

Islam: Administration of Justice and Nigeria's Development

Yusuf ALI LLM, FCI_{Arb.} (UK)

Senior Advocate of Nigeria

Legal Practitioner, Notary Public & Arbitrator

yoa@yusufali.net

08033340330

Introduction

Every human society evolves to create orderliness and enable a veritable tool of regulating the conducts of every member, as well as the institutions that exist in the society. The rules are often regarded as the law, which is centrally aimed at checkmating, imposing, sanctioning and defining the ways and methodology by which every individual must comply. These rules are tailored among others, towards the orderly development of a given society and at different times.

The point must be made that as we have various societies in the globe, there are marked similarities and differences with different individuals that live in the globe. In this light, it therefore becomes compelling and necessary for man to develop its rules in accordance with social standards, political reflections and economic happenings in a particular society.

It is very important to note that an organized society presupposes the existence of law in that society, and as laudable as the laws might be, its application or administration is more important.

This is so because if a good law is not well applied or administered, it will not yield a good result. And a *fortiori*, there will be no justice. This paper will examine the concept of law and justice in Islam, discuss Islam as a way of life and also look at the roles of Islamic administration of justice in national development.

Concept of Law and Justice in Islam

In ordinary parlance, law and justice are synonymous. However, justice is the correct application of law as opposed to arbitrariness. Law seeks justice. Law is therefore not an end in itself, but a means to achieving justice.

Notwithstanding the simplicity of the above statement, it would be misleading to assume that the concept of justice means the same thing to everybody at all times. Obviously, the word would mean different things to different people, for example, to the employer and the employee; to the university authority and the students' union leaders; to the rich and the poor; to the plaintiff and the defendant.

This is because many factors contribute to the molding of one's conception of justice such as home background, educational qualification, religious belief, enlightened self-interest, personal idiosyncrasies, socio-political affiliation, etc. The problem is further complicated by the fact that the society cannot devise rules of law that will fully satisfy the often competing and conflicting demands and interests of everyone at all times.

The concept of law and justice has been trailed with different controversies due to the various schools of thought. However, Islam has aided and furnished us with better framework of law and justice.

In Islam, law is *Shari'a* an Arabic word which literarily connotes "the way", a term that refers to the body of laws and rules that regulate every Muslim life. Laws in Islam are expressions of God's wills and commands.

According to *usul al fiqh*, four principal sources (known as legal indicators) provide the basis for the *Sharia*: the Qur'an; the *Sunnah*, (the collection of actions and sayings of Prophet Muhammad); *ijma*, (consensus which most jurists referred to as the consensus over the centuries of the schools of law, but which may also refer to the consensus of the Muslim community); and *qiyas*, (reasoning by analogy, in which jurists formulate new laws based on the Qur'an or the *Sunnah*.)

Usul al fiqh also, in addition to providing principles of interpretation, categorizes the human actions that are covered by law. These actions may be *wajib* (obligatory), *mandub* (recommended), *mubah* (permissible), *makruh* (reprehensible), and *haram* (prohibited). Only violations of laws that belong to the first and last categories carry punishment under formal law; violations of laws in other categories are punishable only by God.

Over time, the laws that Muslims must follow have been elaborated upon by the schools of law. When the schools of law agree on a judgment, it becomes binding on Muslims. If the schools differ, their opinions are equally valid, provided they followed the prescribed methodology. Today there are four schools of law, and their work is largely limited to applying laws and judgments passed in earlier times. These laws and judgments generally cover areas not legislated by the secular governments, chiefly family law and ritual. The most important debate among modern Muslims concern whether the Sharia should be applied in all aspects of life and whether and how to reform it so that it addresses the most pressing issues facing the Muslim world today.

Justice on the other hand is one of the most fundamental principles prescribed by Islam. This is not limited to justice in Muslim inter relations, but extends to external relations with non-Muslims. Allah in Al-Nisai: 58 says:

“Allah commands you to return trusts to their owners and if you were to judge between people judge with fairness. Verily, how excellent is the teaching He gives you. Truly, Allah is All-Hearer, All-Seer...”

Also in verse 135 of the same chapter of the Quran, Allah says:

“O ye who believe! Be witness to God, even against yourselves or your parents, kin, be he rich or poor; Allah is better protector to both. So follow not the lusts, lest you avoid justice; and if you distort your witness or refuse to give, verily, Allah is ever well-Acquainted with that you do.”

In these Quranic provisions, Allah commands justice because it maintains order and the basis for communality without which national development could not be achieved.

Islamic Administration of Justice as a Source for National Development

One of the praiseworthy characters of Allah is *as-salam* (the Most Peaceful). It is referred to as such because He is the Most Perfect, precluded from all defects, shortcomings and

destructions. Thus, Islamic religion sent down to the world has to reflect this praiseworthy character. Both the words *Islam* and *as-salam* originate from the same root, *salima*, which means peace and preclusion from all that is condemned and disgraceful. Theologically, Islam is a blessing for all creations. Its teachings contain universal values that cover all aspects of human life, encompassing all the problems of human beings from the cradle to the grave.

From the aspect of law, Islam covers various problems that human beings are facing in their role as both individuals and members of a society or nation. From the psychological aspects, its teachings provide all-encompassing peace both materially and spiritually, physically and mentally. From anthropological aspects, its teachings are aimed at all the nations and peoples. Islam brings out the importance of the teaching of equality among mankind. All the teachings of Islam bring to the fore the equality of standing and stature among nations regardless of their color, of their skin, extraction, geographical location, and social status, as provided in the Qur'an 49:13 thus:

“O mankind, actually We have created you from a man and a woman and have made you into nations and tribes so that you know each other. Verily the noblest person among you on Allah's side is the person who is the most religiously devout to Allah among you. Verily, Allah is the Omniscient”

Even if there is a big difference among beings, such a difference is not intended to oppress one another, to discriminate against one another, and to be hostile towards one another but for a noble objective, that is, to know one another and at the same time, to put them to the test in order to find out who is religiously more devout to Him. A human is only distinguished from another human on the basis of his achievements and the quality of his religious devotion. Such is the teaching that is enshrined in the Qur'an. However, distortions abound here and there when the noble teachings were sent down to earth and implemented in the life of mankind. Humans are often subjected to unequal treatment and discrimination on the basis of color, social status, and so on and this is evident everywhere.

Islamic teachings are full of values that can be developed as a basis for the concept of democracy, administration of justice, peace, tolerance and human dignity, absence of which will lead to under-development. One of them can be taken from the following verse:

“And We have sent down to you the Qur’an with the truth being brought, justifying that which has previously been there, that is, the books [or scriptures] (that have been sent down before), and as a touchstone by which the other books [or scriptures] are to be judged; so, decide on their case according to that which Allah has sent down and don’t follow their lust by abandoning the truth that has come to you. To each follower of Allah among you, we have given a precept and the illuminated way. Had Allah willed, He could have made you one congregation (only). But Allah wants to test you concerning that which He has given you. So, try, like in a race, to outdo one another in doing what is good. Only to Allah will all of you return; then He will tell you that which you have disputed”.

Islamic Principles of Administration of Justice and National Development

Islam is a comprehensive religion. It is not simply a belief system. It is a way of life encompassing economic, social, political, ethical and moral aspects. As such, not a single aspect of life can be isolated from the others. It is the very essence of Islam to enable man acquire all the best attributes of God in conformity with Islamic ideology known as *aqidah*. This *aqidah* is understood in terms of decisive, definitive and intellectual belief obtained through mindful thinking that results in the belief in Allah. In order for every Muslim to perform the role of a vicegerent ‘*Khalifah*’ on earth, the *shariah* has prescribed five fundamental attributes for developing a complete human personality clothed with administration of justice with the aim of achieving national development. These include: (i) Ability to sustain life; (ii) Ability to raise family and children; (iii) Opportunity to develop human intellect (the mind); (iv) Safeguarding the belief in Islam (*Deen*); and (v) The privilege to enjoy the fruits of the rights of ownership. So, to play the role of a *Khalifah* in this temporal world, all individuals must be able to live with dignity made possible by freedom of expression, human rights, without inhibiting others from enjoying their own.

To acquire the above basic attributes which will invariably lead to achieving development in a nation, Islam has laid down certain administration of justice principles by which the national development could be achieved. These principles will be discussed hereunder one after the other.

1. National Unity

National Unity as a principle for development in a nation indicates a strong link among the citizens of a particular country based on clear binding elements felt by most citizens of the nation. It is a situation whereby, the people of the nation are ready and prepared to sacrifice in defending one another. It is a unity of a group of people in religion, economics etc, in one place and under the banner of a unified ruler.

From Islamic perspective, National Unity is a relationship of cohesiveness and cooperation among the citizens of a nation based on the principles of the divine vicegency vision, which highlights the value of man's rights and clarifies his position in the universe as the first master and that everything in the universe is in use for his service in order to achieve the great objectives for which he was created, namely the worship and the glorification of Allah. Islamic administration of justice seriously fosters national unity which in turn, aids national development.

In order to be successful and act as a core for society and its development, unity must be built on the basis of clear and solid foundations that give no room to any misinterpretation. These foundations are based on the common denominators between all human beings and are consistent with human nature. Indeed, they are extracted and deduced based on the principles of the Quranic concept of vicegerency that encompasses the definition of man, his purpose and goal.

Almighty Allah has said in numerous places in the Holy Quran that the origin of humans is one as they are created from the same entity. He says in Al-Nisai 21:

“O people, fear your Lord who created you from a single soul and created from it, its other half and reproduced from them many men and women and fear Allah from whom you demand (your mutual rights) and don't cut the relationship of kinship. Surely Allah is Ever and All-watcher over you”.

This verse is no doubt, a reminder to mankind of the fact that they are created from one origin and to encourage them to be affectionate to one another. This depicts compassion and non-enmity. In other words, national unity is the means by which national development can be attained.

2. Human Rights

Human Right is not a principle alien to Islam; as a matter of fact, Islam cherishes, preaches and protects human rights. These rights are put in place by Islam with a view to enhancing the welfare and wellbeing of the citizenry which will in turn aid the development of the nation. It is without doubt that a country without enhanced and robust welfare package for its people cannot develop. These rights are numerous and we shall discuss some of them.

a. Freedom

Islam considers freedom to be a natural right of human beings. Life becomes devoid of worth when freedom is not present. When a person loses his freedom, his inner self dies, even though on the outside, he continues to live; eat, drink, work, and go through the other motions of life. Islam elevates freedom to such a level that it has made free thought the proper way of recognizing God's existence. Allah says: *"There is no compulsion in religion. Guidance is clear from error"*.

The verse negates the use of compulsion in religion because religious belief is the mightiest thing that a human possesses. This makes it quite clear that compulsion is not tolerated in any other matter. It is also clear that human being is independent in what he possesses and does without being subjected to the will of anyone else. The individual has free will and free choice.

The Meaning of Freedom

Freedom is a person's ability to do something or abstain from it based upon his own free will. It is a special quality enjoyed by every rational human being. With it, a person acts without the interference of others, because that person is not owned by anyone; not on the individual level, or on the level of the state, society, etc.

Does "freedom" mean being left completely without any regulation?

Islam's recognition of freedom does not imply that it leaves the individual free of all restrictions and guidelines, because that kind of "freedom" will lead to anarchy that gives free reign to lusts and evil desires. It is well known that these vain desires bring more harm to human beings than the good.

For this reason, Islam forbids a person to force someone to follow them because no one's freedom is granted at the expense of another. Everyone must be given freedom on both the individual and societal levels. For this reason, Islam sets down certain rules and guidelines that guarantee the freedom of all. These guidelines can be outlined in the following manner:

- A. The freedom of individuals and communities should never jeopardize the general order of the society or destroy its foundations.
- B. The freedom of individuals or communities should never cause the loss of more general rights. This is in consideration of their intrinsic values.
- C. No one's freedom should violate the freedom of others.

These regulations and guidelines show that Islam does not recognize individual freedom at the expense of the community, nor does it establish freedoms for communities at the expense of individuals. Instead, it strikes a balance between the two, giving everyone their just due.

For any progress to be attained in a given nation, freedom is essential. Without freedom no happiness; and a nation without happiness is a nation that cannot develop. Caliph Umar in expressing his view about freedom said: "*Why do you enslave people while they were born free?*"

Freedom – from – Islamic – perspective includes:

i. Freedom in Belief/Religion/Conscience

In this regard, everybody is entitled to his own belief, religion or conscience. Allah in Al-Baqara: 256 says: "*There is no compulsion in religion....*" This simply means, do not force anyone to embrace the religion of Islam, or any other religion because only Allah can guide whom He wishes into Islam.

The individual has a right to choose the religion that he or she is convinced is true without being compelled by anyone. Compulsion negates free will, so a person who is compelled is not truly convinced. If we consider Allah's words: "*There is no compulsion in religion*", we find that Islam has completely rejected the use of force in matters of belief. Rather, Islam asserts that thoughts and beliefs must develop from complete freedom.

When a person accepts a religion, creed, or idea under compulsion or threat, then such an acceptance is false, worthless, and rejected. It is not in that person's heart because there is no true conviction behind it. For this reason, Allah says: *"If your Lord had willed, then everyone on Earth would have believed. Would you compel the people in order to make them believers?"*

Allah also said:

"So remind them (O Muhammad), you are only one who reminds. You are not a dictator over them".

These verses, and others like them, reject the use of compulsion in matters of belief and assert the individual's right to choose what to believe and what religion to embrace.

It follows from freedom of belief that there must be dialogue and discussion about religious matters. There must be exchange of ideas and the opportunity to clarify matters that are ambiguous or poorly understood. This is so that belief can be attained with conviction and peace of mind and so that someone who does not know the truth can have a chance to arrive at it.

The earlier Prophets used to try to convince their people by engaging in discussions with them. Ibrahim (AS) engaged his Lord in discussion on the issue of death and resurrection in order to increase his conviction. Allah relates it in the Qur'an as follows:

"And when Abraham said: "My Lord, show me how you bring the dead to life." He (God) said: "Do you not believe?" He said: "Yes, but (I ask) for the contentment of my heart." He (God) said: "Take four birds and train them to come to you, then place a portion of them on every mountain. Then call them. They will come to you swiftly." Then when it became clear to him, he said: "I know that God is Mighty, Wise."

The angel Gabriel came to the Prophet (SAW) and asked him about Islam, faith, piety, and the signs of the Hour. This is a clear proof for Islam's insistence upon free discussion in religious matters, both between the Muslims themselves as well as between Muslims and the adherents of other faiths.

The condition for such discussions is the sincere desire to arrive at the truth and to accept the truth when it becomes clear. The purpose of discussion must not be to present false and confusing arguments or to spread doubts. Such discussions are forbidden, because they do not help people to arrive at the truth with certainty and conviction.

It also follows from freedom of belief that there must be freedom of religious practice. A person must be allowed to carry out his or her religious duties without being rebuked, belittled, or threatened. The position that Islam has given to Non-Muslims living in the Islamic State is one of the glorious facts of Islamic history and a sign of Islam's greatness and magnanimity. When the Prophet (SAW) arrived in Madinah, he gave the Jewish people a treaty of peace. It afforded them the right to believe and worship according to their own religion and in their own places of worship. The Rightly Guided Caliphs who succeeded him followed the same practice. Umar bin Al-Khattab (RA) sent to the people of Jerusalem a treaty with the following wording:

“This is what Umar, the Commander of the Faithful, grants to the people of Iliya. He grants them the safety of their persons, their churches, and their crosses... their churches will not be shut down nor destroyed. Nothing will be taken from them or from their crosses. They will not be compelled to abandon their faith nor shall any one of them be abuse”.

The scholars of Europe today bear witness to the magnanimity of Islam and admit this in their books.

Michaud, in his book, “The History of the Crusades,” writes:

“Islam, that commands jihad, is magnanimous to the followers of other faiths. It exempted the patriarchs, monks, and their servants from taxation and prohibited the killing of monks specifically, because of their devoting their lives to worship. Umar bin Al-Khattâb did not harm the Christians in any way when he opened up Jerusalem. The Crusaders, on the other hand, slaughtered the Muslims and burnt down their homes when they entered that city”.

ii. Political Freedom

Political freedom is evident in Islam through the principles of *shura* as mentioned explicitly by the Holy Quran. Allah says in Al-Imran: 159: “...and consult them in affairs (of moment)

Political freedom includes promotion of virtue and prevention of vice. Allah says in Al-Tawbah: 71:

“The believers, men and women are protectors, one of another: they enjoy what is just and forbid what is evil.”

iii. Freedom of Movement

This is evident by the saying of the Prophet (SAW) when he arrived in Medina and he said:

“Whoever leave is safe and whoever stays is safe in Medina, least the one who commits an injustice or a sin”

An individual is free to travel at will within his country and outside of it without any impediment. It is a natural right of a human being to be able to depart and return. In fact, it is a requirement of life to be able to do so because it is often necessary to earn a livelihood, find employment, seek knowledge, and achieve many other things.

The freedom to move is a quality of all living things. It is a necessary part of what it means to be alive. Freedom of movement is established by the Qur’ân, Sunnah, and the consensus of the jurists. In the Qur'an, Allah says:

“It is He who made the Earth submit to you, so traverse its surface and eat of its sustenance and to Him is your return”

No one should be prohibited from movement except for an overriding consideration of the general welfare. When a plague struck Syria, Umar bin Al-Khattab (RA) prohibited travel to Syria. He ordered such a command in order to carry out the instructions of Prophet Muhammad (peace be upon him) during such times:

“If you hear about a plague in a certain land, then do not go there, and if you are in a land when a plague strikes it, then do not leave or try to flee it.”

To facilitate the people's freedom of movement, Islam prohibits any transgression being committed against travelers or hindrance being placed in their way. For the same reason, Islam has prescribed an extremely stern punishment for highway robbery. In order to facilitate use of the roadways, the Prophet (SAW) forbade his Companions from sitting down in the middle of them. He said:

“Avoid sitting in the roadways.” His Companions responded: *“O Messenger of God, we have no recourse but to sit in these places.”* He said: *“If this is the case, then give the road its rights.”* They said: *“What are the rights of the road, O Messenger of God?”* He said: *“Lowering the gaze, abstaining from abuse, returning the greeting of peace, enjoining what is right, and forbidding what is wrong.”*

The streets should be used for what they are built for, like traveling and the transportation of materials and goods. Using them for any other purpose is prohibited, especially if it leads to the harming others.

Due to the importance of travel in the life of a Muslim and due to the fact that unforeseen problems often occur during travel, Allah grants the wayfarer a right to a share of the obligatory alms. This is if the traveler is in dire need of it, even if this person is affluent in his or her own land.

iv. Freedom to work and its guarantee

Allah says in Al-Mulk: 15:

“It is He who made the earth manageable for you so traverse through its tracks and enjoy the sustenance which He furnishes but unto Him is the Resurrection”.

Employment in Islam is a permissible way of making a living. It holds a high honor among the various activities of life. Therefore, Islam recognizes the individual's right to engage in any field of work he or she wishes unless this leads to a conflict of interests or causes detriment to the society.

Due to the importance of work in Islam, it is considered a form of struggle (*jihad*). *Ka'ab bin Ajazah* relates that a man passed the Prophet (SAW) and the Companions saw how hard working and industrious he was. They said:

“O Messenger of God, if he were only doing this much work for the sake of God...”

The Prophet (SAW) then said:

“If he is working to support his small children, then it is for the sake of God. If he is working to support his elderly parents, then it is for the sake of God. If he is working to occupy himself and keep his desires in check, then it is for the sake of God. If, on the other hand, he is doing so to show off and earn fame, then he is working for the sake of Satan.”

We find in the Qur'an and Hadith many texts that speak about employment and praise a number of occupations, like metalworking, shipbuilding, and agriculture. The reason for this is that it is a means of survival. Survival, in turn, is a necessary condition for the greatest purpose in life, worshipping God and seeking His pleasure. The greatness of this objective elevates the means needed to attain it.

The greatest objective is the pleasure of God, and work and sacrifice are the greatest means of attaining it. The Qur'an praises work and earning a livelihood only to show the great benefits that it brings, its importance for human survival, and that it is God's greatest blessing for humanity. If this freedom is ensured and guaranteed to individuals, development is on the right track.

v. Freedom of Association and Fraternity

In order to promote unity and development among the people, they must be free to assemble and associate freely. The Holy Prophet (SAW) laid the foundation for this when he got to Medina after the Hijra. He encouraged the Muslims, Jews and others to assemble and interact freely. This made it easy for proper integration when the city became a city of Islam and in turn led to the development of Medina.

vi. Freedom of Thought

Any society where the people are not free to express their thought, development will surely elude it. We can draw inspiration from the first message of Abubakar (RTA) when he became the first khalif of Islam. He told the people to always tell him the truth, say their minds and that obedience to him was only mandatory as long as he was on the right path.

vii. Freedom From Want And Poverty

Islam from the beginning made the welfare of citizens the corner stone of its creed. The institution of zakat and sadaqat were part of this process. This is to ensure that no citizen is lacking in basic needs such as food, shelter, clothing, health. Availability of all these will ensure sense of belonging and enhance productivity of individuals to contribute to the development of the nation.

viii. Freedom from Ignorance

Islam is a religion antithetical to ignorance (*Jahil*). Therefore, knowledge or enlightenment is one of the blessings of Allah bestowed on human kind.

Most historical and religious accounts of Islam begin with a discussion of the state of ignorance in Arabia and often use it as a benchmark to underscore the civilizing influence of Islam on the barbaric Arabs of pre- Islamic Arabia. The great Islamic civilization that was produced with the explosion of knowledge in the fields of philosophy, science, sociology, medicine, and mathematics still remain a central influence on Islamic identity and an example of the indubitable truth of Islam and its transformative potential.

In the same vein, the rationality of Islamic beliefs and Islamic socio-political order remains a major theme in the discourses of Islamic intellectuals, scholars, and preachers. The point sought to be made here is simple: Muslims have always understood Islam as enlightenment, the path that rescued humanity from ignorance, irrationality, and superstitions and catapulted human society towards the apex of civilization, towards the realization of a perfect community based on divine principles with a view to develop the Islamic community for a better tomorrow. It was on this basis that the Prophet (SAW) was reported to have said:

“Seeking knowledge is obligatory on all Muslims, males or females”. The importance of knowledge in national development could also be understood by the saying of the Prophet (SAW) that: *“Seek knowledge even if it is in China”*.

ix. Freedom of Residence

Any person who is capable of securing a place of residence for himself, has the freedom to do so. Likewise, the state should provide suitable housing for those who are incapable of doing so, so that they can have at least a minimal standard of living.

Abu Saeed al-Khudri relates that the Prophet (SAW) said:

“Whoever has excess shelter should provide shelter for one who has none, and whoever has excess provisions should provide for one who has none.”

The jurist Ibn Hazim uses this hadīth and others as proof that the affluent Muslims are expected to provide for the needs of the poor when the obligatory alms funds and tributes are insufficient to address their basic needs. These needs are food, drink, clothing, and shelter from the heat and cold. The prominent people in society and in government are responsible to collect these funds and distribute them to the needy, both Muslim and Non-Muslim, because the fulfillment of these basic needs is a universal right of all humanity. Every member of society should be guaranteed these things.

When a person owns a home, it is not permissible for anyone else, not even the president of the country, to break into that home or enter it without the owner’s permission except under the direst circumstances. Allah says:

“O you who believe, do not enter the homes of others before announcing yourselves and greeting the occupants. This is better for you that perhaps you might take heed. And if you find no one present, then do not enter their homes until you receive permission. If you are told to go back, then do so because this is purer for you. And God knows well all that you do”.

If entering houses without permission is forbidden, confiscating or destroying the homes of others is even more heinous. The only exception to this is where the general welfare of society rests upon doing so. In these cases, the homes can be taken as long as fair compensation is given to the owners.

There are many instances where the general welfare might require the acquisition of others' homes. It might be necessary to complete such projects as expanding a mosque, constructing a needed road, or building a hospital. Umar bin Al-Khattâb (RTA) displaced the people of Najran and compensated them with the city of Kufah.

To protect the sanctity of the home, Islam prohibits spying. God says: "*Do not spy, and do not backbite one another*".

Spying violates the rights of others by violating the sanctity of the home and compromising the inhabitants' personal freedom. Islam goes so far in preserving the sanctity of the home that it waives the right to retribution or blood money in cases where the home of another has been violated.

Abu Hurairah related that Prophet Muhammad (SAW) said: "*Whoever looks into the home of another without permission, then poke out his eye, there will be no compensation for the eye.*" Even though the eye of a human being is sacred and the monetary damages that Islam demands from one who damages the eyes of another are great, they are waived in this case because the eyes were used to violate the rights of another.

x. Freedom of Ownership

Ownership is where a person is able to possess and dispose of something and benefit from it in any legally sanctioned manner. There are various types of property and various legitimate ways of acquiring it.

Islam grants the individual the right to possess properties. It is a fundamental principle of Islamic Economics. It acknowledges the natural consequence of private ownership, like the need to preserve it and safeguard it from seizure, theft, and misappropriation. Islam sets stern punishments for transgressing against another's property in order to safeguard the right to private property.

There are other consequences of private ownership that Islam addresses, like the freedom to dispose of one's property through buying, selling, leasing, mortgaging, gift, bequeathing, and other types of legitimate commercial behavior.

Islam, however, does not leave private ownership completely unregulated. It sets down a number of regulations to ensure that the rights of others are not violated. For example, Islam prohibits usury, fraud, bribery, hoarding, and other harmful practices. This concept of freedom to own property applies to both men and women. Allah says: *“Men have a share in what they earn and women have a share in what they earn”*.

The legitimate means of acquiring property are those that are specifically recognized by Islamic Law. All other ways of acquiring property are forbidden. The legitimate means of acquisition can be broken down into two categories: private and public.

Private acquisition can occur in two different situations. The first is where the property concerned is already the property of another. The second is where it is not.

Property that is the property of another cannot be transferred from its owner to another except for a legitimate reason. These reasons include the transfer of property due to inheritance, bequests, preemption, contractual obligation, or a gift.

Property that has never been the property of another cannot become someone's property except through activity that leads to possession. This would include developing barren land, hunting wild game, extracting mineral wealth from the Earth, and being allotted unclaimed wealth by way of a government charter.

Personal ownership is also subject to the following conditions:

1. The owner must continue to use the property productively. Neglecting the property is harmful even to the owner and using it productively is beneficial to all of society.
2. The owner must pay the necessary tax. If the person possesses a certain amount of wealth, it may be subject to tax. This tax is considered a right of the wealth in itself.
3. The owner must avoid all prohibited means of acquiring wealth, like interest, fraud, and cornering the market through hoarding.
4. The owner should not squander the wealth nor be excessively stingy with it.

As for the public acquisition of wealth, it manifests itself in many ways. The first of these are the natural resources that are readily available to everyone without much effort, like water, public pastureland, and fire.

The second of these are resources that are protected and maintained by the state for the general benefit. This includes such things as graveyards, military bases, government agencies, public endowments, and Alms funds.

Then there are those resources not owned by anyone and resources that were previously owned then fell under a long period of neglect, like undeveloped land. Finally there are those resources acquired by the state through military effort, like the spoils of war.

xi. Freedom of Opinion

Freedom of opinion is also protected by Islam. Islam permits the individual to look into the Creation of things and observe all the phenomena that it may contain. It encourages the individual to experiment, employ reason, and utilize the world around him for the benefit of humanity. The human being is capable of utilizing nature to his own benefit, transforming it and manipulating it to the maximum possible extent. This can only be achieved with a considerable amount of thought and contemplation. Advancing ones opinion can be done in many circumstances and for many reasons:

1. It can be done to clarify the truth and counter falsehood. Allah says: *“Let there arise from you a group of people who call to goodness, enjoin what is right, and forbid what is wrong. These are the ones who are successful”*.

In this verse, Allah is asking the believers to make the truth manifest and also to refute falsehood.

2. It can be done to prevent oppression and establish justice. This is what the Prophets and Messengers did when they confronted the kings and leaders. Scholars and intellectuals do so when they confront the rulers and judges. Prophet Muhammad (peace be upon him) said: *“The best struggle (jihad) is to speak the truth in front of an unjust king.”*
3. A person may advance his or her opinion to clarify which affairs are more important and should be dealt with first. The members of the consultative councils in many countries and societies often do this.

Freedom of opinion can manifest itself in countless other ways, but this freedom is granted by Islam only to foster good and to allow the individual to develop himself and society. It is not granted for a person to injure himself or others or follow his lusts and destructive desires.

When we look into Islamic history, we find that freedom of opinion was put into practice since the time of the Prophet. The Companion, Habbab bin Al-Mundhir gave his personal opinion about where the Muslims should set up camp during the Battle of Badr. His opinion on this matter ran contrary to the opinion of the Prophet (SAW) but was the accepted opinion.

When the Prophet's wife Aishah (RA) was accused of adultery, some of the Companions advised him to divorce her. Then the Qur'an testified to her innocence. There are many other examples in history where the Companions freely gave their opinions to the Prophet (peace be upon him).

3. Protection and Care

This principle was decreed by the Prophet (S.A.W) through the document of Medina which is the first constitution of the state of Islam. He said:

“And whoever from the Jews follows us, is entitled to our support and fellowship neither oppressed nor considered as enemies”.

There is no doubt that existence of protection and care which is a clear principle of Islamic administration of justice will ensure national unity and will by extension, lead to development. It shows that the state owes a heavy duty to its citizens. A State that is unable to guarantee the safety of its citizens is not deserving of patriotism.

Right to Housing

It has been ruled by the scholars of Islam that provision of housing for the citizens of a nation is the responsibility of the state from the *Baytul mal* (community fund). If community fund is insufficient, then the responsibility devolves on the rich Muslims in the nation. Ibn Hazim said:

“It is a duty on the people of each country to provide for the poor among them.”

It is beyond argument, if the poor are provided with their basic needs, national unity will no doubt flourish and development is a sure result.

4. Security

This is very essential in achieving development. The prophet S.A.W said:

“Whoever is secure in his property, well in his body and has his daily sustenance is as if he got the riches of this world.”

Security and safety components are the basis and main tools for development. Security is beyond the physical alone. It extends to the psychological and covers security of all the other rights granted by Islam.

5. Right to Life

The preservation of human life and prohibition to expose it to peril is one of the rights guaranteed by Islam to human beings. Allah says in Al-Israh: 33:

“Do not kill the soul which Allah has forbidden except by right.”

This right ensures unity and foster development in a nation. This is one sacred right that the Nigerian nation treats with levity. Occurrences around all of us bear testimony to this assertion.

6. Equal Opportunity

The citizens must have equal chance and opportunity to the wealth, benefits, resources, and other commonwealth of the country. Favored citizenship must not be encouraged. It must be to everyone according to his or her contribution, or else that will create enmity which will hamper development. Equity promotes and elevates a nation. Under our present dispensation, it is “everyone for himself and God for us all.”

7. Hope

Hope sustains a nation, an institution, an entity or body. The citizens must have hope and aspiration. They must believe that they can aspire to any national office, position, entitlement to which their talent can propel them without let or hindrance. There must be hope that those at the bottom of the social and economic ladder can gain ascendancy based on merit and hard work. There must be opportunity that gives rise to hope but not forlorn hope.

8. Leadership

Islam gained quick ascendancy in its early beginning because of the quality of leadership of the Holy Prophet (SWA). A leadership that was marked by transparency, honesty, truthfulness, modesty, leading by example, frugality, thriftiness, lack of ostentation, and abiding faith in Allah. This was the same qualities exhibited by the Khalifs and others after them. This made Islam to conquer the world as it was known then.

Leadership that is mired in dishonesty, tribalism, ethnicity, shameless display of ill gotten wealth like we have been having in our country cannot promote unity nor prosperity. Leadership by example is the hallmark of Islamic leadership. In Islam, the leader of the peoples is their servant. It is others first self last. When followers see a leader that leads by personal example devoid of ego, they will be willing and ready to make the necessary sacrifice for national development and progress.

9. Education

An educated person is easy to lead but difficult to cheat. The place of education in Islam, its early days and now is not debatable. The Prophet (SAW) of Islam said that we should search for knowledge even up to China. Islam at a time ruled the world because of knowledge. We cannot talk of development in the absence of knowledge. The security challenges confronting our nation which has in great measure hampered our development cannot be divorced from the mass ignorance plaguing our country. This is so because it's easier to indoctrinate an ignorant person.

Islam requires the individual to seek knowledge and has granted every individual the right to seek education both spiritual and mundane. It has placed no restrictions on this, as long as the knowledge sought is of benefit to the Muslims in their worldly lives or their religion.

As for knowledge that yields no benefit, but may even cause harm, it is forbidden for the Muslim to seek it. Magic and fortune telling fall under this category.

Knowledge and education are of great importance for life. For this reason, the very first verse of the Qur'an revealed to the Prophet (SAW) ordered him to read.

*“Read in the name of your Lord who created. He created man from a clot.
Read! And your Lord is Most Generous, Who taught by way of the pen. He
taught the human being what he did not know”*

As it is well known, reading is the key to knowledge. This is the reason why the Prophet would pardon any prisoner of war from among the disbelievers if they would teach the Muslim children of Madinah how to read and write. This was after the Muslims had emigrated to Madinah in order to avoid persecution, and after the unbelievers subsequently went to war against them.

One of the great qualities of Islam is that it opens up the doors of knowledge for humanity and encouraged the people to walk through them and progress as far as possible. Islam hates the neglect of knowledge and backwardness. For this reason, it is the responsibility of the Islamic State to provide its entire people with educational opportunities and to guarantee everyone their right to an education. This right must be guaranteed to everyone in the country, just like any other right.

The Place of the Legal Profession

The system we practice leaves room for persons trained in the law to represent litigants. If we want to attain development through the administration of justice then lawyers must possess the following qualities among others:

- (1) Dedication to the truth
- (2) Adherence to the rules of professional ethics.
- (3) Respect for the institution of the judiciary
- (4) Promote the Rule of law
- (5) Knowledge of the law and other areas of human endeavour.
- (6) Patriotism and aversion for unfairness.
- (7) The fear of Allah

The legal profession must put in place practical and workable disciplinary mechanism to sanction members of the profession that step out of tune with the rules of professional ethics.

Members of the bar who forage into elective and appointive political offices must be made aware that whatever they do in these offices that bring the profession to opprobrium will be sanctioned.

The Place of Judges

It is well known that any talk about the administration of justice without alluding to the men who administer justice will be a totally incomplete discourse. In Islam, judges or kadis hold very sacred and important position in the dispensation of justice. No matter how laudable guaranteed rights are if judges are not humane, knowledgeable, God fearing, fearless, upright, incorruptible, just, and dedicated all will come to naught.

Therefore to attain justice the following are the minimum requirements of judges/kadis.

1. Deep knowledge of the law
2. Fear of Allah
3. Incorruptibility
4. Fairness and Firmness
5. Dedication and hard work
6. Fearlessness
7. Patriotism
8. Patience

The Prophet SAW was quoted as having said that there are three types of judges and that only one of the category will make aljanat. One who knows but perverts his knowledge. One that is ignorant. One that has knowledge and deploys it justly he is the one that will make aljanat.

The Way Forward

In order to attain development through the administration of justice, the following issues must be addressed:

1. The battle against endemic corruption in our land must be wholistic and not selective or political.
2. The nation must provide the judiciary with 21st century work tools to be able to deliver 21st century result.
3. The process of appointment of judges should be more rigorous and transparent.

4. Judges indicted for corruption and other unwholesome practices should not only lose their appointment but must face trial for their misdeeds.
5. There must be a total moral reconnection with bottom to top approach and not the other way round.
6. The virtue of honesty, patriotism, fear of God and other social enabling topics should be taught in our schools.
7. We need to revamp the curricular for the training of lawyers.
8. There should be adequate and proper funding of the judiciary which must be made financially independent.
9. Breach of the law by law enforcement agents should not be condoned nor tolerated.
10. There must be conscious effort to teach the three systems of law we practice in Nigeria in all our Universities offering law as a course. The three legal systems are: Common law, Shariah and customary law.

Conclusion

Administration of Justice as prescribed by Islam and characterized in the above discussed principles is for the purpose of promotion of prosperity, peace and unity which are the components of development aspired to by every nation.

The point must be made that if these principles are ignored as in our case in Nigeria, development cannot be achieved.

The attitudes of our leaders towards these principles have immensely contributed to the problem of under development in this country. Lack of these basic principles has resultantly led to lack of development in all ramifications.

It is worthy on this note that all the stakeholders in the country, follow and imbibe the principles of national development as prescribed by Islam so as to attain national development.