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The two systems are complementary of each other and when the rights, and liberties of the people would be guaranteed, and will progress unobtrusively.

We need to look for and observe principle of the Rule of law, so as to blame ourselves for being in Nigeria not in the world. The State doctrine of rule of Law is far practicable and realistic and is no concoct doctrine rule of law's promise in Nigeria today that serves no development as there are sacred cows and people above the law, the unt

...ing of divine origin remains unchangeable and are immutable. However the commands are everlasting, ever-enduring and ever-relevant from generation to generations.³⁹

Because of the fragility of the culture of democracy in Nigeria, the observance rule of law is weak. The first test of the rule of law under civilian government was in the case of Alhaji Abubakar Darm, an opposition politician who was declared a non-indigene deported, bundled out and dumped at the Niger Republic border. A roar of protest greeted the arbitrary deportation and the court had to declare him a Nigeria citizen before he regained his freedom to re-enter Nigeria.

The era of military dictatorship saw the observance of the rule of law at its lowest and weakest ebb. The military made no pretensions about the observance of rule of law. The constitution was either abrogated or suspended. Courts decisions/judgments were flouted with impunity. The extent of executive lawlessness and recklessness can be found in the case of *Military Government of Lagos State v Odumegwu Ojukwu supra*.

Civilian Government was restored in 1999. Expectation of return to the tenets of rule of law was bright. However it was a matter of great disappointment that the then government of President Olusegun Obasanjo displayed a typical disregard for, and disobedience of court decisions. The president could not shed his toga of military mentality. He looked at government through the tinted glass of "obey before complain".

A new Civilian Government was inaugurated in May, 2007. President Umar Musa Yar'adua has committed his government to strict and sincere observance of the rule of law. The government took some false and faulting steps when it laid siege to a newspaper premises in Abuja and closed Channel Television in Lagos. But with democracy gradually taking root, the citizenry is becoming watchful of their rights and liberties. The government has a Herculean task to deliver on its commitment to the rule of law.

7. RECOMMENDATIONS

Rule of law is the cornerstone of our liberties and civilization. There is a linkage between rule of law and constitutional structure. The constitution is the superstructure upon which genuine and sustainable respect for rule of law can be built.

The constitution should genuinely reflect the wishes of "we the people of Nigeria". It should not create "sacred cows" and "untouchables". Provisions should be made to make the government and its agencies like the police, security services accountable to the people. All persons should be truly equal before the law. Deliberate constitutional engineering should be made to give the poor and people of low income uninhibited access to the courts.

Judges as guardians of rule of law should always ensure the health of the system whatever the political complexion or creed of the reigning government.

The courts should perform their roles as watch-dogs without fear or favour. This calls for brave and courageous judges-watch-dogs which will not succumb to corruptive baits.

In the final analysis the observance of the rule of law under both Common Law and Shariah Law can only be sustainably entrenched when democracy is allowed to take root and flourish. Secondly, people should cease leaving every infraction of their rights and liberties to God to punish but should be earnest to protest and protect them through the courts.

In *Jasir v. Olayinka* the court observed that;

It is however our view that the minority view is not the majority view. It is simpler and more straightforward. It does not readily yield to arbitrariness. For the reasons stated in the application of law.³⁷

On the contrary Shariah knows no provision as regard stare decisis on merit. It is a simple knowledge that the substantive and punishment are commuted as related in the Hadith of Aisha I respect of punishment of a higher or lower court as regard Shariah. The second Caliph (Umar) was his congratulatory letter to Abu-Musa Al-Ash'ari on his appointment as Governor. Do not feel shy to revert your earlier decision at the manifestation of truth. Judgment of the higher court can be reverted if it is exceedingly clear and incuriam.

A not too dissimilar concept of stare decisis in Shariah Law is the concept of Ijma (consensus of opinion) is based on established texts and precedents though precedents built upon the same foundation are not necessarily precedents though precedents built upon the same foundation are acceptable. Unlike the stare decisis of the common law, Ijma give room for change and is treated and dealt with on its own merit considering the situation and it does not necessarily be there in the precedent (old case).

The word Ijma is used in two senses i.e. to determine and resolve a matter. Used in legal sense, it is defined as the consensus of Mujtahi (jurists) of the Ummah (community) of Mohammed (PBUH) after he dealt in a decision of rule of Shariah. It is essential that the consensus must be unanimous. Though the popular cliché, majority carries the vote. Wherever there is majority hand in hand, Ijma cannot be constituted.

Another difference between stare decisis in common law and Shariah judgment is given, it is instructional that on the discovery of better decision or judgment can be over ruled.

6. SUMMARY/CONCLUSION

It has become a public sing song in Nigeria that we need to follow the process and all sorts of such to reach the dream Nigeria. However it is to no sound and meaningful development, since the modus operandi of the process is background.

The solution to Nigeria problem is that we must understand our country and those who live and rule by the dictates of the Creator-the divine law. The rule of law is the pillar of the liberties of the people, pillar of stability, and guardian of sanctity of the significant concept both in the common law and Shariah/Islamic law.³⁸

The rule of law in common law is embodied in the constitution and principles from which judicial ideas and legal definitions are developed. Commendable as its provisions are, they are observed in reality, for instance, equality before the law; and it again provide for exception for instance, the immunity provision. On the other hand, rule of law

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Similarly, Caliph 'Ali B. Abu Talib found his coat of mail (armour) with a Jew who claimed that it belonged to him and not 'Ali. Both appeared before Shuraih, a muslim judge. Ali failed to satisfy the requirement of the procedural law to produce two un-impeachable witnesses because the bone of contention was in the possession of the Jew. Qodi Shuraih gave judgement in favour of the Jew and against 'Ali, who was the leader of the community and the then reigning Caliph. The Jew, who was impressed, embraced Islam because he did not expect that he could obtain judgement against the Caliph who actually owned the coat but only failed to satisfy the procedural law to establish his claim of ownership over the coat.³³

The global experience is a living witness to the partial justice. Some are regarded as sacred cows under the cover of immunity or administrative protection. Islamic know not such provisions. But it must be noted as of fact that, justice in upholding the rule of law is equally achievable under the Common Law System, as has been provided for, but the fact remains that it is never followed nor respected. Thus, it is up to the court to protect the weak from the strong, dignity, and the powerful elements in the society. Uwaifor, J.S.C observed in *Abacha v. Chief Fawehinmi* that:

The judiciary must not be seen assisting those who step on liberty and justice to effectively press them down. Of course, if its roles is completely taken away or abrogated in any particular situation, it will be obvious that no blame can be laid at its door for the infraction of human rights and liberties in question in any given situation.³⁴

ENTRECHMENT OF DOCTRINE OF STARE DECISIS

Stare decisis is fully expressed in the Latin Maxim *stare decisis et no quieta moveri* which literally means "to stand by a decision and not disturb that which is settled. The Supreme Court has also defined this principle to mean "stand by your decisions and the decision of your predecessors, however wrong they are and wherever injustices they inflict".³⁵

Under the common law, stare decisis imposes an obligation on lower courts to rely and follow past decisions of higher courts as laying down authoritative pronouncement on law. Even the Supreme Court is loosely bound by the doctrine of stare decisis which it has commended as salutary means of ensuring certainty in the law. There are views in respect of stare decisis in the common law-majority view, which connotes that the lower court can pick and choose in the previous decision of the higher court. In literal language the majority view makes the lower court an appellant tribunal to sit over the decision of the higher court. Niki TOBI JCA in *Complete Common Ltd V Onoh* opined as follow:

"What should I do in the circumstance? Should I pick and choose! If no what should I do I think I can pick and choose".³⁶

The minority view on the other side is the lower court should follow the decision of the higher court despite being delivered per incuriam and that it was not the business of the lower court to revert but that of the higher court which gave the decision to do so?

is in the public interest to build a mosque. Umar challenged Ubay's decision, asking him: Is it based on text (N of Qur'an or Sunnah? Ubay replied with an Hadith that the Prophet (PBUH) said: Sulaiman, son of David (peace

have continually refused to prosecute some notable leaders especially in administration. And even now, we have the plea bargaining syndrome (P.E) where weak positions in public offices suffer from the god-fatherism syndrome, heavily rigged against them. Little or no hope of reprieve is granted by the court because the seeming attitude is that it is better to be the respondent rather than the plaintiff which ordinarily would be the resort to justice (assured) for the common good. Under Islamic Law, the Prophet of Islam (Umar) said in his letter to Ali (who became the fourth Caliph) "Equity among people in your countenance, fair dealing and position to stand firm, authority will anticipate your favour or weak-give up from your justice. The plaintiff produced by the plaintiff while the defendant provides witnesses in defense, a treaty is permissible among Muslims except such treaty that allows the prohibition or prohibits the lawful ones. Muslims are just to one another except he who is just by flogging or he who is accustomed to false witnessing."²⁹

It is apparent from the above submission that an equitable framework is adequately catered for in the Islamic rule of law. It is no gainsaying that if all men will live as brothers, in a society that guarantees all men as equals, it stays from the principles already laid down to guide the society in its conduct.

Conclusively, under the Islamic rule of law, there is no room for breach. Indeed, the laws which govern the leaders are the same law that governs the common people, stones unturned in laying the ground norm for equity, justice and fairness.

Justice in Islam has no antithesis. Islamic law has satisfied what the lawyer regarded as three ways of justice. Shariah did justice to the accused, the community at large. It is unequivocally stated in the glorious book that:

O you who believe! Stand out firmly for justice as against yourselves, or your parents or your kinsmen, (against) rich or poor.³⁰

The Prophet, is reported thus:

From Aishah, who said that the Messenger of Allah (SAW) interceded with one of the Hudud of Allah (on behalf of an accused)? He delivered a sermon:

O! You mankind verily what destroyed those nations whenever a noble among them committed theft they executed him. I swear by the hand of Allah, if Fatimah, daughter of Muhammad steal, I would amputate her.³¹

It is noteworthy from the above that Fatimah is the dearest daughter of the Prophet. If the Prophet can afford that, for his daughter for the sake of justice, one may be prompted to ask if there is any provision just as to be compared to Shariah or have a parallel provision.³²

²⁹ Ibid.

³⁰ The Glorious Qur'an Chapter 4, vs. 135

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...it is not fitting for a believer, man or woman, when a matter has been decided by Allah and His messenger to have any option about their decision. If they disobey, Allah and His Messenger, he is indeed on a clearly wrong path.

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Practically, the concept of supremacy of constitution is inimical to human dignity since the drafter of the constitution himself is fallible let alone their draft copy. Thus we have an abuse of the law and the lack of respect for the rule of law.

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The act of lawlessness and non respect for the rule of law was exhibited in the case of General Sanni Abacha vs. Chief Gani Fawehinmi, and Governor of Lagos and others vs. Oduhgwu Ojukwu and others. The lawless action of the military government was subversive of the rule of law; and were so castigated and condemned by the Supreme Court in the strongest term. The Supreme Court stated that:

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t of it equally;

In the area where the rule of law operates, the rule of self-help is abandoned... once a dispute has arisen between a person and the government or authority and the dispute has been brought before the court thereby invoking the judicial power of the state, it is the duty of the government to allow the law to take its course or allow the judicial process to run its full course. The court expects the utmost respect of the law from the government itself which rules by the law²⁴

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Upon reflection however, the most depressing of the lapse of the rule of law is that it has denied the common man simply because he has no friends in high places.

"The scale of justice is inevitably weighted in favour of the richest people, who can afford the best lawyers and advice; whereas a person of average income may be excluded from his rights. Unless he is so irresponsible as to gamble since there is always a risk that his claim might escalate.... wafted on a legal nicety which may be interesting but could lead to bankruptcy for him and his family"²⁵.

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Hon. Justice Aguda seems to agree with this assertion when he stated "the notion that everyone is equal before the law bandied about by lawyers is a myth. It has no basis in fact. Lawyers and this include the judge would like to force us to swallow this notion as a legal concept. I refuse to swallow it"²⁶.

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The messenger of Allah said, "Whenever two people appear before you in litigation, do not rush into judgment between them until you hear from both parties. If you do so, you will be guided in your judgement"²⁷.

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He is also reported to have said, "I am but a man like yourself and verily you should not bring litigations to me. It may be that one of you will state his case convincingly than the other and I will judge according to such statement. Whosoever I give judgment in favour while it is against him, I should reject it for I am only cutting for him a fragment from fire (eternal damnation). It is therefore strange when we consider that a common man who commits a petty crime is kept in custody for several years because the system of administration of justice is "slow" and that a person who amasses illegal wealth by shamelessly dipping his corrupted hands into national treasury is sentenced to an average of 3 months incarceration or a mere fine, after more bark than bite from the Economic and Financial Crimes Commission (EFCC) a body which despite its

From the above quoted dictum it is eminently clear that rule of supremacy of the constitution, equality before the law, and the rules of justice without fear and favour.

4. RULE OF LAW IN ISLAMIC LAW

Islam may not have tagged anything as rule of law but its teaching modern rule of law in its practical sense.

The concept of rule of law under the Islamic Law is not an event but a principle. It is the cornerstone of all substantive laws under the Islamic Law as evidenced by the Prophet Muhammad (PBUH). He stated that there are seven categories of people whom Allah will put under His shade on a day when there will be no shade except His. These are: a leader, a youth, who grows up in the service of God, a scholar, a worker, a man of eminence over the categories mentioned. It can therefore be deduced that a ruler who subjects unjustly or unduly places himself high above them a sacred covenant and eternal rest with Almighty God.

Islam as an encompassing religion left no stone unturned as regard temporal and spiritual, it categorically stated in its glorious book. Islam treats everyone equally and there is no division between the ruled and the ruler.

The rule of law under Shariah however, is not a random event. It is a divine Law giver who is the All-Knowing, All-Seeing and All-Hearing. He knows the best before creating them and dictates the best for them in the immutable book. The provisions/verses in the Holy Book apply wholly to all followers alike. Therefore any subordinated legislation that might have developed from Qu'ran/Shariah knows no sacred cow in its application. These can be based on applying the verse of the Qu'ran that nobody including the Prophet is above the sacred cow. Qu'ran clearly stated thus:

O mankind! We created you from a single (pair) of Adam and Eve and made you into nations and tribes, that you may know each other. Verily the most honourable sight of God is he who fears Him most.²²

The Prophet of Islam alluded to this verse when he said there is no superiority of an Arab over a non-Arab and vice-versa. Unlike the constitution under common law which was credited to the noble Prophet of Islam-Al-Madinah charter, the Madinah constitution spells out the dos and don'ts of the two parties to the constitution, Muslims and non-Muslims-the Jews, Christians and idol worshippers of Madinah. The constitution was in the year 622 CE and the acclaimed first constitution to the Western world was in the year 1215.

The supremacy of constitution under the Common Law is the supremacy of the constitution under the Shariah. It cannot be raised to a status of a grand principle as its authorities are from the Qu'ran and Sunnah of the Prophet, any contract against the constitution is of no effect in an Islamic Society. The Islamic Law is derived from the creatures stem out from (God Almighty) and His Law is the immutable legal system.

The Qu'ran stated thus:

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Government disdained the rule of law and shamelessly disobeyed or disrespected at
requested court decisions. A typical case is that of the confiscated Lagos Local Government
by the government.

The country heaved a sigh of relief when a new Nigeria president was sworn in May
1999. President Yar'adua in his inaugural address committed his government to strict and sincere
observance of the rule of law. President was also quoted as saying that "As a nation, one of the
greatest challenge has been the evolvement of a culture of disrespect for the rule of law ... the
background has informed our administration total and absolute commitment to entrenchment and
a strong culture of unqualified respect for the rule of law and constitutionality."¹⁸ The country is
on the verge of a rebirth and new age in rule of law.

The president faces a Herculean task to deliver on his solemn commitment. The citizenry
is smarting from the abuses and disrespect for the rule of law by the past administrations.
There is a lingering doubt, public cynicism and a growing skepticism that the president's
statement is just another too familiar political rhetoric, a mere sloganeering, lacking in
sincerity or sincerity. The impression is that it is like putting new wine into old wine skins. And
the gospel warns that the wine will burst the skin and both will be ruined.¹⁹

The wine of "rule of law" being poured into the old wine skin of flawed electoral system,
political class idolizing power and money, selfish ambition an entrenched political godfatherism
undoubtedly burst the old wine skin and ruin the new rule of law posture of the government.

The growing consensus amongst human right activists is that the government is yet to
demonstrate the utility of its commitment to the rule of law. The closure of Channel Television
over a report on the president's health did not help to edify the image of the government as
respector of the rule of law, and so is the siege laid on the premises of Leadership Newspaper in

Rule of law also means the supremacy of the law. It means lawful rule in the sense that
government is carried on by general regulation and not by arbitrary decrees and that government
must not flout standing customs and convention of the constitution. It entails that no man should
be above the law and that everyman whatever be his rank, status or condition is subject to the
ordinary laws of the state. Also it entails that decision should be made by the application of know
principles of law without the intervention of discretion in their application. The essence of the
rule of law is that it should never operate under the rule of force or fear.²⁰ In other words there
should be willing subjects and not the despotism supported merely by force. All persons; the
state, and organs of government must see and hold the law as the guiding code in the
administration.

Justice Oputa state as follows:

the rule of law presuppose (i) that the state is subject to the law, (ii) that the
judiciary is a necessary agency of the rule of law (iii) that Government
should respect the right of individual citizen under the rule of law, (iv) that
to the judiciary is assigned both by the rule of law as by our constitution
the determination of "all actions and proceedings relating to matters in
dispute between persons or between Government or an authority and an
person in Nigeria"²¹

Thermon out of the country, deported and dumped him at Niger Republic because he is a non-Nigeria but really because he was a member of the opposition people's party in Borno.

Under the government of the military, by the military, on behalf of the constitution is largely suspended. Thus the military made no pretension to, or observance of the rule of law. Government was by fiat and decrees muzzled the courts and sought to render them impotent and powerless. It de

"No question as to the validity of this or any other shall be entertained by any court of law in Nigeria"¹⁵

Constitutions under the military adventurism could be described as the products of original sin of subversion and violent overthrow of the 1 The people on whose behalf they were supposed to be promulgated made where they made any inputs at all their inputs were so significantly modified their original content. This situation prompted Justice Muhammed Buba to

how was it one may ask that the supreme military council alteration to the draft constitution that was presented to the Constituent Assembly why did the S.M.C not promulgate the law without any alteration why did the final output of the Constituent Assembly the clean copy of the constitution of the Nigeria 1998.... not because automatically the const

The 1999 constitution is no less afflicted with the original sin and about itself when it declares "we the people of the Federal Republic of Nigeria solemnly resolved"¹⁷ when in truth the constitution was hurriedly put together were not consulted and made no inputs.

The rule of law means absolute supremacy or predominance of essence implies the absence of arbitrary policies and actions, and equally be respected by the governing authority in accordance with the provisions. However, as the policies and actions of the then civil government increasingly, clear that the government had little regard for the constitution

Government disdained the rule of law and shamelessly disobeyed disregarded court decisions. A typical case is that of the confiscated Land funds by the government.

The country heaved, a sigh of relief when a new Nigeria president 2007 President Yar'Adua in his inaugural address committed his government to observance of the rule of law.

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However, as the policies and actions of the then civil government increasingly clear that the government had little regard for the constitution

The Supreme Court said:-

It is my humble view that fair hearing implies much more from hearing the appellants testifying before the Disciplinary Investigation panel, it implies much more that summoning the appellants being given a chance to explain their own side of the story, to regular courts or before Tribunals and Boards of Inquiry, the person accused should know what alleged against him is. He should be present when any evidence against him is tendered and he should be given a fair opportunity to correct or contradict such evidence.¹²

If the principle of natural justice is seen as such and to this extent, for the rule of Law to be meaningful, the situation where some individuals in the name of whatsoever will evade summons by the Court and fail to show-up in any capacity i.e. (personally or via representation) is a great breach to the noble concept, and turns against natural justice if the law becomes so useless as not being able to do anything.

This is because, the concept of justice on which the rule of law is based is that justice must not only have been done but be seen to have been done. If the reasonable man cannot see it to have been done, it means invariably that it has not been done.

In other words, when we talk of the concept of the Rule of Law it invariably means we are referring to the principle of law taking its natural course and this goes to an ultimate end result that is targeted and that is "justice" And justice cannot be better expressed than as presented in the opinion of Oputa J.S.C in *Godwin Josiah v. State*:

Not a one way traffic. It is not for the appellant only. Justice is not even two way traffic. It is really three-way traffic. Justice for the appellant accused of a heinous crime of murder, justice for the victim, the murdered man, the deceased, "whose blood is crying to heaven for vengeance" and finally justice for the society at large. The society whose social norms and values had been desecrated and broken by the criminal act complained of.¹³

and more aptly he captured it again in *Kalu v. The state* that:

It should be one and the same even handed justice, blind to all social distinctions and disparities in Wealth and Status and no respecter of person.¹⁴

THE CONSTITUTION AS THE SUPREME LAW UNDER THE COMMON LAW

Rule of Law means that the law should be promulgated in accordance with the provisions of the constitution. It means rule in public interest as distinguished from a factional or tyrannous rule in the interest of the single class of individual.

Section 1 of the 1999 constitution make the constitution supreme and declare its provisions binding on all authorities and persons throughout the Federal Republic of Nigeria. Since Nigeria became independent in 1960 it has had a chequered history of short civilian rules alternating with long military dictatorship.

The test of observance of, and adherence to President Shehu Shagari; the people of Nigeria were just emerging from the euphoria of independent when to their chagrin and that of

to the rule. On the other hand Shariah Law entertains no exceptions, is "revised version" nor is it subject unto review. It is an immutable legal

The divergence assumes sharp relief in the observance or non-law in Nigeria in particular and other countries in general.

As a relatively recent and developing concept, the rule of law country and other countries emerging from other forms of dictatorship or countries have different views of the requirements contents and content some countries what obtains is rule by law rather than rule of law.

In this monograph, attempt shall be made at explaining what rule of law is, its orthodox legal system and balance it with what Shariah the Islamic law is, its government or rule of law, with a view of exposing the best for human/nature.

2. WHAT DOES RULE OF LAW CONNOTE?

According to Oxford Advance learner's Dictionary, rule of law is a condition of which all members of the society including its rulers, are subject to the law⁸. Black's Law Dictionary defines rule of law as a legal principle sanctioned by the recognition of authorities, and usually expressed in a logical proposition⁹.

Though the doctrine of rule of law was promoted some 25 centuries ago, professor A.V. Dicey is acclaimed as the greatest exponent of the concept. Dicey, the doctrine implies that no man is punishable or can be made to suffer for an infraction of law committed by him and established in the ordinary court of the land. Prof. Dicey said further that the concept of rule of law is the absolute supremacy or predominance of regular law as opposed to the influence of arbitrary power, and excludes the existence of prerogative, or even of wide discretionary authority on the part of the government.¹⁰

The principle of natural justice must be referred here as an arm of the rule of law in Nigeria. The concept of Rule of Law to stay and stand the rest of time, demonstrating justice practically as a blind arbiter, which knows no one, status office and position. The interest of all must be the aim for the principle of the issue of fair hearing becomes relevant as there must be no sacred cows in the law and justice for all. In the notorious case of *Garba & Ors v. the University of Lagos*, issues related to fair hearing were highlighted. In that case, the Chairman of the Panel which tried the Appellants was a Deputy Vice Chancellor of the University of Lagos, a victim of the rampage which the students were alleged of, the supreme likelihood of bias was discernable since the Deputy vice Chancellor was not a judge but a judge at the same time.

The court established that fair hearing in Nigeria is not only a constitutional requirement but also a statutory and a constitutional requirement and that when the Chairman exercises disciplinary powers, he becomes not a court but a tribunal established by the law in a quasi judicial capacity.

RULE OF LAW & JUSTICE SYSTEM IN NIGERIA: THE COMMON LAW & ISLAMIC JURISPRUDENTIAL APPROACH

BY

Owoade, A.A.*

INTRODUCTION

Natural Law is a law of reason, rightness and truth. These attributes are subsumed in the concept of the rule of law. Aristotle opined that rule of law is connected with the question of whether it is better to be ruled by the best man or the best laws.¹ Aristotle's position contrasts with that of those who said government by laws and governments by wise man are alternatives.²

As an ancient concept, the Rule of Law has virtually become the most popular ideology in today's contemporary society. Rule of law is a derivative from Natural Law. Natural Law is also the basis of fundamental human right and was relied on to advance argument on democracy.

According to St. Thomas Aquinas, natural law "is an ordinance of reason for the common good made by him who has care of the community"³. He stated further that natural law "is produced by the unaided reason, is common to man both Christian and pagan"⁴.

As a concept, rule of law is anchored in the word "Law" which implies that "man should be ruled or society should be governed not by the rule of man or by the rule of might but rather by the rule of law".⁵ The rule of law should not only be enshrined in a given code as a fundamental principle of government, but rather should equally evolve from.⁶

The position of rule of law under Shariah (Islamic Law) is that Allah, the law giver is All-knowing, All-seeing and All-hearing. It goes further that despite the awesomeness or awe-inspiring nature of Allah, he govern man through the instrumentality of the rule of law. Allah is in essence the fons et origo of law and by extension the rule of law.⁷

Islamic law may not have tagged any set of rule as rule of law but its provisions and teachings proximate and are in accord with Greek Philosopher's postulation on natural law that God was the only governing authority that no human being could make law, and that the power of God supercede man's power.

Common Law and Shariah Law seem ad idem that law must be the ultimate sovereign and not any person. However the two sets of law diverge on the essential fact that the common law concept of rule of law being derivative from natural law is man-made and allows several exceptions

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¹G. H. Sabine & T. L. Thorson, History of Political Theory (Fourth Edition), The Dryden Press (1973), p. 241.

²"When it is clear that even the wisest ruler cannot dispense with law because law has an impersonal quality which no man, however good, can attain"

³G. H. Sabine & T. L. Thorson. (N.1) P. 243

⁴Ibid.

⁵S. William Anderson, Battentine Law Dictionary (Third Edition) (1969), p. 228.

⁶"Those principles usages and rules of action applicable to the government and security of persons and property"

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