

DEMOCRACY AND FEDERALISM: REVISITING THE OPPOSITE POLES ON SHARI'AH IMPLEMENTATION CONTROVERSY IN NIGERIA

Abdussalam Hassan Bello

Department of Political Science Bayero University, Kano

Corresponding Author's email: abdussalambello@yahoo.com



DOI: **10.29816/sjss.7.1.21**

ABSTRACT

How is it that given a federal structure which emphasizes 'Unity in diversity' and 'Democracy' dealing with choice, a federating unit wishing to adopt or implement Shari'ah is seen to be engaged in other than Federalism or Democracy? The paper highlights the uncompromising postures of both Muslims and Christians over the issue of Shari'ah implementation in a democratic federal Nigeria. Having discussed the loose ends to Shari'ah application in the county, the paper argues that the application of Shari'ah as being witnessed may not be a threat to Nigerian Christians as earlier assumed. Consequently, the paper recommends mutual understanding and inter-faith dialogue between Muslims and non-Muslims being the desideratum for the united, democratically vibrant and peaceful federal Nigeria.

Keywords: Democracy, Federalism, Shari'ah, Shari'ah implementation

Introduction

Nigeria is a century-old entity of over 300 different ethnic groups. Barely six years after independence, the nascent parliamentary regime collapsed following a bloody coup d'état of 1966. The attempt by the military to administer such a multi-ethnic union through the instrumentality of a unitary system of government failed woefully. It was an attempt that degenerated into a bloody civil war that claimed the lives and property of many Nigerians. The bitter experience of Nigeria with a 'unitary system' of governance necessitated a rethink which culminated into the adoption of a federal arrangement. Federalism is deemed, by this study, as the most viable formulae for the political union of nation-states with deep-seated cultural,

religious and linguistic differences. The rationale behind the adoption of federalism is to enjoy the innumerable advantages of 'Unity in Diversity' (Kapur 2006). And one of such advantages is that, "it harmonizes local autonomy with national unity and thereby provides equilibrium between the centripetal and centrifugal forces" (Kapur 2006:423). Unfortunately, the federal system of governance in Nigeria has hitherto not addressed some of the burning issues that threaten the corporate existence of the country. One of the topmost of such issues is the Shari'ah implementation drive in some Muslim dominated states in Northern Nigeria. On the other side of the coin, democratic governance which is supposed to be the

pendulum around which the federalist ideal of 'unity in diversity' revolves has equally failed to bring to an end the recurring Shari'ah controversy. For the Muslims in Nigeria, the application of Shari'ah is a dividend of democracy; while, to the non-Muslim Nigerians the continuation of the secular British-style common law system is one of their greatest expectations from a democratic framework of governance.

Without doubt, the issue of implementation of Shari'ah legal system by some constituent units of the Nigerian federation remains a subject of intense debates in the academic circle. In other words, people with opposing views are often sceptical of its constitutionality within the Nigerian political landscape. Thus, the Shari'ah implementation project is today in its teen ages. That means, the successes or otherwise recorded by the program might have hitherto changed the positions of both the proponents and opponents of the program. Nevertheless, this intellectual piece is a theory-based scholarship that seeks to reflect on some of the reasons for the controversy surrounding the application of Shari'ah in Nigeria. And to achieve that, the paper examined the positions of both opponents and proponents of Shari'ah application in the country, the major reasons why Muslims agitate for it, and finally some constraints to its application in the country.

Clarifying the Key Concepts

Democracy

The term democracy is fast becoming one of the most difficult terms to conceptualize in Political science. The reason is that perceptions of scholars and policy analysts differ in terms of what the term actually means. In its proto-conception, democracy was a form of governance that emphasized the support of the majority of the people being governed. The term was often referred

to as the government of the people, by the people and for the people. In that conception, sovereign power was vested in the people (the commonalty). Interestingly, the preceding position is an outright deviation from the positions of many contemporary elite theorists. The idea that government, in a mass democracy is by the people is deemed nothing more than a Rousseauistic myth. Instead, "the government in a democracy is certainly of the people, it may even be for the people, but it is never by the people; rather by the ruling class only" (Mosca, 1939: p.57). In a similar vein Pareto, in his work 'the circulation of the elite,' debunked the socialistic myth that a classless, egalitarian society would be the inevitable outcome of the class-conflict which had characterized all previous history. For him, "the all time law was that society would always be ruled by elite of some sort" (cited in Parry, 1988:25). Similarly his disciple Robert Michels, in his 'iron law of oligarchy,' predicted that "leaders of the new socialist parties who were proletarians by origin would rapidly become 'bourgeoisified' once they were in positions of power" (ibid p.26).

Whatever the case may be, this work considers the term democracy as the system of government whereby the Chief Executives at the federal, state and local governments are directly elected into office by the electorate on periodic basis.

Federalism

The term federalism is defined "as a system of government in which there is a division of powers between one general and several regional authorities, each of which, in its own sphere, is coordinate with others, and each of which acts directly on the people through its own administrative agencies" (Birch in Kapur, 2006: 432-433). Furthermore, it has also been observed that the system is a special constitutional arrangement which establishes an independent legal existence for both

central and regional governments, and ensures that neither shall be legally subordinate to the others (Vile in Kapur, 2006). The federal system has also been described as “a natural constitution only for a body of States which desire union and do not desire unity (Dicey in Appadorai 1974:499).

In this work, the term federalism is a special constitutional arrangement that divides government into three levels (federal, state, local) and allocates powers exclusively to each of the divisions. The rationale for agreeing on the federalist principle is to cater adequately for the deep-seated cultural, religious and linguistic differences that characterize contracting parties.

Shari’ah

To Asad (1961:3), “Shari’ah is a precise body of laws which regulates the whole aspects of human life (spiritual, physical, individual, social, economic, and political)”. In a similar conception, Jhabvala (undated) argues that the law of Allah (SWT) is not easy to comprehend because it is not law as commonly understood. Shari’ah, according to him, ‘is an all-embracing phenomenon that subsumes all human activities (germane and mundane, spiritual and secular)’. He therefore defines Shari’ah as “the Canon law of Islam or the totality of Allah’s commandments on all aspects of human activity” (P.6). Sharing similar conception, Shehu (2004) argues that Shari’ah is a commonly misunderstood concept by Muslims and non-Muslims alike. This is because most people see Shari’ah as nothing more than implementation of hudud (punishments) for thefts, adultery/fornication, slander and consumption of intoxicants, etc. Shari’ah transcends that. Shari’ah even goes beyond mere acts of worship comprising: Tauhid (oneness), Salat (prayer), Zakat (compulsory alms), Sawm (fasting) and Hajj (pilgrimage). Shari’ah, in his conception,

dovetails both spiritual and temporal aspects of human existence (ibid, p.1). This may be the reason why in one of his Ahadith (sayings, actions and approvals), the Holy Prophet (May Peace and Blessings of Allah be Upon Him) was reported to have said that, “he is not part of us who (a Muslim) ignores the Hereafter for this world; and he is not part of us who ignores this world for the hereafter” (cited in Shehu, 2004:7). Certainly, this Hadith is a clear testimony that religion and politics are inseparable hence the encouragement that Muslims should participate in both spiritual and worldly affairs.

The concept of Shari’ah in this work simply refers to a comprehensive code of ethics which regulates both temporal and spiritual aspects of lives of the Muslims. The Shari’ah legal system is deemed, in this study, as an all encompassing and comprehensive framework that addresses all aspects of lives of the Muslims (legal, political, social and economic). Therefore, the regulatory mechanism of Shari’ah, in our perspective, does not bifurcate between the spiritual and secular aspects of human existence.

Shari’ah implementation

Shari’ah implementation refers to a programme of action embarked upon by some state governments in Nigeria and elsewhere to ensure that the day-to-day activities of the people, under their respective jurisdictions, are conducted according to the dictates of the divine authorities of the Holy Qur’an and the traditions/Sunnah (actions, sayings and approvals of the Prophet and his closest companions) of the Holy Prophet. In this work, Shari’ah implementation is a direct semblance of Shari’ah Governance Framework whose cardinal aim is to ensure that the business of governance is conducted according to the stipulations of Qur’an and Sunnah. Therefore, this study assumes that Shari’ah implementation transcends mere juridical

punishments; rather the programme also deals with all regulatory mechanisms of Islam on all aspects of Mu'amalah (transactions/contracts) and or Ma'ayishah (relationships between man and man).

Expounding the Antithesis

The plural character of Nigerian society could be the *raison d'état* for the non adoption of any religion as the state religion. This phenomenon is stated explicitly in section (10) of the 1999 constitution of the Federal Republic of Nigeria thus, "the Government of the Federation or of a State shall not adopt any religion as State Religion." Interestingly, section 4-(7) & section 38-(1) of the same constitution give room for any constituent state to institutionalize Shari'ah legal system if it so wishes (Isma'il:2002). These latter provisions cleared the way for the enabling laws that warranted the institutionalization of the Shari'ah legal system in Zamfara state and many other northern states that followed suit.

Unfortunately, the aforementioned constitutional provisions constitute the bane of Nigeria's corporate existence as a united, indivisible nation. The Nigerian Muslims for instance, perceive the adoption of Shari'ah legal system, to cater for their religious and private lives, as obviously a pressing need to reckon with. This is so because Shari'ah, to Muslims, is a divine necessity as clearly stated in the Holy Qur'an (Q. 5:44, 45 &47).

The Nigerian Christians, on the other hand, have never left the world in doubt of their fear that adopting the Shari'ah legal system is non-other than machination to Islamize the country, dominate their faith and relegate them to second class citizens in their own country (Ngwoke, 1986, Oritsejafor 2013). In one of the debates over the issue of Shari'ah application for instance, Paul Onongo, a Christian activist, stated that:

There is no basis at all to even discuss the probability of providing a court structure or system which by definition is a religious court and use federal funds to maintain such a religious court in a basically secular state...Shari'ah system runs counter to the political objectives and the social order on which we seek to build our nation (see Kukah, 1993: 128).

The protagonists of Shari'ah, on the other hand, debunked the positions above in series of constitutional debates. For example, Dr A.B. Yusuf argued that:

to remove Shari'ah from the draft constitution is tantamount to spoiling the mental horizon of the Muslims' basic institution. He even went to the extent of arguing that the cannon law court and the customary court can have their Supreme Court if a justifiable case could be made for it. It was however wrong for the Christians, as he opined, to feel that the establishment of a Shari'ah court at federal level would be a step toward Muslim domination (Yusuf in Mu'azzam, 2001:191).

Likewise, Adamu Ciroma, another protagonist of Shari'ah proclaimed that: "the freedom of religion enshrined in the constitution would mean a truncated freedom for the Muslim who is denied Shari'ah" (cited in Mu'azzam, 2001: 192).

The skirmishes between the two extremities described above resulted into intense desire of the adherents of the two faiths to participate in politics actively. The rationale for doing so, in our opinion, is that by being at the helm of affairs, the reigning faith stands a better chance of being safeguarded, protected and promoted.

The policy implications of the above uncompromising postures are: to institutionalize Shari'ah is to acknowledge the existence of Islam as a state religion which is

incongruous to one of the provisions of the Nigerian constitution; or as in the words of Rev. Wilson Sabiya, “to institutionalize Shari’ah is tantamount to acknowledging the supremacy of Islam above all other religions because Islam is Shari’ah and Shari’ah is Islam” (see Mu’azzam and Ibrahim, 1997:3). And on the other hand, to ignore the calls of the Muslims for Shari’ah is akin to callous repudiation of the natural rights of the Muslims which is clearly incongruous with the Universal principle of religious liberty. It is also a gross violation of another constitutional provision which allows for the institutionalization of Shari’ah by any constituent state of the federation that so desires (section 38: 1999 constitution). The aforementioned positions represent the polarity of opinions among Nigerians on the bedevilling Shari’ah controversy. They also constitute the pressing problem that this paper resolves to examine.

Demystifying the reasons for the Muslims’ demand for Shari’ah

Besides the perception of Shari’ah as a divine necessity as clearly stated in chapter 5 verses 44,45 & 47 of the Holy Qur’an, other major reasons for the infinite demand for Shari’ah, according to this paper, can be discerned from the aims that Shari’ah sets to achieve; as well as its intimate relationship with good governance.

Among the major aims of Shari’ah, Shehu (2009) argues, is the establishment of social justice, as well as, promoting social welfare. The latter, according to him, is a natural and direct product of the former’. This is especially so with regards to the stimulating effects of Waqf (endowment) and Zakat on the welfare of the people (Adebayo, 2011). Likewise, the emphasis of Shari’ah on distributive social justice as stipulated in the Holy Qur’an (4:58 & 59:7) constitutes another stimulant that promotes social welfare in any political

community. That may be the reason Shehu (2009) argues further, that a cautious reference to the Glorious Qur’an and hadith (the traditions/sayings of the prophet) reveals that the concern for socio-economic aspect of the lives of the faithful takes immediate position of importance directly after faith. This is clearly evident in many verses of the Holy Qur’an, Hadith and even in the historical trends of Islamic legislation (Ayyub, in Shehu, 2009). Instrumentally, alleviating poverty via sound social welfare scheme is a moral imperative required of any Muslim ruler. In fact, it is the *conditio sine qua non* for a successful Shari’ah implementation project (Dawud: Book 19: Hadith 2,942). It needs to be stressed here that, it is the duty of the Islamic state to ensure a respectable standard of living for every individual. The Prophet, for instance, was reported to have clearly declared that: “He whom God has made an administrator over the affairs of Muslims but remains indifferent to their needs and their poverty, God will also be indifferent to his needs and poverty” (Chapra, 1980: 208). Sharing similar view, Sheikh Abdullahi Danfoyo once proclaimed that:

A leader should intend to use his leadership to please Allah by seeking to improve the worldly and religious conditions of his subjects. He should know that Allah has not made him a leader over them, but in order to improve their religious and worldly affairs (see selected writings of Sheikh Abdullahi Bn Fodio, vol.1 p. 134).

Instrumentally, Abdul Rauf (2015:80) argues that, “if an Islamic state ignores policies that advance human development, then it is living a religious lie no matter how well it may support hajj, zakat, or other acts of piety. In addition, the author reminded the faithful of the divine warning when Allah (SWT) says in the surah (chapter) of Ma’un,

“Have you seen the one who lives a religious lie (yukadhibu bid-din)? That is the person who drives away the orphan, and does not encourage the feeding of the poor? Woe to those who pray; who are heedless of their prayer, those who strive to be seen [who love to show off their religiosity] but who withhold assistance (Q 107: 1-2).

From the two Qur’anic verses stated above, the author observes that, Islam regulates both ibadat (acts of worship) and ma’un (providing assistance to the poor and needy). Such requirement of providing assistance (ma’un) is so central to the extent that if acts of worship are performed without concern for the welfare of others, that religiosity is a lie (Abdul Rauf, 2015).

It needs to be pointed out at this juncture that, “the aim of Shari’ah, as Mu’azzam (2001:190) argues, is not only about legal matters as most people assume; rather Shari’ah is divided into five main branches l’itigadah (beliefs), Ibadah (ritual worship), Adab (morals and manner), Mu’amalah (transactions and contracts/ relationships between man and man) and finally Uqubah (punishment).” The author further observes that out of the 6666 verses of the Holy Qur’an only about 500 deals with legal matters, majority of the verses deal with Mu’amalat (Mu’azzam, 2001:191). The benefits of Mu’amalah, argues Keffi (2003), manifest in the welfare which the Shari’ah legal system makes efforts to provide through economic and social justice. That may be the reason why in his work, Usul al-Fiqh (the origin of Islamic Jurisprudence), Abu Zahrah (1975:209) argues that, “Muslim jurists have unanimously held that promoting the welfare of the people and relieving them of hardships is the basic objective of Shari’ah as well as an Islamic state”. Commenting on similar ground, Hamza (2005:4) argues that, “Shari’ah came as a

mercy to humanity.” The main objective that Shari’ah sets to achieve therefore is to imbibe the culture of mercy among human beings. This corresponds to the essence of the verse of the Holy Qur’an where the Almighty states clearly that He sent Muhammad (May Peace and Blessings of Allah be Upon Him) as a source of mercy for humanity (Q. 21:107). As a testimony to that divine authority, Ibn Qayyim, on the general principles of Shari’ah, states that:

The Shari’ah is based on wisdom and achieving people’s welfare in this life and the afterlife. Shari’ah is all about justice, mercy, wisdom and good. Thus, any ruling that replaces justice with injustice, mercy with its opposite, common good with mischief, or wisdom with nonsense, is a ruling that does not belong to Shari’ah, even if it is claimed to be so according to some interpretations (Chapra 1995:33).

Likewise, according to al-Ghazali the essence of Shari’ah is:

the promotion of the well-being of all mankind, which lies in safeguarding their faith (din), their human self (nafs), their intellect (aql), their posterity (nasl) and their wealth (mal). Whatever ensures the safeguard of these five serves public interest and is desirable (cited in the American Journal of Islamic Social Sciences (AJISS) 24: 1, p.31).

The above taxonomy explicated by al-Ghazali corresponds to the two major axioms that describe the purpose of establishing Shari’ah in any human society. These two include: raf’al-haraj (removing hardship) and daf’al-darar (preventing harm). And the main point of destination argued Dasuki and Abdullah (not-dated), is simply to ensure Maslahah (Public good) and or Manfa’ah (Public benefit/Public utility). The Maslahah or

Masalih (the plural form) is meant to achieve public welfare, interest or benefit (see the American Journal of Social Sciences (AJISS) 24:31). It is prudent to understand, at this juncture, that achieving Maslahah is not an exclusive preserve of the government alone; rather it is a corporate social responsibility that requires the efforts and contributions of all and sundry (individuals, groups and organizations). This is directly in consonance with one of the warnings of the Holy Prophet (May Peace and Blessings of Allah be upon Him) which reads: "Beware, every one of you is a shepherd and everyone is answerable with regard to his flock" (Sahih Muslim: Book 20: Hadith 4496). This may be the reason why Friedman, Humphrey and others argue that, "it is the duty of all particularly the better off ones to sacrifice, give up and spend their wealth on the poor and the needy while expecting their rewards only from God" (AJISS, 24:34).

Besides the laudable objectives of Shari'ah highlighted above, another stimulant to the incessant demand for Shari'ah is its association with good governance. Governance in the annals of Islam began with the establishment of a miniature political community in the cosmopolitan city-state of Medina by the Prophet (May Peace and Blessings of Allah be upon Him). The census commissioned by Him revealed that Medina, at that time, had a total population of about 10,000 people. 45% of them were non-Muslim Arabs, 40% Jews and 15% Muslims (Zia, 2014). "Then after, the Prophet drafted a charter popularly known as 'the Constitution of Medina' to facilitate administration and to regulate social coexistence" (Zia, 2014:2). The exemplary leadership style exhibited by the Prophet was the first and only of its kind. The Muslims, under the Shari'ah guided leadership of the Prophet coexisted harmoniously with the non-Muslims in the city of Medina. Islam was, at that time known to be, "the only

religion that not only accepted the presence of its enemies, but also guarded their rights even though they denied Islam" (Salim, 2004: 5). As contained in clause 25 of the constitution of Medina, the Prophet and the subsequent pious Caliphs granted complete freedom of religion to the Jews and Christians living in the Islamic State. It was even narrated, for instance, that the Christians of Najran, on a visit to Medina, were given permission by the Prophet to hold their religious service in his own mosque (Bernardelli, 2011). Besides peaceful coexistence between Muslims and non-Muslims in the Shari'ah-compliant city of Medina, the Shari'ah also paved way for prosperity to set in. For example, Abu Ubaid (1353 H) reports from Amr bin Shu'ayb that:

there was a time, during the Khilafah (caliphate ship) of Sayyidna Umar bn al-Khattab, the governor of Yemen (Mu'az bn Jabal) sent to him the total Sadaqah (Zakat) collected from the people of Yemen but, Umar rejected it and told him: I did not send you to serve as a collector and we don't take duties; rather I sent you to take from the rich people and to render it to the poor among them. But Mu'az responded, "I did not find a single person who needs from me anything of the Sadaqah." (Ahmad, 2004:4).

Likewise, when Umar ibn Abdul-aziz became Caliph, he took a keen interest in Zakat administration. Less than three years after he became the Caliph, there remained nobody in the capital (Damascus), who was in need of Zakat as a poor man, pauper or a debtor (Adebayo, 2011). "That means with adequate disbursement of the Zakat to those eligible to receive it, many of them rose to the status of people giving out Zakat rather than taking it" (ibid, p.136).

Furthermore, through the instrumentality of Shari'ah the Islamic state grew and became

one of the strongest and most influential empires ever known in recorded history. Thus, through heroic efforts to protect their lives and the faith from extinction, a handful of Muslims managed to extend their influence throughout the Middle East, some parts of Africa, Europe and Asia within a total period of thirty years only.

Nevertheless, this paper is of the view that a more rigorous implementation of Shari'ah, in the annals of Nigerian history, began with the 1804 Jihad of Shehu Usmanu Danfodiyo which brought to an end the then Habe (Hausa) despotic Aristocracy. The Jihad of Danfodiyo culminated into the establishment of a very strong Islamic empire (the Sokoto Caliphate). It was the greatest and most influential empire that ever existed in the whole Bilad es-Sudan (Black Africa). The deposed Habe dynasty was oppressive; hence grossly despised by Muslims and Non-Muslims alike. The Muslims for instance, objected the idea of conscription into pagan army to fight brother Muslims. They hated the practice of selling Muslims into slavery; they loathed the Hausa sultans for their sacrifices and belief in spirits. Besides, partial judgements in courts, bribery and corruption were rampant. Worst of all, the subjects, both Muslims and Non-Muslims were overburdened with heavy taxes levied on them (Audu & Osuala, 2014). Furthermore, the Jihad restored the rights of women to inheritance and, more importantly, to education which they were previously denied access to (Kurawa, 2002). The emancipation of women undertaken by the Jihadists was comprehensive, carefully planned and systematically executed in accordance with the principles of Islam (Kurawa, 2002). And, to explain the extent to which security was firmly established throughout the Caliphate, it was reported that, "the region was so well-regulated hence a common saying that, "a woman might travel with a casket of gold upon her head from one end of the Fellata

(dominions) to the other without experiencing any form of extortion" (Clapperton, 1829 as cited in Kurawa, 2002:16).

Undoubtedly, the objectives of Shari'ah, coupled with the sterling qualities of leadership Muslims experienced under the orthodox, medieval and classical Shari'ah compliant regimes constitute the major sources of aspiration and inspiration for practical Muslims of all times. They are also the major stimulants that induce Muslims to demand for Shari'ah application incessantly. Nevertheless, here in Nigeria, the application of Shari'ah, in the predominantly Muslim communities is bedevilled by certain constraints that prevent them to exercise their rights of establishing Shari'ah-inclined regimes as provided for by the constitution of the Federal Republic of Nigeria.

Exposing the loose ends to Shari'ah application in Nigeria

Undoubtedly, Shari'ah application in Nigeria is replete with many loose ends which render it almost impracticable. First, almost each governor who took a bold step to implement the new Shari'ah legal system claimed to be responding to the demands of his people (Ostien 2001). Ironically, in their rush to craft the new legal system, to appeal to the masses, the governors did not allot adequate time to address the requisite loose ends that needed careful considerations and resolutions especially to keep in with the complexities of the tripartite legal system in the country. Firstly, there was little knowledge of how the re-introduced Shari'ah was to replace the extant legal provisions of the existing common and traditional laws. Secondly, there were stringent intellectual and technical challenges of handling new roles, terms and functions. Thirdly, although it was stated that the Shari'ah laws were to be applicable to Muslims only; such a statement, undoubtedly, contradicts the position of the 1999

constitution (Ostien, 2001). For example, section 1(1) of the constitution states that, "this constitution is supreme and its provisions shall have binding force on all authorities and persons throughout the Federal Republic of Nigeria". Again, section 1(3) states that, "if any other law is inconsistent with the provision of this constitution, this constitution shall prevail and that other laws shall, to the extent of the inconsistency be void". Without doubt, the two constitutional provisions stated above constitute part of the prohibiting factors that render Shari'ah application stringently emasculated.

Moreover, section 38(1) of the same document states that, "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, in public or in private) to manifest and propagate his religion or belief in worship, teaching, practice and observance". That constitutional provision is, to some extent another direct constraint to the provisions of Shari'ah. This is so because Shari'ah does not recognize the freedom of Muslims to think that God does not exist or is unjust, nor does Shari'ah recognize the rights of Muslims to convert to any other religion. Again, under the 1999 constitution of Nigeria, the life of a Muslim cannot be taken for failing to revert to Islam while disputing any of the five fundamental pillars of Islam as provided for under Islamic Shari'ah Law. Unfortunately, these challenges have not been resolved to date and as loose ends, they tend to make the compulsive elements of Shari'ah compliance stringently ineffective.

Besides the loose ends identified above, the application of Shari'ah is subject to satisfying certain conditions. For example, some scholars, such as Ali (2005), uphold that alleviation of poverty is one of the necessary conditions that qualify a society to implement Shari'ah (Oloyede, 2005). To such a category

of scholars, Shari'ah is not implementable in a society that is poverty-stricken. For example, it was reported in one historical antecedent that the second caliph (Sayyidna Umar El- Khattab (R.A.) suspended amputation for larceny in the wake of drought (Ali, 2005). And, to buttress his argument further, the author cited Maududi's assertion that the Islamic prescription of a hundred lashes for fornication and stoning to death for (adultery) are not meant for a society experiencing moral filth, sexual excitement, nudity, pornography and carousing on cinema, rather:

it applies to a society wherein every trace of suggestiveness has been destroyed, where mixed gatherings of men and women have been prohibited, where public appearance of painted and pampered women is completely non-existence, where marriage has been made easy, where virtue, piety and charity are current coins and where the remembrance of God and the Hereafter is kept ever fresh in men's minds and hearts (Sanusi 2005: 289).

Conclusion

It is noteworthy here, that the constitution of Nigeria officially grants the Muslims the precious right to implement Shari'ah in their right hand; yet it takes away such right from their left hand. In other words, both the enabling laws and the prohibiting laws for Shari'ah application are contained in the same document (the 1999 constitution). This paper therefore concludes that taken into consideration the loose ends of the Shari'ah project, coupled with the constraints to Shari'ah application as identified above; the Nigerian Christian activists should not be raising eyebrows over the issue of Shari'ah implementation in the country. This is because, the poverty level of most Nigerians coupled with some gray areas in the federal constitution may not allow for a full

application of Shari'ah in the country. And on the other hand, the paper assumes that Muslims, anywhere in this world, may not stop agitating for Shari'ah because it is the fundamental requirement of their faith as well as the foremost stimulant for their spiritual and secular aspirations. Nevertheless, such agitations or even the actual implementation as being witnessed in Nigeria may not be the sufficient guarantee that Christians should be

relegated to second class citizens as envisaged in 1999. Hence, besides dialogue to promote mutual understanding and inter-faith harmony, the paper recommends the bitter medicine of adopting a pragmatic approach to bring an end to the bedevilling contradiction that characterizes the Nigerian democracy and federalism; even if that may amount to restructuring the federal arrangement.

References

- Abdul Rauf, I. F. (2015). Defining Islamic statehood: measuring and indexing contemporary Muslim states. Macmillan Publishers Limited, Houndmills, Basingstoke, USA.
- Ali, S. (1975). Administrative ethics in a Muslim state. Anarkali: Lahore
- Appadorai, A (2003). The substance of politics; OUP. the University of Oxford.
- Asad, M. (1961). Principles of state and government in Islam. The University of California press.
- Bernardelli, G. (2011). Prophet Muhammad's invitation to Christians to pray in mosques. Vatican Insider.
- Bach, D. C. (2004); NIGERIA: "Towards a country without a state". Paper Presented at a Conference on "Nigeria – Maximizing Pro-Poor Growth" Organized by the Overseas Development Institute with the NESG at London, 16th -17th June.
- Chapra, M.U. (1980). The Islamic welfare state and its role in the economy. In Ahmad, K. & Ansari, Z.I. (eds), Islamic perspectives: studies in honour of Maulana Sayyid Abul A'la Maududi: The Islamic Foundation, U.K.
- Chapra, M.U. (1995), Towards a just monetary system, Leicester: The Islamic Foundation.
- Doi, A.R.I (1988). Islamic law and its teaching through hostile textbooks. In Rashid, S.K. (ed), Islamic law in Nigeria : Application and Teaching; IPB Lagos.
- Hamza, W. (2005). Shari'ah: bringing value to our lives.
<http://www.onislam.net/english/shariah/contemporary-issues>.
- Ibrahim, J. (1989) "The Politics of Religion in Nigeria" ROAPE VOL 16. Issue 45 and 46.
- Isma'il, A. A. (2002). State and religion in Nigeria: an analysis of Shariah issue. (Unpublished Doctoral dissertation) in the Department of Political Science, Bayero University, Kano.
- Jhabvala, N.H. (nd). Principles of Muhammadan law. C. Jamnadas & Co. Shamaldas Gandhi Marg, Bombay.
- Kapur, A. C. (2006). Principles of Political Science. S. Chand & Company Ltd, Ram Nagar, New Delhi.
- Keffi, S.U.D. (2003). Shari'ah implementation in Nigeria: issues and challenges on women's rights and access to justice. Women's Aid Collective (WACOL), Enugu-Nigeria.
- Kukah, M. H. (1993). Religion, politics and power. Ibadan University Press.
- Mahmud, A. B. (2000). "The adoption and implementation of Shari'ah legal system in Zamfara state", Paper presented at a Seminar Sponsored by the JNI on Shari'ah implementation held in Dutse on 6th, July.
- Michels, R. (1959). Political parties. New York: Dover.
- Mills C.W. (1956). The power elite. Oxford University Press: New York
- Mosca, G. (1939). The ruling class. New York: McGraw-Hill.
- Mu'azzam, I. (2001). Sharia and the national question: managing the politics of difference, in Osaghae, E.E. & Onwudiwe, E.(Eds.), the management of the national question in Nigeria. The Lord's Creations, Redbrick building Akobo, Ibadan-Nigeria.
- Ngwoke, I. (1986). Islam, the OIC and Nigerian unity. SNAAP Press, Enugu: Nigeria.
- Oritsejafar, A. (2013). Nigerian Christians are treated as second class citizens. Vanguard News Paper 27th July, 2013.
- Oloyede, I. (2005). Commentary on the west and the rest: reflections on the intercultural dialogue about Shari'ah, in Ostien, P., Nasir J.M., Kogelmann, F. (Eds.), comparative perspectives on Shari'ah in Nigeria. Spectrum Books Limited, Ring Road, Ibadan-Nigeria.
- Ostien, P., Nasir J.M., Kogelmann, F. (2005). Comparative perspectives on Shari'ah in Nigeria. Spectrum Books Limited, Ring Road, Ibadan-Nigeria.
- Parry, G. (1988). Political elites. Allen and Unwin, Winchester place: Winchester.
- Sanusi, L.S. (2005). The West and the rest: reflections on the intercultural dialogue about Shari'ah, in Ostien, P., Nasir J.M., Kogelmann, F. (Eds.), comparative perspectives on Shari'ah in Nigeria. Spectrum Books Limited, Ring Road, Ibadan-Nigeria.
- Shehu, A.A. (2004) Shari'ah: its meanings and philosophy in the Qur'an and Sunnah. In Muhibbu-din, M.A. (Ed.), Islam and democracy

- in Nigeria. National Association of Teachers of Arabic and Islamic studies (NATAIS).
- Shehu S. (2009). Social justice and social welfare under the Shari'ah: a practical approach, being a Paper Presented at a Three-Day Conference on Shari'ah Implementation: The Journey So Far, Organized by the Centre for the Promotion of Shari'ah, at Murtala Muhammad Library, Kano, from 3rd – 6th, Rabi'ul Auwal, 1430 (26th – 28th, February, 2009).
- Sodiq, A. V. (1988). The teaching of Islamic law in Nigeria: past and present. In Rashid, S.K. (Ed.), Islamic law in Nigeria: application and teaching "IPB. Lagos.
- Yahya, A. B., Musa, S., Bagudu, H., Muhammad, M. & Muhammad, A. (Eds). (2013). Selected writings of Sheikh Abdullahi bn Fodiyo, Vol. 1. Iqra'a Publishing House: Gusau.
- The Glorious Qur'an; Arabic text with corresponding English meanings: Saheeh International, Riyadh: Abulqasim Publishing House.
- The 1999 constitution of the Federal Republic of Nigeria and Fundamental Rights
- Ujo, A.A. (2011). Public policy analysis: A Nigerian perspective: Anyaotu Enterprises and Publishers Nigeria Ltd.
- Zahra, A. (1975). Usul-al-Fiqh. Al'azhar University, Cairo.