

# The Ramadan school closure conundrum: a legal and policy analysis of religious freedom and the right to education in Nigeria

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## Abstract

This paper analyses the legal and policy dimensions of religious freedom in education, focusing on the recent *Ramadan*-related school closures in Northern Nigeria. It examines the constitutional and international human rights implications of such policies, especially their compatibility with Nigeria's secular framework under Section 10 of the 1999 Constitution. Using a proportionality approach, the paper assesses how religious accommodations can be balanced in a pluralistic democracy without infringing on the rights of others. Relying on Nigerian case law and comparative jurisprudence, including European Court of Human Rights decisions, it argues that state-mandated school closures for religious observance constitute an impermissible endorsement of religion. These policies violate the rights to education, religious freedom, and non-discrimination, thereby breaching both constitutional and international obligations. The paper concludes by stressing the importance of maintaining state neutrality in religious affairs to safeguard individual rights and promote national cohesion in a diverse and democratic society.

**Keywords:** Ramadan fasting, right to education, freedom of religion, 1999 Constitution of Nigeria, human right

## 1 Introduction

Education is a fundamental right and is reckoned as a cornerstone of socio-economic development. Across the globe, nations that have prioritized education have successfully transitioned from

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underdevelopment to remarkable progress.<sup>1</sup> However, in Nigeria, particularly in the northern region, the contentious, nay, seemingly destructive superposition between religion and education has constituted a significant hindrance to educational progress. The overwhelming influence of religious interests over educational priorities, what can best be described as a corrosive clash in the politics of piety and pedagogy, has had a detrimental effect of not only heightening the existing barriers to education and perpetuating the educational stagnation of the region but also undermining the constitutional directive on state policies.

Nigeria has adopted the United Nations (UN) Sustainable Development Goals (SDGs), including Goal 4 of the 2030 Agenda for Sustainable Development, which aims to ensure inclusive and equitable quality education while promoting lifelong learning opportunities for all. However, despite this commitment, Nigeria faces a significant educational crisis. Of the approximately 263 million children worldwide who remain out of school, 10.5 million—aged 5 to 14—are in Nigeria, giving the country the highest number of out-of-school children globally.<sup>2</sup> Alarmingly, around 50% of these children reside in the northern region, where educational challenges are particularly severe.

In light of this troubling setback in Nigeria's educational progress, particularly in the northern region, one cannot help but reflect on the fundamental question of whether the right to education is truly upheld for all citizens. It is this writer's view that education has not

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<sup>1</sup> Singapore is a perfect example in this regard. To maintain its global competitiveness, Singapore places a strong emphasis on human capital development, given its lack of natural resources. The Singaporean government invests heavily in education, particularly at the secondary level, and prioritizes lifelong training for its workforce. Interestingly, apart from defense, education receives the largest share of the national budget. The goal is to sustain Singapore's position in the global economy. Education has long been regarded as the key to a prosperous life, and since the early years of independence, the nation's political leadership has been committed to ensuring access to quality education for all. See C B Goh and S Gopinathan, 'Education in Singapore: Development since 1965' in B Fredriksen and JP Tan (eds), *An African Exploration of the East Asian Education Experience* (World Bank 2008) 80–108.

<sup>2</sup> United Nations Children Fund, Evaluation Report: The Out-of-School Children Initiative (February 2018).

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received its deserved attention in the framework of our national policy and budgetary plan. Of particular concern is the role of state religious policies as is seen in the recent decision of some Northern Governors to shut down schools during the Ramadan fasting, which clearly hinders academic activities and further contribute to the region's educational stagnation. While some argue that this policy is justified on cultural and religious grounds, it is contended that the policy raises serious concerns about the right to education and the secular nature of Nigeria. This paper examines the legal and policy dimensions of this issue, with a focus on religious freedom, the right to education, and the constitutional obligation on the government to protect, enforce and balance these fundamental rights.

## **2 Ramadan in Nigeria: a brief historical and cultural overview**

The term *Ramadan* is derived from the Arabic root word, *ar-ramad* or *ramida*, which simply means 'scorching heat' or 'scarcity of rations.' This designation is both etymologically and symbolically significant, as Ramadan is the sacred month of fasting ordained by the *Quran* – a practice required of all Muslims who have reached puberty and are physically capable of fasting. As the fourth pillar of Islam, Ramadan occupies the ninth month of the Islamic lunar calendar and serves as a period dedicated to fostering piety, encouraging charitable deeds, and promoting introspection and self-reformation. Importantly, it is believed amongst the Muslims that it was during this month that the initial chapters of the *Quran* were revealed to the Prophet Muhammad (peace and blessings be upon him). The Islamic month of Ramadan is marked by fasting, when Muslims refrain from eating and drinking from dawn to sunset, which has an impact on their dietary habits.<sup>3</sup>

In Nigeria, the celebration of Ramadan is marked by a synthesis of orthodox Islamic practices and indigenous customs. In northern Nigeria, for example, the observance extends beyond individual fasting to encompass vibrant communal rituals. It is customary for family and friends to gather for *iftar* (the breaking of the fast) and

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<sup>3</sup> SK Sulaiman and others, 'Nigerian Muslim's Perceptions of Changes in Diet, Weight, and Health Status during Ramadan: A Nationwide Cross-Sectional Study' (2022) 19 *Int'l J Env Res & Pub Hlth* 14340 <https://doi.org/10.3390/ijerph192114340>.

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*suhoor* (the pre-dawn meal) during the period. Such gathering helps to reinforce social bonds and communal solidarity. Additionally, during this period, many towns and cities organize public events that include collective prayers, storytelling, music, and dance, thereby creating a festive yet reflective atmosphere. Also, a unique culinary tradition has emerged, with special dishes such as *fura da nono*—a traditional millet-based drink—and samosas becoming emblematic of Nigerian *Ramadan* cuisine.<sup>4</sup>

The culmination of *Ramadan* is celebrated with *Eid al-Fitr*, a major religious festival that consolidates the spiritual and social renewal achieved during the month of fasting. In Nigeria, *Eid al-Fitr* is observed with elaborate prayers, communal feasts, and widespread social gatherings. Muslims during this period traditionally adorn themselves with their finest attire, attend special mosque services, and engage in extensive visits with family and friends. This period is not only a time of joyful celebration but also a reiteration of communal identity and a moment of collective gratitude for the spiritual cleansing and discipline attained throughout *Ramadan*.

### **3 Policy context of *Ramadan* school closures in northern Nigeria**

Northern Nigeria is characterized by a predominantly Muslim population, with a significant Christian minority. The recent policy of mandating school closures in the north during the holy month of *Ramadan* is punctuated by an inclination towards observing the cultural and religious traditions of the Muslims. Accordingly, the government of Katsina, Kebbi, Bauchi, and Kano have issued directives requiring all public and private schools to observe a month-long hiatus during *Ramadan*, a period marked by stringent fasting obligations for Muslims.<sup>5</sup>

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<sup>4</sup> Asiwaju Media, *Ramadan in Nigeria: A Month of Fasting, Faith, and Community Celebration* (4 March 2025) <<https://asiwajumedia.com/ramadan-in-nigeria-a-month-of-fasting-faith-and-community-celebration/>> accessed on 25 June, 2025.

<sup>5</sup> Iyabo Lawal and Owede Agbajileke, 'Ramadan: Uproar as Bauchi, Kano, Katsina, Kebbi Shut Out 11.5m Schoolchildren,' *The Guardian* (4 March 2025) <<https://guardian.ng/news/ramadan-uproar-as-bauchi-kano-katsina-kebbi-shut-out-11-5m-schoolchildren/>> accessed 25 June 2025.

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In Bauchi State, the Ministry of Education unilaterally revised the academic calendar, designating 26 February 2025, as the official closing date for all nursery, primary, and secondary schools. Schools were thereby explicitly instructed to remain closed from 1 March to 5 April 2025, with a categorical warning against any contravention of the directive.<sup>6</sup> Similarly, in Katsina, the Hisbah (Sharia enforcement police) decreed the closure of schools during Ramadan and expressly prohibited supplementary academic activities, such as extra lessons, throughout this period. This precedent suggests an imminent extension of similar policies across other states with substantial Muslim-majority populations and active Sharia law implementation.<sup>7</sup>

It would be recalled that the formal introduction of Sharia law in Northern Nigeria in the early 2000s was initially accompanied by assurances from its advocates that its application would be strictly limited to adherents of Islam, the reality today speaks different.<sup>8</sup> The compulsory closure of schools during Ramadan starkly contradicts such assurance. In practice, Sharia law has progressively transcended its purported religious boundaries, exerting a coercive influence on all individuals within its jurisdiction, regardless of their faith. This development has facilitated its appropriation by Islamist factions and political actors seeking to entrench a rigid theocratic order, thereby exacerbating concerns about religious liberty and the constitutionally enshrined secularity of the Nigerian state.

The enforced closure of schools during Ramadan strongly characterizes religious authoritarianism and raises profound constitutional and policy questions. It also leaves much to be desire

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<sup>6</sup> 'Full List: Here Are Northern States That Have Shut Schools for Ramadan,' *Pulse* (1 March 2025) <[https://www.pulse.ng/articles/news/local/full-list-here-are-northern-states-that-have-shut-schools-for-ramadan-2025030112422592689#google\\_vignette](https://www.pulse.ng/articles/news/local/full-list-here-are-northern-states-that-have-shut-schools-for-ramadan-2025030112422592689#google_vignette)> accessed 25 June 2025.

<sup>7</sup> Diana Chandler, 'Christian Schools Forced to Close for Ramadan in Four Northern Nigeria States,' *Baptist Press* (21 March 2025) <<https://www.baptistpress.com/resource-library/news/christian-schools-forced-to-close-for-ramadan-in-four-northern-nigeria-states/>> accessed 25 June 2025.

<sup>8</sup> "'Political Shari'a'? Human Rights and Islamic Law in Northern Nigeria," *Human Rights Watch* (21 September 2004) <<https://www.hrw.org/report/2004/09/21/political-sharia/human-rights-and-islamic-law-northern-nigeria>> accessed 25 June 2025.

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regarding what esteem is paid to education by the government. If the governments are compelling schools to shut down in deference to Ramadan observance, why are commercial enterprises, financial institutions, and government offices permitted to remain operational? This policy paradox is particularly glaring given that fasting obligations primarily pertain to adults, while the disruption of academic activities disproportionately affects children, many of whom are not even up to the age of puberty required for the fasting.

This selective enforcement shows that education is not prioritized by the states concerned and points to the pressing need for a critical reassessment of the policy. The Nigerian government must recognize that such directives, if left unchecked, pose an existential threat to both the struggling education sector and the fundamental principle of religious neutrality in governance. A sustained failure to address this issue risks further entrenching a trajectory where in religious dictates would systematically encroach upon civic and educational institutions and undermine the sacredness of the nation's pluralism and constitutionalism.

Furthermore, Nigeria's policy approach towards education exhibits a troubling inconsistency, as evidenced by Section 215 of the Armed Forces Act.<sup>9</sup> This provision allows for the billeting and occupation of schools by the military while exempting hospitals and places of worship. By failing to extend the same protection to educational institutions, the Nigerian state reveals a glaring disregard for the sanctity of learning spaces.

In contrast, other jurisdictions have demonstrated a more conscientious approach. In the landmark ruling *Exploitation of Children in Orphanages in the State of Tamil Nadu v Union of India*,<sup>10</sup> the Supreme Court of India underscored the imperative of shielding schools from military occupation, categorizing such encroachments as clear violations of the principles of distinction and precaution in armed conflict. Similarly, the Military Order of Colombia, issued by

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<sup>9</sup> Cap A20 Laws of the Federation of Nigeria (2004).

<sup>10</sup> *Exploitation of Children in Orphanages in the State of Tamil Nadu v Union of India*, Writ Petition (Criminal) No 102 of 2007, 17 April 2015 (SC India) <<https://www.lawfinderalive.com/archivesc/894449.htm>> accessed 25 June 2025.

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the General Commander of the Military Forces on 6 July 2010, mandated the unequivocal protection of school buildings from military use, reinforcing the international consensus on safeguarding educational institutions.<sup>11</sup>

This writer decrying our state of education as a country, in a newspaper article titled, 'The Incoming President Should Prioritize Education' said the following:

The current situation of Nigerian students trapped in Sudan as a result of the battle for hegemony between two leaders of the country have caused many Nigerians to entertain multiple thoughts and reflections about our welfare as citizens. Many people have wondered why any Nigerian would prefer to go to Sudan to study instead of their own country. Others have poignantly resolved the puzzle with an explanation that our country pays less attention to education compared to Sudan. Anyhow one may look at it, there is an undeniable causal nexus between our country's abandonment of the education sector and the increasing numbers of citizens who leave the country to get education abroad. From 2017 to 2022, ASUU has gone on strike for 21 months (that is, 1 year 9 months), leaving Nigerian students to bear the pains of abandonment and setbacks.<sup>12</sup>

I still firmly maintain the view that the Nigerian government has remained unwilling to elevate education—a fundamental right of every citizen—to its rightful place of priority. It is submitted that Nigeria must rouse itself from its policy inertia and address these entrenched systemic deficiencies with all sense of urgency. A nation that aspires to sustainable development must accord education the pre-eminence it deserves by instituting consigning itself to policy frameworks that shield schools from undue religious and military

<sup>11</sup> 'Schools and Armed Conflict: A Global Survey of Domestic Laws and State Practice Protecting Schools from Attack and Military Use,' *Human Rights Watch* (20 July 2011) <<https://www.hrw.org/report/2011/07/20/schools-and-armed-conflict/global-survey-domestic-laws-and-state-practice>> accessed 25 June 2025.

<sup>12</sup> David Antia, 'Incoming President Should Prioritize Education,' *Nigerian Tribune* (3 March 2023) <<https://tribuneonlineng.com/incoming-president-should-prioritise-education/>> accessed on 5 March 2025.

interference. Without such decisive reforms, the country's discount of history and prophetic future would only be defined by a perpetuation of a legacy of educational stagnation and governance failure, which ultimate end would be the erosion of its democratic and developmental aspirations.

#### **4 The legal framework for the protection of religious rights in Nigeria**

The right to freedom of religion encompasses the liberty to hold, adopt, maintain, or change one's religious convictions without any external interference. Inextricably linked to this fundamental right is the right to worship, which includes the entitlement to believe, profess one's belief, and engage in religious observances or rituals, either individually or in communal settings. Integral to this right is the freedom to renounce one's religion, to abstain from professing religious beliefs, and to refrain from participating in religious rites and practices.

Furthermore, the right to religious freedom protects individuals against discrimination, coercion, or hostility on the basis of their religious affiliation. Several legislative instruments are pertinent in upholding and enforcing this right.<sup>13</sup> These instruments collectively reinforce the protection of religious liberty and ensure that individuals are not subjected to undue interference or persecution on account of their religious convictions. This section will illustrate with a few of these instruments.

##### **4.1 The 1999 Constitution**

The Constitution of the Federal Republic of Nigeria 1999 enshrines the right and limitation to freedom of religion through several key provisions, notably Sections 10, 38, 41(1)(a) -(b), and 222(b). Among these, Section 38 stands out as the most relevant as it delineates the broad and fundamental nature of the freedom of religion in Nigeria,

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<sup>13</sup> These include the Constitution of the Federal Republic of Nigeria 1999, the Child Rights Act 2003, the African Charter on Human and Peoples' Rights (Ratification and Enforcement) Act 1983, and the Universal Declaration of Human Rights 1948. Additional legal frameworks include the Criminal Code, the Penal Code, the Federal Character Commission Act (Establishment, etc.), 1996, Decree No. 34 of 1996, the Public Complaints Commission Act, 1975 (No. 31) (Chapter 377), and Laws of the Federation of Nigeria.

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serving as the principal legal framework for religious freedoms. Other provisions earlier mentioned are complementary as they refine and elaborate on the nuances of this right. Other provisions of the constitution that reinforce the right to religious freedom includes the right to privacy under Section 37, the right to freedom of expression under Section 39, the right to freedom of association under Section 40, and the right to free movement under Section 41.

Section 38(1) of the Constitution explicitly guarantees the right to freedom of thought, conscience, and religion as follows:

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

A closer examination of this provision reveals that freedom of religion extends beyond its broad conceptualization and encompasses several distinct aspects such as the right to conscience, the right to independent thought, the right to change one's religion, and the right to propagate religious beliefs. Section 38(1) thus ensures that every Nigerian citizen possesses the inviolable right to adopt a religion of their choosing and is shielded from coercion that would compel them contrary to their beliefs. This provision highlights the fundamental principle that freedom of religion inherently includes the freedom of belief, allowing individuals to adhere to personal reasoning and convictions without subjection to actions that contravene their deeply held moral and ethical judgments.

Furthermore, Section 38(1) also extends the freedom of religion to institutional autonomy, allowing religious organizations to establish educational institutions in accordance with their doctrinal principles. This entitlement finds further articulation in Section 39(1) of the Constitution, which guarantees thus: 'Every person shall be entitled to freedom of expression, including the freedom to hold

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opinions and to receive and impart ideas and information without interference.'

This provision reinforces the right to manifest and share religious beliefs freely without undue intervention by the state or the necessity of endorsement from other religious communities. Importantly, the enjoyment of religious freedoms is not contingent upon formal registration with the state, and religious communities or organizations should not be compelled to register in order to exercise their constitutional rights.

The Nigerian judiciary has affirmed these principles in the notable case of *Okogie and Others v The Attorney General of Lagos State*.<sup>14</sup> In this case, the plaintiffs sought and obtained leave of court for the enforcement of their fundamental rights under section 36 of the Constitution dealing with freedom of expression, including freedom to hold opinion and to receive and impart ideas and information without interference. It was contended that the fundamental right was threatened with infringement by the Lagos State Government by its proposals to abolish all private primary schools in the state. Learned counsel for the plaintiffs contended that it was not for the Lagos State Government to tell parents where to send their children for primary or secondary education and that anybody should be at liberty to establish primary and secondary schools.

The court held that the Directive Principles of State Policy in Chapter II of the 1979 Constitution have to conform to and run as subsidiary to the Fundamental Rights under Chapter IV of the same constitution. It was further held that the fundamental objectives and directive principles enunciated in section 18 of the 1979 and 1999 Constitutions enjoining the state to provide equal and adequate educational opportunities are objectives to be carried out by any Government of the Federation without necessarily restricting the right of other persons or organizations to provide similar or different educational facilities at their own expense. This right also includes the right to establish a faith-based institution of learning.

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<sup>14</sup> (1981) 2 NCLR 337.

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Thus, the 1999 Constitution, alongside judicial interpretations, provides a robust protection of the right to religious freedom, which ensures that individuals and religious institutions alike are protected from undue governmental interference, discrimination, or coercion in matters of faith and belief.

The freedom of religion for individuals in educational institutions represents another crucial dimension in which the Nigerian Constitution protects religious liberty. In particular, Section 38(2) of the Constitution explicitly protects children from being compelled to participate in religious practices that are inconsistent with their personal beliefs or those of their parents or guardians. The provision states:

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.

This constitutional provision ensures that religious freedom extends to educational settings, thereby preventing undue coercion into observing or performing the religious rites of others and affirming the right of individuals, particularly minors, to adhere to their faith without external compulsion.

#### **4.2 The Child Rights Act 2003<sup>15</sup>**

The Child Rights Act (CRA) 2003 constitutes a pivotal legislative instrument aimed at protecting the rights of the children to religious freedom. The Act provides protection for children's religious liberties in a manner akin to the constitutional framework, yet upon closer examination, it becomes evident that the CRA's provisions on children's religious rights are both more comprehensive and more expansive than those articulated in the 1999 Constitution.

Notably, Section 7(1)-(4) of the CRA elaborates on the scope of religious rights for children, ensuring that their freedom of thought,

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<sup>15</sup> No 26 of 2003 (CRA).

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conscience, and religion is both respected and upheld. The provisions state:

- (1) Every child has a right to freedom of thought, conscience, and religion.
- (2) Parents and, where applicable, legal guardians shall provide guidance and direction in the exercise of these rights, having regard to the evolving capacities and best interests of the child.
- (3) The duty of parents and, where applicable, legal guardians to provide guidance and direction in the enjoyment of the right in subsection (1) of this section by their child or ward shall be respected by all persons, bodies, institutions, and authorities.
- (4) Whenever the fostering, custody, guardianship, or adoption of a child is an issue, the right of the child to be brought up in and to practice his religion shall be a paramount consideration.

These provisions indicate the vital role of parental and guardian guidance while simultaneously recognizing the evolving autonomy of the child. The parental authority over a child's religious choices is not absolute and may be overridden by the state's compelling interest in the welfare and protection of the child. This principle was affirmed in the landmark case of *Esabunor v Fayewa*,<sup>16</sup> where the Court of Appeal considered whether a parent could lawfully refuse life-saving medical treatment for their child on the basis of religious beliefs. The court held that a mother could not lawfully object to such a critical medical intervention, ruling that the state's duty to protect the child's right to life takes precedence over the mother's religious convictions. Consequently, the mother's right to freedom of religion was curtailed in favour of the child's fundamental right to survival. The decision reinforces the doctrine of the state's overriding interest in the welfare of a child. Similarly, in the Canadian case of *B (R) v Children's Aid Society of Metropolitan Toronto*,<sup>17</sup> the court held:

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<sup>16</sup> (2019) LPELR 46961 (SC).

<sup>17</sup> [1995] 1 SCR 315. Religious freedom is constitutionally protected under the Canadian Charter of Rights and Freedoms 1982 (the Charter). Section 1 of the Charter provides the

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An exercise of parental liberty which seriously endangers the survival of the child should be viewed as falling outside s. 7 of the Charter. While the right to liberty embedded in s. 7 may encompass the right of parents to have input into the education of their child and in fact may very well permit parents to choose among equally effective types of medical treatment for their children, it does not include a parents' right to deny a child medical treatment that has been adjudged necessary by a medical professional and for which there is no legitimate alternative. The child's right to life must not be so completely subsumed to the parental liberty to make decisions regarding that child. Although an individual may refuse any medical procedures upon her own person, it is quite another matter to speak for another separate individual, especially when that individual cannot speak for herself. Parental duties are to be discharged according to the 'best interests' of the child. The exercise of parental beliefs that grossly invades those best interests is not activity protected by the right to liberty in s. 7. There is simply no room within s. 7 for parents to override the child's right to life and security of the person. To hold otherwise would be to risk undermining the ability of the state to exercise its legitimate parens patriae jurisdiction and jeopardize the Charter's goal of protecting the most vulnerable members of society

This case shows the legal position that while religious freedom is constitutionally protected; it is not absolute and may be lawfully restricted where it conflicts with the fundamental rights of others, particularly the right to life of a minor.

#### **4.3 African Charter on Human and Peoples' Rights**

The African Charter on Human and Peoples' Rights (African Charter) has been ratified and domesticated into Nigerian law. As an integral part of Nigeria's legal framework, the African Charter contains provisions that reinforce the fundamental rights of Nigerian

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state with authority to infringe on freedom of religion in the least restrictive way possible for a "compelling government interest.

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citizens, particularly in relation to the freedom religion. The Nigerian judiciary has recognized the legal force and applicability of the African Charter, particularly in the celebrated case of *Abacha v Fawehinmi*.<sup>18</sup> In this case, the Supreme Court elaborated on the implications of the domestication of the charter and affirmed that Nigerian courts are now obligated to enforce its provisions as they would any other law within their judicial competence.<sup>19</sup>

Article 8 of the African Charter, like Section 38(1) of the 1999 Constitution, affirms the right to freedom of religion and conscience. It provides:

Freedom of conscience, the profession, and free exercise of religion shall be guaranteed. No one may, subject to law and order, be submitted to measures restricting the exercise of these freedoms.

However, a comparative analysis between the 1999 Constitution and the African Charter reveals a notable distinction in their scope of protection regarding religious freedom. Unlike the Constitution, the African Charter does not explicitly guarantee the right to practice religion both privately and publicly or the right to change one's religion—both of which are fundamental aspects of religious liberty enshrined in Section 38(1) of the Constitution.

This distinction renders the constitutional framework more comprehensive in protecting religious freedoms, as it explicitly provides for both individual and collective religious expressions as well as the right to religious conversion. Consequently, while the African Charter affirms religious liberty, its protections are not as extensive or detailed as those provided by the 1999 Constitution, which offers a more holistic and explicit articulation of religious rights. This, it must be said, does not diminish the significance of the

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<sup>18</sup> (2001) 1 CHR 20.

<sup>19</sup> *Alhaji Sani Dododo v Economic & Financial Crimes Commission and Others* (2003) 1 NWLR (pt. 1336) 468, the Court of Appeal held that African Charter is now part of the laws of this country protecting the social and economic rights of citizens. The Court further stated that The African Charter is preserved by the 1999 Constitution and must always be relied on to recognize political and socioeconomic rights.

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African Charter as a legal instrument for the protection of religious freedom in Nigeria. For while the 1999 Constitution provides a more detailed articulation of religious rights, the African Charter remains a critical legal framework, particularly in reinforcing principles of religious tolerance and non-discrimination as set out in Article 28.

Beyond the prohibition of religious discrimination under Section 42 of the Constitution, Articles 19 and 28 of the African Charter explicitly prohibit religious intolerance in all forms. This is a laudable provision, especially in a culturally and religiously pluralistic society like Nigeria, where tolerance is essential for peaceful coexistence. Without such legal order, religious discrimination, domination, and marginalization could escalate into mistrust, conflict, and violence, threatening national unity and stability. By enshrining principles of mutual respect and coexistence, the African Charter complements the provisions of the constitution and ensures a broader framework for religious harmony in Nigeria's multi-religious society.

## **5 National legal frameworks for the protection of the right to education in Nigeria**

Nigeria has initiated and developed several legal frameworks aimed at safeguarding the right to education. These include:

### **5.1 The 1999 Constitution**

The Constitution as the basic law of the land has provided for the general protection of human rights enshrined in Chapter IV. Specifically, Section 18 mandates that the government shall direct its policies toward ensuring equal and adequate educational opportunities at all levels. The provision further highlights the duty of the government to eradicate illiteracy and, where practicable, provide free, compulsory, and universal primary education, as well as free secondary, university, and adult literacy education. Although this provision establishes a critical policy directive, it is embedded within the non-justiciable Chapter II of the Constitution, which many argue is a limitation to its enforceability. It is notable that the right to education has evolved into an enforceable fundamental right in Nigeria, empowering citizens to compel the government to

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provide education if they so desire. This proposition is unequivocally supported by the decision of the Economic Community Court of Justice in *Registered Trustees of the Socio-Economic Rights and Accountability (SERAP) v President Federal Republic of Nigeria and Another*,<sup>20</sup> which affirmatively established that every Nigerian has a justiciable right to education.

### **5.2 The Child Rights Act**

The Child Rights Act (CRA) was enacted to implement the UN Convention on the Rights of the Child (CRC). It stands as the principal legislation, which recognize and protects the right of every child in Nigeria. Section 15 of the CRA unequivocally mandates the Nigerian government to provide free and compulsory basic education to every child.

### **5.3 The Compulsory, Free Universal Basic Education (UBE) Act 2004**

This legislation reinforces the constitutional directive by explicitly affirming every Nigerian child's right to free, compulsory, and universal basic education. The act also establishes mechanisms for funding and administration, thereby strengthening the legal foundation for educational accessibility. Despite its ambitious scope, challenges such as inadequate funding, poor enforcement, and infrastructural deficits continue to impede its full realization.

## **6 Ramadan school closures in Nigeria: a legal analysis**

The 1999 Constitution unequivocally prohibits the establishment or endorsement of any religion by the State. Section 10 provides: "The Government of the Federation or of a State shall not adopt any religion as State Religion." The policy of closing public schools during Ramadan in certain northern states constitutes a *prima facie* contravention of this constitutional safeguard. By mandating a school closure grounded in a specific religious observance, the policy operates as an indirect endorsement of one faith over others, thereby eroding the neutrality of the State. This principle of neutrality is a cardinal tenet of constitutionalism in plural societies, and it

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<sup>20</sup> *Registered Trustees of the Socio-Economic Rights and Accountability Project (SERAP) v Federal Republic of Nigeria and Anor* ECOWAS Court, 30 November 2010, ECW/CCJ/JUD/07/10.

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resonates with the reasoning of the European Court of Human Rights (ECtHR) in *Lautsi v Italy*,<sup>21</sup> where the display of religious symbols in public schools was held to violate state impartiality in matters of religion.

In addition, Section 38(1) of the Constitution guarantees to every person the right to freedom of thought, conscience, and religion, including the right not to be compelled to observe any religion. A state policy that suspends education in observance of Ramadan indirectly coerces non-Muslim students into participation by depriving them of access to a secular right – education – for reasons of religious observance. International human rights law provides further reinforcement. Article 18 of the Universal Declaration of Human Rights (UDHR), echoed in Article 18 of the International Covenant on Civil and Political Rights (ICCPR), protects the right to freedom of thought, conscience and religion, but makes clear that the manifestation of religion may only be limited by laws necessary to protect “public safety, order, health, morals or the fundamental rights and freedoms of others.” *Ramadan* school closures cannot plausibly be justified under these grounds: rather than protecting rights, they impair them – specifically, the right of children to education. Indeed, the Human Rights Committee has clarified that Article 18 of the ICCPR extends protection not only to religious believers, but also to those who do not profess any faith, thereby underscoring that no child should be compelled, directly or indirectly, into religious observance.

The right to education is also at stake. Section 18 of the Constitution obligates the State to ensure equal and adequate educational opportunities, a duty further reinforced by the Child Rights Act (2003) and the Universal Basic Education Act (2004), both of which mandate free and compulsory basic education. Although education under Chapter II of the Constitution is non-justiciable, the ECOWAS Court of Justice in *SERAP v Nigeria*<sup>22</sup> has affirmed that Nigerians

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<sup>21</sup> *Lautsi v Italy* App No 30814/06 (18 March 2011) (ECtHR).

<sup>22</sup> *Registered Trustees of the Socio-Economic Rights and Accountability Project (SERAP) v Federal Republic of Nigeria & Universal Basic Education Commission (UBEC)* ECW/CCJ/APP/12/07; ECW/CCJ/JUD/07/10 (ECOWAS Community Court of Justice).

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have a justiciable right to education. The Convention on the Rights of the Child (CRC), to which Nigeria is party, similarly mandates that States respect the child's right to education without discrimination. Regional human rights law reinforces this duty. Article 17 of the African Charter on Human and Peoples' Rights (ACHPR) guarantees the right to education, while Article 11 of the African Charter on the Rights and Welfare of the Child (ACRWC) specifically requires uninterrupted access to education, even in times of social or religious tension. *Ramadan* school closures are manifestly inconsistent with these obligations, as they deprive children – particularly non-Muslims – of continuous educational access.

Furthermore, the closures amount to discriminatory treatment under Section 42(1) of the Constitution, which prohibits restrictions based on religion. Article 2(1) of the ICCPR, Article 14 of the European Convention on Human Rights (ECHR), and Article 1(1) of the American Convention on Human Rights (ACHR) all prohibit discrimination in the enjoyment of rights, including on the basis of religion. The ECtHR's decision in *Thlimmenos v Greece* is apposite here: the Court held that indirect discrimination occurs where a seemingly neutral policy disproportionately disadvantages a religious or non-religious group. *Ramadan* school closures, though framed neutrally, have a disproportionate adverse effect on Christian and other non-Muslim students, thereby violating the principle of equality.

Given these constitutional guarantees, statutory obligations, and Nigeria's international commitments, it is submitted that Ramadan school closures are legally indefensible. They (1) undermine the secular character of the Nigerian State; (2) coerce students into indirect religious observance; (3) infringe upon the right to education under both domestic and international law; and (4) constitute unlawful religious discrimination. In sum, the policy is not only unconstitutional under Nigerian law but also contrary to Nigeria's binding obligations under international and regional human rights instruments. Thus, it is this writer's view that the Ramadan school closure constitutes a policy that is patently unconstitutional, discriminatory, and antithetical to the principles of religious

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neutrality and equal educational access, as provided by both domestic and international judicial authorities.

### **7 Lessons from other jurisdictions**

It is patently absurd and indefensible for certain Northern governors to order the closure of schools during the Ramadan fast, particularly when nations governed by Islamic legal systems—such as Saudi Arabia, Qatar, the United Arab Emirates, Bahrain, and Egypt—do not adopt such a regressive policy. These countries, deeply rooted in Islamic traditions, maintain academic continuity during Ramadan, which shows that they recognize the fact that education and religious observance are not mutually exclusive but can, in indeed, coexist harmoniously.

What conceivable benefit could be derived from shutting down schools and leaving children idle for an entire month at a critical time when their intellectual faculties are most receptive to learning? The repercussions of such a decision are grave, not only in terms of academic disruption but also in the broader socio-economic implications for a region already grappling with educational underdevelopment.

Moreover, Nigeria already observes an abundance of public holidays—spanning *Eid al-Kabir*, *Eid al-Fitr*, *Eid-el-Maulud*, Christmas, Easter, New Year's Day, Independence Day, Democracy Day, Workers' Day, and Children's Day. These, in addition to the ad hoc shutdowns occasioned by security crises, place significant constraints on the academic calendar. The decision to further truncate the school year with an unwarranted Ramadan closure is a disservice to the future of Northern children and an affront to the very principles of educational equity and invites serious concern.

### **8 The adverse impact on students**

The consequences of this misguided policy are dire. These students, who are arbitrarily deprived of instructional time, are expected to sit for the same national and regional examinations alongside their peers from other states, many of whom have enjoyed uninterrupted

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learning.<sup>23</sup> This disadvantage will only serve to widen the already alarming educational disparity between the North and the South. This concern is not novel. At the Conference on the State of Education in the North, convened by the Northern States Chamber of Commerce and Industry from December 6th to 8th, 1999, the alarming regression of Western education in the region was emphatically lamented:

It is evident that the gap between Western education development in the South and North is so wide and, in fact, appears to grow wider by the day in absolute numbers, no matter the percentage increase in the North. . . . There are fears that unless the Federal Government declares a state of emergency in education, any attempt by the North to bridge this imbalance will remain futile.<sup>24</sup>

Two decades later, rather than making meaningful progress toward bridging this gap, some leaders are actively exacerbating it. How do we expect these students to compete on equal footing? Upon resumption, they will be subjected to haphazard crash programs, crammed under immense pressure, as if the fault lies with them rather than with the policymakers who have deprived them of structured learning.

Certain empirical research has revealed the detrimental effects of prolonged *Ramadan* weeks within an academic calendar. A study at VU Amsterdam shows that extended *Ramadan* observances correlated with lower academic performance among Muslim students.<sup>25</sup> It is, therefore, astonishing—if not out rightly alarming—that certain state governors in Northern Nigeria, at this crucial

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<sup>23</sup> Baba Yusuf in a Newspaper commentary on the issue asked, “Is it strategic or rational to close schools during Ramadan?” He concluded: “It makes no sense to me that children will be kept out of school in northern Nigeria, whereas their mates in other States across Nigeria are going to school, and attending extra classes/lessons. Those children will definitely lag behind.” *Nation* 7 March 2025 <<https://thenationonlineng.net/as-some-governors-stop-schooling-during-ramadan/amp/>>.

<sup>24</sup> Omamurhomu Solomon Okobia, ‘The Educational Imbalance Between the Northern and Southern States of Nigeria: A Re-Direction of Educational Policies’ (Lecture, Delta State University, Abraka 13 March 2002).

<sup>25</sup> Hessel Oosterbeek and Bas van der Klaauw, ‘Ramadan, Fasting and Educational Outcomes’ (2013) 34 *Econ Edu Rev* 219.

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juncture in evolution as a society, would endorse such a regressive decision to shut down schools in observation of *Ramadan*.

Nigeria cannot afford to mortgage its future on the altar of ill-advised policies that further entrench educational backwardness. The imperative to prioritize education must transcend parochial and politically expedient decisions. Anything less is an abdication of duty to the very children whose future depends on sound and uninterrupted education.

### **9 Conclusion**

While fasting during *Ramadan* is an indisputable tenet of Islamic faith, the wholesale closure of schools in observance of the fast does not in any way constitute a legally protected manifestation of religion. Rather, it represents a policy decision that, in effect, privileges one religious group over others and undermines fundamental rights to education and non-discrimination. Such a decision by any state contravenes the core principles of a secular state and infringes upon the constitutional rights of students to uninterrupted learning as provided for in the legal framework afore highlighted in this paper.

It is firmly asserted that while the state bears a duty to respect religious freedoms, it is under no legal or constitutional obligation to accommodate religious practices in a manner that disrupts essential public services, including education. A more proportionate and sound policy approach would be to adjust school hours rather than enforce blanket closures—thereby striking a balance between religious observance and the right to education. This pragmatic compromise is essential in fostering religious tolerance, mutual respect, and societal cohesion.

In conclusion, this writer is predisposed to the conviction that the decision by certain state governors in Northern Nigeria to shut down schools during *Ramadan* is not only unlawful but also unconscionable and unconstitutional. It constitutes a flagrant violation of the principle of secularity enshrined in Section 10 of the 1999 Constitution, a provision designed to serve as the bedrock of

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national unity and integration. Any deviation from this constitutional mandate threatens to erode the delicate balance of religious plurality and undermine the broader objective of an inclusive, equitable, and progressive society.