BALANCING FREEDOM OF RELIGION AND FREEDOM OF EXPRESSION: REVIEW OF THE BLASPHEMY LAWS IN NIGERIA.

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Abstract

The n discusses the Nigerian case of Deborah Yakubu and the impact of uneven application of blasphemy law, analysing its operation across regions. Part II provides an overview of international laws guaranteeing freedom of speech and religion and Nigeria's obligations. Part III addresses Nigeria as bound by international instruments such as the Universal Declaration of Human Rights and the ICCPR, which guarantee freedom of religion and expression. Part IV addresses the US and European perspectives. Part V argues for a balance between rights. Part VI urges reform of blasphemy laws for precision. Part VII concludes by recommending robust application of Nigeria's right to freedom of religion and expression.

Key-Words: Religion, Freedom of Expression, Blasphemy, Human Rights, Nigeria

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1. **Introduction**

Freedom of Religion has been a complex issue from time immemorial, and religious persecution in Nigeria remains a significant concern both nationally and internationally.[1] On December 12, 2023, Congressman Christopher H. Smith of New Jersey addressed the House of Representatives, urging that Nigeria be designated as a Country of Particular Concern (CPC) under the International Religious Freedom Act (IRFA) of 1998[2]. His remarks referenced a letter sent to Capitol Hill by religious freedom advocates, documenting severe and systematic religious persecution in Nigeria.[3]

Before the colonial era, traditional African religion existed; beliefs, practices, and worship were tied to communities. During this era, religious practices and governance coexisted. Traditional rulers often played both religious and political leaders. After the colonial era, Nigerian society generally recognized three main religions in Nigeria[4]: African Traditional Religion, Christianity, and Islam. Concerning Islam, English laws were applied to criminal matters in the North, while Islamic laws governed non-criminal or personal issues.[5]

Upon gaining independence in 1960, the Constitution made express provisions for certain fundamental human rights, including the 'right to freedom of thought, conscience, and religion, including freedom to change one's 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

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[1]International Christian Concern, 'ICC Releases Report on Concerning Religious Persecution Trends in Nigeria' (*Persecution.org*, 10 July 2024) <https://www.persecution.org/2024/07/10/icc-releases-report-on-concerning-religious-persecution-trends-in-nigeria/> accessed 6 November 2025.

[2]Christopher H. Smith, 'Statement on Nigeria's Designation as a Country of Particular Concern' (*House of Representatives*, 12 December 2023) 169 *Cong. Rec.* E1207, 1 (2023)<https://www.congress.gov/118/crec/2023/12/12/169/204/CREC-2023-12-12-pt1-PgE1207-6.pdf> accessed 6 November 2025.

[3]*Ibid.*

[4]P Kingsley, K Pardung and G.S Chukwuemeka, 'The History of Religion in Nigeria'(2023) 1 (1) , *Dynamic Journal of Humanities, Social & Management Sciences 72*.

[5]M. Lawan, 'Islamic Law and Legal Hybridity in Nigeria', *Journal of African Law* 58 (2014) 303<http://www.jstor.org/stable/24735218> accessed 5 January 2025.

observance.'[6] Nigeria is a secular state, as evidenced by its constitutional provisions guaranteeing freedom of religion; there are no provisions in the constitution allowing the adoption of any state religion.[7] However, in 1999, 12 out of 36 states in Nigeria adopted Sharia law as the law governing Muslims within the Northern Jurisdictions. [8] In addition, Nigeria became a member of the Organization of Islamic Cooperation (OIC)[9] This further sparked controversies around Nigeria's alleged secularity,[10] given that most members are Islamic states.

2. Subjectivity, Abuse and the Case of Deborah Yakubu

In analyzing how blasphemy laws operate in Nigeria, the recent case of Deborah Yakubu[11]is worth mentioning. A student of the Shehu Shagari College of Education Sokoto, a college located in the

[6]*1960 Constitution of Nigeria*, CENTER FOR LAWS OF THE FEDERATION (Nov. 11, 2020), <https://lawnigeria.com/2020/
11/11/1960-constitution-of-nigeria/> accessed 6 November, 2025

[7]*Ibid.*

[8]R.O. Olaniyi, 'Hisbah and Sharia Law Enforcement in Metropolitan Kano', *Africa Today* 57 (2011) 71–96, 74<https://doi.org/
10.2979/africatoday.57.4.71> accessed 6 Nov 2025. Shortly after the 1999 constitution came into force, various state governments in northern Nigeria embarked on a process of reforms designed to restore Sharia to the position of preeminence it once enjoyed within their territories during precolonial times (Iwobi 2004:111). The debate goes beyond constitutional matters to include briader political questions such as the expression of marginalization. Many Muslims felt aggrieved that Sharia had been unduly marginalized within the Nigerian legal order.

[9]*Member States*, Organization of Islamic Cooperation <https://www.oic-oci.org/states/?lan=en> accessed 5 January 2025. The OIC is an intergovernmental Organization established in 1969 to foster unity and cooperation among its member states, advocating for the protection and promotion of Islamic values and principles and Nigeria became a member in 1985.

[10]*Nigeria Looks Back on 20 Years of Sharia Law in the North*, DW (22 October 2019)<https://www.dw.com/en/nigeria-looks-back-on-20-years-of-sharia-law-in-the-north/a-51010292> accessed 6 November 2025.In the name of democracy and the spread of its dividends, Zamfara State government and later governments of other eleven northern states (Jigawa, Kaduna, Kano, Katsina, Kebbi, Sokoto, Niger, Bauchi, Bornu, Yobe, Gombe) respectively enacted, repealed and amended certain laws to pave the way for the smooth enforcement of the criminal aspects of Sharia law in their various jurisdictions. While Sharia Court Laws were enacted to establish Sharia Courts, Sharia Court of Appeal (Amendment) Laws were made to add criminal causes to the jurisdiction and the supervisory roles of the Sharia Courts of Appeal of the relevant states. In the same vein, while the Area Courts (Repeal) Laws were enacted to replacing Area Courts with the new Sharia Courts, the Sharia Penal Code Laws were passed to codify Sharia offences

[11]Nigerian Female Student Killed for Alleged Blasphemy, Sparks Outrage, CNN (13 May 2022)<https://www.cnn.com/2022/05/13
/africa/female-student-blasphemy-attack-intl/index.html> accessed 6 November 2025.

northwestern part of Nigeria, was brutally murdered by an angry mob of students. She was accused of posting a blasphemous statement about Prophet Mohammed in her class group. This incident caused an uproar in Nigeria and internationally. Police in the vicinity were unable or unwilling to quell the unrest, and authorities reportedly limited charges against two alleged perpetrators to "conspiracy and inciting public disturbance."[12] From the foregoing, it is evident that blasphemy laws, as currently applied in Nigeria, appear to do more harm than good. Their vague and subjective nature makes them ripe for abuse, empowering individuals or groups to suppress dissenting views and enforce their religious beliefs on others.

This is just one of the many human rights and religious freedom violations occurring Nigeria. The International Christian Concern (ICC),[13] describes Nigeria as one of the scariest places to be a Christian, and further reports by the ICC show that no less than 896 civilians were killed in violent attacks in Nigeria during the first three months of 2022.[14]In most cases, the perpetrators are never brought to justice, and this creates a society where mob violence and lynching thrive.

According to Isa Sanusi, Director of Amnesty International Nigeria[15] the menace of mob violence is perhaps one of the biggest threats to the right to life in Nigeria. The fact that these killings have been happening for a long time, with few cases investigated and prosecuted, highlights the failure of governmental structures to uphold and fulfill their obligation to protect people from harm and violence.[16]Blasphemous offences must be brought before and adjudicated in courts of law rather than left to the whims of mob justice. when this is done, it allows the courts to play a critical role in striking a delicate balance between freedom of expression and religion based on the facts and circumstances of each case. This will enable Nigerian courts to establish precedents that promote

[12]*Ibid.*

[13]Christian Solidarity Worldwide, Nigeria: The World's Scariest Country for Christians (14 May 2022)<https://www.persecution.org/2022/05/14/nigeria-worlds-scariest-country-christian/> accessed 6 November 2025.

[14]*Ibid.*

[15]Amnesty International, Nigeria: Escalation of Mob Violence Emboldens Impunity (October 2024) <https://www.amnesty.org/en/latest/news/2024/10/nigeria-escalation-of-mob-violence-emboldens-impunity/> accessed 6 November 2025.

[16]*Ibid.*

tolerance, protect individual rights, and ensure that religious sensitivities are respected without infringing on free speech.

2.1 Operation of Blasphemy Laws operate under the Nigerian Penal and Criminal Code

The application of Blasphemy laws in Nigeria is quite sketchy, as none are applicable nationwide. The Criminal Code governs the prosecution of offences of blasphemy in the southern part of Nigeria, while the Penal Code operates in the North. It is noteworthy that neither code makes explicit mention of the term 'blasphemy,' but they both address the issue using a similar term; 'insult to religion and wounding religious feelings.'

Section 204 of the Criminal Code [17] provides that:
Any person who does an act which any class of persons considers as a public insult on their religion, with the intention that they should consider the act such an insult, and any person who does an unlawful act with the knowledge that any class of persons will consider it such an insult, is guilty of a misdemeanour and is liable to imprisonment for two years.[18]

From the wording of the provisions of the criminal code, the test is subjective as it places the determination of whether an act is blasphemous on the perception of the affected group. This means that the focus is on how the act is perceived by the religious group rather than on an objective standard. This is problematic because it creates room for potential abuse, as religious groups or individuals may claim that specific actions are an insult to their religion. Moreover, this approach tends to fuel religious intolerance by empowering one group to impose its standards of what is considered an insult to others.

A similar provision exists under the Penal Code[19] as 'Insulting Religion or Wounding Religious Feelings.' It provides that:
Whoever with intent to wound the religious feelings of any person, utters or writes any word or makes any sound in the hearing of that person or makes any gesture in the sight of that person or places any object in the sight of that person, shall be punished with

[17]Criminal Code Act, Cap C38, Laws of the Federation of Nigeria (LFN) 1990, s 204
[18]*Ibid.*
[19] Penal Code Act, Cap. 89, s 210, Laws of the Federation of Nigeria (1990)

imprisonment for a term which may extend to two years or with fine or with both.[20]

Again, this provision is vague and highly subjective; the term 'wounding religious feelings' could mean different things to different people; religious extremists often take advantage of vague languages like this to prosecute individuals or suppress free speech, claiming that certain words, actions, or gestures "wound" their religious feelings, even when no harm was intended. The criminal and penal code provisions aim to protect religious beliefs and practices from intentional verbal, written, or symbolic insults. It also seeks to protect the sanctity and peacefulness of religious gatherings from disruptions and intentional disregard for one's religious beliefs, but in practice, the Penal Code is applied selectively. Ordinarily, it ought to apply in all criminal cases in the North, but since the adoption of Sharia law by 12 Northern states, the effect of this provision in the Penal Code has been watered down.

Sharia Law is often resorted to in cases of religious offences because it provides stricter punishments than those provided for in the penal code. For example, insulting religious feelings under the penal code carries a two-year penalty, fine, or both. Still, under Sharia law, the punishment is more severe, including the death penalty. Blasphemy, in its simplest form, refers to the act of showing disrespect toward a deity or sacred beliefs. [21] In Nigeria, various regions have prohibitions against blasphemy, which vary in strictness. Meanwhile, some religions have enforced strict measures against insult to religion and wounding religious feelings, while others have adopted a more moderate approach.

2.2 Constitutional Protection for Freedom of Religion in Nigeria

Section 38 of the Constitution of the Federal Republic of Nigeria[22]provides that every person shall be entitled to freedom of thought, conscience, and religion, including the freedom to change his religion or belief, and freedom (either alone or in community with others, and in public or in private) to manifest and propagate his religion or belief in worship, teaching, practice, and observance.

[20]*Ibid.*

[21]'Blasphemy', *Merriam-Webster.com Dictionary* <https://www.merriam-webster.com/dictionary/blasphemy> accessed 30 November 2024.

[22]*Constitution of the Federal Republic of Nigeria* (1999) Cap C23, LFN, as amended, s 38(1–4).

A close examination of the wording of the above provision reveals the use of the term 'shall,' which positively guarantees the freedom of thought, conscience, and religion for every person, including the right to express criticism of the beliefs of others freely. The courts in Nigeria have held in many cases that the word 'shall' when used in statutes implies an obligation[23]. There is no doubt that freedom of religion is fundamental, and hence, it is a very sensitive issue in Nigeria. Respect for each other's beliefs and opinions provides the foundation for individual and societal harmony and peaceful co-existence.[24]

Freedom of religion is fundamental in secular states as it helps to prevent the dominance of any religion over another.[25] Religious freedom strengthens democracy by ensuring that different beliefs, religions, and manifestations are respected and that individuals can live according to their convictions without fear of persecution or discrimination.[26] In states where religious freedom is not safeguarded, there are higher chances of minority persecution.[27]

Jeperone[28] argues that there should be a balance between the right to freedom of expression and the right to protect religious sentiments. He asserts that, historically, blasphemy laws have been employed by dominant religions to safeguard religious feelings.[29] He contends that religion was traditionally perceived as the root of society's political and moral behaviour, and blasphemy poses a challenge to the very fabric of society, warranting severe punishment.[30]

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[23]*Bamaiyi v Attorney-General of the Federation* [2001] 90 LRCN 2738.

[24]*Ikenga K.E. Oraegbunam,* 'Islamic Law, Religious Freedom and Human Rights in Nigeria' (2012) 2 *Sacha Journal of Human Rights 1* http://sachajournals.com/documents/IKENGA2012AJLC002.pdf accessed 6th Nov, 2025.

[25]I.K.E Oraegbunam, 'Sharia Criminal Law and State Secularity Principle in Nigeria: Implications of Section 10 of the 1999 Constitution (as Amended), *J. L. Pol'y & Globalization*, Vol. 28, 39 (2014), available at www.iiste.org.

[26]Gray Group International, *Freedom of Religion*, *GrayGroupIntl.com*,<https://www.graygroupintl.com/blog/freedom-of-religion> accessed Dec. 22, 2024.

[27]Christian Public Justice, *Religious Liberty in the States: 2024 Report Highlights Surprising Rankings and Key Trends*, *CPJustice* (2024),<https://cpjustice.org/religious-liberty-in-the-states-2024-report-highlights-surprising-rankings-and-key-trends/.> accessed 6th Nov, 2024.

[28]Jeroen Temperman, Blasphemy, Defamation of Religions & Human Rights Law, 26 NETH. Q. HUM. RTS. 517 (2008), available at <https://ssrn.com/abstract=2041292.> accessed 6th Nov, 2025.

[29]*Ibid.*

[30]*Ibid.*

He distinguishes the operation of blasphemy laws in Islamic states, noting that these laws are not considered obsolete; instead, they remain actively enforced. Through a comparative legal survey, Jeperone concludes that in some jurisdictions, the protection of religion serves as a basis for restricting fundamental human rights, particularly freedom of expression.[31] I agree with Jeperone's position because both rights are essential, and none should come at the expense of the other because none are absolute.

3. Nigeria's Obligation Under International Law and the Question of Absolute Rights

The Federal Republic of Nigeria was admitted as a member state of the United Nations on 7 October 1960, having gained independence on 1 October the same year.[32] Nigeria, as a Member of the UN, has various obligations under the International Bill of Rights, which includes the Universal Declaration of Human Rights (UDHR), the International Covenant on Civil and Political Rights (ICCPR), which was ratified by Nigeria in 1993, and African Charter on Human and Peoples' Rights.[33]

The Supreme Court of Nigeria in *Abacha v Fawehinmi*[34] held that when international law is ratified and incorporated into domestic law, it is superior to all domestic laws except the Constitution[35] Considering that both rights rank equally under Nigerian Laws, should one of these rights be interpreted to have more weight than the other? Is the freedom of expression an absolute right? Reference shall be made to the relevant conventions for a broader understanding.

3.1 Conventions

3.1.1 Universal Declaration of Human Rights (UDHR)

Article 19 of the Universal Declaration of Human Rights establishes the right to freedom of opinion and expression, stating:
Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to

[31] *Ibid,* 9.
[32] United Nations, 'About the United Nations in Nigeria' (*United Nations)*,<https://nigeria.un.org/en/about/about-the-un> accessed 16 November 2024.
[33] African Charter on Human and Peoples' Rights (adopted 27 June 1981, entered into force 21 October 1986) 21 I.L.M. 58 (1982)
[34] [2000] FWLR (Pt 4) 533.
[35] *Ibid.*

seek, receive, and impart information and ideas through any media, regardless of frontiers. The exercise of this right carries with it special duties and responsibilities. It may, therefore, be subject to certain restrictions, such as for respect of the rights or reputations of others, for the protection of national security or public order, or the protection of public health or morals.[36]

3.1.2 International Covenant on Civil and Political Rights (ICCPR)

The ICCPR, adopted by the United Nations in 1966, also guarantees the right to freedom of speech. Article 19(3)[37] of the ICCPR asserts that everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive, and impart information and ideas through any media regardless of frontiers. It further provides that the exercise of this right carries with it special duties and responsibilities; it may, therefore, be subject to certain restrictions, including respect for the rights or reputations of others, for the protection of national security or public order, or the protection of public health or morals."[38]

From the foregoing, the right to express oneself is not without constraints; the laws allow for limitations on various grounds, including the protection of national security, public order, health, morals, and the rights of others. The restrictions on these rights must, therefore, be necessary and proportionate to the goal they seek to achieve.[39]

3.2 Case Law

In the case of *Otto-Preminger-Institut v Austria*,[40] The court reasoned that those who choose to exercise the freedom to manifest their religion, irrespective of whether they do so as members of a religious majority or a minority, cannot reasonably expect to be exempt from all criticism. They must tolerate and accept the denial

[36]U.N. Office of the High Comm'r for Human Rights, 'Universal Declaration of Human Rights' <https://www.ohchr.org/en/human-rights/universal-declaration/translations/english> accessed 19 October 2024.

[37]U.N. Office of the High Comm'r for Human Rights, 'International Covenant on Civil and Political Rights' <https://www.ohchr.org/en/instruments-mechanisms/instruments/international-covenant-civil-and-political-rights> accessed 19 October 2024.

[38]*Ibid,* 10.

[39]Centre for Law and Democracy, 'Freedom of Expression: Briefing Notes' (February 2015)<https://www.law-democracy.org/live/wp-content/uploads/2015/02/foebriefingnotes-2.pdf> accessed 7 November 2025.

[40]App. No. 13470/87, 295 Eur. Ct. H.R. (ser. A) 474 (1994).

by others of doctrines hostile to their faith[41]. However, the way religious beliefs and even doctrines are opposed or denied may be a matter for the state's responsibility. The international courts, when faced with cases of freedom of religion and belief, approach the case by a 3-test measure:[42]

1. Whether there was an interference the law has prescribed.
2. Whether the interference pursued a legitimate aim.
3. Whether the acts by the government were necessary in a democratic society.

On July 29th, 2011, the UN Human Rights Committee published General Comment No. 34[43], which provides an authoritative interpretation of the right to freedom of opinion and expression under Article 19 of the International Covenant on Civil and Political Rights (ICCPR). This comment clarifies that blasphemy laws are generally incompatible with the Covenant, except in specific circumstances outlined in Article 20, paragraph 2, which prohibits any advocacy of national, racial, or religious hatred that constitutes incitement to discrimination, hostility, or violence.[44]

In *Kokkinakis v Greece*[6,] The European Court of Human Rights stated: Freedom of speech was not an absolute right, but a right subject to various duties and responsibilities, which include an obligation not to use expressions which are offensive to others and amount to infringement of other people's religious rights.
This means that there must be a balance between freedom of speech and religiously offensive words and conduct.[45] Rabbi Jarrod Grover[46] argues that, although freedom of expression is sometimes

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[41] *Ibid.*

[42]General Comment No. 34 on Article 19: Freedoms of Opinion and Expression, U.N. Human Rights Comm., CCPR/C/GC/34, 1 (29 July 2011).

[43]*Ibid,* 42.

[44] *Ibid.*

[45] Anglican Journal, 'Freedom of Expression vs. Religious Sensibilities: What's the Balance?' *AnglicanJournal.com* (10 January 2015)<https://anglicanjournal.com/freedom-of-expression-vs-religious-sensibilities-what-s-the-balance/> accessed 22 December 2024.

[46] Beth Tikvah Synagogue, 'Clergy & Staff'BethTikvahToronto.org<https://www.bethtikvahtoronto.org/clergy--staff.html> accessed 7 November 2025;
Rabbi Jarrod Grover is a prominent promoter of religious freedom, actively advocating for interfaith dialogue and community engagement. In addition to his leadership role at Beth Tikvah Synagogue, he serves as Vice-President of the Toronto Board of Rabbis and is a member of the Toronto Police Chief's Jewish

hurtful, it's the price we pay for living in a vibrant and prosperous democracy that allows our most cherished values to be questioned[47]. As one of the first generation of rights guaranteed by the Constitution of the Federal Republic of Nigeria, it allows people to make choices about the faith they wish to practice or even choose to follow no faith at all[48] It even includes the freedom to change one's belief.[49] This same protection is offered under the right to free speech; it enables a person to speak, write, publish, and communicate freely without any form of interference.[50]

The right to freedom of speech is, however, subject to certain restrictions; Article 29(3) of the Universal Declaration of Human Rights[51] provides that:
In the exercise of his rights and freedoms, everyone shall be subject only to such limitations as are determined by law solely to secure 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.
This means that the limitations on the right to free speech must be prescribed by law and cannot be arbitrarily left to the discretion of any individual or group.

4. **Global and US Perspective**

4.1 Early American Practices

As antiquated as it may sound, about 84 countries currently have laws criminalizing blasphemy.[52] In earlier times, the United States

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Community Consultative Committee, reflecting his commitment to fostering religious tolerance and cooperation across diverse faith communities. His work emphasizes the importance of religious liberty, social justice, and mutual respect within both the Jewish and broader communities.

[47]*Ibid.*

[48]Universal Declaration of Human Rights, G.A. Res. 217 (III) A, U.N. Doc. A/RES/217(III) (10 December 1948) <https://www.un.org/en/about-us/universal-declaration-of-human-rights> accessed 7 November 2025.

[49]*Ibid.*

[50]Constitution of the Federal Republic of Nigeria, Chapter 4, Section 39: "Right to Freedom of Expression and the Press", *Nigerian-Constitution.com* <https://nigerian-constitution.com/chapter-4-section-39-right-to-freedom-of-expression-and-the-press/> accessed 22 December 2024.

[51]Universal Declaration of Human Rights, art. 29, 2, G.A. Res. 217A (III), U.N. Doc. A/810 (10 December 1948).

[52]U.S. Comm'n on Int'l Religious Freedom, *Violating Rights: Enforcing the World's Blasphemy Laws* (2020) <https://www.uscirf.gov/publication/violating-rights-enforcing-worlds-blasphemy-laws> accessed 7 November 2025.

had laws against blasphemy, which were enacted by various states, including Massachusetts, New Hampshire, and New Jersey, even though their respective constitutions protected religious freedom.[53] In the case of *Updegraph v Commonwealth*,[54] The court reasoned that blasphemous statements—when spoken with willful premeditation to call the truth of Christianity into question in the presence of community members—were an indictable offense under Pennsylvania common law. Also, the Maryland Toleration Act of 1649, which promoted the "free exercise" of Christianity, simultaneously imposed the death penalty or forfeiture of land for non-Christians guilty of blasphemy, showing the historical misuse of religious laws.[55]

However, the United States changed its position in the case of *Joseph Burstyn, Inc. v Wilson*[56] The case arose after the New York State Board of Regents revoked the license to exhibit *The Miracle*. This film had been deemed "sacrilegious." Joseph Burstyn appealed the decision, arguing that the censorship violated the First Amendment's protections for freedom of speech and the press. The Supreme Court's decision in *Burstyn* overruled its earlier decision in the case of *Mutual Film Corp. v Industrial Commission of Ohio,*[57] which allowed film censorship based on the government's content assessment. The Court held that motion pictures are a form of expression and that the censorship of the film, based on its perceived sacrilegious content, was unconstitutional because it infringed upon freedom of speech and the press[58].
In the United States case o*f State Of Maryland v Irving K. West,*[59] The court ruled that the Maryland blasphemy statute, which criminalized blasphemous utterances, violated the First Amendment's Establishment and Free Exercise Clauses. The law was seen as a governmental effort to protect and perpetuate Christianity, which contravenes the constitutional mandate for

[53]In Custodia Legis, Law Librarians of Congress, *A History of Blasphemy Laws in the United States* (19 December 2023) <https://blogs.loc.gov/law/2023/12/a-history-of-blasphemy-laws-in-the-united-states/> accessed 7 November 2025.
[54]*Updegraph v Commonwealth*, 11 Serg & Rawle 394 (Pa 1824).
[55]Maryland Toleration Act of 1649, ch 22, 1649 Md Laws 72 <https://oll.libertyfund.org/pages/1649-maryland-toleration-act> accessed 7 November 2025.
[56]343 US 495 (1952).
[57]236 U.S. 230 (1915).
[58]n. 56
[59]9 Md. App. 270, 263 A.2d 602 (Md. Ct. Spec. App. 1970).

governmental neutrality toward religion[60]. The court held that the states should not use their power to support one religion or restrict religious freedoms; thus, the statute was unconstitutional. The laws on blasphemy re now regarded as outdated and inappropriate in many countries[61]

4.2 Global Trends

In Western Europe, many countries have retained blasphemy and related laws, while in some other countries, they have never been enforced, although there have been prosecutions in recent years, including Austria, Finland, Germany, Greece, Switzerland, and Turkey.[62] The offense of Blasphemy was officially abolished in England and Wales in May 2008 by Section 79 of the Criminal Justice and Immigration Act 2008.[63]

A democratic state must guard the constitutional right of free speech since religion can be used to promote peace or be abused by extremists to cause unrest. Nevertheless, blasphemy law can respond to a public moral vision.[64] Hence, both rights must be balanced. The big question is whether blasphemy laws can serve any legitimate purpose with regard to human rights law is concerned.[65] The justification of for blasphemy law is often based on upholding public moral standards and criminalizing certain religious offenses. This can help maintain societal stability by creating an environment where one is free to profess or practice their religion and belief without fear of ridicule. The laws on blasphemy seek to serve as a preventive measure against violence and social unrest, that may be caused by inflammatory speech. Criminalizing blasphemy is believed to mitigate risk and promote peaceful existence among different religious groups. While blasphemy law does not operate effectively in some countries, it is a potent weapon in others to

[60]*Ibid.*

[61]Ismail Misbahu, 'Discussing Blasphemy in the Context of Nigeria: Does It Target Minority Groups?', 7 *Polac Int'l J of Humanities & Sec Stud* 189 (2023).

[62]Law Library of Congress, 'Blasphemy Law'<https://maint.loc.gov/law/help/blasphemy/index.php> accessed 7 November 2025.

[63]E. Howard, Freedom of Expression, Blasphemy and Religious Hatred: A View from the UK, 17 *Ecclesiastical L.J.* 191 (2015).

[64]N. Cox, Justifying Blasphemy Laws: Freedom of Expression, Public Morals, and International Human Rights Law, 35 *J.L. & Religion* 1 (2020).

[65]*Ibid,* 16.

combat unguarded utterances against one religion or personage by another.[66]

5.Balancing Free Speech and Blasphemy Laws in Nigeria

According to The Economist,[67] Freedom of speech includes the right to defame religion. If limitations are allowed, governments may use such laws to suppress dissent, target minority viewpoints, or protect certain ideologies over others.[68] Dr. Evan Harris, former Member of Parliament for Oxford West and Abingdon, Liberal Democrat, and advocate for the abolition of blasphemy laws, tabled an amendment to abolish the offences of blasphemy and blasphemous libel during the Report stage of the Criminal Justice and Immigration Bill 2007-08. Harrisargues that the law on blasphemy has a 'chilling effect' because it discourages people from showing, publishing, or printing material that could be deemed blasphemous for fear of criminal sanctions.[69]

Protecting freedom of speech and expression is one way to ensure the equal dignity of all individuals is upheld. Granting A the effective right to determine the limits of B's speech simply because A finds it offensive is a clear *prima facie* violation of freedom of expression, no matter how large a group is represented by A, even if B is a solitary individual. Restricting speech based on religious sentiments undermines the fundamental right to free expression. At the same time, imposing limits on free speech to protect religious beliefs may also infringe on the core principles of freedom of expression. Therefore, protecting religious feelings should be balanced with the fundamental right to free expression and freedom of speech.

In a multi-religious society like Nigeria, the absence of a balance between both rights may result in mob violence incited by extremists who use blasphemy laws or free speech to incite unrest. A notable example of the need for a balance between freedom of religion and regulated speech in Nigeria is the case of Sharif-Aminu, a Nigerian

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[66]A. Jimoh & A. Shittu, The Nigerian Criminal Justice and the Belligerence of Blasphemy: Societal, Judicial and Islamic Law Perspectives, 13 *Jurnal Hukum Novelty* 88 (2022)<https://doi.org/10.26555/novelty.v13i1.a23582>

[67]The Meaning of Freedom, *The Economist* (2 Apr. 2009)<https://www.economist.com/leaders/2009/04/02/the-meaning-of-freedom> accessed 7 November, 2025.

[68]*Ibid.*

[69] C. Wellman, 'Freedom of Religion and Freedom of Expression: Religiously Offensive Speech and International Human Rights', 20 *Hum. Rts. Q.* 82 (1998).

musician arrested by authorities in March 2020. Sharif-Aminu, a follower of the Sufi Tijaniyya Order, faced widespread backlash after audio messages he shared via WhatsApp praised an imam from the Tijaniyya Muslim Brotherhood, Ibrahim Niasse, even elevating him above the Prophet Muhammad. The messages triggered significant controversy, and Sharif-Aminu went into hiding after protestors burned down his family home. He was eventually arrested and charged with insulting religious creed under Section 382(6) of the Kano State Sharia Penal Code Law, 2000[70]
From the foregoing, it is evident that while protecting religious sentiments, it is also imperative to acknowledge that freedom of speech is a universal and fundamental right. The laws on blasphemy, when unchecked, create a dangerous precedent for limiting speech. Another critical case that highlights the harmful effects of unbalanced blasphemy laws, especially in terms of proportionality, is the imprisonment of Humanist Association of Nigeria President Mubarak Bala for 24 years on the grounds of insulting religion with the intent to break the peace.[71]

The cases above highlight the urgent need for Nigeria to re-evaluate its laws on Blasphemy and ensure that they align with international human rights standards. The severity of the punishments imposed in these instances suggests the potential exists for these laws to disproportionately infringe on the freedoms of expression and speech. Jeperone argues that there is no abstract conflict between freedom of expression and freedom of religion and belief.[72] He argues that proceeding along the lines of tension between both rights would not only undermine the fundamental right to freedom of expression but that an overly broad interpretation of freedom of religion or belief—particularly as a right to respect for one's religion—jeopardizes the right to freedom of religion or belief itself[73] The opinion of Jeperone is valid on grounds that when a right to respect for one's faith is interpreted too expansively, it can lead to restrictions on the free expression of differing opinions. An

[70]Yahaya Sharif-Aminu, U.S. Comm'n on Int'l Religious Freedom,<https://www.uscirf.gov/religious-prisoners-conscience/forb-victims-database/yahaya-sharif-aminu> accessed 19 October 2024.
[71]BBC News 'Nigeria's Christian and Muslim Leaders Unite to Combat Religious Violence', (3 Mar. 2022) https://www.bbc.com/news/world-africa-60997606 accessed 7 Nov. 2025.
[72]J. Temperman, 'Blasphemy, Defamation of Religions & Human Rights Law', 26 Neth. Q. Hum. Rts. 517 (2008) https://ssrn.com/abstract=2041292 accessed 7 Nov. 2025.
[73]*Ibid.*

overextension of one right can inadvertently infringe on the other, so both rights must be respected and balanced.

Without a balance, blasphemy laws tend to deviate from the principles of legality and proportionality as they are often broad and their penalties overly harsh; as seen in the Nigerian cases cited above, they act as a *de facto* censorship of religious dialogue and criticism, affording different levels of protection to various religious groups and being generally regarded as inconsistent with universal human rights standards.[74]

5.1 Need for Urgent Reforms

To effectively balance the fundamental rights to freedom of expression and freedom of religion, Nigeria needs comprehensive legal, institutional, and societal reforms. While the international bodies have condemned mob violence and killings associated with blasphemy, there is no clear strategy from the Nigerian government to end it. In the case of *Inspector General of Police v ANPP,*[75]The Nigerian Court of Appeal held that the right to freedom of expression is one of citizens' most fundamental rights, which must be guarded jealously because it is the backbone of any democratic government.

Reforms are only possible with the combined efforts of all three arms of government in Nigeria. While there are calls for legislative reforms to the laws relating to blasphemy, this would not be meaningful if the judiciary and the executive continue to play a secondary role in interpreting and enforcing the right to free speech, particularly in Northern Nigeria. One of the significant duties of the judiciary in every democratic society is to ensure that the rights of citizens are protected and to balance any competing interests. Societies where free speech is not guaranteed risk sliding into tyranny or dictatorship.

In a religious context, if people cannot criticize a particular religion or religious belief, it creates an atmosphere of fear and tension. Suppose the three arms of government fail to promote religious freedom. In that case, this creates a slippery slope where state

[74]'Spotlight on Blasphemy Laws', The George Washington University International Law and Policy Brief (5 Dec. 2022)<https://studentbriefs.law.gwu.edu/ilpb/2022/12/05/spotlight-on-blasphemy-laws> accessed 7 Nov. 2025.

[75]AHRLR 179 (Ng. CA 2007).

governments can use blasphemy laws to target a particular religious group or ethnic group. Without assurances from the judiciary and the executive branch, any legislative action by lawmakers would be merely aspirational and would fail to yield the intended reform.

Religious intolerance is a menace that has deeply penetrated into the fabric of Nigerian society. In the first half of 2004, hundreds of people were killed in inter-communal fighting between Muslims and Christians in and around the town of Yelwa and the southern part of Plateau State, central Nigeria, bringing the total number of victims of the violence in Plateau State since 2001 to between 2,000 and 3,000.[76] One of the most troubling aspects of these violent episodes is the lack of accountability. Nobody was brought to justice, which tends to create an environment that enables the recurrence of disastrous consequences.
To adequately address this issue, the Nigerian government must take active steps to ensure that the constitutional right to freedom of speech, expression, religion, and belief is upheld and protected.

1.More Precise Legislation on Blasphemy: The Legislative arm of government should provide more accurate and specific definitions of blasphemy and the scope of speech protected under the constitutional right to freedom of expression. The judiciary must also strive to offer interpretations that balance both rights. This would ensure that restrictions on speech are precise rather than vague or overly broad, which could lead to arbitrary enforcement. The Nigerian Government needs to do more to recognize and uphold the freedom of expression as a fundamental pillar of democracy, applicable even to expressions that may offend, annoy, or disturb. Open debate on religion and beliefs should be encouraged, as this is essential to a democratic society, provided it does not incite violence or discrimination.
The Government should encourage religious groups to tolerate public debate and critical statements about their beliefs and teachings. Non-members ' discussions about a particular religion should not be considered intentional insults unless they incite violence or cause public disturbance. The Nigerian Government should encourage religious groups to work hand in hand to foster

[76]'Revenge in the Name of Religion: A Cycle of Violence in Plateau and Kano States', Human Rights Watch (25 May 2005)<https ://www.hrw.org/report/2005/05/25/revenge-name-religion/cycle-violence-plateau-and-kano-states> accessed 7 Nov. 2025.

respect for cultural and religious diversity, ensuring ongoing dialogue that helps avoid friction. There must be an intentional effort by government, religious institutions, and private persons to promote respect for individuals regardless of their spiritual orientation.

2.Abolishing or Reforming the Death Penalty for Blasphemy: In states where blasphemy laws carry severe penalties such as the death penalty, the legislature should consider abolishing such penalties or substituting them with lesser, non-violent forms of punishment, as prescribed by international human rights norms. International bodies such as the United Nations Human Rights Committee have criticized the use of capital punishment for blasphemy-related offenses, urging countries to reconsider these practices. While the courts can condemn insults to religious beliefs and practices, the state must be cautious when issuing excessive sanctions. It is the state's responsibility to determine what qualifies as a criminal offense, ensuring that penalties are not excessive, especially concerning issues of religion. For example, the death penalty for blasphemy is not commensurate. The state must be seen as taking a stance of religious tolerance.

3.Education for Tolerance: The Government must prioritize education that boosts understanding among individuals of different religions. Teaching about other religious beliefs at primary, secondary, and university levels would help drastically reduce ignorance and the likelihood of religious insults. It would also go a long way toward improving tolerance. There is a dire need to be more intentional about curriculum development and reviewing issues of law and religion within the Nigerian framework. In line with this, Nigeria should have an International Center for Law and Religion to promote religious dialogue and tolerance.

6.**Conclusion**

The tragic case of Deborah Yakubu and other cases and statutes cited above highlight Nigeria's ongoing challenges in balancing the fundamental rights of freedom of expression and religion. While both rights are enshrined in Nigeria's constitution and international human rights treaties, the country's legal system and law enforcement have struggled to effectively protect these rights, especially in sensitive cases involving blasphemy. Both rights can coexist, but to effectively address these challenges in upholding the right to freedom of expression and religion, the government must take proactive measures by clarifying blasphemy laws, promoting public awareness of human rights, and ensuring a fully independent judiciary. By doing so, Nigeria can better uphold the delicate

balance between these rights, providing both freedom of expression and religious liberty, in a manner that is protected as necessary, proportional, and in line with international standards.