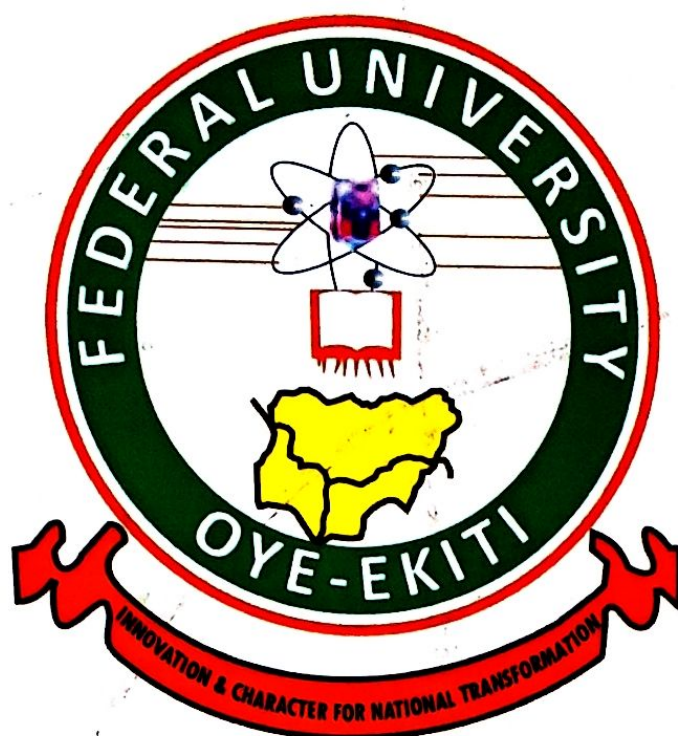




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CONTRIBUTORS AND ARTICLES

- 1. REFLECTIONS AND RECOMMENDATIONS ON THE ECO-LEGAL
FRAMEWORK FOR EFFECTIVE DIVERSIFICATION OF GOVERNMENT
REVENUES STREAMS IN NIGERIA**
A.O. OKESOLA 7-18
- 2. PROSPECTS AND CHALLENGES OF POWER GENERATION,
TRANSMISSION AND DISTRIBUTION IN NIGERIA**
ADEWARA TAJUDEEN ZUBAIR
ABDULSALAM LUKMAN OLADELE Ph.D 19-31
- 3. A COMPARATIVE ANALYSIS OF THE CONSTITUTIONAL APPROACHES
FOR THE PROTECTION OF HUMAN RIGHTS IN NIGERIA AND KENYA**
DR MUHAMMAD MUSA SALEH 32-45
- 4. LIMIT TO THE RIGHT TO FREEDOM OF MOVEMENT AND RESIDENCE
IN NIGERIA**
ROSELINE O. MOSES-OKE Ph.D
ADEOLA OMOTUNDE Ph.D
OLUFEMI ABIFARIN Ph.D 46-55
- 5. IMPACTS OF INTERNATIONAL HUMAN RIGHTS LAW ON THE
RELIGIOUS AND OTHER MINORITIES' RIGHTS IN NIGERIA**
KUDIRAT MAGAJI WOPA-OWOLABI
SHUAIB ONIYE 56-74
- 6. JUDICIAL DISCRETION UNDER THE ADMINISTRATION OF CRIMINAL
JUSTICE ACT 2015 AND FEDERAL CAPITAL TERRITORY COURTS
(SENTENCING GUIDELINES) PRACTICE DIRECTION, 2016**
IMUEKEMHE EMIKE JESSICA 75-87
- 7. INDUSTRIAL DEMOCRACY IN NIGERIA: ISSUES AND CHALLENGES**
EMOKHAI JAMES UZUALU ESQ 88-91

IMPACTS OF INTERNATIONAL HUMAN RIGHTS LAW ON THE RELIGIOUS AND OTHER MINORITIES' RIGHTS IN NIGERIA

KUDIRAT MAGAJI WOPA-OWOLABI*
SHUAIB ONIYE**

1. INTRODUCTION

The history of minority agitations in Nigeria dates back to the colonial era when these anxieties were expressed at the regional levels as a result of the regionalization policy of the then colonial government.²⁹⁰ One good example of such incident occurred in the Northern Nigeria where minority grievances were centered around the imposition of Hausa-Fulani rulers on the indigenous ethnic populations.²⁹¹ Hence the oppression and exploitation were not exclusively experienced by the minorities in the North but were also experienced by their counterparts from other parts of the country, who also agitated for the authorities to put in place measures to guarantee the autonomy of ethnic minorities.²⁹²

The problem of minorities and their agitations in Nigeria still remain pronounced till date and the attempts and measures put in place by both the present and past governments in the country to ameliorate these problems have not been entirely successful. Measures such as establishment of the Oil Mineral Producing Areas Development Commission (OMPADEC)²⁹³ which only seemed to exist without meaning record of achievements since its formation.²⁹⁴ OMPADEC was established in recognition of the strategic importance of the Oil Producing Communities and also as a way to address the devastating effects²⁹⁵ of oil producing in the oil bearing communities therefore, it is to provide economic opportunities in the oil bearing communities.²⁹⁶

Furthermore, the Petroleum Trust Fund (PTF)²⁹⁷ was another device established to intervene in areas such as roads, education, infrastructure, health, water etc but it was accused of being

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²⁹⁰ Oche O., 'The Minority Question and Development in Nigeria: Minorities within Minority.' available at <<http://ihuanedo.ning.com>> accessed on: 7th Jan, 2018

²⁹¹ Ezegbe M.O., 'Values and their Development for National Building through Social Studies Education' [1993], (2), Nigeria Journal of Social Studies Review, 1.

²⁹² Mustapha A., 'The national Question and Radical Politics in Nigeria' [1986], (37), Review of African Political Economy, Sheffield, 23

²⁹³ Oil Mineral Producing Areas Development Commission Decree No 23 July, 1992

²⁹⁴ Emmanuel M.O., 'Minority and National Unity in Nigeria' [2013], (6), International Journal of research in Art and Social Sciences, 124

²⁹⁵ Such as environmental degradation and oil spillage etc.

²⁹⁶ Gabriel A.O.I., 'OMPADEC and Educational Development in Nigeria: 1992-1997' [1999] (1)(1), IJERD, 94

²⁹⁷ See Petroleum (Special) Trust Fund Act No 25 1994

largely ineffective and selective in carrying out its projects.²⁹⁸ All these bodies were established as a result of agitations by the minorities in the Niger Delta Region. Internationally, the most extreme treatment of minorities has been carried out by 20th and 21st century dictatorships. The worst examples are those of totalitarian regimes that carried out genocide to eradicate unwanted groups in society. The Holocaust perpetrated by Nazi Germany murdered six million Jews, one-third of the total world Jewish population, as well as significant portion of the Roma (Gypsy) community.²⁹⁹ Also, the Russian Federation engaged in a fierce war against its own republic of Chechnya, killing thousands of civilians hence, forcing more than half the population of this minority to relocate from Chechnya.³⁰⁰ Other examples of unfairly treatments of minority by a dictatorship include the Nigerian campaign against Biafra,³⁰¹ the Hutu genocide of Tutsi in Rwanda,³⁰² Saddam Hussein's mass killing of Kurds and Shiites in Iraq,³⁰³ and the Sudanese government's sponsorship of mass killing, raping and deportation of Darfur.³⁰⁴

The aim of this paper is to survey the current situation of minority groups in Nigeria. The paper begins with definitions and conceptualisation of some terms used in the paper. Also next in the discussion is the Nigerian experience in relating to religious minority, minorities of the Niger Delta and the implication of Sharia on the fundamental rights of Muslims and Non-Muslims. The paper discusses further on the protection avail to the minorities under the international fundamental human right law. Domestic laws in Nigeria on the rights of minority are also examined. The paper further discusses the obligation of the Nigeria government to protect the rights of minorities as agreed to in the international human right law. Lastly, the role of the State in the protection of the minority right is discuss.

2. DEFINITIONS AND CONCEPTUALISATION OF TERMS

It is pertinent to state that the context in which some words, concepts are used in this paper may appear to be different from their ordinary dictionary or day-to-day meaning. Thus, it is imperative that the context in which they have used in this paper should be stated for the sake of clarity and proper understanding of their usage in this paper.

²⁹⁸ Nwankwo B.O., 'The Politics of Conflict Over Oil in the Niger Delta Region of Nigeria: A Review of the Corporate Social Responsibility Strategies of the Oil Companies' [2015], (3)(4). American Journal of Educational Research, 387

²⁹⁹ Graham L., 'The Treatment of the Jews in Nazi Germany' [2018] < <https://www.historyhit.com/the-treatment-of-the-jews-in-nazi-germany/> > accessed 21 July, 2019

³⁰⁰ Mikhail A., 'The Current Crisis in Dagestan and Chechnya: Will the Federation Emerge Intact?' [1999] < <https://www.wilsoncenter.org/article/the-current-crisis-dagestan-and-chechnya-will-the-federation-emerge-intact> > accessed 21 July, 2019.

³⁰¹ Adegbamigbe A., '53 Years After Biafran: You Committed evil against Igbo, Frederick Forsyth Attacks Britain, his own Country' [2020]. < <https://www.thenewsnigeria.com.ng/2020/07/04/53-years-after-biafra-you-committed-evil-against-igbo-frederick-forsyth-attacks-britain-his-own-country/> > accessed 11 February 2020.

³⁰² Benjamin E.S., 'What Caused the Rwanda Genocide?' [2018] < <https://www.worldatlas.com/articles/the-hutus-and-the-tutsis-and-the-conflict-between-them.html> > accessed 11 February 2020

³⁰³ Tom H., 'The War Crimes of Saddam Hussein.' [2018] < <https://thoughtco.com/the-war-crimes-of-saddam-hussein-721494> > accessed 11 February 2020

³⁰⁴ Travis H., *Genocide, Ethnonationalism, and the United Nations: Exploring the Causes of Mass Killing Since 1945* (Routledge, New York and London, 2013) 157

The term 'Minority Rights' as used in this paper embodies two separate concepts. First, ordinary individual rights as it applicable to a particular member of racial, ethnic, class, religious, linguistic or sexual minorities. Second, collective rights accorded to a group as a whole. Minority rights, as relevant to ethnic, religious or linguistic minorities and indigenous peoples, are an integral part of International Human Rights Law. The first minority rights were created by revolutionary Parliament of Hungary in 1849.³⁰⁵ It is aim to protects those vulnerable, disadvantaged and marginalised set of people who are helpless, voiceless without political will to stand and defend themselves against those in power. Those rights include political participation of their choice, the protection and preservation of their individual cultural or religion as bestow to them and, the right to partake and benefit from the socio/economic amenities in the environment in which minorities reside.³⁰⁶

The term 'minority group' however often occurs alongside a discourse of civil rights and collective rights which gained prominence in the 20th century. Members of minority groups are susceptible to be treated in a cruel manner in the nation or communities in which they live. This unfairly attitude towards the minority may be perceived from the unexplainable treatment accorded to individual member of that particular group or may be due to absence of some basic social infrastructures which are not equally accessible to them.³⁰⁷ Hence, the mistreatment against members of Minority group have most times make them appear strong and bond together as one entity to the outside world but weak inside. This sense of unity is usually result to 'group consciousness' which in turn gives rise to the feeling of 'us' versus 'them.'

The term 'Religious minorities' on the other hand refer to non-centralised religion faith or belief group. These set of people are often having policies of the majorities imposed on them by the State without considering if those policies violate minorities' belief and faith.³⁰⁸ The nation, societies or communities where religious minorities live in are not responsive to them hence, it is difficult to showcase their belief publicly without being judged or punished.

The term 'Ethnic minorities' are group with regular discrimination and inferiority status accorded to them because of a host of historical and sociological factors which have taken away political benefits in furtherance of their collective interests.³⁰⁹ However, in a multi-cultural society like Nigeria, it is inescapable that those people who belong to ethnic majority are of the advantaged side due to either that they belong to a larger population or because they are opportune with early contact with the colonists or their educational attainments. These achievements always afford them opportunities to compete and struggle for equality and fairness in the distribution of resources, offices and positions available in the society to which they belong to. Hence, ethnic minorities are left out of these opportunities may be because societies in which they belong to, do not take conscious of their needs and interests.

It is therefore relevant at this point to examine the Nigeria experience in respects ethnic and religion minorities for better understanding of this paper.

³⁰⁵ Nwankwo B.O, (n 9) 389.

³⁰⁶ Ibid.

³⁰⁷ Leo I, 'The Rights of Religion Minorities.' < www.ocnus.net.com > accessed on 12 August, 2018.

³⁰⁸ Ibid.

³⁰⁹ Emmanuel M O., (n5), 25-7.

3. THE NIGERIAN EXPERIENCE

Issues such as religious minority and minority of the Niger Delta are the focus of discussion in this section.

3.1 Religious Minority

In Nigeria, two major religion are Islam and Christianity. Minority faiths such as, The Traditional Religion, Jehovah Witness, Bahai Faith, Devotees of Guru Mahraji, Brotherhood of the Cross and Star, and many others are religious minorities.³¹⁰ Yet, Islam and Christianity may appear minorities or majority depending on the part of Nigeria you access it; Islam is a minority faith in South-East and South-South parts of Nigeria,³¹¹ Christianity is the minority religion in the North-East and North-West.³¹² However, with the diversity of culture and faiths/beliefs in the country, Nigerian government should acknowledge the existence of minority governance of the country do not capture the interest of these minorities just because of their religion faiths.

Officially, religious minorities in Nigeria suffer systematic exclusion, discrimination and violation of their rights.³¹³ And this has caused a lot of tension, division, alienation and conflict. For instance, only Muslim and Christian prayers are allowed at state functions. It has always the two giant religion groups permitted at the official functions to say prayers or to make an invocation. The law grants public holidays to Nigerians only on Muslim and Christian feast days.³¹⁴ The Nigerian government sponsors and subsidizes the pilgrimages of only Christians and Muslims. It allows only the teaching of Christian and Islamic religious education in schools.³¹⁵

The Nigerian Government operates in such a way that these minorities do not exist or deserve recognition and respect; this is contrary to the provision of the 1999 Constitution.³¹⁶ Section 10 of the 1999 Constitution provides that the Government of the Federation or of a State shall not adopt any religion as State Religion. Regrettably, the Nigerian government only extends privileges to the two major religion group with the exclusion of religion minorities. This arguably contravenes the letter and 'spirit' of Section 10 of the Nigerian Constitution.³¹⁷ There are also reports of a certain governor in the South calling his state a 'Christian State' recently.³¹⁸ All these instances contradict the provision of Section 10, 1999 Nigerian Constitution. In Northern Nigeria, particularly in the Muslim predominance States; minorities are systematically marginalized and disadvantaged. Hence, this has become more pronounced

³¹⁰ Ibid; Leo I, (n18).

³¹¹ Ismene Z., 'Rights of Religious Minorities in Nigeria' [2002], (10)(1), Human Right Brief, 22.

³¹² Nnamani O.O., *Is Nigeria a Secular State: Law, Human Rights and Religion in Context.* [2014], (1)(1)(4), 134.

³¹³ Ismene Z, (n22) 26.

³¹⁴ Public Holidays Act, CAP P40, LFN, 2004.

³¹⁵ This has been made compulsory in some schools particularly the Secondary schools where the pupil is compelled to either choose Christian Religious studies or Islamic Religious Knowledge.

³¹⁶ Constitution of the Federal Republic of Nigeria, Act No 24, 1999, S. 10.

³¹⁷ Ibid.

³¹⁸ Daily Post, News on Daily Post <<https://dailypost.ng/2020/01/01/governor-wike-insists-rivers-is-a-christian-state/>>

> <Accessed on 13 January 2019.

since the adoption of Sharia law by the some Governors.³¹⁹ In some of these States, people belong to minorities are forced to practice their faiths in private, and live publicly in line with Islamic norms.³²⁰ An instance is the then governor of Zamfara State, Ahmad Sani Yerima, who in 1999 shocked Nigerians when he imposed Shariah Law on the people of the State.³²¹ Also, a prominent individual in person of Alhaji Sanusi Lamido Sanusi (the former Governor of the Central Bank of Nigeria) accentuated that any call on Muslims to abandon religious law in the name of secularism will fail.³²² Hence, members of religious minorities who reside in these Shariah States in the Northern Nigeria are subjected to the Islamic justice system.³²³ Christian minorities in the North are not free to build churches hence, minorities are targeted during riots and clashes.

Hence, in some parts of the Southern Nigeria, especially those areas where Christians are the majority, most of the rights stated above are unavailable to the minority Muslims who reside in that parts of Nigeria. Islam inspires women to protect their modesty with the use of Hijab; this is explicitly stated in the Shariah principles and Rules.³²⁴ However, some establishments, private and public institutions including primary and secondary schools have proscribed the use of such Hijab within their premises. This is tantamount to the deprivation of their right to practice and manifest their religion as provided for in Section 38 of the Nigerian Constitution.³²⁵ Also, Muslim minorities are being denied access to purchase landed properties for their religious activities such as mosques and Arabic Schools etc.³²⁶ Members of minority religious often fall victim during religious uprisings. Many of those killed during the Maitatsine riots of the 80s;³²⁷ the Kano riots of 1991 when Muslim protests against the visit of a German based Evangelist, Reinhard Bonke; the religious clashes in Jos in 2004, 2009, 2010 and even 2011 are riots involving Christians and Muslims.³²⁸ Other cases of religious bloodletting between Christians and Muslims were Kafachan riots in Kaduna in

³¹⁹ Nnamani O.O., 'Is Nigeria a Secular State: Law, Human Rights and Religion in Context.' [2014], (1)(1)(4),134.

³²⁰Ukpong C., 'Wike: A Nigerian Governor and His Many Controversy' [2019] <<http://www.premiumtimesng.com/news/headlines/352473-wike-a-nigerian-governor-and-his-many-controversies.html>> accessed on 13 September 2019.

³²¹ Oguine I., 'Nigeria's Sharia Furore' [2003] <<http://netint.org/columns/viewfrom/2003/04/01/nigeria>> accessed on 13 September 2019.

³²² Sanusi L.S., 'Reflections on the Inter-Cultural Dialogue about Shariah' in P. Ostien, J.M Nasir & F. Kogelmann (edn) *Comparative Perspectives on Shariah in Nigeria* (Spectrum Books Ltd, Ibadan, 2005) 251.

³²³ Kalu O.U., 'Safiya and Adamah: Punishing Adultery with Sharia Stones in Twenty-First-Century Nigeria' [2003] (102), *African Affairs* 389-408.

³²⁴ Out of more than 6,000 verses in the Quran, about half a dozen refer specifically to the way a woman should dress or walk in public. The clearest verse on the requirement of modest dress is Quran 24:31, telling women to guard their private parts and draw Khimar over their bosoms.

³²⁵ Bashirat Saliu & 2 Others v. The Provost Kwara State College of Education, Ilorin Court of Appeal No CA/IL/49/2006; Oba A.A., 'The Hijab in Educational Institutions and Human Rights: Perspectives from Nigeria and Beyond' [2009], (10(1), *Identity culture and politics: an afro – Asian Dialogue*, 51-74.

³²⁶ Gasler K., 'Nigeria looks back on 20years of Sharia Law in the North' [2019] <<https://www.dw.com/en/nigerian-looks-back-on-20-years-of-sharia-law-in-the-north/a-51010292>> Accessed on 13 September 2019.

³²⁷ Their leader Muhammed Murwa was killed during this riot, the members of the Maltatsine sect regrouped and struck repeatedly in 1992 in Bulunkutu near Maiguguri and Rigasa in Kaduna.

³²⁸ Ikenga-Metuh E., 'Two Decades of Religious Conflicts in Nigeria: A Recipe for Peace'(1994), 6(1), *BETH*, 69-

March 1987, the Bauchi riots of April 1991 between Christian minorities of the Tafawa Balewa areas of Bauchi State and Hausa Muslim Community. Regrettably, religious conflicts are usually between the Christians and the Muslims that constitute the two giant religions and well organised groups in Nigeria. Minorities groups such as Traditional Religion are rarely involved except where the inter-religious conflicts follow the ethnic cleavage hence, religious conflicts develop into inter-ethnic's conflict even where they began as a pure religious disagreement.³²⁹ Another religious conflict that left a remarkable mark in Nigeria was when Governor Ahmed Yerima of Zamfara State first introduced the Islamic Legal Code in October 1999. At first, this did not put much pressure on the Christian minority who reside in the State, their reactions came in form of flip protest.³³⁰ However, the hitherto subdued fire was ignited when Governor Mohammed Makarfi of Kaduna State introduced same in February 2000. This is much expected because of deep-seated animosities between the Muslims and Christians in Kaduna State in general and also coupled with the fact that both are almost at par in population, the two went for their swords and many were stained in cold blood.³³¹ However, the implication of Sharia on the fundamental human rights is worthy of consideration.

3.1 Implication of Shariah on the Fundamental Rights of Muslims and Non-Muslims in Nigeria

In Nigeria, the Sharia penal code permits the death penalty in cases of rape or adultery where the parties involved is married. This form of punishment violates Article 6 of the International Covenant on Civil and Political Rights (ICCPR),³³² which protect the right to life. In *COP v. Yakubu Abubakar and Safiya Hussaini*,³³³ Safiya was charged to court under Shariah Penal Code and was sentenced to death by stoning for allegedly committing adultery. Hence, her co-accused Yakubu Abubakar was discharged on lack of evidence.³³⁴ Human right activists, international and local NGOs, organisations expressed dissatisfactions over this judgment as total violation of Safiya's fundamental right. On appeal she was acquitted on procedural grounds. Also, in *COP v. Amina Lawal*, Aminah from Katsina was charged under the Shariah Penal Code and subsequently sentenced in March 2002 to death by stoning for adultery and for conceiving a child out of wedlock.³³⁵ Amina's case attracted heaped worldwide condemnation on Nigeria, as one country which the split between Muslims and Christians has become increasingly sharp. The world distressed for contravening the international human right law

³²⁹ Ikenga-Metuh E., (n39) 7.

³³⁰ World News, <<https://www.wsws.org/en/articles/2000/02/nige-f28.html>> accessed on 5th March 2019.

³³¹ Ibid.

³³² United Nation General Assembly, International Covenant on Civil and Political Rights, 16 December 1966, United Nations, Treaty Series, vol 999, p.171.

³³³ *COP v. Yakubu Abubakar and Safiya Hussaini* Case No. USC/GW/CR/FI/10/2010.

³³⁴ Yawuri A.M., 'On defending SAFiyatu Hussaini and Amina Lawal' in P. Ostien (edn) *Sharia Implementation in Northern Nigeria 1999-2006: a Sourcebook* (Vol V, Chap 6, Part VII, Spectrum Books Ltd, Ibadan, 2007)129-139.

³³⁵ Joy Ezeilo A., *Sharia and Women's Rights under the Sharia Law, Safiya Turgartudu Hussaini: A Case Study* (Frankad Publishers, 2002)153.

hence,³³⁶ one relevant question is the implications of the Shariah on the fundamental rights of Muslims and non-Muslims in Nigeria.

What would have been the situation if the international attention is off Nigeria in such cases? The two cases of Sayiya and Amina discussed above raised issues such as respect for human right, human dignity, separation of State and religion, inhumane, degrading punishment and equality and non-discrimination before the law among others. These issues need to be treated with caution. Under international human right law, the right to life is a universally protected right. The UN Human Rights Committee has construed article 6 of the ICCPR to mean that death penalty is only for intentional offences that cause lethal or extremely grave consequences.³³⁷ The comment of the Committee provides thus "when the death penalty is applied by a State party for the most serious crime, it must be carried out in such a way as to cause the least possible physical and mental suffering." In other words, States can have recourse to death penalty only in rare situations, and are enjoined to obliterate the death penalty for all crimes that do not meet these standards.³³⁸

Furthermore, freedom of religion as guaranteed in article 18 of the ICCPR, includes right to adopt and practice a religion of choice either independently or with others except where there is need to protect public safety, order, health, morals, or the fundamental freedoms of others. Article 18 firmly protects persons who submitted to a faith of his belief as well as the right not to be forced into practicing a religion of no interest to them.³³⁹ The provision also extends to protect religious minorities that may be subject to hostility by a predominant religious group. Provision of article 18 further forbids States from adopting State religion for the purpose of impairing other rights guaranteed in the ICCPR and must not discriminate against members of other religion.³⁴⁰ This can also be found in the Nigerian 1999 Constitution, section 10.

Punishments as stipulated in the Shariah Penal Code in form of flogging and amputation for the offences of theft, death by stoning for the offence of adultery are arguably constitute torture or cruel, inhuman or degrading punishment under article 7 of the ICCPR. Specifically, the Shariah provision for death sentence by stoning is considered harsh because it involves physical and mental suffering of the accused.

However, the controversy surrounding the application of ICCPR in Nigeria is the fact that since 1993 that the Government ratified ICCPR, the National Assembly is yet to domesticate the law so as to give it legal force in Nigeria. As it is, provisions of ICCPR cannot be invoked directly before the Nigerian courts thus, for this reason the Human Rights Committee cannot exercise its power to oversee the implementation of ICCPR's provisions in Nigeria. However, replication ICCPR provisions form part of the provisions contained in Chapter IV of the 1999 Constitution (as amended). The protection of civil and political rights provisions is already included in Chapter IV.

³³⁶ Ibrahim H., 'Rule of Law Prevails in the Case of Amina Lawal' (2004), 11(3), Human Rights brief, 39-41.

³³⁷ General Comment No 36 of the UN Human Rights Committee on Article 6 of the International Covenant on Civil and Political Rights- Right to life (CCPR/C/GC/36).

³³⁸ Ismene Z., (n22) 26.

³³⁹ General Comment No 22 of the UN Human Rights Committee of Article 18 of the International Covenant on Civil Political Rights-Right to Religion (CCPR/C/21/ Rev.1/Add.4).

³⁴⁰ Ibid.

Hence, the issue of minorities is not limited to the aspect of religion but also to other aspects like minorities in the Niger Delta. This is discussed below

3.2 Minorities of the Niger Delta

Niger Delta covers an area of about 70,000km and makes up 7.5% of Nigeria's landmass. It consists of Abia, Akwa Ibom, Bayelsa, Cross River, Delta, Edo, Imo and Ondo and Rivers States.³⁴¹ In the past, the complaints of minority ethnic group in the Niger Delta centered around unequal political and bureaucratic access.³⁴² This led to the launch of Igbo-led rebellion group who fought to protect the interest of minorities and canvassed for the creation of Republic of Biafra out of Eastern Region from 1967 to 1970. From the 1970s, the ethnic minorities of the Niger Delta ceased to face any serious Igbo threats to their freedoms; though the majoritarian domination of the national economy and the gyratory political apt by the three giant ethnic groups (Hausa, Igbo and Yoruba) persisted. Nowadays, their grievances not only on unequal political treatment but also extends to the exclusive right exercised by the Federal Government over the natural resources found in their domain to the exclusion of the ethnic minority in the region.³⁴³

Government's effort to nationalise control of the natural resources led to the enactment of 1979 Constitution.³⁴⁴ Consequently, Constitution provides for the erosion of regional powers and the new States were created though not as strong and powerful as expected by the ethnic minority elites who struggled for the fight. After the euphoria of State creation, many elites among Niger Delta minority perceived that they were still subjected to the domination and exploitation of the majority, but this time, the allegation was directed towards the Federal government, under the northern leadership. Interestingly, this agitation ignites another battle between the Niger Delta ethnic minorities on the one hand, and the Federal government and the oil multinationals on the other. Hence, the conflict over natural resources was a new dimension in minority rights agitation.³⁴⁵

The arguments are that they are being maltreated because they belong to ethnic minorities in the country with poorly political structure and no decision-making bodies for proper representation. The main request of the Niger Delta ethnic minorities, enunciated in various documents including the Ogoni Bill of Rights³⁴⁶ and Kaiama Declaration,³⁴⁷ is that of 'resource

³⁴¹ Niger Delta Development Commission (Establishment) Act, No 6 of 2000 Cap. N86 LFN 2004, Sections 1(2), 2(1)(b) and 4. Controversy over exact delineation of the Niger Delta led to the enactment of Niger Delta Development Commission (Establishment) Act which establishes the Niger Delta Development Commission (NDDC) and charges it with the responsibility of developing the region.

³⁴² Eleanya K., & Agneja B., 'Assessment of Threats to Forest-Based Livelihoods in the Niger Delta Wetlands of Nigeria' [2014], (10)(2), PAT, 105-110.

³⁴³ Ako R. T & Okonmah P., 'Minority Rights Issues in Nigeria: A Theoretical Analysis of Historical and Contemporary Conflicts in the Oil Rich Niger Delta Region' [2009] (1) JLOA, 57. The total population in the Niger Delta is 31, 224,587.

³⁴⁴ Suberu R., 'Problems of Federalism in the Second Nigerian Republic and Prospect for the Future' [1992], (47)(1), Africa Journal, 29-56.

³⁴⁵ Ako R. T., 'Ensuring People Participation in the Sustainable Development of the Niger Delta Region of Nigeria: Environmental Impact Assessment as a Viable Tool' [2006], (3) Environtropica, 1-15.

³⁴⁶ Ogoni Bill of Rights was adopted by a group called Movement for the Survival of Ogoni People (MOSOP) under the aegis of Kenule Beeson Saro-Wira.

control.' The Bill of Right, which was presented to the Government and people of Nigeria in November, 1990, highlights the classic cause of grievances of the oil producing minority communities and further made several demands on the Shell and Federal Government.³⁴⁸ Among other requests, the Bill seeks for the pre-colonial autonomy of the Ogoni ethnic nationality, the immense contributions of the Ogoni to the national oil economy, the ecological devastation of the Ogoni environment by oil exploration activities, the virtually complete marginalization of the Ogoni within the present federal structure and the need for the Ogoni people to be granted autonomous status within the Federal Republic of Nigeria.³⁴⁹ Till date none of these requests has been fully actualized however, the Bill remains a powerful working instrument for Ogoni people.³⁵⁰

Before 1970, the adopted formula for the allocation of federal revenue to the regions was the principle of derivation.³⁵¹ With this formula, regions were entitled to 50% of revenue collected in their territories and this continued through 1970 when crude oil found within the territory of Niger Delta improved massively. In 1971, States in the Niger Delta got reduction on their allocation from 50% to 45% of the revenue from offshore oil operations, this is because the Government encroached on excise duties and import duties that had gone to the States.³⁵² Still, the applicable formula fetched N241 million between 1974-1975 fiscal year, to the southern ethnic minority States of River and Mid-West, with a combined population of 4.1 million. Whereas, the ethnic majority areas of the Western, East Central, North-Western states, and the northern minority state of the North-East, with a combined population of 30.2 million was fetched with N102.3 million.³⁵³ Gradually, Government did not show interest any longer in the use of derivation as a formula of revenue allocation hence, there was reduction from 50% in 1979, to 2% in 1981, and 1% in 1989.³⁵⁴ This figure got little better from 3% in 1992 and 13% in 2000³⁵⁵ thus, Niger Delta people was unhappy with the new Government approach toward revenue allocation; to them its amount to cheating, oppression and exploitation of their rights.

³⁴⁷ Ijaw youths met at Kaiama, the hometown of the late Isaac Idaka Boro, the Ijaw warrior who in 1966 declared the Niger Delta Republic, to re-invent his spirit. The youths deliberated on the continuous survival of the indigenous people of the Ijaw ethnic minorities of the Niger Delta within the Nigeria State. This however, led to the adoption of a document known as the "Kaiama Declaration," a 1,355-word text, which, inter alia narrates the history and distinct cultural identity of the Ijaw people and series of oppressions and exploitations foisted on them by the Nigerian Government and oil companies.

³⁴⁸ Senewo I.D, 'The Ogoni Bill of Rights (OBR): Extent of actualization 25 years later?' (2015), 2(4) The Extractive Industries and Society, 664-670.

³⁴⁹ Ogoni Bill of Rights, 1990 E.g. <www.ogoniyouthnetwork.org/%2fwp-content%2f2011%2f04%2fOgoni-Bill-of-Rights.pdf/RK=1/RS=1XPK6dB7T4p3QAM4mJ2C94vEQck> accessed on 12 April, 2019.

³⁵⁰ Ibid.

³⁵¹ Onulgbbo R.A & Eme O., 'State Governors and Revenue Allocation Formula in Nigeria: A Case of the Fourth Republic' (2015), 2 (7) International Journal of Accounting Research, 14-36.

³⁵² Obi C., 'Nigeria's Niger Delta: Understanding the Complex Drivers of Violent Oil -Related Conflict' [2009] (2) Africa Development Journal, 115.

³⁵³ Ibid.

³⁵⁴ Osaghae E.E, 'Ethnic Minority and Federalism in Nigeria' [1991], (9), Africa Affairs, 355.

³⁵⁵ Ibid.

Despite the oil affluence avail them, the Niger Delta people are neglected for basic amenities such as roads, pipe borne water; electricity etc. hence there is urgent need for sustainable development to minimise the minorities' frustration, oppression and marginalization in the region.³⁵⁶ The oil and gas activities in the region has caused them several losses on their main means of livelihood like farming, fishing rivers and ponds, forests for hunting. This is so that their lands have been destroyed by pollution with little or no adequate compensation or ecological remediation.³⁵⁷ Leaders and Elders among the Niger Delta ethnic minority have made frankly efforts at the federal level with the hope that the increase in derivation formula will enable them benefit tremendously from the large deposits of crude oil in the region.³⁵⁸ In response, the Government through provision of Section 162(2) of the 1999 Constitution Federal Republic of Nigeria (as amended) prescribed as follows:

...in the application of any approved revenue sharing formula for distributing the fund standing to the credit of the Federation Account among the federal and state governments and the local governments in each state, not less than thirteen percent of the revenue accruing to the Federal Account from any nature resources shall be distributed to the states from which such nature resources were extracted.

By this provision of the Constitution, oil producing states under the current federal system receive thirteen per cent (13%) from the Federation Account in respect of revenue derived by the federation from oil and gas produced within their boundaries.³⁵⁹ Hence, the country must understand and recognize the significant impacts and sacrifices the Niger Delta regions are putting in for the development of the nation as a whole. In other words, a better derivation formula should be encouraged. It is understood that, to achieve a desire sustainable development expected in the Niger Delta, derivation formula for the revenue allocation must be reconsidered. The current 13% allocated to oil producing areas is unacceptably derisory, in view of the effect of aftermath of oil exploration in the region. Politically, the governors in the region were not helping the situation, corruption is another order of the day. Some of the governors of the Niger Delta region have been accused of corruption at one time or the other, some have been indicted and one has been jailed for corrupt practices.³⁶⁰ The minority leaders must be devoted in safeguarding the interests of their people, answerable and clear as crystal in

³⁵⁶ Niger Delta includes the States of Abia, Akwa Ibom, Bayelsa, Cross River, Delta, Edo, Imo, Ondo and Rivers.

³⁵⁷ Ebegbulem J.C, Ekpe D. & Adejumo T.O., 'Oil Exploration and Poverty in the Niger Delta Region of Nigeria: A Critical Analysis' [2013] (40) (3), 280.

³⁵⁸ Obi C., (n63) 116-118.

³⁵⁹ Adangor Z., 'The Principle of Derivation and the Search for Distributive Justice in the Niger Delta Region of Nigeria: The Journey So Far' (2015), 41(1), Journal of Law, Policy and Globalisation, 115-133.

³⁶⁰ For instance, DSP Alamieyeseigha, the former governor of Bayelsa state was prosecuted by the Economic and Finance Crimes Commission (EFCC) and was eventually jailed. Also, James Ibori and Lucky Igbinedion, former governors of Delta and Edo States respectively, were prosecuted by the EFCC for corrupt practices. In fact, Lucky has been found guilty of corruption and he was asked to return some amount to Edo State government.

Furthermore, article 30 of the Convention on the Rights of the Child³⁸⁵ provides that States in which ethnic, religious or linguistic minorities or persons of indigenous origin exist, a child belonging to such a minority or who is indigenous shall not be denied the right, in community with other members of his or her group, to enjoy his or her own culture, to profess and practice his or her own religion, or to use his or her own language. Hence, several remedies for the wrongful violations of rights are provided in Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law, which was adopted in the General Assembly resolution 60/147 of 16 December 2005.³⁸⁶ One of the remedy as contains in the resolution is the restitution and it is aim to restore the victim to the original situation before the gross violations of international human rights law or serious violations of international humanitarian law occurred. Restitution can come in form of restoration of liberty, enjoyment of human rights, identity, family life and citizenship, return to one's place of residence, restoration of employment and return of property. This principle could be broadly interpreted to include the right to have one's status as indigenous person or person belonging to a minority restored, in particular where this is provided for under national legislation and if such status is lost as a consequence of displacement.

This paper also examines other sources of minority rights law, which guide and protect minorities.

4.1 Additional sources of minority rights

The Convention on the Prevention and Punishment of the Crime of Genocide is a legal source referred to in the United Nations Minorities Declaration for protecting the rights of minorities.³⁸⁷ The Convention provides for the protection of groups, including minorities, and their right to physical existence thus, it shortcomings relays from the fact that no single device has been established to monitor its implementation. Nevertheless, article II of the Convention defines genocide as any form of acts committed with the intention to destroy the whole or in part, a national, ethnical, racial or religious group thus, killing members of the group; causing serious bodily or mental harm to members of the group or; deliberately inflicting on their life intended to bring cause physical destruction in whole or in part or; imposing legislations aimed to stop childbearing within the group; using force to shuffling children of one group to another group

The Rome Statute of the International Criminal Court provides for the hearing and prosecution of cases involving genocide and crimes against humanity.³⁸⁸ Acts which would constitute

³⁸⁵ UN General Assembly, International Convention on Rights of the Child, United Nations, 20th November 1989, Treaty Series.

³⁸⁶ UN General Assembly, Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law: Resolution/ adopted by the General Assembly, 21 March 2006, A/ RES/60/147.

³⁸⁷ UN General Assembly, Convention on the Prevention and Punishment of the Crime of Genocide, 9th December 1948, United Nations, Treaty Series, vol. 78, p.277.

³⁸⁸ UN General Assembly, Rome Statute of the International Criminal Court, 17th July 1998, ISBN No. 92-9227-227-6. It is the treaty that established the International Criminal Court (ICC) . It was adopted at a diplomatic conference in Rome, Italy on 17th July 1998 and entered into force on 1st July 2002.

crimes against humanity are listed in its article 7, paragraph 1. It is important to note, for example, that forced population transfers intended to move persons belonging to minorities away from the territory on which they live, or with that effect, as well as forced sterilizations, would constitute serious breaches of the Rome Statute.

The ILO Discrimination (Employment and Occupation) Convention, 1958 (No. 111)³⁸⁹ enjoins States to develop and implement policies that is capable of promoting and guarantee equal opportunity and treatment in the employment and occupation This is to eliminate any form of discriminations directly and indirectly on grounds of race, colour, sex, religion, political opinion, national extraction or social origin.³⁹⁰ These policies must be fair and unprejudiced particularly in areas regarding access to education and training, employment services, recruitment, access to particular occupations, as well as terms and conditions of employment. Hence, the 1998 ILO Declaration on Fundamental Principles and Rights at Work³⁹¹ charges members of the Organization with the obligation to respect and protect the fundamental rights of every individual at work. The fundamental rights as guaranteed in the 1998 ILO Declaration include right not to be discriminated upon in the employment and occupation, right to form, partake in any lawful association, the right to collective bargaining and, right of protest against forced and compulsory labour, as well as child labour. The enjoyment of equality of opportunity and the treatment of minorities are monitored under this Declaration.

The 2005 UNESCO Convention on the Protection and Promotion of the Diversity of Cultural Expressions³⁹² encourages States to integrate culture as a strategic in national and international development policies. It further enjoins States to embrace measures aimed at protecting and promoting the diversity of cultural expressions within their territory. The Convention attached much importance on the value and deference associates with cultures, including culture and traditions practise by minority groups. The Convention therefore guarantees freedom to create and disseminate culture as wishes, right of access to traditional cultural expressions and, right to seek States' support for enabling environments thereto.

International Convention on the Elimination of All Forms of Racial Discrimination;³⁹³ the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief³⁹⁴, and the Convention on the Rights of the Child³⁹⁵, as well as other

³⁸⁹ International Labour Organisation (ILO) Discrimination (Employment and Occupation) convention, C111, 25th June 1958.

³⁹⁰ International Labour Organisation (ILO) Discrimination (Employment and Occupation) Convention, C111, Article 1 and 2.

³⁹¹ International Labour Organisation (ILO), ILO Declaration on Fundamental Principles and Rights at Work, June 1998, adopted at its 86th Session, Geneva, June 1998.

³⁹² UN Education, Scientific and Cultural Organisation (UNESCO), Convention on the Protection and promotion of the Diversity of Cultural Expression, 20th October 2005, 33 C/23, Annex V.

³⁹³ The Convention was adopted and opened for signature by the United Nations General Assembly on December 21, 1965, and entered into force on January 4, 1969. As of October 2009, it had 85 signatories and 173 parties.

³⁹⁴ The Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief was proclaimed by General Assembly Resolution 36/55 (25th November 1981).

³⁹⁵ The United Nations Convention on the Rights of the Child (commonly abbreviated as the CRC, CROC, or UNCRC) is a human rights treaty setting out the civil, political, economic, social, and cultural rights of children. The Convention generally defines a child as any human being under the age of eighteen, unless an earlier age of majority is recognized by a country's law. The United Nations General Assembly adopted the Convention and

relevant international instruments have been adopted at the universal or regional level and those concluded between individual States Members of the United Nations. Having looked at international laws on fundamental rights of minorities, it is pertinent to examine the domestic law on the protection of rights of the minorities in Nigeria.

5. DOMESTIC LAW ON THE PROTECTION OF RIGHTS OF THE RELIGIOUS MINORITIES AND OTHER RIGHTS IN NIGERIA

Nigeria is a secular federation consisting of multi-religious communities. Secular federalism allows states to make decisions satisfying the interests of their residents without affecting the residents of other states.³⁹⁶ Hence, there are laws that are made for the protection of the Right of Religious and other Minorities. The rights to freedom of religion or belief and to non-discrimination are guaranteed in the constitution. Section 10 of the Constitution of Nigeria³⁹⁷ prohibits the adoption of any religion as state religion. The section provides thus;

The Government of the Federation or of a State shall not adopt any religion as State Religion”.

Also, section 38 of the Nigerian Constitution provides:

(1). every person shall be entitled to freedom of thought, conscience and religion, including freedom to change his religion or belief, and freedom (either alone or in community with others, and in public or in private) to manifest and propagate his religion or belief in worship, teaching, practice and observance.

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

(3). No religious community or denomination shall be prevented from providing religious instruction for pupils

opened it for signature on 20 November 1989 (the 30th anniversary of its Declaration of the Rights of the Child). It came into force on 2 September 1990, after it was ratified by the required number of nations. As of November 2009, 194 countries have ratified it, including every member of the United Nations except Somalia and the United States of America.

³⁹⁶ Constitution of the Federal Republic of Nigeria, Act No 24 1999, LFN, Section 1.

³⁹⁷ Ibid.

of that community or denomination in any place of education maintained wholly by that community or denomination.

The above stated constitutional provision succinctly shows that persons are free to worship and manifest their religious beliefs and that the state is expected to be neutral in matters of religion. The right to freedom from discrimination under the Nigerian law is not only limited to the right of religion, it also applies to others like sex, race, status, gender etc. The Nigerian Constitution provides in Section 42 thus:

A citizen of Nigeria of a particular community, ethnic group, place of origin, sex, religion or political opinion shall not, by reason only that he is such a person: -

(a) be subjected either expressly by, or in the practical application of, any law in force in Nigeria or any executive or administrative action of the government, to disabilities or restrictions to which citizens of Nigeria of other communities, ethnic groups, places of origin, sex, religious or political opinions are not made subject; or

(b) be accorded either expressly by, or in the practical application of, any law in force in Nigeria or any such executive or administrative action, any privilege or advantage that is not accorded to citizens of Nigeria of other communities, ethnic groups, places of origin, sex, religious or political opinions.

(2) No citizen of Nigeria shall be subjected to any disability or deprivation merely by reason of the circumstances of his birth.

(3) Nothing in subsection (1) of this section shall invalidate any law by reason only that the law imposes restrictions with respect to the appointment of any person to any office under the State or as a member of the armed forces of the Federation or member of the Nigeria Police Forces or to an office in the service of a body, corporate established directly by any law in force in Nigeria.

It is clear from the above constitutional provisions that minority rights are entrenched in the relevant laws in Nigeria and the government should not discriminate against any person or group of persons whether it is in the majority or minority.

However, Nigeria is under International Human Rights Obligations to respect every individual fundamental rights, this is discuss below.

5.1. Nigeria's International Human Rights Obligations

Nigeria is a party to a number of international human rights treaties, which bind Nigeria to respect and ensure the human rights of all individuals within its territory. Nigeria signed and ratified international treaties such as the International Covenant on Civil and Political Rights (ICCPR), the Convention on the Elimination of All Forms of Racial Discrimination, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT),³⁹⁸ the Convention on the Elimination of All Forms of Discrimination against Women,³⁹⁹ and the African Charter on Human and Peoples' Rights,⁴⁰⁰ among others. In addition, a number of international instruments such as the Universal Declaration of Human Rights and the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities (Minorities Declaration) are binding as Customary International Law.⁴⁰¹

Ordinarily, once the State ratify treaties, such a State is legally charged to carry out its international obligations.⁴⁰² However, most international treaties are not self-executing, signatories are usually enjoined to provide municipal measures for their implementations. Thus, the federal government of Nigeria has the ultimate responsibility to ensure through its domestic law that human rights are respected and protected within the territory. However, provisions of the Nigerian Constitution are obviously one major factor impeding human rights law in Nigeria.⁴⁰³ Section 12 of the Constitution of the Federal Republic of Nigeria 1999 provides:

- (i) No treaty between the Federation and any other country shall have force of law except to the extent to which any such treaty has

³⁹⁸ UN General Secretary Resolution 39/46 of 10th December, 1984 on the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT).

³⁹⁹ UN General Assembly Resolution 34/180 of 18th December 1979 on the Convention on the Elimination of All Forms of Discrimination against Women.

⁴⁰⁰ Adopted in June 27th, 1981 OAU Doc. CAB/LEG/67/3 rev. 5, 21 I.L.M 58, entered into force Oct. 21, 1986.

⁴⁰¹ Subaru R., (n55) 29-60.

⁴⁰² Reinke F.W., 'Treaty and Non Treaty Human Rights Agreements: A Case Study of Freedom of Movement in East Germany' (1986). (1), Colum J. of Transnational Law, 647,648.

⁴⁰³ Dada J.A., 'Impediments to Human Rights Protection in Nigeria' (2012), 18(1)(6), Annual Survey on International & Comparative Law, 67-92.

- been enacted into law by the National Assembly.
- (ii) The National Assembly may make laws for the Federation or any part thereof with respect to matters not included in the Exclusive Legislative List for the purpose of implementing a treaty.

Basically, inferences from the above provision is that any international treaties including human rights treaties ratified by the Government of the Nigeria federation does not gain automatic binding not until same has been domesticated by the National Assembly. This was also emphasised by the Supreme Court in *General Sani Abacha v. Gani Fawehinmi*⁴⁰⁴ that international treaty does not become *ipso facto* binding unless it is being incorporated into the national law of the country. Hence unincorporated treaties cannot change any aspect of the Nigerian law despite that the Nigeria that is a party to such treaty.

Regrettably, African Charter on Human and Peoples' Right is the only international instruments on human rights that enjoys full implementation in Nigeria.⁴⁰⁵ International Covenant on Civil and Political Rights (ICCPR), the Convention on the Elimination of All Forms of Racial Discrimination, the Convention against Torture, Universal Declaration of Human Rights and the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities (Minorities Declaration and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT),⁴⁰⁶ and the Convention on the Elimination of All Forms of Discrimination against Women,⁴⁰⁷ among others as discussed above are not *ipso facto* applicable and unenforceable in Nigeria unless the National Assembly incorporates them as did for African Charter.

Accordingly, the effectiveness of ratified treaties is predicated on their being domesticated.⁴⁰⁸ This is so because the provision of the Constitution is supreme. Scholars of international law argued that international treaties and domestic/national law are two separate legal orders, for that reason incorporation is required to give international treaties a binding force. In Nigeria, this line of arguments reflects in Section 12 of the Nigerian Constitution 1999. Hence, Dada recommends the exclusion of human rights treaties from the ambit of Section 12 of the Nigeria Constitution to enjoy automatic implementation and binding.⁴⁰⁹ It is however understood that the recognition of minority rights is significant to achieve just, peaceful harmonious and progressive society. So, the time has come for the Nigerian government to acknowledge the existence of religious and other minorities and put in place the

⁴⁰⁴ (2000)6 NWLR 228.

⁴⁰⁵ Nigeria signed in 1982, ratified in 1983 and domesticated the Charter as Cap 10, Laws of Federation of Nigeria, 1990 or CapA9, Law of Federation of Nigeria, 2004.

⁴⁰⁶ UN General Secretary Resolution 39/46 of 10th December, 1984 on the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT).

⁴⁰⁷ UN General Assembly Resolution 34/180 of 18th December 1979 on the Convention on the Elimination of All Forms of Discrimination against Women.

⁴⁰⁸ Dada J.A., (n114), 72.

⁴⁰⁹ Ibid, 88.

necessary mechanisms to protect their rights. Human rights are inherent, universal and inalienable therefore, should be enjoyed by all individuals whether they belong to dominant or non-dominant faith or belief communities.

All States have not only moral, but also legal, obligation to ensure that minority's rights are protected. It is important that the Nigerian educational approach, legal systems and political policies promote tolerance of different beliefs and culture. They must also ensure that incitement to religious hatred is punishable by law. It is pertinent to note that respect for minority rights assists in achieving stable and prosperous societies. The dynamics of majority/minority relationships lead to the emergence of a range of minority issues which provide challenges and opportunities for States and societies as a whole. Such issues, in all spheres of life, are identified and articulated both by minorities and by States seeking to manage diverse societies.

6. CONCLUSION

Since 1999, Nigeria has witnessed many religious and ethnic conflicts whose roots lie in the previous military period. These conflicts have, for long been the major cause of fundamental threats to institutional stability, political order and state cohesion in the multi-ethnic societies like Nigeria. Nigeria however, being a secular state and being a signatory to most of the international conventions on the rights of the minorities, is under an obligation to protect the interests of those minority groups.

It is critical that the Government should ensure that its economic growth is achieved without negatively impact on the lives of minorities or deepening their poverty and that they share fully in the benefits of growth and prosperity, while maintaining their distinct cultures and identities. If this is done, various national, ethnic, religious and linguistic groups are able to live confidently together, practice their religions, speak their own languages and communicate effectively, recognizing value in their differences and in their society's cultural diversity.

all their dealings. This is the only way the desired sustainable development can be realized in the region if government eventually changes its position regarding federal allocation revenue.

However, it is pertinent to examine the provisions for the protection of minority right under the International Human Rights law

4. MINORITY RIGHTS PROTECTION UNDER INTERNATIONAL HUMAN RIGHTS LAW

Human rights law is often contained in the treaties, customary international law, general principles and other sources of international law.³⁶¹ International human rights law invokes obligations on governments of each State to observe fundamental rights of its citizen, in order to promote and protect human rights and fundamental freedoms of individuals or groups.³⁶² The idea of collective human rights is the basis for the development of international human rights law of today. This idea was first expressed in the United Nation document titled 'Universal Declaration on Human Rights' of 1948,³⁶³ it was thereafter recapped in various international human rights conventions, declarations, and resolutions.

The main point of reference for the international community regarding the rights of minorities is the United Nations Minorities Declaration adopted by the General Assembly in 1992.³⁶⁴ The Declaration was inspired through article 271 of the ICCPR.³⁶⁵ Minorities Declaration grants to persons belonging to national or ethnic minorities the protection of their existence, cultural, religious and linguistic identity.³⁶⁶ This includes right to enjoy their own culture, to acknowledge and exercise own religion, use their own choice of linguistic in private and in public;³⁶⁷ the right to partake in cultural, religious, social, economic and public life as desires by them;³⁶⁸ the right to contribute on issues that are of national and regional concern;³⁶⁹ the right to form own associations;³⁷⁰ the right to sustain peaceable interactions with other members of same group and with any other minority groups within the country and across borders;³⁷¹ and liberty to exercise their rights avail them independently or collectively with other members of the group, without discrimination.³⁷²

³⁶¹ Amiri A., 'Development of International Human Rights Regime: An Overview'(2013), 2(1), AALCO Journal of International Law, 117.

³⁶² Ibid.

³⁶³ Adopted by the UN General Assembly in Paris on 10th December 1948 in response to 'barbarous acts which outraged conscience of mankind' during its 183rd annual Conference.

³⁶⁴ UN MD Resolution 47/135 (1992).

³⁶⁵ Article 271 provides: In those States in which ethnic, religious or linguistic minorities exist, persons belonging to such minorities shall not be denied the right, in community with the other members of their group, to enjoy their own culture, to profess and practice their own religion, or to use their own language.

³⁶⁶ UN MD Resolution 47/135 (1992), Article 1.

³⁶⁷ Ibid, Article 2 (1).

³⁶⁸ Ibid, Article 2 (2).

³⁶⁹ Ibid, Art. 2 (3).

³⁷⁰ Ibid Art. 2 (4).

³⁷¹ Ibid, Art. 2(5).

³⁷² Ibid, Art. 3.

However, States are enjoined to safeguard the rights of persons belonging to minorities by ensuring measures are in place for the effective implementation of human rights and fundamental freedoms without any discrimination.³⁷³ States are to sustain minorities' culture, language, religion, traditions and customs;³⁷⁴ offer tolerable opportunities to acquire knowledge or have instruction in their mother tongue;³⁷⁵ encourage minorities to learn history, traditions, language and culture within their territory and have adequate knowledge of the society as a whole;³⁷⁶ to allow minorities participation in economic progress and development;³⁷⁷ protect the interests of minorities in the national policies, and international programmes;³⁷⁸ work hand in hand with other States on questions relating to minorities;³⁷⁹ encourage deference for the rights set forth in the Declaration.³⁸⁰ Hence, States that have ratified the Convention are obliged to ensure that all individuals under their jurisdiction enjoy their rights; this may require specific action to correct inequalities to which minorities are subjected.

The International Covenant on Economic, Social and Cultural Rights³⁸¹ mentions explicitly in article 2 (2) that as a member States, parties are impliedly agreed to uphold and defend the rights enunciated in the Convention without discrimination of any kind as to race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status. General comment No. 14 (2000) of the Committee on Economic, Social and Cultural Rights³⁸² expounds further that good health facilities and services must be within a physical reach for all and sundry of the population, especially vulnerable or marginalized groups, including minorities. Furthermore, all health facilities, goods and services must take cognisance of the culture of minorities involved. It provides thus "States are under the obligation to respect the right to health by, inter alia, refraining from any form of discriminations or equal access for all persons to preventive, curative and palliative health services."³⁸³ article 1 of the International Convention on the Elimination of All Forms of Racial Discrimination³⁸⁴ defines discrimination as "any distinction, exclusion, restriction or preference based on race, colour, descent, or national or ethnic origin which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise, on an equal footing, of human rights and fundamental freedoms in the political, economic, social, cultural or any other field of public life."

³⁷³ Ibid, Art. 4 (1).

³⁷⁴ Ibid, Art. 4 (2).

³⁷⁵ UN MD Resolution 47/135 (1992), Art. 4 (3).

³⁷⁶ Ibid, Art. 4 (4).

³⁷⁷ Ibid, Art. 4(5).

³⁷⁸ Ibid, Art. 5.

³⁷⁹ Ibid, Art. 6.

³⁸⁰ Ibid, Art. 7.

³⁸¹ UN General Assembly, International Covenant on Economic, Social and Cultural Rights, 16th December 1966, United Nations, Treaty Series, Vol 993, p.3.

³⁸² UN Committee on Economic, Social and Cultural (CESCR), General Comment No. 14: The Right to the Highest Attainable Standard of Health (Article 12 of the Covenant), 11th August 2000, E/C.12/2000/4.

³⁸³ Ibid.

³⁸⁴ UN General Assembly, International Convention on Elimination of All Forms of Racial Discrimination, 21st December 1965, United Nations, Treaty Series, Vol 660, p.195.