

ISLAMIC BANKING AND THE QUESTION OF SECULARISM IN NIGERIA

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Abstract

Since the introduction of Islamic banking in Nigeria, the importance of secularism has been the object of discussion, with the general belief by a large number of people that Islamic banking will Islamise Nigeria and disrupt its secularity. It is against this backdrop that this paper discusses the issue of secularism in relation to Islamic banking in Nigeria. Specifically, it examines the role of religion particularly the main ones i.e Islam and Christianity as an agent in the context of the politics in Nigeria. This study uses qualitative and descriptive methodology. Using structural-functional theory and employing largely Rajeev Dhawan's analysis of constitutional secularism, we found that secular life and religion are pervasively entangled to the extent that official indifference cannot justify politically or constitutionally the indifference. Many official practices such as work-free days (Saturdays and Sundays), holidays (on Christmas, *Idul fitr*), churches and mosques in the state government houses and presidential villa clearly show that there is an engagement with religion. Islamic banking is one of the ways by which the economic aspect of Islam is practised; it does not violate section 10 of the Nigerian Constitution because it is not being financed directly or indirectly by the state funds. The conception of secularism in Nigeria is religious tolerance and equal treatment of all religious groups.

Keywords: Secularism, Islamic banking, religion, Islam, Christianity

Introduction

More than two decades after the provision of interest-free banking in Nigeria in Banking and Other Financial Institutions Act (BOFIA, 1991)¹ and nearly six decades after Nigerian independence, separation of religion and state has been an onerous task for the government to achieve. This anomaly continues to loom large. The introduction of Islamic banking guidelines by the Central Bank of Nigeria (CBN) has inspired several articles, questioning the premises and viability of the secularity of the country. Many people raised important questions concerning the type of Nigerian secularism and the provisions in the Nigerian Constitution that govern the relationship between the State and religion. In Nigeria, it is observed that secular life and religions are difficult to separate. They are so pervasively entangled that official indifference cannot justify politically or

constitutionally the indifference. The idea that religion can be neatly separated from the affairs of the state is not feasible in Nigeria for the reasons to be seen later in this article. It is also not possible for the government to dictate how each religion in the country “ought to be” in contrast to the actual practice in each of the religions. An attempt by the government to fashion religion in the way a secular state would like it to be rather than to accept it as practised by its adherents may not be acceptable.

The struggle between secularism and religions in Nigeria raises a number of questions: should the Muslims abandon the practice of their religion to pave way for total secularism? What will happen to work-free days particularly Saturdays and Sundays? How is a dividing line drawn between religion and secularism? We need to consider these issues carefully, and reach an agreement upon them so as not to favour one religion at the expense of the others.

A Review of Literature

Discussions on secularism in relation to Nigeria reflect its importance. The issue of secularism and religions has attracted a lot of attention from scholars and many people. In recent decades and particularly since the publication of guidelines governing the operation of the non-interest Islamic banking in Nigeria by the CBN, there has been an increase of studies on the fitness of the bank into the reality of traditional banking in Nigeria as a secular state. In one such study, Ogoloma concluded that Nigerian secularism has been under threat and stress right from the time of the colonial masters for they prevented the Christians from gaining strong hold in the north². He believes that the stability of Nigeria depends on its secularity. However, he could not elucidate how prevention of Christians from occupying the north has been threatening the secularity of the country. Does it mean he wanted the colonial masters to christianise the north by compulsion? Where is secularism then if the intention of the Christians is to christianise the north?

Two opposing views with regards to secularism and Islamic banking were expressed by Egboro who argued for secularism and against the introduction of Islamic banking³. In his view, CBN is not expected to be involved in religious issues; and he advised that guidelines on interest-free banking should be issued to accommodate all the religions in Nigeria that are interested in the type of banking. The fear of Prelate⁴ on the introduction of Islamic Banking was that the bank would islamise the country and turn it into an Islamic state. The Christian Association of Nigeria (CAN) also shared the view and promised by all means to resist any attempt to force Islamic principles on Nigeria and turn it into an Islamic state. Okogie was furious in relation to the introduction of Islamic bank in his speech titled “No to Islamic banking”⁵. Placards were also carried by members of Delta State chapter of CAN, staging a protest against the introduction of Islamic banking describing it as a way of Islamising all Nigerians.

As an attempt to protect secularity of the country, many people such as Bishop David Bakare of the Kaduna State chapter of the Pentecostal Fellowship of Nigeria, CAN President and Bishop Chidi expressed their fears over the introduction of Islamic Banking in Nigeria. Bishop Bakare, considered the time of introduction to be inappropriate for it could add to inter-religious tensions in Nigeria. He also accused the then governor of the CBN of harbouring sectarian loyalties⁶. In another study, Islamic banking is seen as a tool for social coercion of the poor to convert them to Islam⁷. Sanusi, the then CBN governor was called by Bishop Chidi of the Anglican Diocese in Imo State to vacate his position as the CBN Governor for his attempt to disrupt the secularity of the country⁸.

Using secondary sources of data and adopting content analysis method, Alao⁹ in his work observed that Nigeria is a secular state. However, he believed that Non-interest Islamic banking would challenge sharp practices in conventional commercial banks. He concluded that Christian bodies should not go against Islamic banking or blame the Muslims in Nigeria for utilising the same opportunity which the Christians have ignored for long as regards interest-free banking. Interest-free banking is part of Islamic banking; the two forms of banking are not totally the same. Kareem¹⁰, in his work on utilising Islamic banking products, concluded that Islamic banking is suitable for funding entrepreneurship and economic development for it provides easy access to cheap source of funds.

A review of the literature on secularism gives several conclusions. The word secularism is not limited to one definition. Each group or society uses it the way it suits it. Some religions pretend to be separating religion from state. In actual fact, they are perversely entangled and cannot be dissociated from each other. The government should not serve the particular interests of one religion at the expense of the other so as not to lose its legitimacy and authority.

Theoretical Framework

The study adopted structural functionalism propounded by Herbert Spencer, an English philosopher who lived from 1820 to 1903. It states that society is a complex system whose parts work together to promote solidarity and stability¹¹. Each segment of the society must work in harmony with other parts of the society in the same way parts of the body such as heart, eyes, ear, leg and brain work together to make the body function properly. This theory gives structure to our lives in relation to families, the community and through religious organisations. For example, if there is an opportunity for a religion in Nigeria, other religions must also be given a similar opportunity relevant to their doctrines if there is going to be a cordial relationship, peace and harmony in the country. If Christians are given public holidays, the same holidays must be given to say, the Muslims during their own festivals. If Muslims are given guidelines with which to practise economic aspect of their religion, provision must also be given to the other adherents of the other religions as it was done by the Central Bank of

Nigeria concerning issuing of the guidelines for the operation of non-interest banking and finance based on Islamic commercial jurisprudence and non-interest banking and finance based on any other established non-interest principle.

The paper also used largely the Rajeev Dhawan's¹² analysis of constitutional secularism which disaggregates secularism into three components: religious freedom, celebrating neutrality and reformatory justice. The first component refers to religious belief and practices. Celebratory neutrality means a government or country that provides assistance in cash and kind for the celebration of all religions. The last component deals with regulation and reformation of religious institutions and practices with the exception of some fundamental issues such as the five daily prayers and Ramadan fast in Islam which the adherents of the religion, Muslims, will not allow to be regulated.

Religion and its Merits

It is important to define religion with a view to drawing a line between what are matters of religion and what are not. This will help with a working definition of religion. Religion has been defined by scholars from different perspectives i.e there is no generally accepted definition of religion. It is a very elusive concept to define. It is not possible to refer to them all; but we shall cite some definitions that give a good representation of others.

According to *Oxford Advanced Learner's Dictionary*¹³, religion means "the belief in the existence of a god or gods, and the activities that are connected with the worship of them". It also refers to it as "one of the systems of faith that are based on the belief in the existence of a particular god or gods: the Jewish religion, Christianity, Islam and other world religions". From the perspective of U.S Supreme Court in *Davis v Beason*, religion refers to "one's views and to the obligations they impose of reverence for His Being and character and of obedience to His will. It is often confounded with cultus of form or worship of a particular sect, but is distinguishable from the latter"¹⁴. This definition is not comprehensive because some religions such as Buddhism and Jainism do not believe in the Creator (God or Intelligent First Cause). From the view of Okwueze¹⁵, religion is seen "as a regulated pattern of life of a people in which experiences, beliefs and knowledge are reflected in man's conception of himself and in relation to others, his social world, the physical as well as the metaphysical world". This definition shows that any person practising a religion must not only serve the Creator (The Divine) but must also relate with the members of the society in which he finds himself. The society in this context refers not only to a group of people who are related or who belong to the same profession but also to those who live together within a geographical location¹⁶.

Encarta defines religion as "people's beliefs and opinions concerning the existence, nature, and worship of a deity or deities, and divine involvement in the universe and human life; it is an institutionalised or personal system of beliefs and practices relating to the divine; it is a set of strongly-held beliefs, values, and

attitudes that somebody lives by”. Religion is also seen as a perception of the infinite by Miller while Immanuel Kant sees it as a recognition of, and duties as, divine commands¹⁷.

In all the religions, all the adherents recognise the Determiner of destiny, God in different ways. For instance, God is recognised by Muslims as the Creator. He is worshipped directly without any intermediary and all His commandments are followed and His orders obeyed. In Christianity, God is worshipped through His son, Jesus Christ. In the same vein, the adherents of traditional religion worship the Creator through the divinities which number is impossible to know. For example, in South Western states alone, it has variously been estimated by Awolalu¹⁸ to be 200, 201, 400, 401, 460, 600, 601, 1700 or even more not to talk of the northern and the southern parts of the country.

Religion has vital roles to play not only in the economic development of a country but also in all other aspects of human endeavour such as social, political and moral. The presence of religions should help the development of the country. In the words of Okeke¹⁹, “Religion is in continual, reciprocal interaction relationship with other social units like politics, economy, the class system, family, law and so on which together constitute the essential ingredients of a human society”. If these are the roles religion can perform, it is inhumane to uphold secularism at the expense of religion. Religion is a promoter of morals²⁰ (Q3:105, 111). Moral orders in all religions indicate that all evils must be avoided and good acts must be done²¹. Religion encourages hard work and discourages begging²². It encourages educational development (Matthew 28: 18-20 Q 39:101). The first revelation that came to Prophet Muhammad, the Prophet of Islam (Q96:1-5) was on seeking knowledge. It is this commandment that lies at the basis of establishment of schools by the early Muslims in mosques and other religious bodies. In the area of knowledge, no religion preaches the search for knowledge as Islam does. A large number of the Quranic verses (Q 58:12; Q 35:29) talk of knowledge and encourage educational development. Even Muslims are not only to seek it but also to pray for it (Q20:115). Religion preaches rendering assistance in cash and kind to the poor (Q9:60). It has rules for both the rulers and the ruled. In that wise, the socio-political affairs of the country are not left untouched. In Christianity, Christians are encouraged to participate in politics while Islam sees politics as part and parcel of the religion. That is why the religion of Islam is regarded as a total way of life without leaving any aspects be it politics, social, economic and moral untouched.

Since human wants are uncountable and the means with which to satisfy them are limited, the resultant effects are frustration, anger, hatred, jealousy, anxiety, depression, greed, to mention but a few. It is religion that can serve as a palliative measure to deal with the above-mentioned effects and to cope with the stress and disappointment of life (Q 2:155-157). Many Quranic verses and Biblical verses pacify man when they face tribulations. In this regard Marx²³ sees religion as an “opium of the people and the first sign of the oppressed creature”.

Going through the holy books of the main religions in Nigeria, we can say Edokobi's²⁴ eight functions of religions are derived from them. They are: "The supplier of ultimate knowledge, religion as means of coping with life, religion as the giver of purpose to life, religion as providing answers to questions of death, religion as enhancing the moral codes, religion as a social stabiliser, and religion as the pacifier". If there is a problem being caused as a result of differences in religion, it is due to the selfishness and intolerance of the adherents of the religions. If these are what religion is expected to play, it means the adherents are not putting into practice the teachings of their religions. If they have been practising the teachings of their religion, Nigeria would have been a much better place to live. If the adherents of religions cannot live in harmony with others, it means they are religious by words of mouth only.

Secularism, Christianity and Islam

Many peoples at different times and places define secularism differently. It is even considered as an ambiguous term. Thus, it is difficult to have one generally acceptable definition of it. Secularism is defined in the *Oxford Advanced Learners Dictionary* as "the belief that religion should not be involved in the organisation of society, education etc. while secularisation is the process of removing the influence or power that religion has over something"²⁵. Prime Minister Jawaharlal Nehru's definition of secularism as quoted in Hassan²⁶ is that secular state does not mean an irreligious state; it only means that we respect and honour all religions giving them freedom to function". Nehru, on another occasion, defined a secular state as one where there is "free play for all religions subject only to their not interfering with each other or with basic conceptions of state"²⁷. It is clear from the definitions quoted above that secularism is looked at from different viewpoints. The key issues in them are; that the government should not uphold a religion as the state religion; no religion should be favoured at the expense of the other; a secular state should dissociate itself from religion. We can also infer from the above- mentioned definitions that religion should be excluded from public affairs.

To what extent are the above propositions achieved particularly in Nigeria? What has been happening in Nigeria shows clearly that Nigeria is not a secular state. In fact, the confidence people had in secular ideology has been eroded. Religion determines directly or indirectly every affair in the country. Although a large number of religious belief systems and practices thrive in Nigeria, two of the three main religions: Islam and Christianity have dominated all other religions. The traditional religious belief has declined heavily. This could be seen in the Nigerian census of 1931 when 50 per cent of the population were registered as "pagans". The figure reduced to 34 percent in 1952; and it further reduced to 18.2 per cent in 1963. In 1963, the percentage of Muslims was 47 while that of the Christians was 34²⁸. Today, nobody is registered as a pagan. The 1991 census did not recognise the pagans because it did not pose the question

of religious affiliation. By implication, Muslims are in majority in the country. This assertion is made based on the figure of 1963; and the fact that Muslims practise polygamy. As a result of this practice, the percentage of Muslims is definitely the higher.

The level of religiosity is very high in this country and continues to increase virtually every day. Muslims and Christians have turned the concept of secularism into a major political stake. The view of Muslims is that the Christians are using the concept to blackmail them and impede the progress of Islam. To Muslims, Islam governs their conduct religiously, economically, socially, morally and politically. The Christians defend secularism because they believe it is the only way their interest can be protected. Both accuse each other of domination. The Muslims expressed their fears of the domination of Christian culture such as having Saturday and Sunday as work-free days while Friday is a normal working day. The Christians are afraid of imposing *Shari'ah* in the country. Muslims argue that *Shari'ah* is for only Muslims and that it will not affect non-Muslims including Christians.

If secularism is to be used to resolve political conflicts and other areas of disagreement, no religion should impose its wishes on other adherents of other religions. If secularism is the most necessary in Nigeria being a society with high levels of religiosity, the term needs to be redefined to allow every religion to practise its tenets without interfering with other religions. Therefore, our working definition of secularism will be the one given by Nehru. Secularity of the country should not mean the withdrawal of the state from religious affairs but as a guarantee of religious freedom to all religious groups as enshrined in the 1999 constitution of the Federal Republic of Nigeria, as amended (section 38)²⁹.

Public officials both elected and appointed go to churches and mosques and find it difficult to completely disassociate their religious beliefs from their official task and role. It is truly difficult to draw a line between religion and secularism in Nigeria. Although the political parties do not use religions i.e Islam and Christianity as key reference points in their politics in practice, there is an engagement with religion i.e religion permeates all their affairs. For instance, the political parties believed it was necessary to base the system of selection of presidents and their vices, senate president and speakers on religion and other considerations such as ethnicity and geo-political zones. But the key determinant is religion. The following table brings home the point that is being discussed.

Table 1: CANDIDATES FOR 2015 PRESIDENTIAL ELECTION

S/N	PRESIDENT	RELIGION	VICE PRESIDENT	RELIGION	PARTY
1	Chief (Dr.) Chekwas Okorie	Christianity	Barr. Bello Umar	Islam	UPP
2	Godson Mgbodile Ohaenyem Okoye	Christianity	Haruna Adamu	Islam	UDP
3	Allagoa Kelvin Chinedu	Christianity	Arabamhen Mary	Christianity	PPN
4	Goodluck Ebele Jonathan	Christianity	Arc. Mohammed Namadi Sambo	Islam	PDP
5	Chief Martin Onovo	Christianity	Ibrahim Mohammed	Islam	NCP
6	Comfort Oluremi Sonaiya	Christianity	Alh. Seidu Bobboi	Islam	KOWA
7	High Chief Ambrose N. Albert Owuru	Christianity	Alhaji Haruna Yahaya Shaba	Islam	HOPE
8	Chief Sam Eke	Christianity	Hassana Hassan	Islam	CPP
9	Muhammadu Buhari	Islam	Yemi Osinbajo	Christianity	APC
10	Ayeni Musa Adebayo	Islam	Anthony Faith Ologbosere	Christianity	APA
11	Dr. Mani Ibrahim Ahmad	Islam	Obianuju Murphy-Uzohue	Christianity	ADC
12	Rafiu Salau	Islam	Akuchie Clinton Cliff	Christianity	AD
13	Alh. Ganiyu O. Galadima	Islam	Ojengbade Oluremi Farida	Christianity	ACPN
14	Jci Sen. Tunde Anifowose-Kelani	Islam	Comrade Ishaka Paul Ofemile	Christianity	AA

Source: www.nigerianmonitor.com modified by the Author

Table 2: Nigerian Heads of State/ Presidents 1975-2015

S/N	Head of State/President	Religion	Vice Name	Religion	Date Inaugurated
1	Murtala Muhammed	Islam	Olusegun Obasanjo	Christianity	29-Jul-75
2	Olusegun Obasanjo	Christianity	Shehu Musa Yar'Adua	Islam	13-Feb-76
3	Shehu Shagari	Islam	Alex Ifeanyichukwu Ekwueme	Christianity	1-Oct-79
4	Muhammadu Buhari	Islam	Tunde Idiagbon	Islam	31-Dec-83
5	Ibrahim Babangida	Islam	Ebitu Ukiwe	Christianity	27-Aug-85
6	Ibrahim Babangida	Islam	Augustus Aikhomu	Christianity	1-Oct-86
7	Sani Abacha	Islam	Oladipo Diya	Christianity	17-Nov-93
8	Abdulsalami Abubakar	Islam	Michael Akhigbe	Christianity	9-Jun-98
9	Olusegun Obasanjo	Christianity	Atiku Abubakar	Islam	29-May-99
10	Umaru Musa Yaradua	Islam	Goodluck Ebele Jonathan	Christianity	29-May-07
11	Goodluck Ebele Jonathan	Christianity	Namadi Sambo	Islam	19-May-10
12	Muhammadu Buhari	Islam	Yemi Osinbajo	Christianity	29-May-15

Source: oldnaija.wordpress.com modified by the Author

Senate President	Religion	Speaker	Religion	Date
Chief Evans Enwerem	Christianity	Salisu Buhari	Islam	1999-1999
Dr Chuba Okadigbo	Christianity	Salisu Buhari	Islam	1999-2000
Chief Pious Anyim	Christianity	Ghali Na' Abba	Islam	2000-2003
Chief Adolphus Wabara	Christianity	Aminu B. Masari	Islam	2003-2005
Chief Ken Nnamani	Christianity	Aminu B. Masari	Islam	2005-2007
Chief David Mark	Christianity	Patricia Etteh	Christianity	2007-2007
Chief David Mark	Christianity	Oladimeji Bankole	Islam	2007-2011
Chief David Mark	Christianity	Aminu W. Tanbuwal	Islam	2011-2015
Dr.Abubakar Bukola Saraki	Islam	Yakubu Dogara	Christianity	2015-till date

Source: oldnaija.wordpress.com modified by the author

It is clear from the above-drawn tables that religion is the unseen element which is out of sight of the devotees of secularism. The hidden aspect of religion appears most clearly when it comes to the question of public affairs. It is clear from the first table that if a Christian was the president or head of state, a Muslim would be his vice and vice versa. If a Christian was Senate President, a Muslim would be chosen as the Speaker of the House. The only year when a Christian was the Senate President and a Christian was also the Speaker of the House was in 2007. It was due to the fact that there was no Muslim among those who won the election in the geo-political zone where a candidate must be chosen as the Speaker for the House. Immediately, Patricia Etteh was impeached, a Muslim was chosen from another zone to replace her as the next Speaker of the House. It is also useful to avoid over-emphasising the importance of secularism at the expense of paying close attention to real life experiences within the frame work of a reality influenced by religion. Unlike Christianity, Islam does not separate religion from state. The Religion of Islam on its part incorporates politics and brings religious values to the forefront of governance.

The 1999 Constitution, as amended and the Issue of Secularism

The following sections of the Constitution speak for themselves with regards to freedom of religion and prohibition of state religion. Section 10 of the 1999 constitution which states that, "The Government of the Federation or of a state shall not adopt any religion as state religion"³⁰ gives strength to the issue of secularism. Section 38 of 1999 Constitution provides for not only freedom of religion but also allows its practice.

Every person shall be entitled to freedom of thought, conscience and religion, including freedom to change his religion or belief, and freedom (either alone or in community with others, and in public or in private) to manifest and propagate his religion or belief in worship, teaching, practice

and observance (1). No person attending any place of education shall be required to receive religious instruction or to take part in or attend any religious ceremony or observance if such instruction ceremony or observance relates to a religion other than his own, or religion not approved by his parent or guardian (2) No religious community or denomination shall be prevented from providing religious instruction for pupils of that community or denomination in any place of education maintained wholly by that community or denomination (3)³¹

Islamic banking is one of the ways by which the economic aspect of the Religion of Islam can be practised. This is contained in the above-mentioned provision under section 38 of the Nigerian Constitution. The bank is not to be funded or sponsored by the state. It is a private matter. So, the above-mentioned section is also not violated. It only gives the Muslims the opportunity of practising their religion. Non-Muslims are not affected negatively or forced to patronise it. They can also be empowered if they wish to transact business with it without any form of discrimination

Banks and Other Financial Institutions Act and Central Bank of Nigeria Act

The principal statutes regulating banking business in Nigeria are the Banks and Other Financial Institutions Act (BOFIA) and the Central Bank of Nigeria Act. Banking business, according to section 61, BOFIA 1991, means “the business of receiving deposits on current account, savings account or other similar account, paying or collecting cheques, drawn by or paid in by customers, provision of finance or such other as the governor may, by order publish in the Gazettes, designate as banking business”³². The above provision of the BOFIA does not only spell out the banking businesses also further empowers the CBN Governor to create more banking business. It also accommodates other forms of banking in as much they can benefit the people. It has created room for banks to diversify their operations. Section 9 of BOFIA 1991 provides for the minimum paid – up share capital of banks as follows:

A commercial bank, ₦50,000,000

A profit and loss sharing bank, ₦50,000,000 (ISLAMIC BANK)

A merchant bank, ₦40,000,000

A community bank, ₦250,000

Every bank shall display at its offices its lending and deposit interest rates and shall render to the Bank information on such rates as may be specified, from time to time, by the Bank, provided that the provisions of this subsection shall not apply to Profit and Loss sharing banks (PLS)³³.

Its exemption of PLS banks from the practice, therefore, sets a solid foundation for Islamic banking system. Similar provisions of the Decree empowered the Central Bank Governor to further exempt PLS banks from the general provisions of the Decree as he may think fit. Further amendment of the BOFIA put the minimum paid – up share capital to N2 billion. The Central Bank of Nigeria, in

line with its supervisory and regulatory role, introduced 13 – point reform agenda for the Nigerian financial system and raised the minimum paid – up share capital of commercial banks from ₦2 billion to ₦25 billion. One of the results of the reform was the reduction in the number of commercial banks in Nigeria from 89 to 25 after series of merger and acquisition³⁴. As a result of the demand for Islamic banking, the CBN under the leadership of Professor Charles Soludo developed the framework for the take-off of the non-interest bank under the principles of Islamic Commercial Jurisprudence on 4 March, 2009. The guidelines released by the CBN took effect in 2010. When there were a lot of agitations for the guidelines that would accommodate other religions, Sanusi Lamido Sanusi, the next governor of the CBN also released on 13 January, 2011 another one that is interest-free. The second release is not Islamic. It is called non-interest banking and finance based on any other established non-interest principle³⁵.

The Practice of Secularism in Nigeria

Although the constitution provides for separation of religion and state, this is only contained in the constitution. The practice indicates the opposite. Nigeria is a multi-religious state with many religions. However, two of the three main religions: Islam and Christianity dominated others as explained earlier. Nigerian governments (federal, state and local) have been participating in religious affairs in this country. This indicates that in practice it is wrong to assert that Nigeria is a secular country. It is not a secular nation for the reasons to be seen soon.

In Nigeria, there are two work-free days every week: Saturdays and Sundays. The former is set aside for the Sabbath (Christianity). The latter, Sunday is also a work-free day for the sake of Christians (see *Advanced Learner's Dictionary*). Muslims are not given such an opportunity. Friday is a normal working day. Indirectly, the state has taken Christianity as the state religion. The Government has not only violated section 10 of the constitution but also is partial in this regard. During important occasions, if a Muslim offers prayer at the beginning, a Christian will say the closing prayer and vice versa. This is an indication of recognising religion by the state, Nigeria. Newly appointed government officials use the Qur'ān and the Bible to swear at their swearing-in ceremonies. Every year, holidays, at least two days are declared by the Federal Government of Nigeria as public holidays for the celebration of Easter and Christmas (Christianity). After so many years of agitation, two days are also declared for the celebration of *'Īdul Adhā*, *'Īdul Fiṭri* and *Mawḷūd Nabīyy*. There are churches and mosques in the state government houses and the presidential villa. Part vii of the 1999 Constitution recognises Common law (Christian law), Islamic law (*Shari'ah*) and Customary law (Traditional religion). Cross in our public hospital is a Christian symbol. It must be mentioned that the Nigeria constitution starts with: "We the people of the Federal Republic of Nigeria having

firmly and solemnly resolved to live in unity and harmony as one indivisible and indissoluble sovereign nation under God”³⁶. Here God is first recognised in the Nigerian constitution. Involvement of government in pilgrimage to Jerusalem for Christians and Hajj (to Makkah and Madinah) for Muslims indicates that Nigeria is not a secular state. Some government officials participate officially in religious services and activities. In the University of Ibadan, principal officers of the university go to the University of Ibadan Central Mosque and Christian Chapel of Resurrection for service during the convocation week every year. Therefore, Nigeria is not and has never been a secular nation but a multi-religious country. Islamic banking is not against the constitution and our culture.

Origin of Islamic banking from the Qur’ān and the *Sunnah*

Islamic finance is derived from the Qur’ān and the *Sunnah* (sayings of Prophet Muhammad). The Qur’ān does not contain the details of the operation of the bank, it contains the broad principles upon which Islamic bank can be built. For instance, Allah prohibits interest in the Qur’an (Q2:275-279) and He also enjoins fair dealings among people. Prophet Muhammad’s behaviour and sayings when he served as a trader under Khadijah³⁷ can also serve as an example how partnership in business of banking and other commercial dealings should be based. During the period, he was fair, transparent and honest. These qualities earned him *Al-Amīn* (the trustworthy) in pre-Islamic Arabia. Prophet Muhammad, Abu Bakr and Umar (R.A.A.) engaged in the acceptance of deposit business³⁸. That marked the origin of the banking business. *Baytul-maal* (treasury or the treasury of the public) performed less functions than modern banks. The reason being that the commercial and economic activities at that time were not as complex and sophisticated as they are today. Some of the functions of the *baytul maal* include financing public projects, keeping and distribution of *Zakah*, *Jizyyah*, *Kharāj*, ransom paid by the prisoners of war and other valuable properties³⁹ silver, gold, farm produce, etc. Widows, orphans, the needy and relatives of those that died during the holy wars received their allowances through *baytul maal*.

When Umar bin Khattāb became the caliph, he introduced *sakk* which he was reported to have issued and signed⁴⁰. According to *Sharī’ah, the Islamic Law* by Abdur Rahman I. Doi and *A Dictionary of Modern Written Arabic* by Hans Wehr, *sakk* refers any to instrument of contract, legal instrument, deed and cheque⁴¹. That was the first time in the history of banking in the world that a cheque was issued. The practice continued during the Abbasid caliphate (750 – 900 CE) without the charging of interest. The bankers only charged about one dirham per dinar for their services of running a current account and issuing *sakk* to the customers⁴². Some registers in the conventional banking system have their origin in the ancient Islamic banking practices e.g traffic or trafficking from *tafriq*, buy from *bay’*, acheter from *ishtara*, tariff from *ta’rifah*⁴³ to mention but a few.

Development of Interest-free Banking System in Nigeria and Worldwide

Before the coming of the British to Nigeria, the Shari'ah was to the large extent the way of life of the people of Nigeria. When the British came, they were warned not to disobey the Shari'ah. Specifically, Shaykh of Bornu, Umar b. Muhammad al-Amin al-Kanem warned them not to bring the Bible and the liquor to the territory. They were treated as dhimis (non-Muslims living in an Islamic State)⁴⁴. This shows the extent of the application of the *Shari'ah* at least in the Northern Part of Nigeria. No sooner did the British come to Nigeria than the application of many aspects of Shari'ah were removed from the society and subsequent administrations. The application of the Shari'ah is now limited to family law.

This called for concern among many conscious Muslims and many Muslims and Islamic organisations have been making efforts to get the Shari'ah entrenched fully in the Nigerian political and economic systems, at least to take care of the interest of the majority of the population in the country, the Muslims. Quadri⁴⁵ documented for us many of the efforts made by Muslims to get Shari'ah re-introduced into the system. Such efforts include Jihad of Shaykh Uthman b. Fudi, the establishment of *Shari'ah* courts by Oba Momodu Lamuye (in Iwo, Osun State), Oba Aliyu Oyewole (in Ikirun), Oba Abibu Lagunju (in Ede) and the demand for Shari'ah courts by the Muslim Congress of Nigeria through a letter addressed to the Chief Secretary of Nigeria. Muslims were not only making their demands in the areas of personal and criminal laws, they also demanding for the establishment of Islamic banking. To put it simply, demand for Islamic banking is as old as demand for full implementation of Shari'ah in Nigeria. This is because the Shari'ah encompasses all aspects of the life of a Muslim – his private and public life, his relationship with Muslims and non-Muslims, his political, economic and social life, to mention a few.

During the regime of General Ibrahim Babangida, a legal framework was produced for the establishment of non-interest banking in Nigeria as contained in the Banks and other Financial Institutions Act⁴⁶. This Act gave Muslims the long awaited opportunity to start non-interest banking that will be Shari'ah compliant. The first attempt made in this regard was the establishment of the interest-free windows by the conventional bank, Habib Bank of Nigeria Plc which changed its name to Platinum Habib Bank (PHB) and Keystone Bank in 2006 and 2010 respectively. Interest free banking window refers to the provision of interest-free banking products and services by conventional banks which was basically an arrangement of the sharing of profit or loss. According to Abikan⁴⁷, Habib Bank of Nigeria was established jointly by Pakistani Habib Bank Limited and the Nigerian private investors. When there was a provision for Islamic Bank, Habib Bank of Nigeria was the first to take the advantage of the provision to operate non-interest Islamic window in October, 1998 after getting approval of the CBN in 1997. Other banks have since joined it. Examples of other conventional banks that have Islamic banking windows are Stanbic IBTC bank and Sterling Bank.

There is no report anywhere since the introduction of the Islamic banking windows by the conventional banks that Islamic banking has Islamised any individuals or institutions. In addition, no report has ever been made of where the status quo of the country has changed because of the operation of Islamic banking. We have not even heard of any report where non-Muslims were victimised and harassed because of their non-involvement in the patronage of Islamic banking.

Jaiz Bank in Nigeria

Jaiz Bank is the only full-fledged Islamic bank in Nigeria. This bank was to start operation in 2004 after meeting all the regulatory requirements for licence in December, 2003. The promoters of the bank were able to raise ₦2.5 billion from her shares offered to the public. In this period, the required capital base for obtaining license for national banks was ₦2 billion. They deposited ₦2b with the CBN and applied for licence in March 2004⁴⁸. No sooner did they apply for license in March 2004 that the new capital of ₦25 billion was introduced in July 2004. Both the deposit and the extra ₦500, 000.00 (meant for operational expenses) were not enough to meet new capital requirement. This was a setback to the much awaited Islamic Bank by Muslims and interested non-Muslims. Many attempts were made for a period of about seven years (2004-2011) to get Jaiz Bank Limited which was created out of the former Jaiz International Plc in 2003/2004 established in 2011. To be precise, the promoters were able to obtain a regional licence from the Central Bank of Nigeria in 2011 in order to operate as the first non-interest full-fledged Islamic Bank in Nigeria. Although the license was obtained in November 2011, the bank could not start full operations until 6 January, 2012 with 3 branches (situated in Abuja, Kaduna and Kano). As at 2014, the bank has 17 branches⁴⁹. Many branches have also been opened in other parts of the country. Although the bank incurred a loss in 2012, a remarkable growth was recorded in 2014 (₦42 billion) when the growth rate was 24% compared with the bank's performance in 2013 (₦33.9 billion)⁵⁰. Since the introduction of Jaiz Bank in Nigeria, non-Muslims have not been Islamised or converted through the bank to Islam. No one has even been harassed on account of not having dealings with the bank.

Islamic Banking in Non-Muslim countries

Before the establishment of Islamic Bank in Nigeria, many Muslim countries and non-Muslim countries such as Malaysia, Egypt, USA, U.K and Germany had been enjoying Islamic banks. Anwar Qureshi (1946), Naiem Siddiqi (1948), Mawdudi in (1950), Mahmud Ahmad (1952) Muhammad Hamidullah (1944, 1955, 1957 and 1962) were the people who brought back the idea of Islamic banking through their writings. It was in 1963 that interest-free banking based on Islamic Commercial Jurisprudence was put into practice fully. The bank was headed by Ahmad Elnaggar in the Egyptian town of Mit Ghamr.

Its operation lasted for about 3 years before it was closed down for political reasons. During the time of its operation, nine branches were opened and the bank was able to empower economically many poor people. The Mit Ghamr Savings bank project became part of Nasr Social Bank that was later established in 1972⁵¹. As regards the establishment of Islamic banking, there were institutional involvements in 1970s. One of such involvement was the Conference of the Finance Ministers of the Islamic Countries that was held in Karachi in 1970. Another one was also held in Egypt in 1972. The First International Conference on Islamic Economics was held in Mecca in 1976 while the International Economic Conference in London was in 1977. The Islamic Development Bank in Jeddah which was an inter-governmental bank was established in 1975. Dubai Islamic Bank opened its doors in 1975⁵². Tabung Hajj or Pilgrimage Fund was established for Muslims in Malaysia so as to make easy the performance of Hajj. Bank Islam Malaysia Berhad was later established in 1983 to meet the yearnings of Muslims⁵³.

In non-Muslim countries, Islamic banks have been established without forceful conversion of people occurring. Examples are Islamic Bank of Britain and University Islamic Financial Corporation in Detroit, Michigan in the USA. The latter is the first full-fledged Islamic financial institution with many branches in Michigan, Pennsylvania, New York, California and a host of others. The Islamic Bank of Britain was authorised by the Financial Services Authority (the apex bank) in the UK on 6 August, 2004 to provide Shari‘ah compliant financial products⁵⁴. This is the only stand-alone retail Islamic banking in the U.K. In the United Kingdom, Islamic bank is not seen as a threat but as an opportunity to include the excluded, alleviate poverty and empower the poor economically through its products. In fact, Prime Minister, David Cameron⁵⁵ made a bid to position London as a leading hub for Islamic finance when he was announced plans for Britain to become the first western country to issue a sovereign *Shukuk*⁵⁶ (Islamic bond). Even in the U.K, a spade is called a spade and not a fork because non-interest bank is named after Islam (i.e Islamic Bank of Britain) because its operations are based on the teachings of Islam. Despite using the name Islam, the country has not been Islamised; and no one has been victimised. However, in Nigeria, it is prohibited to include the word, Islam in the name of the Islamic bank. Islamic Bank of Britain is not the only Islamic Bank in the United Kingdom. Since 1980, Islamic banking has gone through various phases in the U.K⁵⁷. Al-Baraka International Bank was set up in 1982 for the U.K. Muslim community issuing Shari‘ah-compliant financial products. It later came to an end in 1983. During the period, there was no report of using it to harass or convert non-Muslims to Islam. In 1991, the United Bank of Kuwait in the UK set up an Islamic window for the Muslims. Amanah Islamic Finance through HSBC in the U.K opened an Islamic banking window in 2003. Since then, it has been offering Shari‘ah compliant financial products. Both Lloyds TSB Islamic Financial Services through Lloyds TSB and Al-Buraq Home Finance, a window created by

ABC international Bank Plc in the U,K were established in 2005 to compete with the Islamic Bank of Britain in the area of Islamic Finance. All the banks were established to assist less affluent UK Muslims and interested non-Muslims. Many conventional Banks worldwide established Islamic banking windows to take the advantage of the market and to provide for less affluent Muslims. Examples are Citi Bank in the United States of America, ANZ in Australia Grindlays, Deutch Bank (Germany) and Societe Generale (France)⁵⁸.

From the foregoing, it is clear that non-Muslims anywhere in the world have neither been Islamised nor converted for patronising Islamic banks. There was also no record of the victimisation of non-Muslims for non-patronage of these banks. What do Nigerian Muslims and non- Muslims stand to gain or lose from the introduction of Islamic banking and its products such as *Mudaarabah* and *musharakah*? This will be answered in the last section of the paper.

Islamic Banking and its Merits

Islamic banking does not violate the secularity of the country in any way. This is because it is not a state bank that is being sponsored or financed directly or indirectly by the government funds. Our constitution allows freedom of religion and its practice. Non- Muslims are not compelled to patronise Islamic banks but if they want to bank or transact business with it, they will not be discriminated against provided they are ready to abide by its rules and regulations.

The role that Islamic banking can play in economic development and financial empowerment are obvious. Islamic bank looks at the quality of feasibility studies instead of credit worthiness of the finance user. Islamic financing is not only centred on credit worthiness and ability to repay the loans, instead the financing of Islamic banks is restricted to useful goods and services. They refrain from financing alcoholic beverages, pork and tobacco or morally unacceptable services such as casinos and pornography, irrespective of whether or not such goods and services are legal or not in a given country.

People with good projects and ideas but with no funds to actualise these ideas can strive better in an Islamic economy than in the conventional settings. This is because Islamic banks undertake direct investments and participate in the management of projects. The poor do not have to get collateral before they can access funds in an Islamic economy. Islamic banks eliminate the barrier between those who save and those who invest, and bring them closer to the real market. They forge a closer link between real economic activity that creates value and financial activity that facilitates it. Investment deposits are not guaranteed in capital value and do not yield any fixed or guaranteed rate of returns. Demand deposits are guaranteed in capital value because they have been placed as *amānah* (as trust for safekeeping). However, no returns are paid on them. Information asymmetries are reduced in an Islamic banking framework because depositors have more incentives to monitor banks' performance than conventional deposits.

Collateral security (*rahn*) is not compulsory. However, it may be requested to reduce moral hazard such as running away of an entrepreneur.

Islamic financial products are major instruments for mobilising savings from people particularly the middle and lower income groups. The savings are channelled into investments for economic growth and development. Investment in Islamic finance is dualistic in nature. Both the investor and the community benefit from such an investment. Money is used through investment to provide the basic necessities of life. It will in turn alleviate poverty. In Islamic banking, returns on investment are shared in percentage based on pre-agreed terms. If loss is incurred and the finance user is not negligent, the finance provider bears the loss while the user of the funds loses his labour, energy and time. He does not also have any returns. This is not the case in the conventional banks. They are entitled to both the principal and interest on it whether the borrower makes profit or incurs loss in his business.

Another benefit of Islamic bank is obvious in the operation of an Islamic banking product called *Mushārahah*. It refers to a partnership that involves contribution of labour and capital from both the finance provider and the finance user⁵⁹. It takes care of management of the business by giving a share of percentage to the finance user. This would lead to increased income for the poor who do not own capital. One of the merits of this product is that the rate of return is large for the finance user. This is due to inclusion of management effort particularly if the share in total capital in the *mushārahah* product is the same. It takes care of both production and management. It is used for both working and fixed capital. During inflation, *mushārahah* preserves the real value of capital invested from being eroded or reduced as a result of rising price. It does not need a strict collateral security. What matters is personal acquaintance between the finance user and finance provider. Supervision and follow-up may also be undertaken to reduce the chances of dishonesty. In *mushārahah* product, the shares of the finance user may be in kind such as inputs, labour and items. It is also possible for the Islamic bank to take the responsibility of marketing the products. No repayment is made if the entrepreneur incurs loss and he is not negligent. The financier loses his capital while the entrepreneur loses his labour, energy and time.

Another product whose benefits cannot be quantified is *muḍārahah*. It is combination of entrepreneurship and capital. Finance provider is not involved in the day to day running of the business⁶⁰. If *muḍārahah* is conducted with a well trusted, professional and with good track records, both the finance provider and the finance user would benefit. *Murābahah* means cost plus mark-up. In this product, buyers are aware of cost plus mark-up. If all its rules such as ownership of the property and physical guards are adhered to, it provides opportunity for the buyers who do not have the bargaining power. Thus, they will not be cheated if they opt to transact business based on this product. This product also assists banks to reach a large number of small entrepreneurs so as to fill the gap the

conventional commercial banks are unable to take care of. Some borrowed money for an investment; and after securing the loan, the money is used in other unrelated ventures i.e the loan will not be used for the project or the business that a person has in mind before taking the loan; the loan and the interest will accumulate. The resultant effect is that the bank will sell his personal belongings if the collateral security is not enough to recoup the capital and the interest on it. *Murābahah* has blocked this hole and solved all the problems that can arise from using a loan for what one does not plan for. *Murābahah* contract will buy the asset or machine, goods or raw materials for the person at a profit. No strict collateral security is demanded from the use of funds. If the user of the product is unable to pay as and when due, he is given a grace period. No additional financial obligation is attached to the grace period. Through the use of Islamic banking products, many innovations can be brought in in as much those innovations are not expressly or impliedly prohibited by the Quran and the *Sunnah*. Bank-partner relations are much closer and more cordial than is possible under the conventional commercial bank.

There are merits and demerits in everything. There are some challenges in the operation of Islamic banking products. The challenges can be overcome with ease compared with the problems created by the conventional banking system. One of the challenges is cost of following-up and monitoring of projects with a view to curbing dishonesty in trade. This problem can be solved by appointing a third party. He is given a share of the percentage of the total profit. This creates employment for the agent and provides income for him. The problem of personnel may also be there for Islamic banking. That can also be solved by organising training for existing and potential bankers and accountants. In *muḍārabah*, the financier may opt for restricted *muḍārabah* with a view to curbing the problem of dishonesty. This will enable him to closely monitor and supervise the project. Post-dated cheques from the client or 3rd party may be used to serve as the guarantee that the money will be paid as and when due. Fictitious *Murābahah* can happen. This is when the finance user and bank staff collude with the user to use the money for other things apart from the intended project. An independent person may be appointed after disbursing the funds to inspect the goods bought. The independent person may not be known to the parties involved.

Conclusion

From the preceding discussions, it is clear that we need to work with a conception of secularism that does not mark a clear break between religion and state. The Nigerian constitutions and other Acts have tried to ensure that religious organisations and groups are not discriminated against in the public domain. Secularity of the country should mean religious tolerance and equal treatment of all religious groups and protection of their lives and property and of their places of worship.

Non-Muslims should try to show understanding as regards the introduction of Islamic banking for the path of understanding leads to peace which the country needs. The tension between religion and secularism should be removed. Efforts should be made by all the concerned parties to understand one another in relation to the practice of each religion in as much others are not affected. Nigeria is a multi-religious country where every citizen should be reasonably allowed to practise his faith.

Sharī'ah is essential to Muslims; and its operation does not negatively affect non-Muslims. They instead, benefit from its practice in terms of economic development. In Islam, a Muslim cannot do whatever he likes, he has to follow Allah's commandments as stated in the Qur'an. By following them, he enjoys his life and other people enjoy their lives as well. Any attempt by the government of Nigeria or its agencies to stop the operation of any aspect of *Sharī'ah* shows their insincerity towards economic development of its people. Economic development takes place when there is trust, peace, harmony love, political stability, mutual respect and professionalism.

It can be inferred from the above- mentioned sections of the constitution that the issue of religion is personal and that the country should not adopt a state religion. Nobody should be discriminated against on account of his religion. There are indeed many provisions in the constitution which depart from the model of secularism being called upon by a large member of people particularly the non-Muslims and many researchers.

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