
JUSTIFICATION OF ISLAMIC LAW (*SHARI'AH*) AS A PANACEA FOR JUSTICE, PEACE AND INSECURITY CONTROL IN NIGERIA

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Abstract

Nigeria as a nation is facing a lot of challenges in term of corruption, social vices, various form of insecurities (e.g.: kidnapping, armed robbery, yahoo gangs) etc, principally fueled by unemployment, poverty and mismanagement of available resources on the country. In some cases, there are clear religious, social, political and economic factors underpinning these challenges. Obviously, militancy, insecurities and injustices have gained dominance over Nigeria in recent past. There is no doubt that a country where such situation is prevalent cannot develop. Much also, as everybody's future is at stage, except for the ruling class.. This paper therefore, takes a look at security challenge in Nigeria. The researcher employed historical and library sources to gather relevant information as a solution to these challenges then focuses on the causes of insecurity in Nigeria. In other to get rid of these challenges, this paper advocates the value of Islamic law (*Shari'ah*) as a veritable instrument for the enforcement of the social justice and peaceful cohabitation of all Nigerians if and only *Shari'ah* can be fully implemented without discrimination against the poor.

Keywords: Insecurity, *Shari'ah*, Justice, Peace control, Nigeria

Introduction

Nigeria is currently going through a hot moment of insecurity, instability and uncertainty, featuring wanton cases of militancy resulting in the loss of lives and destruction of valuable properties. Upon all these challenges, Nigerian government both past and present leaders blinded with their corrupt style of governance have mortgaged the future of Nigerians, based on their callous insensitive to such callous activities that are being witnessed today. Ahmed (2021:217), notes that the spate of violence across the globe today should be a matter of deep concern to peace lovers all over the world. No one likes to live in an unsafe or unsecured environment where all around are threats, crimes and harassments. In a real sense, the trend of insecurity and terrorism in the world today has become a matter of great concern at both national and international levels. The number of terrorist organizations and their activities across the world has become the major hindrances to peace, development and security all over the world. This is the trust of this paper which posits the justification of Islamic law (Sharia'ah) in Nigeria. The work is purely positional and structured as follows:

Nature of Security Challenge in Nigeria

Causes of Insecurity Challenge in Nigeria

Sharia'ah as an Antidote to Security Challenge in Nigeria

The Place of Shari'ah in tackling Insecurity

Nature of Security Challenge in Nigeria

According to Andohol (2020:109), security can be seen as the presence of any mechanism put in place to contend the threat to or a breach of peace, national cohesion, and sustainable development. It is very clear that no meaningful progress and development can be made when the county is faced with serious security challenges which threaten its citizens from establishing themselves. As noted by Allege (2020:334), security is a multifaceted and covers every sphere of humans endeavour. This is why people talk about social security, economic security, psychological security, job security, life security, among others. Each type of security is directed towards a certain type of threat. Security does not have a universally accepted definition. The following are some current security challenges in Nigeria as identified by some individuals.

Terrorism

According to Akwu (2013:8), the Nigerian security report has never been so worse. As a result of the porous nature of the Nigerian security operations, the terrorists choose their targets at will. He further explained that year 2011 will never be forgotten by so many families and homes, this period terrorists visited places, homes, streets, offices, leaving corpses and ruins. Places being attacked including police Stations, places of worship (churches and mosques) and United

Nation building in Abuja. This continued in the year 2012 up till today bombing continue and multiple blasts in different part of Nigeria, most especially in the Northern part of the country. It was the fear of the bomb attack that made Federal Government to cancel the 2012 Democracy Day Ceremony.

Armed Robbery

This is another big challenge in Nigeria. Currently, Nigerians find it so difficult to sleep in the night with their two eyes closed, travelling during the day or night become almost impossible because of the fear of being attacked by the armed robbers on the road. Sometimes, armed robbers hold up towns to ransom for hours with impunity. During this period houses, banks and markets are attacked, which result to the loss of many souls and property.

Kidnapping

In Nigeria today, kidnapping for ransom and other violent crimes across the country with all force is rampant, more than three lecturers in Kogi State College of Education are victims of this, but to God be the glory, they were released after the family had paid a ransom of millions of naira. Formal Provost of Kogi State College of Education, Technical Kabba was also kidnapped and killed when attempt was made by his people to rescue him. In Nigeria, kidnapping has many faces i.e: kidnapping for money ransom, kidnapping for rituals, kidnapping for child trafficking, kidnapping to silence political opponent so as to take over powers, etc.

Some Other Causes are:

Andohol (2020:109), states some causes of insecurity challenge in Nigeria, i.e.:- ethno-religious conflicts, political based violence, systemic and political corruption, resource based violence, labour based conflict, poverty and unemployment, organized violent group, porous borders, terrorism and human capital. Asifatu (2020:241) added that poverty, tribalism, sycophancy, thuggery and caring out duties only when being watched (eye-service), are also contributed to the cases of insecurity in the country. Mohammed (2020:281) contributed that conflict between herdsmen from Northern Nigeria and farmers has escalated in recent years and are spreading and threatening the country's security, stability and peace with and estimated death approximately 2,500 people in 2016. Ladan (2020:135), added that lack of parental care is giving rise to as a result of house breaks, in which the child will not be adequately taken care of from both parents as a result of negative support from either of the parent. In a real sense, all the above mentioned, are capable of casing tension and insecurity in any community. Based on this, Ahmed (2021:217) explained that the spate of violence across the globe today should be a matter of deep concern to peace lovers all over the world.

No one likes to live in an unsafe and unsecured environment where all around are threats, crimes and harassments.

Conceptual Frame Work of Shari'ah

Many Islamic scholars had attempted to define the word *Shari'ah* some of which are as follow: According to Mustapha (2001:17), the word *Shari'ah* is defined as the complete universal code of conduct drawn by our Creator Allah through His Messenger Muhammad (SAW) to mankind. It is meant for universal application covering the entire spectrum of life, prescribing that which is lawful (*halal*) and prohibited that which is unlawful (*haram*). Gwandu (2001:83), on his part said that *Shari'ah* is the system of law decreed by Allah, which must be obeyed by every Muslim in his relationship with Allah and with his fellow human beings. He went on to divide *Shari'ah* into two components, Rituals (like praying, fasting, *zakat*, *hajji*) and *Mu'amalat* (which include law of personal status, public law, national and international law, civil and criminal law etc). According to Abdullah (2001:37), *Shari'ah* is the law of God Who provides guidance for the recognition of life, in the best interest of mankind. Malik (2001:127) also said that *Shar'iah* means the path established by Allah (SWT) for man to follow in order to succeed in all aspect of worldly and spiritual life. It is the path that ensures success in this world and salvation in the hereafter. According to Mika'il (2020:59), *Shari'ah* is the path in which if followed appropriately, will lead to the attainment of true faith, salvation and bliss in this world and in the hereafter. Ajijola (2009:95), contributed that *Shar'iah* is that law which Allah has promulgated through His Prophet (SAW). It is a divine system of law in it sources and primary rules. It is a religious and legal system. Lastly, Rafatu (2017:119) added that *Shari'ah* is a body of laws in form of command and prohibitions laid down and prescribed by Allah to govern and guide mankind in all spheres of life.

Summarily, Therefore, *Shari'ah* can be defined as traditional Islamic religious law primarily based on Qur'an and *Hadith*, it covers the totality of religious, political, social, economic and private life, making no distinction between religion and life or between transgressions of moral rules and of social rules. This means that the whole life of a man in all it's spheres should be in expression of complete submission to the will and law of Almighty Allah, the Creator of the universe.

Asifatu (2020:242), explained that leadership position in Islam is regarded as trust, which should not be given anyone who is not worthy of it or one who will betray it. Allah forbids the betrayal of trust either major or minor in Q:8: 27. In this regard, the Prophet (SAW) was reported to have said: "when the trust is lost, wait for the hour of doom. It was said: how will the rust be lost, O Messenger of

Allah? The Prophet said: when government is entrusted to those unworthy of it, them wait for the doom hour”.

Scope of *Shari'ah*

The concept of Islamic legal system encompasses the whole human's life, there is no aspect of human's life in which *Shari'ah* did not touch. The believe of non-Muslims is that *Shari'ah* is mainly to punish the criminals and to stop them from practicing their religion. According to Ajijola (2009:58) said that generally, the worry of the non-Muslim community over the introduction of *Shari'ah* borders on the following:

1. The introduction of *Shari'ah* in any State in Nigeria would in effect make Islam the religion of the State.
2. It will not be possible to limit the application of *Shari'ah* to Muslims alone, invaluable, non-Muslim will be affected.

Shari'ah through legislation does not in any way suggest that such State doing so can be classifies as Islamic States. They are still secular States because the application of *Shari'ah* laws would be extended only to the Muslims. Non-Muslims convicted of such offences are to be punished by the provisions of other laws. *Shari'ah* is wider than to inflict punishment on the criminals alone. On this, Babawale (2016:16) enumerated eight main branches of *Shari'ah* as follows:

- 1- ***Ibadat (worship)***: these are the religious aspect of human's life. it embraces tawhid, salat,sawm, zakat, hajj etc.
- 2- ***Al-Ahwal Ash-Shakhsiyyah(Personal Law)***: This comprise of law of marriage, divorce, inheritance etc.
- 3- ***Mu'amalah(Transactions)***: This is covers definitions of property title possession contract, sales, hiring, pledge, trust, partnership etc.
- 4- ***Ahakam Sultaniyyah(Sovereignty)***: This covers leadership in Islam, citizenship, human rights, rule of law etc.
- 5- ***Akhlaq (Moral)***: This includes duties which a person owes to himself, members of his family, neighbours, animals, etc
- 6- ***Al-Adab and Al-Qada (Ethics and Judicial administration)***: appointment of judges, procedure in courts etc
- 7- ***International Law***: Diplomacy, treaties and arbitration
- 8- ***Uqubat (Punishment and Criminal Code)***: This includes crime and their punishments.

The above mentioned branches and scopes shows that *Shari'ah* is a comprehensive legal system and a universal way of life which covers and broader than any other known concept of law.

Sharia'ah as an Antidote to Security Challenge in Nigeria

Many people have tried to suggest possible means to eradicate or reduce the issue of insecurity problems in Nigeria. This paper profound adequate possible solution to that, which is only *Shari'ah*, the Islamic law that is capable of eliminating the challenges of insecurity in the country if it is well implemented. This is because the objective of *Shari'ah*, is to show the best ways and means to fulfill the need of human beings in the most successful and most beneficial manner. In the Islamic legal system the function of the law is to control the conscious actions of the people. It means the existence of freedom and the ability of the people to do or not to do an act.

The Place of Shari'ah in tackling Insecurity

By Islamic style of governance one is not saying Muslim style. The reason is that over the period of time, Islamic tenets used by pious Muslim who had become rulers, mentors and guides, of mankind, spreading light and goodness, right and justice, freedom, brotherhood to evolve the best nation for mankind. They shed light on how they ensured the interests of both individual and community and fulfill the needs of their nations and cope with the need of individuals. It is obvious that the primary responsibility of any good government is to provide security of life and property and consequently so much is expected from the leaders and security agencies. However politicians as well as religious and community leaders also have important roles to pay.

According to Sani (2014:24), Islam with it divine law (*Shari'ah*) has a profound effect in reforming any individual or any society on the application of justice and fairness compared to man-made law with many loopholes in it's writings and applications. A society or organization which does not have the similitude of Islamic dictates in its law and its application. Loses realism and intellectualism and spends it precious life in aberration.

According to Abdulwahab (2015:103), the punishments for offences under the Shari'ah are classified into three:

- 1- *Hudud* (fixed punishment) which include the punishment of *zina* (adultery or fornication), *sariqah* (theft), *hirabah* (armed robbery),
- 2- *Qisas* (punishment for equality or retaliation), this include the punishment for homicide or injury
- 3- *Ta'zirat* (discretionary punishment) which are punishments for offences not expressly delimited in the primary sources of Islamic law and for which the judge is allowed to use his discretion in punishing the culprit.

Abdullah (2020) further added that Islamic criminal law recognizes six major offences with penalties prescribed in fixed terms as contained in the Qur'an

and *Sunnah*. These are: 80 lashes (for alcoholism and slanderer), death (for highway robbery and apostasy), hand amputation (for theft), 100 lashes (for fornication), and stone to death (punishment for adultery). Apart from *Qisas* i.e. retaliation, which is the punishment for murder and injuries. All other offences are governed by discretionary punishment known as *Ta'zir*.

The Problem Encounter by Shari'ah

According to Is-Haq (2001:1-2), *Shari'ah* in Nigeria is not a new phenomenon, the lurching of its expansion in Gusau capita of Zamfara State on 27th October, 1999, attracted mixed reactions. For while Muslims applauded the move the Christians opposed it with reckless vehemence. He further explained that Dr Sunday Mbang, the President of the Christian Association of Nigeria (CAN) sees the expansion for *Shari'ah* as a threat to the nation that is capable of creation disaffection among the various religious group in the country. Archbishop Anthony Olubunmi Okogie warned that *Shari'ah* could lead to the disintegration of the county. Moreover, Rev. Abiodun Adetiloye, Primate of the Church of Nigeria (Anglican Communion), says that, the Islamic legal system would make Nigeria an Islamic nation. Dr M. Asake, Secretary General of the Evangelical Church of West Africa (ECWA) declared that the *Shari'ah* affair was tantamount to secession and claimed that Governor Ahmad Sani Yarima's action was a declaration of war against the Christian faith and against Nigeria as a nation. And many more.

It is belief that what some opponents of *Shari'ah* need is enlightenment and to throw some light on the issue. It is very glaring that the fear Christians in Nigeria entertained was that *Shari'ah* will overshadow the Christians which will make Nigeria an Islamic Nation. Nigerian must seriously consider the fact that Section 38 (1) of the Nigerian Constitution guarantees freedom of religion but that exists only on paper, because, whoever opposes the practices of *Shari'ah* by Muslims has encroached on their freedom of religion. There are a lot of Qur'anic quotations commanding Muslims to use *Shari'ah*, some of which are, Almighty Allah says:

We have made *Shari'ah* for you (as a law), so follow it and not the fancies of those who have no knowledge.(Q45:18).

Whoever fails to adjudicate with what God has revealed is an unbeliever (5:47).

Those who refuse to judge with (the law) which God has revealed are wrong-doers. (Q5:48).

Those who will not judge with what Allah Has revealed are rebels (Q5:50).

The application of Shari'ah is therefore mandatory on every Muslim, male or female. It is not a luxury, neither is it voluntary. It is a divine command. Rejection of *Shari'ah* turns a Muslim into a *kafir* (unbeliever). More so, the Glorious Qur'an shows how God warned that Christians should not be made to attend *Shari'ah* court. A group of Jews came to Prophet Muhammad (SAW) asking him to adjudicate in a legal tussle among them. God told the Prophet:

Why should they come to you for legal decision when they have their own Taorah which contains the laws of God? Even if thou apply it to them, they would still turn away (from you). For they are not really men of faith (Q5:46).

According to Abubakar (2001:25), *Shari'ah* to non-Muslims is like a red rag in the face of a circus bull. To them, the mentioning of *Shar'ah* is tantamount to declaring the country an Islamic State where in their belief all people of the other faith will be forced to accept Islam or be killed. Islam is believed to be a complete way of life and that there is no problem facing any individual or society that Islam has no solution for. Also, the sincere and complete application of the tenets of Islam is the life of any individual or society ensures the attainment of peace and security. It is worth noting that worldwide, the most peaceful and secured countries are those where Islam and its principles (*Shari'ah*) are being applied. Almighty Allah, the Creator of the universe says in the Glorious Qur'an:

This day I have perfected your religion for you, completed my favour upon you and have chosen for you Islam as your religion (Q5:3).

O you who believe! Embrace Islam perfectly (by obeying all the rules and regulations of the Islamic religion) and follow not the footsteps of the devil. Verily, he is to you an open enemy (Q2:208).

Say: " Truly, my prayer and my service of sacrifice, my life and my death, are (all) for Allah the Cherisher of the world".(Q:6:162).

It is *Shari'ah* that makes Muslims what they are, which set them apart from others. Remove *Shari'ah* from Muslims and you will be left with a people without faith. In fact *Shari'ah* is the essence of Muslims. There is no difference between Islam and *Shari'ah*, Islam is *Shari'ah* and *Shari'ah* is Islam. The following are some things Islam made compulsory on the leaders to be strongly implemented under *Shari'ah*:

Justice

Islam recognizes the fact that security will be elusive in a society where there is injustice, it enjoins those in authority to deal justly with every individual

and every section of the state. Islam frowns against discrimination and not giving a person their right on account of being a minority. Islam stated that no section of a society should be marginalized or treated as second class citizen. Almighty Allah says:

“And let not the hatred of others to make you swerve to wrong and depart from justice” Q5:8

“Peace and security will not be attainable with peace alone but in conjunction with justice.” Q6:82

In Prophetic Tradition: Allah says: “He made injustice forbidden unto Himself and equally forbidden it among people” reported by Muslim (no 6737).

Welfare:

A nation that fails to take care of its citizens in terms of welfare such as provision for at least basic needs like housing, good roads, clean water, health care delivery, light and education. Both Imam Abu Hamid al-Gazali and Muhammad Ibn Taimiyyah (2014:159) has stated that promoting the welfare of the people which lies in safeguarding their faith, their life, their intellect, their posterity, their property are the objectives of *As-Shari'ah* and that therefore whatever ensures the safeguard of these five serves public interest and is desirable by the Prophet Muhammad (SAW) and his Four Guided Khalip and Umar Ibn Abdul Aziz demonstrated this during their era.

God-Consciousness

Islam lays emphasis on creating God-consciousness in the mind of people (*Tawhid*), breeds the fear of God and righteousness. One who is God-conscious and righteous will both in public and in private act rightly even in the absence of the law enforcement agents. Such a person will not do anything that could threaten the peace and security of other individual and the nation at large. Example of this is Saudi Arabia, where children are given their rights and proper upbringing.

Admonition

People that get involved in perpetuating criminalities in Nigeria are either church goer or mosque goer. Therefore, true thorough and sincere admonition from the religious scholars from both Muslims and Christians is needed for people to repent because they are closer to their people than the government. Effective preaching and intensification of God's words be against murder, hire killing, ritual, robbery, kidnapping, banditry, etc can serve as a factor too.

Islam recognizes the practice of equality before the law, the rich and the poor are equal in Islamic law. Islam does not allow monetary fines in place of *Hadd*, and one cannot substitute *Hadd* punishment with prison. Otherwise, the wealthy people would easily circumvent punishment after paying heavy fines.

Implementation of *Shari'ah*

Implementation of *Shari'ah* can be seen as a panacea for solving security challenges in Nigeria. Implementing capital punishments are stipulated for some categories of heinous crimes as a deterrent for potential criminals. Although this punishment suffered a lot of criticism from the western world and Human Right activists, the truth that cannot be denied is that some Islamic countries such as Saudi Arabia and Iran are able to reduce crimes and insecurity as a result of the implementation of capital punishment. Alaro (2014:24) submitted that through implementation of *Had*, Islam is able to attain the fundamental objectives of *As-Shari'ah* which include protection and preservation of life (*Hifzu An-Nafs*). One important point to be noted is that, *Had* punishment is introduced and applied only after the government has adequately provided for the basic needs of its citizens.

Conclusion

It's paramount for the old and the new Nigerian government to primarily be responsible to provide security of life and property to its citizens. In the present Nigeria today, there is grave insecurity manifested in killing, kidnapping, ritual, robbery, bombing and wanton destruction of life and properties in the country. Nigeria government is expected to do the needful. It doesn't matter whether the root is political, religious, ethnic, or ideological. The most significant thing is to look inward and put an end to these challenges for peace, harmony, love, rapid development to showcase in Nigeria.

No sensible Muslim will suggest that Christians must forget the idea of crucifixion or even the trinity, if they are to be accepted as peaceful citizen of the country. In the same vein, one should expect the Christians to understand what *Shar'iah* means to the Muslims. And therefore, desist from making any attempt to deny them their fundamental right to profess and practice their religion.

Recommendation

Based on the foregoing, the following recommendations are made:

- 0- The traditional rulers need to be empowered, their roles should not be undermined, for they are so important and relevant in upholding and building a peaceful society, they own their communities and so have in-depth knowledge on how to manipulate them in their day to day activities.
- 1- Nigerian government should accelerate the process on national security, for the citizens to have mind reliance both home and away.
- 2- It is paramount that no development can take place where security is not well established therefore, Nigeria government needs to put in place adequate security apparatus to be well funded and sustained in a transparent manner.

- 3- It is recommended that man should obey Almighty Allah by doing what He has made halal to do and avoid what He has laid down as wrong in accordance with the provision of Shari'ah.
- 4- It should be realized that it is only Allah's divine injunctions that can establish absolute standard justice for mankind because man injunctions are always void, selfish, senseless, and fade.
- 5- Finally, the way out is to get our minds relaxed, seek divine intervention and set for the adoption of *Shari'ah* (the law of Almighty Allah, the Creator of the universe) to be fully and adequately implemented without discrimination against the poor for peaceful and secured country, because *Shari'ah* governs the whole aspects of human's life.

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