

BRIEF ON THE NATIONAL RELIGIOUS & FAITH ORGANISATIONS POLICY AND ITS POTENTIAL IMPLICATIONS ON HUMAN RIGHTS AND FREEDOMS



Introduction

The Government of Uganda is in the process of developing a national policy through the Directorate of Ethics and Integrity (DEI) which is under the Office of the President, to govern the affairs of *Religious and Faith Organisations (RFOs)*. Through this policy (now known as the Religious and Faith Organisations (RFOs) Policy, the government intends to put in place a framework which will purportedly strengthen governance of RFOs, ensure transparency and accountability, promote unity in diversity and provide a yardstick for worship, in addition to classifying roles and functions between religious institutions and government. It is also aimed at “enhancing and streamlining cooperation” between the government and religious organisations in “service delivery to citizens”. This policy was initially accompanied by a private members Bill named the *Religious Societies and Places of Worship Bill of 2017* which was tabled before Parliament and rejected on grounds of ambiguity.

Uganda has obligations under various international human rights instruments to observe, protect and promote the Freedom of Conscience and Religion among other rights and freedoms. These include: The Universal Declaration of Human Rights (Article 18), International Covenant on Civil and Political Rights (Article 18), the 1981 Declaration on the Elimination of All Forms of Intolerance and Discrimination Based on Religion or Belief (Article 1), and the African Charter on Human and Peoples' Rights (Banjul Charter) (Article 8). The same is enshrined under Articles 7 and 29(1) (c) of the 1995 Constitution of the Republic of Uganda; which stipulate non-adoption of a State religion and freedom of thought, conscience and religion respectively.

According to the National Census of 2014, the recorded statistics show that the Catholics population dropped from 41.6% (2002) to 39.3% (2014), while Anglicans dropped from 36.7% (2002) to 32.0% (2014).

These two groups that make up for the largest religious subscribers, have been losing followers according to the statistical trend. On the other hand, the Muslims increased from 12.4% (2002) to 13.7% (2014) while the Pentecostal/Born-Again/Evangelicals reported the highest growth from 4.7% (2002) to 11.1% (2014).

Issues presented by the proposed Policy

The policy in and of itself is an affront to the Rule of Law. It is unconstitutional and problematic in many respects as highlighted below:

1. The Policy under **Clause 8** suggests placing the Office of the President and Directorate for Ethics and Integrity as the overseers of all the RFOs in Uganda; which places all RFOs under the control and dictates of the State.

Issue: Placing RFOs under the charge of the State first and foremost goes against the principle of Separation of the State and Religion. Secondly, it provides a conducive environment for formation of a State prescribed religion/way of worship which contravenes Article 7 of the 1995 Constitution; which states that Uganda shall not adopt a State Religion.

2. The Policy under **Clause 3.9** provides that the policy shall not focus on internal regulatory mechanisms of RFOs unless they violate any policy.



Issue: This condition implies that RFOs are expected to have regulatory measures that are in line with government policies regardless of whether they are contrary to the beliefs of one's faith.

3.The Government is proposing under **Clause 8.2** of the Policy to establish an RFO Board which will be appointed by the Minister responsible for Ethics and Integrity. The purpose of this Board is to exercise the mandate to register, regulate, monitor and oversee the activities of RFOs. Specifically, under Clause 8.2(c)(i) and (ii); this Board will maintain a register of all registered RFOs and consider new applications for registration including those from RFO umbrella organisations/networks.

Issue:The suggested composition of this 10-member Board in the Policy cannot guarantee impartiality as these proposed members are government appointees who are bound to have or shall be expected to bear allegiance to the Government.

Additionally, the criteria for eligibility for registration shall be determined by the State. This process if not well managed could be used as an avenue to sieve out those RFOs it approves of; to the detriment of others which are perceived as not favourable to its cause.

4.The Policy stipulates registration of all RFOs under umbrella organisations or networks for easy censorship as per **Clause 8.2 (3)**, as well as to put in place a framework that regulates RFOs under **Objective III**.

Issue: This requirement is problematic, in that not all entities considered by the Government and the public to belong to the same faith, and follow the same doctrine. A case in point is the Born-Again Sect which is itself divided on matters of doctrine and its interpretation. Imposing this requirement infringes on the freedom of RFOs or the people to choose where to belong and associate in practice of their beliefs without interference.

5.The Policy suggests formal training for all spiritual or religious leaders under **Clause 4.0 (iv)** and further requires them to obtain permits and to seek permission from local authorities and the public before they can qualify to serve in this capacity and/or set up premises.

Issue: It is assumed by the government that all faiths or religions go by the same yardstick or method of training or impartation for spiritual growth and service. This could not be further from the truth as not all spiritual maturity is developed or imparted through training. Whereas some religions (particularly the traditional religions), employ this method of preparation for their clerics, other faiths have different preparation methods which cannot and should not be stipulated or imposed by the Government.

6.Whereas the **Clause 2.4(f)** policy acknowledges that there are existing laws and institutions in place for the registration and regulation of RFOs like the Uganda Registration Services Bureau, the NGO Bureau, the District local governments and the Directorate of Ethics and Integrity among others, it requires these RFOs which have already complied with these existing and sufficient registration or incorporation mechanisms, to register again.

Issue: This implies that RFOs action plans must be subject to government approval and alignment in order to be integrated into governmental plans and budgets. and it is not clear how the government intends to execute this regulation of finances. This inadvertently reduces the institution of faith into another line ministry or departmental agency.

7.The Policy under the guise of promoting accountability and transparency among RFOs suggests establishment of a mechanism for the regulation of finances and resources of religious entities where RFOs are required to give account of all their dealings to the State as per issue 4 of the **Guiding Principles**.

Issue: This implies that RFOs action plans must be subject to government approval and alignment in order to be integrated into governmental plans and budgets. and it is not clear how the government intends to execute this regulation of finances. This inadvertently reduces the institution of faith into another line ministry or departmental agency.

8. The policy has not been processed transparently i.e. through the requisite procedures and yet it is in its advanced stages. It has been secretly drafted and its contents have not been disseminated to key stakeholders.

Issue: Owing to the fact that this instrument (which touches a sensitive aspect of life and is intended for national application) has been secretly processed and not been publicly presented by the State for discussion, it is illegitimate. Many are unaware of its contents. Policy making procedure requires adequate sensitization before consultations can be made.

Implications on other Rights and Freedoms

It is important to note that freedom of conscience and religion or belief is an antecedent to and therefore closely linked to the realisation of other civil liberties such as free speech, the freedom to assemble and associate, the right to access information, the right to self-determination and even economic freedom; not only for individuals but institutions as these emanate from free thought which informs decision making.

The policy proposes registration of RFOs – employing standards or criteria for eligibility, which shall be determined or imposed by the State. Should an RFO not meet these requirements owing to differences in belief among other things, its members risk not being allowed to freely assemble, associate or even speak about or communicate with those with similar beliefs (spiritual, religious or otherwise). In the event that the government does not have its way with registration of RFOs it is more than likely that it will employ its other unconstitutional mechanisms such as the Public Order Management Act to frustrate the freedom of assembly.

There is also a foreseeable risk of curtailment of economic freedom through the proposal to regulate and manage finances and other resources of RFOs-- which we know the State can work to frustrate if the objectives of these RFOs do not agree with those of those running the State and those acting on their behalf. The other avenue this policy could be used to frustrate economic rights is through rejection of RFOs especially those known to hold dissenting views to those of the government at the point of registration.

Additionally, the policy empowers the State to regulate ownership and management of properties owned by RFOs which as duly incorporated entities have the legal capacity to own properties. Should the State be allowed to proceed as intended, the right to property as guaranteed by Article 26 of the 1995 Constitution will be infringed upon.

Pertaining to the right to information, the government as prior mentioned is working to have its way at determining a State prescribed way of worship. Other efforts that the State has initiated which would buttress its objective in this regard include the infamous Uganda Communications Commission guidelines which state what religious or spiritual content should or should not be broadcast or shared on electronic media. What the government seems to overlook is the fact that there is a considerable section of members in our society who believe in and practice some aspects of the prohibited content (such as psychic practices) and those who hunger for information on the same. Prohibiting dissemination of such information is an infringement on religious freedom and the right to access information.



Case studies of similar religious regulations in other jurisdictions

Rwanda

Rwanda is home to nearly 13 million people, and is a majority Christian nation with over 90% of the population practicing some form of Christianity. Muslims are a minority in Rwanda, with roughly 2% of the population practicing some form of Islam. Generally, in the past, Rwanda has respected religious freedom and its expression. However, the introduction of the 2018 regulations

Under Article 4 of the its constitution, the Rwandan State is an independent, sovereign, democratic, social and secular Republic. Furthermore, Article 16 declares that “All Rwandans are born and remain equal in rights and freedoms”. In addition, “Freedom of thought, conscience, religion, worship and public manifestation thereof is guaranteed by the State in accordance with the law”. Rwanda’s constitution makes it clear that politics and religion are to remain separate as “political organisations are prohibited from basing themselves on . . . religion . . .”. Finally, “all power derives from Rwandans and is exercised in accordance with this Constitution”.

In 2018, the Rwandan government introduced and then implemented new rules governing churches, religious organisations, and even pastors. The new regulations fall under the jurisdiction of the Rwanda Governance Board. These regulations are extremely long, complicated and intrusive. These regulations provide for stringent registration requirements on preachers and their legal representatives, determining where sermons may be given, restricting the preaching and ministry of religious organisations, and empower the Rwanda Governance Board with unilateral powers to register and suspend or dismiss members of religious organisations. Furthermore, under the 2018 regulations, faith-based organisations (FBO) must submit the following to the Rwanda Governance Board (RGB) in order to obtain legal status: a) Notarised Minutes of the general assembly that includes the list of all members b) CVs of the Legal Representative and deputy c) Notarised Statues in three languages not exceeding 4 pages

d) Notarised Declaration by the legal representative e) Action Plan f) Doctrine not exceeding 1 page g) Collaboration letter from the district of operation h) Notarised copies of bachelor’s degree in Theology for the legal representative and deputy i) Criminal record certificate issued by NPPA for the legal representative and deputy j) Notified legal status (umbrellas & forum) k) Rules and Regulations governing the organization signed by the notary l) Minutes signed by the notary illustrating the organization creation, approval of laws governing the organization, appointment of members at each level signed by the notary, m) Copy from the District approving that the FBO building meet the requirements governing buildings in the area, copy from the District approving that the FBO building meet the requirements governing buildings in the area n) Copy of the building rent agreement indicating the rent price signed by the notary or Landlord certificate signed by the notary giving the organization right to operate in the building for those without their own property o) Police Clearance Certificate for the Spokesperson and p) Recommendation letter from the umbrella church. As stated above, the new regulations are extremely concerning and problematic. As of July 2023, more than 8,000 churches remain closed, and the number keeps growing. While many of these churches have been closed “for failing to comply with building safety standards,” some have been closed because “the pastor had no theological degree from an accredited institute as the government requires”. According to Rwanda’s constitution, the government is to be secular, yet in adopting and enacting these regulations, the government of Rwanda has made itself the final authority on religious institutions and persons. Not only does the Rwandan government control what faith-based organisations may exist by requiring them to register with the government, but details what characteristics, education, and experience representatives, board members, and pastors of these organisations must have. The government retains the authority to suspend or dismiss administrative members, and dictates where sermons may be preached. This is the very definition of a government dictated and run religion.

Kenya

The constitution of the Republic of Kenya stipulates under Article 32 and 21 respectively, that there shall be no state religion and prohibits religious discrimination. As of 2019, approximately 85.5% of the total population of Kenya is Christian and 11% Muslim. Groups constituting less than 2% of the population include Hindus, Sikhs, Baha'is, and those adhering to various traditional religious beliefs. Nonevangelical Protestants account for 33% of the population, Roman Catholics, 21%, and other Christian denominations, and Orthodox churches, 32%.

Over the last decade Kenya has been seeing a lively debate over the regulation of its ever-expanding religious market and demands for a new 'Churches Law'. Tales of hypocritical abuse of power and of emerging cults coalesced with security concerns regarding religious extremism, leading to the proposal to tighten regulatory control over the religious sect. However, several new legislative steps towards this end have failed so far, notably even leading to a controversial 2014 moratorium on the registration of new religious denominations. In June 2022, the government lifted a seven-year ban on the registration of new religious societies and on July 13, the Registrar of Societies issued strict new guidelines for applicants seeking to register new religious societies, including a requirement that the applicants hold a diploma or degree from a recognized theological institution. Applicants must also show proof of tax compliance, be in good standing in the community, and must be recommended by a registered religious society in good standing. According to the law, new religious groups, institutions or places of worship, and faith-based nongovernmental organizations (NGOs) must register with the Registrar of Societies, which in turn reports to the Attorney General's Office. To register, applicants must have valid national identification documents, pay a fee, and undergo security screening. Additionally, alongside meeting the academic requirements, the individual will also be required to present "a sworn affidavit by each officer indicating whether they are registered members or officers of other religious societies and the names of such societies and an introduction or recommendation letter from a registered religious society in good standing signed by any two officers of such society. The Kenyan Registrar of societies also demands mandatory proof of tax compliance from FBO applicants.

Most recently however, there has arisen heightened attempts to further control faith based organisations in Kenya through the introduction of the Religious Organisations Bill, 2023 which equally seeks to formulate a framework for regulation, annual reporting, compliance, monitoring, taxation, public declaration of governance structures and enforcement vehicles applicable to all religious organisations beyond the existent laws. In so doing, this bill seeks to create and place the government as the overseers of all the Religious organisations in Kenya which places all ROs under the control and dictates of the State. It has faced overwhelming backlash from various religious clerics and faithfuls alike describing it as an oppressive law that has been drafted in bad faith. The opposers of this regulation further assert that they have already worked on modalities of self-regulation as religious societies.

China

China's relationship with religion has shifted throughout its modern history. During the Cultural Revolution (1966–76), religions were essentially banned, and followers were forced underground or persecuted as part of a campaign to eliminate "old" customs and ideas. The following decades saw a revival of religious institutions and groups, and even tolerance of underground religions not directly under state control. Although Article 36 of the Chinese constitution says that citizens "enjoy freedom of religious belief" and bans discrimination based on religion, the law regulates religion by forbidding state organs, public organizations, or individuals from compelling citizens to believe in—or not believe in—any particular faith. Minors are also forbidden from entering places of worship.

The Chinese Communist Party's (CCP) nearly 100 million members are required to be atheist, much as the state recognizes five religions: Buddhism, Catholicism, Daoism, Islam, and Protestantism. The practice of any other faith is formally prohibited, although often tolerated, especially in the case of traditional Chinese beliefs. Religious organizations are required to register with one of five state-sanctioned patriotic religious associations, which are supervised by the United Front Work Department, a branch of the Chinese Communist Party (CCP).

Under President Xi, the CCP has pushed to sinicize religion, or shape all religions to conform to the doctrines of the Communist Party and the customs of the majority Han Chinese population. New regulations that went into effect in early 2020 require religious groups to accept and spread CCP ideology and values. Faith organizations must now get approval from the government's religious affairs office before conducting any activities. In 2021, the CCP further banned unregistered domestic religious groups from sharing religious content online and prohibited overseas organizations from operating online religious services in China without a permit, particularly targeting Christianity-related content on the messaging service WeChat.

More to that, on 1st September 2023, China, under the State administration of Religious Affairs, stepped up political control over places of worship and their related activities by issuing new rules on religious activity. These rules form part of an ongoing political campaign to "sinicize" religious activity and tighten the government's oversight of clergy and congregations through requiring religious groups to support the leadership of the Communist Party of China and its socialist system as well as to align their doctrines, customs and morality with Chinese culture. This already includes the hanging of portraits of president Xi Jinping in churches, a ban on Christmas celebrations and enforced demolition work at major mosques and churches to remove domes and crosses.

This new set of rules also establishes a religious affairs department replicated at county, city and provincial level vested with powers to approve and disapprove applications by worship centres; as well as to register or deregister them. The adherents are expected to prioritize Chinese traditions. To this end, Christians are only allowed to worship in "official churches" registered with supervisory government agencies responsible for protestantism and catholicism while those that refuse to register and join the official system have been shut down and demolished. As of 2023, less than 10% of the total 643 authorized TSPM Protestant meetings had been granted a certificate of registration.

The Chinese religious policy further empowers the government to meddle in the content of any sermons or teachings, to determine the architectural design of churches and mosques, and to approve religious institutions' leadership and certification, religious leaders' spiritual participation, action plans, financing and budgets provided that they align with Xi Jinping.

Spiritual guidance on the implications of Religious Regulation and the RFOs Policy

As we conclude, Uganda is not without authentic spiritual guidance on this pertinent issue. Several years ago, on 26th February 2013, long before the RFOs policy was introduced to the public eye, the founder of Zoe Ministries, Prophet Elvis Mbonye succinctly picked up on and prophesied of an upcoming legislation that was being crafted with the intent of countering and attacking the work of the church. He added that the perpetrators of this policy would then table it before secular leaders for discussion and adoption. He warned that this piece of legislation would infringe upon the church, the supernatural move of God and the freedom of worship as a whole. Prophet Elvis Mbonye further re-echoed a prophetic warning pertaining to this legislation in 2017 giving emphasis to modern day 'pharisees' that were masquerading behind political offices to have this policy passed. He has since urged the church to wiser up and fight against any encroachers to their faith. It is also worth noting that Kenya's current flood situation is as a result of the nation's leaders ignoring a prophetic warning issued by this same man of God in October 2023, warning them against any further attempts to pass a similar legislation—the Religious Regulations Bill, 2023. He added dire consequences of the unnatural weather occurrences would occur if there were no efforts to reverse and abandon the passing of this legislation. It would be foolish of us as a nation not to pick a leaf from the unfortunate events happening in Kenya as a result of formulation of laws intended to directly stifle faith.

Conclusion

It is safe to say that the Draft National and Religious Faith Organisations policy proposals whether singularly or severally, do not and cannot safeguard or foster the freedom of conscience and religion or belief. The mischief that the government is purportedly seeking to address such as registration inconsistencies, accountability mechanisms, fraud and other criminal behavior is ably and sufficiently covered under existing laws; making the policy unnecessary. If the government is allowed to proceed as it intends to, many civil liberties are bound to be restricted.

It is our considered view therefore that urgent action should be taken to prevent the passing and enforcement of this policy because it is defective, illegitimate, and unconstitutional.

