

POLITICS OF SHARIA IN NIGERIA'S "FAR NORTH" AND THE FALLACY OF "SECULARITY PRINCIPLE OF STATE"

La política de la sharia en el Extremo Norte de Nigeria y la falacia del principio de la "secularidad del Estado"

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Abstract

Sharia had been an age-long practice in Nigeria's twelve states of the "Far North". But since the country's return to democratic rule in 1999, the controversy surrounding sharia practice became violent because of the introduction of Sharia law by the twelve state governments. What became "the politics of Sharia" was considered as a breach of the secularity principle of the 1999 Nigerian Constitution (as amended). The non-Muslims' opposition against the introduction of sharia law was premised on Section 10 of the constitution. However, the pro-sharia Muslims considered Sharia as the ideal of political governance pointing to Section 38, sub-sections 1, 2 and 3. The use of sharia practice to ventilate political interests could best be explained by religious mobilization theory, using historical and descriptive method. Despite the aversion for "secularity principle of state" by the Nigeria's Far Northern political elite, the study recommends this principle as ideal formula for conflict regulation in deeply divided societies like Nigeria.

Key Words: *Africa; Africans; multi-religiously and multi-ethnic segmented society; Nigeria's Far North; principle of secularity of state; Sharia law.*

Resumen

La sharia ha sido una práctica multisecular en los doce estados del "Extremo Norte" de Nigeria. Sin embargo, desde que en 1999 el régimen democrático ha vuelto a tener vigencia en el país, la controversia en torno a la práctica de la sharia entraña mayor violencia debido a la adopción de la ley de la sharia por parte de los doce gobiernos estatales mencionados antes. Lo que se convirtió en "la política de la sharia" llegó a ser considerado como una violación del principio de laicidad de la Constitución nigeriana de 1999 (según enmiendas). La oposición de los no musulmanes a la introducción de la ley de la sharia se basó en la Sección 10 de la Constitución. Sin embargo, los musulmanes a favor de la sharia la consideraban como el ideal de la gobernanza política sobre la base de la sección 38, subsecciones 1, 2 y 3. El hecho de recurrir a la práctica de la sharia para ventilar intereses políticos podría explicarse mejor mediante la teoría de la movilización religiosa, recurriendo a una metodología histórica y descriptiva. En contraposición a la aversión al "principio de laicidad del estado" de la que da muestra la elite política del extremo norte de Nigeria, el estudio recomienda este principio como una fórmula ideal para la regulación de conflictos en sociedades profundamente divididas como Nigeria.

Palabras clave: *Africa; africanos; sociedad multirreligiosa y multiétnicamente segmentada; extremo norte de Nigeria; principio de laicidad del estado; ley de la sharia.*

INTRODUCTION

Religion and politics are seemingly two inseparable elements in the administration of the states of “Far North”. This age-long phenomenon is couched on Sharia practice. *Sharia*, or *Al-Sharia* (otherwise translated as Islamic law), according to Abikan,¹ literally means the way to a watering place or path to be followed. In other words, it connotes a path or way that leads to the water of life. In practical terms, *Sharia* is the totality of Allah’s Commandment stretching over the length and breadth of man’s life, regulating his action in total obedience to and observance of the law as an integral part of a Muslim’s belief. *Sharia* can also be described as a religious code for maintaining moral standards. In other words, it refers to both the Islamic system of law and the totality of the Islamic way of life.² *Sharia* deals with many topics addressed by secular law, including crime, politics and economics as well as all aspects of Muslim life, including daily routines, familiar and religious obligations, and financial dealings. It is derived primarily from the Quran and the Sunna – the sayings, practices, and teachings of the Prophet Mohammed.³

The *Sharia* as a codified system of law for guiding the moral uprightness of Muslim faithful does not of itself precipitate conflict, but it is its practice or application that is the basis of conflicts between Muslims and non-Muslims. This is because the *Sharia* law is intended to be applicable to only Muslims. On paper, Christians and other non-Muslims are supposed to be exempted from the provisions of the law. In practice, however, this provision is not usually followed.⁴ Hence, *Sharia* becomes controversial under two broad perspectives. First, when it is practiced within the context of a multi-religious setting, in which the Muslim faith is recognized as the most just among the many existing religions. Second, when practiced against the background of constitutional stipulations regarding the principles of secular state subscribed to by members of other faiths (or rather by their elites). Those two considerations explain why and how any matter about introduction of the *Sharia* law within an otherwise multi-religiously segmented setting (be it at the national, regional, state or local government level will have considerable destabilizing consequences.⁵

According to Laitin⁶ the first controversy sparked by the *Sharia* question at the national level was during Nigeria’s first post-military constitution making process between 1978 and 1979 (preparatory to the return of Nigeria to democratic rule in 1979). The debate was on whether the new constitution should recognize Islamic law at the federal or state level through the creation of the federal *Sharia* courts. The *Sharia* question again moved to the centre of the national debate in October 1999 when the Zamfara State governor, Ahmed Sani Yerima, announced (Gusau Declaration) the extension of *Sharia* laws from civil to criminal matters for all Muslims in the state. The *Sharia* implementation was assumed to have strong support among the Muslim population. This was why the

¹Abikan, Abdulqadir, Ibrahim (2002) “The Application of Islamic Law in Civil Causes in Nigerian Courts”, *Journal of International and Comparative Law*, 6 (June), pp. 88-115.

²Yelwa, Mansur Isa & Adams, Idris (2014) “Chronicles of *Sharia* Implementation in Northern Nigeria: A Critical Appraisal”, *International Journal of Innovation Social Science & Humanities Research* 2, 4 (October-December), pp. 75-86.

³Maupin, L. & Jefferson, T. “*Sharia* Law”, in PBS NewsHour Extra, 2011 on web <http://www.pbs.org/newshourextra/teachers/lessonplans/worldsharia-9-29.html> (accessed on October 16, 2015).

⁴Human Rights Watch Report (2003) “The Miss World Riots: Continued Impunity for Killings in Kaduna”, 15, 13 (A).

⁵Alao, E. O. (2016) *Sharia Law, Sectarian Conflicts, National Security: Case Study of Kaduna State, Nigeria, 1999-2010*, unpublished Doctoral Thesis of the Department of Political Science and Public Administration, Babcock University, Ilishan-Remo, Ogun State, Nigeria.

⁶Laitin, D. D. (1982) “The *Sharia* Debate and the Origins of Nigeria's Second Republic”, *Journal of Modern African Studies*, 20, 3, p. 411.

other "Far" Northern states of the federation, namely, Sokoto, Kano, Katsina, Kebbi, Bauchi, Jigawa, Yobe, Bornu, Niger and Adamawa followed suit from January 2000.⁷ However, Boer⁸ is quick to point out that, "Alhaji Sani Yerima did not introduce anything really new", because according to him, Sharia law had been practiced before 1999. According to Boer, the 'Gusau Declaration' was significant in the sense that, "it speeded up development and cranked the debates and activities up to a new level".⁹ One of the arguments in favor of Sharia was that its religious imperatives would diminish corruption and help create a more secure society. The popularity of Governor Sani Yerima and the attention the Sharia created in national politics, put pressure on other governors in the northern part of the country to implement Sharia laws in order to boost their legitimacy and maintain their positions within the power elite.¹⁰

The aspect of mobilization/manipulation of religion in politics is an important consideration here. It must be understood that the introduction of the Sharia law came against the backdrop of the country's second return to democratic rule in 1999 after about twenty-nine years of authoritarian military rule. As was to be expected, the introduction of Sharia law met extensive resistance from the Christian segments of the population in the northern states as well as from the predominantly Christian southern parts of the country whose representatives saw the move as a breach of the stipulations prohibiting the Government of the Federation or a State from the adoption of "any religion as State Religion". To the Christians, the introduction of Sharia was a move towards making Nigeria an Islamic nation. Christians in the northern states claimed it would infringe on their rights as citizens including the rights to personal liberty, private and family life, freedom of service and religion, freedom of assembly and association including practicing one's faith through such means as praise singing and drumming. Angerbrandt¹¹ asserts that aspects of these practices including drinking of alcohol are offences under Sharia. Other offences included blasphemy of the Holy Prophet and proven cases of adultery, which all carry a range of stern punishment, including corporal caning, amputation, and even death by stoning.

1. OPERATIONAL DEFINITION OF KEY TERMS

1. 1. Multi-religious and multi-ethnic segmented society

'Multi-religious' and 'multi-ethnic composed' society as used in this study refers to the convergence of the adherents of different religious leanings within the diverse ethnic groups in a particular geo-political setting. Multi-ethnically segmented society is defined "as a society whose peoples are divided on the one hand, internally, along very deep ethnic, linguistic, religious and even lines that are more or less regionally, sub-regionally, or communally demarcated"¹² Nigeria is a multi-ethnic and multi-religious state. The three distinct religious beliefs in Nigeria are Christianity, Islam and traditional African religions. Adherents of the two major religions, Christianity and Islam, take divergent positions on the question of the secularity of the Nigerian state. While most Christians

⁷Ostien, P. (2007) *Sharia Implementation in Northern Nigeria. 1999-2006 A Sourcebook*. Spectrum Books Limited, Ibadan, Volume 1.

⁸Boer, Jan H. (2007) *Muslims: Why Muslim Sharia Law*, Ontario, Canada, Essence Publishing, 6, p. 53.

⁹Ibidem, p. 53

¹⁰Ibid.

¹¹Angerbrandt, H. (2011) "Political Decentralization and Conflict: The Sharia Crisis in Kaduna, Nigeria", *Journal of Contemporary African Studies*, 29, 1, pp. 15-31.

¹²Adekanye, J. Bayo (2008) *Military Organisation in Multi-Ethnically Segmented Societies*, Ibadan, Ababa Press Ltd.

argue for separation of the Nigerian state from religion, most Muslims advocate the fusion of religion, the state and the law. To many of the latter, the Islamic Sharia law ought to govern the totality of the life of a Muslim from cradle to grave. This religious differentiation constitutes the major divide that has polarized Nigeria.

1. 2. Nigeria's "Far North"

Far North in this study combines three elements, namely, the geo-political, cultural and religious units connotation which refers to the entire Northern Muslim community that identifies itself as practicing purist Islam. They include the twelve "Sharia northern states", namely, Adamawa, Bauchi, Bornu, Jigawa, Kaduna, Kano, Katsina, Kebbi, Niger, Sokoto, Yobe and Zamfara. They constitute the states that fall within the core Sokoto Sultanate. This categorization is predicated on the impression that the tenets of purist Islam *are* practiced in this far northern part of Nigeria, and it is the responsibility of the leaders of this "Far North" to spread the ideals of purist Islam to other parts of Nigeria. The International Crisis Group Report¹³ observes that the "Far North", if taken to comprise the twelve states that reintroduced Sharia (Islamic law) for criminal cases at the beginning of the century, is home to 53 million people. A large majority are Muslims, but there is a substantial Christian minority, both indigenous to the area and the product of migration from the south of the country. The Sokoto Caliphate, formed in 1804-1808, is a reference point for many in the region. According to Odeh,¹⁴ Sharia law existed in Northern Nigeria for a long time before the Sokoto Caliphate was founded on the zeal to live solely according to the way laid down by Allah, so as to be guided by the Sharia Law. With the return of Nigeria to democratic rule in 1999, the states of Far North reintroduced Sharia starting with Zamfara State.

1. 3. Principle of the secular state

Section 10 of the 1999 Constitution of the Federal Republic of Nigeria (as amended)¹⁵ stipulates the absence of religious involvement in government affairs and, vice versa, the absence of government involvement in religious affairs. In other words, what is now referred to as the separation of religion and the state is the equal treatment of all religions without any discrimination whatsoever in running the affairs of the public and its institutions and respect for freedom of thought and freedom of religion. In other words, the principle of secularity of state in this study will refer to a state that constitutionally has no religious inclination or recognizes no particular religion as the official religion of the state. Despite the existence of the three major religious groupings, namely, Christianity, Islam and African traditional religions, Nigeria does not officially recognize any religion as the religion of the state in order to promote religious liberty and tolerance.

1. 4. Sharia law

Sharia law refers to Islamic legal system of morals, religious observances, ethics and politics drawn by the creator, Allah, through His Messenger, Muhammad, to mankind.¹⁶ It serves as a guideline to a whole stretch of religious and non-religious aspects of the life of a Muslim that borders on religious wash, eat, pray, dress, marriage, social life, business

¹³International Crisis Group: Africa Report No.168: 20 December, Northern Nigeria: Background to Conflict, 2010.

¹⁴Odeh Lemuel Ekedegwa (2010) "The Resurgence of Sharia in Contemporary Nigeria, 1999-2000", *Benue Valley Journal of Humanities*, 9, 1&2 (January-December).

¹⁵Constitution of the Federal Republic of Nigeria, 1999

¹⁶Ogbu, O. N. (2014) "Is Nigeria a Secular State? Law, Human Rights & Religion in Context", *The Transitional Human Rights Review*, 1, pp. 135-178.

conduct, friendship and government, prescribing what is lawful (*halal*) and prohibiting what is unlawful (*haram*). There have emerged after the Prophet, two broad divisions in Islamic law - the Sunni and Shia schools. Each of these is further divided into schools of law. The Sunni has four *madhabs*, the Hanafi, Maliki, Shafi'I, and Hanbali schools. The main difference between the schools lies in their attitude to and acceptance of the secondary sources.¹⁷ Sharia law has been practiced since the establishment of the Sokoto Caliphate following the Fulani jihad led by Uthman Dan Fodio in the early 19th century. However, Sharia law went through stages of reform under the colonial era and was practiced as customary law in the entire Northern Nigeria. With the return of Nigeria to democratic rule in 1999, the Sharia law practice was reintroduced by the states of Far North, provoking violent reaction in some of these 'Sharia states'.

1.5. Theory of religious mobilization

Since the turn of the 21st century, religious symbols, organizations and leaders have increasingly played vital roles in the induction of masses into the political process. Under transitional societies where this practice is most prevalent, religion from the perspectives of two interest groups, namely, religious functionaries and religious community, serves as a means by which the masses become politicized.¹⁸

Religious mobilization takes place when a large number of individuals come to think of themselves as members of political collectivities determined by religious identity. Individuals perceive their personal interests as significantly related to the welfare of their religious community presently in conflict with its opponents.¹⁹ Karaman also observe that the drawing of people into active participation in the political process through religion takes place when the people become conscious of conflicts which are conceived as being relevant to their lives.²⁰

In the above context, conflicts between religious communities have generally taken two forms; (i) the situation in which a religious community attempts to overthrow a foreign imperialist power of a different religion, and (ii) the conflict between two or more indigenous communities. Under both situations, in order to mobilize the masses, religious symbols are exclusively used to promote attitudes and movements of opposition to the rivals or enemies of the community.²¹ Islam as one of the world popular religions today presents some of the largest reform movements. The Egyptian Muslim Brotherhood typifies modern Islamic mobilization. Islam constitutes the predominant religion in Nigeria's Far North among other religious affiliations such as Christianity, African traditional religions, etc. Muslims of the Far North have been mobilized in all aspects of life since the establishment of the Sokoto Caliphate in the early nineteenth century. Islamic sharia practice has remained a strong force and veritable tool for mass mobilization despite the reforms it had undergone under different political dispensations.

2. ISLAM AS A POLITICAL RELIGION

¹⁷Oba, A. A. (2002) "Islamic Law as Customary Law: The Changing Perspective in Nigeria", *The International Comparative Law Quarterly*, 51, 4, pp. 817-850.

¹⁸Karaman, Luffullah.M. (2004) "Religion, Politics and Mobilization: A Theoretical Perspective with a special note on "the Indian Khilafat Movement", *Alternatives: Turkish Journal of International Relations*, 3, 1, pp. 36-55.

¹⁹Smith, E. Donald (1970) *Religion and Political Development*. Boston, Little Brown, p.145.

²⁰Karaman, Luffullah.M. (2004) "Religion, Politics and Mobilization A Theoretical Perspective with a special note on "the Indian Khilafat Movement", *Alternatives: Turkish Journal of International Relations*, 3, 1, pp. 36-55.

²¹Ibidem

Going by the aforementioned, it is important to examine the relationship between Islam and politics. According to Al-Marayati, Man is a political animal', and almost everything he does is coloured by political behavior. Only religion has had a deeper and more pervasive effect...and religion often has a political dimension, as Islam clearly shows.²²

The above statement implies that there is indispensability between Islam and politics. In other words, "Islam makes no differentiation between state and society, politics and religion"²³. That Islam can be safely tagged an "organic religion",²⁴ underlies the fact that political and religious functions are almost fused in Islam because of "alleged unity of the divine and mundane realms".²⁵ Put differently, there is an integration of religion and politics in Islam, or in more precise terms, "there is an inherent link between Islam as a comprehensive scheme for ordering human life, and politics as an indispensable involvement to secure universal compliance with that scheme",²⁶ cannot be over emphasized. It is against this background that, Islam in Nigeria's Far North is always a rallying point in the mobilization of its adherents in almost all aspects of life. Of course, not all Hausa-speaking people are amenable to being mobilized for political purposes or using Islam as a tool, since there was a significant proportion of the Hausa-speaking Far Northern Nigerians who were converted to Christianity. The factors that are complementary to Islamic mobilization are broad-based, and have their expressions in ethnicity, resource control and social factors. These factors by themselves constitute different forms of mobilization.

2.1. Sharia agitation in 1999

For twenty-nine years (1966 to 1999), Nigeria was ruled by military governments, with an unstable period of civilian rule only from 1979 to 1983 that was cut short by the coup of General Muhammadu Buhari.²⁷ Each military government promised a more or less rapid return to democracy, only for the transition to be thwarted or cut short. The 2010 Report further observed that by the end of the 1990s, the far north had become politically fractured due to the creation of new states. Fragmented by these new states, the Hausa-Fulani bloc found itself challenged by increasingly assertive minorities. Torn by controversies over the country's religious identity, there was a rise in tension between Muslims and Christians. The situation had been compounded by economic malaise, growing corruption in government, the perversion and decline of social institutions and the rise of criminality all of which created a sense of disillusionment. According to the Report, the actual return of democracy in 1999 was celebrated in most parts of the country but was a sobering experience for some in the far north. For the first time since 1979, and despite new President Obasanjo's close ties with its elite, the region considered to have lost control of political power at the centre and was faced with the challenge of designing new strategies for regional self-assertion in the federation. It was within this context that the Zamfara State governor initiated the campaign for restoration of Sharia.

²²Al-Marayati, Abid (1972) *The Middle East: Its Governments and Politics*, Belmont, Duxbury Press, p. 14.

²³Toprak (Sayarı), Binnaz (1984) "Politicisation of Islam in a Secular State: the National Salvation Party in Turkey", in *From Nationalism to Revolutionary Islam*, ed. by S. A. Arjomand, London, Macmillan, p. 250.

²⁴Smith, E. Donald (1970) *Religion and Political Development*. Boston, Little Brown, p.50

²⁵Tibi, B. (1983) "The Renewed Role of Islam in the Political and Social Development of the Middle East", *The Middle East Journal*, 37, p.4.

²⁶Enayat, Hamid (1982) *Modern Islamic Political Thought*, London, Macmillan, p.1.

²⁷International Crisis Group: Africa Report No.168: 20 December, Northern Nigeria: Background to Conflict, 2010.

2. 2. Debates on "the secular state" rekindled with the introduction of Sharia law after 1999

Nigeria's return to another era of democratic governance as from 1999, the fourth since independence, witnessed an unprecedented agitation for the implementation of Sharia law. This move was challenged by the non-Muslims through debates on secularity of the state.

In the submission of Mahdi²⁸, the opinion of the pro-Sharia agitation can be grouped into two: Those who see the Sharia penal codes of the states appropriate, that the author termed Sharia of the Right or the conservative Islamists; and those who recognize the application of the law in principle but believe that the application of the law needs to be based on better knowledge than is the case at present – the Sharia of the Left or liberal Islamists.

Mahdi asserts that the division of the Muslim debate is based on a simple observation. The Right presents its case in terms of replicating an uncontested Islamic/sharia past. At the forefront of this group is Governor Ahmed Sani of Zamfara State and other Islamist office-holders and seekers who began their arguments for the implementation of Sharia based on the claim that the demise of the religious law was brought about by the British. In other words, until the occupation of the Sokoto Caliphate by the British in 1903, the "coded" religious law was being applied in the Caliphate. The pro-sharia of the "Right" also premised their argument on Section 38 of the 1999 Constitution which guarantees freedom of religion under sub-sections 1, 2 and 3 as follows:

1. Every person shall be entitled to freedom of thought, conscience and religion, including freedom to change his religion or belief, and freedom (either alone or in community with others, and in public or in private) to manifest and propagate his religion or belief in worship, teaching, practice and observance.

2. No person attending any place of education shall be required to receive religious instruction or to take part in or attend any religious ceremony if such instruction, ceremony or observance relates to a religion other than his own, or a religion not approved by his parent or guardian.

3. No religious community or denomination shall be prevented from providing religious instruction for pupils of that community or denomination in any place of education maintained wholly by that community or denomination.

The Left, as much as they are not against the Sharia law, expect a critical analysis of all the Islamic past and all its texts before Sharia can be applied. The argument of the liberal Muslims according to Mahdi is premised on the flaws in the law that prescribes the death sentence. They believe that it contradicts the Qur'anic recommendation, since the only punishment mentioned in the Qur'an is flogging. Furthermore, they argue that by the historical sequence of events, stoning as punishment for the offence has been invalidated by the Qur'anic verses, if that was the practice previously. They maintain that there must have been either a mistake in the recording of the tradition of stoning, or that the verse of the Qur'an came later to stem the practice of stoning.²⁹

²⁸Mahdi, H. (2006) "Sharia in Nigeria: A Reflection on the Debates". A Paper presented for A World in Transition: New Challenges for Gender Justice, Indian International Centre, New Delhi, 13-15 December.

²⁹Ibidem.

At variance to the Sharia agitations are the debates on the secular state, premised on two clauses of the Nigerian Constitution. Firstly, the 1999 Constitution notes that the secularity of the Federal Republic of Nigeria is in tandem with the right to freedom of religion as stated above in Section 38 of the 1999 Nigerian Constitution. This section guarantees freedom of thought, conscience and religion. Secondly, the issue of secularity principle of the state in Nigeria revolves around Section 10 of the 1999 Constitution which replicates Section 10 of the 1979 Constitution. It states that, “the Government of the Federation or of a State shall not adopt any religion as State Religion”.

It is on the strength of these sections of the constitution that there have been heated debates by human rights groups, scholars, legal luminaries and social commentators at the national and international levels over the implications of the adoption of Islamic criminal law by the twelve Far Northern states as from 1999 on liberty. And as Oraegbunam³⁰ aptly observes, the anti-sharia debate is considered necessary because the adoption of the Sharia law is feared, will impinge on such principles as constitutionalism, the rule of law, respect for fundamental rights and democratic tenets generally amidst other concerns.

Oraegbunam further pointed out that raging controversies have ensued on the interpretation of Section 10 as it relates to an extended application of Islamic law in Nigeria. To him, the constitution paradoxically harbours a good chunk of the provision on “religious practices and sensibilities.” Since 1999, he noted that the various approaches to the construction of the legal provision have pitched scholars and stakeholders into debating camps. While some simply see Section 10 as inaugurating an atheistic society in Nigeria in which governance is seen as diametrically opposed to religion, others understand the provision as a self-contradiction maintained by a supreme legal framework. Others still view Section 10 as declaring neutrality in approaches to religious matters as a result of the multi-religious and pluralistic nature of Nigeria.

Contributing to “secularity” of the state debate, Nasir³¹ opines that ethnic and religious matters have historically been extreme issues capable of bringing down governments prematurely if not handled with utmost care. According to him, despite the right of freedom of religion as enshrined in the constitution, there are a lot of restrictions to this law. Section 38 (3) provides that persons who are under the care of their parents’ are subject to their parents’ religious instructions and guidance. Section 45 of the constitution further restricts religious rights by providing that nothing in Section 38 (freedom of religion) shall invalidate any law that is reasonably justifiable in a democratic society in the interest of defence, public safety, public order, public morality or public health or for the purpose of protecting the rights and freedom of other persons.

It is on the basis of these arguments that An-Na’im³² in a chapter contribution on “Comparative Perspectives on Shariah in Nigeria”, submits that Sharia has most important future in Islamic societies and communities because of its fundamental roles in the socialization of children, sanctification of social institutions and relationships, and the shaping and development of those fundamental values that can be translated into general

³⁰Oraegbunam, K.E Ikenga (2014) “Sharia Criminal Law and State Secularity Principle in Nigeria: Implications of Section 10 of 1999 Constitution (As Amended)”, *Journal of Law, Policy and Globalisation*, 28, pp. 39-54.

³¹Nasir, J. Mammar (2005) “Commentary on John Reitz’s “Freedom of Religion and Its Limitations: Judicial Standards for Deciding Particular Cases to Maintain the State’s Secular Role in Protecting Society’s Religious Commitments”, in Ostien, Philip., Nasir, J. Mammar and Kogelmann, F. (eds.), *Comparative Perspectives on Shariah in Nigeria*, Ibadan, Nigeria, Spectrum Books Limited, pp. 167-175.

³²An-Na’im A. A. (2005) “The future of Shariah and the debate in Northern Nigeria”, in Ostien, P., Nasir, J. M. and Kogelmann, F. (eds.), *Comparative Perspectives on Shariah in Nigeria*. Ibadan, Nigeria: Spectrum Books Limited, pp. 327-357.

legislation and public policy through the democratic political process. On the contrary, it does not have a future as a normative system to be enacted and enforced as such by the state as positive law and public policy.

2.3. Contrasting perspectives of the two organized religions about how to govern Nigeria

To understand the contrasting perspectives of the two organized religions about how to govern Nigeria, it is pertinent to consider the theologies of these religions on the relationship between religion and state power.

In considering the Christian view of church/state relations, contributions to the edited work by McKay et al.³³ take an historical perspective on the origin and growth of Christianity under the secular ancient Roman Empire. They opine that the original stand of the church was to remain independent of the state and in fact to make the state subservient to the church.

Comparatively, McKay and his colleagues remark that, "for the Muslim, the function of the Islamic state was to ensure that all Muslims could lead a life in keeping with the mandates of the Quran and discharge their obligations to Allah".³⁴ Consequently, as Boer³⁵ observes, "most Muslims regard secularism as a scourge that needs to be fought off. It is seen as the very antithesis of Islam". This implies that whereas the Western Christian tradition compartmentalizes life into the "religious" and "public" zones or domains, Islam rejects this Western secular dualism, implying that one canvasses the separation of religion and state (and, along with this principle of religious toleration and respect for freedom of religion), the other insists on the fusion of the two realms (in short a theocracy). Boer³⁶ submits that there are divergences of opinion over the issue of secularism between the two faiths. "The Christians consider Sharia as an infringement of Nigeria's secularism..."³⁷ In contrast, the Nigerian Muslim community insists on a close and supportive relationship between Islam and the state. It is these divergent positions that led them headlong into bitter and drawn-out conflict with their Christian counterparts. The Muslim *Umma* (faithful) of the Northern part of Nigeria consider secularism as a "virus"³⁸ and an aberration. Cassey³⁹ attributes this notion to the historical antecedents of the establishment of the Sokoto Caliphate after the Fulani Jihad led by Uthman Dan Fodio, the consolidation of the majority Hausa-Fulani political domination of Northern Nigeria under the British colonial system and their seemingly uncompromising hegemony since the country's independence.

Suberu⁴⁰ expresses in a broad perspective the attitude of the Christian-dominated Southern Nigeria to religious crisis in the country as a total commitment to secularity of the country. According to him, this commitment has been a major factor for not only the Southern opposition to such developments as Nigeria's membership of the Organization

³³McKay John et al. (2006) *A History of Western Society, USA?*, Houghton Mifflin Company (eighth edition).

³⁴Ibid, p. 228.

³⁵Boer, H. Jan (2005) *Muslim: Why We Reject Secularism*, Ontario, Canada, Essence Publishing, Vol. 4.

³⁶Boer, H. Jan (2006) *Christians: Secularism-Yes and No*, Ontario, Canada, Essence Publishing, Vol. 5.

³⁷Boer, H. Jan (2008) *Christians: Why We Reject Muslim Law*, Ontario, Canada, Essence Publishing, Vol. 7.

³⁸Boer H. Jan (2004). *Christian: Why This Muslim Violence?*, Vol. 3. Ontario, Canada, Essence Publishing, p. 37.

³⁹Cassey, Cornely (2008) "Marginal Muslims: Politics and the Perpetual Bounds of Islamic Authenticity in Northern Nigeria", *Africa Today*, 54, 3, pp. 67-92.

⁴⁰Suberu, Rotimi (1997) "Religion and Politics: A View from the South", in Diamond, Larry, Kirk-Greene, A. & Oyediran, Oyeleye (eds.), *Transition Without End: Nigerian Politics and Civil Society Under Babangida*, Ibadan, Nigeria, Vantage Publishers, pp. 477-508.

of Islamic Cooperation (OIC) and the generalization of the jurisdiction of Sharia courts, but also the region's strong disposition to religions harmony in the country. Suberu aptly observes that a major source of anxiety and bitterness in the South has, therefore, precisely been the perception that the past administrations like that of President Ibrahim Babangida undermined the sensitivity of religion in the country's polity. He further adds that the regime did not take into cognizance "the country's secular status and the constitutional prohibition of a state religion through policies that gave political advantage and official recognition to Islam".⁴¹

Comparatively, McKay and his colleagues remark that, "for the Muslim, the function of the Islamic state was to ensure that all Muslims could lead a life in keeping with the mandates of the Quran and discharge their obligations to Allah".⁴² This implies that the state is considered as an agent of propagating Islam. Hence, there is a close affinity between Islam and the state. The Muslim Umma (faithful) of the Far North of Nigeria considers the secularity of the state as an aberration. This notion can be attributed to the historical antecedents of the establishment of the Sokoto Caliphate after the Fulani Jihad led by Uthman Dan Fodio, the consolidation of the majority Hausa-Fulani political domination of the northern part of Nigeria under the British colonial system and their seemingly uncompromising hegemony since the country's independence.⁴³

Expressing what can be considered as the Northern elitist view of the relationship between politics and religion, Ibrahim⁴⁴ identified religion as a major factor of Nigeria's political instability and accounted for the collapse of the Second Republic. According to him, religion is often used as a tool by the indigenous people (whether Christians or Muslims) to ventilate their resentment. Citing the Kano crisis of 1982 as a typical example, the author attributes it to indigenous Hausa-Fulani reaction to economic marginalization and cultural interference by the Igbo immigrants. While the Bauchi crisis of 1991 was borne by the quest for self-determination by the Sayawa of Tafawa Balewa against the age-long Hausa-Fulani political domination. Ibrahim's opinion is similar to that of Maier⁴⁵ that explains the frequent religious riots in the Middle Belt of Nigeria where there is high concentration of minor ethnic groups. According to Maier, these serial ethno-religious conflicts "stem from minority ethnic group's attempts to wrench themselves free from what they see as domination of the Hausa-Fulani establishment".⁴⁶ Consequently, the frequent face-off between the majority Christian Kaje of Kafachan and the minority Muslim Hausa-Fulani non-indigene according to Ibrahim,⁴⁷ is borne by the quest for self-determination on the part of the politically marginalized Kaje by the Hausa-Fulani hegemony. The Kaje see the minority Hausa-Fulani leaders as 'aliens'. To this claim, Maier also remarks that, "the people of a given area often claim that they are the

⁴¹Ibidem, p. 481.

⁴²McKay John et al. (2006) *A History of Western Society, USA?*, Houghton Mifflin Company (eighth edition), p. 228.

⁴³Cassey, Cornely (2008) "Marginal Muslims: Politics and the Perpetual Bounds of Islamic Authenticity in Northern Nigeria", *Africa Today*, 54, 3, pp. 67-92.

⁴⁴Ibrahim, O. Farouk (1997) "Religion and Politics: A View from the North", in Diamond, L., Kirk-Greene, A & Oyediran, O. (eds), *Transition Without End: Nigerian Politics and Civil Society Under Babangida*, Ibadan, Nigeria, Vantage Publishers, pp. 508-534.

⁴⁵Maier, Karl (2000) *This House Has Fallen: Midnight in Nigeria*, New York, Public Affairs.

⁴⁶ Ibidem, p. 194.

⁴⁷Ibrahim, O. Farouk (1997) "Religion and Politics: A View from the North", in Diamond, L.; Kirk-Greene, A & Oyediran, O. (eds), *Transition Without End: Nigerian Politics and Civil Society Under Babangida*, Ibadan, Nigeria, Vantage Publishers, pp. 508-534.

"indigenes" and that their enemies are the "strangers" or the "settlers", seeking to upset the mythical natural order of things".⁴⁸

The fact that these 'alien rulers' have both political and economic power made them subjects of envy. Again, Ibrahim observes that, probably as a result of their political and economic status and probably the way they treat their womenfolk, it became easier for an alien to get a native Kaje woman to marry than for a male Kaje to get a Kaje woman to marry. In other words, the average Kaje woman feel secured and better-off with an alien than with a Kaje man, in which case she had to fend for herself. The situation breeds resentment for the 'aliens' among the Kaje men. Besides, due to comparatively higher level of exposure to Christian education and Western culture, there has been greater ethnic consciousness by the Kaje and the need for ethnic and cultural identity. This, according to Ibrahim, is the root of the crises. "In the absence of any political or economic power with which to reverse the situation, religion became a ready tool in the hands of the indigenes to rally against the 'aliens'".⁴⁹ According to him, the same factor of using religion to score political goal explains the controversy that greeted Nigeria's membership of the Organization of Islamic Co-operation (OIC) in early 1986 by President Ibrahim Babangida. Ibrahim further remarks that, rather than for economic gains, President Babangida decided to draw Nigeria into the membership of the OIC in order to pacify the aggrieved Hausa-Fulani who felt alienated by his administrative policy.

2. 4. Constituent Assembly debate on Sharia law and the role of the military government, 1978-1979

Muslims in Nigeria truly believe that the profession of the Islamic faith for the group and individual, even in a modern State, is inchoate if it is not accompanied by submitting totally to dictates of Allah as expressed and embodied in the Shariah legal system⁵⁰.

The point remains that Nigeria is not a theocratic nation, either at the centre or in any of its component states, thus precluding the adoption of a particular legal system derived from a particular religious faith as the basic law for the state.⁵¹

The above statements summarize what has become known in the Nigerian political parlance as the "Great Sharia Debate". The debate represents the first controversy sparked by the Sharia question at the national level. This was during the Nigeria's constitution making process between 1978 and 1979 (preparatory to the first return of Nigeria to democratic rule in 1979).⁵² The debate was on whether the new constitution should recognize Islamic law at the federal or state level through the creation of the federal Sharia courts. Laitin emphasizes that the Sharia controversy had the potential of exacerbating tensions between the north and south of Nigeria. The Sharia controversy more or less pitched Muslim dominated North against largely Christian dominated South, where membership of the Constituent Assembly (CA) was drawn in 1978. The CA had been saddled with the task of fashioning a new constitution for Nigeria, preparatory to its return to civil rule in 1979. But the debate on whether or not to include Sharia clause in the 1979

⁴⁸Maier, Karl (2000) *This House Has Fallen...*, p. 194.

⁴⁹Ibrahim, O. Farouk (1997) "Religion and Politics: A View from the North", in Diamond, L., Kirk-Greene, A. & Oyediran, O. (eds), *Transition Without End: Nigerian Politics and Civil Society Under Babangida*, Ibadan, Nigeria, Vantage Publishers, pp. 508-534.

⁵⁰Yadudu, H. (1991) "Constitution-making and the politicisation of Shari'a in Nigeria", *Journal of Islamic and Comparative Law*, p. 18.

⁵¹Nmehielle, .O. Vincent (2004) "Sharia Law in the Northern States of Nigeria: To Implement or Not to Implement, the Constitutionality is the Question", *Human Rights Quarterly*, 26, 3, pp. 730-759.

⁵²Laitin, D. D. (1982) "The Sharia Debate and the Origins of Nigeria's Second Republic", *Journal of Modern African Studies*, 20, 3, p. 418.

constitution as championed by the Muslim members of the CA, became so contentious that it almost grounded the entire constitutional process.

2.5. Nature of the debate

According to Iwobi,⁵³ religion became a highly contentious issue and forced its way to the top of the political agenda in the late 1978 during the constitutional debates that preceded Nigeria's return to civilian rule in 1979. What became a face-off between Muslims and Christians was triggered off when the Constitution Drafting Committee (CDC) prescribed in article 17 of its initial draft that Nigeria was to be a secular state. Following the objections from the Muslim members, the clause was deleted. The CDC ventured further into the religious sphere when its sub-committee on the Judiciary recommended the creation of a Federal Sharia Court of Appeal as an intermediate court between the Sharia Courts of Appeal of the then six Northern states and the Nigerian Supreme Court. In the sub-committee's view, the establishment of this court would "give relevance to the moral, ethical and religious beliefs of all segments of (the Nigerian) society".⁵⁴ This recommendation was accepted by the CDC and duly incorporated into the draft Constitution which it prepared. The projection of Islamic character into the mainstream of national life proved to be highly divisive. Initially, the Federal Sharia Court of Appeal was not perceived as just another court.⁵⁵ The storm generated by the debate as pitching members of each religious group against the other to the extent that they tagged their rival religious group as "they" and see members of their own religious group as "us". The religious antagonisms fuelled by such perceptions made it almost inevitable that the proposed creation of a Federal Sharia Court of Appeal would turn out to be "easily the most controversial of all the Constitutional provisions put forward by the Constitution Drafting Committee".

The controversy surrounding the creation of the Federal Sharia Court was at its most intense during the proceedings of the Constituent Assembly (CA). The CA, which was chaired by Justice Udo Udoma, had the task of reviewing and, where necessary, redrafting the contents of the CDC's draft Constitution. Realizing the explosive nature of the Sharia issue, a special committee was set up to revisit this matter and advise the Assembly on how to proceed. Contrary to the CDC's proposal, this committee recommended the operation of Sharia Courts of Appeal at the state level but proposed that appeals from these courts should be directed to the Federal Court of Appeal rather than a separately constituted Federal Sharia Court of Appeal. At first, the recommendation was accepted by all Assembly members. But probably after reflecting over the matter, the Muslim members became opposed to the recommendation.

The ensuing disagreement between Muslim and non-Muslim Assembly members rapidly escalated to such a degree that the Assembly's existence was almost brought to an abrupt end when the Muslim members boycotted its proceedings for nearly three weeks. Laitin⁵⁶ remarks that each side in this debate developed a whole arsenal of ideological and pragmatic contentions, mixed with both vague and explicit threats as to the consequences of their side losing.

⁵³Iwobi, Andrew Ubaka (2004) "Tiptoeing through a Constitutional Minefield: The Great Sharia Controversy in Nigeria", *Journal of African Law*, Vol. 48, No. 2, pp. 111-164.

⁵⁴Ibidem, p. 114

⁵⁵Laitin, D. D. (1982) "The Sharia Debate and the Origins of Nigeria's Second Republic" *Journal of Modern African Studies*, 20, 3, pp. 411-30.

⁵⁶Ibidem

By and large, the Constituent Assembly debate of 1978 brought out the indifference of the Christian-religious members to the "security" principle for regulating Church-State relations, with most Nigerian Christians tending towards the biblical injunction requiring one to "give to Caesar what is Caesar's, and to God what is God's" (i.e. a "live-and-let-live" solution); whereas, for their Muslim counterparts, the injunctions which they interpreted Islam to have handed down required them to believe in the inseparability of the religious realm and State power (in short, the fusion of both). The two conflicting positions regarding the relationship between religion and State power dominated the debate on the Sharia law in the 1978 Constituent Assembly. Actually, it had threatened the making of the first post-military constitution. It took the intervention of the Federal Military Government under General Olusegun Obasanjo to break the impasse and prevent the derailment of the entire constitutional process, thereby ensuring that the Constitution was in place when civilian rule was restored in October 1979.⁵⁷

Igbohin⁵⁸ observes that following the Constituent Assembly debate on Sharia inclusion in the 1979 Constitution, it was more of an emotional and political exigency than reason that prevailed. According to him, it is partly for this reason that the Sharia debate has refused to abate and remains a political instrument to mobilize the people against the government.

2.6. How the secular principle emerged

A related matter which had preoccupied both the CDC and the CA according to Laitin⁵⁹ was whether the Constitution ought to proclaim Nigeria to be a secular state. The 1979 Constitution avoided the use of the controversial "s" word and succinctly declared that "the Government of the Federation or of a State shall not adopt any religion as State Religion." With regard to the specific issue that had produced the deadlock in the CA, no provision was made in the judicial hierarchy set out in section 6 of the Constitution for a Federal Sharia Court of Appeal. Instead, the Constitution empowered states which wished to do so to establish their own Sharia Courts of Appeal. It further provided that appeals would lie, in matters of Islamic personal law, from these courts to the Federal Court of Appeal where they would be heard by judges learned in Islamic personal law. The promulgation of the 1979 Constitution only served to engender an uneasy and short-lived truce between those who felt aggrieved that the Sharia had been unduly marginalized within the Nigerian legal order and those who objected to the creation of Sharia Courts at the Federal level and were averse to extending the ambit of the Sharia.

Laitin further observes that, by the time the constitution was promulgated, however, and in spite or even because of the "Great Sharia Debate" of the Constituent Assembly in 1978, Nigeria had formulated for itself a constitutional principle meant for regulating the relationship not just between religion and the public realm at all the tiers of rule in the federation, but also among the various religious communities composing the society. This is the principle about "secularity of the state" entrenched in Section 10 of the 1979 Constitution of the Federal Republic of Nigeria, which provides that: "The Government of the Federation or of a State shall not adopt any religion as a State religion". That

⁵⁷Alao, E. O. (2016) *Sharia Law, Sectarian Conflicts, National Security: Case Study of Kaduna State, Nigeria, 1999-2010*, Unpublished Doctoral Thesis of the Department of Political Science and Public Administration, Babcock University, Ilishan-Remo, Ogun State, Nigeria.

⁵⁸Igbohin, Benson Ohihon (2010) 'The President of Nigeria Has No Final Say': Sharia Law Controversies and Implications for Nigeria", *Politics and Religion*, Vol. viii, No. 2, pp. 265-290.

⁵⁹Laitin, D. D. (1982) "The Sharia Debate and the Origins of Nigeria's Second Republic", *Journal of Modern African Studies*, 20, 3, pp. 411-30.

principle was to be re-echoed, and a verbatim re-statement of same came to be found entrenched, in the two other post-military constitutions, i.e. the 1989 Constitution of the Federal Republic of Nigeria and the 1999 Constitution of the Federal Republic of Nigeria, where the provision also appears as Section 10 of the respective Constitution.

2.7. Religion and politics under the military regime of Babangida

Apart from the controversy generated over the attempted inclusion in the 1979 Constitution, religion, above any other factor, played a pivotal role under the military administration of General Ibrahim Babangida. One major controversy that gripped the Nigerian state was the smuggling of the country into the membership of Organization of Islamic Conference (OIC) (now Organization of Islamic Cooperation) by the Babangida administration in early 1986. Among the objectives of the OIC were the promotion of Islamic unity and the social and economic development of the member states. Against the secularity of the country, it was reported by the media that the application for membership of Nigeria was submitted by a Federal Government delegation led by the Federal Minister of Mines and Power, Alhaji Rilwanu Lukman at Fez, Morocco. The government tried to defend its action by claiming that Nigeria was just on observer status and not a full member of the OIC. It also denied any Federal Government representation but claimed that Nigeria's ambassador in the country nearest to where the annual conference was taking place represented the country. Despite government's defence and explanations, the controversy generated by the matter clearly polarized the country along religious lines similar to the Sharia controversy of 1978⁶⁰. As a fallout to this clandestine attempt to make Nigeria an Islamic country, General Domkat Bali, the Chief of Defence Staff and a Christian member of the Armed Forces Ruling Council (AFRC), resigned his appointment and from the army.⁶¹

Again, the country was enmeshed in another Sharia controversy between 1988-89 under the Babangida regime reminiscent of the 1978 Sharia controversy. This was another constitution-making process, preparatory to the Third Republic. The Constitution Review Committee (CRC) set up by the Constituent Assembly (CA) to review the 1979 Constitution retained the provision of the Sharia court that only Muslims are subject to its jurisdiction as contained in the Second Republic Constitution. Non-Muslims who desired could submit to its jurisdiction by voluntarily exercising the option in writing. But the CRC incorporated some amendments which the military had made in respect of the jurisdiction of the Sharia courts. The military had deleted the word 'personal' wherever it appeared, thereby giving the impression that the Sharia courts had jurisdiction on other matters such as inheritance, divorce, matrimony, etc..⁶²

The Christian members of the CA objected to the provisions for the Sharia in the Third Republic Constitution, and in fact demanded that all references to the Sharia in the draft constitution be expunged altogether. The Muslims, on the other hand, insisted that the provisions should be retained. Like the 1978 Sharia controversy, this disagreement grounded the CA to a halt for some days with no consensus on the matter. Again, the

⁶⁰Ibrahim, O. Farouk (1997) "Religion and Politics: A View from the North", in Diamond, L.; Kirk-Greene, A. & O. Oyediran (eds.), *Transition Without End: Nigerian Politics and Civil Society Under Babangida*, Ibadan, Nigeria, Vantage Publishers, pp. 508-534.

⁶¹Alao, E. O. (2016) *Sharia Law, Sectarian Conflicts, National Security: Case Study of Kaduna State*, Nigeria, 1999-2010, Unpublished Doctoral Thesis of the Department of Political Science and Public Administration, Babcock University, Ilishan-Remo, Ogun State, Nigeria.

⁶²Ibrahim, O. Farouk (1997) "Religion and Politics: A View from the North", in Diamond, L.; Kirk-Greene, A & Oyediran, O. (eds), *Transition Without End: Nigerian politics and Civil Society Under Babangida*, Ibadan, Nigeria, Vantage Publishers, pp. 508-534.

Federal Government had to wade in to remove the Sharia clause from the jurisdiction of the CA to deliberate.

These two particular attempts of bringing religion into the governance of Nigeria, as contentious as they were by Babangida, were considered as strategies to pacify the powerful Northern Muslim Hausa/Fulani elites who had alienated him due to his pro-Middle Belt and pro-Christian style of administration. Though the OIC membership and Sharia controversies boomeranged, "it had succeeded in making the Muslims see the government as their government".⁶³

3. THE "SECULAR STATE" PRINCIPLE AS FORMULA FOR CONFLICT REGULATION IN DEEPLY DIVIDED SOCIETIES

The differences of religious beliefs are not confined to those between Muslim and Christian faiths, but can be observed even within any of such faiths. Sometimes intra-faith differences can be acute and provoke such intense conflicts and outcomes as witnessed in the intra-Muslim conflicts between Shiites and Sunni that have been plaguing Lebanon and such other Middle Eastern countries as Iraq, Syria and others. Other divided societies that have witnessed protracted religious conflicts are India (between Muslims and Hinduists), Ireland (between Catholics and Protestants) and Egypt (between Muslims and Coptic Christians)⁶⁴. In all cases, secularity of the state proves to be the most viable option for inter-group relations, especially in a multi-religiously segmented society. The word "secularization" became identified with the Roman Catholic canon law, which referred to a legal action whereby a religious person left the cloister to return to the world and its temptation, becoming thereby a "secular" person or one that is responsible to this life alone.⁶⁵

In a memorandum to the Presidential Committee on Provisions and Practice of Citizenship and Rights in Nigeria, the Christian Social Movement of Nigeria (CSMN) emphasised the secular nature of Nigeria and defines a secular state as one which does not adopt "any religion as a state religion or give preferential treatment to one religion, promotes the principle of equality of all religions before the law". This definition of secular state by the CSMN implies that, given the existence of multi-religious groups with divergent interests in the country, the violation of the secular nature of Nigeria cannot occur without grave threats to peace and stability.

Okeke⁶⁶, a scholar and constitutional lawyer, also maintains that "secularity is all about non-commitment to a particular religion". According to him, secularity is intended to provide a level playing ground for all stakeholders in a state or nation that seeks to prevent the imposition of one religion against another in a multi-religious nation. The 1999 Constitution of the Federal Republic of Nigeria (as amended) makes Nigeria a secular state. In other words, Nigeria is not to be a place where people are forced to worship God in a particular way. It is an open provision, which makes it possible for the people of Nigeria to choose whom the object of their worship should be. It leaves people

⁶³Ibid.

⁶⁴Agrama, Hussein Ali (2010) "Secularism, Sovereignty, Indeterminacy: Is Egypt a Secular or a Religious State?", *Comparative Studies in Society & History*, 52, 3, pp. 495-523.

⁶⁵Ogbu, Osita. Nnaman (2014) "Is Nigeria a Secular State? Law, Human Rights & Religion in Context", *The Transitional Human Rights Review*, pp. 135-178.

⁶⁶Okeke, Godwin (2013) "The Ambivalence of the 1999 Nigerian Constitution in Matters Relating to Secularism: A case for Constitutional Review", *International Journal of Humanities and Social Science Intervention*, 2, 31, pp. 65-69.

to freely choose whether to worship the Almighty God or gods of their choice. It detaches the state and its apparatus of authorities from religious considerations in all areas including that of appointments and other benefits including financial benefits.

The 1999 Constitution of the Federal Republic of Nigeria (as amended) provides that the government of the Federation or of a state shall not adopt any religion as state religion. Through this provision, Okeke further observes that the organic law of the nation protects the secularity of Nigeria. It also rules out state religion or preference for a particular religion by the state. By implication, nobody can be compelled to assemble or associate with other persons against his will. Thus, any purported drafting of any person against his will into an association, even by the operation of customary law, is in conflict with section 40 of the 1999 Constitution. In the light of this provision, Okeke further argues that the religious symbols (indigenous or received) have no place on public lands, national edifices, currency, flag, coat of arms, anthem, pledge and other national symbols. By this section, Nigeria is declared to be a secular state and therefore cannot join any organization that has a religious connotation.

The right to freedom of thought, conscience or religion implies a right not to be prevented, without lawful justification, from choosing the course of one's life, fashioned on what one believes in, and a right not to be coerced into acting contrary to one's religious belief. The limit of this freedom for individuals in all cases is where they impinge on the right of others or where they put the welfare of society or public health in jeopardy. The sum total of the right of privacy and of freedom of thought, conscience or religion which an individual has, is that an individual should be left alone to choose a course for his life, "unless a clear and compelling overriding state interest justifies the contrary".⁶⁷

The freedom of religion in the Nigeria's constitution is complementary to Article 6 of the International Covenant on Civil and Political Rights (ICCPR) on the Universal Declaration of 1981 on the fundamental right of freedom to worship or assemble in connection with a religion or belief. This declaration was made against the backdrop of religious restrictions in some countries where, for instance, it was illegal for a religious organization to worship and establish or acquire places of worship.⁶⁸

Also consistent with these declarations is the Report of the Political Bureau of March 1987 set up by the Federal Government of Nigeria under General Ibrahim Babangida in January 1986 to conduct a national debate on the political future of Nigeria. The Report has become an indispensable encyclopaedia on socio-political development in Nigeria. The terms of reference for the bureau were to: (a) review Nigeria's political history and identify the basic problems which have led to our failure in the past and suggest ways of resolving and coping with these problems, (b) identify a basic philosophy of government which will determine goals and serve as a guide to the activities of governments, (c) collect relevant information and data for the Government as well as identify other political problems that may arise from the debate, (d) gather, collate and evaluate the contributions of Nigerians to the search for a viable political future and provide guidelines for the attainment of the consensus objective, and (e) deliberate on other political problems as may be referred to it from time to time. The bureau made a number of recommendations to the Federal Government to address those problems inimical to the development of Nigeria. The recommendations, among others, include democratization of socio-

⁶⁷Ibidem.

⁶⁸Ogbu, Osita Nnaman (2014) "Is Nigeria a Secular State? Law, Human Rights & Religion in Context", *The Transitional Human Rights Review*, 1, pp. 135-178.

economic power through political and economic participation in all structures and organizations of power, leading to a [socialist state](#), the economic structure predicated on self-reliance, social justice; a unicameral legislature; setting aside 10% of elected seats for [women](#) and [labour](#) leaders; [mass mobilization](#) as the cornerstone of a new found political [orientation](#) and the creation of six more states. Based on these recommendations, the Federal Government created Katsina State in the North and Akwa-Ibom State in the south-east in 1987 and went ahead to implement a two-party system for the country, but rejected the five-year term for the presidency (Political Bureau Report, 1987).

4. CONCLUSION

The age-long sharia practice elicited controversy during the constitution-making process in 1978 and 1988, preparatory to Nigeria's return to democratic rule in 1979 and 1989 respectively. However, with the return of the country to another democratic dispensation in 1999, the twelve states of the Far North officially introduced Sharia law. The reaction of the non-Muslims against Sharia practice was based on the constitutional provision on non-recognition of any religion as state religion. At variant to the secularity principle of state is the inseparability of Islam and politics, giving justification to the enforcement of Sharia law among the twelve states of Nigeria's Far North. But for a multi-religiously segmented society like Nigeria where religion constitutes one of the divisive factors to its national integration, the principle of secularity of state remains an ideal formula for peaceful co-existence among the adherents of different religious affiliations. The onus is therefore on the government at all levels to stay clear away from religious matters and maintain neutrality as provided in the 1999 Constitution to ensure peaceful co-existence among the different sections of the Nigerian people.

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