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The Resurgence of Sharia Issue in Contemporary Nigeria 1999-2009

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Abstract

The Sharia is a debacle in the history of Nigeria's development. The adoption of the Sharia in Nigeria in some states of Northern Nigeria since the advent of the present democratic dispensation has caused crises which led to destruction of lives and property, and as well threatened the corporate existence of the Nigerian state. The paper argues that selfish and insensitive leadership are the main causes of the problems arising from the Sharia palaver. It suggests that purposeful leadership should be the major concern of our leaders and political elites. The paper further went on to opine that both leaders and the led should embrace the ethos of democracy and tolerance.

Introduction

One of the major thorns that have choked Nigeria's nascent democracy since 1999 is the contentious issue of the Sharia law. Sharia has become a problematic issue that has been threatening the survival of democracy in the country. Ever since the Sharia phenomenon re-emerged in 1999, it has created two major polemics: those in support of Sharia and those against its introduction. The anti-Sharia crusaders who constitute mainly the adherents of the Christian faith have always anchored their aspirations for a secular

state where the federal and state government must keep their hands off religions. But this is not acceptable to the Muslims who always argue that the idea of Nigeria's not been a secular state is unacceptable, because it anticipates the introduction of anti-religious laws encouraging the ousting of religion from public life. These two opposing positions have deeply polarized the country and caused a considerable stir in both the socio-economic and political spheres of Nigerian life.

This paper is intended to make a general review of the Sharia issue in the country beginning from 1999 to date, and provide suggestions that would douse the heat that has generated as a result of the Sharia issue in the country so that Nigeria would achieve national development in all spheres of life.

The Origin of Sharia Law in Nigeria

The term 'Sharia' means Islamic law. Law itself implies the established set of rules and regulations agreed by in a given society as the guide, norms and principles of that society. The laws of any given country spell out the dos and don'ts for the citizens and as well spell out the punitive measures for erring citizens. The history of the Sharia in Nigeria dates back to the pre-colonial era. The عثمان Danfodio Islamic jihad which began in 1804 in Northern part of Nigeria and consequently established the Sokoto Caliphate saw the emergence of an Islamic empire that spanned large portions of land in the north. With the establishment of the Caliphate Sharia became enshrined in its legal system. Arguing in this direction Ostein¹ asserted that Sharia law existed in Northern Nigeria for a long time before the colonial adventurers of the Sokoto Caliphate was founded on the ideal to "live solely according to the way laid down by Allah, and to be guided by the Sharia Law".

The British colonial regime however acquired the Sokoto Caliphate in the early part of the 20th century and subjected it to Western colonial rule. The status of Islamic law therefore became ambiguous right from the outset of the colonial period. As the British imposed colonial rule in the Sokoto Caliphate, she recognized the

Sharia courts as being at par with British and the Native Courts throughout the various colonial territories. Britain therefore proclaimed that "the Sharia Courts are to administer native laws and customs prevailing in the area of their jurisdiction and might award any type of punishment recognized thereby except mutilation, torture or any other which is repugnant to natural justice and humanity"². In the affirmative of the above argument, Jibo argued that "after the British introduced the system of their justice, modified Sharia law was still enforced"³. These courts worked under the supervision of the colonial agents, however, there was general dissatisfaction among Muslim and non-Muslim population in the region. Many non-Muslims themselves generally felt that the Sharia courts were being used by the Emirs to victimize citizens or political opponents⁴.

Hitherto, the Sharia legal practice was akin to the Christians practice of the Mosaic Law which stipulated "an eye for an eye" "a tooth for tooth" punishment measure for any offender regardless of sect, color, creed and religious belief. Along that principle therefore the advocates of Sharia canvassed for the amputation of hands and legs of those found guilty of having committed offences punishable under the Sharia system. This practice however did not go down well with our erstwhile colonial masters who saw the mutilation as not only barbaric but a violation of human rights abuse and therefore sort its modification to exclude amputations and other practices found repugnant to human dignity.

At the time of attaining independence in 1960, the court systems under the Nigeria legal system comprised of the Privy Council which was the highest court for Nigeria, the Federal Supreme Court consisted of the Chief Justice of the Federation and Federal Justices. Lagos had a High Court and Magistrates Courts. The regions- Northern, Western, and Eastern regions each had a High Court, Magistrates' Court and Customary Courts. In Northern Nigeria, the Court of Resolution, was in existence, in pre-independence era along side, the Customary Courts (some) which were termed Sharia Court of Appeal which adjudicated on cases involving Muslim

personal law. The appeals in all these Courts went straight to the Federal Supreme Court⁵.

The point being canvassed here is that before this 'politico-sharia' palaver, Sharia legal system had been in operation in the Northern Nigeria, this point can be seen from the establishments of the Sharia Courts of Appeal in places like Jos, Ilorin, Kaduna, amongst others. The work of this appeal courts was to adjudicate all matters concerning Muslim faithful, so if this courts and legal process were and had not been in place in the 60's to legislate on matters from the lower courts why were they instituted in the first place, so one is therefore tempted to ask why the recent hue and cry about the Sharia all of a sudden in some parts of Northern Nigeria and this is why this paper has tagged this whole debacle as "politico sharia" Kukah stressed that the British encountered great difficulties in the administration of justice in Northern Nigeria largely because the Muslims had come to associate the Sharia with the sacredness of their religion. Worse still, they could not contemplate the idea of any form of external interference by people considered to be non believers⁶.

Upon independence in 1960 Nigeria, Northern Nigeria was still touched in the Sharia legal system; however, this period witnessed the introduction of the penal code in the region. The penal code was a combination of laws which attempt at dealing with the issue of pluralism. The introduction of the penal code led to the establishment of the Northern Court of Appeal in Kaduna in 1960. The court entertained cases that dealt with issues outside Sharia law. In 1979, the then Constitution Drafting Committee proposed that the Supreme Court should comprise some learned members in Islamic law to hear appeals from State Sharia' Courts of Appeal⁷ instead of having a separate Federal Sharia Court of Appeal. The bill was subsequently adopted and tagged the 1979 constitution of the Federal Republic of Nigeria. In the 1979 constitution, it is stated that each state of the federation that so desires shall establish a Court of Appeal and Sharia Court of Appeal⁸. This was one of the forms of modifications the Sharia has undergone after independence. When Sharia law was enforced as

part of the penal code in line with this clause of the constitution, Alhaji Ahmed Sani Yerima the Executive Governor of Zamfara State, in 2002 formally adopted Sharia law as the state law. Subsequently, some states in the North followed adopting the Sharia as their state law.

The Sharia Debacle in Nigeria Since 1999

In the words of Kukah, Nigeria had barely settled down to enjoy the fruits of its return to democratic rule when Alhaji Ahmed Sani Yerima, the (then) Executive Governor of Zamfara State, one of the states created in 1996, announced that his state would formally adopt Sharia law as its state's law⁹. The declaration for the adoption of Sharia as a state law for Zamfara by Yerima opened the can of worms for other states to follow suit. Before long states like Kano, Yobe, Sokoto among others joined in the adoption of the Sharia as their state's law. This development was greeted with anxiety by the non-Muslim population in the country and the international community. The anxiety arose as people questioned the constitutional powers of the states involved to enact such laws. Kukah succinctly captures it in the following phrase:

the debates across the country centered on whether the state government had the constitutional powers to enact such laws or whether it was exercising its right to enact these laws as guaranteed by the 1999 constitution¹⁰.

The actions of Yerima and his like mind Governors provided the first important challenge to the secularity of the Nigerian State. In all the post-colonial constitutions, the country has always defined its status by reference to Section 10, which states simply that "no state shall adopt any religion as a state religion". There are, of course, ambiguities in this expression and its interpretation has been the subject of controversy ever since its introduction.¹¹ In similar manner in the words of Kukah again he said that it appeared that most non-Muslim outside the north became aware of the Sharia for the

first time in 1979 during the debate on the draft constitution for the new republic when members stumbled on a clause in the draft which stated the under following:

1. *There shall be a Federal Sharia Court of Appeal which shall be an intermediate Court of Appeal between the State's Sharia Courts of Appeal and the Supreme Court of Nigeria.*
2. *The Court shall be composed of a Grand Mufti and whatever number of Muftis (not less than three) the National Assembly shall prescribe.*
3. *In each State of the Federation that so desires there shall be a Sharia Court of Appeal to be established by the Constitution of the State.*¹²

The development in Zamfara and the other Northern states that adopted Sharia as the state law had implications for the healthy growth of the Nigerian State in both socio-economic, and political spheres. There was an upsurge of conflict for the better part of the first three years of the nascent democracy from 1999-2002, as a result of which there were deaths and destruction of property in many states of the North. For instance, the pronouncement of the adoption of the Sharia in Kaduna in February 2000 resulted in the planned peaceful demonstration by Christians who wished to submit a petition to the State Governor. The demonstration erupted into violence which spread to other towns including Kafanchan, Kano and Sokoto¹³. The killings in those towns of the North ignited the regional killings in Umuahia, Aba, Owerri, Port-Harcourt, Calabar and Uyo. Curfews were imposed in some towns especially in Kaduna, Kano and Aba. As a result of these crises people were displaced, businesses were shut down, human rights were violated and confusion and tension were wide spread. These incidences caused the polity to stir.

President Obasanjo (1999-2007) was so troubled by the mayhem caused as a result of the Sharia scuffle especially in Kaduna where he personally inspected the situation on ground. In the assessment of the degree of carnage, Obasanjo commented that "I could not believe that Nigerians were capable of such barbarism against one another".¹⁴ In an attempt at resolving the crises, the President

summoned an emergency meeting of the National Council of States, and a caucus meeting with the 19 Northern States Governors, especially those that had introduced Sharia. It was attended by several governors including Ahmed Sani Yerima, Dalhatu Bafawara and Mohammed Kure, Governors of Zamfara, Sokoto and Niger states respectively. In the National Executive Council meeting, Sani Yerima, Governor of Zamfara state insisted on having his way. The Governor of Kano State Rabiu kwankwaso also insisted on the implementation of the Sharia in Kano state. It was the Senate's pronouncement that it would not hesitate to approve the proclamation of emergency laws by the president in any state where violence threatens the country's corporate existence that doused down the Sharia crises.

In more recent times (in July 2010 precisely) some parts of Northern Nigeria were engulfed by yet another religious crises. It has been observed, in the history of Nigeria that some Muslim fundamentalists are found to have been injecting politics in religious issues. Thus, most often, religious crises especially as they concern the Islamic religion are precipitated to cause national unrest by the fundamentalists. The issue of the Sharia as a matter of fact would not be a thing to cause crises of the magnitude and dimension it took, if not as a result of the nature and character of the politics practiced in the nation polity. All issues of national concern are always trivialized by the instruments of ethnicity, religion and in most recent time political party affiliation. Religion has thus become an instrument in the hands of our politicians in their course of pursuing primordial interests at the expense of state and public interests. Only recently, a sectarian violence broke out in Bauchi state and spread to Kano, Maiduguri claiming over 150 lives¹⁵. The Islamic fundamentalist sect Boko Haram, led by Mohammed Yusuf, a cleric, had on the 26th July 2009 gone on rampage attacking government and private owned institutions perceived as Western institutions. Police stations, Western inclined schools, Churches etc were recklessly pulled down by the group. Human beings were also attacked resulting to the death of many people.

Implications of the Sharia for the Corporeality of Nigeria

The Sharia has serious implications for the corporeality of the Nigerian state. As observed, the Sharia has caused discord between Muslims and the non-adherents of Islam, especially the Christians in the country. The Christian population in the areas where the Sharia is adopted is always of the view that, the laws are targeted at them. The feud of crises most often evolved as a result of the Sharia issue and this makes the Christian population to believe that such attacks are vigorously aimed at them by their Muslim brothers. Obviously the Muslim fundamentalist takes to reckless destruction of lives and property of the Christians and the Christians in the guise of self defense also take up arms. But as observed, after fighting back in the guise of self defense in the Northern parts of the country the Christians attacked innocent Muslims staying among them in the South. For example, it was in 2002:

"That sight of the corpses of the dead (Ibo traders killed in Kaduna) was said to enraged their colleagues who immediately decided on a reprisal attack led by the dreaded 'Bakassi men' the traders went in search of Muslims from the Northern part of the country residing in Aba. Some of them were caught and killed. While the Aba riot was going on, the news of killed traders spread to other Eastern states. Protest broke out simultaneously in several towns including Umuahia, the Abia state capital. Reports put the death toll in the city at 29. In Owerri, the Imo state capital, two persons were reportedly killed. The reprisal killings also spread to Port Harcourt, Calabar and Uyo¹⁶.

The above demonstrates the unaccommodative nature of the segment in Nigeria's plural structure. Religion has thus provided a divide among the groups even as they live in one nation state.

The crises which ensued as a result of the Sharia issue has no doubt caused the continued erosion of trust and confidence among the ethnic groups who had hitherto been interacting and living with one another harmoniously¹⁷. It has been argued further by Wada

that, "it is not really an exaggeration that for me to assert that the extent of these violence cutting across Nigeria had made the country to almost look like it is under siege"¹⁸. The issue here is that while the Christians are shouting loud on the top of their voice on a perceived religious marginalization the Muslim on the one hand is crying that the perceived restraint placed on his free right of worship is threatening his religious freedom and his alienable right to practice his religious dictates as stipulated by the Quoran. This inevitable has often times pitched the two opposing forces on a religious collusion. To the Muslim the issue of the Sharia is one such polemic. These arguments have two major components that affect the corporeality of the country. First is erosion of trust and confidence. Trust and confidence among the individuals and among segments in a plural society like Nigeria is the major ingredient in national integration and development. Any society that lacks this ingredient in her nation building enterprise faces the risk integration for sustainable development. Second, is the security realm, the crises causes insecurity as well hinder a society from sustainable developments. Insecurity disarticulates socio-political and economic conditions necessary for advancement.

The Sharia issue has heightened social discrimination and the abuse of fundamental human rights in Nigeria. Social discrimination and other polarized matters which have been heightened in the country are, tailored along religious lines. In like manner, merit based on educational/expertise and qualification and other indices are hardly considered in the socio-economic life of Nigerians. Appointments into economic, political and social organizations in the country are so much considered on religious and ethnic affiliations. This phenomenon has great repercussion, with the emergence of nonentities in handling our political and social concerns in the country. The resulting consequences of all this mediocrity therefore has bred insensitive leadership and corruption resulting in unproductiveness in all the sectors of the Nigerian life along the issue of gross abuse of fundamental human rights. The Sharia forbids the intake of alcohol, the penalty for this is some strokes of the cane and fine. The Christians who reside in the Sharia

area, and who succumb willingly to the taking of alcohol and to the penal code on the other hand see it as a normal thing that should not cause concern. Subsequently, they consider this law as infringing on their rights – the right to food. In the Sharia operating areas, some Christians are forced to renounce their Christian religion as was the case in Kaduna where about 300 Christians were forced to renounce their religion¹⁹.

The Sharia issue also affects the operation of government. For example on February 22, 2008, the security situation in the country was so tense as a result of the crises which engulfed parts of Northern Nigeria over the introduction of Sharia against the penal code, that the Taraba State House of Assembly, for instance had to suspend sitting in which it was to consider the state's 2000 Appropriation Bill on which it was working on²⁰. In a similar direction, some Sharia states rejected Southern NYSC members posted to them. Some NYSC members were even killed in the Sharia states in the far North just as some students were killed²¹. All of these jeopardize the corporeality of the Nigerian State. This can be attested to even from the statements of eminent Nigerian, like Wole Soyinka who argued in the heat of the Sharia crises that the exclusive states that adopt Sharia are not part of Nigeria²². Col. Nyam (rtd) who was once involved in a coup to oust Ibrahim Babangida and who along with his co-coup plotters excised part of Northern Nigeria from the country also argued that "Sharia has vindicated the 1990 coup". The messages from these statements are clear - that Nigeria could disintegrate as a result of religious differences, between dominant Islamic North and dominant Christian South.

More so, the widespread violence and insecurity generally caused in the country as a result of the Sharia issue are no doubt capable of creating serious disillusionment in the mind of the people because of lack of law and order, most especially in a country that lay claim to democracy. The consequences of conflict on the society are capable of making the citizenry to see democracy as irrelevant²⁴ to them because of the system operators' inability to safeguard their lives and properties. Therefore the manipulation of primordial loyalties such as religion and ethnicity in order to keep the

opposition divided and divert attention from its own failing²⁵ by the elite will only subvert national integration in Nigeria.

The Sharia System: A Critique of the Modus Operandi

Sharia means different things to different people; Sharia that is generally known to be an Islamic legal system has opposing voice even among the Muslim adherents. For example El-Zak Zaky the Muslim cleric sees the Zamfara State practice as a "misapplication of what is known to be Sharia"²⁶ He calls it Zamfara Sharia and not Islamic Sharia. However for Yerima erstwhile Governor of Zamfara State it was an Islamic law that had come to cleanse an impure society by imposing punishment on offenders.

The understanding from the foregoing and the publicity given the cutting of Jangebi, the cow thief's hand, in March 2000 in Zamfara one would have expected a drastic reduction in crime particularly stealing in this Sharia operating states. As sensational as the sentencing of Safiyya, the alleged adulteress in Sokoto in October 2001 was the sentence could not hold as she was freed by the Appeal Court because of several contradictions on the prosecuting side's case. For the Sharia stipulates that for a case of sexual copulation to be proven there must be clear evidence from three witnesses testifying that they actually saw a couple copulating. This undeniably is a tall order in that human copulation unlike that of the dog is usually a private matter.

Another problem of Sharia is the centralized system of revenue collection and allocation in Nigeria, thus it becomes very difficult to understand the status of a Sharia operating state collecting revenue that states like Lagos and Rivers would have collected from VAT on the breweries in the state since this is 'Zina' or better still 'Haram'. From the aforementioned am totally in agreement with Zaky's opinion when he asserted that:

My understanding of sharia is that it encompasses all it governs the society. Even the governor, head of state has to be under sharia. Sharia is the law of God and it has to be above the law of man. The whole laws of the country including the constitution have to be under the sharia."

To Zaky's understanding therefore Sharia cannot be practiced, be fully implemented or enforced in a secular state like Nigeria, to him for Sharia to be effective it has to be operated in an Islamic state, after a pure and enabling environment may have been created

The Way Forward

It is one thing to heap blame on certain situations and another that when you want to kill a dog give it a bad name. This Sharia brouhaha did not just spring up. There are obvious indices that have fuelled and propelled it to the stage where it blows up. Firstly is the recognized fact that Nigerians have had and still living under a thorough corrupt, inept and inefficient government's mutilated by decay and propensity to plunder the states resources. The usual victims of the state plunders have been the poor, the downtrodden whose tomorrow has always appeared bleak.

Unfortunately the people often figured with victimization of the poor have often times been the northern minority class, whose handling of the nation's economy has left the ordinary poor Muslim in the front of the most impoverished person.

Understandably therefore to these classes of impoverished people, the possibility of Sharia gave them hope of something much better than the past. No other picture captures it better than these painted by Mathew Kukah thus:

Life under the Sharia offered the prospect of the enforcement of such important aspects of Islamic life as rapid access to inexpensive justice, a reduction of such of social excesses, a redressing of the moral meltdowns and the application of the principles of the Zaka (alms tax) to force the rich to consider the welfare of the poor²⁸.

Be that it may be the Sharia brouhaha has largely been as a result of the vacuum created by the inability of government to provide certain basic amenities to the citizenry. There is evidence of an impoverished state, the development of the state has gradually sunk to a halt, infrastructural development is nil and in total

decay, maintenance of enabling ones are zero, corruption and social neglect are very high, there is lack of moral authority and endless delay in the legal system.

There is an endless unemployment queues and poverty, life expectancy is very low. Even our much heralded democracy votes are to the highest bidder. In the north in particular with the Alamajiri syndrome, the issue is more pathetic as you can clearly see the impoverished children with malnutrition and poverty stricken checks roam the streets begging for alms. Thus to them the Sharia provided an escapist avenue. For after all in the famous dictum of Karl Marx he said "religion is the opinion of the masses".

In order for Nigeria to solve the issue of the Sharia as it affects the corporeality on Nigeria, Nigerians must first and foremost be tolerant of each other irrespective of their divides. The constitution should be strengthened and our elites should always allow for level playing field where individuals would have access to adequate opportunity for development. Nigerian rulers and the elite must imbibe the ethos of democracy. Purposeful leadership aimed at national development against primordial interest should be embraced by our leaders and the elites.

Ordinary Nigerians should imbibe the spirit of standing up against insensitive and unproductive leadership styles of Nigerian leaders. In this manner, they would not be used by the so called powerful in the society in satisfying their primordial interests. The people should be able to say no to politicians and the elites who would wish to use religion and ethnicity to foment trouble in the polity in order to achieve selfish aims.

Conclusion

The Sharia law has been a thing of contention in Nigeria from the pre-colonial era when the Usman Dan Fodio Jihad conquered and established Sharia in most of Northern Nigeria. Upon British colonialism in the region, Sharia suffered some set back as it went through several modifications to suit the British judicial system. The modification of Sharia continued even into the post colonial era. Its

resurgence since 1999 with the determined efforts of its advocates to revive it to a higher crescendo under the current democratic dispensation has caused a stir in the polity. The stir in turn jeopardizes the corporeality of the Nigerian nation state. Adequate measures should therefore be taken to resolve the Sharia issue in order that Nigeria would still forge ahead as a nation state in spite of its diversity.

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American Involvement in the Persian Gulf: A Historical Perspective

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Abstract

The United States of America became interested in the Gulf Region in the 1920s following the discovery of oil. Her effective and massive presence in the region emerged as a result of the great acceleration of oil exploitation in the 1930s. To ensure the constant flow of this economic source, the US companies entered into partnership with Arab companies which had secured exclusive rights to explore and produce oil. To consolidate America's interest in the region, security pacts were signed with the nations of the Gulf to confront any country or power that may attack or threaten the oil rich gulf zone. The US also probe up friendly regimes in the region to protect her interest. The use of as a political weapon against the West and the nationalization of western companies ruined the relation of the US and some of Gulf States. Because of the strategic importance of the gulf, it culminated two led US coalition wars of January-February 1991 and April 2003. Her massive involvement in the gulf has forced on her to assume total responsibility for the security of the region since 1990.

Resume

C'est a partir des années 1920 que les Etats-Unis d'Amérique commencerent a s'intéresser de la region du golfe Persique, à cause de la découverte du pétrole. L'exploitation du pétrole dans les années 1930 accentua leur presence massive et effective sur le terrain. Pour assurer le constant de leur économie, les compagnies pétrolières