

RELIGIOUS RIGHTS AND PUBLIC LAW IN NIGERIA: A JEWISH LEGAL PERSPECTIVE ON STATE REGULATION OF RELIGIOUS PRACTICES

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Abstract

The relationship between religious rights and public law is a critical concern in pluralistic societies, particularly in Nigeria, where the Constitution guarantees freedom of religion while state regulation seeks to maintain public order and secular governance. Although scholarship has examined religious freedom in Nigeria and Jewish legal principles on state authority and religious autonomy, no study has systematically applied Jewish legal reasoning to analyse Nigeria's regulation of religious practices. This study addressed that gap by examining how Jewish legal principles, particularly *dina d'malkhuta dina* ("the law of the land is the law"), could illuminate the challenges and opportunities of balancing religious freedom with state authority in Nigeria. Employing a qualitative doctrinal comparative approach, the research analysed constitutional provisions, statutes, judicial decisions, and scholarly literature using a normative comparative framework grounded in legal pluralism. The scope was limited to religious rights and state regulation in Nigeria from 1999 to the present. The findings indicated that Nigerian public law and Jewish jurisprudence shared normative commitments to lawful authority, social order, and the protection of religious freedom. Comparative analysis revealed that adopting principles from Jewish law, such as compliance with general civil authority while preserving religious integrity, could enhance proportionality, neutrality, and clarity in regulating religious practices. The study concluded that integrating insights from Jewish legal thought could strengthen Nigeria's constitutional framework by guiding courts and lawmakers in balancing secular governance with pluralistic religious freedoms. It recommended proportional regulation, content-neutral laws, institutional neutrality, clear judicial guidelines, and constitutionally

bounded engagement with religious communities.

Keywords: Religious Freedom, Public Law, Nigeria, Jewish Legal Principles, Dina D'malkhuta Dina

Introduction

The relationship between religious rights and public law is a foundational concern in pluralistic societies. In Nigeria, the Constitution guarantees freedom of religion under Section 38, yet persistent debates surround the extent to which the state may regulate religious practices while maintaining public order, protecting fundamental rights, and preserving constitutional secularism. Existing scholarship has examined religious freedom within Nigeria's constitutional framework and the limits of state regulation. For instance, Odio (2010) analysed the development of religious rights under the 1999 Constitution, highlighting the tension between safeguarding public order and protecting freedom of conscience.

Similarly, Adeniyi (2014) examined judicial interpretations of religious freedom, observing inconsistencies in balancing constitutional principles with religious practices. In the field of comparative legal studies, Kretzmer (2002) and Dorf (2006) explored Jewish legal thought on state authority and religious autonomy, demonstrating how Halakhic principles engage questions of public regulation and civil authority.

Despite these contributions, the literature has treated Nigerian public law and Jewish legal jurisprudence as distinct fields of inquiry. No known study has systematically applied Jewish legal reasoning to examine the regulation of religious practices within Nigeria's constitutional framework. This study addressed that gap by investigating how Jewish legal principles, particularly *dina d'malkhuta dina* ("the law of the land is the law"), could provide interpretative and normative insights into balancing religious freedom with legitimate state authority in Nigeria.

Methodology

The study adopted a qualitative research design using a doctrinal and comparative legal approach. The doctrinal method involved the critical analysis of constitutional provisions, statutes, judicial decisions, and other legal instruments governing religion–state relations in Nigeria, with particular emphasis on the Constitution of the Federal Republic of Nigeria, 1999 (as amended), relevant legislation, and leading judicial decisions. The comparative legal approach examined these constitutional principles alongside Jewish legal jurisprudence (Halakha) to identify areas of convergence and divergence concerning religious freedom, state neutrality, justice, and legal pluralism.

Data were derived from documentary sources. Primary sources comprised the 1999 Constitution, relevant statutes, and judicial decisions, while secondary sources included books, peer-reviewed journal articles, legal commentaries, dissertations, and scholarly works on Nigerian constitutional law, Jewish law, comparative law, and law and religion. The collected materials were analysed through qualitative content analysis and doctrinal interpretation to provide a critical understanding of the constitutional regulation of religion in Nigeria and the comparative insights offered by Jewish legal jurisprudence.

Theoretical Framework

The study was anchored in a normative comparative framework grounded in legal pluralism. This framework facilitated a critical comparison of Nigerian public law and Jewish legal jurisprudence on state authority, religious freedom, and the regulation of religious practice. Rather than merely identifying similarities and differences, it enabled the study to draw normative insights relevant to Nigeria's

constitutional context. Legal pluralism provided the theoretical basis by recognising the coexistence of multiple legal systems within a single society, making it an appropriate lens for examining the interaction between constitutional law, religious law, and state governance in Nigeria.

Literature Review

Nigerian Constitutional and Statutory Provisions on Religious Rights

The Constitution of the Federal Republic of Nigeria, 1999 (as amended) enshrines freedom of religion as a fundamental human right. Section 38(1) guarantees every person the right to freedom of thought, conscience, and religion, including the freedom to adopt, change, and manifest a religion or belief through worship, teaching, practice, and observance, either individually or collectively, and in public or in private. Sections 38(2)–(4) further protect individuals from compulsory religious instruction, recognise the right of religious communities to provide religious education for their adherents, and prohibit participation in secret societies where such activities threaten public order. In addition, Section 10 prohibits the adoption of any religion as a state religion, reflecting Nigeria's constitutional commitment to religious neutrality, while Section 45 permits lawful limitations on the exercise of fundamental rights where such restrictions are reasonably justifiable in the interests of public safety, public order, public health, public morality, or for the protection of the rights and freedoms of others (Federal Republic of Nigeria, 1999).

Nigerian legal scholars have highlighted both the strength of these constitutional guarantees and the challenges associated with their practical implementation. Odinakachukwu E. Okeke, Chinazor Queen Umeobika, and Eyiuche Stella Ahanwa (2025) contend that, although the constitutional protection of freedom of thought, conscience, and religion is extensive, its enforcement has remained inconsistent within Nigeria's religiously plural society. They therefore advocate clearer legislative measures and more consistent judicial interpretation to ensure the effective protection of these rights. Likewise, Samuel Chinedu Oyigbo (2025) observes that conflicts frequently arise between the exercise of religious freedom and competing public interests, such as environmental protection. He argues that freedom of religion, while fundamental, is not absolute and may legitimately be restricted under Section 45 where religious practices conflict with public health, safety, or other constitutionally recognised interests.

Similarly, Obiaraeri (2025) argues that Nigerian courts have generally adopted a broad interpretation of religious freedom, extending constitutional protection not only to adherents of recognised religions but also to individuals holding non-religious or irreligious beliefs. Nevertheless, he notes continuing constitutional debates regarding the extent to which governmental involvement in activities such as the sponsorship of religious pilgrimages is compatible with the principle of state neutrality embodied in Section 10 of the Constitution. Collectively, these scholars demonstrate that, although Nigeria's constitutional framework provides robust protection for religious freedom and expressly prohibits the establishment of a state religion, significant challenges remain in relation to enforcement, judicial interpretation, and statutory regulation, particularly where religious practices intersect with competing rights, public order, and broader constitutional principles.

Exploration of Jewish Legal Principles, Focusing on *Dina D'malkhuta Dina*

In Jewish legal thought, the principle of *dina d'malkhuta dina*—literally, "the law of the land is the law"—maintains that the civil laws of the jurisdiction in which Jews reside possess binding authority within Jewish law, particularly in matters relating to civil and commercial transactions, provided that such laws do not conflict with fundamental Halakhic principles. This doctrine is firmly established in classical Jewish legal sources, including the Babylonian Talmud and the *Shulchan Arukh*, where it is invoked to explain the religious obligation of Jews to comply with local legal requirements governing commerce,

contractual relationships, taxation, and public order. Originating in the Babylonian Talmud, the principle has been interpreted throughout successive generations as a means of integrating Jewish communal life within broader systems of civil governance while preserving religious identity and the integrity of Halakhic jurisprudence.

Baruch Finkelstein (2016) offers an influential examination of the legal and philosophical foundations of *dina d'malkhuta dina*. He argues that rabbinic understandings of the doctrine correspond with both natural law and legal positivist theories of jurisprudence, demonstrating that the recognition of non-Jewish civil authority within Halakha reflects a sophisticated legal philosophy concerning the nature of law, political authority, and governance. Finkelstein's analysis remains an important contribution to understanding how Jewish legal thought reconciles obedience to secular legal systems with its commitment to the divine origin and authority of Halakha.

More recently, Michael J. Broyde and Elazar De Mota (2025) examine the manner in which Jewish law incorporates external legal norms through the doctrine of *dina d'malkhuta dina* without compromising its internal legal autonomy. They situate the principle within a broader comparative legal framework, demonstrating that Jewish law recognises the legitimacy of secular civil regulations—particularly those governing commercial transactions, property rights, and other civil matters—as binding upon Jews living in the Diaspora or under non-Jewish political authority. Their study illustrates the adaptability of Jewish law within religiously and legally pluralistic societies and its capacity to engage constructively with secular legal systems while maintaining its distinctive normative framework.

Contemporary Halakhic scholarship further highlights the practical application of *dina d'malkhuta dina* in modern legal contexts. Deliberations within rabbinical courts (*batei din*), particularly in relation to commercial and financial disputes, demonstrate the careful balancing of secular legal provisions against Halakhic principles. Such discussions reveal that the application of the doctrine requires nuanced legal reasoning concerning justice, equity, communal welfare, and the preservation of religious obligations within diverse legal environments.

Scholars have also drawn attention to the normative limits of the doctrine. Drawing upon classical Halakhic authorities, including the work of Shmuel Shilo, many commentators maintain that the obligation to comply with secular law applies most clearly where civil legislation is enacted for the general welfare and applies equally to all members of society. Conversely, the doctrine does not require compliance with laws that discriminate against particular groups, undermine fundamental principles of Halakha, or compel conduct contrary to essential religious obligations. Contemporary scholarship therefore portrays *dina d'malkhuta dina* as a sophisticated legal doctrine that balances respect for legitimate civil authority with unwavering fidelity to religious law. Consequently, it provides a valuable analytical framework for comparative legal studies examining the relationship between religious legal systems and constitutional governance in pluralistic societies.

Comparative Analysis of Nigerian Judicial Interpretations and Jewish Legal Reasoning

A comparative analysis of Nigerian judicial interpretations and Jewish legal reasoning reveals distinct yet complementary approaches to balancing religious freedom with state authority. In Nigeria, the courts have played a central role in interpreting the constitutional guarantee of religious liberty, frequently adjudicating disputes arising from the interaction between individual religious rights and the state's responsibility to maintain public order. A notable example is *AbdulKareem v. Lagos State Government*, in which the Court of Appeal affirmed the right of a female Muslim student to wear the hijab in a public school, holding that such expression constituted a protected manifestation of religion under Section 38 of the Constitution. The decision reinforces the constitutional principle that religious expression forms an integral component of the

fundamental rights guaranteed to every citizen.

Nevertheless, Nigerian jurisprudence continues to reflect the complexities of governing a religiously plural society. Legal scholars observe that the country's hybrid legal system, particularly the constitutional recognition of Sharia courts and the implementation of Sharia law in several northern states, presents significant challenges to a strict understanding of constitutional secularism. Consequently, the interpretation and application of religious freedom often require courts to reconcile competing constitutional values, including equality, public order, and religious liberty, within an increasingly complex legal environment.

By contrast, Jewish legal reasoning, through the doctrine of *dina d'malkhuta dina*, incorporates secular authority into the internal framework of Halakha. The doctrine recognises that civil laws enacted by legitimate governmental authorities are binding upon Jews, provided such laws do not conflict with fundamental Halakhic principles. Broyde and Elazar De Mota (2025) explain that Jewish law accepts secular legal norms, particularly in matters relating to commerce, property, and civil administration, as legally binding within Halakha. This approach enables Jewish communities to coexist harmoniously within secular political systems while preserving the autonomy and integrity of their religious legal tradition.

When these approaches are considered comparatively, important distinctions emerge. Nigerian judicial reasoning is grounded primarily in constitutional adjudication within a pluralistic democratic framework, requiring courts to balance the protection of religious freedom against constitutionally permissible limitations imposed in the interests of public safety, public order, public health, and morality under Section 45 of the Constitution. Jewish legal thought, on the other hand, approaches the relationship from within a religious legal system by recognising the legitimacy of secular authority as part of its own jurisprudential structure. Rather than viewing state law and religious law as inherently competing systems, *dina d'malkhuta dina* provides a normative mechanism through which external legal authority may be accepted without undermining religious identity. Comparative legal scholarship therefore suggests that engagement with this doctrine offers valuable insights into how religious legal traditions and secular constitutional systems may coexist while maintaining legal stability and respect for religious diversity.

The Nigerian experience further illustrates the practical challenges associated with preserving constitutional neutrality in matters of religion. Religious sentiment has, at times, influenced formal legal processes in subtle but significant ways. Following the Supreme Court's decision on the hijab litigation, for example, some legal practitioners reportedly appeared in court wearing symbolic religious attire and regalia as a form of protest against the judgment affirming the right of Muslim female students to wear the hijab in public schools. This symbolic demonstration extended beyond legal advocacy and represented a public expression of religious conviction within the courtroom, raising concerns about the preservation of judicial impartiality and the secular character of legal proceedings (Muslim Voice, 2022).

At a broader institutional level, the implementation and enforcement of Sharia penal codes in several northern Nigerian states demonstrate a more entrenched interaction between religious doctrine and state law. Although Section 10 of the Constitution prohibits the adoption of a state religion, these legal frameworks regulate aspects of both public and private conduct, including offences relating to morality and blasphemy. Their operation has generated continuing constitutional debate concerning the extent to which state institutions may enforce religious norms while remaining faithful to the principles of religious neutrality and equal citizenship (Christian Solidarity Worldwide, 2023).

Collectively, these developments reveal the intricate relationship between religious conviction and public law in Nigeria. They demonstrate that, despite constitutional guarantees of religious freedom and state neutrality, religious considerations continue to shape aspects of legal practice and governance. In this

regard, the Jewish doctrine of *dina d'malkhuta dina* offers a valuable comparative perspective by illustrating how respect for legitimate civil authority may be harmonised with fidelity to religious law. Its underlying jurisprudential principles provide useful normative insights for developing a constitutional framework capable of safeguarding religious liberty while preserving public order, judicial neutrality, and the rule of law in Nigeria's pluralistic society.

Normative Insights for Balancing Religious Freedom with State Authority in Nigeria

A sustainable balance between religious freedom and state authority in Nigeria must be anchored in constitutional supremacy, principled limitations on fundamental rights, and impartial governance. The Constitution of the Federal Republic of Nigeria, 1999 (as amended) guarantees freedom of religion as a fundamental right under Section 38, while Section 45 permits limitations that are reasonably justifiable in a democratic society in the interests of public safety, public order, public health, public morality, or the protection of the rights and freedoms of others. Normatively, this constitutional framework requires the state to move beyond ad hoc regulation towards principled and transparent legal decision-making that clearly justifies any restriction on religious practice. Scholars have therefore argued that courts should consistently apply the principles of legality, necessity, and proportionality, ensuring that any limitation pursues a legitimate public objective, is authorised by law, and restricts religious freedom only to the extent necessary to achieve that objective (Adeniyi, 2014; Okeke, Umeobika, & Ahanwa, 2025).

An important practical implication of this approach is the adoption of content-neutral regulation. State intervention should focus on the tangible effects of religious practices—such as excessive noise, obstruction of public spaces, environmental concerns, or threats to public health—rather than on the religious beliefs or doctrines underlying those practices. Accordingly, regulations governing noise pollution, environmental protection, public assemblies, and land use should be drafted and enforced uniformly, applying equally to churches, mosques, traditional religious institutions, secular organisations, and commercial activities. Nigerian legal scholars contend that regulations which are neutral in content and consistently enforced are more likely to satisfy constitutional standards while reducing perceptions of religious discrimination or preferential treatment (Oyigbo, 2025). This approach closely reflects the Jewish legal doctrine of *dina d'malkhuta dina*, which requires obedience to generally applicable civil laws enacted for the promotion of public order and the common good, provided that such laws do not require conduct contrary to fundamental Halakhic obligations (Broyde & Elazar De Mota, 2025).

Another significant normative consideration concerns state neutrality and institutional restraint. Although Section 10 of the Constitution prohibits the adoption of a state religion, governmental practices such as the official sponsorship of religious pilgrimages or preferential engagement with particular religious organisations have continued to generate constitutional debate regarding the proper limits of state involvement in religious affairs. While these practices are often defended on political or cultural grounds, legal commentators argue that they risk undermining the constitutional principle of religious neutrality and may create perceptions of unequal treatment among religious communities (Obiaraeri, 2025). A practical reform would therefore involve the systematic review of legislation, administrative policies, and public expenditure to ensure that any accommodation of religion is grounded in constitutional principles of equality, neutrality, and legitimate public interest rather than symbolic association with particular faith traditions.

The judiciary likewise occupies a pivotal position in maintaining the constitutional balance between religious liberty and state authority. Courts should provide clear and carefully reasoned judgments that explicitly identify the constitutional basis upon which a particular religious practice may be restricted, avoiding reliance upon implicit moral, theological, or sectarian assumptions. Such transparency

strengthens public confidence in the administration of justice, reinforces the rule of law, and minimises the risk that personal religious convictions may influence constitutional adjudication. In this respect, Jewish legal reasoning offers an instructive comparative model. As Finkelstein (2016) observes, rabbinic authorities define the limits of secular governmental authority through carefully articulated legal reasoning, thereby ensuring that compliance with civil law is both jurisprudentially coherent and religiously legitimate.

A further normative lesson concerns the institutionalisation of consultative governance. The Nigerian state should develop structured mechanisms for engagement with religious communities when formulating policies that directly affect religious practice, particularly in areas such as education, public health, environmental regulation, and urban planning. Such consultation promotes dialogue, facilitates mutual understanding, and enables potential conflicts to be addressed before they escalate into constitutional disputes. Nevertheless, consultation should complement rather than replace constitutional governance. Final governmental decisions must remain firmly grounded in constitutional principles, democratic accountability, and the rule of law rather than being determined through religious negotiation or political expediency.

Taken together, the principles of proportional regulation, content neutrality, institutional restraint, transparent judicial reasoning, and structured consultation provide a coherent normative framework for balancing religious freedom with state authority in Nigeria. When considered alongside the Jewish doctrine of *dina d'malkhuta dina*, these principles reveal a shared jurisprudential commitment to respect for lawful authority, the preservation of public order, and the protection of religious diversity within a stable constitutional order. Although the Nigerian constitutional system and Jewish legal tradition arise from different historical and normative foundations, both recognise that religious liberty and civil authority need not exist in perpetual conflict. Rather, each demonstrates that carefully defined legal principles can reconcile the protection of religious conviction with the legitimate responsibilities of the state, thereby promoting social cohesion, constitutional fidelity, and the common good within a pluralistic society.

Conclusion

This study has examined the regulation of religious practices in Nigeria through a comparative engagement between Nigerian public law and Jewish legal principles, with particular emphasis on *dina d'malkhuta dina*. The analysis demonstrates that Nigerian constitutional jurisprudence affirms robust protection for religious freedom while permitting state regulation in the interest of public order, safety, and welfare. However, judicial practice and legislative action reveal persistent tensions arising from legal pluralism, symbolic state–religion entanglement, and uneven application of constitutional standards.

Jewish legal reasoning offers a complementary normative perspective by articulating a principled basis for obedience to civil authority without eroding religious integrity. The doctrine of *dina d'malkhuta dina* underscores the legitimacy of generally applicable state laws and provides a jurisprudential model for reconciling religious obligation with civic responsibility. When read alongside Nigerian public law, this principle illuminates the importance of neutrality, proportionality, and clarity in regulating religious practices.

Consequently, the interplay between Nigerian public law and Jewish legal principles reveals a shared concern for social order, lawful authority, and respect for religious diversity. Integrating these insights contributes to a more coherent understanding of how pluralistic legal systems can uphold constitutional supremacy while accommodating religious life, thereby strengthening both the rule of law and religious freedom in contemporary Nigeria.

Recommendations

Comparative insights from Jewish legal thought, particularly *dina d'malkhuta dina*, suggest that Nigerian courts should apply a clear proportionality framework in religious-rights cases, ensuring that state regulation is lawful, pursues legitimate public interests, and minimally restricts religious freedom. This reflects a shared legal logic that affirms obedience to civil law when it is rational, general, and directed toward communal welfare.

Lawmakers and regulatory bodies should enact content-neutral and generally applicable laws in areas where religion intersects with public interests, while reinforcing institutional neutrality to avoid state preference for particular religious groups. Such an approach strengthens constitutional secularism and reduces perceptions of religious discrimination without undermining religious pluralism.

Finally, authoritative guidelines on religious accommodation and constitutionally bounded engagement with religious communities are necessary to prevent covert religious influence in legal processes. Anchoring policy and adjudication firmly in constitutional norms, rather than negotiated religious interests, ensures a balanced framework that safeguards religious freedom while maintaining state authority.

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