



***KOGI STATE UNIVERSITY  
BI-ANNUAL JOURNAL OF PUBLIC LAW***

## RELIGION, POLITICS AND JUSTICE: INTERPLAY OF FORCES IN NIGERIA\*

### I. Introduction

The influence of religion on politics in Nigeria is all pervading since the colonial period through independence up to the first, second, aborted third republic, and the emerging fourth Republic. The Political class is given to play any card using the Machiavellian approach to gaining political power by making the end to justify the means. It appears that the Nigerian people have resigned themselves to fate and this is possibly further compounded by poverty, illiteracy, and lack of political education on the part of majority of Nigerians. This position is further aggravated by the general perception that politics is a dirty game and that only people that can deceive, manipulate, and greedy are meant to participate. This position is gradually changing in the light of the involvement of a few principled individuals in partisan politics in Nigeria. This mindset according to Yinka Ojo<sup>1</sup> is informed by the fact that people are complacent and easily resign themselves to fate.

The influence of religion is not only limited to politics because power influences virtually all other facets of life. Political power will affect economic prosperity, social relation, educational advancement, and the psyche of any society. To that extent, the justice sector in Nigeria is now gradually collapsing under the influence of religion and ethnicity. It is recalled that during the regime of Late General Sani Abacha as Head of State of Nigeria<sup>2</sup> Major Al-Mustapha as the Chief Security Officer wielded enormous power. By the time regime changed and Chief Olusegun Obasanjo mounted the saddle<sup>3</sup> he put machinery in place for the trial of Major Al-Mustapha and his co-travellers. Before it was known, all sorts of reasons were put in place to show that his trial was informed by the fact that he is Hausa and non-Muslim and being tried by Obasanjo a Yoruba Christian. This argument was put further on the plank that the leader of the Oodua Peoples Congress, Gani Adams who is also a Christian was let off the hook. The problem of religion afflicting the judiciary the *alter ego* of the justice sector is becoming apparent at the state level where who becomes a judge is gradually determined by what faith he or she shares.

Scholars have argued that the recognition of the Sharia as an integral part of our legal system is responsible for this. They opined that the establishment of Sharia Court of Appeal<sup>4</sup> is a confirmation of influence of religion on the justice sector. This may not necessarily be so. This is because the powers of the Sharia Court of Appeal are essentially limited constitutionally and can only adjudicate among Muslims.<sup>5</sup> The political class however did not spare the justice sector of the influence of religion. The politicians play any card that they believe is capable of winning the game at any point in time. If the judges refuse to be influenced monetarily then they call their attention to their faith. They argue that any favor done to any politician by the judges is a form of watering the faith and increasing the blessings of the fold they belong. It must be said without any equivocation that this is a dangerous trend and it must be nip in the bud before it escalates.

### Relationship Between Religion and Politics

At the conceptual level, the relationship between religion and politics can be analyzed from varying perspectives including liberalism, privatization of religion, and public/private distinction. Each of these arguments has its merits and demerits and each school of thought articulates its position forcefully.

\*. Wahab O. Egbewole Ph.D., Acting Dean, Faculty of Law, University of Ilorin, Ilorin, and Muhtar A. Etudaiye Ph.D., is Lecturer, Department of Jurisprudence and International Law, University of Ilorin, Ilorin.

<sup>1</sup> *The Nation Saturday* 19<sup>th</sup> April, 2007.

<sup>2</sup> Sani Abacha ruled Nigeria from 17<sup>th</sup> November 1993 to June and 1998 when he died.

<sup>3</sup> On 29<sup>th</sup> May 1999 Chief Obasanjo was sworn in as the President of Nigeria.

<sup>4</sup> Section 275 of the 1999 Constitution empowers states establish sharia Court of Appeal or Customary Court of Appeal.

<sup>5</sup> Section 277 of 1999 Constitution confers Jurisdiction on Islamic personal law on the Sharia Court of Appeal.

## Liberalism

Since the development of liberalism in the 17<sup>th</sup> century as a political ideology, it has had a "theory interaction with religion."<sup>6</sup> This concept emphasizes guaranteed protection of individual freedom and to that extent everybody is free to introduce anything into political system. Freedom of religion is an integral part of liberal democracy. It is the position of this school that the separation between the church and the state is the appropriate means by which to promote stability and protect individual rights. Within the same political school some have seen the doctrine of separation as one that privatizes religion and hence makes religious individuals second class citizens. John Locke himself a liberalist theorist, argued for religious tolerance as the best way to achieve peace in a society with a diversity of religious tradition.<sup>7</sup> This position was said to be informed by the experience of religious conflicts between Catholics and Protestants in England and in continental Europe.

The liberalist disposition of John Locke was said to have influenced the first Amendment to the Constitution of the United States of America on freedom of religion and the development of the separation of the Church and the State.<sup>8</sup> Pushing this position forward, religion is seen as a private affair and should be left out of the public domain as represented by state under the control of the political leaders.<sup>9</sup> This led to the clear distinction of private and public regimes in the relationship between religion and politics from the point of view of what obtains in the United States of America. It appears to be determined that individuals are free to pursue their religious beliefs and such must remain within the private domain of the individual and blotted out of the public glee.<sup>10</sup> Greenawalt argued that with respect to American political and legal cultures, faithfuls are asked to act publicly as well as privately as if their religious belief does not matter.<sup>11</sup> This may be feasible at the theoretical level but practically impossible at the practical level. One cannot divorce himself from his faith as this will continue to affect his worldview on any issue. The concept of neutrality of the state on the adoption of religions beliefs was put into perspective by Ackerman that:

No reason is good reason if it requires the power holder to assert (a) that in conception of the good is better than that asserted by any of his fellow citizens or (b) that regardless of his conceptions of the good he is intrinsically superior to one or more of his fellow citizen.<sup>12</sup>

The position argued against by Ackerman epitomizes the state of affairs in Nigeria. Whatever belongs to us is the best and what is not ours is not good. This state of affairs has bastardized the Nigerian politics and the state is practically run on that permanent divide.

### III. Religion and Politics in Nigeria

Toyin Falola writing on the relationship between religion and politics pointedly concluded that "it is also improper to assume that religion and politics can easily be divorced in a theoretical framework."<sup>13</sup> It was his position that such a separation would be exaggerated or even artificial. His argument was based on the fact that in real world situation, religion and politics is inextricably bound up in one another to some degree. While one shares the position taken by Falola, it is however important to stress that in spite of this inseparability, the situation in Nigeria calls for great caution in the light of the fact that it is now becoming a norm that when a Muslim /Christian is the head, the Deputy must be of the other faith. This is doing violence to the relationship and compromising merit in leadership position on Nigeria. It

<sup>6</sup> Barbara Ann Rieffer *Religion Politics and Human Rights: Understanding the Role of Christianity in the Promotion Human Rights Graduate School of International Studies University of Denver* 2006 p.31.

<sup>7</sup> David Wooton *The Political Writings of John Locke* New York: Mentor 1998.

<sup>8</sup> Robert Audi "The Separation of Church and the State and the Obligation of Citizenship" *Philosophy and Public Affairs*.

<sup>9</sup> Will Kymlicka *Multicultural Citizenship* Oxford University Press: 1995 p.3.

<sup>10</sup> Stephen Carter *Culture of Disbelief* New York: Doubleday 1993.

<sup>11</sup> Kent Greenawalt *Religious Conviction and Political Choice* New York: Oxford University Press 1988.

<sup>12</sup> Bruce Ackerman *Social Justice in the Liberal State* New Haven: Yale University Press 1980.

<sup>13</sup> Toyin Falola *Violence in Nigeria-The Crisis of Religion and Secular Ideologies* University Rochester Press 1998 p. 1

is no longer a function of your ability but rather a function of your faith. One appreciates the fact that the state itself is not value free and that religion dictates some of the prevailing values.<sup>14</sup> Toffler added another dimension to the effect that religion will continue to influence the politics of the world.<sup>15</sup> During the colonial regime in Nigeria the nationalists played the ethnic and religious cards. It is recalled that in order to whip up religious sentiments on Urhobo, a supporter of Dr. Nnamdi Azikwe equated him with Jesus and called on Nigerians to support him to achieve his political goals. This was given very wide publicity in the African Pilot owned by Dr. Nnamdi Azikwe. The Northern Muslims led by the Sultan of Sokoto condemned this publication and tabled the matter before the House of Chiefs and House of Assembly in the North. One lonely voice from the North was that of Zungur who prophetically warned that attack on one religion will weaken the country's nationalism.<sup>16</sup>

This was the situation up to the attainment of independence in Nigeria. This practically accounted for the short lived civilian regime after independence. Politicians see themselves first as coming from a particular ethnic group or having a particular religious belief before their being Nigerians. By the time the army struck in January 1967, the polity became more polarized because it was seen as another religious expression. The Northern Muslim political leaders were killed by Southern Christian Soldiers (i.e. Major Nzeogwu killing Ahmadu Bello and Tafawa Balewa). This naturally escalated the divide. The military putsch of July 1967 was clearly retaliation where Northern Muslims put up a reprisal by killing Southern Christian in office (i.e. Aguyi Ironsi).

The Second Republic did not fair any better because the two main political parties i.e. National Party of Nigeria was seen as a Muslim Party while the Unity Party of Nigeria was regarded as a Christian Party. The campaign slogan of the National Party of Nigeria was one nation with a finger raised up which they said represented one God and interpreted the "V" sign of the Unity Party of Nigeria as a sign of polytheism. This religious divide permeated the politics of the second republic such that apart from the ethnic card, the issue of which religion a candidate practices determines his/ her success at the polls especially depending on the area and under which platform he/she is contesting. In the core Northern States, the National Party of Nigeria won majority of the elections while the Unity Party of Nigeria dominated the political scene in the Christian dominated South West.

The religious jinx was to be broken with the aborted Third Republic election held on 12<sup>th</sup> June 1993 where it was reported that the ticket of Chief M.K.O Abiola and Ambassador Baba Gana Kingibe both of them Muslims defeated a Muslim/Christian ticket of Alhaji Tofa and Chief Ogor. At the polls Chief Abiola won most Northern States which predominantly practices Islam as well as the predominantly Christian South. Nigeria lost that opportunity through the annulment of the election by the then President Ibrahim Babangida himself a Muslim. In fact, that act itself was supposed to expose the underbelly of the political class. This is in the light of the fact that in spite of a Muslim/Muslim ticket, Nigerians still supported that aspiration but a Muslim thwarted the effort. The impression conveyed by this act was that an ordinary Nigerian is not bothered about the religious belief of their leaders but the leaders' belief in permanently dividing the followers on religious basis in order to continue to exploit them.

#### IV. The Concept of Justice

The basis of law in any society is justice. This concept however is vague, abstract and seemingly subjective. It is not easy to come to terms with a phrase that will represent what is meant by justice in all circumstances, to all people, and for all times. It varies from society to society and dictated by the values of each society.

<sup>14</sup> D. Latin " Religion, Political Culture and National Integration" *World Politics* 30 No 4 1979; 563-93 reproduced in Toyin Falola *Violence in Nigeria* p. 11.

<sup>15</sup>A Toffler *Power Shift: Knowledge, Wealth, Violence at the Edge of the 21<sup>st</sup> Century* New York: Bantam 1990.

<sup>16</sup>Jelili Amoloye "Shariah and Nigeria's Problems of Indiscipline: A Treatment of Selected Cases" *Journal of Arabic and Islamic Studies* 3 1986: 12,15.

From the pristine religious position what is just is what is fair. It is a lot easier to recognize justice when we see it, we may be able to seek it or its absence when it works it defiles logic. Scholars have introduced the various dimensions as legal justice, economic justice, and social justice. Friedman pointed out that:

To achieve a modicum of social justice the law must find a response not only to the concentration of economic power in the hands of the 'over mighty subject.' It must also find ways to counter and moderate the helplessness of the individual who in a less and less self sufficient economy is increasingly dependent on forces which unchecked, can completely control and dominate his economic life.<sup>17</sup>

It must however be realized that no man is an island. What is required to achieve social justice is a mixture of the equal participation of the citizens and the aliens. Concentration in the aliens is counter productive but ostracization of aliens is also a militating factor to the achievement of social justice.

Scholars have distinguished between "particular justice" and "universal justice, "distributive justice" and "corrective justice." To an average man on the street, he is less concerned about the academic classification but rather that the system especially the legal system is fair to all. The new thinking today is the equation of justice with pleasure i.e. riches or power and injustice is equated with pain i.e. immorality and vice. This classification appears to aggregate the feelings of a reasonable man. The linkage between justice and religion is aggregated by John Stuart Mills in identifying linkage between justice and utility. He said: "Just persons resenting a hurt to society though not otherwise a hurt to themselves however painful, unless it be the kind which society has a common interest with them in repression of."<sup>18</sup>

The link between politics and justice was identified by Roscoe Pound in his postulation of absolute justice which opinion necessitated the need for departmentalization of power now serving as a precursor for modern day separation of powers as epitomized by independence of judiciary. It is important to stress that the only way justice can be achieved in any society is to ensure that the judiciary is truly independent both structurally and financially. Honorable Justice Oputa held that justice flows through the totality of the law and affects all participants in the field of law.<sup>19</sup> The havoc wrecked or being wrecked on the concept of justice by the political class was frontally addressed by Benson.<sup>20</sup> He contended that justice should ordinarily be no respecter of persons and that judges must do justice no matter whose ox is gored.

## V. Election Petitions in Nigeria and Effect of Religion

At any point in time in the conduct of elections in Nigeria as it is natural in any contest, some people will win and some will loose in any electoral contest. There is always provision for the aggrieved to ventilate their grievances. This is usually through the instrumentality of election petitions. In the attempt to insulate the judiciary from the temptation of compromise, an Election Petition Tribunal is usually set up by government consisting of judicial officers who are usually selected from states and posted to other states apart from their own. This was a development on what operated in the Second Republic when the High Courts of the various states were saddled with the determination of election petitions.<sup>21</sup> The accusation that was rife then was that the various state Governors were exerting influence on the judiciary in their states. For example in the Old Oyo State, the then Governor Chief Bola Ige was alleged to have printed electoral forms without any authorization from the Federal Electoral Commission. At the end of the case, the court did not give a unanimous decision as it was a split judgment.

<sup>17</sup>W Friedman, "The State and the Rule of Law in a Mixed Economy" 1971 p.23 in *Nigeria in Search of Social Justice Through Law Nigerian Institute of Advanced Legal Studies Occasional Paper1* 1986 pp6-7.

<sup>18</sup> John Stuart Mills in *Jurisprudence* Dias 4<sup>th</sup> Edn. (London: Butterworths, 1984).

<sup>19</sup> Chukwudifu Oputa in *Josiah v. State* 1985 1 NWLR (pt.1) 125.

<sup>20</sup> Theophilus Benson "Judges and Attainment of Justice" *The Guardian* August 18, 2003 p.65.

<sup>21</sup> *Ige v. Olunloyo* 1984 SCLR, *Unongo v. Aper Aku* 1984 SCLR.

In the Old Anambra State there was the accusation that the then Governor Chief Jim Nwobodo influenced the process because the judiciary in that state decided an interlocutory matter without the proper constitution of the required quorum. In Benue State, Governor Aper Aku was alleged to have influenced the decision of the court where they could not take the petition and same was dismissed for being out of time.<sup>22</sup> The appellate court however upheld the appeal and ordered a fresh hearing of the case. However before the said final judgment, the military had struck and the said Governor was in office without any opportunity for the judiciary to take a position on the regularity or otherwise of the election of Governor Aper Aku.

The issue of justice is so fundamental to the society as it is said to flow through the totality of the law and affects participants in the field of law.<sup>23</sup> It is no respecter of persons and circumstances. A new dimension was however introduced in the United States of America when it was decided that a murderer is not entitled to benefit from the will of the murdered in spite of the principle of the binding force of a will using the principle that no man should benefit from his own inequity or take advantage of his own wrong.<sup>24</sup> This appears to meet the justice of the case. With regards to electoral matters in Nigeria there appears to be sanity to have been put in place in the light of the present constitutional provisions where the National Judicial Council was empowered to take appropriate measures on the discipline of judicial officers. To date a number of judges have been sanctioned by way of suspension or compulsory retirement.

At the level of the 1999 Constitution there is still a lacuna in the relationship between states and the National Judicial Council. The Council can only recommend and the state government to take final decision. The hide and seek game that is currently playing out in Oyo State is an eye opener. The Council decided on 3 judges from Oyo State for sanctioning but the State Governor Otunba Alao Akala refused to take steps on the recommended sanctions. The way out is that the Constitution should be amended to the effect that where the Council's recommendation is not implemented within a specified period the decision should take effect automatically. This recommendation is informed by the fact that the National Judicial Council is in the best position to assess the performance or otherwise of the judicial officers and should be in a position to discipline them even without recourse to the state government. The experience in Oyo and Ekiti States with regards to the recalcitrant attitude of the states to the implementation of the recommendation of the National Judicial Council confirms the need for a more pragmatic approach.

It is important to stress that there is a gradual matter that is creeping into our judicial system which must be curbed. As ethnicity crept into the judiciary unnoticed, religion is equally taking a toll. Today, we have sectarian bodies within the larger body of Nigerian lawyers. If care is not taken, this may snowball into the judiciary because the lawyers end up on the bench. While religious belief is personal to individuals, the organizational profess of faith portend very grave danger for the practice of the Law. In order to nip it in the bud, the first step is for the judiciary as a body to place a ban on the participation of its members. This will go a long way in ensuring justice without fear or favor. Justice must not only be done but must be seen to be done.

## VI. Effects of Religion on Politics

As indicated earlier, religion and politics cannot be divorced in a cut and dry manner. Falola argued that it cannot be assumed religion and politics cannot be divorced in a theoretical framework. It was his position that such divorce will be artificial and that it is impossible to put a wedge between the two. If the two are inseparable, it is imperative to examine the effects of religion on politics. It has earlier been articulated that religion has exerted a serious influence on the politics of the society. The first major effect of religion on politics is by defining the conduct of political office holders. This according to Sanneh is informed by the fact that the state is not value free and these values are

<sup>22</sup> Oputa *ibid* note 19.

<sup>23</sup> 24 *American Democracy in Theory and Practice* p.422.

<sup>24</sup> Yinka Falola *Violence in Nigeria* *ibid* p.10.

essentially religion driven.<sup>25</sup> The way this is done is that the dirty perception of politics is condemned by religious leaders and through their involvement in pure partisan politics. The extent to which this disposition has influenced the polity cannot be assessed with any mathematical precision. The much that could be said for now is that there is to date an advocacy of moral conduct on the part of religion on the politics of the society.

Religion is now used as a symbol of change from the existing perception of backwardness, nepotism, favoritism, and influence peddling that characterizes the political landscape. Religion is now tossed up as a radical option for the total transformation of the world. It has been put in place by a number of studies that religion contributes to national integration, political mobilization, the reformation of ethnic identity, and nationalism.<sup>26</sup> The foreign policy effect of religion is discernible from the relationship that exists amongst nations of the world. It appears that international relation is now determined by religious affiliation e.g. a position taken by the State of Israel is likely to be accommodated in the United States. In the same vein, the Muslim world is likely to take a common position against such alliance.

The effect of religion in the society cannot be over-emphasized. After the Vatican II, human rights became a reoccurring decimal in theological doctrines, and were an essential aspect of Pope John Paul II's papacy his eminence brought his ideas about human rights, solidarity, and peace to Eastern Europe and affected transformation from communism.<sup>27</sup> His advocacy brought down authoritarian regimes.<sup>28</sup> The firm position of Ayatollah Komeini ensured the deposition of the authoritarian and dictatorial regime in Iran.

John Nurser suggested that the Universal Declaration of Human Rights, 1948 was one of the efforts of Protestant churches. In his words " a group of men and women, lay and ordained, from within the Protestant and Anglican Christian traditions of religion was able to play a significant role in including what became a 'universal declaration' of human rights." It is not possible to come to any empirical position on the assertion of Nurser in the light of the fact that no reference was formally made to the effort in the instruments culminating in the declaration. In the Middle East, religion is playing both positive and ignoble roles. The World Christian Churches (WCC) recently came up with a recommendation that members of her fold should consider divesting from companies that aid Israel in the occupied Palestinian territories.<sup>29</sup> This is a laudable position.

On the whole, the effect of religion on politics all over the world is mixed grill in the sense that it is both positive and negative. It is positive in the sense that religion as earlier identified is value driven and it naturally rob off on the polity through the participation of ardent religious believers. The negative effect could be deciphered from the perspective of sectarian tendency or where religious bigots do anything in the name of religion to ensure that positions or offices are gained by their adherents. Such people stand on the position that their ideals, beliefs, and preaching dominate any environment they find themselves. The crisis in Sudan today is a veritable example.<sup>30</sup>

In Nigeria, the balancing of political patronage is real. If any office is held by a muslim or Christian occupies an office the next person in hierarchy must be of the other faith. This appears a veritable source of peace, harmony and progress in the polity. One is however of the view that it is retrogressive and has the greater tendency of compromising merit, hard work, and efficiency. That one shares a particular faith should not be the basis of gaining political power but rather ability to perform should be the determining factor. Any process that will facilitate peaceful

<sup>25</sup> L. Sanneh " Religion, Politics and National Integration: A Comparative Perspective" in J.O. Hunwicked *Religion and National Integration in Africa. Islam, Christianity, and Politics in the Sudan and Nigeria* Evanston, Illionis: Northwestern University Press, 1992 151-166.

<sup>26</sup> P. Brass, ed. *Ethnic Groups and the State* Manchester N.H: Barnes and Nobles 1985.

<sup>27</sup> Wahab Egbewole "Darfur Crisis and its Implication on Peaceful Co-Existence in Africa" paper delivered at the War and Peace in Africa Conference Washington DC March 2008.

<sup>28</sup> John Nurser, *For All Peoples and All Nations* Washington DC: Georgetown University Press 2005 p.22.

<sup>29</sup> David Hollenbach, *The Global Face of Public Faith* Washington DC: Georgetown University Press 2003 p.196.

<sup>30</sup> *New York Times* February 23, 2005.

co-existence should be supported but it must be balanced with merit. It should not be peace of the graveyard even if negotiated no enduring peace could be achieved on religious sentiments.

## **VII. Conclusion**

The relationship and inter-play between religion, politics, and justice system in any society is mutual and if properly coordinated could bring enduring and lasting peace. If the relationship is not properly managed, it could be a veritable source of conflict, crisis, and strife. This is because religion thrives on sentiments, politics is all about gaining political power for selfish or altruistic ends, and justice is fairness. All these are mutually and exclusively contradictory, thus there is constant need for engagement. The practitioners must be in constant dialogue on all issues that affect the society with a view to ensuring harmonious and peaceful co-existence in the polity and a peaceful world order.

The panacea for an enduring working relationship between all the concepts is for practitioners to appreciate the need that they have for each other. Without justice no society will progress. Religion will put a moral toga on the society. The only credible way to get to power is through politics. The management of the interplay of these forces will ensure a progressive, peaceful, and prosperous society.