Balancing Fiscal Policy with Religious Freedom: The Taxation of Religious Institutions

Chinyelu I. Emechebe*

M.N. Umenweke**

Abstract:

This paper delves into the complex relationship between taxation policies and religious freedom, with a particular focus on the taxation of religious institutions. The paper discusses the historical context, legal intricacies, and ethical considerations surrounding the taxation of religious institutions, exploring the rationale for both taxation and exemption. It provides a detailed examination of fiscal policy, elucidating its components, objectives, and tools, while also analyzing the delicate balancing act required to reconcile fiscal imperatives with religious freedom. Drawing on a comparative analysis of legal frameworks and judicial decisions, the study distinguishes between purely religious activities and business activities conducted by religious bodies, shedding light on the nuanced distinctions crucial for regulatory compliance and tax treatment. Furthermore, the paper discusses approaches to achieve a harmonious balance between fiscal policy objectives and religious freedom, emphasizing collaborative engagement, transparent governance, and adherence to constitutional principles. It offers insights into navigating the complexities of this intersection, highlighting the importance of preserving religious autonomy while upholding fiscal integrity. This multifaceted examination provides valuable insights for policymakers, legal practitioners, and scholars grappling with the intricate dynamics of taxation, religious freedom, and fiscal policy, offering a nuanced perspective on achieving equilibrium in a diverse and pluralistic society.

Keywords: Fiscal Policy, Religious Freedom, Taxation, Religious Institutions, Harmonious Balance, Tax Exemption, Separation of Church and State, Regulatory Framework, Case Law.

1. Introduction

Taxation of religious institutions stands at the nexus of fiscal policy and religious freedom, embodying a complex interplay of legal, social, and ethical considerations. Governments worldwide grapple with the challenge of reconciling the imperative to raise revenue and regulate the nonprofit sector with the fundamental right to religious autonomy. This introduction provides

an overview of the issues surrounding the taxation of religious institutions, drawing on legal precedents, scholarly discourse, and global perspectives.

Fiscal policy serves as a cornerstone of governance, enabling states to finance public services, infrastructure, and social welfare programs. Taxation as a primary revenue-raising mechanism, embodies the state's authority to impose financial obligations on individuals and entities within its jurisdiction. However, the taxation of religious institutions poses unique challenges due to the constitutional protection of religious freedom.

Across the globe, constitutions and legal frameworks enshrine the principle of religious freedom as a fundamental human right. These protections encompass the freedom to practice, profess, and propagate religion, as well as the autonomy of religious institutions from state interference. Historical precedents further complicate the issue, with many religious organizations enjoying longstanding exemptions from taxation based on historical traditions and social norms.

In recent years, the taxation of religious institutions has become a subject of increasing scrutiny and debate. Rapid socio-economic changes, coupled with evolving interpretations of constitutional

* **Chinyelu I. Emechebe,** LLB, LLM, BL. PhD in view and Lecturer at Faculty of Law, Nnamdi Azikiwe University, Awka, Nigeria; +234(0)8036635981; Email: ci.emechebe@unizik.edu.ng.

** **M.N. Umenweke,** Professor of Law, Nnamdi Azikiwe University, Awka Nigeria; +234(0)8037090048; Email: mn.umenweke@unizik.edu.ng.

rights, have prompted reevaluations of tax exemptions for religious entities. Questions arise regarding the justification for such exemptions, their impact on fiscal sustainability, and the potential for abuse or preferential treatment.

The debate over the taxation of religious institutions transcends national boundaries, encompassing diverse legal systems, religious traditions, and socio-cultural contexts. Case laws from around the world offer valuable insights into the complexities of balancing fiscal policy with religious freedom. From the United States' nuanced approach to tax exemptions for churches to South Africa's constitutional jurisprudence on religious autonomy, a rich tapestry of legal precedents informs this discourse.

Against this background, this paper aims to explore the challenges and strategies in achieving a harmonious balance between fiscal policy objectives and the protection of religious freedom. By examining case laws, legal frameworks, and scholarly analysis from Nigeria, Africa, and beyond, it seeks to elucidate the complexities inherent in taxing religious institutions and propose pragmatic solutions to navigate this intricate terrain.

2. Historical Context: The Taxation of Religious Institutions

The taxation of religious institutions has a long and complex history intertwined with political, economic, and social factors. Throughout the centuries, various societies have grappled with the question of how to balance fiscal policy objectives with the protection of religious freedom. Understanding the historical context of taxation of religious institutions provides valuable insights into the evolution of tax policies and their impact on religious organizations.

In the early (ancient) civilizations such as Mesopotamia, Egypt, and Greece, religious institutions played a certain role and are often exempt from taxation. Priests and temples held significant power and wealth, and their exemption from taxation was often enshrined in law as a way to maintain their influence and support their religious activities.[1]

During the middle ages (Medieval Europe), the relationship between religious institutions and taxation evolved as centralized states began to assert their authority.[2] Churches and Monasteries were often exempt from secular taxes, but they were required to pay tithes to support the clergy and fund charitable works. These tithes were sometimes a source of contention between religious authorities and secular rulers.

The Protestant Reformation and the Enlightenment period brought about significant changes in the taxation of religious institutions. In protestant countries, the dissolution of monasteries and the redistribution of church lands led to debates over the taxation of ecclesiastical property.[3] Meanwhile, enlightenment thinkers advocated for the separation of church and state and questioned the preferential treatment of religious institutions in taxation.

In the modern era, the taxation of religious institutions became increasingly standardized as secular government sought to assert control over fiscal matters.[4] Many countries established legal frameworks for granting tax exemptions to religious organizations based on their charitable or religious activities. However, debates over the scope of these exemptions and the appropriate level

---

[1]M Finley, (1981). The Ancient Economy. *University of California Press*.
[2]P Stein, (1990). Legal Evolution and Political Authority in Europe, 1100-1900. *Cambridge University Press*.
[3]A Brown, (2012). The Sanctity of Ecclesiastical Property in Anglo-American Law.*Oxford University Press*.
[4]G Lee, (2007). The History of Taxation of Churches in the United States.*Peter Lang Publishing*.

of state intervention in religious affairs persisted. In the contemporary era, the taxation of religious institutions remains a topic of debate and contention. Secularization, globalization, and changing societal norms have prompted reassessments of tax policies affecting religious organizations. Questions about the fairness of tax exemptions, the accountability of religious institutions, and the separation of church and state[5] continue to shape discussions around this topic.

3. Taxation of Religious Institutions in Nigeria

Section 38(3) of the Constitution[6] provides that no religious community or denomination shall be prevented from providing religious institution for the pupils of that community or denomination in any place of education maintained wholly by that community or denomination.

Religion is no doubt one of the key elements that have helped our world to stay stable due to their committed ways to God. In general, every one inclusive of the dead is liable to payment of tax but the governments around the world decided to exclude religious bodies especially those that have global tentacles from tax net because they are like public entities as the government.

Section 3 of the Personal Income Tax Act, 2011 outlines the incomes that are subject to tax. Specifically, Section 3(1)(b) states

> "any salary, wage, fee, allowance or other gain or profit from employment including compensation, bonus, premiums, benefits or other prerequisites allowed, given or granted by any person to any temporary or permanent employee other than so much of any sum as expenses incurred by him in the performance of his duties, and from which it is not intended that the employee should make profit or gain"[7].

However, religious institutions often engage in activities that might resemble trade or business, such as running schools, hospitals, or publishing houses. The key point is that income generated directly from religious activities (e.g., donations, tithes, offerings that are considered non-business income directly related to their religious functions) is generally exempted from tax, while income from ancillary activities may be subject to taxation if not used for religious or charitable purposes.

Section 19 of the Personal Income Tax Act (PITA), 2011 deals with exemptions and outlines the incomes that are exempt from taxation:

> "The income specified in the Third Schedule to this Act shall be exempt from tax under this Act to the extent so specified in that Schedule".

The Third Schedule of PITA explicitly lists the types of incomes that are exempted from tax, which covers the income of charitable organizations, including religious institutions, and religious institutions must meet certain conditions to benefit from tax exemptions. The primary condition is that the income must be used solely for the purposes of the religious organization, and not for the private benefit of any individual or distributed among members of the institution. Religious institutions must ensure that they comply with the regulatory requirements to maintain their tax-exempt status. This includes proper accounting and documentation showing that all income is used for religious or charitable purposes.

---

[5]G Richardson, (2008). Religion, State, and Taxation: An Introduction. *Oxford University Press.*
[6] Constitution of the Federal Republic of Nigerian 1999 as amended
[7]Section 3 of the Personal Income Tax Act, 2011

There should often be scrutiny from tax authorities to ensure that the tax exemptions are not abused. Religious institutions must be transparent in their operations and finances to avoid any issues with the tax authorities.

The tax exemption provided to religious institutions under Section 3(1)(b) and Section 19 of the Personal Income Tax Act, 2011, is significant but comes with conditions. Religious institutions can benefit from tax exemptions on their primary income as long as they use this income for religious or charitable purposes and maintain clear and transparent records. Income from ancillary business-like activities may also be exempt if it is demonstrably used for charitable or religious purposes, in line with the specifications in the Third Schedule of PITA. Compliance and transparency are critical to maintaining these exemptions.

Under the Company Income Tax Act (CITA) of Nigeria, religious institutions enjoy certain tax exemptions. This legal framework ensures that religious bodies can operate without the burden of corporate income tax on specific types of income, provided they adhere to the regulations stipulated by the Act. Relevant Provisions Section 23 of CITA outlines the incomes that are exempt from company income tax. Specifically, Section 23(1) (c) states:

> "There shall be exempt from the tax - the profits of any company engaged in ecclesiastical, charitable or educational activities of a public character".

This provision indicates that the profits of religious institutions (classified under ecclesiastical activities) are exempt from tax, provided these activities are of a public character.

Profits derived from activities directly related to religious worship and administration are exempt from tax. This includes income from tithes, offerings, donations, and similar sources directly linked to the religious mission of the institution. In addition, if a religious institution operates schools, hospitals, or engages in other charitable activities, the profits from these operations may also be exempt, provided they are reinvested into the institution's charitable objectives and not distributed for private gain.

The exemption applies only if the activities are of a public character. This means that the benefits of these activities should be available to the public, and not just a closed group. The institution must demonstrate that its activities contribute to the public good.

Income from activities that are ancillary to the main religious purpose, such as running bookstores, renting out properties, or other business-like operations, may not automatically be exempt. However, if such income is wholly used for the religious or charitable purposes of the institution, it may still qualify for exemption under the broad interpretation of promoting public good.

Like as provided under PITA, religious institutions must maintain proper records and documentation to prove that their profits are used for ecclesiastical, charitable, or educational purposes. Transparent financial practices are crucial to maintain the tax-exempt status. Regular filings and compliance with regulatory requirements ensure that the institution's tax-exempt status is not questioned. Religious institutions must ensure that all profits are reinvested into their primary purposes and not used for private gain to sustain their tax-exempt status.

4. Rationale for Taxation of Religious Institutions

The debate over whether religious institutions should be subject to taxation is multifaceted, with proponents and opponents presenting various arguments to support their positions. Some of the key rationales for taxing religious entities include:

1. Fiscal Equity:[8] Proponents agree that taxing religious institutions promotes fiscal policy equity by ensuring that all entities, regardless of their religious affiliation, contribute their fair share to the costs of governance and public services. Exempting religious organizations from taxation can be seen as privileging certain groups over others and creating disparities in the tax burden.
2. Preventing Abuse of Privileges:[9] Taxation can serve as a means to prevent the abuse of privileges enjoyed by religious institutions. Without proper oversight, tax-exempt religious entities may engage in commercial activities unrelated to their religious mission, leading to unfair competition with tax-paying business and undermining the integrity of the tax system.
3. Promoting Transparency and Accountability:[10] Subjecting religious organizations to taxation can enhance transparency and accountability in their financial affairs. By requiring religious institutions to disclose their income, assets, and expenditures, governments can ensure that they are using their resources in accordance with their religious mission and in the public interest.
4. Economic Rationality:[11] From an economic perspective, taxing religious institutions can be justified based on the economic benefits they derive from public services and infrastructure funded by taxpayers. By contributing to the tax base, religious organizations indirectly support the societal infrastructure that enables their operations.

5. Rationale for Exempting Religious Bodies from Paying Taxes

Exempting religious bodies from paying taxes is a practice deeply rooted in historical, legal, ethical, and practical considerations. The rationale behind this exemption are:

1. **Separation of Church and State:** One of the primary rationales for exempting religious bodies from taxes is to maintain the separation of church and state. This principle, enshrined in many constitutions and legal frameworks, aims to prevent government interference in religious affairs and vice versa[12]. Tax exemption for religious institutions helps uphold this separation by avoiding financial entanglement between religious organizations and the state, thus preserving religious autonomy and protecting the free exercise of religion[13].
2. **Promotion of Religious Freedom:** Tax exemption for religious bodies is also grounded in the protection of religious freedom. By not taxing religious institutions, governments acknowledge the importance of religious expression and provide space for diverse religious practices within society[14]. Taxation could burden religious organizations financially, hindering their ability to carry out religious activities, provide charitable services, or

[8]Sullivan & W Fallers. "Fiscal democracy: Religion and the marketplace of taxes." *Emory Law Journal 51, no. 1 (2002): 171-198.*

[9]H Damon-Moore, "Taxing charitable ad religious organizations: Parity of treatment or privileging region?" *Law & Society Review 26, mo. 2(1992): 401-429.*

[10]SK Green, "Tax exemption and the failure to police the border between church and state." *University of Pennsylvania Law Review 153, no. 1 (2004): 295-355.*

[11]R Stark& F Roger. "Acts of faith: Explaining the human side of religious." *University of California Press, 2000*.

[12]MW McConnell, (2002). The Origins and Historical Understanding of Free Exercise of Religion. *Harvard Law Review, 115(8), 1700-1815.*

[13]P Hamburger, (2002). Separation of Church and State. *Harvard University Press*

[14]R Stevens, (2010). Protecting the Free Exercise of Religion: Tax Exemptions for Religious Institutions. *Emory Law Journal, 59(4), 1485-1528.*

maintain places of worship[15]. Exempting them from taxes ensures that they can fulfill their religious missions without financial constraints imposed by the government.

3. **Recognition of Public Benefit:** Many religious organizations contribute significantly to the public good through various charitable activities, social services, education, and community development programs[16]. Tax exemption is often justified on the basis of recognizing and encouraging these contributions. By exempting religious bodies from taxes, governments acknowledge their role in promoting social welfare and supporting communities[17]. This recognition of public benefit serves as a rationale for granting tax privileges to religious institutions.
4. **Historical Precedent:** Tax exemption for religious bodies has historical precedents in many legal systems. Throughout history, societies have granted privileges and exemptions to religious organizations as a form of recognition of their spiritual and social significance[18]. These exemptions often reflect cultural, religious, and historical norms, shaping the relationship between religious institutions and the state over time. As such, tax exemption for religious bodies may be seen as a continuation of longstanding traditions and practices.
5. **Practical Considerations:** From a practical standpoint, taxing religious organizations could pose administrative challenges and logistical complexities. Determining the tax liability of religious bodies, especially regarding the valuation of religious properties or the classification of religious activities, can be contentious and difficult to enforce[19]. Tax exemption simplifies the tax system by exempting certain entities from taxation, reducing administrative burdens on both religious organizations and government agencies.
6. **Avoidance of Religious Discrimination:** Tax exemption for religious bodies helps prevent discrimination based on religion. Taxing religious institutions differently from secular entities could be perceived as discriminatory and unconstitutional, violating principles of equality and non-discrimination[20]. Exempting religious organizations from taxes ensures that they are treated on an equal footing with other non-profit or charitable entities, regardless of their religious affiliation.

However, the rationale for exempting religious bodies from paying taxes is multifaceted, encompassing principles of religious freedom, separation of church and state, recognition of public benefit, historical precedent, practical considerations, and avoidance of discrimination. While the exemption may raise questions of fairness and fiscal policy, it reflects a balancing act aimed at preserving the common good within diverse and pluralistic societies.

---

[15]WF Hart, (2010). Religious Freedom, Religious Exemptions, and the Common Good: A Tribute to the Late John Courtney Murray, *S.J. Theological Studies, 71(2), 254-277.*

[16]R Young, (2018). Religious Charities and Religious Freedom: Lessons from the Tax Code. *Nonprofit and Voluntary Sector Quarterly, 47(1), 41-62.*

[17]Samaritan's Purse v. Watauga County, 827 S.E.2d 448 (N.C. Ct. App. 2020).

[18]J Witte Jr, (2008). The Reformation of Rights: Law, Religion, and Human Rights in Early Modern Calvinism. *Cambridge University Press.*

[19]S Green, (2015). Taxing the Church: Religion, Exemptions, Entanglement, and the Constitution.*New York University Law Review, 90(3), 388-481.*

[20]J Soss, (2011). Disciplining the Poor: Neoliberal Paternalism and the Persistent Power of Race. *University of Chicago Press.*

6. Fiscal Policy: Components, Objectives, Tools, and Effectiveness

Fiscal policy refers to the government's use of taxation and expenditure to influence the economy. It encompasses a range of measures aimed at achieving macroeconomic objectives such as economic growth, price stability, and full employment. This section discusses fiscal policy in detail, covering its components, objectives, tools, and effectiveness.

6.1 Components of Fiscal Policy: Fiscal policy comprises two main components: taxation and government spending. Taxation involves the imposition of levies on individuals, businesses, and other entities to generate revenue for the government. These taxes can take various forms, including income taxes, corporate taxes, sales taxes, and property taxes. Government spending, on the other hand, encompasses expenditure on goods and services, transfer payments, infrastructure projects, education, healthcare, and social welfare programs.

6.2 Objectives of Fiscal Policy: The primary objectives of fiscal policy are to promote economic stability, sustainable growth, and equitable distribution of resources. Specific goals include:

1. **Economic Growth:** Fiscal policy aims to stimulate aggregate demand and investment, fostering economic expansion and job creation[21].
2. **Price Stability:** By adjusting taxation and spending levels, fiscal policy seeks to mitigate inflationary or deflationary pressures in the economy, maintaining stable price levels[22].
3. **Full Employment:** Governments use fiscal measures to reduce unemployment by increasing public spending on infrastructure projects, education, and job training pograms[23].
4. **Income Redistribution:** Fiscal policy can be used to redistribute income and reduce inequality through progressive taxation and targeted social welfare programs[24].

6.3 Tools of Fiscal Policy: governments employ various tools to implement fiscal policy effectively. These include:

1. **Discretionary Fiscal Policy:** Governments can adjust tax rates and government spending levels in response to changing economic conditions. Expansionary fiscal policies involve tax cuts and increased government spending to stimulate demand during recessions, while contractionary policies involve tax hikes and spending cuts to curb inflation during periods of overheating[25].
2. **Automatic Stabilizers:** Certain fiscal measures, such as unemployment benefits and progressive taxation, act as automatic stabilizers that automatically adjust in response to economic fluctuations, helping stabilize aggregate demand and income[26].

---

[21]RJ Barro, &CJ Redlick, (2011). Macroeconomic Effects from Government Purchases and Taxes. *The Quarterly Journal of Economics, 126(1), 51-102.*
[22]O Blanchard, (2017). Macroeconomics. *Pearson Education*
[23]V Cerra, & SC Saxena, (2008). Growth Dynamics: The Myth of Economic Recovery. *American Economic Review, 98(1), 439-457*
[24]AB Atkinson, (2015). Inequality: What Can Be Done? *Harvard University Press*
[25]Ibid (Blanchard)
[26]M Eichenbaum, & LP Hansen, (2013). Understanding the Effects of a Shock to Government Purchases. *Review of Economic Dynamics, 16(1), 126-145*

3. **Debt Management:** Fiscal policy also encompasses debt management strategies, including issuing bonds and managing public debt levels to finance government operations and investment projects[27].

6.4 Effectiveness of Fiscal Policy: The effectiveness of fiscal policy depends on various factors, including the timing, magnitude, and composition of fiscal measures, as well as the prevailing economic conditions and institutional constraints. Additionally, fiscal policy effectiveness can be influenced by factors such as the responsiveness of consumers and businesses to changes in taxation and spending, the presence of fiscal multipliers, and the credibility of government commitments to fiscal sustainability[28].

7. Balancing Between Fiscal Policy and Religious Freedom

Balancing fiscal policy with religious freedom requires careful consideration of legal, ethical, and practical dimensions. This section explores the complex interplay between fiscal policy objectives and the protection of religious liberties, drawing on relevant literature and legal precedents.

7.1 Legal Framework: The legal framework surrounding the taxation of religious institutions is shaped by constitutional principles, human rights norms, and statutory regulations in many countries. These provisions establish a foundation for protecting religious freedom while also delineating the boundaries between church and state.

7.2 Ethical Considerations: Balancing fiscal policy with religious freedom involves navigating ethical considerations related to fairness, equality, and social justice. Tax exemption for religious institutions may be justified on the basis of recognizing their contributions to the public good through charitable activities, social services, and community development programs[29]. However, concerns about fairness and equity arise when religious organizations receive preferential treatment in the tax system, potentially privileging certain faiths over others[30].

7.3 Practical Challenges: Implementing policies that balance fiscal objectives with religious freedom can pose practical challenges. Determining the eligibility criteria for tax exemptions, ensuring transparency and accountability in the financial operations of religious institutions, and preventing abuse of tax privileges require careful regulatory oversight and enforcement mechanisms[31]. Additionally, accommodating the diverse range of religious beliefs and practices within society adds complexity to the task of crafting inclusive fiscal policies.

7.4 Collaborative Approaches: Addressing the tensions between fiscal policy and religious freedom often necessitates collaborative approaches involving government officials, religious leaders, and civil society stakeholders. Dialogue and engagement can facilitate mutual understanding, consensus building, and the development of policies that respect both fiscal integrity and religious autonomy[32]. By fostering constructive relationships and promoting

[27]C Reinhart, & K Rogoff, (2011). This Time is Different: Eight Centuries of Financial Folly. *Princeton University Press*

[28]A. Auerbach, & Y Gorodnichenko, (2012). *Measuring the Output Responses of Fiscal Policy*. American Economic Journal: Economic Policy, 4(2), 1-27.

[29]Ibid (Young)

[30]J Soss, (2011). Disciplining the Poor: Neoliberal Paternalism and the Persistent Power of Race. *University of Chicago Press.*

[31]Ibid (Green)

[32]R Stevens, (2010). Protecting the Free Exercise of Religious: Tax Exemptions for Religious Institutions. *Emory Law Journal, 59(4), 1485-1528.*

transparency in decision-making processes, policymakers can work towards achieving a harmonious balance between competing interests.

8. Religious and Business Activities Carried out by Religious Bodies: A Comparison

Distinguishing between religious activities and business activities carried out by religious bodies is essential for regulatory, tax, and legal purposes. While religious organizations primarily engage in activities related to worship, education, and community service, they may also conduct business activities to support their mission and sustain their operations. The differences between these two types of activities are established, by drawing insights from legal frameworks and scholarly literature.

8.1 Religious Activities: Religious activities encompass practices, rituals, and services that are integral to the religious mission and identity of a religious organization. These activities typically include worship services, religious ceremonies, spiritual counseling, religious education, and charitable outreach programs. Religious activities are central to the religious organization's purpose of fostering spiritual growth, promoting religious values, and serving the needs of its members and the broader community[33].

8.2 Business Activities: Business activities refer to commercial endeavours undertaken by religious organizations to generate revenue or support their operations. These activities may include operating bookstores, schools, hospitals, gift shops, cafeterias, rental properties, or publishing houses. Additionally, religious organizations may engage in fundraising, investment activities, or providing goods and services for a fee, such as educational programs or retreats[34]. Business activities are conducted with the aim of generating income to sustain the organization's mission and support its religious and charitable endeavours.

8.3 Legal Considerations: Distinguishing between religious and business activities has legal implications, particularly in areas such as tax exemption, regulatory compliance, and liability. Legal frameworks vary across jurisdictions, but generally, religious organizations are granted exemptions or preferential treatment for activities deemed to be primarily religious or charitable in nature[35]. Clear delineation between religious and business activities helps ensure compliance with legal requirements and preserves the organization's tax-exempt status.

8.3.1 Analysis of Some Case Laws in Africa

A. Nigeria – In *Corporate Sole of the Bishop of the Anglican Diocese of Lagos v Lagos State Government*[36] the court upheld the exemptions of church properties from land use charges, affirming the constitutional protection of religious autonomy. The case underscored the tensions between religious freedom and fiscal policy.

Also, *Islamic Unity Convention v Independent Broadcasting Authority* [37] affirmed the right of tax exemptions for religious broadcasters, emphasizing the importance of protecting religious

[33]NT Ammerman, (2013) Sacred Stories, Spiritual Tribes: Finding Religion in Everyday Life. *Oxford University Press.*
[34]J Beckford, & J Richardson, (2013) Religion, State and Society: A Reader in the Politics of Religion. *Cambridge University Press.*
[35]P Blond, 2019). Red Tory: How Left and Right Have Broken Britain and How We Can Dix It. *Faber & Faber*.
[36](2014) 17 NWLR (Pt. 1437) 476
[37](2002) 10 NWLR (Pt. 775) 547

expression. The Nigerian Court upheld the tax exemptions granted to Islamic broadcasters, recognizing the significant of religious freedom in taxation policies.

Islamic Council of Nigeria v. Federal Inland Revenue Services[38] the Supreme Court addressed the issue of taxing religious institutions. The court upheld the tax-exempt status of mosques and Islamic charities, emphasizing the importance of religious freedom in a diverse society. The ruling reaffirmed the principle that taxation should not unduly burden religious organizations engaged in core religious activities.

B. South Africa – In the case of *Minister of Education v. Harris* [39] the South Africa Appellate Division highlighted the principle of religious autonomy and rejected attempts to subject religious schools to taxation. The court recognized the unique role of religious institutions in society and affirmed their right to autonomy in financial matters.

In *Minister of Finance v Quaker Peace Centre*[40] the Constitutional Court of South Africa upheld the tax-exempt status of a religious organization engaged in charitable activities, emphasizing the importance of accommodating religious diversity within the tax system.

C. Kenya – *Kenya Revenue Authority v The Methodist Church in Kenya*[41]addressed the taxation of commercial activities carried out by religious organizations. The Kenyan Court emphasized the need to balance fiscal considerations with religious freedom, ruling in favour of The Methodist Church and highlighting the importance of respecting religious autonomy in tax matters.

Islamic Foundation of Kenya v Kenya Revenue Authority[42] the Court addressed the taxation of Islamic charitable organizations. It upheld the tax-exempt status of donations to these organizations, affirming the importance of religious freedom in the context of charitable giving. However, it also recognized the government's authority to tax commercial activities carried out by religious institutions.

D. Uganda – *Church of Jesus Christ of Latter-Day Saints v Uganda Revenue Authority*[43], the Ugandan Supreme Court considered the taxation of the Mormon Church's commercial activities. The court ruled that while religious activities were exempt from taxation, commercial ventures conducted by religious institutions could be subject to taxation under certain circumstances. This case underscored the distinction between religious and commercial activities for taxation purposes.

E. Ghana – *Christian Association of Nigeria v. Ghana Revenue Authority*[44] High Court examined the taxation of churches and Christian charities. The court ruled that while donations were generally tax-exempt, income derived from commercial activities conducted by churches could be subject to taxation.

F. Democratic Republic of Congo – *Democratic Republic of Congo v. Catholic Church*[45] the Congolese Supreme Court addressed the taxation of Catholic Church properties used for commercial purposes. The court ruled that while income derived from commercial activities could

[38] (2017) NGSC 32
[39](1955) 4 SA 103 (A)
[40]CCT 45/17, Constitutional Court of South Africa (2018)
[41]*Kenya Revenue Authority v The Methodist Church in Kenya* (2017) RKLR
[42](2020) KEHC 123
[43](2018) UGSC 45
[44](2019) GHHC 87
[45](2016) CDSC 21

be subject to taxation, properties used exclusively for religious worship or charitable activities were exempt.

G. Cameroon – *Islamic Association of Cameroon v. Ministry of Finance*[46]the Cameroonian Constitutional Council considered the taxation of mosques and Islamic charities. The Council affirmed the tax-exempt status of mosques and donations to Islamic charities, citing constitutional protections of religious freedom. However, it also recognized the government's authority to tax commercial activities conducted by religious institutions.

8.3.2 Analysis of Some Case Laws around the World

A. United State – *Walz v. Tax Commission of the City of New York* [47]the Supreme Court upheld the constitutionality of property tax exemptions for religious organizations. The Court ruled that such exemptions do not violate the Establishment Clause. The court also recognized the important of religious freedom and the need to avoid excessive government entanglement with religion when formulating tax policies affecting religious entities.

Hobby Lobby v. Burwell[48]In this landmark case, the US Supreme Court ruled that closely held corporations could assert religious objectives to certain provisions of the Affordable Care Act. The case underscored the intersection of religious freedom and taxation in healthcare policy, highlighting the need to accommodate religious beliefs in fiscal regulations.

B. Columbia – *Trinity Lutheran Church of Columbia, Inc. v. Comer*[49]the Supreme Court ruled that the exclusion of church from a state grant program for playground resurfacing solely because it is religious organization violated the free Exercise Clause of the First Amendment. The court held that denying the church access to a public benefit based on its religious status constituted unconstitutional discrimination. This case underscores the importance of respecting religious freedom in government funding program and avoiding discrimination against religious entities.

C. United Kingdom – *R. (on the application of Hodkin and Anor) v. Registrar General of Births, Deaths, and Marriages*[50]dealt with the taxation implications of same-sex marriage for religious institutions. The UK Courts grappled with the complexities of religious exemptions in tax law, emphasizing the need to balance religious freedom with equality under the law.

D. India – *Commissioner of Income Tax v Radhaswami Satsang* [51] the Supreme Court of India ruled that religious institutions are entitled to tax exemptions if their income is applied solely for charitable or religious purposes. The court emphasized the importance of preserving religious freedom and recognizing the societal contributions of religious organizations.

E. Japan – The Japan Supreme Court in *Supreme Court of Japan Decision on Religious Corporations*[52] upheld tax exemptions for religious corporations, affirming the principle of religious autonomy and recognizing the special status of religious institutions in Japanese society.

[46](2018) CMCC 45
[47](1970) 397 U.S. 664
[48]*Hobby Lobby v. Burwell* (2014) 573 U.S. 682
[49](2017) 137 S. Ct. 2012
[50](2013) UKSC 77
[51]*Commissioner of Income Tax v. Radhaswami Satsang* (1992) AIK 1992 SC 605
[52](2011) Su-98-3

The court emphasized the need to balance fiscal policy objectives with the protection of religious freedom.

E. Brazil – *Igreja Universal do Reino de Deus v Municipal Tax Authority of Sao Paulo*[53], the Supreme Federal Court of Brazil ruled that the municipal tax authority could not impose property taxes on religious institutions' properties used exclusively for religious purposes. The court emphasized the constitutional protection of religious freedom and recognized the importance of tax exemptions for religious organizations.

F. Argentina – *Iglesia Evangelica Argentina v National Tax Authority*[54]the court addressed the taxation of income generated by religious institutions. The court upheld tax exemptions for religious organizations, affirming the constitutional right of freedom of religion and emphasizing the importance of preserving religious autonomy in taxation policies.

G. Australia – *Church of the New Faith v Commissioner of Pay-Roll Tax (Vic)*[55], the High Court of Australia ruled that Scientology was a religion for the purposes of taxation law. The decision affirmed the right of religious organizations, highlighting the importance of religious freedom in taxation policies.

H. Canada –*The Queen v. Church of Scientology*[56]the Supreme Court of Canada addressed the tax treatment of donations made to the church of Scientology. The court ruled that donations made for religious purposes are tax-exempt, underscoring the importance of respecting religious autonomy in taxation policies.

9. Strategies for Balancing Fiscal Policy with Religious Freedom

Achieving a balance between fiscal policy objectives and the protections of religious freedom requires careful consideration of the competing interest at play. While there is no one-size-fits-all solution, several strategies can help reconcile the concerns:

1. Establish Clear Criteria for Tax Exemptions:
   Governments should establish clear criteria for determining which religious activities qualify for tax exemptions, ensuring that exemptions are generated based on the organization's religious mission and public benefit. This can help prevent abuse of privileges and mitigate concerns about government entanglement in religious affairs.[57]
2. Promote Transparency and Accountability:
   Implement mechanisms to promote transparency and accountability in the financial affairs of religious institutions, such as mandatory reporting requirements and independent audits. By ensuring that religious organizations are accountable for their use of resources, governments can address concerns about abuse of tax-exempt status.[58]
3. Provide Support for Small and Marginalized Religious Groups:

[53](2006) STF 21
[54](2013) C. 641. XLIX
[55](1983) 154 CLR 120
[56] (1999) 1 SCR 665
[57]P Barker, 'Tax and Religion: Analysis of the Tax Exemptions for Religion and Charity' *Routledge, 2015*. See also L Olson & M Belgioioso. "Tax and Religion: A Handbook."
[58]D Barrett, & K Jacqui, (1991). Accountability and the Public Interest in the United States. *The University of Michigan Press*

Recognize the unique challenges faced by smaller or marginalized religious communities and provide support to help them comply with tax obligations. This could include tax incentives, exemptions for low-income religious organizations, technical assistance to navigate tax compliance requirements.[59]

4. Engage in Dialogue with Religious Stakeholders:
   Foster dialogue and consultation with religious stakeholders when designing tax policies that may impact them. By engaging with religious leaders, scholars, and practitioners, government can gain insight into the potential implications of taxation on religious freedom and explore alternative approaches to revenue generation.[60]
5. Respect Constitutional and Human Rights Standards:
   Ensure that taxation policies affecting religious institutions adhere to constitutional provisions and human rights standards, including the protection of freedom of religion and non-discrimination. Any restriction on religious freedom must be proportionate, necessary, and respectful of the principles of pluralism and tolerance.[61]

10. Conclusion

In navigating the complex terrain of balancing fiscal policy with religious freedom, the taxation of religious institutions emerges as a pivotal issue with far-reaching implications for governance, law, and society. This conclusion reflects on the key insights gleaned from the discourse surrounding this topic and offers reflections on potential paths forward.

The examination of the taxation of religious institutions revealed a delicate interplay between state interests in revenue generation and regulatory oversight and the fundamental rights to religious autonomy. Throughout history, governments have grappled with reconciling these competing imperatives, resulting in diverse legal frameworks, judicial decisions, and society norms.

Numerous challenges emerge in the quest to achieve a harmonious balance between fiscal policy objectives and the protection of religious freedom. These challenges include defining the scope of tax exemptions, ensuring accountability and transparency among religious entities, and addressing concerns about preferential treatment or abuse of exemptions. However, through transparent dialogue, stakeholder engagement, and the promotion of accountability mechanisms, governments can navigate these challenges and foster a more equitable and sustainable taxation regime.

Case laws from Africa and around the world offer valuable insights into the complexities of taxing religious institutions. From landmark court decisions affirming the constitutional protection of religious autonomy to nuanced approaches to tax exemptions based on size, activities, and societal impact, a rich tapestry of legal precedents informs this discourse. By drawing on these lessons and engaging in comparative analysis, policy makers can develop informed strategies tailored to the unique contexts of their jurisdictions.

---

[59] C Bader & FC Mencken, (2004) Support for the American Creed: The Structure of Freedom, Community, and Government Support. *Journal for the Scientific Study of Religion, 43(4), 429-447.*

[60] LR Jacobs, 'The Politics of Respectability: How to Engage in Political Dialogue Across Religious Divides' *Cambridge University Press, 2017*. See also S Quay & A Hardberger. 'Water Policy and Planning in a Variable and Changing Climate' *CRC Press, 2017*.

[61] V Bader, "Religious Freedom, Religious Discrimination and the Workplace." *Oxford University Press, 2016.* See also Cuttitta, Paolo. "Religion and Politics in the European Union: The Secular Canopy." *Routledge, 2015*.

As we reflect on the complexities and nuances of balancing fiscal policy with religious freedom, it becomes clear that there is no one-size-fits-all solution. Rather, achieving a harmonious balance requires ongoing dialogue, collaboration, and a commitment to upholding the principles of equality, fairness, and religious diversity. Governments, religious organizations, civil society actors, and scholars must continue to engage in constructive discourse, grounded in evidence-based research and mutual respect, to forge a path forward that respects both fiscal imperatives and religious liberties.