**NATIONAL HUMAN RIGHTS COMMISSION (NHRC) INPUTS TO THE SPECIAL RAPPOURTEUR ON GA76 REPORT ON RESPECTING, PROTECTING AND FULFILLING THE RIGHT TO FREEDOM OF THOUGHT**

**INTRODUCTION**

Freedom of thought (also called freedom of conscience or ideas) is the freedom of an individual to hold or consider a fact, view point or thought independent of other’s views points.

Guarantees of respecting, protecting and fulfilling the right to freedom of thoughts are inevitably found in the constitution of Nigeria and in international and regional human rights instruments.

**This fundamental right is guaranteed under section 38 of the CFRN 1999 (as amended) and it provides as follows:-**

38(1)Every person shall be entitled to freedom of thought, conscience and religion, including freedom to change his religion or belief and freedom (either alone or in community with others, and in public or in private) to manifest and propagate his religion or belief in worship, teaching, practice and observance.

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

(3) No religious community or denomination shall be prevented from providing religious instruction for pupils of that community or denomination in any place of education maintained wholly by that community or denomination.

In particular Article 8 of the African Charter on Human and Peoples Rights specifies that freedom of conscience, the profession and free practice of religion shall be guaranteed, No one may subject to law and order, be submitted to measures restricting the exercise of these freedoms. Freedom of thought is thus viewed primarily as an individual right, albeit an individual right often exercised in association with others.

In other words, the respecting protecting and fulfilling of the right to freedom of thought of individual must promote rather than discourage mutual respect for and tolerance of others thoughts.

**2. PRACTICES THAT MAY UNDULY AFFECT FREEDOM OF THOUGHT OF INDIVIDUALS IN VULNERABLE SITUATIONS ARE:**

Stereotyping, Prejudice, and Discrimination are major practices that can affect productive life of the vulnerable groups listed below. It may be a denial of housing, employment, educational opportunity, privacy breach and several other verbal and non-verbal cues inimical to the functionality of humanity in person. The extant laws of Nigeria and other relevant instruments provided a safeguard for prevention, redress and reparation should there be such incidents.

**Members of Minority Religious or Belief Communities**

In Nigeria, there are two major recognized religion namely Islam and Christianity. These two religions have a population of about 90% together while the remaining 10% are of traditional indigenous religions or no religions.

1. State legislation is partly derived from religious law or by religious authorities, therefore members of minority religions or belief communities and the non religions are barred from some government offices (including posts reserved for particular religions or sects).
2. Preferential treatment is given to a religion or religion in general especially within the two major religion that are recognized and practiced in the country (Nigeria).
3. Prominence is given to religious bodies or leaders with large numbers or followers which could be discriminatory.
4. Minority religions or belief community members are prohibited socially or persecuted socially.

**Children**

1. Children rights to freedom of thought may have been duly affected in Northern Nigeria where a number of Islamic rehabilitation schools (Almajiris) were discovered to be abusing hundreds of children in 2019. Also thousands of other children could still be at risk as they attend the Almajiris schools across the country (Nigeria).
2. In education system in Nigeria, in practice, Christian education classes are not offered in many Northern States and Muslim education classes are not always provided in Southern States. Under Article 38 of the Constitution of Nigeria, it is a requirement for all students in the public education system to receive instruction in a religion other than that inherited from their parents.

Northern states in Nigeria have frequently seen riot, violence and murder after “blasphemy” accusations, sometimes against individual muslims accused but with potential for wider violence when the accused is a Christian. The above is a clear example of practices that unduly affect freedom of thought of a 13 years old child Umar Farouq who was sentenced to 10 years imprisonment with menial labour for blasphemy by the sharia court in Kano under Section 204 of the criminal code under the customary system.

**Girls, Women and LGBT Persons**

Women right to freedom of thoughts are protected by various international, regional and domestics laws. In Nigeria, women are protected from discrimination of any sort and also from genital mutilation.

There are number of practices that discriminate against women and girls, violate their right to freedom of thought under human rights and are harmful to their health and wellbeing such as female genital mutilation, cruelty to widows, early marriage and forced marriage to mention a few. Harmful practices as stated above can be defined as a denial of dignity and integrity and are imposed on women and girls regardless of whether the victim provides, or is able to provide, full, free and informed consent. All these harmful practices are inconsistent with women and girls human rights.

Also from the advent of the Boko Haram terrorist group coming into Nigeria, in their practice of kidnapping and abduction has threaten this right to freedom of thought of a girl child especially in the Northern States. The abduction of about 200 school girls in 2014 and about 100 girls in a secondary school in Dapchi has greatly affected both the girls and their parents.

Boko Haram having decided to return these girls to their parents in Dapchi village warned them never to enroll them again in western education because if they do they promised to come back and take them away just as the remnants of Chibok girls were taken away and were never returned till today.

**Lesbians, Gays, Bisexuals And Transgender(LGBT+ Persons)**

LGBT**+**in Nigeria face a wide range of challenges, a combination of which includes the law itself, religious beliefs and societal attitude. Its been reported that Nigeria as one of 38 African countries making up about 70 percent of the continent that have passed anti-gay legislation in one form or another LGBT persons in Nigeria mostly face resentment, threatened, beaten and stoned. Some are evicted from their homes and some even lost their jobs.

Policies in Nigeria that may unduly affect freedom of thought of LGBT are:-

1. Nigeria criminal code which is applicable in the Southern part of the country penalizes consensual same-sex sexual conducts between adults with fourteen years imprisonment.
2. Sharia penal codes as introduced in Northern Nigeria since 1999, continues to criminalize what is termed as “Sodomy”

**REFUGEES AND MIGRANTS**

Refugees, migrants and internally displaced people are among those who are particularly at risk of violations of their right to freedom of thought.

International, regional and domestic human rights instruments guaranteeing the right to freedom of thought, such as the ICCPR, do not restrict the exercise and enjoyment of such freedom to citizens only but the right also extends to refugees and migrants.

Under international human rights law, “[everyone has the right to seek and to enjoy asylum in other countries from persecution.”

In addition, under refugee law, refugees have specific rights in their country of asylum.

Some practices that may unduly affect the freedom of thought of the refugees and migrants are:

1. Women and girls in the refugee camp are often reported raped and sexually exploited by security agents and other authorities in Nigeria.
2. Women and girls as refugees becomes victims of exploitations and thereby suffers physically, emotionally and intellectually.

**3. GOOD PRACTICES FOR IDENTIFYING, RESPONDING TO AND MITIGATING VIOLATION OF FREEDOM OF THOUGHTS:**

1. **Information on measures adopted to promote freedom of thought in interfaith and educational initiatives.**
2. The insensitive remarks and behavior of others can cause another person serious distress and embarrassment. People can be harmed or debilitated if there is no restriction on the public's access to and use of personal information in the aspect of education and interfaith initiatives. Other reasons are more fundamental, touching the essence of human personhood. Reverence for the human person as an end in itself and as an autonomous being requires respect for personal privacy and protection. To lose control of one's personal information is in some measure is to lose control of one's life and one's dignity due to debilitating effects.

The National Human Rights Commission has adopted measures of protecting freedom of thoughts of the Shiites group by giving advisories to the government to respect the rights of the adherents while also rebuilding some destructed infrastructures as a part of reparation. Also in education, advisories were given to government to focus on the education of Almajiri system largely practiced in the Northern parts of Nigeria while also repatriating the children involved to their various states for adequate intervention coverage by state governors concerned.

1. Certain practices confine people to imprisonment by their internal anxieties, worries, habits, compulsions, fears, depression, addictions and false assumptions. Equally, it should be noted that there is no way a thought can be imprisoned by any other forces than the possessor of that thought. For instance, imprisonment of someone like Socrates, Boethius, Thomas More, Mahatma Gandhi or Nelson Mandela manifested theirthoughts in many ways, freer than their goals were. This is to say that you can imprison a man but you cannot enslave his spirit.
2. Prejudice and discrimination, a mentally ill person who is quite capable of living a normal, productive life can be denied housing, employment and other basic needs.Similarly someone with an arrest record, even where there is no conviction and the person is in fact innocent, can suffer severe harassment and discrimination. A number of studies have shown that employers are far less likely to hire someone with an arrest record, even when the charges have been dropped or the person has been acquitted. These are practices that are often addressed which affect freedom of thought.
3. **Parameters of freedom of thought in theory and practice:**
4. Freedom of thought is the precursor and progenitor of—and thus is closely linked to—other liberties, including [freedom of religion](https://en.wikipedia.org/wiki/Freedom_of_religion), freedom of speech, and freedom of expression. Though freedom of thought is axiomatic for many other freedoms, they are in no way required for it to operate and exist. The conception of a freedom or a right does not guarantee its inclusion, legality, or protection via a philosophical caveat. It is a very important concept in the Western world and nearly all democratic constitutions protect these freedoms.
5. Freedom of thought... is the matrix, the indispensable condition, of nearly every other form of freedom. With rare aberrations a pervasive recognition of this truth can be traced in our history, political and legal.
6. Such ideas are also a vital part of [international human rights law](https://en.wikipedia.org/wiki/International_human_rights_law). In the [Universal Declaration of Human Rights](https://en.wikipedia.org/wiki/Universal_Declaration_of_Human_Rights) (UDHR), which is legally binding on member states of the [International Covenant on Civil and Political Rights](https://en.wikipedia.org/wiki/International_Covenant_on_Civil_and_Political_Rights) (ICCPR), "freedom of thought" is listed under Article 18:
7. Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance.
8. The [United Nations](https://en.wikipedia.org/wiki/United_Nations)' [Human Rights Committee](https://en.wikipedia.org/wiki/Human_Rights_Committee) states that this, "distinguishes the freedom of thought, conscience, religion or belief from the freedom to manifest religion or belief. It does not permit any limitations whatsoever on the freedom of thought and conscience or on the freedom to have or adopt a religion or belief of one's choice. These freedoms are protected unconditionally". Similarly, Article 19 of the UDHR guarantees that "Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference".

**c. Mitigating practices or policies that may duly affect freedom of thoughts for girls and women**

There are various domestic laws, regional and international instruments that protects the freedom of thought of girls and women in various aspects such as genital mutilation, discrimination of any sort including education, religion, employment, disability and health status. For instance, the disability rights law of 2018, Child’s Rights Act of 2003, Violence against Persons Prohibition Act (2015) are amongst the laws that addressed the aforementioned.

Conclusively, in Nigeria freedom of thought when developed aimed at securing mental autonomy. The law must respect and protect all its citizen from threats to freedom of thought from both states and corporations, with governments needing to act under the positive aspect of the right to ensure societies are structured to facilitate mental autonomy.