

Exigency or Expediency? Contextualizing Islamic Theocracy in the Nigerian Political Landscape: A Historical Perspective

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Abstract

Islam has become a major force in Nigerian politics. However, scholarship on political Islam in Nigeria has mostly capitalized on the introduction of *Sharī'ah* in some northern states of the country as a tactical attempt to foisting Islamic theocracy on Nigerians. While it is important to understand the depths of Islamic proclivities in politics, it is equally vital that attempts be made to relate it to broader socio-political tectonics in the complex Nigerian landscape in order to better appreciate the nature and trajectory of the Islamic Theocracy in Nigeria. Focusing on the institutional re-introduction of *Sharī'ah* in some states in Nigeria and its attendant theocratic threats, this paper advances two arguments. First, the success of *Sharī'ah* re-enactment could not be sustained for long as it was vigorously applied within the first four years of its introduction and began to lose steam thenceforth. Second, the strategic political decision-making position occupied by various Muslim political actors in the government and civil society in Nigeria has not given the necessary impetus in response to internal and external systemic challenges of an Islamic theocratic government. Obviously, practicing Islamic theocracy, while pursuing social, economic, and political development, could be a suitable model especially for heterogeneous societies. However, it appears to be less vital to the politics of Nigeria than is plausibly perceived.

Keywords: *Sharī'ah*, Politics, Islamic Theocracy, Nigeria

Introduction

The question of Islam as a political force is a vital question of our times, and will be for several years to come. The precondition for its treatment with a minimum of intelligence is probably not to start from a platform of hatred.

-Michel Foucault

It is an incontrovertible fact that religion, and Islam in particular, is a major force in Nigerian politics today. Since 1960 when Nigeria got her independence, that Islam has been the primary determinant in shaping politics is still less arguable. Starting from the 1999 reintroduction of full-scale *Sharī'ah* in some Northern states of the federation; and with increasing fascination over the texture of the 'Muslim-Muslim presidential ticket' of the All Progressive Congress (APC) for 2023 election, Peoples Democratic Party's (PDP) Christian-Christian ticket for Osun State and APC's exclusion of southern Kaduna Christians from its Kaduna gubernatorial ticket among others, scholarship on political Islam in Nigeria has in fact narrowed considerably, focusing primarily on this Islamophobic rivalry (Falola, 2009). Thus it

seems, a perceived threat of theocracy has obviously touched the democratic nerves of the national polity. Similar instances of anxiety in well-established democracies have manifested themselves elsewhere. But, is there a real confrontation today between democracy and theocracy? This paper attempts to study whether there is an urgent need to locate our understanding of the Islamic theocracy in Nigeria in the wider context by relating it to the underlying socio-political tectonics that define the parameters of the socio-political environment in which this process takes place. After all, even though the Christendom is widely recognized as the key constituency in Nigerian politics, Muslims constitute more than half of the Nigerian population (CIA World Factbook, 2021).

As Foucault's opening quote unambiguously states, Islam has always been construed as a theocracy; a government led by the principles of *Sharī'ah*. Since, at the inception, Islam has claimed to be both a religion and government (*Dīn wa Dawlah*), the term 'Islamic theocracy' is usually understood to depict the system of government guided by the divine law of Allah,

while the political actors claim to speak and act in accordance with *Sharī'ah*. Muslims regard *Sharī'ah* as an integral part of their religion, which covers every aspect of their lives, including the civil and the criminal aspects. Our understanding of the term in this paper will employ political Islam, *Sharī'ah* and Islamic theocracy interchangeably. Yet, the caveat is that any discourse on political Islam means that “no one writing, thinking, or acting” on the subject can do so “without taking account of the limitations on thought and action imposed by” it (Said, 1978: 3).

Theocracy is thus the exercise of political power by the clergy, clerics or laity of a particular religion, usually but not necessarily, claiming to be acting on behalf of a divinity and governing according to its principles and requirements. The continued phobia of the Islamic theocracy whose manifestation is often perceived through the expansion of Islamic institutions and the preponderance of Muslims in the political landscape, has heightened the need for a careful analysis of the pattern and trajectory of Islamic theocracy in Nigeria. In specific terms, the paper is intended to achieve the following objectives: 1) examine the nature of Islamic theocracy; 2) evaluate the interface of Islam and politics in Nigeria; 3) appraise the practice of *Sharī'ah* regime in Nigeria; 4) identify issues and challenges of Muslim political actors in Nigerian polity; and 5) discuss Islamic theocracy as a suitable model for pursuing social, economic, and political development for heterogeneous Nigeria. The paper, which is chiefly of qualitative orientation, employs historical method. In specific terms, the historical method facilitates the investigation of the historical backgrounds, political, economic, and cultural underpinnings of Islamic theocracy as well as its contemporary institutional framework.

Theocracy: Its Concept and Practice

The term theocracy signifies governance by divine guidance, whose legal system is based on religious law or by officials considered to be divinely guided. It is presumed that the government serves its deity rather than the citizenry. As a result, theocracy often appears oppressive in function, with strict rules and harsh punishments for the breakers of the law.

The word 'theocracy' is derived from the Greek *theo-kratia*, the components of which are *theos* (god) and *kratein* (to rule); that is “rule by god” or “government by god.” Theocracy stands in contrast to other forms of government such as democracy, in which the power belongs to the people; as well as monarchy, in which a single human person rules; and oligarchy, which is ruled by a small group of people (typically wealthy elites) but which lacks a spiritual component.

According to Ferrero (2009), theocracy in historical parlance, is generally characterized by both rarity and permanence. Several other features have been identified which include: being warlike, aggressive, peaceful, benign, revolutionary, conservative, self-enclosed, defensive, expansionary and proselytizing; and being run by hierarchical clergy as well as the egalitarian community of 'saints' or a charismatic leader. These qualities find prominent instances in the Israelite theocracy after the return from the Babylonian exile, the crusaders' kingdoms in Palestine, the Papal state in Italy from the eighth century to 1870, the Jesuits' mission system in Paraguay, Savonarola's brief rule in Florence, Calvin's rule in Geneva, the Anabaptist kingdom of Muenster, the Mormon state of Utah, the Muslim caliphates, the contemporary ayatollahs' Iran, Afghanistan under the Taleban, the Mahdi state of Sudan in the 1880s, a wide range of Islamic regimes throughout history, the Buddhist regimes of traditional Tibet, Bhutan and Mongolia (Ferrero, 2009: 2).

The definition of theocracy as clerics ruling a state instead of, say, the general population via a professional class of politicians (democracy) or hereditary potentates advised by appointed specialists (monarchy), according to Megoran (2009: 223), is problematic. If this definition is anything to go by, hardly would there be any theocracies in the world today; as states that enshrine religious legitimization or codes in their legal existence or practice of statehood fall short of this standard. For example, the Archbishop of Canterbury crowns the monarch of the United Kingdom and some other clerics have seats in the British the House of Lords, yet the clergy's actual political power is negligible. Saudi Arabia also enforces strict adherence to a variant of Islamic law, yet is ruled by an

extended royal family, not a class of clerics.

Likewise, the religious attribute in the term “theocracy” sparks more complications regarding the meaning of the word religion. This is because the contemporary usage of the term religion is “heavily influenced by medieval Christian conceptions of separate spheres of power exercised by the church and the civil authorities, and enlightenment classifications of epistemic communities” (Megoran, 2009: 223). This connotation of religion is therefore an attempt to demarcate a specific sphere of belief, practice, symbols, and institutional organization, separate from the realm of law and government of a specific jurisdiction.

Moreover, if the traditional definition of religion is challenged, then religion (and the sacred) can be seen as a more diffuse set of practices, beliefs, symbols, and social formations that embrace a wider range of phenomena. It also permeates supposedly secular civil society in fluid ways, rather than being hermetically sealed from it. Megoran (2009: 224) calls for a reworking of the concept of theocracy. Rather than being simply formal clerical rule, it can be considered as the multiple patterns of the intertwining of religion in the language, practices, and substance of the politics of modern statehood. From the 1960s and 1970s, for a variety of complex reasons, the increasing importance of religion in national politics can be seen in politics as diverse as the USA, Israel, Lebanon, and the Palestinian territories.

The theocratic form of government existed among many ancient peoples. In Mesopotamia, Kingship was accepted as a divine institution that came down from heaven (Mackenzie, 1976: p. 475). Sumeria was regarded as a temple community, which was ruled by the god through his viceroy, the *ensi* (*Ibid*). Egyptian tradition affirmed the divinity of the king because he was the son of Re and Osiris. The king was physically begotten by the deity and was therefore the incarnation of the deity (Mackenzie, 1976: 475).

The influential church of the Middle Ages embodied theocratic theme conspicuously. The papal title of *Vacarius filii dei* or the papal right of *ex cathedra* pronouncements which were considered proper mediations of divine will is clear examples. The theocratic idea even gained

prominence when the Pope was granted also territorial sovereignty as was the case before the Italian unification in the 19th century. In British protestant traditions and also in American religious history, theocratic loyalties are known to have flourished (of Braner S. V. theocracy). In modern times and outside Christianity, theocratic ideas have been conspicuously exemplified in Tibetan Lamaism and in Islam. While some forms of theocracy have become extinct, others have survived to the present and even with reinforced intensity such that the subject dominates any discussion in modern political theology.

Israel's monarchical institution was truly theocratic despite opposing currents in favour or against its institution. As De Vaux (1961: 99) pointed out, “Israel is Yahweh's people and has no other master but him. That is why from the beginning to the end of its history Israel remained a religious community”. Digressions by individual kings notwithstanding, Israel's monarchy remained essentially theocratic. Kings were regarded as God's vicegerents. Israel's faith in Yahweh was that of a personal and transcendent God, making impossible the conception of the king as god. He owes his election to God's grace proclaimed through a prophetic oracle. The king just like the judges was a charismatic person, which means that he was endowed with the spirit of Yahweh. He fulfilled his mission through the impulses of Yahweh. Through anointing he was ritually conferred with the spirit and by this very rite the king was made a sacred person. Anointing conferred grace-the spirit of God took hold of Saul after he was anointed (1 Samuel 10: 10). The king a consecrated person, shares in the holiness of God, he is inviolable and this is why David refused to kill Saul because he is Yahweh's anointed (1 Samuel 26: 9). The election of the king was purely Yahweh's initiative.

Today, there are only a handful of theocracies in the world. The countries that are currently theocratic include Afghanistan, Iran, Mauritania, Saudi Arabia, Yemen and Vatican City. The most recent theocracy to adopt a different form of government is Sudan, whose Islamic theocracy was replaced in 2019 by a (struggling) democracy.

Country	2022 Population
Afghanistan	41,128,771
Iran	88,550,570
Mauritania	4,736,139
Saudi Arabia	36,408,820
Vatican City	510
Yemen	33,696,614

Source: 2022 World Population Review,
<https://worldpopulationreview.com/country-rankings/theocracy-countries>

Afghanistan fell back into a theocratic government with the resurgence of the Taliban, a conservative religious regime whose laws are heavily based upon Islamic law. Though Iran includes some democratic elements, its constitution declares that all of its laws and regulations must be based on the principles and guidelines of Islam. Moreover, clergy in Iran have tremendous power, with many religious rulers occupying the majority of the country's most powerful governmental positions, from the heads of the military to the court system-in fact, the religious Guardian Council even has the power to veto laws or ban political candidates.

Though a Muslim nation, Saudi Arabia's theocracy is reinforced by a 1992 royal decree stating that both king and country must comply with *Shari'ah* Law and that the Qur'an and Sunnah would be the country's constitution. While today Mauritania's government is slowly inching toward becoming a democracy, the country's laws are still deeply steeped in Muslim theology. Yemen is a dedicated theocracy whose constitution enshrines Islamic law as the foundation of all the country's laws and regulations. The country has seen significant political and social turmoil over the past two decades, but its theocracy has remained. Vatican City, the global headquarters of the Catholic church, is the world's sole remaining Christian theocracy. It is ruled by the pope. The laws of Vatican City address not only the affairs of the intertwined Vatican City/Holy See sovereign state, but also the canon law of the Catholic Church.

Islamic Theocratic Tradition

The fundamental political system of Islam continues to be a theocracy. It appears to be extremely natural as Islam's core teachings support and affirm it. As a result, theocracy has been given exceptional importance in Islam's

social and theological structures. The histories of theocratic loyalty throughout Islamic empires and countries are largely the same. The declaration that Allah is the creator and judge, is one of the revelations given to Muhammad. He created the cosmos and man from nothing, and He will call all people to appear before Him on the last day so that He may judge them justly. Nothing else or anyone else is to be revered in addition to Him because He is the sustainer of all creation.

Islamic theocratic tradition centralizes the Qur'an and the Prophet Muhammad and from the two are derived the legislations and all the necessary injunctions by which the divine purpose of rulership is realized. The Qur'an is much more than just the highest source of the Islamic corpus juris; it is a constant source of inspiration. It constitutes an eternal constitution, appropriate for any time and place, and, as such, it contains all the basic principles of Islamic law and provides the platform for developing political, legal and moral norms (Baz, 1997: 415). When a solution to a problem is not found in the Qur'an, the prophet's example becomes normative and there have arisen several traditions (*Ahadith*) of his customary behaviour.

Both traditional and modern Muslim scholars believe in the inseparability of religion and state. This is borne out of the conviction that Islam is not only a religion, but is also a comprehensive system for governing everything public, social and political, and Islamic law is a complete moral code that prescribes for every eventuality, including governance (Jan, 2003: 148). More so, the government is considered to be vital, due to its lofty duty to protect the religion and Islamic values.

It is remarkable to note that the Islamic theocracy was first promulgated in abysmally tribal Arabia in a short time period during

Prophet Muhammad's prophethood (610-632 CE). Though drawing inferences from the religious kernel, the Prophet never imposed religious orthodoxy; his mission was to change people's hearts and minds by treating them kindly and with absolute justice. His message was progressive and aggressive against the prevailing spirit of his time, Jahiliyyah (Time of Ignorance). The term Jahiliyyah refers not only to a historical era but also to a state of mind that caused violence and terror in seventh-century Arabia.

Islamic theocracy thus established by Prophet Muhammad and sincerely adopted by his followers, surpassed all contemporary systems of governance in robustness, fairness, social justice, and freedom of choice and practice in matters of religion. Till the sixteenth century at a time Europe was going through a period of social, moral, spiritual and economic decline, Muslims were regarded as the greatest global power.

Three great Islamic empires existed during the early sixteenth century and each reflected a different aspect of Islamic spirituality, demonstrating the diversity and adaptability of Islamic teachings. They are the Ottoman Empire in Asia Minor, Anatolia, Iraq, Syria, and North Africa; the Safavid Empire in Iran; and the Mughal Empire in the Indian subcontinent. The Mughal Empire represented tolerant, universal philosophical rationalism; the Safavid shahs represented Shia Islam, while the Ottoman Turks represented Sunni Islam. Each empire created a system based on *Shari'ah* and each one of them was an early modern institution, governed systematically and with bureaucratic and rational precision. The Ottoman state was arguably the most up-to-date: with superb efficiency, new-style bureaucracy and vibrant intellectual life in the world during the early sixteenth century. It can thus be concluded that the developments and refinements of the very successful Muslim systems of governance were diverse and allowed variations as long as the fundamental principles were incorporated. The formation of these successful empires demonstrated the strength of the Islamic theocracy that unfolded in the seventh century and its principles were successfully adapted to the changing landscapes of the expanding empires.

Islam and Nigerian politics

Nigeria has the largest Muslim population in West Africa, which is concentrated mostly in the northern half of the country. In 2021, the CIA World Factbook estimated that 53.5% of Nigeria's population is Muslim. Omoregbe (2003) identifies three ways in which religion can influence politics: direct involvement of religious men in politics, fusing the two (religion and politics) as one and subjecting politics or government to the doctrine or laws of religion, thereby carrying out politics or governance along the line of religious doctrine, ideals or laws. All these ways have characterized the interface between Islam and Nigerian politics at one time or the other.

Islam has long been factored into Nigerian politics and public life since when Nigeria was still under British rule. In the politics of pre-independence Nigeria, Islam was a force to reckon with. The political participation of Muslims in the North during this period was characterized by compromise and negotiation of Islamic principles in the face of political power. After the declaration of the Northern Protectorate in 1903, the British realized that they lacked personnel and might therefore not be able to colonize the area effectively. Using an indirect rule system, they empowered the Sokoto Caliphate to cover and control various emirates and other areas of the Northern Protectorate that were hitherto independent thereof and operated an entirely different political structure (Falola, 2009: 22). Sani Umar reports this development thus:

The political head of the Sokoto Caliphate was stripped of his Islamic credentials: he was no longer the Caliph but a Sultan. And for the Sultan as well as the emirs to occupy office they had to swear by the Almighty Allah to loyally serve the Christian Monarch of Britain... Thus what was supposed to be Islamic political institutions had been virtually transformed into agencies through which colonial violence was remorselessly visited by Muslim masses (Umar, 1989).

Consequently, the Sokoto Caliphate and the various emirates under it, including Borno, lost their potency to fulfill their traditional role of promoting Islam and enforcing the *Shari'ah* and therefore became "transformed into mere but effective agents of the British" (Falola, *ibid.*).

Also, there was the direct involvement of religious men such as the Sultan, emirs etc. in conversational politics where their religious system was made subservient to the colonial laws.

The Sultan's relationship with the ruling family in Saudi Arabia was strengthened after the independence and culminated in the pragmatic involvement of the Federal Government of Nigeria in Hajj operations. The Premier of the North also became more acquainted with the rest of the Muslim world and "more involved in the politics of international Muslims Organization which plausibly accounted for his being suspected of planning to "set an Islamic theocracy in Northern Nigeria (Balogun, 1989). As a result of his active involvement in the Islamic activities at the international level, the Premier was, in 1964, elected as the Vice President of the World Muslim League, a congress, based in Saudi Arabia.

The scenario with their Southern counterparts about the interaction of Islam with politics before independence was characterized by agitation for active involvement in governance. Rufai chronicles the essence of the politico-religious climate of this part of the country thus:

...During the independence struggle of the late 1940s, the Western Nigerian Muslims seriously felt the need for a united front or better still, a common forum for interaction. The vigorous pursuit of the fulfillment of this great need culminated in an all-Yoruba Muslim conference called in 1948 by the late Alhaji Muhammad Ameen Ikudaisi of Ijebu-Ode under the chairmanship of the Late Alaafin of Oyo, Oba Lawal Adeyemi II. The conference led to the formation of the Muslim Congress of Nigeria of which the Late Alaafin of Oyo was made patron and Alhaji Muhammad Lawal of Lagos, the president. After the formation of the Congress, Muslims in that part of the country were surprised to note that no Muslim won a public office although most of the electorates (in the early 1950s elections) were Muslims. Aggrieved by this unbearable experience, the Muslims resolved to transform the Muslim Congress of Nigeria and some other Muslim organizations into a Muslim party named National Muslim League (NML.). Quite

conscious of the possible injurious effect of this development on his political life, the then Premier of the Western Region, Chief Obafemi Awolowo, expressed his displeasure with the idea of forming a political party based on religion. This however prompted the Muslim Party which had already won several seats in the local government elections to change its name to National Emancipation Party (NEP) almost immediately (Rufai, 2011).

Here, the Muslim populace was being manipulated to achieve political victory. Thus, the second instance of the fusion of politics and religion as pontificated by Omoroge was illustrated. The above incident exemplifies the politicization of religion as Islam was at the receiving end of the game playing.

After independence, disunity among the Muslims worsened as a result of the internal crisis that greeted the operations of the political party, Action Group. The crisis had divided the party into two opposing groups under its two rival leaders, Chief Obafemi Awolowo and Chief Samuel Ladoke Akintola. The party's instrument for securing votes from the Muslim electorate, the United Muslim Council (UMC) decided to pitch a tent with Chief Obafemi Awolowo. Threatened by the reality of losing Muslim support to his rival through the UMC, Akintola quickly formed the Muslim Progressive Council (MPC) under the chairmanship of Chief Adedeji Iba, the then Mogaji Basorun of Ibadan, to share the political support of the Muslims between himself and Awolowo.

These two politically motivated Muslim organizations created a tense political atmosphere among Southern Muslims during the volatile Nigerian political experience of the 1960s. However, their activity was superseded by the emergence of the Western State Joint Muslim Organization (WESJOMO). WESJOMO was brought about through the efforts of a Commissioner for Local Government and Chieftaincy Affairs and later Attorney General and Commissioner of Justice, Dr. Lateef Adegbile, "who comfortably combined public office with da'wah work during his days in government (1971-1975)" (Rufai, *ibid.*). He had mooted the idea of an umbrella body for Nigerian Muslims during his meeting with the Sultan of Sokoto when he went

up North in 1971 to attend a conference of the Commissioners of Local Government and Chieftaincy Affairs. The Sultan told him about the existence of an umbrella body exclusive to Northern Muslims, known as *Jamat Nasril-Islam* (JNI) and his readiness to cooperate with an umbrella body of Southern Muslims. On his return to the South, the Commissioner founded WESJOMO which later cooperated with the JNI and the Lagos-based Muslim Council in forming the Nigerian Supreme Council for Islamic Affairs (NSCIA). This is another example of a fusion of religion and politics, that is religionization of politics. Here the two politicians, the Sultan and Dr. Adegbite were instrumental in the formation of NSCIA to advance the frontiers of their political interests.

The third kind, subjecting politics or government to the doctrine or laws of religion, was experimented with the re-introduction of *Sharī'ah* in twelve states in the northern part of the country which has been capitalised upon as a tactical attempt of foisting Islamic theocracy on Nigerians. The next section shall dwell on the trajectory of full-scale *Sharī'ah* regime in the twelve states.

Judicial Practice of Islamic Law in *Sharī'ah* States

Anchoring on a number of the 1999 constitutional provisions, the Zamfara state Governor assented to the bill of establishing the *Sharī'ah* penal system which was passed by the Zamfara House of Assembly on the 27th day of January 2000. This had occasioned several other *Sharī'ah* law legislations earlier and after the Governor's assent to the bill. Babaji and Dankofa (2003:105-108) enumerate these *Sharī'ah* legislations:

- 1) *Sharī'ah* Courts (Administration of justice and certain consequential changes) law No.5 1999 makes general provision not only for the administration and implementation of Islamic law in the state but also for the practice and procedure including rights of legal representation by lawyers.
- 2) *Sharī'ah* Court of Appeal Amendment Law

No.6. 2000 provides for the jurisdiction of the SCA to hear and entertain appeals from the decisions of the *Sharī'ah* Courts in both civil and criminal matters decided on Islamic law.

- 3) Area Courts (Repeal) Law No.13 2000 repeals the Area Courts law in the state and makes transitional provisions to the take-off of *Sharī'ah* Courts.
- 4) *Sharī'ah* Penal Code Law 1999 makes provision for the substantive *Sharī'ah* penal law and for criminal law to be applied in the State in cases involving Muslims only.
- 5) *Sharī'ah* Criminal Procedure Code Law No.18, 2000 provides for the rule of procedure to be followed and applied by the *Sharī'ah* courts established in the State and vested with powers and jurisdiction among others in criminal cases involving Muslims as provided under the *Sharī'ah* penal code law.

Sequel to the Zamfara State's restoration of the Islamic penal law system, the Niger state government followed suit and like the former, the government took the initiative. Other Northern States that adopted the *Sharī'ah* penal law were prompted by popular pressure. So far twelve northern states of Nigeria have introduced the *Sharī'ah* criminal law by setting up *Sharī'ah* courts which have jurisdiction in criminal matters and, by preparing *Sharī'ah* penal and procedure codes. These states are Bauchi, Borno, Gombe, Jigawa, Kaduna, Kano, Katsina, Kebbi, Niger, Sokoto, Yobe and Zamfara. These Penal Codes are almost facsimiles of the Zamfara *Sharī'ah* Penal Code. The only exception is the Kano *Sharī'ah* Penal Code which differs from others mainly in the arrangement of the sections. But, Niger State did not enact a new penal code; it amended the 1960 Penal Code to bring it into an agreement with *Sharī'ah*, specifically, by adding section 68A to summarize the law of *Qur'ānic* offences (*Hudūd*), homicide and hurt (Peters, 2001: 14-15).



Source: Vaughan, Olufemi, (2016) Religion and the making of Nigeria. Durham & London: Duke University Press. xx

The following passages provide an overview of the application of Islamic penal law in Nigeria since its re-introduction in 2000, which according to Tabiu, has encompassed the issues of nomenclature, legality, motive and strategy of its implementation (Tabiu, 2003: 5). Arguments have raged over the motive for re-introduction of the Islamic penal law in Nigeria as most governors of the states in Northern Nigeria appear to have adopted the *Sharī'ah* with intention of being re-elected to the office while its adoption in Zamfara state and Niger state to some extent, appeared religiously motivated.

As earlier noted, twelve of the nineteen states in the Northern part of Nigeria have adopted Islamic penal law. However in practice, three states Borno, Gombe and Yobe did not entertain any court cases under Islamic criminal law up to the year 2006 (Weimann, 2010:25). Again, in Bauchi, Kaduna and Jigawa, reported cases of Islamic penal law were minimal; thus, leaving an estimate of about 90% of the application of Islamic penal law to six of the twelve states of the Northern states of Nigeria that is Kano, Kebbi, Niger, Katsina, Sokoto and Zamfara. Yet, these last three represent 60% of all cases tried under Islamic penal law.

Though the typology of judicial practices of Islamic penal law is shaped by the prevailing circumstances in the individual state, one general feature for almost all *Sharī'ah* states is that the *Sharī'ah* Penal Code Law (SPCL) was vigorously applied within the first four years of

its introduction and began to lose steam thenceforth. Welmann captures the wherefore of the scenario thus; One explanation for this trend is that the attention paid to Islamic criminal law by the media has decreased over time. However, developments in the application of Islamic criminal law seem to be subject to dynamics on the state level (Weimann, 2010:26).

However, some factors are identified as impeding the effective application of the Zamfara state *Sharī'ah* penal system. These, according to Haruna, include non-compliance with the *Qur'ānic* golden instruction of calling people to righteousness as a precondition for the prohibition of evils (principle of *Amr bil-ma'ruf wa nahy 'anil-Munkar*), an establishment of a comprehensive justice system, a social and economic institution that will cater for the destitute, the poor and the needy, education of judicial personnel and the masses people (Haruna, 2003: 146-147). Nonetheless, the motive for introducing *Sharī'ah* penal system appears to have stemmed from a long-chequered history. 'The issue of the *Sharī'ah* Criminal Code as it exists today', Ibrahim argues, 'should be understood as representing the yearnings and aspirations of the Muslims in Northern Nigeria, dating back to the invasion and conquest of the region by the British colonial imperialists, as opposed to perhaps the wishes of some overzealous politicians' (Ibrahim, 2003: 130).

Moreover, going by Section 38 of the 1999 Constitution, each Nigerian citizen is

guaranteed the freedom of religion, which means that everybody is allowed to practice the religion of his choice and also to change his religion. But the classical Islamic criminal law states that once a person has accepted Islam, he cannot denounce the faith; otherwise, he commits apostasy (*Riddah*) which is punishable with death. However, much as SPCL in Nigeria applies largely to Muslims, it does not incorporate *Riddah* punishment lest it contravenes this constitutional provision. It will be correct to say that the rights of non-Muslims, though arguably protected and not denied, are affected under Islamic penal law. The contextual milieu created by *Sharī'ah* penal law may expose them to, or be liable to Islamic punishment or affecting their rights to eat pork, drink alcohol, dress nakedly and manifest their religious practices generally.

While commenting on this Section, Agbede (1989: 193) declares:

In a country that is professed to be secular, Islamic law as a distinct third system is hardly compatible with the express provisions of the Constitution which prohibits any law that discriminates on grounds *inter alia* of religion.

The fact of the matter is that the application of the *Sharī'ah* legal system is restricted to the Muslims in the northern part of Nigeria and, is not applicable to the non-Muslims living in those states. Only non-Muslims who willingly submit to Islamic *Sharī'ah* jurisdiction will be heard in *Sharī'ah* Courts.¹ Drawing on Fadel's observation, non-Muslims are exempted from *Hudūd* lest they derive spiritual benefits accruable from having such penalties applied to them (Fadel, 2007: 16). After all, while Muslims adjudicate with SPCL, the non-Muslims have their litigations decided and settled in the Magistrate and High Courts which run concurrently in the states (Ibrahim, 2003).

In addition, Section 34 of the 1999 Constitution prohibits torture, beating and other cruel or inhumane treatment.² Though the Islamic penal law of amputation may not find

favour with this provision, any penal system that continues to view penalties as torture, inhumane or degrading treatment is likely to render its objectives counter-productive. In the words of Altman, "the harsh Shari'a penalties are a blessing as they would wipe out crimes altogether, and in any case, would very seldom be implemented" (Altman, 1978: 199, 204). Again, "those who are apprehensive about rising crime rates and corruption," observes Ruud Peters, "will welcome Islamic criminal law as a panacea for the cure of social evils and the restoration of a virtuous society" (Peter, 2005: 11).

In conclusion, the Islamic penal law operating in the *Sharī'ah* states of Nigeria is not a pristine, full *Sharī'ah*, which strives only where the latter is the supreme law of the land. Rather, it is a compromised, Constitution-compliant system that is developed out of the previous Penal Code Law of 1960. Ruud Peters (2005: 11) aptly captures this:

The result of the reintroduction of Islamic criminal law, in most countries, is that something new is created, a hybrid form of criminal law consisting of Islamic substantive rules in Western garb and embedded in a Western type adjective law, with Western type courts and Western institutions like the state prosecutor.

If the *Sharī'ah* so introduced in 2000 upward was to be regarded as theocratical threat, what followed shortly afterward was the gradual, peaceful and voluntary demise of such theocracy. We therefore, admit the depths of Islamic proclivities in politics in the exposition above, there is need to relate it to broader socio-political tectonics in the complex Nigerian landscape in order to better appreciate the nature and trajectory of the Islamic Theocracy in Nigeria.

Challenges of Muslim Political Actors in Nigeria

The practice of democracy in Nigeria in the last

¹ See paragraph C, Introduction, Zamfara State Shari'a Penal Code Law No.10 of 2000. Also see paragraph 3 of the Introduction to the Harmonised Shari'ah Penal Code

² Section 34(1)(a) states that 'Every individual is entitled to respect for the dignity of his person, and accordingly (a) no person shall be subjected to torture or to inhuman or degrading treatment; (b) no person shall be held in slavery or servitude; and (c) no person shall be required to perform forced or compulsory labour.'

several years has been devoid of freedom of choice, accountability and people centeredness –supposed core attributes in any form of democracy. The western styled democracy, as currently practiced in the country, corrupts the youth, repels women and even men of good morals, as it is morally bankrupt, anti-family, highly monetized, lethally violent and unprincipled. There is therefore the need to restore consultation, accountability and justice to their rightful place in our democracy.

Muslims in government and in other leadership positions are always very unforthcoming in advocating equal space for the Muslims, even though our inherited system is skewed against Muslims already, by design. They are too skeptical to speak for Islam and Muslims. At any rate, the leadership of the Ummah in Nigeria has always maintained a moral high ground in dealing with other groups, by advocating for equity and fairness for all-Muslims and non-Muslims. An example of this is the probity and administrative acumen displayed by the current JAMB registrar, Professor Is-haq O. Oloyede; which has won him accolades, honour and even National Awards from Nigerians – Muslims and non-Muslims alike.

Some people have seen it fit to describe Nigeria under the presidency of successive Muslim political actors as a theocracy. In the longer term, this reflects the adaptation of governmental policies to appeal to an increasingly important conservative Muslim support base. Despite numerous Muslims holding sway in many strategic political positions in the country, there have been arguably no deeply religious people for many decades. Rather, the influence of Christianity in the Aso Rock grows markedly, from prayer meetings to formal and informal links with notable Christian leaders. Thus, there is no compelling argument to see it fit to label these political escapades as instances of Islamic theocracy.

Moreover, identifying the current political system in Nigeria as being theocratic, in terms of divine power that governs an earthly human state, is however misleading. Nigerian politics is not theocratic, because of the, inter alia, residual role (if any) that Islam plays in politics and governance. This is indicated in both the

theoretical and the practical authority in modern Nigeria. Moreover, it is insufficient to assume that the Nigerian government relies, even partly, on Islamic precepts regarding governance.

Thus, the strategic political decision-making position occupied by various Muslim political actors in the government and civil society in Nigeria has not given the necessary impetus in response to internal and external systemic challenges of an Islamic theocratic government.

Islamic Theocracy as a Sustainable Tool for Political Development

The Covenant of Madinah has been rightly described as the first written constitution in world history. Never before had humankind been given such rights enshrined in written form. When he migrated from Makkah to Madinah, the Prophet (SAW) established a society based on the rule of law in which the rights and obligations of all its inhabitants were fully recognized and respected. The Prophet (SAW) not only addressed the needs and concerns of his followers — the Muslims from Makkah and Madinah — but also those of the non-Muslims that included both the Christians and Jews residing in Madinah. The Covenant thus established a framework in which the socioeconomic and political rights of all the people were guaranteed. Under the Covenant, every citizen, regardless of his or her faith or non-faith, was considered a “Muslim” in the civic sense. The rights of different faith communities were also recognized but the greater burden of responsibility lay on the shoulders of Muslims. For instance, Muslims were required to join military campaigns outside Madinah; the Jews and other ordinary residents of Madinah, on the other hand, despite being citizens of the state, were not required to do so, and they never did. They were only required to defend the state if Madinah was subjected to external aggression (Jeong and Nor, 2007).

In Medina, Muslims coexisted with the non-Muslim community under a preeminent moral authority demonstrated by the role played by the Holy Prophet (SAW). Remarkably, that Muslims coexisted peacefully with people of diverse religious orientation. Akinade (2015) maintains that a good way of making non-Muslims comfortable in an Islamic setting is to

develop the capacity for dialogue. In specific terms, he enjoins Muslims and Christians to see beyond the manipulations of the nation-state and the vicious agenda of some self-proclaimed religious demagogues. He argues that dialogue is not the elimination of religious particularities; rather, it is living together with the full recognition of the best in the other's religious traditions. Akinade seems to have captured it well when he states that 'this form of dialogue is not an abstract construct. It must be deeply rooted in the social, political, economic, and cultural realities of specific societies' (Akinade 2015, 137).

The Madinah theocratical system of government adopted by the Prophet (S.A.W) constitute a model for the Islamic political system whose principles serve as the authoritative model of Islamic precepts of governance where Muslims coexisted with non-Muslim communities. With this civic model, Islam did not enjoy undisputed political authority and yet had preeminent moral authority through the role played by the Prophet.

Notwithstanding that Muslims in the country suffer many discriminatory afflictions across various sectors, it has been established that Islamic values are still the best option for the nation to achieve its socio-economic development aspirations. Falola (2009: 1) captures this thus:

Nigeria has one of the largest concentrations of Muslims in the world, and Islam has played a leading role in its politics. Nigeria is not an Islamic state, as it is under a democratic government with a secular constitution and the rule of law. Nevertheless, Islam is important in Nigeria, with impacts on politics and social life..., Islam has also contributed in many ways to Nigeria's development, notably in providing the sources to organize politics and society, fostering community cohesion, and creating an ideology of change.

Islamic theocracy can bring about sustainable political development through the inculcation of a high sense of morality, sense of duty, selfless service, public accountability, respect for human lives, love of one's neighbour, sense of humanity, abhorrence of violence, love for peace, contentment with what one can legitimately have, corruption, justice etc. in the

citizens as well as the leaders. Adherence to Islamic tenets advocated in the *Sharī'ah* by Muslim political actors and participants will greatly enrich political activity. Embedded in Islam are the beliefs, practices and ethics that serve as checks for excesses in human behaviour. Thus, Islamic values are viable mechanisms for political stability and development.

In addition, Islamic theocracy can function as a unifying factor for political development, since Islam influences every aspect of human lives and provides bases and impetus for inter-religious dialogue which can ultimately bring about religious tolerance in society. Inter-religious dialogue is a platform where religious leaders discuss and orientate people about the essence of religion and its efficacy in the society. Hence, exchange of ideas removes ignorance and eliminates religious conflicts.

Islam means peace and urges peaceful coexistence and Muslim society is known in history to have been pluralistic, multicultural and tolerant. Given the challenge of youth life, inter-faith dialogue, and the need for Islamic values in leadership and governance, Muslim political actors should be guided by the Madina Model State which was religiously pluralistic and multi-ethnic. Hence, there is a need to put in place machinery for meaningful dialogue with other faith communities to foster harmonious and peaceful coexistence.

Therefore, in achieving good governance and political stability, Islamic theocracy should serve as a guiding factor in all political activities that the country engages in. The impact of Islam on politics can enhance sustainable development if the impact is positive. Likewise, practicing Islamic theocracy, while pursuing social, economic, and political development, could be a suitable model especially for heterogeneous societies.

Conclusion

The main argument in the foregoing was that: for Islamic theocracy to thrive in Nigerian politics, it has to be related to the changing socio-political ideas and boundaries that define the political process in Nigeria. Consequently, the paper examined the connection between Islamic theocracy and the contexts and perspectives that necessarily define its

parameters and role in the popular politics of Nigeria. Taking a historical excursion into the institutional re-introduction of *Shari'ah* in some states in Nigeria and its attendant theocratic threats at the beginning of the Millennium, the paper identified some major conditions that have accounted for its popularity among the Muslim-majority community. The re-introduction of *Shari'ah* was successful insofar as it managed to relate Islam to the pressing issues of the day. The record of the political fortunes that ensued indicates that the *Shari'ah* actors had never been able to engage successfully in mainstream Nigerian politics on purely doctrinaire and ideological terms.

In essence, Muslim political actors should consider means of helping to produce greater religious and communal stability in Nigeria. One way of achieving this would be through public diplomacy programs that reach out to both Islamic and Christian populations and that are framed in such a way as to mitigate the propagation and support of dangerous proselytizing messages and influences. This could help consolidate mutually beneficial ties that would bolster national and regional governance, encourage democratic mechanisms of ethno-religious accommodation, and foster alternatives to fundamentalism and sectarian antagonisms.

Similarly, Muslim political office holders should be morally responsible, exhibit Islamic leadership qualities, and put in place policies and programs that will truly transform the living conditions of all citizens. They should be involved in scientific engagement with the Nigerian system to generate acknowledgement and acceptance of Islamic values into the national pool. There is also the need for Muslims to address other issues such as poverty and social exclusion of Muslims; visibility in Islamic circles and serving as confident communicators and advocates of Islam.

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