

## ***Tolerance and Identity in Religion in Nigeria: A Legal Exposition and an Islamic Perspective***

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### **Introduction**

This paper is an interrogation of the extent to which religious tolerance impacts religious identity of Muslims in Nigeria. The issue of tolerance and religion can be viewed from two perspectives – the legal and the religious. In legal terms, it may be said that religious tolerance ensures religious pluralism and freedom of religion protected in the national constitutions of modern nation-states such as Nigeria. This is because excessive claims to religious identity may violate the religious rights of others and bring about chaos. Thus, religious tolerance appears necessary for the character of modern nation-states whose citizens are often comprised of people of divergent religious and cultural beliefs. Conversely, in religious terms, tolerance may sometimes require a compromise of an individual's religious identity or some of its components. Examples are the prohibition of wearing of *hijab* by Muslim women aspiring to the legal profession at formal ceremonies of the Nigerian Law School and thereafter before the superior courts of record in Nigeria as qualified advocates.

The exact point of confluence or divergence between the legal and religious requirements of religious tolerance in relation to Nigerian Muslims is the thrust of this paper. The analysis adopts Patrice Brodeur's four-question model<sup>1</sup> to query the notion of Islam's accommodation

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<sup>1</sup> Adopted for his examination of religious pluralism and Muslims in the American context. See Brodeur, Patrice C., 2010. 'Religious Pluralism in the Light of American Muslim Identities' In Hirji, Zulfikar (ed.) 2010, *Diversity and Pluralism in Islam, Historical and Contemporary Discourses amongst Muslims* London and New York: I.B Tauris Publishers. Pp. 61-82.

of pluralism via religious tolerance as understood by Nigerian Muslims in the following manner: How have Nigerian Muslims managed their identities as Muslims and as Nigerians defined by the Nigerian Constitution and other relevant national laws? How have they negotiated these identities with the rest of the Muslim community (Ummah) inhabiting other multifarious jurisdictions of the world? How are Nigerian Muslim identities being discussed, articulated and received by non-Muslim Nigerians at various levels of society and what are typical Nigerian Muslims' responses to these? To what extent are processes connected to the idea of religious identity, (re)construction and (re)articulation giving way to a critical engagement with public notions of religious tolerance and pluralism that have grown out of the Nigerian soil?

Although Brodeur's four-question model as stated above was generated for a differentiated study in the American context, the model is adapted for the Nigerian situation on account of the fact that Muslims in Nigerian appear to be experiencing currently some of the challenges to religious identity that American Muslims had experienced and continue to experience. What follows in the sections below is an examination of these questions and the paper's perspective on how the specific parameters of religious tolerance should be defined by Nigerian Muslims.

### **Being Muslim, Being Nigerian and External Others**

Section 1 (1) of the Nigerian Constitution<sup>2</sup> makes its provisions supreme and binding on all persons and entities within the polity. Subsection (2) of the same section declares as void any other law (including but not limited to religious laws such as Sharī'ah) that is inconsistent with any provision of the Constitution. Furthermore, section 17 (1) stipulates that 'the State social order is founded on ideals of Freedom, Equality and Justice.' Accordingly, it is a duty of every Nigerian to abide by the Constitution and 'respect its ideals.'<sup>3</sup> What is more, section 15 (1) requires that 'loyalty to the nation shall override sectional loyalties.' On the issue of religion, the Constitution provides in section 10 that no religion shall be adopted by the government at federal and state levels as State religion.

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<sup>2</sup> The Constitution of the Federal Republic of Nigeria (Promulgation) Act 1999, Cap C23 Laws of the Federation of Nigeria 2010 (hereinafter 1999 CFRN or the Constitution).

<sup>3</sup> Section 24 1999 CFRN.

Although section 38 of the Constitution recognises that every individual shall have the right to practice any religion either alone or in congregation, the implication of the earlier stated constitutional provisions is that religious identity, which often times is related to performance, may be tolerated to the extent that it does contravene any provision of the Constitution. More particularly for Nigerian Muslims, they must exhibit tolerance towards other Nigerian non-Muslims.

On the face of it, the issue appears very simple, straightforward and not problematic. In fact, it is an expression of cooperation amongst civilized persons and it is on the strength of this itself that Nigerian Muslims are able to identify themselves as Muslims. On the same connection, it also appears that the dual identities as 'Muslim' and 'Nigerian' are rather complementary than in competition with each other. However, one Western scholar of religious tolerance, Edward Craig, has contended that 'it is not clear how far religious believers can sincerely regard other religions in so tolerant a way without in effect giving up their own.'<sup>4</sup> In other words, according to this perspective, religious tolerance means no more than a partial or significant release of a part of or the whole of an individual's religious identity. In effect, the more an individual increases his or her tolerance for other religions, the more diluted his or her own religious identity would become. Brodeur objected to Craig's notion of religious tolerance on the ground that truth claims by religious believers of different faiths do not always exclude each other and may converge on key religious truths.<sup>5</sup> In Brodeur's words-

It is not only that truth claims often imply significant differences in how the concept of truth is understood; it is also that various religious traditions have truth claims which both include and exclude religious others, depending on their degree of closeness to key religious truths. For example, most evangelical Christians hold a notion of truth which separates dichotomously between saved Christians and everyone else. In contrast, most Muslims include Jews and Christians as People of the Book worthy of their tolerance and even respect, while still excluding most other religious and non-religious worldviews. Notions of 'truth' among religious believers can coexist at once and possibly change over time, depending on the context.

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<sup>4</sup>Edwin Craig, 'Pluralism', in Routledge Encyclopaedia of Philosophy (London, 1998), VCI.7, 463.

<sup>5</sup>Brodeur, above note 3, p.66.

To better appreciate in tangible terms how the two discussed perspectives may play out in the life of a Nigerian Muslim, a possible area of conflict of between tolerance and identity is given by way of illustration. Section 15 (1) and (3c) of the Constitution provides as follows:

15. (1) The motto of the Federal Republic of Nigeria shall be Unity and Faith, Peace and Progress. . .

(3) For the purpose of promoting national integration, it shall be the duty of the State to: . . .

(c) Encourage inter-marriage among persons from different places of origin, or of *different religion*, ethnic or linguistic association or ties; {Emphasis added}.

The issue of inter-faith marriage has clear stipulation in Sharī'ah. The Qur'ānic provision contained in 2:221<sup>6</sup> prohibits marriages between Muslims and non-Muslims generally. An exception is made for Christian and Jewish women as people of the book whose marital union to Muslim men is permissible in the light of Q5:5.<sup>7</sup> It is interesting to note that three of the Sūnnī Imams, Hanafī, Mālikī and Shāfi'ī have expressed the view that the permissibility for Muslim men to marry women of the people of the book is for societies where Islamic dictates are predominant. Taking account of the constitutional directive and the Islamic position, supposing a Muslim office-holder is responsible for a program of national integration through interfaith marriages, what would be the appropriate response?

Two responses are possible in this situation. On the one hand, in affirmation of the Muslim identity, the office-holder may actively, tacitly or by design work against a successful execution of the program. Thus, in the effort to act in accordance to the dictates of religious faith, such an individual has contravened a constitutional duty s(he) had sworn to uphold. On the other hand, another office-holder in the same situation may believe that her or his identity as a *Nigerian* Muslim amongst other citizens requires respect for the supreme law of the land. The office-holder may faithfully work towards a realization of the objective of national integration at the expense of her or his religious identity. A question that begs the answer at this juncture is –which of the two responses is most authoritative?

<sup>6</sup> 'Do not marry unbelieving woman until they believe . . . nor marry (your girls) to unbelievers until they believe . . . unbelievers do (but) beckon you to the fire . . .' Translations of the meaning of provisions of the Qur'an in this paper is according to *The Holy Qur-an English Translation of the Meanings and Commentary*, Revised and edited by The Presidency of Islamic Researches, IFTA.

<sup>7</sup> . . . (Lawful unto you in marriage) are (not only) chaste women who are believers, but chaste women among the People of the Book, revealed before your time when you give them their due dowers, and desire chastity, not lewdness and taking them as lovers . . .'

The latter response, which entails subjecting the Muslim identity to the Nigerian identity where there appears to be conflict between the two appears to be the most typical response in situations such as stated. In fact, the situation is not only particular to Nigerian Muslims but seems to be true of reactions of Muslims in similar situations in most other constitutional contexts as well.<sup>8</sup> It suggests a ‘particularistic kind of Islam’ that has given up ‘claims of making Islam a total way of life, particularly with respect to national politics’<sup>9</sup> as well as issues of national security in the face of terrorists acts in the name of religion when the Muslim identity is under pressure as a result of judgemental refractions from non-Muslims.

### **How should the Specific Parameters of Tolerance be Defined?**

At present, one of the greatest challenges to religious identity of Muslims in Nigeria is the incessant wave of terrorist attacks in the name of religion. According to Global Terrorism Index, 2015<sup>10</sup> the Nigerian terrorist group Boko Haram is now regarded as the deadliest in the world, with the Islamic State of Iraq and Syria (ISIS)<sup>11</sup> in second place.<sup>12</sup> Boko Haram pledged its alliance in March 2015 to ISIS to become the Islamic State’s West Africa Province (ISWAP).<sup>13</sup>

An observation of the Nigerian situation appears to be that Muslims have reacted in one of the three following ways- to become very apologetic to the point of denial; to be defensive to the point of validating violence by omission or commission; and to be assertive of religious identity in a manner that reflects clearly the character and values of Islam, especially to non-Muslims. The first reaction is a function of spiritual and intellectual paucity that is often the outcome of non-observance and non-appreciation of religious prescriptions and dictates. The second is the result of mere religious fervour without an internalization of values that ensures spiritual depth. The third is a consequence of spiritual depth and a deep sense of discernment born out of a high and sustained intellectual engagement with the overall goal of Sharī‘ah. Unfortunately, there appears to be a high incidence of responses in the first and second categories. Reactions in the third category appear to only occur in situations that are either few and far between or are put forward by the wrong or non-authoritative class of individuals. By

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<sup>8</sup>Brodeur, above note 3, p.77.

<sup>9</sup>Ibid.

<sup>10</sup>Global Terrorism Index, published in November 2015 by the Institute for Economics & Peace. Available at <http://economicsandpeace.org/reports/>. Last accessed 20 November 2015.

<sup>11</sup> Also in some cases referred to as the Islamic State of Iraq and the Levant (ISIL)

<sup>12</sup> Global Terrorism Index, abovenote 12, p.2

<sup>13</sup> Ibid.

way of illustration, Graeme Wood, a journalist with an American magazine *'the Atlantic'* this year conducted some interviews with some members (or 'recruiters' as he called them) of ISIS which is published in the March 2015 edition of the magazine.<sup>14</sup> Wood's initial observations and subsequent documentation of the various interactions are as follows-

There is a temptation to rehearse this observation – that jihadists are modern secular people, with modern political concerns, wearing medieval religious disguise- and make it fit the Islamic State, in fact, much of what the group does looks nonsensical except in the light of a sincere, carefully considered commitment to returning civilization to a seventh-century legal environment... They refer derisively to "moderns" and insist that they will not – cannot-waver from governing precepts that were embedded in Islam by the Prophet Muhammad and his earliest followers. They often speak in codes and allusions that sound odd or old-fashioned to non-Muslims, but refer to specific traditions and texts of early Islam. Thus, the reality is that the Islamic State is Islamic. Very (sic) Islamic. Yes, it has attracted psychopaths and adventure seekers, drawn largely from the disaffected populations of the Middle East and Europe. But the religion preached by its most ardent followers derives from coherent and even learned interpretations of Islam. The religion of Islam allows many interpretations and so denouncing the Islamic State as un-Islamic can be counterproductive, especially if those who hear the message have read the holy texts and seen the endorsement of many of the caliphate's [as purportedly established by ISIS] practices written plainly within them.<sup>15</sup>

Speaking of the wide knowledge base and candour with which the individuals he interviewed spoke, Woods observed again that-

No question I posed left them stuttering. They lectured me garrulously and, if one accepts their premises, convincingly. To call them un-Islamic appears, to me, to invite them into an argument that they would win. These men spoke with an academic precision that put me in mind of a good graduate seminar. I even enjoyed their company, and that frightened me as much as anything else.<sup>16</sup>

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<sup>14</sup> An online version of which is available at <http://www.theatlantic.com/magazine>. Last accessed 16 November 2015.

<sup>15</sup> Ibid.

<sup>16</sup> Ibid.

In the words of another non-Muslim observer of ISIS membership and operations, Bernard Haykel, 'what's striking about them is not just the literalism, but also the seriousness with which they read these texts. There is an assiduous, obsessive seriousness that Muslims don't normally have.'<sup>17</sup>

For Nigerian Muslims as well as similar contemporary contexts, the question is how should tolerance be exercised and to what extent? This is on account of situations of conflict of religious identity with constitutional provisions as well as when they are perceived by non-Muslims to be no more than moderate varieties of terrorists. In both situations, it appears that the guidance should be from following Qur'ānic provision:

*We sent a foretime our messengers with clear signs and sent down with them the Book and the Balance that men may stand forth in equity...*<sup>18</sup>

In the current author's opinion, equity is not only about people but also about situations, circumstances and challenges. In as much as it is expected by the above cited provision that every person must be given her or his due, in the same way the correct response should be sought for every situation to achieve balance. Nigerian Muslims, therefore, have the challenge of determining ways through which their national identity will always align with their religious identity. The reverse should only be allowed to be the case in exceptional situations to achieve an equitable end as recognised by Shari'ah in the final analysis. Additionally, where there are challenges to religious identity as a result of acts of terror in the name of religion that questions their own interpretation of Islam, Nigerian Muslims would need to continually articulate and communicate the message of Islam in inspiring ways that are neither apologetic nor defensive.

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<sup>17</sup>Quoted by Graeme Wood, Ibid.

<sup>18</sup>Q57:25