

**ISLAMIC THEOCRACY IN NIGERIA:
THE QUR'AN AHADITH AND
ORTHODOX CALIPHS AS THE
VIABLE OPTIONS**

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ABSTRACT

A Critical Search into the Challenges facing Societies globally and Nigeria in particular reveals a great concern in respect of lack of Islamic theocracy globally. The desire to resist the dominance of the West and its unipolar World view as well as the quest of certain Muslims individuals for political power, various leadership posts among Ulama, religious particularism, injustice are now permeated virtually every segment of the Society and even made it difficult to operate and apply Islamic theocracy in Nigeria. The allegations raised against Muslim groups and West in various Societies. It could be recalled that Islamic theocracy as a system of government in which the laws of the state are believed to be the laws of the God; hence government by priests or priestly class. In view of this, it has become imperative for Islamic Scholars to make findings and make recommends actions concerning the operations and applications of Islamic theocracy provisions for proper application of Islamic theocracy in the Society and the Nation at large; with modern democracy with a view to generating its variants that are capable of Universal application through Shari'ah. It is on this note that this paper uses theoretical approach of the Qur'an, ahadith, and views of Orthodox Caliphs to examine the Islamic theocracy and modernism; issues and challenges, identifies some of the effects and recommends lasting solutions to the menace of Islamic theocracy in the nation, Nigeria. The submission of this paper is that with the provision of Allah (Qur'an), ahadith, and good governance of orthodox Caliphs in Islam and the previous experience of Nigerian with Shari'ah applications in its multicultural and multi religious environment, offers a credible platform to move forward to debate on applicability of Islamic theocracy in the contemporary World.

INTRODUCTION

It has been acknowledged in the Muslim world that in an Islamic state sovereignty belongs to Almighty Allah, because He is the creator and the actual Ruler of the Universe. This makes it wise that He only deserves the right of being the sovereignty over all creations. This is quite different from the terminology of the modern political science that says that sovereignty belongs to a state.

According to this line of thought, the state enacts laws of dos and don'ts or the person or group of persons holding the key of enacting laws for the subjects are under obligation to obey them. This is not so in an Islamic state. The ruler or leader Imam or Amir as the case may be does not have the sovereign authority because he is a vicegerent of Allah on earth. Going by the meaning of the word sovereignty, it is the supreme political power in He whose acts are not subject to any other and whose will cannot be over – ridden. That is He is conceived to be supreme, irresistible, absolute, uncontrolled authority in which power resides.

No power on earth deserves to be called sovereignty because all the powers in the universe are accountable, unlike that of the Almighty Allah, contained in the various verses of the Glorious Qur'an. It refers to Almighty Allah as omnipotent, He does whatever He likes, He has to refer to none and render account to none. He is the source and

fountain of all authority. He is the only one whose authority and power, nothing can limit nor restrain and He alone is above all aberrations and errors.

If the above mentioned is true of Him, then who in this world does the cap fit his head? Absolutely none. This is what brought us to the concept of Islamic Theocracy in Nigeria, the role of Shari'ah (mutual consultation) and the good governance of the four rightly caliphs in Islam to be emulated by an Islamic state in a democratic society, Nigeria. The history of Shari'ah Islamic legal system, in Nigeria dates back to the emergence of Islam in the country. It however suffered serious attack from the colonialists who tried to scrap it completely.

Failure to do this led to its reduction from fully fledged legal system to ordinary law of personal matters called "Islamic personal law" the departure of the colonial masters and the Nigeria's independence ought to pave way for Shari'ah legal system but the status quo remained. The military rules in the country for over 20 years worsened the situation and compounded the problem. Autocratic system of governance of military men hardly allowed any set or group to seek for its rights. This kept Shari'ah legal system in a pathetic situation for a long period. The application of Shari'ah legal system in Nigeria has continued to border the minds of some Muslims. To them, Shari'ah is a way of life of Muslims which should not be allowed to cripple in any form.

Muslims therefore, continued to agitate and clamour for the rightful position of Shari'ah. Democratic governance has always been considered as an opportunity for an aggrieved group to ask for its right as well as seek redress on some injustices and anomalies observed. This paper therefore, tries to discuss Islamic theocracy in Nigeria, democracy, good governance of orthodox caliphs and the genesis of Shari'ah legal system in Nigeria as a means through which the Muslims of this country can redress the issues of Shari'ah legal system with a view to giving it the appropriate place it deserves.

APPLICATION OF THE SHARI'AH UNDER THE COLONIAL RULE IN NIGERIA

Shari'ah law was the fundamental law in all towns and villages of the Islamic state established by Uthman dan Fodio and his lieutenants prior to the advent of British rule in Nigeria, Islamic law was applied in all its ramifications, ranging from moral to commercial and penal codes, throughout the caliphate as well as in notable towns of Yoruba land.

'Uthman dan fodio was born in Gobir in 1167 A.H/1754 C.E. to a family of Islamic Scholars. He thereby had an Islamic up – bringing. His Jihad was not to introduce Islam into Hausa land but to reform its practice so that it might conform with the dictates of Allah and His messengers Muhammad as contained in the Qur'an and

Sunnah respectively. He established an Islamic state where the Shari'ah was applied in full force, being the basis of the administration in all perspectives. By way of illustration, the far away Adamawa in the East and Ilorin in Yoruba land which were under this Hausa/Fulani Empire were governed by the Shari'ah¹.

Apart from Northern Nigeria, Shari'ah was also applied in some areas in Yoruba land of the South – West of Nigeria before the arrival of the British Colonialists Abdullah², Doi³, Noibi⁴, Ambali⁵ and Okunola⁶ have asserted this in their different write – ups and books. Some Muslims Yoruba Obas did establish Shari'ah court for their Muslim citizens at one time or the other. For example Oba Momodu Lamuye (1950 - 1906) instituted Shari'ah court in Iwo, Oba Oyewole Instituted it at Ikirun, while Oba Habibu Lagunju applied it fully in his domain in Ede. Even the British colonialists were said to have relocated the Shari'ah court to an area called Agbongbe in Ede in 1914. However, the British later contrived and abolished Shari'ah in Yoruba land. That notwithstanding Muslims in this area had at different periods agitated and called for its re – introduction.

Halikali doctrines were there favourities among the doctrines of the famous schools of law with the ability of 'Uthman dan fodio's lieutenants to reform Islam in areas where the Shar'ah had governed for many Centuries and to introduce it and its law as a new religion and a way of

life to many other areas inhabited by the animists, Shari'ah thereby governed the political, economic, social, cultural, educational and judicial spheres of life in the lands under the Caliphate. However, it is customary for any conquerer to subjugate the inhabitants of the conquered territory to its political, economic, social and other spheres of life and the British rulers were no exception in this natural tendency.

Soon after, they had conquered Nigerian land, their governor was empowered to grant "rights of occupancy to natives and non - natives, for definite terms" whereas this is the land customarily owned by the native Nigerians⁷. British administrators were however tactical in their approach towards the juridical subjugation of Nigeria. Their pronouncements revealed that they preferred a gradual approach in order to avoid violence. Lord Lugard said:

The time is now, in my opinion, ripe for a change, but the changes must, be gradually introduced if they are to be effective, and not alienate the confidence of the people⁸.

Shari'ah is the law according to which God wants a Muslim to live. It is therefore the guide of human action and encompasses every facet of human life. By living according to the Shari'ah man places his whole existence

in God's hand⁹. Even the non Muslims scholars of Islamic law admit the empirical fact that Shari'ah is a way of life of the Muslims. For example, J. Shacht, despite his prejudices against Islam, declares that "Shari'ah is the most typical manifestation of the Islamic way of life the core and kernel of Islam itself¹⁰".

Apart from the above, the Qur'an has posed serious challenge to Muslims on the need to apply and abide by Shari'ah. It even states the implications and refusing to apply it. These are mentioned thus:

Evil doers they are who do not judge in accordance with Allah's revelation. (Qur'an 5 V: 47)

Unbelievers they are who do not judge in accordance with Allah's revelation (Qur'an 5 V: 44)

Transgressors they are, who do not judge with Allah's revelation (Qur'an 5 V: 45).¹¹

THE POSITION OF SHARI'AH AND NIGERIAN CONSTITUTION

There is no gainsaying the fact that the place of Shari'ah in Nigeria constitutions has always followed the pattern of the British colonialists. Shari'ah therefore suffered serious attacks and woes in the hands of colonial masters from 1902 to September 1960 and has continued to suffer humiliation in the hands of Nigerian lawyers from

1st October, 1960 to date. As a result of this, the position of Shari'ah in 1963, 1979 and 1999 constitutions respectively has almost remained the same. The position can be summarized as follows:

- i. it is recognized as one of the laws of Nigeria. The others being the English common law and customary law.
- ii. It is reduced to narrow confine of personal status. This can be seen from the jurisdiction of the Shari'ah court of appeal. According to the constitution, the Shari'ah court of Appeal shall be competent to decide any question of Islamic personal law, regarding marriage, divorce, waqf, gift, will and child custody and any other question to which the parties consent. Thus all the other aspects of the Shari'ah have no relevance.
- iii. The Shari'ah is made subordinate to the English common law which of course is seen as the ideal.¹²

THE POSITION OF SHARI'AH UNDER DEMOCRACY

In our discussion so far, we have been able to carry ourselves through historical antecedent of Shari'ah in Nigeria, the importance of Shari'ah to the Muslims, the constitutional provisions for Shari'ah and what will equally follows.

What position can the Muslims put Shari'ah under democracy? This is another focus of this paper since Islamic Theocracy is a kind of social system or state controlled by religious leaders. An Islamic theocratic state¹³ The above heading can be summarized as follows:

- That the colonial master pursued a policy which aimed at curtailing the application of Shari'ah. This was seen as serious attack against Shari'ah. Abdullah¹⁴ quotes Ali Alarape Salman as saying that the first proclamations by Lord Lugard were a very great blow to the Shari'ah in the Northern Nigeria. The trend has continued since that time up till present time. What can Muslim do to change this condition? Should we continue to experience neocolonialism on the issue o Shari'ah?
- The colonial interference did not only relate to displacement of a branch of Shari'ah. It also touched on several of its other aspects. The traditional method of training Alkali, their qualification and tenure were all relaxed and made to conform to the common law tradition which within the sixty or so years of British rule, had come to predominate Nigeria's legal system. A thorough knowledge of the fundamental sources of Shari'ah is no longer a prerequisite for appointment of a judicial post. Neither is any premium put on a candidate's piety, uprightness and other tangible qualities which the

Shari'ah demands of a person who may be entrusted with the onerous burden of judging the affairs of the believers in accordance with the Shari'ah¹⁵. This will soon lead us to discuss the good governance of the four (4) rightly guided Caliphs in Islam.

- A thorough examination of our 1999 constitution shows clearly that it is the Muslims themselves who have not been able to effectively utilize the provisions to their advantage. One can imagine the position of the Muslims in the Southern states whose lives are being governed by customary law or common law instead of Shari'ah while their counterparts in the North enjoy Shari'ah, although on personal matters. Going by the 1979 constitution, a provision of section 240 stipulates that "there shall be for any state which requires it a Shari'ah court of Appeal for that state". The same provision exists in the 1999 constitution under section 275 and yet no such Shari'ah court of Appeal has been established in any of the Southern state"¹⁶ what could have been responsible for this?
- The return of Nigeria to democratic rule seems to have far - reaching consequences. The Zamfara state Shari'ah initiative provides a classic test for the efficacy of the Nigeria democratic dispensation. It alerts and awakes many Muslims that have slept off in their responsibilities to gear up to them. To this

end, the 1999 constitution made it clear that Shari'ah shall affect Muslim parties alone. Therefore, the last segment in our discussion here will reveal the way and manners the four rightly guided Caliphs ruled over their subjects during their life time and this would serve as practical examples for Muslim leaders to imbibe the good spirits of these statesmen.

ISLAMIC THEOCRACY AND MODERNISM AS EXEMPLIFIED BY THE GOOD GOVERNANCE OF THE ORTHODOX CALIPHS IN ISLAM

In our previous discussion, we have been able to carry ourselves through historical survey of Shari'ah in this country; we also enumerated the importance of Shari'ah to the Muslims, Application of Shari'ah under the British rule, the position of Shari'ah under democracy. All is done in order to drive home our points. What are the good governance of the four orthodox Caliphs in Islam as demonstrated by the (4) four caliphs after the demise of the prophet Muhammad? which will serve as a good example for the Muslims and religious leaders in an Islamic theocratic state in Nigeria. This is our focus of discussion and this we shall try to do here.

Inaugural address, after being elected as Khalifa Abu Bakar addressed the assembled Muslims in the following words:

“You have elected me your Khalifa, although I am not better than you. I need all your advice and all your help. If I do right help me, if I do wrong correct me. In my sight the Powerful and the weak are alike and to both I wish to render Justice. You should obey me as long as I obey, the Lord and His Prophet. If I disobey them, you should forsake me”.¹⁷

The inaugural speech of Khalifa Abu Bakar the first orthodox Caliph in Islam after the demise of Prophet Muhammad is a monument of the principles of democratic and constitutional government and enlightened administration. The Khalifa would not be an autocrat; he would seek the advice of his fellow Muslims and would be responsible to them for his actions in their day – in – day – out activities which religious leaders in an Islamic theocratic state should emulate.

The premium of discussion here is the importance of Shari’ah to the Muslims which is nothing but Islamic theocracy and modernism. This becomes necessary in order to drive our point home. Shari’ah is a way of life of the Muslims. It is the embodiment of all aspect of their life both spiritual and mundane. To a Muslim the Shari’ah represents his entire life. Symbolizes his existence and gives him his identity. His entire personality and character are shaped by the Shari’ah. It is as a result of this that Hossein Nasr notes as follows: “Only he who accepts the

injunction of the Shari'ah as binding upon him is a Muslim".¹⁸

In conjunction with the above, Abu – Bakr led a very simple life. Though a Khalifa and devoted much of his time in state affairs, he did not take any salary or allowances from the public treasury and lived on his own trade. On the insistence of Umar, he after wards agreed to take a small allowance from the state (Baitul mal). Even this troubled him and in his death – bed he ordered that his own private property should be sold and the money should be refunded to the public treasury¹⁹.

One could see that this Khalifa Abu Bakr laid a good examples for all religious leaders in an Islamic theocratic state to follow, when the Khalifa lived and based his own life on what he will earn from his trade and desist from looting the public treasury as being perpetrating by the so called Nigerian politicians under democracy. The Khalifa strictly adhered in line with the saying [Hadith] of the Prophet Muhammad which says:

If one of you takes a rope (goes to a bush) and comes back with a bunch of fire – wood on his back, sells it and have his problem thus solved by Allah is better for him rather than begging people for alms whether or not they give him²⁰.

Dignity of labour is the focus of this Hadith. The Prophet (S.A.W.) teaches everybody to work hard in order to earn a living instead of becoming a professional looter/

beggars we Muslims should be more alive to our responsibilities and duties as religious leaders, we should be able to live with our own trade and from there, to take care of the family and others than looting the public treasury.

More so, Umar the second orthodox khalifa of Islam proved himself as a man and ruler. He was an ideal man and ideal ruler and leader, simplicity, duty and impartiality were the guiding spirit of his life and administration. Umar led a strictly simple and unostentatious life and thus left before the world the brilliant example of a very successful ascetic king. When he went to Jerusalem to comply with the desire of the patriarch of the Holy city the Christians could not recognize him, because of his plain dress and manners to be the most powerful ruler of the time and uncrowned monarch of the Muslim nation²¹.

A dutiful ruler like Umar is rare in history. He considered the great office to be a trust and was always vigilant to the needs of his subjects. He traveled at night in incognito to inquire into the conditions of the people and remove their sufferings and distress. He himself carried food for the needy when in his reign a famine broke out in Syria; he went to the place and worked tirelessly and as an ordinary labourer to ameliorate the sufferings of the distressed people. The great Khalifa of Islam would satisfy his hunger after the day's hard labour with a few dry dates and would think, "Some one of my

people might have gone without food today, my lord, have I taken from your bounty more than what is my due"²².

Umar, the second Khalifatul Rosullullahi appointed a Qadi (judge) for every province and he was given a handsome emolument. He separated a judiciary from the executive and made Qadi independent of the Ameer. Umar as a good leader of Islam, a man of integrity and character and of deep knowledge of the Qur'an and the Sunnah was appointed this responsible post.

According to history Khalifa Umar, laid down the basic principles of the Bait al - mal or the public treasury. He did not spend a single dinar from it for his personal benefit. Except what little he received by way of allowance. He treated the Bait al mal as a great public trust and to be used solely for the common interests²³.

Since the applications of Shari'ah does not affect the non Muslims as proved by the provision of Islamic legal law, Umar's administration policy towards the subject peoples was governed by enlightened toleration. The non - Muslim communities were granted the security of life. Property and religion and were always treated with special consideration. The welfare of the people and development of the resources of the country were the guiding principles of Umar's administration.

Great ruler and leader, judged by character, ideals and achievements a genius greater than Umar, a ruler and leader more successful than the second pious Khalifa of

Islam has not been born in this world. The Muslims are rightly proud of such a great personality of history. The death of khalifa Umar was an irreparable loss to Islam²⁴.

More importantly, the forth orthodox Khalifa Ali was also demonstrated the real an ideal Islamic theoretic state in line with the Shari'ah. Ali has this to say:

The non – Muslims of the empire were Called Zimmis – the Zimmis were treated with Toleration, fairness and justice they enjoyed uninterfered the right to life, Property and religion. The prophet and the pious khalifas granted them Charters of liberty. The non Muslims were tried by the judges of their own community²⁵.

Moreover, the 1999 constitution has made it clear that Shari'ah affect Muslim parties alone. It is therefore explicitly clear that it is the Muslims only that can ask for their fundamental rights of being governed by Shari'ah. This is a great opportunity for Muslims in Nigeria to apply Islamic theocratic government since Nigerian had experienced Shari'ah which was similar to Islamic theocracy.

The Muslims and religious leaders in Nigeria are the people that can champion the cause of giving Islamic theocracy and modernism (Shari'ah and democracy) the rightful place it deserves. This could only be achieved when the agitations of Muslims for Shari'ah/Islamic theocracy are demonstrated by full participation, mobilization and enlightenment of Muslims on democracy and democratization processes.

Conclusion and recommendations from the foregoing, one will be able to conclude that with the introduction and application of Shari'ah in the past both in the Northern and southern, in Nigeria, as one leg in, one leg out. Islamic theocracy can only be best practiced by the Muslims themselves when and if all the aforementioned and enumerated good governance of the four (4) pious rightly guided caliphs in Islam are strictly imbibed. This can however be achieved if the following recommendations are critically and consciously examined.

- i. The muslim Ummah of this country should go by Quranic injunctions on unity of Muslims and disregard tribal sentimentalism on religious matters particularly the issue of shari'ah or Islamic theocracy. This will be of great help to the introduction and application of Islamic theocracy [shari'ah] to many states according to the constitutional provisions.
- ii. Muslims in all places should be mobilized, educated and motivated to participate in democratic set up at various levels of the government. This will in turn pave way for Islamic theocracy when the population of the Elite dedicated Muslims in the two federal houses outnumbered the non Muslims.
- iii. An active and virile political awareness committee should be set up at various levels. This will see to the enlightenment of Muslims for the election of Muslims

into political offices particularly state house of assembly and federal legislative body.

- iv. That the political awareness and mobilization committee set up should be conscious of their duties and roles in sensitizing, nominating the pious candidate who is conscious, devoted and highly religious Muslims. To achieve this, measure must also be put in place so that the nominal Muslims or Muslim by names or deceit candidates who would because of power deceive people by bearing camouflaging identity of Islam and not practicing Muslims should be critically examined during and after the processes.
- v. Islamic theocratic government will cease to be unpopular and made inferior to common law if Muslims themselves cherish their law and its application by giving more premium and preference to it in their day to day life, Muslims should continuously use and live the real life of Islam as demonstrated by the Prophet Muhammad and the pious khalifas in Islam.
- vi. A national Islamic body on shari'ah should be set up to monitor the introduction and implementations of Islamic theocratic government in all states. The recent inauguration of supreme council for shari'ah is a commendable development provided it has good intention and will be actively used to achieve Islamic goals and objectives.

- vii. Since there is provision for Islamic theocracy in Nigeria constitution [shari'ah] Muslim leaders should make use of this opportunity in a states where Muslims are the majority to allow Islamic theocratic government to operate in line with the way and manners the four pious rightly guided caliphs in Islam ruled and governed their subjects. Their Tolerance, simplicity, fairness, sense of belongings, accommodations, accountability, dedication and strict adhered to the Law of Allah and that of Prophet Muhammad [Qura'n and Hadith] which severed as their guiding principles in their administrations should be carefully and piously adhered to by the Islamic religious leaders in a theocratic States.
- viii. Lastly, Islamic theocracy and modernism can and may be possible to operate and apply in Nigeria with the provisions and introductions of shari'ah in the Nigeria constitutions and with the previous experience and applications of shari'ah for both Northerners and southerners in the country and as well with the recent re-awakening of shari'ah in Zamfara state. All these would pave ways and give automatic chance for Muslims in various states of the federation to apply and operate Islamic theocratic government in Nigeria and as well in the contemporary World.

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