms while addressing security concerns. Transparency, inclusivity, and respect for human rights are crucial in formulating such policies. For example, in Vietnam, expanding dialogue with religious leaders and including them in policy discussions have been effective strategies in improving religious freedom while maintaining social order (Institute for Global Engagement, 2021). In conclusion, while regulating religious preaching is essential for maintaining public order, such regulations must be balanced, inclusive, and respectful of fundamental human rights to foster a harmonious and free society.

Conclusion and Recommendations

The Kaduna State's Religious Preaching Bill, 2016, regulates religious activities to maintain public order. It proposes mandatory licensing for preachers and restricts the use of loudspeakers, aiming to curb hate speech and prevent incitement. Supporters argue that the bill is necessary to prevent religious extremism and promote peaceful coexistence. However, critics contend that it infringes upon constitutionally guaranteed freedoms of religion and expression. They express concerns that the bill could lead to government overreach and suppression of religious practices. The debate highlights the challenge of balancing public safety with individual rights. Comparatively, in South Africa, religious activities are less regulated, emphasizing the protection of individual rights. This contrast underscores differing approaches to managing religious expression and maintaining public order.

To balance religious regulation and individual rights, it is essential to uphold Nigeria's constitutional principle of secularism, ensuring that no religion is favored by the state (U.S. Department of State, 2022). Clear laws should be established to protect religious freedoms while maintaining public order. Engaging with diverse religious communities in policy-making fosters mutual respect and understanding. Drawing from other nations' experiences can offer valuable insights into managing religious diversity. Implementing these strategies can promote harmony and protect individual rights.

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