

Adequate Study and Application of Islamic Law: A Mechanism for National Advancement in Nigeria in the 21st Century

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Abstract: - It is an undisputable fact that laws made by man are full of selfishness, injustice and ignorance. Many loopholes can be detected in such laws because man is not perfect in his foresight and knowledge. The operation of regional self-rule introduced in the McPherson constitution of 1954, is a clear testimony to this. That constitution brought forward a number of situations which made Nigerians start to feel they were ethnically different. Thus, the seeds of the ethnic problems were planted in the fertile soil of regionalism since the country's independence in 1960. The subsequent legal systems that were/are being operated during both military and civilian administrations have only led to increases in crime-rate, in broken-homes, in mental diseases, in chaos and confusion. Why? This is because these laws are man-made. Nigeria is therefore in need of a standard legal system which can guarantee peace, justice, harmony and stability among people. A legal system, which is free from selfishness or constant changes and amendment. And above all, a legal system that covers everything needed for national advancement especially in this 21st century. Undoubtedly, the only legal system, which possesses the qualities mentioned above, is the Islamic law. This is because, it is a way of life prescribed by Allah, the Almighty. It never collides with man's natural disposition, nor prevents him from having material advancement or moral perfection. Islamic law is also relevant to all periods and provides solutions to all problems. Hence, Islamic law is a mechanism for national advancement in this present millennium. Thus, this paper is an attempt to examine the significance of adequate study and application of Islamic legal system for the progress and development of Nigerian citizens.

Keywords: Adequate Study, Islamic Law, Mechanism and National Advancement.

I. INTRODUCTION

Islamic Law (*Shariah*) covers everything needed for human existence. It liberates man from servitude to other than Allah, the Almighty. It brings peace, justice and harmony among people. As the Creator of the universe, Allah is the only Being that has absolute right to prescribe a path and commands His creation to follow for their guidance in both the Worlds. Laws made by man are full of selfishness, injustice and ignorance as earlier mentioned. This is because what he considered important today for example may be considered unimportant tomorrow. His laws need to be amended or changed to fit in with people's new life style (Aisha Lemu, 1990). The Nigerian constitution is not free

from such constant changes and amendment. Because those who sat and wrote the constitution were not perfect and each one of them wanted to either protect his selfish interest or protect the interest of his tribe and or religion.

Islamic Law on the other hand, is protected from any change or amendment. For, Allah the Creator knows what is best for His creation. Therefore, His law (*Shari'ah*) is compatible with all generations and periods. No preference is given to any person. All people are equal before the *Shari'ah*. Even the non-Muslims enjoy the justice and fairness of the *Shari'ah*. They are protected against any transgression. To adequately study and apply the Islamic Law in Nigeria therefore is a mechanism for national advancement in this 21st century. The century which is being threatened by diverse incidences of communal crisis in almost all parts of the country. (Tamuno and Ukpabi, 1989)

No nation can have meaningful advancement unless if the law that governs them is able to protect five fundamental rights for its citizens. These rights are:

- i. Religion
- ii. Life
- iii. Property
- iv. Mind
- v. Legitimate procreation. (Abdur Rahaman, 1984)

Thus, it is the aim of this paper to examine these fundamental rights according to Islamic Law. It is obvious that the protection of these rights qualifies the Islamic Law to be the most effective mechanism for national advancement in Nigeria, especially in this present millennium.

Protection of Religion

The first fundamental right that the Islamic Law protects for the people is their religion. The Muslims on one hand are obliged to remain in Islam forever. They are neither allowed to introduce anything that will adulterate their religion, nor are they allowed to use violence in the name of religion (Abubakar, 2002).

The non-Muslims on the other hand are not compelled to embrace Islam without their consent. If they decide to remain as non-Muslims, the Islamic Law protects and gives them

their rights including that of religion provided they agree to live in peace with the Muslims. Allah the Almighty says:

لَا إِكْرَاهَ فِي الدِّينِ قَدْ تَبَيَّنَ الرُّشْدُ مِنَ الْغَيِّ فَمَنْ يَكْفُرْ
بِالطَّاغُوتِ وَيُؤْمِنْ بِاللَّهِ فَقَدِ اسْتَمْسَكَ بِالْعُرْوَةِ الْوُثْقَىٰ لَا
انْفِصَامَ لَهَا وَاللَّهُ سَمِيعٌ عَلِيمٌ (البقرة: ٢٥٦)

Let there be no compulsion in religion. Truth stands out Clear from error. Whoever Rejects Evil and believes in Allah Has grasped the most trust worthy Hand-hold, that never breaks, and Allah hears and knows all things, (Qur'an, 2:256).

During the period of the Prophet (SAW), the Jews of Madinah had their synagogue and educational institute which he did not temper with. In the treaty with the Christians of Najran, the Prophet (SAW) gave a guarantee not only for the inhabitants, but had also expressly left the nomination of Bishops and Priests to the Christian community itself (AbdurRahman, 1984).

Protection of Life

The second fundamental right that the Islamic Law protects for the people is their life. The Islamic Law does not allow anybody to kill or injure another person intentionally. Whoever kills intentionally is to be killed. Intentional injury also, receives an equal punishment (Abubakar, 2002). This makes people to restrain themselves from doing mischief. As a result, there will be permanent peaceful co-existence among them. Allah the Almighty says:

وَلَكُمْ فِي الْقِصَاصِ حَيَاةٌ يَا أُولِي الْأَلْبَابِ لَعَلَّكُمْ تَتَّقُونَ
(البقرة: ١٧٩)

In the law of equality there is (saving of) life to you, o you men of understanding; that you may restrain yourselves, (Qur'an, 2:179).

In another verse, He says;

وَكَتَبْنَا عَلَيْهِمْ فِيهَا أَنَّ النَّفْسَ بِالنَّفْسِ وَالْعَيْنَ بِالْعَيْنِ وَالْأَنْفَ
بِالْأَنْفِ وَالْأُذُنَ بِالْأُذُنِ وَالسِّنَّ بِالسِّنِّ وَالْجُرُوحَ قِصَاصًا
(المائدة: ٤٥)

We ordained therein for them: Life for life, eye for eye, nose for nose, ear for ear, tooth for tooth, and wounds, equal for equal. (Qur'an, 5:45)

When one clearly looks at the constant disturbances and violence among the people from different parts of this country today, which most of them result in too much loss of lives in the name of tribal, political and or religious differences, one can undoubtedly say that the reason why these problems are not solved in spite of many different measures taken by Federal, States and Local Governments is lack of full application of Islamic Law. Therefore, when people adequately study the Islamic Law and accept to be governed

by it, they will definitely get the advantage of living in peace and harmony among themselves.

Protection of Property

The Islamic Law provides protection and security to people's property. Whoever is caught stealing, robbing, or taking by violence, somebody's property, shall be unfavorably punished under the Islamic Law. Allah the Almighty says:

وَالسَّارِقُ وَالسَّارِقَةُ فَاقْطَعُوا أَيْدِيَهُمَا جِزَاءً بِمَا كَسَبَا نَكَالًا
مِّنَ اللَّهِ وَاللَّهُ عَزِيزٌ حَكِيمٌ (المائدة: ٣٨)

As to the thief, male or female, cutoff his or her hands. A punishment by way of example, from Allah for their crime. And Allah is Exalted in Power. (Qur'an, 5:38)

In another verse, He says:

إِنَّمَا جِزَاءُ الَّذِينَ يُحَارِبُونَ اللَّهَ وَرَسُولَهُ وَيَسْعَوْنَ فِي الْأَرْضِ
فَسَادًا أَنْ يُقَتَّلُوا أَوْ يُصَلَّبُوا أَوْ تُنَقَّعَ أَيْدِيهِمْ وَأَرْجُلُهُمْ مِنْ
خِلَافٍ أَوْ يُنْفَوْا مِنَ الْأَرْضِ ذَلِكَ لَهُمْ جزئ في الدنيا ولهم
في الآخرة عذاب عظيم (المائدة: ٣٣)

The punishment of those who Wage war against Allah and His Apostle, and strive with Might and main for mischief through the land is: execution or crucifixion, or the cutting off of hands and feet from opposite sides, or exile from the land. That is their disgrace in this World, and a heavy punishment Is theirs in the hereafter. (Qur'an, 5:33)

One of the reasons why Nigerian citizens get too much problems of theft and robbery in this country is lack of implementing the appropriate laws against thieves and robbers. When they give their support to adequate study and full application of Islamic Law, they shall overcome the problems of theft and robbery in the society. When this happens, Nigeria will become economically advanced within the shortest time possible.

Protection of the Mind

Protection of the people's mind is one of the responsibilities of the Islamic law. This is the reason why to drink, brew or transport wine is forbidden by the Islamic Law because of its undesirable effect on the mind. Allah the Almighty says:-

يَا أَيُّهَا الَّذِينَ آمَنُوا إِنَّمَا الْخَمْرُ وَالْمَيْسِرُ وَالْأَنْصَابُ وَالْأُرْزَاقُ
رِجْسٌ مِّنْ عَمَلِ الشَّيْطَانِ فَاجْتَنِبُوهُ لَعَلَّكُمْ تُفْلِحُونَ (المائدة: ٩٠)

O You who believe! Intoxicants and gambling, (dedication of) stones, and (divination by) arrows, are an abomination of Satan's handiwork, Eschew such (abomination) that you may prosper. (Qur'an, 5:90).

In the Hadith, the Messenger of Allah (SAW) says:

الخمير أملكباث ، فمن شربها لم تقبل صلاته أربعين يوما ، فإن مات وهي فيبطنه مات ميتة جاهلية (الجامع الصغير لجلال الدين السيوطي ١٣٩ / ٢)

An intoxicant is a mother of all vices. Whosoever drinks it, his prayer (*Salat*) will not be accepted (by Allah) for forty days, If he died and there is wine in His stomach, he has died the death of the *Jahiliyyah* (the period before the advent of Islam) (Al-Jami' al-Saghir).

The Islamic Law also takes serious measures against the use and sale of Marijuana, hard drugs, and the like. For intoxicants and hard drugs are some of the causes of insanity. How can a nation become advanced without solving the problem of drug abuse among its people? Certainly, if the Islamic Law is adequately studied and applied in Nigeria, these problems shall easily be overcome.

Protection of Legitimate Procreation

The fifth right that the Islamic Law protects for the people is their legitimate procreation. The Islamic Law does not only forbid the act of adultery or fornication, but also forbid any approach or temptation to it. Allah the

Almighty says:

وَلَا تَقْرُبُوا الزَّوْجَا إِنَّمَا كَانَ فَاحِشَةً وَسَاءَ سَبِيلًا (الإسراء: ٣٢)

Do not come nearer to Adultery for it is shameful (deed) and an evil, opening the road (to other evils). (Qur'an, 17:32)

On the other hand, it encourages people to get married so as to procreate legitimate children. Allah the Almighty says:

وَاللَّهُ جَعَلَ لَكُمْ مِنْ أَنْفُسِكُمْ أَزْوَاجًا وَجَعَلَ لَكُمْ مِنْ أَزْوَاجِكُمْ بَنِينَ وَحَفَدَةً وَرَزَقَكُمْ مِنَ الطَّيِّبَاتِ أَفَبِالْبَاطِلِ يُؤْمِنُونَ وَبِعِصْمَةِ اللَّهِ هُمْ يَكْفُرُونَ (النحل: ٧٢)

And Allah has made for You mates (and companions) Of your own nature, and made for you, out of them, sons and daughters and Grandchildren, and provided for your sustenance Of the best; will they then believe in vain things, And be ungrateful for Allah's favors? (Qur'an, 16:72).

Marriage provides a nation of decent origin. Many of those who perform tyrannical acts (popularly known as Area Boys and Girls) today, do not have legitimate origin. In other words, they are illegitimate children who commit all sorts of crimes and social vices because they lack paternal care and discipline (Abubakar, 2002).

However, if the Islamic Law is adequately studied and applied, the institution of marriage will be strengthened and encouraged. Legitimate children will eventually be procreated who will enjoy both paternal and maternal care. When such children grow up, they will become morally conscious,

disciplined, reliable and responsible citizens who will contribute in the development of their nation.

II. THE FAIRNESS OF THE ISLAMIC LAW

In addition to the above-mentioned fundamental rights, which the Islamic Law protects for the people, the divine Law also provides another great advantage to them. This great advantage is equity in deciding any judgment. There is no difference between the strong and the weak; the leader and the led; the rich and the poor; the male and the female; the old and the young; or a Muslim and a non-Muslim. All are equal before the law. During the period of the Prophet (SAW), some Muslims persuaded him to acquit their brother from the guilt of stealing, and accuse a Jew in his stead. The Prophet (SAW) refused to offer them their request (IbnKathir, 2004). As a result of that incidence, Allah the Almighty addressed His Prophet thus;

إِنَّا أَنْزَلْنَا إِلَيْكَ الْكِتَابَ بِالْحَقِّ لِتَحْكُمَ بَيْنَ النَّاسِ بِمَا أَرَاكَ اللَّهُ وَلَا تَكُنْ لِلْخَائِبِينَ حَصِيمًا. وَاسْتَغْفِرِ اللَّهُ إِنَّ اللَّهَ كَانَ غَفُورًا رَحِيمًا (النساء: ١٠٥-١٠٦)

We have sent down to you the Book in truth that you may judge between men, as guided by Allah. So be not (used) as an advocate by those who betray their trust. But seek the forgiveness of Allah. For Allah is Oft-Forgiving, most Merciful (Qur'an, 4:105-106)

Another incident happened during the reign of the fourth Caliph, Ali bin AbiTalib (RA). It was a disagreement between him and a Jew over the ownership of a gown. The Caliph reported the case to a court of law. However, the case was decided in favour of the Jew for the Caliph's failure to produce two witnesses. The caliph submissively accepted the Judge's verdict. The Jewish man was astonished with this judgment. He was very sure that the gown belonged to the Caliph. He thought Ali (RA) would protest against the Judge's ruling. Therefore; both the fairness of the Islamic Law and the submission of Ali to the judgment impressed him. He eventually embraced Islam. (IbnKathir, Al-Bidayah)

This clearly shows how Islamic Law is fair and just to all and sundry. Lack of just and equitable legal system in Nigeria is one of the reasons why there is always increase in crime-rate, like theft, robbery, manslaughter, abduction, etc. These crimes are indeed responsible for lack of meaningful advancement in the country. Should the people of Nigeria agree to apply the Islamic legal system, they will really enjoy the benefit of its fairness. A golden opportunity for national advancement in Nigeria will henceforth become a reality in the 21st century.

III. SUMMARY

This paper described how the legal systems which governed the Nigerian citizens failed to guarantee peace, unity and stability in Nigeria since the time of independence. The paper

also examined how the Islamic Law protects five fundamental rights for the people (i.e. Religion, life, property, mind and legitimate procreation). The paper finally hit the target by explaining that the protection of those rights is the mechanisms for achieving national advancement in Nigeria in the 21st century.

IV. CONCLUSION

When one clearly looks at the meaning, significance and advantages of the Islamic Law, one shall not hesitate to agree that human beings are vehemently in need of Islamic Law for their guidance, because it aims as mentioned above, at improving the way of life of the people in this world and in the hereafter.

No doubt every responsible Muslim is happy with the application of the Islamic Law during this period of political administration. Although the introduction of this Shari'ah has its own problems, yet, many achievements have been recorded since its inception in 1999. For national advancement

therefore, Nigerian citizens should support the application of Islamic Law because of its comprehensiveness and fairness.

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