

**AN EXAMINATION OF NOISE POLLUTION: A CALL FOR  
REGULATION AND STRINGENT ENFORCEMENT OF  
EXISTING LAWS**

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**Abstract**

*Noise pollution has existed from time immemorial, especially with the advent of the industrial age and it constitutes an element of the general environment pollution in Nigeria especially in the cities. The environment needs to be preserved as noise pollution makes the environment uninhabitable. It has been observed that noise pollution is a form of violation of the right to quiet enjoyment of environment, the environment being a global home. The various rights entrenched in the Constitution of Nigeria and other Human Rights Instruments are inalienable so also the exercise of these rights such as the right to freedom of religion, religious practices are not expected to disturb the peace of the environment. This paper examines extensively noise pollution in Nigeria, the causes as well as the direct effect on the human health and the environment in Nigeria in particular. The doctrinal approach was adopted in this paper using the legal and socio-legal approach. It was observed that noise pollution generated through religious activities in Nigeria was a peculiar and predominant menace suffered quietly by people. The legal framework on the prevention and control of noise pollution in Nigeria was examined, it was observed that in spite of the existence of these laws, though inadequate, the will power for enforceability by the relevant regulatory agencies is lacking. This paper concludes and made salient recommendations which if implemented could successfully regulate noise pollution with less or no friction in the society thereby drastically reducing its effect on the society.*

**Keywords:** Noise Pollution, Nuisance, Environment, Religious Centre's, Health, Right

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## I. Introduction

Noise pollution is one of the fastest growing environmental concerns. Although in contrast with other pollutants, noise does not persist in the environment and leaves physical scars; however, its consequences can be catastrophic.<sup>1</sup> In view of this, noise pollution has increasingly become a menace in the society these days. It is spreading so fast that it has started polluting the environment of the society all over the world. Due to rapid urbanization, industrialization and advancement in science and technology, as well as the increasing rate of religious centres, the concept of noise pollution, has become one of the most serious phenomenon and challenge in most countries of the world as it endangers lives and affects the health of the public.<sup>2</sup>

However, noise pollution seems to have been taken for granted and in fact, accepted by most people in the society. The general acceptance may be due to the ignorance of the hazards created by noise pollution.<sup>3</sup> From the foregoing, it can be deduced that noise pollution is a form of nuisance which is a combination of both private and public nuisance. In fact, noise is an enemy to the environment as it pollutes our surroundings. Experts say constant exposure to loud noise affects our auditory systems especially when it is above the normal 85 decibels. Noise is one of the most dangerous and silent environmental pollutants and its effects on human body system could lead to death.

This paper also examines among other issues the effectiveness of statutory regulations in curbing the heinous menace of noise pollution as a form of nuisance. The attitude of Nigerian Courts in determining cases on noise pollution was also examined.

## 2. Conceptual Clarification of Noise

Noise pollution, in the opinion of the writers, is devoid of strict interpretation but may be defined in view of the prevailing circumstances it wishes to address and the context it is to be used. The sound which causes a disturbance, an annoyance to anyone and impairs the health of the people is referred to as noise. Noise pollution has existed from time immemorial, especially with the advent of the industrial age. Noise has also be referred to as a series or confusion of loud sounds, irregular fluctuations accompanying

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<sup>1</sup> Justice Thornton et al, *Environment law*, 2<sup>nd</sup> Ed., London: Sweet and Maxwell, 2004 p.307.

<sup>2</sup> A.P. Adamu "The Legal Regulation of Noise Pollution in Nigeria" 9(2) (2010-2014) *The University of Jos Law Journal* p. 447.

<sup>3</sup> *ibid*, p.447

a transmitted signal.<sup>4</sup> Noise has also been defined as loud, harsh or undesirable<sup>5</sup> while noise has been defined as making much noise, blaring, booming, cacophonous, clamorous, deafening, discordant, dissonant, loud, piercing, raucous, shrill, thunderous, boisterous, obstreperous, riotous, rowdy, and uproarious.<sup>6</sup>

Noise has been concisely defined as a sound, especially one that is loud, unpleasant, or frightening.<sup>7</sup> Similarly, all sounds that are distracting, annoying, or harmful to everyday activities such as work, rest, entertainment, and study are regarded as noise. Noise can be referred to as any unwanted and annoying sound that is intrinsically objectionable to human beings or which can have or is likely to have an adverse effect on human health or the environment. Noise is an unwanted or meaningless sound of greater than usual volume. It is usually generated by sources such as traffic, machinery, industries, and electronics. The advancement in technology has increased noise pollution with the latest addition of religious centres to the sources of noise pollution. Noise pollution may also mean an unwanted excessive harmonious sound that has undesired physiological and institutional effects on individuals.<sup>8</sup> It is also a number of tonal components disagreeable to man and more or less intolerable to him because of the discomfort, fatigue, disturbances, and sometimes pains to the individuals.<sup>9</sup>

Many health impairments have been attributed to noise. One of such effects of exposure to a high density of noise is hearing loss. However, the hearing loss could be temporary, permanent or a combination of both.<sup>10</sup> The Lagos State Environmental Protection Agency (Noise Pollution Regulation)<sup>11</sup> describes noise as a menace. It is an “unwanted,

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<sup>4</sup> C.C. Ogah. “A Critical Examination of the Effect of Noise Pollution on Environment and Health in Nigeria”. Vol. 5 No 1, 2014. *Benue State University Law Journal*. p.189-204:190

<sup>5</sup> Oxford Dictionary and Thesaurus (ed). Oxford University Press. 1997. P. 419

<sup>6</sup> *Ibid* p.419-420

<sup>7</sup> Longman Dictionary of Contemporary English, (fourth, Harlow: Pearson education limited, 2005). The same dictionary defined noise pollution as a very loud or continuous noise which is considered unpleasant and harmful to people.

<sup>8</sup> J.M. Field. “Effects of personal and situational variables upon noise annoyance in residential areas” 93 (1993) *Journal of the Acoustical Society of America*. p. 2753-2763.

<sup>9</sup> A.D. Hamza. “Noise Pollution Regulatory Measures for Protection of Ecosystem” *Faculty of Law Journal*, 3&4(32) .2007-2008, in O.A Akintayo “Perceived Effect of Noise Generated by Religious Houses on the Health of Osun State Nigeria.” 5(19) (2014) *Journal of Education and Practice*. P.91.

<sup>10</sup> U, Uguru and C. Igwe, “Health Implications of None-enforcement of Environmental Laws in Nigeria” Vol. 7 No.1” (2016), *Ebonyi State University Law Journal*. p. 28.

<sup>11</sup> Lagos State Environmental Protection Agency (LASEPA). A law to establish the environmental Protection Agency and for other matters incidental thereto or

unpleasant, annoying and excessive sound produced from natural or anthropogenic sources (humans and animals) which are capable of harming the environment and other organisms.”<sup>12</sup> Experts say constant exposure to loud noise affects our auditory systems especially when it is above the normal 85 decibels. Noise pollution is one of the fastest growing environmental concerns. Although in contrast with other pollutants, noise does not persist in the environment and leaves physical scars; however, its consequences can be catastrophic.<sup>13</sup>

### 3. Sources of Noise Pollution in Nigeria

Noise is one of the life's great stressor and the greatest scourge of contemporary life. From the irritating and persisting bark of a dog to the blasting of neighbour's stereo or the insistent blare of a car horn or radio, noise has become the norm.<sup>14</sup> This is one of the major factors that causes noise pollution. People migrate mostly from the rural to urban areas, sometimes two or more cities come together to form one, thus as a result of this coming together, the city spread out and coalesces and bring another city into being, which then makes the environment congested. However, the day to day activities being carried out brings about such noise.<sup>15</sup> In fact, one may say that noise has come to be accepted as an integral part of the Nigerian society. It is not infrequent to notice inordinate noise emanating from generating sets, the playing of records and amplifiers disturbing the peace of the neighbourhood. Such disturbances are taken for granted in Nigeria since Nigerians as a people appear to be permanently immune to the consequences of excessive noise, in fact, people hardly go to court to vindicate their right to clean environment in respect of nuisance re-pollution from noise.<sup>16</sup> However this is no longer the situation in Nigeria, a lot of people are crying out for help both from the Court and even the government, which is the Environmental Protection Agency, to do something about the noise pollution invading the society. As a result, many States of the Federation are enacting laws to curtail noise pollution.

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connected therewith (1997 No 9). Commencement. 1<sup>st</sup> November, 1996. This regulatory body is committed to improving the environment. See also. Section 35. National Environment Noise and Standard Control Regulation 2009.

<sup>12</sup> Ibid, the preamble.

<sup>13</sup> Justice Thornton et al, *Environment law*, (2004) 2<sup>nd</sup> edition. London: Sweet and Maxwell. p.307.

<sup>14</sup> U.D, Ikomi. *An Introduction to Environmental Law*. (2010) Lagos Malthouse. p. 34

<sup>15</sup> *Ibid*.

<sup>16</sup> M.A. Ajomo, Environmental Law and Sustainable Development in Nigeria, (NIALS Conference Series No.5) *Nigeria Institute of advanced legal studies, Lagos & British Council* .p.21.

Scientific studies show that noise becomes offensive and unhealthy when it exceeds the limit. The average level limit of noise is 95 decibels.<sup>17</sup>

**a. Aeroplane Engines**

The noise of the plane engines at both take-off and landing depending on how close one is to it could be severe and damaging. One cannot possibly know how many people have become deaf because of this kind of noise in Nigeria among those who work in the aviation industry at or near the airports and others residing within the vicinity.

**b. Industrial Machine Engines**

This is an occupational source of noise pollution; associated with those working in the industries. Workers in this category suffer the most serious effect of noise pollution.

It further stated that exposure to excessive noise is a major avoidable cause of permanent and irreversible hearing loss in Nigerian workers. That occupational noise affects both the hearing and productivity of these workers as well as interferes with the speech and communication.

**c. Generating Sets and Automobiles**

These also contribute immensely to noise pollution. The noise from generating sets deafen the ear of listeners. What causes the excessive noise of generating sets is the refusal to service them and as a result, the noise emanating from the generating sets becomes unreasonably loud and offensive to the hearing of the neighbours which could, however, affect the health of the people.

Noise pollution also arises due to traffic congestions and vehicles horns. Large numbers of vehicles on roads and trains produces heavy noise and people find it difficult to get accustomed to the noise.<sup>18</sup>

**d. Electronic Gadgets**

These include video and audio cassette, stereo sets, radio cassettes, television sets, and a host of others. Where these gadgets are tuned at a very high pitch, they disturb the entire household or neighbourhood. Thus, music is enjoyable only if it is played at a reasonable pitch but unfortunately, this is not the case with many people in Nigeria.

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<sup>17</sup> Adamu A.P. *supra* note 2, p. 449.

<sup>18</sup> Muyiwa Adeyemi. "Oyo State bans Churches, Mosques from using Outdoor Speakers", *The Guardian Newspapers*, August 16, 2017

A person who resides very close to a record store suffers from noise pollution. The level of undesirable noise can send a person crazy. In residential accommodations especially the ones referred to as 'face me I face you'<sup>19</sup> which is common in urban areas get discomfort and annoyance as a result of this menace. Sometimes, it seems there is a form of competition to determine who owns the loudest music set in the neighbourhood. These are acts of nuisance, which are actionable in law. A lot of people are guilty of these vices. Unfortunately, people are aware of their rights and remedies attached to those rights under the law against unwholesomeness and unethical practices but they are not prepared to institute an action against it but only choose to live with such noise.<sup>20</sup>

#### **e. Faith Based Activities**

Religion is an inescapable involvement of every member of the human race.<sup>21</sup> Whether directly, individual communes with whatever deity he chooses to adopt spiritually or physically. The zeal from different religious bodies that is the Christian, Muslims, and traditionalists pursue their religious convictions, not minding sometimes, how others feel. The belief that since it is religion, they are above the law and does not bother about the effect of worship on their neighbours.<sup>22</sup>

In recent times, places of worship are situated in the midst of residential areas, with high pitched loudspeakers, megaphones and other musical instruments. This noise can keep residents of such areas uncomfortable and awake through the night in some instances e.g. during the night worship activities in such places of worship or even during the Ramadan period where audio tapes, cassettes. All of these contribute to noise pollution caused by public place of worship.<sup>23</sup>

More so, religious activities contribute in a small measure to noise pollution in Nigeria. These institutions could be Christian, Islamic or traditional method of worship which generates noise in one form or the other through the various modes of worship used by them.<sup>24</sup> The fact is highlighted in the following words, "every dominant religion- Christianity, Islam and traditional has elements in its mode of worship which are noise generating. It is a common sight in the Nigerian settlements, especially the urban category, to see gigantic loudspeakers fixed to mosques and churches; it is indeed a

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<sup>19</sup> Face me I face you are a house built poorly ventilated rooms where the rooms face each other and they share a corridor, they all share one toilet and a bathroom if there is even one in the house. They are found in rural and semi-urban areas.

<sup>20</sup> Osondo A.C. op cit. p.82.

<sup>21</sup> Religious Centres and their Neighbours part 1. Available online at <[www.nigeriarealestatehub.com/nigerian](http://www.nigeriarealestatehub.com/nigerian)> Accessed on 20 April 2017

<sup>22</sup> *Ibid.*

<sup>23</sup> S.O. Odugbesan v. I.O. Ogunsanya & Ors (1970) Suit No. LD/354/67

<sup>24</sup> U.D. Ikomi U.D, *supra note* 14, p.34

common occurrence to hear religious calls, chanting and songs at incredible intensities from those sources day and night.”<sup>25</sup>

These institutions generate such noise without regards to the right of a residential quiet environment. This has brought about the Noise Control and Regulation of Lagos State Environmental and Protection Agency and the recent policy of the Oyo State government banning church, mosques from using outdoor speakers.<sup>26</sup>

The global society is undergoing a significant constant proliferation of religious houses, which are thought to provide solutions to numerous problems confronting the people, especially, the Africans and Nigeria in particular.<sup>27</sup> Nigeria is a country with the largest number of churches per capita in the world and a fertile soil for the growth of independent churches in Nigeria.<sup>28</sup> This proliferation is borne out of the understanding that in Nigeria, there is freedom of religious worship but central to this is the question of its environmental effects on the people in the society. Religious houses are springing up at an alarming rate in all available spaces, shops, and even uncompleted buildings, sometimes in warehouses, hotels, abandoned cinemas studios and other places.<sup>29</sup> As a result of this wide space occupied by religious centres, people living close with these religious centres constantly experience noise pollution emanating from blaring loud speakers at no respect for the time of day or night which is even worse because the night is always quiet and messages passed from this religious houses easily gets to the individuals living in such environment.

The proliferation of religious houses has its advantages and disadvantages; however, care must be taken not to put the health of the people in jeopardy, because doing this will be counter-productive. Hence, there should be proper education on the effects of these environmental stressors on people's quality of life. Education, enlightenment, and sensitization on the human health catastrophe associated with noise pollution is crucial to ensuring that the people act in an informed manner since many people as affected by noise do

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<sup>25</sup> *Ibid.*

<sup>26</sup> Muiyiwa Adeyemi. Oyo State bans Churches, Mosques from using Outdoor Speakers. The Guardian newspapers where he said during an interview that the Oyo State Government is committed to reducing the noise level in residential areas to 45 decibel at night and 60 decibel in the afternoon within five metres radius. Guardian newspapers. 16th August, 2017

<sup>27</sup> O.A, Akintayo, “Perceived Effect of Noise Generated by Religious Houses on the Health of Osun State, Nigeria” 5(19) (2014) *Journal of Education and Practice*. P. 91

<sup>28</sup> I. O, Adesanya, “Environmental Effects of Church Proliferation: The Redeemed Christian Church of God as a case study” 1(15) ,(2011) *International Journal of Humanities and Social Science*. 177-182

<sup>29</sup> *Ibid*

not know that noise has any effects on people's health. Also, an appropriate policy that prohibits the use of loudspeakers by religious houses should be formulated and strictly enforced at all levels of the government. To some extent, Lagos State has been able to achieve this policy and have sealed some religious centres due to noise pollution.<sup>30</sup>

Every individual has fundamental human rights, and the right of another should not be infringed by another no matter the circumstances. If religious houses or gatherings decide to cause discomfort for the people living around the area, then they should be ready to face the law. It is not a matter of fighting God or becoming an enemy of God; it is about doing what is right and safeguarding the right of one another.

Sometime ago in Lagos State, a 79-year-old woman identified as Esther Ogunsalu instituted an action against the Redeemed Christian Church of God for noise pollution, she explained that the noise from the church during their services disturbs her sleeps and triggers her heart disease. Justice Aisha Opesanwo referred both parties to the Multi-door Court house for mediation. At the courthouse, both parties signed a document to amicably settle the dispute as the mediator urges the church to maintain zero noise pollution.<sup>31</sup>

Recently, the Oyo State House of Assembly had directed the State Ministry of Environment, Urban Development, and Physical Planning to sanction churches and mosques that flout the noise pollution law. Statistics show that Churches and Mosques contribute about 70 percent of noise pollution, while telecommunications companies contribute 10 percent, vehicular and generator noise consists of 3 and 5% respectively and social gatherings contribute 10 per cent of the noise pollution in the state.<sup>32</sup> This has however made the State to declared that every religious centre guilty of violating the noise pollution law will be prosecuted, sanctioned or jailed. Different methods have been subscribed by the ministry to curb the incessant noise pollution in the state, but the officers employed to enforce this policy have been physically and verbally threatened in the state.<sup>33</sup>

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<sup>30</sup> Daily Champion (2009), Lagos seals off RCCG, Mountain of Fire over Noise Pollution, (Online) Available online at <<http://naifapals.com/modules/naifapals>> Retrieved 15 March 2017.

<sup>31</sup> Woman sues Redeemed Church over Noise Pollution in Lagos. Available online at <[www.informationng.com](http://www.informationng.com)> Accessed on 23 April, 2017.

<sup>32</sup> M. Adeyemo. *State Assembly Directs Ministry to Jail Religious Heads over Noise Pollution*, Pulse newsletter Available online at <<http://pulse.ng/local/in>> Retrieved on 19 April 2017.

<sup>33</sup> Ibid.



The Rivers State Government has also declared its intention to make laws to curb noise pollution in the state. This was the decision signed by the Director Planning, Research, and Statistics for the Ministry of Environment. It has been declared that routine checks conducted in the state with sound level meters to monitor noise level and abuse of the approved decibels of sound. A special attention was given to music records shops, religious bodies, night club operators, entertainment centres and heavy equipment operators to respect other people's right to enjoyment of the environment. The statement further stressed that anyone found guilty of the violation of the law would be charged accordingly.<sup>34</sup>

Some States in the Federation have been alerted and reawakened to deal with noise pollution. Ondo, Abia, Bayelsa, Ekiti, Ogun States and lots more are no exception. Though specific Laws on noise pollution are yet to be enacted, these States are already publicizing the menace of noise pollution caused by religious centres.

A fight against noise pollution caused by religious organizations does not make a person an antichrist or an anti-Islam. In fact, it does not have anything to do with being a form of an enemy to God, but it is all about doing what is right, just and proper. Religion should not be used as a cover up to commit a wrong or breach other people's right to peaceful comfort. For the mere fact that, people gave special consideration to the fundamental right of freedom of religion, then the religious houses should try as much as possible to reduce the level of noise emanating from their churches and mosque and should also comply with the laws already specified in the NESREA (Noise Standards and Control) and others regulations established for this purpose.

#### **f. Social Events**

This is one of the events that cause noise pollution in Nigeria and it is common among the South Western people of Nigeria. A lot of people flout the law regulating noise pollution and create the nuisance when conducting marriages, parties, clubbing to mention a few. People listen to music by increasing the volume of the amplifier to the highest and dance all through the night; some even obstructs the highway all in the name of having a party. Due to these activities, our environment is such that it has become difficult to escape the noise.

#### **4. Regulatory Measures to Combat Noise Pollution in Places of Worship in Nigeria**

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<sup>34</sup> O. O. Okafor "Rivers State tackles noise pollution" Available online at <<http://www.thenewsnigeria>>. Accessed on 20 April 2017.

From the foregoing discussion, it has been understood that a few States has emerged to curb noise pollution causing adverse effects on the health of the people. Different measures have been employed by these few States to enforce laws regulating noise pollution. The National Environmental Standards and Regulations Enforcement Agency has agreed to enforce a regulation, making noise a criminal offence, punishable with imprisonment for one year, or fine or both for a breach of the law. The law prohibits unacceptable level of noise making by individuals or groups or a corporate body. The regulation makes provisions for permissible noise levels, a penalty for noise in excess of permissible levels, control noise by place and time as well as noise control zones among others. Noise Control Regulation is one of these numerous environmental laws, which protect the public from disturbance.

Furthermore, as part of the punishment for noise pollution, the agency may seize, impound or confiscate any instrument used in causing disturbance to the public.<sup>35</sup>

Therefore, any person who contravenes any requirement or condition of permits commits an offence and shall be liable to a fine of five thousand naira for every day the offence subsists. On conviction, the person may be liable to a fine not exceeding fifty thousand naira or face imprisonment for a term not exceeding one year or both, and where an offence is committed by a body corporate, it shall on conviction be liable to a fine of five hundred thousand and additional fine of ten thousand for every day the offence subsists.

## **5. Comparison between Nigeria and Other Jurisdictions**

These obvious effects of noise pollution have compelled the writer to examine noise pollution is regulated in other countries of the world like India, United Kingdom and the United States of America. In India, noise pollution is one of the major environmental issues in India. The government of India has rules and regulations against firecrackers and loudspeakers, but enforcement is extremely lax. AWAAZ Foundation is an Indian non-governmental Organisation working to control noise pollution from various sources through advocacy, public interest, litigation, awareness, and educational campaigns. Despite increased enforcement and stringency of laws being practiced in India, urban and rural areas are still affected.<sup>36</sup>

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<sup>35</sup> Interview with Anjorin, Noise makers in Nigeria risk one-year jail term, fine, says NESREA, Premium Times, Available online at <<http://www.premiuntimesng.com>> Accessed on 23 April 2017.

<sup>36</sup> Ibid.

In the United Kingdom, the result compiled by Rockwool, the manufacturer of Mineral Wool Insulation based on the responses from local authorities to a Freedom of Information Act (FOI) request reveal that the United Kingdom Council has recorded a high number of complaints on noise pollution from private residences. This has resulted in the environmental health officers across the United Kingdom serving noise abatement notices or citations under the terms Anti-Social Behaviour (Scotland) Act. Confiscations of equipment have been authorized involving the removal of powerful speakers, stereos, and television.<sup>37</sup>

Also in the United States of America, noise laws and ordinance vary widely among municipalities and indeed do not exist in some cities. An Ordinance may contain a general prohibition against making noise that is a nuisance, or it may set out specific guidelines for the level of noise allowable at certain times of the day and for certain activities.

The Environmental Protection Agency retains authority to investigate and study noise and its effect, disseminate information to the public regarding noise pollution and its adverse health effects, respond to inquiries on matters related to noise, and evaluate the effectiveness of existing regulations for protecting the public health and welfare, pursuant to the Noise Control Act of 1972 and the Quiet Communities Act of 1978.<sup>38</sup>

The United Kingdom position as regards to noise pollution points the way to a more desirable future development of the Nigeria law in this regard. A meaningful criminal sanction for noise pollution seems necessary. Noise emitted from premises so as to be prejudicial to health is declared to be a statutory nuisance.<sup>39</sup> Where a person living in the area makes a complaint of a statutory nuisance, the appropriate local authority is required to take steps to investigate the complaint and if satisfied that a statutory nuisance exists or occurs, an abatement notice requiring the abatement of nuisance or prohibiting or restricting its recurrence.<sup>40</sup> In default of compliance with the abatement notice, the person to whom it was served is liable, to a fine not exceeding 20,000 pounds.<sup>41</sup>

## **6: Freedom of Religion: Noise Pollution and Nigerian Law**

Religion does not have a universally accepted definition. Religion means different things to different people. Religion is a system of faith and worship

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<sup>37</sup> *Ibid.*

<sup>38</sup> *Ibid.*

<sup>39</sup> Adamu, *supra* note 2, p. 453.

<sup>40</sup> *Ibid* p. 453.

<sup>41</sup> *Ibid* p. 453.

usually involving a supreme being and usually containing a moral or ethical code; especially such a system recognized and practiced by a particular church, sect, or denomination.<sup>42</sup> Religion could also mean the belief in the existence of a God or gods, and the activities that are connected with the worship of them.<sup>43</sup>

Freedom of religion is a principle that supports the freedom and rights of an individual or community, in public or private, to manifest religion or belief in teaching, practice, worship, and observance. It also includes the freedom to change one's religion or belief. Freedom of religion is considered by many globally most nations to be a fundamental human right. Historically, freedom of religion is used to refer to the tolerance of different theological systems of belief, while freedom of worship is defined as freedom of individual action.

Throughout the history of man, the right of religion has played a colossal role in the affairs of men, especially during the period when the Roman Catholic Church bestrode the world like a colossus. In *Nikulnikoff v. Archbishop of Russia Orthodox Greek Catholic Church*,<sup>44</sup> the Court defined the term religion as meaning; "...Man's relation to divinity, to reverence, worship, obedience, and submission to mandates and precepts of supernatural or superior beings. In its broadest sense, it is a form of belief in the existence of superior beings exercising power over human beings by volition, imposing rules of conduct with future rewards and punishments. Bond uniting man to God and by virtue whose purpose is to render God worship due to him as the source of all beings, and principles of all government."<sup>45</sup>

According to Dinah Shelton and Alexander Kiss,<sup>46</sup> "The freedom of religion means that the government does not prescribe orthodoxy or prohibit particular religion or belief."<sup>47</sup>

Because of the highly subjective nature of religious belief, the courts have generally rejected the idea of an inquiry into the truth or falsity of beliefs claimed to be religious, stating that there is no heresy in law.<sup>48</sup> Stating the

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<sup>42</sup> Garner, B.A. Black's Law Dictionary for the definition of religion, (2014), West Publishing Co. United States of America 10<sup>th</sup> edition, P. 1482.

<sup>43</sup> Hornby A.S. Oxford Advanced Learner's Dictionary of Current English, International Students Edition, (2005) Oxford University Press, Oxford (7<sup>th</sup> ed.) P. 1231.

<sup>44</sup> 142 Misc 894,335 NY S. 653,663.

<sup>45</sup> 142, Misc. 894, 255 NYS 653, 663.

<sup>46</sup> Dinah Shelton and Alexander Kiss, A draft Model Law on Freedom of Religion in Nigeria, in Mowoe K.M, Constitutional Law in Nigeria (2008), Malthouse Law Books, Lagos (eds.) P.429.

<sup>47</sup> *Ibid.*

<sup>48</sup> *Church of the New Faith v Commissioner of Pay Roll Tax* (1983) 57 ALJR 785.

scope of this right, Ayoola JSC in *Medical and Dental Practitioners Disciplinary Tribunal v Okonkwo*,<sup>49</sup> stated that, the right to freedom of thought, conscience and religion implies a right not to be prevented, without lawful justification, from choosing the course of one's life, fashioned on what one believes in, and a right not to be coerced into acting contrary to one's religious belief. The limits of these freedoms, as in all cases, are when they impinge on the rights of others or where they put the welfare of society or public health in jeopardy."<sup>50</sup>

Religion, according to Tylor,<sup>51</sup> is a *belief in a spiritual being*. This perception of religion is minimal. If religion were to be simply a belief in spiritual beings, there is no way; there could be extreme actions in the name of religion. Mere beliefs cannot be violent or aggressive. Religion, therefore, involves a relationship with spiritual being whether in the theistic sense or immanent sense. This lends to the credence to the description of man as a homo religious, that religion as part of man. Consequently, allowing him to practice religion, as freedom of religion connotes, is allowing him to be truly human. A man is not fully alive if he is not allowed the freedom to reach out to himself into the relationship with the divine.<sup>52</sup> This study explores the constitutional guarantee of and limitations to freedom of religion in Nigeria according to the provision of the 1999 Constitution of the Federal Republic of Nigeria. Appreciating the fact of a man being homo religious, Nigeria guarantees the right to freedom of religion as one of the fundamental rights in the Constitution, which is by virtue of Section 38 of the 1999 Constitution. The language of Section 38 brings out the fact that religion is an attribute of a human being as an individual and not as a citizen. The freedom of religion guaranteed by the 1999 Constitution is not a solitary right to hold a religion but rather is a compound right embracing other freedoms that define religion as involving rational process, and a social reality, which thrives in interpersonal dynamics and concrete civil presence.<sup>53</sup> Religion ordinarily involves thought and conscience, though thought and conscience could exist without necessarily leading to religious belief.<sup>54</sup>

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<sup>49</sup> (2001) 10 WRN 1SC 41.

<sup>50</sup> *Medical and Dental Practitioners Disciplinary Tribunal v Okonkwo* (2001) WRN 1S.C. 41.

<sup>51</sup> Tylor E.B, (1965) Animism in WA Lessa & EZ Vogt (ed.) in Reader in Comparative Religion: An Anthropological Approach (2<sup>nd</sup> ed) Harper and Row Publishers, New York, p. 10.

<sup>52</sup> Ezeanokwasa J.O. "Religious Freedom and its Limitation under the 1999 Constitution of Nigeria" (2016) Nnamdi Azikiwe University Journal of International Law and Jurisprudence, Vol. 7 (African Journals Online PDF) p. 57.

<sup>53</sup> Tylor (supra).

<sup>54</sup> *Ibid.*

The focus of this section is mainly "the freedom of religion" and "freedom to manifest and propagate religion or belief". Freedom of religion issues has bothered man from the earliest of human history traversing the Old Testament times of the people of Israel and their neighbours through the Greek and Roman civilizations to our times under the international order being moderated by the united nation. Article 18 of the ICCPR<sup>55</sup> is similar to Section 38(1) of the 1999 Constitution. The word 'manifest' is defined by the Oxford Advance Learners Dictionary<sup>56</sup> as "to show something clearly, especially a feeling, an attitude or a quality; to appear or become noticeable. It also defines propagate as "to spread an idea, a belief or a piece of information among many people. To manifest concerns itself with displaying something that is somewhat not clearly seen. It involves the demonstration of the existence of something in such a manner that becomes clearly known and understood. A manifestation of religion or belief does not necessarily connote to propagate. The right to manifest and propagate is actualized in worship, and through teaching, practice, and observance. The right can be exercised privately or publicly.

Article 6 (a) – (i) of the United Nations Declaration on the Elimination of All Forms Intolerance and Discrimination based on Religion or belief takes further the extent of the freedom to manifest and propagate one's religion to include freedom; *to worship or assembly in connection with a religion or belief, and to establish and maintain places for these purposes; to establish and maintain appropriate charitable and humanitarian institution; to make, acquire and use adequate necessary articles and materials related to the rites or customs of a religion or a belief, to write, issue and disseminate relevant publication in the areas; to teach a religion or belief or belief in places suitable for these purposes*<sup>57</sup>

Several Statutes have given more respect to the freedom of religion, one of which again is the provision of Section 206 of the Criminal Code, which reiterated that, "any person who wilfully and without lawful justification or excuse, disquiets, or disturbs a religious worship is guilty of a simple offence and liable to imprisonment for two months, or a fine of ten Naira."<sup>58</sup>

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<sup>55</sup> Article 18, International Covenant on Civil and Political Rights.

<sup>56</sup> Hornby A.S.Oxford Advanced Learner's Dictionary of Current English, International Students Edition, (2005) Oxford University Press, Great Clarendon Street, Oxford (7<sup>th</sup> ed.) p. 898.

<sup>57</sup> United Nations on the Declaration on the Elimination all forms of Intolerance and Discrimination Based on Religion and Belief 25 November 1981.

<sup>58</sup> Section 206, Criminal Code Act, CAP C38 Laws of the Federation, 2010.

The presumption of this provision of law is that a criminal sanction has been imposed on any person or industries that disquiet or disturbs a religious worship by noise.<sup>59</sup>

Despite all the various provision supporting the existence of freedom of religion, the penal code gave a sign of readiness to control atmospheric pollution. Although the law does not specifically states the control of noise pollution but provides that; "a person is guilty of a public nuisance who does an act, or is guilty of illegal omissions which cause any common injury, danger or annoyance to persons who may have occasion to use any public right."<sup>60</sup>

This is one of the first laws that provide for noise pollution in Nigeria. Thus, Section 198<sup>61</sup> of this same code provides for the payment of compensation to any injured person from the offence, which may be in addition to any other punishment.

In spite of the wide latitude given to freedom of religion by law, it is non-derogatory. It is not an absolute right that can be exercised without limitation. Its exercise is limited by some factors.

### **7.0 Types of Nuisance that can emanate from Religious Activities**

The word nuisance is used in the popular speech to mean any source of inconvenience or annoyance, but the tort of nuisance has a more restricted scope and not every inconvenience and annoyance is actionable.<sup>62</sup> This causes inconvenience or damage to others, either to individuals or to the public. It is an inconvenience materially interfering with the ordinary comfort physically of human existence, not merely according to elegant or dainty modes and habits of living but according to plain and sober as well as simple notion among the English people.<sup>63</sup>

Nuisance is classified into two, which are the private, public and statutory nuisance.<sup>64</sup> For the purpose of this study, tort of public nuisance will be discussed, that is in regards to the issue of noise pollution in public places,

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<sup>59</sup> Ilegbune T.O. *Regulation of Industrial Waste Management*, in Ajomo, M.A. Environmental Laws and Sustainable Development in Nigeria(eds), Lagos Nigeria Institute of Advanced Legal Studies(NIALS) (1994) Conference Series No. 5 P.7.

<sup>60</sup> Section 183 (1), Penal Code. CAP 89 Law of Northern Nigeria. 1963.

<sup>61</sup> Section 198 of Penal Code, states that whoever commits a public nuisance in any case not otherwise punishable by this code, shall be punished with imprisonment for one year or with fine or with both.

<sup>62</sup> Kodinlyne G. and Aluko O.(1999) *The Nigerian Law of Torts*, Spectrum Law Publishing Limited Ibadan / Safari Books (exports) Ltd, United Kingdom, (ed.) P.92.

<sup>63</sup> *Walter v Selfe* (1851) 4 De G& Sm 315, 20 LJ Ch 433.

<sup>64</sup> *Harpwood V., Modern Tort Law* (New York; Routledge- Cavendish, 2009)p. 181.

public nuisance will enlighten this issue and related remedies available will be discussed to curtail the trending issue of noise pollution in public places such as mosque and churches especially Pentecostal churches in Nigeria.

Nuisance in places of worship in Nigeria has become the daily menace that needs urgent attention in Nigeria. Some people are of the opinion that there should be absolute freedom of religion and that the law or government should not interfere with the affair of religion. Other arguments are that there should be some other sets claim that, there should be some regulation regulating the administration of religious activities in Nigeria. This essay posits that the freedom of religion in Nigeria should not be left at large despite the fact this has been entrenched in the Constitution of the Federal Republic of Nigeria. The right of neighbours close to these religious grounds should be respected. The right of an individual should actively not affect the rights of another. The fact that religious grounds are places where the Supreme Being is worship should not be an excuse for breaching other people's fundamental right. For instance, a person has the right to acquire property, and also builds on it. This building may be located near a church or mosque, persistent noise from these religious gatherings such as praise worship and preaching would become annoying and a reasonable person may not be able to tolerate such noise. It should be acknowledged that the 1999 constitution, in section 6(6) (b), extends judicial power to "all matters". Thus in *Shodeinde v Registered Trustees of the Ahmadiyya Movement in Islam*,<sup>65</sup> Kayode Eso JSC said; "now it appears to me that the matters of faith are hardly matters for a court of law, but once it is there, the court should deal with them without passion, but only with justice according to the law being a guide."<sup>66</sup>

These methods of nuisance from religious gatherings include the following;

### 7.1: Vigils

In the writer's opinion, a vigil is a form of public nuisance caused by the religious organization in Nigeria, most especially Pentecostal churches. This study entails that there is freedom of religion, but to what extent is the freedom of religion. Why should churches go so far to constitute nuisance by placing loudspeakers at their entrances and thereby disturb the neighbourhood all in the name of rendering prayers to their maker? It is as result of this that Lagos State government ordered the removal of loudspeakers at Church entrances. No one is hindering any church from exercising their right to freedom of religion but while exercising this right, the neighbours in the nearby area should be put into consideration.

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<sup>65</sup> (1983) NSCC 523.

<sup>66</sup> *Shodeinde v Registered Trustees of the Ahmadiyya Movement in Islam* (1983) NSCC 523.



## 7.2: Morning Cries

This is another form of nuisance caused most especially by the Christian faithful. They move about in the morning publicizing their belief. The writer is of the opinion that propagating one's belief does not require shouting early in the morning and waking the entire community but propagating one's belief should be based on an interpersonal relationship. A person has the right to propagate his belief as guaranteed in the Constitution but that right is to an extent not breach under other people's right to quiet and peaceful enjoyment of their property.

## 6.3: Ramadan Lectures

This form of activities is common to the Muslim faithful. Ramadan is an annual Muslim fast. The Muslims sometimes plays recorded tapes and videos during the period of about 30 days until the end of the fast, sometimes in the morning till the next morning continuously till the end of the fast. This act and conduct may be regarded as the exercising the freedom of religion but in the writer's opinion, it is considered as a nuisance because the right of another encroaches. Though there have been arguments that this form of noise pollution should be tolerated because it is only limited to the particular period of Ramadan and not as persistent compared to other religions.

## 6.4: Call to Prayer in Early Hours

One area where noise pollution is pronounced in Islamic worship is in the call to prayer. Prior to the commencement to the prayer, a human voice calls the faithful to prayer from the minarets.<sup>67</sup> In order to extend the calls to others, loud speakers are used. Most times, the loudspeakers are tuned high producing outrageous noise that pollutes the environment. The noise of loud speakers blasting the call to prayer is a complete nuisance.<sup>68</sup>

The above situation has become a global concern. In Germany as well as other parts of Europe, there are strong protests against the use of loudspeakers from the minaret of the mosque.<sup>69</sup> In Israel, the Prime Minister, Benjamin Netanyahu has voiced the support for a law that would ban mosques from

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<sup>67</sup> T. U., Dickson, S. D. Audu, and Nwaomah S. M. The Effect of Religious Noise on the Environment of Ilisha- Remo, Ogun State, (2012) Babcock Journal of Management and Social Sciences. Vol. 10. NO 1, p. 9

<sup>68</sup> *Ibid.*

<sup>69</sup> B. Andreas (2010) Islam in Europe. Available online at <<http://islamicineurope.blogspot.com>> Accessed June 5, 2017

using loud speaker systems to call people to prayer. The so called Muezzin law applies to all houses of worship but the practice is prevalent in mosque only. Their hundreds and thousands of Israeli citizens routinely suffer from noise caused by the muezzin's calls to prayer and yet, these worshippers show no sense of concern but rather abuse those who speak against the ear-shattering loud speakers.<sup>70</sup> In India, the same situation has been confirmed where sometimes the call begins at 4 am cutting short the sleep and comfort of those in the neighbourhood.<sup>71</sup>

In Nigeria, the case is not different, in the words of Ajayi, he observed that: "the noise of loudspeakers blasting the call to prayers by Muslim clerics every 5 o'clock is a complete nuisance... I find it difficult to believe that in this 21<sup>st</sup> century when the alarm clocks and handsets abound with alarm system, somebody will still derive pleasure blasting the speakers every morning in the name of religion. There are little kids that need their sound sleep, what about the people that belong to other faith? Why is that we do not have such level of noise pollution in places like Ikoyi and Victoria Island? Is someone telling me that there are no mosques and churches in these areas?"<sup>72</sup>

The loud speakers placed at the entrance make so much noise and disturbs the sleep of neighbours living near the religious centres. Though the time zone is limited, it becomes a nuisance when it continues for a long period of months or years to the people living around.

### **8.0 : Conclusion and Recommendations**

Nigeria has experienced rapid development and high influx of people with the implication of increased generation of noise. It is no longer a new thing that noise pollution is a menace and everyone in the society is awake to curb this menace.

In other parts of the world, for instance, Indian, United Kingdom and the United States of America, the term noise pollution has been constantly litigated upon, and people have brought litigation to the court. The implication of this on Nigeria is that individuals should direct complaint to the nearest agency for the purpose of eradication and for enforcing the laid down rules.

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<sup>70</sup> Dickson, T.U, Audu, S.D. and Nwaomah S. M. The Effect of Religious Noise on the Environment of Ilisha- Remo, Ogun State, (2012) Babcock Journal of Management and Social Sciences. Vol. 10. NO 1, p. 9

<sup>71</sup> *Ibid.*

<sup>72</sup> K. Ajayi, (2012).Noise pollution: Religious Leaders Deny Knowledge of approved Decibels. The punch, 14<sup>th</sup> February 2012. Available online at <<http://www.punchng.com>> Accessed June 5, 2017

Noise from religious houses and any other source of noise pollution is increasingly becoming a public nuisance, which however needs urgent attention. The urban areas are experiencing a rise in religious noise in Nigeria. Though there are no specific cases showing a certain number of complaints about noise pollution, but generally on the Social Medias, Internets, there have been complaints received at the offices regulating environmental protection. It has established the fact that some people are now conscious of their rights on noise pollution around the nation.

The reality of noise pollution as a major threat to the environment is no longer questionable. From this paper, it has been observed that the effects of noise pollution range from sleep disturbances, speech impairment, to other health and psychological challenges. From Industrial activities, automobiles, clubs, hotels, record stores, household and industrial generators, also contribute religiously oriented noise which occurs from the daily activities of different religious groups to noise in our environment.

The recent closure of 70 Churches and 20 mosques by the Lagos State Government for noise pollution should be a wakeup call on the other states governments.<sup>73</sup> It should also serve as a deterrent to other religious centres who always believed that it is only when they wake the whole residents up with their noise before the heavens open and their prayers answered. The writer is of the opinion that religious gatherings should restrict their noise considerably well so as not to disturb member living or working around them.

This paper is not limited to noise from religious centres alone, noise emanating from other sources such as we have seen other sources of noise such as vehicular noise, which has been determined by a number of factors, some of which are caused by indiscriminate honking, poor level of road maintenance as well as the number of vehicle passing a particular area. The government should provide some orders or measures in curtailing the noise produced from these sources. Noise pollution can be reduced by prescribing noise limits for vehicular traffic, ban on honking of horns in certain areas and planning main traffic arteries.<sup>74</sup>

The sources of noise pollution identified in this paper have exposed common channels of environmental pollution through the noise and its effects on the

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<sup>73</sup> S. Bola, The General Manager, Lagos State Environmental Protection Agency (2016) *Lagos shuts down 70 churches, 20 mosques over noise pollution* in Vanguard Newspaper. Available online at <[www.vanguardngr.com](http://www.vanguardngr.com)> Accessed June 5, 2017.

<sup>74</sup> Oyedepo S.O., Effective Noise Control Measures and Sustainable Development in Nigeria, (2013) World Journal of Environmental Engineering. 1(1): 5-15. Available online at <<http://pubs.sciepub.com/wjee/1/1/2>> Retrieved on June 5, 2017.

public which is not only significant in Nigeria but throughout the world. The challenge posed by noise pollution on human health and the environment has not been given significant attention it deserves in Nigeria. There is also need for the government to reform and restructure the laws protecting the environment. This reformation is essential to the public in general and the enforcement of the Statutory Acts on noise pollution.

The appropriate government agencies should sensitize the public on the issue of noise pollution, making the society to be aware of the effects and implications of noise pollution as well as educate the public on the laid down rules guiding noise pollution. Be it as it may, the government should not be harsh with the implementation of these laws in order not to inflict harms or cause any form of disrepute to the wrong door. They should follow the due process of law to enforce the laws on the organization, industries, individuals, and religious bodies.

There should be a stringent location for religious centres far away from dwelling houses. The government should prescribe particular areas where churches and mosque should be located. With this action, even if noise will occur, it would not interfere with other people's rights. In Lagos state, many large religious activities have been restricted to Lagos Ibadan expressway and the ones are the residential areas have been given an order restricting them from using external loudspeakers, horn speakers for the purpose of creating clean and clear environment and also for the purpose of preventing them from allowing noise to emit into another person's enjoyment of land, though many of those Express ways cause severe traffic on these roads during worship. An academic environment like Obafemi Awolowo University, Ile-Ife has restricted religious activities to an area where it will not cause any form of disturbance to the environment. This shows that there is a need for sanctity in our society.

Reducing noise pollution should be everybody's responsibility; it should not be left to the government alone. The steps taken by some State government is a laudable one. We all owe a duty of care to our neighbours.<sup>75</sup> Individuals should monitor the activities of his or her household and should not cause noise to emit from his premises to another's. Transformation begins with individuals until a person is transformed, he cannot contribute a positive change to his environment. Religious bodies should also take reasonable care of other people's right and be more considerate in their daily activities. As a matter of fact, there is the need for the religious houses especially churches to build a soundproof wall for their church. This will drastically reduce noise caused by the religious centres.

In conclusion, aggressive implementation of existing laws, policies and guidelines on environmental pollution will go a long way in addressing this menace and also bring a sustainable development in Nigeria and increase the quality of air.