
STATE CONTROL OF RELIGION IN NIGERIA: THE DILEMMA OF A SECULAR STATE

Collins O. Chijioke, Ph.D*

***Associates Professor of Law and Head of Department, Private and Property Law,
Faculty of Law, Umuahia, Nigeria.**

ABSTRACT: *The coming into effect of the Companies and Allied Matters Act, 2020; the assent of the president having been obtained; was viewed as a step in the right direction; regard being had to the laudable innovations introduced by the Act. The new Act paves way for e-commerce amongst others goodies. Beyond the laudable provisions of the new Act is the aspect that touches the raw nerves of religious bodies; especially the church, which has vocally condemned some of the provisions of Part “F” of the Act. The Christian Association of Nigeria (CAN) has been reported to have described some provisions of the Act as “Satanic” and capable of sniffing life out of the church thereby; reducing it to a secular institution under a secular state¹. The paper inquired into the legal justifiability of CAN’s apprehension; adopting the doctrinal research methodology, the sociological and naturalist theories. The paper found the said provisions capable of being applied for some mischief and made recommendations that would handle the likely dangers imposed by the affected provisions of the new Act.*

KEYWORDS: charity organization, not –to- profit organization, secularity, trustees, religion; church.

INTRODUCTION

The Bill to regulate non-profit organization which contained similar provisions as section 839 of CAMA was rejected at the public hearing stage. The church no doubt; falls under the category of non-governmental organization (NGOs) or Incorporated Trustees and therefore any attempt to control the church under any guise would raise constitutional issues; especially in view of the fact that the constitution of the Federal Republic of Nigeria, 1999 as amended; contemplates separation of the church from the state. The umbrage of the church makes it mandatory for this paper to consider guaranteed constitutional rights, the relationship between the church and the state and the desirability of state control of churches. A comparative analysis is made of the development in other jurisdictions such as United Kingdom, India, and United States for purposes of drawing some vital lessons.

Conceptual Clarifications

Certain concepts used in this work will be explained at this stage to enhance understanding of the reasoning postulated in this paper.

¹ Retrieved from <https://www.ripplesnigerian.com>; accessed on 2/9/2020

Charity Organization

This is an organization set up to provide help and raise money for those in need². Its primary objectives therefore, are philanthropy and social well-being; which include education, religion, care for the needy or other activities serving the public interest or common good. In an expanded definition, “charity organization” was defined as a kind of institution or a business that falls under the category of non-profit organization (NGO); which can be run privately or publicly³. It is also called a foundation or charity. It must be noted that there is no uniform international law regulating such organization but the domestic laws vary from one country to the other laws of each country. The funds of the organization are usually gifted to ensure that the organization meets up with its aims and objectives. Charitable organizations are expected amongst other reliefs to cater to the needs of the poor; like making provision for medication and advancement in education. The procedure for registration of charitable organizations in Nigeria is regulated by the relevant provisions of the Companies and Allied Matters Act 2020 (CAMA), which treats them as incorporated trustees. Certain purposes which have been generally acknowledged as constituting heads of charity are; relief of poverty, advancement of religion, advancement of education and other purposes⁴. These purposes have been encapsulated as section 823(1) and 825 (1) of CAMA

Church

This has been defined as a building for public and especially Christian worship, a body or organization of religious believers⁵ on the other hand; one of the various definitions of the word “church” by Oxford Dictionary is that a church is a building for Christian religious activities⁶

Religion

Religion means the belief in and worship of a superhuman controlling power, especially a personal God or gods; a particular system of faith and worship⁷, or a set of beliefs concerning the cause, nature and purpose of the universe, especially when considered as the creation of a superhuman agency or agencies, usually involving devotional and ritual observances, and often containing a moral code governing the conduct of human affairs⁸.

There are also different types of religions in the world such as Christianity, Hinduism, Buddhism, Islam, Taoism, Judaism and Confucianism; amongst several others. What is common to all the religions is the belief in a Supreme Being and code of morality.

² Retrieved from <https://www.texico.com/definition> 29/8/2020

³ Retrieved from <https://www.lehighvalleyfoundation.org/what-charitable-organization> of 29/8/2020

⁴ This is the summary of the purposes listed in the preamble to the Statute of Uses Act 1601 as was given judicial recognition in the case of Commissioner of Income Tax v. Pemsel (1891) AC 531 at P. 583.

⁵ Retrieved from <https://www.merriam-wabester.com/dictionary/church>; accessed on 29/8/2020

⁶ Retrieved from <https://www.cmbridge.org/citionary/English/church> accessed on 29/8/2020

⁷ Retrieved from <https://www.google.com/searcj? Client=firefox-6-d & q=meaning +religion>. Accessed on 29/8/2020

⁸ Retrieved from <https://www.dictionay.com/browse/religion>, accessed on 29/8/2020

Secularism

This word “secularism” means the separation of the state from religious, institutions. It has also been defined as indifference to or rejection or exclusion of religion and religious consideration⁹. This therefore entails that government should not concern itself with religious affairs thus; underscoring the need for the state to be neutral in things concerning the church.

Trustees

In law; a trustee is a person or member of a board given control or powers of administration of property in trust with a legal obligation to administer¹⁰ it solely for the purposes specified. A particular dictionary¹¹, has defined it as someone with legal control of money or property that is kept or invested for another person company or organization. A creation of trust usually involves three persons; the donor, the donee (the trustees) and the beneficiary. Although, a property; the subject matter of trust is entrusted to the trustee, who in the eyes of the law is seen as the legal owner of the property; the actual fact remains that he is under instruction to keep the property for a third party called “The beneficiary” who is the owner in abeyance and that is why the law prohibits a trustee from intermeddling with a trust property; else he would be treated as a *trustee de son tort*.

Right to Freedom of Religion

Section 38(1) of the Constitution of the Federal Republic of Nigeria, 1999 as amended; provides that every person shall be entitled to freedom of thought, conscience and religion. This right include the ancillary right of freedom to change religion or belief and freedom to manifest and propagate one’s religion or belief in worship, teaching, practice and observance. The constitution also makes provision¹² protecting citizens from having imposed on them at place of education; religious instructions, religious ceremony contrary to their own religion or such religious practices that are not approved by their parents or guardians. Section 38 of the constitution does not in any manner curtail or limit the right to freedom of religion except the restrictions above mentioned. Religion that is the focal point of this paper is Christian religion, in other words the church; the idea being to evaluate the issue whether section 839(1) and (2) of CAMA 2020 has in any manner adversely affected the right to freedom of religion upon which churches are founded and registered.

The churches; particularly, the Pentecostal churches have been very vocal especially under the aegis of Christian Association of Nigeria (CAN) and Pentecostal Fellowship of Nigeria (PFN); the unifying umbrella bodies for Nigerian Churches. The bodies have in the past protested against the adoption of Sharia Law in Northern States and of late made their views known on Section 839 of CAMA, 2020 as well as certain regulations made to curb the continuous spread of the corona virus pandemic; some of which measures included interim closure of churches. Some church leaders rebuked the government and castigated the measures as evil. This is by no means portraying the church as disobedient but, casting an insight into the level of religious freedom in Nigeria; although there are cases of persecution of churches; epitomized by burning of churches and slaughtering of Christians in southern Kaduna and some other parts of Northern

⁹ Retrieve from <https://www.merriam-webster.com/dictionary/secularism>; accessed on 29/8/2020

¹⁰ Note 6

¹¹ Retrieve from <https://www.collinsdictionary.com/dictionary/English/trustees>; accessed on 29/8/2020

¹² S. 38 (2)

Nigeria. Those acts constituted acts of terrorism and violation the right to freedom of religion and not state repression of the right to freedom of religion. The confrontation presented by this paper is not between the church and terrorists but between the church and the state. It is in view of this fact that one calls to mind the evergreen thoughts of Bielefeld¹³ on the expected relationship between the church and the state as well as the expectations of the role of the state in a democratic state; which according to him are:

- i. Ensuring that religion is not defamed by any person or persons;
- ii. To protect an individual's religious identity;
- iii. To ensure that social and political and inter religions harmony coexists in the state; and
- iv. Abolition of religious symbols in public places.

The requirement of protecting individuals' religious identity by extension entails the undisputed right of the individuals to challenge laws of the state which violate their constitutional rights of freedom of religion. This right is enjoyed in Nigeria and nothing stops a citizen from challenging any state law or policy which violates or threatens to violate his right to freedom of religion. Similarly there are several decisions of the Supreme Courts of the United States on the first amendment. In the case of **Reynolds v. United States**¹⁴, the court had to pronounce upon the issue whether the Federal anti-bigamy statute violated the first amendment's free Exercise Clause; as plural marriage is part of religious practice. The court unanimously upheld the Federal law banning polygamy and stating that the free exercise clause forbids government from regulating belief; but does allow it to punish activities that are judged to be criminal even where it is based on religion.

In **Cantwell v. Connecticut**¹⁵, the court determined whether a law requiring permit to solicit for religious or charitable purposes violated first amendment free speech or free exercise Rights. It ruled against the state, noting that although, general regulation on solicitation are legitimate, in allowing local officials to determine which causes were religious and which ones were not and to issue and deny permits accordingly, the state of Connecticut took on the role of determining religious truth; which violated the first and fourteenth Amendments. These decisions clearly hew down the attempt of the state to regulate the church.

Contemporary Analysis of State Control of Religion

Nigeria is not just regarded as a secular state; her constitution says so. Section 10 of the constitution clearly states that the Government of the Federation or of State shall not adopt any religion as state religion. This is the provision that clothes the country with the garb of secularity. The observation has been made that the post independent secular state, which seemed acceptable to the Christian/animist south, was abhorred by the Muslim north and that the paradox has remained the Achilles heel of Nigeria's corporate existence, as Northern Islamists have consistently agitated the establishment of an Islamic state to replace the extant secular regime¹⁶.

¹³ Heiner Bielefeld, "Misperceptions of Freedom of Religion or Belief" (2013) Human Rights Quarterly, Volume 35, Number 133-68

¹⁴ (1899) 98 U.S

¹⁵ (1940) 310 US 296

¹⁶ Retrieved from <https://www.academic.oup.com/ojlr/article-abstract/3/2/240/2939049?> Redirected; accessed on 30/8/2020

This is the root of the Churches' suspicion of State acts that affect them as well as the State's inaction in the face of aggression of fundamentalists and terrorists against the churches. It is obvious that the church does not want half baked rights; it seeks to enjoy full rights devoid of any form of state interference. This is underscored by the Vateian Council's Declaration on Religious Freedom (*Dignitaries Humanae*) which states thus:

*The right to religious freedom has its foundation in the very dignity of the human person as known through the revealed word of God and by reason itself.... It is in accordance with their dignity as persons that is, beings endowed with reason and free will and therefore privileged to bear personal responsibility that all men should be at one impelled by nature and also bound by moral obligation to seek the truth, especially religious truth*¹⁷.

But then, secularity does not mean absolute right to the freedom of religion. It is safer to construe it as meaning that the State must accommodate all religions, offer them equal opportunities to exist, propagate and grow, the State must not be seen as adopting any religion as preferred State religion either expressly or by conduct, the State must not unduly favour a particular religion against the others, the State must not allow the stronger religions to suppress and oppress the weaker ones and the State must not identify with any particular religious body or organization. It is conceded that the State may do business with a religious body so long as it does not compromise the doctrine of secularism.

Secularism in modern understanding and usage, do not necessarily mean an opposition to religion, but it, more or less emphasize the neutrality of religion and state¹⁸. Religion being a spiritual issue is treated as sacrosanct, both by practices of religious faith and judicial pronouncements. One may be tempted to posit with an air of finality that the State has no business interfering with the activities of religious bodies; at least as far as they do not go against State laws. One such judicial pronouncement that brings out the sanctimonious status of religion is the case of **Nikulnikoff v. Archbishop of Russian Orthodox Greek Catholic Church**¹⁹, where the court; defined the word "religious" as meaning:

Man's relation to deity, 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 violation, imposing rules of conduct, with future rewards and punishments. Bond uniting man to god, and virtue whose purpose is to render God worship due to him as source of all beings, and principles of all government.

A critical analysis of this pronouncement will support the view that religion is too holy a thing for the state to intermeddle in its affairs; and that the State should rather look unto the church for guidance. With this view at the back of our mind, it becomes clear that the proclamation of Sharia law and its implementation in the northern part of the country clearly violated the constitutional provision holding Nigeria to be a secular state and worse still; the Federal Government of Nigeria failed to stand in defence of the constitution. The attempt to justify that

¹⁷ Vatean council 11, *Dignitates Humanae*, n.2

¹⁸ Vishigh I. R., *The Separation of Church and State: Nigeria's Constitutional Contrivance – Another view* (1999) Lawyer's – Annual, Vol. 3 NO. 2 (October, 1999) 196

¹⁹ 142 Misc. 894, 225 NYS. 653, 663

proclamation on the ground that non Muslims were excluded²⁰ only begged the question; as such the proclamation shows preference to a particular religion and in effect boldly states that the those states actually belong to the Muslims. This is not the intention of Section 10 of the Constitution. The same can be said of the argument that Section 275 of the Constitution which creates Sharia Court of Appeal and makes it optional for states which wish to adopt same for purposes of having the court exercise jurisdiction in questions of Islamic law. The provision casts doubt on the secularity status of the country²¹. Be that as it may, the point remains that the purport of Section 10 of the constitution is to separate the State from religious affairs.

It may be posited that no religious body enjoys absolute freedom in any circular state. The first evidence of state interference with religious affairs in Nigeria is Section 45 of the Constitution; which clearly subjects the right to freedom of religion to any law that is reasonably justifiable in a democratic society. In other words, the state can intervene by legislation into affairs of religious bodies; provided such interference is reasonably permissible in a democratic society and it may be so where; such law is made in the interest of public safety, public order, public morality or for the purpose of protecting the rights and freedom of others²². Some scholars hold the view that the State should be able to have a measure of control on religion; just as stipulated in Section 45 of the Constitution. Nwabueze opines that the State should be able to play encouraging roles to religion; he is against total separation of State from religion²³. Yadudu, speaking from Islamic point of view observed that:

To the best of his belief, therefore, a Moslem conceives of his faith as demanding a total submission to the Sharia. To a Moslem, submission to freedom of conscience and to profess a religion of his choice alone or in company of others amounts to not much if a pre-condition, which by the way be perfectly acceptable to followers of other religion, is stipulated for him²⁴.

Yadudu's view does not reflect readiness of Islam to embrace state interference in as much as it could be said that the muslim prefers an Islamic State. Christians see their lives as belonging to God and subject to the laws of God which the State is incapable of enforcing.

It is difficult to decipher clear secularism in Saudi Arabia; rather the country can best be described as a theocratic state. The relationship between Saudi Arabia Executive Political Power; as represented by the Al Saud Monarchy and the religion of Islam; vis-à-vis the control each has on the other is mutually exclusive; and this has been working for the state and the religion; as there is hardly any other religion that has any significant impact in that country. Diemen²⁵ observed that religion and politics have been inseparable in Saudi Arabia since its

²⁰ Yinka Olomajobi, Legal Dimensions to Religious Freedom in Nigeria, file/c/users/USER/APP Data/Local/Temp/SSRN-1d2873502.pdf; retrieve from <https://www.ssm.com/abstract=2873502>; accessed on 30/8/2020

²¹ Ibid

²² Section 45(1) (as amended) of the Constitution

²³ Nwabueze, B. O. Constitutional Democracy in African Vol. 3 (Ibadan, Spectrum Books, 2003) P. 332

²⁴ Yadudu A. H. "Sharia in a Multi-Religious Society: the Case of Nigeria", Yakubu, A. M. (et al) understanding Sharia in Nigeria (Ibadan: Spectrum Books Limited, 2001), 151

²⁵ Diemen RV, Saudi Arabia – Does the State control Religion or Does Religion control the state, Retrieved from <https://www.socratchiev.wordpress.com/politics-and-religioon/van-Diemen-renee-2012>; accessed on 2/9/2020

establishment as a nation state in 1932; as her foundation was led between a religious scholar, Mohammed Ibn Abd-al Wahhab and the ruler of Nejd, Mohammed Ibn-Saud. Saudi Arabia is therefore not a good yardstick to measure the extent or justifiability of state control of religion in Nigeria.

One can easily think of comparing the situation in Nigeria with that in India, in that the latter is a nation with multiple tribes and religions²⁶; some of which are *Jainism*, *Hinduism*, *Buddhism*, *Siklusm*²⁷ and of late; Christianity. The preamble to the Constitution of India 1976 (as amended) states that India is a circular state. According to Nayck, the affairs of about 25 lakh mandirs (temples) and maths (Monasteries) belonging to the majority Hinda Community are regulated by various states authorities²⁸; this led him to assert that India cannot truly be called a circular state with respect to state control in the affected areas. He also noted high level discrimination by the India nation state which has allowed absolute freedom in respect of places of worship of other faiths as they are owned by their respective communities and the government has almost no say in their rituals and other matters²⁹. Thereby, maintaining secularity in respect of certain religions. The state has always argued that the intervention is necessary to bring about social welfare and reform amongst other benefits³⁰.

The British Colonialists introduced Christianity into Nigeria; at a time when the church was a department of the state; the power of the church having been greatly undermined by the doctrine of nationalism and the effect of Reformation. In England, the King as head of the state was also formally the Supreme Governor of the Church of England³¹; and as such the government could appoint the bishops of the Church of England and reserve the power to impose certain church regulations. Interestingly, some governments, even those whose constitutions describe them as secular states grant aids to religious communities for purposes; such as building of churches and mosques³², tax incentives³³ payment of salaries to clergy³⁴ of recognized dominations etc; although religious communities in England and United States do not receive direct state subsidies³⁵; it is posited that such grants may not be accessible to organizations or communities that have lost their recognition or have acted contrary to the objectives for which they were established thus; such exclusive is an aspect of state control.

²⁶ <https://www.google.com/search?Client=firefox-b-cl&q=codes to the + control+ religion>. Retrieved on 2/9/2020

²⁷ Ibid

²⁸ Nayak, SK; How state control over temples is failing secularism in India. Retrieved from <https://www.sundayguardianlive.com/news>. accessed on 2/9/2020

²⁹ Ibid

³⁰ Ibid

³¹ The Act of Settlement 1701

³² Maussen M, Constructing Mosques: The Governance of Islam in France and Netherlands, 181 (2009); cited in Nieuwenhuis, A. A.; State and Religion, a multidimensional relationship: some comparative Law Remarks, International Journal of Constitutional Law, Volume 10, Issue 1, January 2012, P. 161

³³ Nieuwenhuis A. J; Ibid

³⁴ Belgium has been paying clergyman salaries since 1830; cited ibid

³⁵ Wolfe A; An Introduction to American Religious Practice, in Gleloven in het publiek domein (Belief in the public Domain) (2006); cited Ibid. The United Kingdom also assets religious organizations such as juvenile Assistance Organization

Opposition to some provisions of CAMA by the Church

To further drive home our point; the word “association” shall be substituted with the word “church” in this discourse. Rift and show of affluence by leaders of the church has generated diverse views on whether the church has deviated from its mission and objectives. Court litigations has become common in ventilating intra church disputes and it is on record that churches such as the order of Cherubim and Seraphim, Methodist Church of Nigeria and lately the Assemblies of God Church have at different times settled their internal grievances in court seeking for the court to invoke and exercise its power that are similar to the one created in Section 839(2) of the CAMA.

Section 839(1) of CAMA provides for suspension of Trustees, Appointment of Interim Managers, etc. It empowers the Corporate Affairs Commission to suspend the trustees of the church and appoint an interim manager or managers to manage the affairs of the church on the following grounds:-

- i. Upon reasonable belief that there is misconduct or mismanagement in the administration of the church;
- ii. For protection of the property of the church;
- iii. For purpose of securing the purposes for which the property it was acquired;
- iv. Suspicions of fraud; and
- v. Public interest

Section 839(2) of CAMA confers similar power on the court. It empowers the court upon the application of CAC or one fifth of the members of the church; supported with reasonable evidence; to suspend the trustees. This power is to be exercised before the hearing of the petition based on any of the grounds stated above.

By virtue of Section 839(3) of the court shall with the assistance of CAC designate duties to be performed by the interim manager or managers. The choice of who is to be appointed as an interim manager or managers lies within the discretion of the court. CAC may also decide to take over the management of the affairs of the church on the same grounds stipulated in Section 839(1)³⁶. The powers of CAC is subject to the approval of the Minister.

Section 839(5) of CAMA explains misconduct or mismanagement to relate to employment and remuneration of staff of the church, and property which ought to belong to the association. Suspension shall be for a period not exceeding 12 months from the date of the order of the suspension³⁷. Powers of the court includes appointment of additional trustees where it considers it necessary³⁸; vesting of the property of the church or a property assumed to have been bought with the church funds on any person it shall so designate, restrict transactions of the association³⁹.

³⁶ See S. 839(3) (1)

³⁷ S. 839(6) (a) of CAMA

³⁸ S. 839(6) (b) *ibid*

³⁹ S. 839(6) (c), (d), (e) and (f)

If upon conclusion of its inquiries into the affairs of the church, CAC is satisfied that the allegation is true; it may suspend or remove the trustee(s) found to have misconducted himself/themselves or mismanaged the affairs of the church, establish a scheme for the administration of the church, replace a trustees by court order⁴⁰. Failure to comply with order of court removing or suspending a trustee is viewed as an offence which upon conviction may earn the resisting trustee a fine to be fixed by the court or 6(six) months imprisonment of both the fine and the imprisonment⁴¹.

CAN has described the entire Section 839 of CAMA as “obnoxious and ungodly” and seeks to have the churches exempted from its application⁴².

Section 838 (1) of CAMA prohibits trustees from transferring to themselves; either directly or indirectly money or property from proceeds of the church but requires that the income and property of the church be applied solely towards the promotion of the objects of the church thus; converting the trustees into constructive trustees of such properties, except for out of pocket expenses.

Sections 842 (1) and (2) are obviously some of the aggressive and the supposed “satanic verses” which tend to divest and appropriate properties of churches from their owners. The provisions empower CAC to transfer money in dormant accounts of the church to another church or any other organization with similar objectives; if the church fails to explain its activities within 15 days of the bank reporting the issue of the dormant accounts to CAC. The provision is silent on what would happen if the church satisfactorily explains its activities. CAC may require bank to disclose the amount in the account of the church despite the duty of secrecy owed to its customers⁴³

By section 849 two or churches may merge subject to the terms and conditions to be determined by CAC, while a church may be dissolved by the court on the petition of the governing board or council or one or more of the trustees of by 50 % of the members or by CAC where the purpose for establishing the church has been achieved or at the expiration of the existence of the church or where the aims and objectives have become illegal or it is just and equitable to do so or where the certificate of registration has been withdrawn or revoked. Apart from the just and equitable grounds and revocation of certificate, it is obvious that the Church is not one of the bodies targeted by this provision as churches are not established for a tenure or for a temporary period.

The grouse of the Church may be summed up as follows:-

1. The enactment is not people oriented having failed to pass through due process of law making. The strong case here is that a similar proposed provision was rejected at public hearing held in respect of the Non-Governmental Organizations Bill⁴⁴. Thus the provision has brought

⁴⁰ S. 839(6) (6), (7) (8)

⁴¹ S. 839(g)

⁴² Retrieved from <https://www.m.scooper.news/detail?NewsId>; accessed on 3/9/2020

⁴³ See CAMA section 844. It is also obligatory for the church to submit Bi-annual statement of affairs pursuant to CAMA section 845 (1).

⁴⁴ Can rejects CAMA, labels it ungodly law, retrieved from <https://www.vanguardngr.com>, accessed on 3/9/2020

the church under direct state control; contrary to the intendment of Section 10 of the constitution;

2. The provision is likely to be abused especially in view of lopsided political appointment which may see an enemy of the church heading CAC;

3. The provision is an infraction of the right to freedom of thought, conscience and religion as same cannot be said to have passed the test of Section 45 of the Constitution of the Federal Republic of Nigeria 1999 (as amended); quite unlike the regulation made pursuant to the Quarantine Act which affected the church;

4. The provision has the propensity of causing crisis in the church; as it has given every member of the church the right to question and raise conflict in the administration of the church even where such a member has not contributed to the growth of the church;

5. Spiritual authority does not follow the pattern of state authority and thus; the state cannot punish for sins but for crimes;

6. The provision will encourage division and schism and disobedience to spiritually constituted authorities;

7. The provision may be used as a weapon of religious warfare by non-Christians against the Christians;

8. The provision could act as a guise for unlawful divesting and appropriation of church properties; especially those properties acquired by the head of the churches; and

9. The provision is likely to discourage the church as an employer of labour and provider of the succour which the state cannot provide.

State control of churches may be justified on the following grounds:-

1. Need for state to actually control all operators of enterprise in the state; including those who enjoy tax exemptions;
2. State partial control of churches is an international best practice;
3. Nigerian churches with branches in the United Kingdom are subjected to and they willingly obey such laws;
4. Need to ensure unity and guide against in house fights and internal wrangling in the church;
5. Every registered association should be regulated;
6. The concept of trusteeship requires transparency and accountability; and
7. The regulation is necessary to fight against corruption and protect the weak members of the church from being taking advantage of; by the leaders of the church.

CONCLUSION

It must be pointed out that the Sections of CAMA discussed in this paper aim at regulating administration and management of church properties with a view to achieving transparency

and accountability and limiting the church as a not-to-profit organization to its objectives. The provisions are silent on the benefit that should accrue to members of the church; especially as it relates to the income and properties of the church or how they can be captured within the objectives of the church. If the provision is truly implemented it would give birth to church administration that is duly regulated by the State for the benefit of the members of the church; as times have proved that the church cannot be absolutely separated from the state. But, then since the affairs of religious bodies are seen as spiritual, the State avoid any regulation that would jeopardize freedom of religion or likely to lead to politicalization of the church.

Recommendations

The fact remains that some of the provisions of CAMA in issue raise constitutional issues; it is recommended as follows:-

1. That the provisions are not apt to every association falling under incorporated trustees. The church should therefore be removed from the offending provisions or expressly exempted. The Act actually intend to classify associations falling under “Incorporated Trustees,” thus creating the impression that a uniform regulation is not intended.⁴⁵ In view of this fact it is wrong to leave the classification to the discretion of CAC, it ought to have been expressly provided in the Act and it is so suggested.
2. The nature of regulation covered by the Act is contrary to section 45 of the Constitution of the Federal Republic of Nigeria, as they cannot be said to touch and concern the grounds contained in the said constitutional provision.
3. Partial regulation by recognition of churches and provision of procedures for their registration is all that is required so that the does not inadvertently engage in religious affair.
4. The doctrine of non justiciability internal disputes of political parties ousts the jurisdiction of court from inquiring into internal disputes of political parties⁴⁶, application of similar doctrine very necessary in affairs of the church. Recourse may had to the court in appropriate cases. The church should be allowed to handle its internal affairs through its acceptable resolution mechanism. The constitution of the church should be the recognized framework that regulates the activities of the church.
5. Section 10 of the Constitution should be given effect to ensure that the State does not create rancor by unnecessary interference in affairs of the church.

⁴⁵ See CAMA Section 824

⁴⁶ See *Marbury v. Madison*, 5 U.S., 137 (1803) and *Okafor v. Onuoha* (1983) NSCC 494. The doctrine of Majority Rule and Minority Protection is another example that shows that associations can be allowed to handle their internal dispute.