Challenge and accommodation in religion and politics: the Nigerian experience

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Nigeria's post-colonial history is one of a paradoxical mix. Wrenched from the British imperialism on October 1, 1960, the gains made since then have now been almost eclipsed by the sad experiences of civil tumult, economic disintegration, frequent military *coup d'états*, civil war and a protracted mutual distrust and suspicion among its diverse cultural and ethnic sub-units. A country of over two hundred and fifty ethnic groups, with 80 million of the estimated 105 million people distributed almost evenly between two of the major world's religions - Islam and Christianity -, and dotted by a formidable cluster of indigenous religionists, Nigeria's post-colonial task has been how to balance the imperative for civil unity with its multiple cultural expressions.

In his opening address to the fifty members of the Constitution Drafting Committee (CDC) on 18 October 1975, the then head of Nigeria's military government, General Murtala Ramat Muhammad, declared: 'It is important that we avoid a reopening of the deep splits which caused trauma in the country.'[1] In a similar vein, President Ibrahim Babangida, shortly after assuming office as Head of State in August 1985, inaugurated a seventeen-member Political Bureau, headed by Professor Sylvanus Cookey, whose terms of reference included 'the review of Nigeria's political history, identifying the basic problems which led to failure in the past and suggesting ways of resolving and coping with these problems.'[2]

My focus in this article is on one of the problems that have been universally regarded as the Achilles' heel of Nigeria's political life. Religion has progressively risen from a position of relative obscurity in the independence period to become a major role player in both local and national politics since the early 1980s. While many social analysts found themselves bewildered by this phenomenon, it stands to reason to expect the situation as natural given Nigeria's cultural history and its current geo-political structure.

A brief remark about these two aspects is in order. First, there is a close connection between religion and ethnic identity in Nigeria. Before the advent of foreign religions, each locality had its myth of origin grounded in an ancestral religious worldview. By the end of the nineteenth century, Islam and Christianity had transformed the Nigerian religious landscape. The missiological success of the former in the north produced a population (Hausa-Fulani and Kanuri) that is predominantly Muslim while Christianity supplies the cultural idioms in terms of which the Yoruba of western Nigeria and the Ibo/Efik people in the east define themselves.[3] Colonialism fed on this arrangement and used it effectively to its advantage such that by the time of its termination in 1960, the country lacked a common political ground or framework within which the diverse religious allegiances could find both their freedom and their limits. The grand loser in the new vortex of politics is the

traditional religion which, despite its resilience at the level of individual spirituality, continues to dwindle in political significance.

Second is the role that religion has continued to play in shaping the nation's major domestic and foreign policy issues. These issues include defining Nigeria's relationship with Israel, the Vatican and the Arab world; maintaining ethno-religious balance in the distribution of cabinet offices and creation of states; conducting a national census that is acceptable to all religious constituencies; and ensuring justice and fairness in the citing of major development projects in the country.[4] All of these issues are, however, usually raised within the context of a much broader and normative question, namely, what should be the official status of religion in Nigerian polity?

In the remainder of this essay, I shall offer an assessment of Nigerians who have attempted to answer this important question through constitutional means. I argue that a near consensus exists in Nigeria on the principle of separation of religion and the state, but that people disagree on what this principle entails. After identifying the relevant religion clauses in Nigeria's post-independence constitutions, I contend that the intransigence of the ruling class to democratize the polity has precluded the emergence of a genuine tradition of public debate among Nigeria's diverse groups. In consequence, each religious community continues to offer a self-serving interpretation of the constitutional solution. If the present arrangement is to endure, both the terms in which the religion debate is being conducted as well as the nature of Nigeria's political context must be revised.

An ambiguous discourse on religion in Nigeria

The fact that in little over a decade Nigeria has had two Federal constitutions, clearly reveals the fragility of its civil unity and its status as a nation-state, as well as the fact that determining the official status of religion still remains an unfinished agenda. The main contention has centered on how to interpret the various guidelines on religion and state contained in the two post-civil war federal constitutions (1979 and 1989). Section 11, along the lines of the 'Establishment clause' in the First Amendment to the United States Constitution, prescribes that 'the Government of the Federation or a state shall not adopt any religion as state religion.' Section 37, subsections 1-4, outlines the boundaries of freedom of thought, conscience and religion, thus stating the free exercise principle; and sections 259-61 and 272 of the 1989 constitution make provisions for the establishment and administration of the *Shari'a* courts at the Federal level as well as in states that desire them.

> Two animating principles are commonly understood to underlie these 'religion clauses' in the constitution, namely, the principle of institutional separation and the principle of accommodation. Yet, not only analysts but also the two major religious groups in the country - Muslim and Christian - disagree on how to

reconcile the two underlying principles. I shall examine each of these principles in turn, and offer my assessment in the process. Given the democratic ferment which originally stimulated a nation-wide interest in constitutional issues in 1976, and which has continually reasserted itself ever since, it seems plausible to see the principles of institutional separation and accommodation as complementary co-guarantors of a single end, which is 'to promote and assure the fullest possible scope of religious liberty and tolerance for all and to nurture the conditions which secure the best hope of attainment of that end.'[5]

The principle of institutional separation

In Nigerian political discourse, this principle has usually been invoked not so much to clarify the question about 'who should have power,' but more importantly, about 'what kind of state Nigeria should be.'[6] Geertz says that only such clarification can address the central issue of political legitimacy, since 'for a state to do more than administer privilege and defend itself against its own population, its acts must seem continuous with the selves of those whose state it pretends it is, its citizens.'[7] There is a near consensus that this is the principle explicitly expressed in section 11 of the constitution, which prohibits all tiers of the Government from adopting any religion as state religion. However, in the attempt to unpack the full scope of this principle, two vocabularies or terms have been employed which, with hindsight, now appear to have confounded rather than clarified the issue. These are 'separation' and 'secularity.'

Two different groups of Nigerians seem most comfortable with the use of these terms, namely, the Christians and the so-called progressive (Marxist) thinkers, although on quite different grounds. Both groups also appear doctrinaire in their defence of the terms, for in their judgment, separation and secularity are theological and ideological dogmas etched with a constitutional precept. Msgr. Adigwe argues that 'the state [as] described in section 10 of the 1979 constitution and clause 11 of the 1988 draft constitution is by implication a secular state.'[8] In their memorandum sent to the Constitution Review Committee in 1986, the Catholic Bishops of Nigeria defended Nigeria's secularity as 'the only viable *modus vivendi* for it to survive as a nation.' They went further to define a secular state as one in which 'there is no official religion but in which religion as such may nevertheless be treated with respect; and religious bodies and their activities are seen as purely social agents within the communities.'[9]

In his keynote address delivered to the second assembly of the Christian Association of Nigeria (CAN) held in Kaduna in 1988, Bishop E. B. Gbonigi of the Anglican Diocese of Akure, rejected the dictionary definition of secularism, according to which it is seen as a 'doctrine of public morality

based on the citizens' well-being and exclusive of religious considerations.' He characterizes Nigeria's secularity as 'a form of separation between religion and state which allows for voluntary relationship and cooperation wherever and whenever necessary and possible.'[10] Invoking the classical Protestant doctrine of the two kingdoms, Gbonigi defends Church-State separation on the basis of their different functions. The state's duty is 'to maintain justice, security, peace, relative well-being of its citizens,' while the Church is 'primarily concerned with the inward and spiritual life of the people ..., ordained and commissioned to preach the gospel of salvation.'[11]

Bala Usman attributed the confusion over the interpretation of the 'non-adoption of religion' clause to the imprecise way in which the clause is worded, in that the provision does not preclude the state from associating or identifying with any religion 'as long as this stops short of adoption.'[12] He proposes what he thought would have been a better definition of the principle of institutional separation:

> The Federal Republic of Nigeria is a secular State and the State shall not be associated with any religion but shall actively protect the fundamental right of all citizens to hold and practice the religious beliefs of their choice.[13]

Segun Gbadegesin supports Usman's addition of the concept of 'secular state' to the actual wording of the constitutional concept, in that secularity is a principle that is morally defensible on three grounds. First, it presupposes the value of freedom of conscience, something non-existent in a sacral society. Second, it encourages respect for individual autonomy; and finally, it presupposes 'the belief that human beings are equal in the sight of God and therefore are equally capable of approaching Him for their various needs.'[14] In short, for Usman and Gbadegesin, religion is a personal and private affair, and any attempt to conflate it with politics is seen as a threat to national stability and integrity, and secularity requires that this devilish force be uprooted.

It is precisely this conclusion that some Muslims find objectionable, even though 'standard Islamic prescriptions are not necessarily any more convincing.'[15] Mr Justice Sambo, a Muslim judge, argued that there is an obnoxious danger in deriving secularity from the 'non-adoption of religion' clause, because it implies that 'both the Federal and State governments will have nothing to do with the divine religions of their people.'[16] The clause did erect, in Sambo's interpretation, a wall of hostility between religion and the state, which he found repugnant on two grounds. First, it seems to suppose that 'human reasoning and not revelation [religion] is the transcendent source of law,' and second, it overlooks the fact that 'secular principle has no place in the Islamic lexicon.'[17] To prescribe secularity for a country where 'divine religion [referring to both Islam and Christianity] is a complete way of life for 99 per cent of its population ... is a rude shock.'[18]

Besides the apparent cultural insensitivity of a secular interpretation, Nigerian Muslims also argue that to divorce religion from politics is to elevate the state to 'a false absolute, an expression of shirk'[19] (the sin of associating partners with God). Justice Sambo reminded his fellow Nigerians that

> the only solution to the chronic vices which have overcome Nigeria is for the nation to take a distinctive governmental stand on religious, moral and spiritual training of her peoples. ... It is only divine religious injunctions backed by those who govern that can stabilize discipline, good morals and obedience to God, and constituted authority.[20]

Sambo insisted that it is not enough simply to provide for freedom of thought, conscience and religion without explicitly writing the moral norms and theological principles of the two country's revealed religions into the constitution. He therefore made a definite call for a constitutional provision that 'once a Nigerian declares for a divine religion, it is the duty of the state to see that such a declarant respects and lives in accordance with the teachings of the religion.'[21]

There are other Muslims, however, who reject Justice Sambo's position for being too skewed and theologically imperialistic. Malam Mukhtar, son of Nigeria's first Prime Minister and one-time Imam at a Bauchi mosque, argued that establishing a religious state [Islamic or Christian] 'is neither realistic nor possible' in Nigeria.[22] Much earlier, a similar view had been expressed by Alhaji Aliyu, the Magaji Gari, a senior councilor and a kingmaker in Sokoto Sultanate, who argued that 'the call for an Islamic state is the misguided view of the radical academics,' whose views, unfortunately, 'the government tends to respect ... because they come from university dons who are supposed to be knowledgeable.'[23] Aliyu urged the creation and nurturing of a civil environment which would permit religion to serve as a moral catalyst, by enlarging public vision and accentuating the broader base of human community.[24]

Thus, the fear of a significant number of Nigerian Muslims is not necessarily, as many Christians tend to believe, that Islam is being prevented from becoming the official religion, but that the prevailing interpretations fail 'to foster much more hospitable grounds for the setting of the religious agenda in public affairs.'[25] In order to harmonize the divergent interpretations of the non-adoption of religion clause, we have to correct two misconceptions which have obscured the meaning of the animating principle behind this clause, namely, that the principle of institutional separation requires a secular society (as the title of Bishop Gbonigi's paper confusingly suggests), and that it demands the exclusion of religion from political discourse.

First, the principle of separation should be understood in institutional rather than cultural terms. What it seeks to avoid is 'an alliance of civil and ecclesiastical power'[26] that might threaten religious liberty, and not an

evacuation of religious symbols and values from 'the totality of cultural life and of ideation.'[27] Muslims do have a cultural, historical, and theological reason to be suspicious of the continued use of 'secularity' as a metaphor to conduct political discourse, if, as Soskice has powerfully argued, the language we use has a metaphorical force to depict the particular reality we want to construct or enact.[28]

Secularity, formerly regarded by many sociologists as a synonym of modernity, is generally understood as a state of affairs inevitably brought about by the forces of progress in history, principally science and technology. But the term cannot be said to be religiously neutral, at least, from a historical perspective. Peter Berger argues that there is 'an inherent connection between Christianity and the character of the modern Western world,' such that 'the modern world could be interpreted as a higher realization of the Christian spirit.'[29] A much stronger theological defence of secularity is in fact offered by the German Catholic theologian, Johannes B. Metz, who regards all modernizing influences as positive historical confirmation of the Christian doctrine of incarnation.[30]

In the light of Nigeria's colonial past, during which 'the Anglican Church provided religious legitimation for the polity and acted, unofficially, as the State Church,'[31] it seems not unreasonable for Muslims to contend that Nigeria, as is presently constituted, is neither Islamic nor secular.[32] The Muslims identified many spheres of the nation's public life to illustrate what they see as a preponderance of Christian symbols and values, all of which have been unquestionably accepted as the status quo. For instance, Muslims portrayed the Common Law tradition underpinning the Nigerian judicial process as 'more or less a Christian law,' and they listed such other areas of contention where, but 'for our own tolerance the law courts would have been full of suits by Muslims asking the courts to stop the government from the':

> (a) observance of Saturdays and Sundays as free working days which is a favor for Christians to worship without hindrance or in the alternative tell the court to compel the Government to declare Fridays as a free working day as well, to compensate the Muslims who constitute the majority of the people in this country; (b) use of cross symbol for our health institutions which is a Christian symbol or in the alternative use the crescent as well to compensate the Muslims; (c) use of the Reverend regalia as academic gown in our higher institutions or compel the government to adopt the use of *Alkimba*, the Islamic regalia, as alternative; (d) use of Christian oriented melody as our national anthem; (e) use of Christian Gregorian Calendar which has no relevance to the need of the Muslims or in the alternative use the Islamic Calendar pari pasu with it; and (f) use of Christian calendar to name our School Holidays, e.g., Christmas Break, Easter Break, etc.[33]

The demand for a secular Nigerian state is, from the perspective of many Muslims, a disguise to 'perpetuate Euro-Christian culture and neo-colonialism,' and an attempt to strip Nigeria's public square of transcendent moral values.[34] In fact, many Christians share this apprehension with the Muslims, and it is against this background that we can grasp the essence of the contemporary resurgence of religious vitality, erroneously characterized by many scholars as 'fundamentalism'.[35] Contrary to this pejorative designation, I would like to argue that this renaissance of religious interests is a manifestation of a genuine intention for the 'tajdid (renewal)'[36] of Nigeria's public square that is increasingly becoming naked, of an irrepressible urge towards 'a re-enchantment of the world, precisely because the disenchanted world is so cold and comfortless.'[37]

For instance, the charismatic or 'born again' Christians in Nigeria, formerly thought of to be self-avowedly apolitical,[38] are now actively engaging in political discourse. Many of them have been trying to revise their attitudes to politics as a result of what they perceived in the country as a 'chaotic moral field,' notably, the prevalence of such practices 'as bribery, corruption and the degeneration of the moral and material.'[39] Elizabeth Hodgkin shares this perspective with Marshall in her own study of this phenomenon in Islam. Hodgkin defines the 'increase in religious observance and fervor' among many African Muslims as 'Islamism,' the aim of which is to employ modern and intellectual resources 'to bring Islam into every aspect of human life, political, economic and cultural.'[40] And 'many islamists, or movements of Islamic revival,' Hodgkin points out, 'do not see the seizure of state power as among their aims.'[41]

The point being established here is that what a significant number of Muslims are opposed to is the attempt to deduce from the constitution a secular principle which posits a rigid demarcation of religion and political life. They are not necessarily opposed to a functional separation of powers between civil and religious authorities. By saying this, I do not intend to obscure the crucial stumbling block posed by the arguments of Justice Sambo and some other Muslim reformists, who are presenting Islam as 'a holistic ideology, competent to address every activity of life and every sphere of human society.'[42] A case in point is the position of the late Shaykh Gumi, the leader of the anti-traditionalist *Izala* movement, who once issued a controversial *fatwa* (authoritative ruling) stating that in contemporary Nigeria, 'if Christians do not accept Muslims as their leaders', then Nigeria will have to be divided.[43]

This extreme position has been taken to a logical end by the numerous Muslim youth organizations and leaders, many of whom, e.g., Malam Ibrahim El-Zak Zaky, call for the demolition of the country's present political order, 'including the constitution on which it is based' and they insist that 'a *jihad* is necessary until Shari'a is established as the governing law in Nigeria' and 'Islam only' becomes the *religio licita*.[44] These perspectives not only make the path towards the building of civil unity very difficult, but also blur the jurisdictional question which the principle of institutional separation purports to address.

Yet, it must be emphasized that the concept of secularity is too weak, narrow, and confusing to capture the legal intent of the constitutional provision on the non-adoption of any religion as state religion. Christian and strict separationists' arguments, which suggest the possibility of privatizing religion, failed to clarify the ambiguity that has dogged the non-adoption clause. The 1986 Constitution Review Committee acknowledged this ambiguity, and called public attention to the fact that the concept of 'a secular state' does not appear in the nation's constitution, as it might inadvertently project Nigeria as 'a Godless nation.' The Committee explained the exigency of the non-adoption clause against the backdrop of the 'multiplicity of religious groups in the country,' as well as Babangida's prescription 'to make provisions which will make government at every level ... remain neutral, just, fair and even-handed in its treatment of all religious groups.'[45] In short, the clause emphasizes the incompetence of the state in the realm of religious doctrines.

Needless to say, religion can become a disruptive and sometimes oppressive force in society, but confining it to private or small spaces increases the potentiality of its explosiveness, for

> whether one professes the Shema of Israel ..., the Christian credo ..., or the Muslim shahadah ..., private religion is theologically self-contradictory. Because religion is about the ultimate good of the whole of human life, it will be untrue to itself if it accepts the private niche [to which some theorists would assign it].[46]

What the principle of institutional separation affirms is 'the constitutional provision which forbids the making of any law, and therefore the taking of any executive action, that involves the interlocking of the official functions of the state with the official or institutional functions of any [religion].'[47] The issues it clarifies are about the public care of religion and the moral limits of the state. And this care, 'in so far as it is the duty incumbent on the State is limited to the care for the religious freedom of the body politic.'[48]

There is disagreement, however, on the scope of religious liberty in Nigeria. I shall now proceed to review the debate on this theme under the principle of accommodation

The principle of accommodation

Adams and Emmerich designate the concept of accommodation as a 'free exercise doctrine' that may be defined as 'an area of allowable and, in some cases, compelled governmental deference to the religious needs of people holding a variety of beliefs.'[49] They explain further that, in any given instance of tension between civil duties and religious conviction (a phenomenon

inevitable 'in a society characterized by expansive government and religious pluralism')

> accommodation calls for a delicate balance between government's duty to promote the cohesiveness necessary for an ordered society and its responsibility to honor the religious practices of citizens by refraining from unnecessary or burdensome regulation.[50]

The *Shari'a* debate in Nigeria, which began in 1976 and has remained a key issue ever since, falls within the parameters of this principle. This debate has been well documented by Ofonagoro, Laitin, and Ngwoke, and so needs no repeating here.[51] My main concern is to distill the thrust of the main positions taken in the debate, and assess them from the ethical standpoint of dialogic politics.

What came out clearly in the debate is that Nigerians differ not only in terms of conceptual articulation of religious themes but also in the understanding of the moral responsibility of the state within a democratic framework. Essentially, the debate is about whether, and to what extent, the government should recognize and enforce the *Shari'a* (Muslim religious law). To the Muslims, the issue needs no debating if indeed the state is serious about guaranteeing religious freedom to all citizens of Nigeria. It is for them a theological and moral issue. The Christians see the call for enforcement of the *Shari'a* as 'part of a grand design to Islamize Nigeria.'[52]

A clarification of the way in which the *Shari'a* has been used in this debate is in order. First, the formal or orthodox Islamic understanding of the *Shari'a*, according to which it is a sacred law, embracing the whole range of religious duties, 'the totality of Allah's commands that regulate the life of every Muslim in all its aspects,'[53] and according to which the state is understood to be subordinate to the *Shari'a*,[54] was far removed from the historical experience of Nigerian Muslims. Historically, in Nigeria, the *Shari'a* has only been applied to issues of personal status, especially 'various aspects of marriage and inheritance.'[55]

Second, *Shari'a* courts, following the *Maliki* school, had existed in pre-colonial northern Nigeria, which upon the advent of the British and the subsequent Anglo-Fulani pact, were defined as customary or native courts, having authority to,

> administer native law and custom prevailing in the area of jurisdiction and might award any type of punishment recognized thereby except mutilation, torture, or any other which is repugnant to natural justice and humanity.[56]

This situation remained, though not without some judicial ruptures, until a few years before independence, when, first, a Muslim Court of Appeal was established in 1956, and later a Sharia Court of Appeal was established in

Kaduna, the regional headquarters, on October 1, 1960. Under this arrangement, crafted to fit the democratic scheme, appeals from the native courts in ordinary cases were lodged with the High Court of the Region (which operated the Common Law), but in cases involving Muslim personal law (Shari'a) appeals went to the Shari'a Court of Appeal, which applied the law of the *Maliki* school as it was customarily interpreted in the area around the native court. Jurisdictional disputes between the High Court and the Shari'a Court of Appeal were resolved by a Court of Resolution. Decisions of the Shari'a Court of Appeal involving constitutional issues could be appealed further to the Federal Supreme Court.[57]

Prior to the 1976/77 transition program, the legitimacy of the arrangement described above was hardly challenged by the South, where the absence of the *Shari'a* was considered normal, thanks to the appreciable regional autonomy in the First Republic. Thus, before the preparations for the Second Republic effectively began, 'the Shari'a issue ... was not a Federal issue affecting the public's perception of and interaction with the Federal administration and the Nigerian state.'[58] The Pandora's box was opened when, during the debate, the Muslims sought what Birai had characterized as a 'legal and geographical extension'[59] for the *Shari'a*.

First, they demanded constitutional provisions 'for *Shari'a* courts in the states, and state and federal Shari'a courts of appeal.'[60] In particular, they wanted the extension of the *Shari'a* court system to the southern part of the country. Through the Council of *Ulama*, the Muslims vowed 'to reject any new political order that does not recognize the uninhibited application of *Shari'a* law in Nigeria.'[61] Second, they contended that the present arrangement, which limits the application of the shari'a to issues of personal status, was an unjust restriction on the religious freedom of the Muslims, for 'while not a bit of the Constitution deprived the Christian from being Christian, every bit of the same Constitution can easily deprive the Muslim from being Muslim.'[62] Areas in which a wider legislative scope was being sought for the shari'a included sumptuary laws, economy (especially banking and taxation), and education.[63]

Objections to the shari'a were based on two grounds, one moral-political and the other jurisprudential. The Christians invoked the principles of institutional separation and state neutrality to counter the proposal which would commit the state to what they understood to be an official establishment of religion. The Catholic Bishops of Nigeria argued that 'full religious freedom in fact and practice' means that 'government or any of its arms' must not be 'employed to prosper or hinder any particular religion.'[64] What was at stake, in the *Shari'a* proposal, is the 'equality' of all citizens 'before the law,' which they contend, would be breached, by the inclusion of 'religious laws or principles of any particular religion' in the constitution:

> The Shari'a legal system, which is purely and unmitigatedly a religious system espoused by only the adherents of one particular religion in this country, should not be foisted on the

> nation as this will run violently counter to the country's declared objective of remaining a secular state.[65]

Msgr. Adigwe suggested that the entire sections dealing with the *Shari'a* 'be expunged in order to free non-Muslims from the burden of being involved in the building, financing and administering of a Muslim religious court.'[66] There were several others who thought the elevation of the *Shari'a* to the national level would detract Nigeria from having a uniform Judicial system.[67]

The second reason for objecting to the *Shari'a* proposal was the argument that there was a 'fundamental ambiguity' in the nature of the demand. Laitin pointed out that judicial appeal procedures, 'which normally thrive on more general rules, were often considered inappropriate in the Muslim context,' because 'the shari'a law is based on a set of particularized rules of the Islamic tradition.'[68] Muslims were perceived by the anti-shari'a groups to be 'pushing for an institution which was hardly central to the Islamic experience.'[69] In fact, for many minorities in the North, the Area Courts, which have historically claimed to be the judicial embodiment of the Shari'a ideals, are still being 'seen as the vestiges of emirate rule and its oppression of the masses of their peoples.'[70]

With these diametrically opposed views on the perception and definition of democracy, how might the retention of the *Shari'a* Court system in the Constitution be justified? One way of seeing the merit of the present Constitution is to argue that democracy itself permits the consideration of intensity (that is, 'the degree to which one wants or prefers some alternative') as an important measuring factor in a pluralistic setting where each side perceives 'the victory of the other as a fundamental threat to some very highly ranked values.'[71] As several students of Nigerian politics have noted, the degree to which non-Muslims preferred a Shari'a-blind Constitution was far less than that in which Muslims expressed their demand for an alternative, one that would give adequate recognition to their cultural value.[72]

Although a few Christians asked the government to provide for the operation of Canon Law Courts for the Christians,[73] a suggestion that Muslims were willing to accept 'if Christians actually wanted them,'[74] a majority of the Christians did not take this demand seriously because the Canon Law, prominent mostly in the Catholic circles, 'deals only with rules of liturgical worship and very private issues concerning priests.'[75] While a culture-blind, non-accommodating Federal Constitution might not pose any threat to the identity and cultural integrity of non-Muslim Nigerians, it would be too homogenizing for the Muslims, sacrificing cultural difference at the altar of civil unity.

The ultimate challenge for Nigerians, therefore, is how to broaden their notion of democracy, in such a way as to be able to deal with their conflicting demands without compromising the basic political principles on which their continued common existence can be assured. Charles Taylor has recently argued that the logic behind the vision of freedom and equality rests on the premise that 'we owe equal respect to all cultures.'[76] And quite apart from the

generic identity of common humanity, each person or group of persons is also 'unique, self-creating, and culture-bearing.'[77] Taylor calls for a more vibrant and robust understanding of democracy, one which acknowledges that,

> human identity is partly shaped by recognition or its absence, often by the *mis*recognition of others, and so a person or group of people can suffer real damage, real distortion, if the people or society around them mirror back to them a confining or demeaning or contemptible picture of themselves. Non-recognition or misrecognition can inflict harm, can be a form of oppression, imprisoning someone in a false, distorted, and reduced mode of being.[78]

Another perspective on the *Shari'a* is to say that the constitution itself did not consider the principles of institutional separation and benevolent neutrality to be absolute, in that they were meant to be understood as logically entailing non-discrimination. For instance, Section 16, subsections 1 and 2 of the 1989 constitution states that:

> The motto of the Federal Republic of Nigeria shall be Unity, Peace and Progress. Accordingly, national integration shall be actively promoted whilst discrimination on the grounds of place of origin, circumstance of birth, sex, religion, status, ethnic or linguistic association or ties shall be prohibited.

This particular section of the Constitution thus creates a permissible zone within which some particularized demands could be justified, and in this light, the *Shari'a* is neither compelled by the free exercise clause nor forbidden by the establishment clause.

Third, the Armed Forces Ruling Council (AFRC), formerly the highest legislative and executive body in the defunct Babangida administration, invoked the balancing of interests principle, perched on the federalist structure of the country, to justify the inclusion of the limited application of the *Shari'a* in the country. The Council, speaking through Babangida, explained that:

> We settled on federalism because we firmly believe that it is only through this that our diversity can be accommodated. ... This administration is determined to guarantee justice for all Nigerians of whatever religious persuasion. ... Our society is a multi-religious one founded on the principle of indivisible union. Each section of our community must accommodate the others in the wider interest of our nation.[79]

He further explained that the principal rationale which undergirded the decision of the Constitution Review Committee was the need to avoid the two

extreme positions: disallowing the *Shari'a* Courts altogether (the Christian position) or sanctioning the courts at the national level. Hence, the current position:

> (1) the court is given jurisdiction only in matters relating to the Muslims' personal life; (2) only states which wish to have such courts need establish them, and any state that does not require it will not have such a court; (3) these courts will hear cases involving only Muslims. Unlike in the 1979 Constitution, any person who is not a Muslim will not have anything to do with the Shari'a Court.[80]

Quite apart from the efforts of the state to strengthen national integration, the principle of fairness and justice is also at work here. On the one hand, the moral imperative to preserve civil unity was heeded by providing 'an overarching set of values and mores for the entire nation' through the elevation of 'common law to the status of a higher law,'[81] and the rejection of the authoritarian position to place the *Shari'a* above the Federal Constitution. On the other hand, care was taken to ensure that common political goals did not lead to cultural indifferentism. As Babangida put the matter,

> We must listen to the yearnings of Nigerians who want justice in their personal and family lives; we must listen to those who want government to provide instrumentality and institutions for guaranteeing justice to them within the ambit of the constitution.[82]

Responding to those who might want to argue that this position violates the principle of state neutrality on religion, Babangida explained that 'it is pointedly mischievous and manifestly wrong to equate Shari'a Courts with religious courts. If the truth be told, they are no more nor less than simply courts of justice to which many Nigerians look for Justice.'[83]

Christians have hardly been convinced by this argument, as Babangida's own religious identity (Muslim) placed him in the role of a vanguard of the perceived aggressive Islamic onslaught on the entire nation. The title of the communique issued by the northern zone of the Christian Association of Nigeria (CAN), 'Sharia Versus National Unity,' aptly summarizes the collective grievances of the Christian community against the present military administration:

> Since the Babangida Administration came to power it has unashamedly and in utter contempt for national unity manifested its naked discriminatory religious posture through overt and covert acts of patronage and preference for Islamic religion. One is therefore left with no alternative but to conclude that the

> Babangida Administration is the principal agent for the islamization of Nigeria. This administration more than any before it has built up religious tension in this country of a dimension that is capable of obliterating the foundations of our corporate entity as a country.[84]

Christians alleged that Babangida and his immediate predecessor, Buhari, failed to apply the Federal character principle, which requires that the 'composition of the Government of the federation and the conduct of its affairs reflect the Federation, across the board.'[85] The Buhari regime's highest policy-making and legislative organ, the Supreme Military Council (SMC), was heavily criticized for being dominated not only by northerners but also by Muslim military officers. Christians also pointed to the same lopsidedness in the Armed Forces Ruling Council, the SMC's equivalent under the Babangida present administration. There were several other specific events which appeared to have confirmed the fears of Christians that they were under an Islamic siege. These included

> (a) the aborted attempt in 1986, apparently with the blessing of the Muslim Federal Education Minister, to force the University of Ibadan to relocate a cross from the site on which it was erected in the early 1950s for a mosques that was completed only in the 1980s; (b) the surreptitious manner in which Nigeria in 1986 joined the Organization of Islamic Conference; (c) the promulgation in 1988 of a decree which turned the various Pilgrims' Welfare Boards at state and Federal levels, which used to cater for both Christian and Muslim pilgrims to the Holy Lands, into wholly Muslim affairs; and (d) the spate of anti-Christian riots in the North up to 1987.[86]

The use of religious qualifications for appointment into public offices, which the principle of institutional separation forbids, is said to be more rampant under the military regime. Underscoring the mediating role of democratic institutions and processes and the mellowing influence these have on those entrusted with public responsibility, the 1986 Political Bureau which was commissioned by Babangida to review Nigeria's political history remarked that 'it is easy for the doctrine of the separation of organized religion and the state to be quietly set aside once constitutional guarantees have been militarily annulled.'[87] Here lies the vicious circle in Nigeria's public debate!

Conclusion

I have tried to show in this paper that Nigeria's political history has a major religious component. This reality is a distinctive feature of its post-colonial existence. The crisis of the proper relation of the state to its diverse religious

allegiances is the single most important issue in Nigeria's recent history. This crisis has indeed become the plumb-line for testing the capacity, or lack of it, of Nigeria as a nation-state to flourish or to founder. The same is true of several other African countries where religious pluralism and the search for a viable polity are socio-political facts. One hopes that these countries will learn from both the strengths and the pitfalls of the Nigerian approach to the problem of balancing civil unity with particularistic identities.

One thing is clear from the Nigerian approach, namely, that the difficulty besetting the 'religion debate' in the country is more than what appears to be the doctrinal intransigence of the religious people. There is also the amorphous state which is neither completely authoritarian nor constitutional. It is true that the failure to find a political form appropriate to the temper of the varied religious groups is partially related to the conceptual differences between these groups as to the very meaning of the state and the intermittently orchestrated democratic dream. It is equally incontrovertible that the military image has long dominated public consciousness, eroding people's confidence in the viability and authenticity of democratic framework within which issues and opinions can be openly debated. As Olupona aptly observed, the near eclipse of Nigeria's judicature by the axe's power of military decrees,[88] vividly illustrates the superficiality of constitutional tradition and the ethos of public dialogue in Nigeria, and underscores vital areas in which more work still needs to be done.

Notes:

1. Federal Republic of Nigeria, *Report of the Constitution Drafting Committee containing the Draft Constitution* I (Lagos 1976) xli.
2. Federal Republic of Nigeria, *Report of the Political Bureau* (Abuja 1987) 6.
3. For further details, see R. A. Adeleye, *Power and diplomacy in Northern Nigeria 1804-1906* (New York 1971); E. C. Amucheazi, *Church and politics in Eastern Nigeria 1945-1966* (Lagos 1986); S. Johnson, *The history of the Yorubas* (Lagos 1921).
4. The Nigerian Federation currently operates a thirty-state structure of which twenty are evenly shared by Islam and Christianity respectively, while the remaining ten states contain the adherents of both religions in rough parity.
5. Arlin M. Adams and Charles J. Emmerich, *A nation dedicated to religious liberty: The constitutional heritage of the religion clauses* (Philadelphia 1990) 37.
6. Kukah, *Religion and politics in Northern Nigeria since 1960* (Ph.D. thesis, University of London 1989) 247.
7. Clifford Geertz, *The interpretation of cultures* (New York 1973) 317.
8. Msgr. Hypolite Adigwe, *Sharia, canon, common, customary law courts: Contributions to the debates in the Constituent Assembly 1988, at Abuja* (1988) 9.
9. 'Memorandum from the Catholic bishops of Nigeria on the review of the Nigerian 1979 Presidential Constitution' in: *Christian/Muslim relations in Nigeria: The stand of Catholic bishops* (Lagos n.d.) 9.
10. E. B. Gbonigi, 'Religion in a secular Society' (Paper delivered at the Second Assembly of the Christian Association of Nigeria, Kaduna, 16-17 November 1988) 2.
11. *Ibidem*, 7.

12. Yusuf Bala Usman, 'National cohesion, national planning, and the constitution' in: Suleimanu Kumo and Abubakar Aliyu, ed., *Issues in the Nigerian Draft Constitution* (Zaria 1977) 49.
13. *Ibidem.*
14. Segun Gbadegesin, 'The philosophical foundation of secularism' (Paper delivered at the 31st Congress of the Historical Society of Nigeria, 18-24 May 1985) 14-18.
15. Lamin Sanneh, 'Religion, politics, and national integration: A comparative African perspective' in: John O. Hunwick, ed., *Religion and national integration: Islam, Christianity, and politics in the Sudan and Nigeria* (Evanston 1992) 157.
16. Justice Sambo, 'Draft Constitution fails to provide for morality', *New Nigerian* 5 (1977) 7.
17. Auwal AbdulNasir, 'Religion and secularism in the Nigerian context' (Paper delivered at the Twenty-Fifth Annual Religious Studies Conference, Ibadan, 17-20 September 1991) 2.
18. Justice Sambo, 'Morality and the Draft Constitution' in: W. I. Ofonagoro, ed., *The great debate: Nigerians' viewpoints on the Draft Constitution 1976/77* (Lagos 1978) 74.
19. Sanneh, 'Religion, politics, and national integration', 157.
20. Sambo, 'Draft constitution fails to provide for morality', 7.
21. *Ibidem*, 9.
22. Interview with *Newswatch*, 6 May 1991, 16.
23. Interview with *This Week*, 6 April 1987, 22.
24. *Ibidem.*
25. Sanneh, 'Religion, politics, and national integration', 157.
26. Adams and Emmerich, *A nation dedicated to religious liberty*, 51.
27. Peter Berger, *The sacred canopy: elements of a sociological theory of religion* (Garden City, N.Y. 1969) 107.
28. Janet Martin Soskice, *Metaphor and religious language* (Oxford 1986).
29. Berger, *The sacred canopy*, 110-111.
30. Johannes B. Metz, *Theology of the World*, trans. William Glen-Doepel (New York 1969) 19-20.
31. Jacob Olupona, 'Religion, law and order: State regulation of religious affairs', *Social Compass* 37,1 (1990) 129.
32. AbdulNasir, 'Religion and secularism', 12.
33. Joint Muslim Advisory Council of Oyo State, 'An appeal to the Christian Association of Nigeria (CAN)', *National Concord*, 25 April 1989, 11.
34. Birai, 'Islamic Tajdid and the political process in Nigeria', 184.
35. See, for instance, Bruce B. Lawrence, *Defenders of God: The fundamentalist revolt against the modern age* (San Francisco 1989).
36. Birai, 'Islamic Tajdid and the political process in Nigeria', 184.
37. Peter L. Berger, *A far glory: The quest for faith in an age of credulity* (New York 1992) 29.
38. See, for instance, Matthews A. Ojo, 'The contextual significance of the charismatic movements in independent Nigeria', *Africa* 58,2 (1988).
39. Ruth Marshall, 'Power in the name of Jesus', *Review of African Political Economy* 52 (1991) 32.
40. Elizabeth Hodgkin, 'Islamism and Islamic research in Africa' (Paper prepared for the 'Islam in Modern Africa Research Project,' Center of African Studies, University of London 1990) 1-2. I thank Prof. Cruise O'Brien of London University for calling my attention to this excellent piece of work.
41. *Ibidem*, 2.
42. Lawrence, *Defenders of God*, 200.
43. Interview with *Quality* (Lagos), October 1987.

44. Birai, 'Islamic Tajdid and the political process in Nigeria', 196-97.
45. Government of Nigeria, *Report of the Constitution Review Committee Containing the Reviewed Constitution* (Lagos 1988) vi, xx (hereafter referred to as CRC Report).
46. David Hollenbach, 'Religion and public life', *Theological Studies* 52,1 (1991) 104.
47. T. B. Maston, *Christianity and world issues* (New York 1957) 223.
48. John Courtney Murray, *The problem of religious freedom* (Westminster, M.D. 1965) 40-41.
49. Adams and Emmerich, *A nation dedicated to religious liberty*, 58.
50. *Ibidem*, 58-59.
51. W. I. Ofonagoro, *The great debate: Nigerian viewpoints on the Draft Constitution, 1976/77* (Lagos 1978); David Laitin, 'The Sharia debate and the origins of Nigeria's Second Republic', *The Journal of Modern African Studies* 20,3 (1982) 411-430; *idem, Hegemony and culture: politics and religious change among the Yoruba* (Chicago and London 1986) 1-6; Ikem B.C.B. Ngwoke, *Religion and religious liberty in Nigerian law from the colonial days to 1983* (Roma 1984) 51-117.
52. 'Our case, our fears', *African Concord*, 5 February 1990, 36.
53. Joseph Schacht, *Origins of Muhammad jurisprudence* (Oxford 1959) 1.
54. Ann K.S. Lambton, *State and government in Medieval Islam* (London 1981) 1-20.
55. Birai, 'Islamic Tajdid and the political process in Nigeria', 193.
56. Kukah, 'Religion and politics in Northern Nigeria since 1960', 144.
57. A.O. Obilade, *The Nigerian legal system* (London 1979) 33-40.
58. Agbaje, 'Travails of the secular state', 298.
59. Birai, 'Islamic Tajdid and the political process in Nigeria', 191-92.
60. *Ibidem*, 192.
61. *New Nigerian*, 29 September 1986.
62. Birai, 'Islamic Tajdid and the political process in Nigeria', 191.
63. *Ibidem*, 194.
64. *Christian/Muslim relations in Nigeria: The stand of the Catholic bishops* (Lagos n.d.) 9.
65. *Ibidem.*
66. Hypolite Adigwe, *Sharia, canon, common, and customary courts*, 14.
67. L.U. Ejiofor advised that 'the co-existence of two legal systems - Islamic and Christian laws - which run parallel in legislation would be out of context in national integration.' See his 'Judicial systems for Nigeria', *Daily Star*, 29 January 1977. For a similar view, see T.A. Aguda, 'The judiciary under the Draft Constitution' in: Ofonagoro, ed., *The great debate*, 358-59.
68. David Laitin, 'The Sharia debate and the origins of Nigeria's Second Republic', *The Journal of Modern African Studies* 20,3 (1982) 413-14.
69. *Ibidem*, 414.
70. Kukah, 'Religion and politics in Northern Nigeria since 1960', 156; see also Agbaje, 'Travails of the secular state', 297.
71. Robert A. Dahl, *A preface to democratic theory* (Chicago and London 1956; Phoenix edition, 1963) 91, 96.
72. Laitin, *Hegemony and culture*, 1-11; Patricia A.T. Williams, 'The state, religion and politics in Nigeria' (Ph.D. thesis, University of Ibadan 1988) 322-55.
73. The Fellowship of the Churches of Christ in Nigeria, *Towards the right path for Nigeria* (Jos, Nigeria 1987) 48-54.
74. A.H. Yadudu, 'The prospects for Shari'a in Nigeria' (Paper delivered at 'Islam in Africa Conference', Abuja, 24 November 1989).
75. Hypolite Adigwe, *Sharia, canon, common, and customary courts*, 20.
76. Charles Taylor, 'The politics of recognition' in: Amy Gutmann, ed., *Multiculturalism and 'the politics of recognition'* (Princeton 1993) 66.

77. Amy Gutmann, 'Introduction' in: Gutmann, ed., *Multiculturalism and 'the politics of recognition'*, 7.
78. Taylor, 'The politics of recognition', 25.
79. *Daily Times*, 4 May 1989.
80. *Ibidem.*
81. Olupona, 'Religion, law and order', 130-31.
82. *The Guardian*, 16 February 1989, 18.
83. *Ibidem.*
84. *Sunday Tribune*, 23 April 1990.
85. *The Constitution of the Federal Republic of Nigeria* (1989) sec. 3-4.
86. Agbaje, 'Travails of the secular state', 304.
87. Federal Republic of Nigeria, *Report of the Political Bureau* (Abuja 1987) 187.
88. Jacob Olupona, 'Religion, law and order', 135.