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### EDITORIAL NOTE

Much has been said and written about the deleterious effects past approaches to mission had on African cultures and values. The early mission expeditions at the turn of the twentieth century placed a great emphasis on *missio ad gentes* (mission to the nations) and *missio ad extra* (mission to others) sometimes to the neglect of *missio ad intra* (mission within the church) which actually goes on all the time. The articles in this second edition of *African Journal for Mission in Context* (AMC), which comes out almost simultaneously with the maiden edition, pick some of the challenges that confront Christian witness in various aspects of the church in Africa. These issues include: inculturation, caste system and witchcraft, indigenous African approaches to healing, conflict and reconciliation and the plight of women under the sharia law.

In 'Christian missionary activities in Igalaland (Nigeria) and the challenges of inculturation,' Nicholas Okpe examines the history of missionary activities in Igalaland. The paper identifies key cultural elements that need proper attention in order to advance the process of inculturation among the Igala people. These elements include: the use of Igala language, festivals and festivities as well as Igala arts and craft. Augustine C. Obi writes on 'the Caste System and Witchcraft: Degeneration of African Institutions.' David Tuesday Adamo and Felix Ehimare Enegho together write on 'Therapeutic Systems in African Indigenous Churches.' Rose Uchem's paper 'Transforming community through reconciliation,' addresses the intractable issue of conflict and the Christian response to it, including some practical illustrations of reconciliation in mission contexts. Ikenga K. E. Oraegbunam ventures into the muslim juridical world from where he offers 'Some Critical Considerations on Women's Rights under the Sharia Law: The Nigerian Perspective.'

**CHRISTIAN MISSIONARY ACTIVITIES IN IGALALAND  
(NIGERIA) AND THE CHALLENGES OF  
INCULTURATION**

**Nicholas Ojoajogwu Okpe, Ph.D**

**Introduction**

That many Igala people still see the Christian religion today as a foreign practice is not just because it came from the west but also because over the years it has not fully succeeded in getting adapted to the cultural way of life of the people. This was one of the mistakes of the early missionaries who brought and presented Christianity as a way of life incompatible with the traditional religion it encountered at its early stage among the people. Though the situation on the ground could be described as that between St. Paul and the people of Athens in the Acts of Apostles (Cf. Act. 17: 22-31), the missionaries were not quick to see point of convergence in the two religions and thus isolated Christianity. Furthermore, whereas, the Athenians may have been ignorant of the gods they were worshiping before the arrival of St. Paul, Igala cannot be judged thus, since every dictate of Igala religious ideas and worship is based on consequential, logical, cosmological and metaphysical interpretations.

In view of the above, this paper examines the history of missionary activities in Igalaland especially from the perspective of the Catholic Church and other Christian missionaries. The paper identifies some key cultural items among the Igala people which could be to the great advantage of the missionaries while trying to win over the adherents of the traditional religion of the Igala people.

## **Exposition of Relevant Terms: Christian Missionary and Inculturation**

**Christian Missionary:** ‘Christian’ as used here is derivative of the word Christianity which refers to ‘the religion which is based on the teachings of Jesus Christ and the belief that he was the son of God’ (*Oxford Advance Learner’s Dictionary*). Similarly, the word ‘missionary’ stems from ‘mission’ which posits “sending out for a determined task to be carried out amongst populations still in the ignorance of the Church or having distanced themselves from it through dissidence”(Buono G. 2006, 57). By the use of this word, the Catholic Church, being the progenitor, implies the evangelization of non-Christians territories by providing pastoral care towards the spread of the Good news of Jesus Christ. This led to the formation of institutions that were specially charged with the task of reaching out to territories especially outside the west with the mandate to convert, indoctrinate and convince them towards accepting the Christian religion.

**Inculturation:** As a matter of fact, this term came into theological discussion just before the close of Second Vatican Council in 1965. As a new terminology, it may not be found in regular or common English Dictionary or the likes. The term stands for “the on-going dialogue between faith and culture or cultures; it is the creative and dynamic relationship between the Christian message and a culture or cultures” (Shorter, A. 1980, 11). Perhaps, very important to note is that inculturation is more of an interactive display of values between the Christian religion and traditional cultures of a people. Or according to the Nigerian Catholic Bishops, it is “a neologism and has come to depict the process by which the Christian faith incarnates in the several cultures of the world” (1991, 8). This is to avoid the danger inherent in being inclined to take the issue of faith for granted as an exclusive Christian phenomenon; every religion possesses faith-character for its adherents.

Some scholars, mainly theologians, use other terms to represent the idea of inculturation. These include adaptation, contextualization, incarnation, indigenization, accommodation or acculturation of the Christian message into a living culture of a people or vice versa. Inculturation aims at Interiorization of religious beliefs, values, symbols, practices etc; it demands that the same values, religiosity and piety may be preserved, perpetuated and enveloped through different symbols of different cultures. (Ezugwu, I. T. 1995, 249).

***Igala/Land:*** The term 'Igala' refers to both the ethnic group and the language of the people who occupy the eastern lower part of the confluence of rivers Niger and Benue (Eastern Kogi State). The population of Igala people is about 1.7 million and thus forms the largest ethnic group in Kogi State of Nigeria. Igala is not synonymous to 'Igara' as some authors have suggested. The latter refers to another cultural group in kukuruku area of Semolika in the old western region of Nigeria (Okpe N., 2005, 29).

### **Christian Missionary Activities in Igalaland - Retrospect**

Although the advent of missionaries and Christian activities in today Nigeria can be linked to colonialism, it must be said that the starting point could be sought within the time of the early expeditionary activities by the Portuguese in the fifteenth century. This is because, this was the first time Christian belief found its foot on the soil of western part of Africa, beginning with the first set of freed Christian slaves from Sierra Leone who arrived in Badagry, Lagos in 1842. The following years saw many other African and western missionaries of the Methodist, Anglican and Baptist churches taking part in the expedition (Okwoli P. E. 1984, 9). In other words, it should be noted that the influx of Europeans of different backgrounds and congregations into Africa (Nigeria in particular) for expeditions is one of the reasons for the numerous Christian congregations in Nigeria which are perhaps over two

hundred in number today. Furthermore, as we shall see briefly, the flow of Pentecostal life style especially from the United States of America, and the quest for power and material things that may not necessarily be religious in character are other reasons for the proliferation of various congregations in Nigeria.

### **The Catholic Mission in Igalaland**

The beginning of the Catholic Mission in Igalaland was the time the middle-belt region of Nigeria was realized as an essential area to be evangelized. For the fact that Islam was yet to have a total grip of the area, early missionaries became encouraged to ensure that Igala became part of their mission land. One of the main methods employed in the task of evangelization was the establishment of mission schools aimed at teaching both western education and the Christian doctrine.

After the unsuccessful attempt to make the mission started in Dekina in 1902 to continue, the seat of the Catholic Mission in the eastern Nigeria that was responsible for this region never returned to Igala land until 1930. Although, it is difficult to spell-out the reasons behind this, it can be assumed that the lack of support from the local people and shortage of personnel contributed to the abysmal neglect of Igalaland in terms of evangelization for about twenty five years. Thus, the German Holy Ghost Fathers came with enthusiasm to start a mission in Igala land in 1931 with establishment of many schools between 1931 and 1934 such that about “twenty four C.R.I. schools had been opened; ten schools had been approved by the Government; Idah and Ankpa were to have English Classes” (Okwoli, 1984, 13). This development was very outstanding because of the seemingly competitive spirit that was already on ground from other denominational churches wanting to propagate their faith and winning adherents.

The interest of the Catholic Church in this area continued to grow tremendously so that in 1934, the Vatican created the Benue Prefecture which was carved out from the Northern part of Onitsha diocese. The new prefecture includes the Igala with the

headquarters at Makurdi, one of the central cities in the middle-belt of Nigeria. The creation of this prefecture ensued more rigorous evangelization in Igala so that before the Second World War when the Germans Holy Ghost Fathers left, much was achieved. Special areas of pastoral achievement include: Teaching of catechism, Baptism, pastoral visits of the Church dignitaries to the traditional rulers. Accordingly, the Government's statistic of the 1963 population census showed the population of Christians of all denominations (including Catholics) in Igala at 23.8 percent, Islam, 23.4 percent and the Traditional Religion at 52.8 percent (Okwoli, 1996, 81). Following this figure, it can be said that Christianity, especially, the Catholic Church recorded a landmark success in evangelization within the short period with a high incursion into the Traditional Religion. Of the entire population of Igala today, the Catholic population stands at about 15 percent, other denominational churches, 25 percent (Total of Christian population, about 40 percent), Islam also about 40 and the Traditional Religion, 20 percent (Cf. Okpe N., 2005, 176).

Although the missionaries could be criticized for their skeptical disposition towards the tradition and culture of the people, it is important to note that they had good intentions in the exercise of their missionary activities. One of the many reasons that contributed to the low reception of Christian religion at its early stage in Igalaland was the attitude by which the missionaries neglected and looked down on the basic tenets of the people's culture, especially their perspective of religious ideas and practices such that "a good Christian was the one who threw off Igala culture. A genuine convert viewed his culture as undesirable, anti-Christian and superstitious which should be discouraged or destroyed: with the support and encouragement of the early white missionaries, the earliest Igala Christians launched assaults upon traditional customs, beliefs and institutions" (Okwoli, 1996, 81). This open confrontation with some essential cultural values extended to other socio-religious institutions such as the marriage (polygyny and bride-price), death and burial ceremonies. This

never went down well with the majority of the hosts of the missionaries, who instead would prefer any other foreign religion like Islam, which tolerates and in fact, accepts these values as important aspect of a fulfilled religious life. They were known for not being accommodative establishmentarian. They had already a vision of a perfect Christian society which they hoped to establish among their new converts so that characteristically, they were known to have been intolerant of imperfection and to have put a puritan approach to the whole relationship between religion and culture (Cf. Okpe N., 2005, 181ff). Conversion was only possible through a total distancing of oneself from the symbols and sacraments of one's former convictions (Ezugwu T. I., 1995, 249).

Having said the above, there are other internal factors that militated against holistic conversion of Igala to Christianity. These are from within the people rather than the faults of missionaries. Among them is the question of divided loyalties among Igala Christians. Many Igala people although officially attached to Christianity are at heart still attached to Igala traditional religion as well. Many Christians do not seem to be aware of what they are practicing. They serve two masters. They have double personality. As we shall see later, one of the reasons for this is not farfetched from fear, lack of confidence in the new religion and a projection of superstitious practices inherent in the traditional religion. Another factor is that of growing quest for power and material things.

### **Other Christian Missions in Igalaland**

The German author, Eberhard Stahn (1995, 46) posits that the center for activities of other Churches, unlike the Catholic Church which settled first in Lagos, was mainly the southwest of Nigeria especially in Abeokuta. He maintains that, the indigenes started making effort to domesticate the churches in line with their cultural provisions, thus forming the first African church, 'The Native African Church' in 1889. It is opined that the formation or domestication of the missionary Churches was predicated on the

quest for power sharing between the blacks who see their white missionaries on the side of the colonial masters such that some Churches drew their courage from this belief (46). It can be said therefore, that these Churches understood early enough the importance of building the new faith around their cultural provisions. As such, this became a challenge for the Catholic Church, which moved further into other parts of Nigeria, especially towards the eastern town of Onitsha.

In the view of Okwoli (1996, 81), while the Christian activities were growing in the south-eastern part of Nigeria, the north which had an enormous population was not affected. And this was due to certain reasons: namely, the resilience character of Islamic religion which was firmly in place in the core north, and the fact that the colonial masters with the indirect rule system never wanted any 'distraction' in this area. But if these should be taken as reasons, what of the vast population of people living in the Middle-belt region where Islam was yet to take root? This was a later discovery by the missionaries who moved towards Igalaland, an area in the Middle-belt region bordering eastern Nigeria, where the Catholic Church had a seat. Thus, the first contact of Igala with Christianity apart from the later development from Catholic Church in eastern Nigeria was in 1857 and 1872 when the Anglican Church established schools in Idah and Gbobe. These schools were, however, closed down for lack of interest. As far as education and infra structural facilities were concerned, missionary activities were almost synonymous to such projects as western education, hence, the establishment in 1902 of the first Catholic mission in Dekina. Although, the mission could not be sustained for reasons such as lack of co-operation from the local people and shortage of personnel, others came up through the 'Christian Missions in Many Land' (CMML) in 1919 in Akpacha, and Anyigba in 1929 (Cf. Okwoli 1996, 81ff).

Furthermore, Okwoli (83ff) noted that the interest of the early missionaries in building schools was not just only for the education of the people in the western sense, but also to teach them

the Christian doctrine, and thus, win them over to the Christian religion. The earliest missionaries built schools not only to give western education to the people but also to win possible adherents. It was not easy to get children to attend schools for a very long time. The people would not allow their children to waste time in what they called 'white man's school'. Instead they sent the boys to the farm and the girls helped their mother in their domestic work. Later, the people began to change their attitude towards schools so that between 1940 and 1960 there was a tremendous increase in the enrolment of pupils in these mission schools. As a result the number of converts increased rapidly too.

### **Emergence of Pentecostal Movements**

Comparatively, Pentecostalism is new in Igalaland. In other words, the emergence of new congregational churches with promises of healing, good luck and prosperity is relatively recent juxtaposing it with activities of Orthodox and Protestant Churches. Pentecostalism does not take the dimension of the so called missionary activities as discussed above. Thus, in the last ten years, a great number of healing and faith Churches have emerged in Igalaland. These Churches draw huge membership from among the older Churches. Thus, it can be quickly concluded that Pentecostalism emerged from what is already in existence.

Though it may be difficult to give exact dating of the emergence of Pentecostalism in Igalaland, this can be seen generally within its history in Nigeria. As a matter of fact, by 1935 an American preacher, John Graham Lake whose wife was said to have been miraculously healed of tuberculosis had taken hold of the 'Zion City' near Chicago in Illinois. This created a scenario differently from the usual healing and miracles people were used to in the mainline churches. As such, the quest to unravel and understand this amidst several technological breakthroughs witnessed new congregational assemblies. From here, "Pentecostalism in Nigeria received a significant boost in the late 1980s and the 1990s following the economic depression, social

uncertainty, security crisis and political instability of the period” (Nnamani A. 2007, 159). As it is all over Nigeria, there are not less than two hundred Pentecostal movements in Igalaland today.

Pentecostal movements have different roots and variations. These include: “the black oral root, the Catholic Church root, the evangelical root, the critical root and the ecumenical root” (Adigwe H. 2003, 109). However, a critical examination of the situation would reveal specific reasons which cut across some of them; power, economic and material quests are the foundations of many of them. Nevertheless, it should be added that the new movements are succeeding in drawing a lot of attention due to seeming failures on the part of the mainline churches to provide answers to the complex development that is accompanying people of all strata of life. This includes non conformity with the cultural pattern of life as this paper observes. For such and many other reasons, instead of these new Churches to go into primary evangelization of people yet to embrace the Christian faith, their target is more on the membership of the mainline Churches, thereby failing as well by not actually encouraging non-Christians to join their fold. It is also important to note that it is possible that some Christians, who are engaged in this movement from one Church to another, may actually be looking for some points of fulfillment which they believe the new movements could provide.

In some sense, Pentecostalism thrives because of its attempt to get involved in the day to day life encounter of the people by putting into consideration the social and spiritual situations of the people of today. As the mainline churches are being confronted with such challenges as combining the spread of the good news with personal encounter with the experiences of the people, Pentecostal churches seem to be in possession of the recipes to these teeming challenges. Earlier, Pope Paul VI in his write up *Evangelii Nuntiandi* seem to have observed this that there can be no authentic preaching of Good news without involvement in the problems that beset humanity: “modern man listens more willingly to witnesses than to teachers, and if he does listen to teachers, it is

because they are witnesses”(Pope Paul VI, 63). Thus, preaching the good news to the people loses much of its force and effectiveness if it does not take into consideration the actual people to whom it is addressed.

### **The Relevance of Igala Cultural Goods for Missionary Activities**

The preference and attachment to western cultural items inherent in Christianity, and the negligence of important cultural elements in Igalaland by the early missionaries was one of the reasons for the poor reception of Christian religion in Igalaland. Rather than incorporating and integrating some cultural values towards this aim, Christianity in its early contacts with Igala acted too independently as a new form of service of the Deity.

Therefore, in ensuring cooperation between Christianity and the traditional culture of the people, there must, then, be a hermeneutics of continuity and not the provision of alternative. This means that inculturation does not aim at total replacement of cultural and religious symbols of a particular culture with that of another, but rather, an integration and continuity of cultural items of different cultures.

John Paul II acknowledged this when he declared that inculturation of the Christian message “will be able to offer these cultures the knowledge of hidden mystery and help them to bring forth from their own living tradition original expressions of Christian life, celebration and thought”. Using the example of St. Paul’s encounter with the people of Athens, he continued: “After preaching in a number of places, Saint Paul arrived in Athens, where he went to the Areopagus and proclaimed the Gospel in language appropriate to and understandable in those surroundings (Act. 17: 22-31). At that time the Areopagus represented the cultural centre of the learned people of Athens, and today it can be taken as a symbol of the new sectors in which the Gospel must be proclaimed“(John Paul II, 1990, 6). On this note, let us examine

some elements of Igala cultural life that could be considered for appropriate incorporation or integration in the Christian life:

**a. The use of Igala language:**

Igala is a language and not just a dialect of another as it is often misconstrued. For such a language as Igala which has an enormous cultural power in the people's way of thinking and acting, it is important that this be given a pride of place in any religious practice; liturgical or Church's function. It will go a long way in making the Gospel message more realistic, comprehensible and acceptable; it is important to note that only a few of Igala population speak foreign language such as English. In fact, it is only a fraction that will accommodate the use of unintelligible language like Latin, and this has a great impact in their disposition towards Christianity which they would continue to see as foreign if not localized in this way. Although, it is commendable to say that effort in this direction has been enormous in the translation of the Bible and other liturgical and ritual books, but more still needs to be done especially by the missionaries of today.

**b. The Igala musical art:**

The nature of Igala music is literally poetic and in close contact with their language; music is an essential part of Igala oral literature and tradition. Music in Igala is never thought of without the corresponding words, expressions and occasions for which it is meant. Hence, the discrepancy in passing the Gospel message through music of another culture other than Igala. Music makes for a great percentage of Igala mental dispositions, and as such has much effect on their psychic and religious activities.

**c. Igala festivals and festivities:**

The Igalas are a people of celebration as many Africans. Festivals and festivities are occasions for celebrities. In the early period of the Church, many pagan festivals were induced or converted into Christian festivals without necessarily abolishing

them. Such is possible in Igalaland where people regard any assault on their traditional mode of life as attack on their identity as a people. Christianity can profit from its past experience as noted above by seeking dialogue with such festivities by inducing Christian elements into them so as to eliminate those contrary to the Christian religion. This is acknowledged as one of the successes of the first Christians in the proclamation of the Christian message to the pagan. Such steps have already been sought by the Catholic Diocese of Idah in her guidelines to the Christians concerning some festivals; this should be continued and better enhanced with more practical involvement. Although, majority of Igala festivals and festivities are in accordance with the traditional religion of the people (like *Egwu* festival), there are however others that are devoid of religious connotation (like *Italo* festival). If the former are difficult for Christian penetration, the latter may not, since at such gatherings people are open to diversified celebrations; Christian message can find its way through such socio-cultural avenues or occasions.

**d. The Igala Arts and Craft:**

Finally, arts and craft have proved to be very essential in communication and day to day life of people. Messages received through arts and crafts can create life-long impression, and could be very indelible in the mind. sculpture and art work have played important role in Igala life until recently due to the effect of western culture, Islamic religion and Christianity which replaced or termed so many of them irrelevant or idolatry. Human arts and craft could be used in such a way that they can interpret new things in old and local ways; without the essence of the new religion being affected.

**Conclusion**

It can be concluded that though Christianity has made a lot of impact on the traditional Igala society, its negligence of the basic tenets of cultural goods and customs of the people affected the

noble course it intended to bring to the generality of Igala people. It must be accepted that a lot of the western educational successes of many indigenous Igala today is founded on the goodwill of missionary activities. We have seen in this paper that though the missionaries came in with the intention of evangelization of the people, they however, incorporated this in their program which led to the production of some academics as evident in the immediate and post era of the early missionaries.

Apart from western education, missionary activities brought about so many developments in other social sectors such as health, water and sanitation. It is to be acknowledged that some of these social infra structures established by the missionaries still maintain higher standard of service delivery than those established by the government and other private bodies. However, the missionaries of today who intend to project the good works of the early missionaries would however need to contend with the challenges and shortcomings of the past in order to maximize success in the attempt to win more adherents. This will be possible if the aforementioned cultural areas are put into consideration as necessary for integration into Christian practices.

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**CASTE SYSTEM AND WITCHCRAFT:  
DEGENERATION OF AFRICAN INSTITUTIONS**

*Augustine C. Obi*

**Abstract**

*There is no doubt that change is an integral aspect of the nature of things. Since human society occupies a peculiar position within the existential framework of the cosmic order, it necessarily expresses the phenomenon of change by exhibiting a dynamism that is always directed to the welfare of the individuals it represents. Societies map out traditions and customs which its members are required to observe and compliance with these regulations is meant to enhance the happiness of the citizens and usher in a period of peace and prosperity. But it does happen that sometimes customs or traditions which were enacted with the best of intentions may over the years become a burden on the people. When situations like this occur, such regulations must either be changed or abrogated because they no longer guarantee the welfare of the members of the community. But there appears to be a very important omission in the context of changing or abrogating a law or custom that has outlived its usefulness. The question is scarcely posed concerning the reason behind the degeneration of customs and traditions that were originally instituted for the upliftment of the members of the community. From history, it has always been the abuse of erstwhile genuine*

*intentions of the pioneering protagonists of traditions and customs that brings the latter into disrepute. This situation obtains on account of factors within and without the community. From this background, an attempt will be made in this paper to examine two outstanding African institutions, namely, caste system and witchcraft that have degenerated in order to discover the original principles that underlie their foundations. The Igbo of Nigeria will be used as a case study.*

**Keywords:** caste system, witchcraft, change, tradition, degeneration

### **Introduction**

Culture thrives through its own internal dynamics. Through the process of acceptance and rejection, culture grows and refines itself. Whenever there is need for renewal, the community as the custodian of culture rises to the challenge. It provides a clear assessment of the issue at stake so that it can be established whether the same is still serving its purpose. By questioning its own customs, traditions and institutions, the community continues to make itself functional and is able to remain relevant not only for its members but also for other communities with which it associates. For communities to remain authentic, they must have reflective members within their ranks. It is the role of these individuals to determine why and how things that have held the community together have fallen apart.

### ***Osu caste system***

Apparently, what is regarded as the *osu* caste system is the greatest challenge to Igbo traditional ethics. The frustrations of western anthropologists who tried to explain it and attempted to trace its origin are recorded. Leith Ross, the most forthright on the system states that *osu* in its present form is an enigma among the

extremely democratic Igbo where no classes let alone caste exist...one thinks they may be of a different and enemy tribe, or of criminal descent marked forever on account of their ancestry but one is told that they are of ordinary Igbo stock and their forefathers held authority and commanded respect...an explanation of a situation so full of contradictions and so foreign to be the general trend of Igbo tribal life” (1937,207). Despite the problem encountered in situating the *osu* system among the traditional Igbo, a breakthrough may be achieved if it is studied within the religious context of Igbo traditional culture. The various traditions of *osu* origin point to its essentially religious basis (Uchendu 1965, 89).

### **Origin of Osu**

The term, *osu* appears to be a vestige or contraction of the statement, *ogu esu* (conflict ensues) which is part of an Igbo proverb devoid of its hypothetical antecedent, *Enyero muo ife ona eli, ogu esu*. The proverb taken as a whole is then rendered as follows: “if the gods or spirits are denied their rightful dues, conflict ensues”. From this derivation, the term *osu* would mean “someone who on account of his offence has lost his rightful place in the community and deserves to be handed over to the gods for appropriate punishment”. The handing over of the individual in question is imperative in order to avert impending calamities or even the extinction of the community.

The conflict, which the prospective *osu* generates, is generally understood as a crime or a serious breach of Igbo traditional ethics. That is why an *osu* necessarily carries a criminal history and tradition. Reputable accounts on the origin of *osu* confirm this position. C. K. Meek holds that “the shrine of *odo* was an asylum for persons who had rendered themselves liable to be sold as slaves on account of a serious offence. The refugee becomes a servant of *odo* and as such his person was sacrosanct...persons who thus become servants of the gods formed a special caste of their own, into which it was taboo for anyone not belonging to the caste to marry” (1970,98). G. T. Basden remarks

that “a person who has committed an atrocious crime was normally liable to immediate punishment by capital sentence in some Igbo towns. Such a man saved his life by running into a shrine and declaring himself publicly as an *osu* (1968, 247). From the account of S.N.Ezeanya, “the murder of a stranger who enters somebody’s house for shelter will call down the anger of the gods. Whenever such a crime was committed the offender was offered to the outraged divinity to placate its anger and ward off grave calamity. Such a victim becomes an *osu* (1970, 37).

As against the “ignoble theory” of origin which holds that an *osu* necessarily carries the burden of a criminal charge is the theory that the system is of noble origin (Basden 1966,250). Several accounts in support of this theory underscore the following facts:

*Osu* system is an institution going back not more than three or four generations and that at its initiation, the *osu* held an honourable position until the slave trade brought it into degradation, and caused it to degenerate to its present unhappy condition...These first *osu* appear to have enjoyed many privileges and ere long became subjects of envy. There were many obligations attached to the office. An *osu* under the original constitution must be of an upright character, and live an orderly pious life acceptable to the god he served. Any infringements or failures would bring disaster upon his head. There were no restrictions to his movements; he was at full liberty to move at will, protected from violence by virtue of his office (Basden 1966, 249-251).

The problem with the “noble origin” theory of the *osu* system is that it is not verifiable but rather appears to be a result of an evolution within the society itself. Members of the society were making genuine efforts to integrate themselves into Igbo traditional

community. The dire situation of an *osu* was understandable because “outside the *osu* village, his privileges were nil” (Basden 1966, 248) The “*osu* are a people with a status dilemma: a people hated and despised; a people whose achievements are spurned by society which is aggressively achievement-oriented” (Uchendu 1965, 89). Arguing from pressure to the problem of integration faced by members of the *osu* system, Basden holds that “it is difficult to give much credence to the statements (concerning the noble theory of origin), though, for the sake of many friends who are members of the *Osu* confraternity, one would like to think of their forefathers as men respected and honoured by virtue of their office. One fears, however, that the desire to give the cult the benefit of bygone pre-eminence, or even equality, had very little to support it. The wish to rehabilitate those who are under the *osu* ban seems rather to be uppermost in the arguments used above” (Basden 1966, 251-252).

Apart from the “ignoble” and “noble” theories, there is what is regarded as the “scapegoat” theory of *osu* origin. Victor Uchendu articulates this theory: “Although the *osu* tradition claims that their ancestors were pro-Aro priests who were highly respected until they were supplanted, the *diala* tradition is a scape-goat theory. In that view, a village, a lineage, a family, or an individual dogged by illness, bad luck or calamities and misfortunes would consult a diviner to find out what was wrong. In such a case, the diviner would recommend the dedication of a slave who would then become the deity’s servitor and carry the sins of the dedicator. Such a servitor became an *osu*. He is feared because the *diala* do not know how to interact with him without offending the deity. He is hated because the *osu* remind the *diala* of their guilt” (1965, 89).

From this account, Uchendu does not provide the moral history of the prospective *osu* whom he just calls “a slave”. He does not demonstrate why this individual qualifies to be an *osu*. This lack of necessary information on the individual at stake raises a cloud of ambiguity over the scape-goat theory. Uchendu provides the categories of persons who cannot be *osu*. According to him,

“neither a *diala*, nor an *ohu* nor a pawn is *osu*. To refer to them as *osu* is the greatest of all insults” (1965, 89). Having furnished this information, one would also expect him to indicate specifically the individuals or groups who qualify to be dedicated as *osu*. Furthermore, Uchendu appears to be caught in a contradiction because the “slave” who appears in the dedication is also included as *ohu* one of those that cannot be *osu*. Another proponent of the scape-goat theory is Arinze. In his account of *igo nmadu osu* (consecrating a person as *osu*) at Awka, he merely provides the rites of consecration and nothing is said concerning the ethical status of the prospective *osu* (1970, 91).

### **Justification of *Osu* System**

From the accounts of its origin the popular and apparent justification for the *osu* system is the satisfaction of the just demand of the enraged gods and spirits and the desire to avert an impending calamity on the community. The *osu* system finds rationalization in Igbo religious belief and dogma. The Igbo believe that to fall out of favour with the deities is to lose ritual status – a state of uncleanness that can be purged by the sacrificial lamb, which in this case happened to be a human being (Uchendu 1965, 89). But the fundamental justification appears to go beyond the appeasement of the gods if the *osu* system is situated within the tenuous environment proto Igbo found themselves as they struggled with the dynamics of an emergent society.

One of the major disasters that hit the Igbo in the course of their evolution as a political group was the great world drought (800-1000 A.D) which resulted in the further dessication of the Sahara desert. Societies that were in former grasslands collapsed. Affected people poured into the forests seawards. So came Eri and his people to the Anambra valley, Oduduwa and his people to Igbomokun and Ogiso and his people to Iduu. These migrants came like all myth making empire builders, with complicated stories, which the autochthonous Igbo concluded were fairy tales. The apparent reason for rejecting these tales was that they presented a

strange worldview to the Igbo. These foreigners introduced man-god kings which the Igbo considered abominable. They brought secret cults that contradicted the open, populist Igbo paradigm. This was in order to protect and project their fables and the political and economic powers inherent in them. They also brought the tribal mark which implied hierarchy and discrimination which are alien to the traditional Igbo (Osuagwu 2004, 11).

From the foregoing standpoint, the *osu* system appears to have been instituted to guarantee the ultimate survival of an evolving community or race as a political and moral body. Uchendu argues in this direction with his position that the social isolation of the *osu* is intended to safeguard the community from ritual contamination and complications (1965, 89). By isolating apostates and criminal elements from its midst, the bond of kinship among the Igbo was strengthened and the moral and political authority of the group could be legitimately passed from one generation to another. This apparent primordial function of the *osu* system appears to be later appropriated by oracles (when the former degenerated) because the latter equally “served as a means of eliminating persons considered as undesirables by the local group and thus made for smoother functioning of the group” (Ottenberg 1958,311). In the words of Uchendu, “there is a correlation between the powerful oracles of central Igbo – Igwekala of Umunneoha in Owerri, Amadioha (Kamalu) of Ozuzu in Ikwere and Agbala of Awka – and the incidence of *osu*” (1965,89).

An important event that contributed immensely to the degeneration of the *osu* system was the Slave Trade because it provided an easy mode of disposing those individuals unwanted by the community. The *osu* “system became bound up with the Slave Trade and while some victims were sold as slaves, others were devoted to the local gods...the slave trade brought it into degradation and caused it to degenerate to its present unhappy condition” (Basden 1966,249-252). According to Elizabeth Isichei, “another institution which underwent similar distortion and corruption was that of *osu*, cult slavery. The service of a god

entailed many arduous and difficult conditions, so the practice developed of delegating the service to a slave. Henceforward, the slave and his descendants belonged to the god...In the nineteenth century their numbers expanded and their status deteriorated dramatically, so that they became outcasts, feared and despised” (1976,47-48). While traditional Igbo society hitherto accommodated the *osu* and allowed them to “build huts to meet their family needs, cultivate farms, marry and bear children” (Basden 1966, 248), at the onset of the Slave Trade, they were denied all these privileges and exiled permanently from their homeland.

The degeneration of the *osu* notwithstanding, what ultimately underlies the system may be resolved as the principle of moral and political survival of the Igbo as a cultural group. The repugnance which attends the present state of the *osu* system in Igbo land should not be allowed to becloud what appears to be the original and pragmatic principle that underlies its foundation.

#### ***Amosu* (witchcraft)**

For the traditional Igbo, the *amosu* cult in its present form remains the most dreaded cult because of its ability to either drastically reduce the quality of life or extinguish it. But is this the primary objective of the cult? The qualification of *amosu* as good or bad which is obvious from the contemporary use of the term already provides some kind of answer to the question. For the traditional Igbo, the cult of witchcraft can either be good or bad depending on its application. In its positive application, Parrinder recounts that “witchcraft can be used for personal advantage and it inspires humans to particular feats of talent” (1963, 136). But when negatively applied, it creates “a wizard who fails to use his knowledge, his verbal power, in the service of the community, but misuses it maliciously and for his own gain...a wizard who has succumbed to the lust for power who disturbs and destroys the life force of his fellow humans and spreads terror for its own sake...and purposely disturbs the harmony and frame of the world

order” (Jahn 1990, 130). This negative application of the power of witchcraft is apparently an abuse of a neutral force nature has made available for the enhancement of the human person.

### **Amosu and wisdom**

Despite the negative and dreadful image the traditional *amosu* person exudes, no traditional Igbo denies the fact that members of this group belong to the “cult of the wise” or the “people of extraordinary powers”. That is why with reference to anyone specially gifted the Igbo say, *olilu amosu* (he is special) or *oliwelu anya* (he has far seeing eyes). The interpretation of these Igbo renditions of an *amosu* person indicate a relation between *amosu* cult and wisdom. But what kind of wisdom is involved in *amosu* cult?

There appears to be three kinds of wisdom in Igbo traditional society, namely, the wisdom of articulating and producing on demand the unwritten history of the community or town; the wisdom of the diviner who determines the cause of events in personal lives and the wisdom of understanding and influencing events outside one’s immediate environment. The last kind of wisdom appears to be the highest and the least understood. This is the level of wisdom to which the *amosu* cult belongs. The traditional Igbo articulate expressions that particularly refer to the members of the *amosu* cult. These expressions which represent the kind of wisdom that is the peculiar property of this group include the following:

*Okuku ocha no na akpa fu nkwo* (a white cock that sees the kite from inside the bag).

For the traditional Igbo, whiteness or white colour is a symbol of power (Obi 2003, 94)

*Ono na uno malu ife zulu na afia* (one who remains at home and yet knows what happens at the market)

*Okwukaojelu* (one who recounts events as someone present)

*Amosu and dynamics of self*

The relation between *amosu* and the African theory of self is informed by the necessary dependence of the former on the latter. To make room for the possibility of witchcraft, the African notion of self differs radically from the Western concept of the same. From the account of M.D.W. Jeffreys, “the Ibo, like many other African peoples, conceive of the human being as composed of three parts: the *chi*, shadow, soul, spirit; the *muo*, the ghost or “revenant”; the *aru*, or the physical body (1949, 25). The position of Jeffreys confirmed by Dominique Zahan (1979, 8-9) indicates that the human person is not an indissoluble entity. Not only is there a dichotomy between the physical body and the soul but also a fissure within the soul which gives room for its apparent double, ghost, which he appropriately refers to as “revenant” on account of its mobility. Paradoxically, “man is one, but the self is multiple...Man can exist in his material body or out of it without being split. When out of the material body, man can be described as a spiritual body” (Metuh 1985, 96).

From the foregoing analysis, it appears that if a serious study of African ontology is undertaken focusing particularly on the analysis of the self, there would be no anomaly not only in adopting the position that one’s body can be alienated from oneself but also that the soul can do the same. The traditional Igbo have expressions that validate these positions like *obi ifepu madu* and *muo madu inata* for someone who is shocked by an experience and *igbu muo madu* for someone who receives an ugly treatment or a serious undeserved rebuke or humiliation from another person. According to Meek, “if a man is suddenly frightened, it is said that his *obi* or his *muo* has taken temporary flight” (1970, 54). Achebe recounts in *Arrow of God* that when Ezeulu, incarcerated at Government Hill heard the children welcoming the new moon “his heart flew out” (1974, 163) and in *Things Fall Apart* he records that “Okonkwo knew how to kill a man’s spirit” (1958, 19).

According to African ontology, the human being does not appear to possess the unity which we usually attribute to it, and the

individual soul is not the undivided whole we think that it is. Among the component principles of the soul, there exists an element which allows the human person to double itself at certain moments of life. This idea is very widespread in Africa if it is not universal (Zahan 1979, 8). Among the Thonga, this fundamental concept is represented as *chitjhouti* or as *dya* among the Bambara and *muo madu inata* among the traditional Igbo. The self normally and naturally possesses a point of fission probably situated at the border of the conscious and the unconscious, and this characteristic guarantees the human person a wide range of para-human possibilities, for example, the ability to be in two places at once, clairvoyance and metamorphosis (Zahan 1979, 8). The possibility of metamorphosis which has many skeptics is recorded in personal encounters by Bloomhill (1962, 164) and Basden (1966, 286-287). The many possibilities the human soul allows the individual confers on the African notion of self a broader and richer content than the Western classic treatises on the soul. The same possibilities make the African define himself not as totally separate from the other but by that which he receives from others at any moment. From this position, the individual does not constitute a closed system in opposition to the outside world in order to secure his substance and limitations. The African personality and his environment copenetrate each other so that between the two entities there is a regular communication, a kind of exchange which demands a posture of permanent listening on the part of the individual to the rhythm of the world. There is in the African person some kind of fluidity that is accompanied by plasticity or malleability which an observer who does not have the required perception will overlook. It is this peculiar elasticity that makes the African define himself in terms of becoming than of being (Zahan 1979, 8).

The fluidity of the African self is possible because of the plane of cleavage within the spiritual principles which constitute the human being. This cleavage opens up in the soul an element which apparently is strange which is its double. The double is a sort

of mobile principle which has the capacity to leave its owner temporarily to roam the world (Zahan 1979, 8). The context of its trips is mostly serene environment, during sleep and often times in dreams. The person whose double is absent finds himself in a state of prostration and lethargy because the will and intellectual faculties appear to have failed. This idea is also reflected in the notions of absentmindedness and daydreaming. The state under consideration appears to be one level of meaning of the Igbo saying, *inodu madu madu na esi muo muo* (to be present yet absent). The trips of the mobile self is real because the places visited and the activities undertaken can be identified.

#### **Amosu as science**

From the intricate relationship between *amosu* and the dynamics of the self, the fundamental character of *amosu* can be established as the ability to know and influence events outside one's immediate environment. The human person is able to achieve this objective if that individual is somehow present to that other environment in question. But what appears to be the feasible mode that guarantees this presence is some kind of self projection. Therefore, the wisdom of *amosu* cult is to be understood as an application of the science of human projection. In the words of William Conton "we in Africa learned a long time ago something the people of Europe are only discovering: that the human mind has illimitable powers over the body that houses it. For example, we know – we don't merely believe, but know from personal experience – that it is possible for one person to bring sickness and death to another without recourse to physical or chemical means" (1960,115).

From the researches conducted among the Igbo, Elizabeth Isichei asserts that "it is possible that the *dibia* of Igbo land were developing real skills or sciences in the sphere of what we would now call extra sensory perception. The imposition of colonial rule has basically put an end to these skills and deflected Igbo intellectual energies into modern spheres as medicine and physics.

It is possible that in doing so it cuts off real and original advance of the human mind and impoverished the total development of human knowledge” (1976,124). With the aid of his/her soul’s double, the traditional Igbo like any other traditional African can project him/her self from his/her body toward any object or location in the universe and influence events at these destinations (Zahan 1979,8). The science of human projection explains from the Igbo traditional perspective both the principle of remote control and bilocation – the capacity to influence events at a distance and the ability to be in two places at the same time.

This interpretation agrees with the position of reputable researchers on witchcraft in traditional Africa. Evans-Pritchard holds the position that “an act of witchcraft is a psychic act” (Pritchard 1937, 21) and Margaret Field who has the best account of witchcraft in West Africa articulates witchcraft as “simply projected at will from the mind of the witch” (Field 1937, 135). For the African, the science of human projection becomes possible because of the nature of the self in African ontology. In the words of Zahan, “the self normally and naturally possesses a point of fission, probably situated at the border of the conscious and the unconscious, and this assures the human person a wide gamut of para-human possibilities, for example, the ability to be in two places at the same time” (1979,8). It is interesting to note that the principle of remote control which underlies the science of witchcraft is applied by space technology in controlling objects on scientific missions in outer space. The production of instruments used in this enterprise appears to be fundamentally inspired by the African dynamics of the human person.

### **Conclusion**

From the exposition of Igbo caste system and witchcraft examined in this paper, it is obvious that plausible justifications can be provided for the presence of these institutions in Igbo traditional religion. The *osu* caste system has been shown to be initially an attempt of a society facing trying times of survival to maintain the

authority of that group as a moral and political body. But the system somehow survived and necessarily degenerated because the society had to pass that crucial stage in its development. Witchcraft in its current state provides an instance of abuse with regard to a noble cult which was meant to enhance the best in the human person and possibly serve as one of the transition points from the traditional to the scientific way of thinking. The fate of the Igbo caste system and the enviable witchcraft cult typifies the degeneration that caught up with other ancient and remarkable institutions across traditional Africa.

### **Recommendation**

From the foregoing attempts to provide the original foundations of caste system and witchcraft, certain concrete steps or actions can be suggested in order to make the best of this research since both systems seek the upliftment of the human person and society.

Caste system should be taught and understood as a noble institution that served its purpose at a lower level of civilization but is now outdated. For the fact that caste system dies hard in many parts of Africa, it appears that laws against caste system may not be as effective as conviction borne out of honest research.

As a way of unfolding the ultimate in the human person, witchcraft should be studied as a science. This approach will systematically deal with the pre-logical orientation of witchcraft that has held Africans captive for many generations and has currently played into the hands of spurious religionists who use it to perpetuate their power over the illiterate. As a science, witchcraft can afford a much needed meeting point between Africa and the global world of science and technology.

African philosophers and scientists should include in their programme of investigations research into other African traditions and institutions because at their foundations lie principles which prove that Africa still have a stake in the world of science and knowledge.

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## **TRANSFORMING COMMUNITY THROUGH RECONCILIATION**

**Rose Uchem, MSHR, Ph.D**

### **Introduction**

This author's earliest impressions about the synoptic gospels accounts of Jesus' death centre around Jesus' prayer to God for those who killed him: "Forgive them for they do not know what they are doing" (Luke 23: 34). This is the climax of a life of forgiveness; a life that knew no boundaries; a reality with great implications for us who profess to follow Christ.

In these reflections, 'Transforming Community through Reconciliation,' underscores the point that forgiveness and reconciliation are the mark of a Christian identity. The paper grapples with the challenges we encounter as we try to live out our true identity as Christians and explores what might help us grow more in this area. With this in mind, the context and working definitions for forgiveness and reconciliation are provided; a possible root cause of conflicts is postulated and a way forward proposed. The paper concludes with a true story which illustrates an experience of reconciliation.

### **The Christian context of reconciliation**

#### ***The human person and levels of conflict***

To explore the ramifications of forgiveness and reconciliation we need to think of the nature of the human person beyond the traditional notions of body-and-soul entity. In line with the more recent insights from the human sciences, we can say that the human person is very complex and may be viewed from at least five perspectives: the social, physical, intellectual, emotional and

spiritual. The social dimension underscores who we are as ‘beings-in-relationship’; with our immediate and extended family members; parents, siblings, friends, marriage partner, children, in-laws etc; colleagues at work, in the shop; fellow members of a club or parish etc. The physical component includes our body together with its condition of health; its needs for nutrition, shelter, sanitation and other things. It extends to our physical surroundings such as our room, house, compound, environment; and, in fact, the whole universe. Our intellectual capacity embraces our intellect, rationality, commonsense, thinking faculty, imagination and creativity. The emotional aspect consists of such feeling-states as joy, sadness, anger, hurt, guilt, love, affection, jealousy, envy etc. It includes our desires, drives and motivations. The spiritual dimension denotes the reality of our being ‘more than’ we can perceive or imagine. It includes our experiences of higher states of consciousness, a sense of interiority and an awareness of the other side of reality, other than this visible tangible order. It involves our ability to touch into this other world and to be in touch with our centre, our deepest selves.

This picture examined above in this work reflects the contemporary view of the human person. The five dimensions of the total person are not compartmentalized but are closely interrelated. The schema is only for clarity. It is also meant to help us appreciate the fact that the human being is more than a “body-and-soul” entity – a conceptualization that originated from Greek dualistic philosophy and later became incorporated into Christian doctrinal formulation. Some of the ancient Greek concepts are no longer sufficient to carry the meaning of this particular reality in our current experience. Fortunately, other alternative thought systems from the human sciences, notably modern psychology, have since emerged to supplement this shortfall. Moreover, this expanded view is in keeping with the primal African concept of the human person as a social being, a communitarian; rather than a solitary individual. This African worldview is holistic, unlike the Greek dualism. Moreover, it evokes the communitarian ethos of the

Blessed Trinity.

Another way to convey this sense of the complexity of our humanity is to say that we are made up of what is felt and unfelt; seen and unseen; conscious and unconscious in our levels of being. The personal and the collective dimensions of our experiences and history cumulatively shape who we are and become as persons.

Consequently, we do experience conflict at the personal or intra-personal level as a result of our conscious and unconscious motivations and drives. Sometimes, we feel a pull in different directions. We want to do this, but another part of us wants something else. This calls to mind Paul's experience of a similar dilemma (Romans chapter 7). Similarly, we are all too familiar with the reality of conflict at the interpersonal level – with family members, friends or with co-workers. Then, of course, there is also the type of conflict, which happens at the institutional/structural/systemic level, between one group and another, or between an individual and a group. A good example of institutional conflict could be a controversy between say a diocese and a state government.

The trouble with the institutional or structural level is that even though the system is made up of persons, there is an impersonal, faceless dimension to it. It gets very non-personal and even diabolical at times and it is the kind that requires fasting and prayer for conflict resolution to happen. The kind of fasting called for here includes fasting from fake neutrality, complacency and love of cheap popularity. It requires getting involved on the side of the oppressed and of the truth. Furthermore, it entails praying for the courage to take a stand on social justice issues and if necessary to suffer for such a stance as Jesus did at a cost.

As already pointed out, we experience conflict at all three levels of the personal, interpersonal and institutional/structural. Moreover, there are different perspectives on conflict and they are linked to relationships: between humans and humans, humans and God, and between humans and nature. Therefore, reconciliation has to be considered from all these perspectives and in the contexts of

these various relationships as well. Accordingly, resolution of conflict and the attendant reconciliation need to happen at all these levels. Incidentally, it is not possible for reconciliation to take place in an interpersonal relationship when it has not yet happened on the personal level, in the heart. Similarly, it is easier to widen the circle of reconciliation to communal/institutional level when forgiveness has moved from the personal to the interpersonal sphere.

***Some definitions and biblical basis for forgiveness and reconciliation***

This author considers forgiveness in terms of “letting go;” letting go of our hurts; setting free anyone who is indebted to us on account of an offense s/he has committed against us; an injury someone has inflicted on us through some betrayal or some omission. We know only too well the pain that such hurts can lodge deep in our hearts; such experiences that the only thing we imagine can settle it is seeing that person hurt equally, at least, as much as we do. To forgive is to let go any such intentions, plans and desires to inflict pain or hardship on another in reaction to what we ourselves have suffered at their hands or those close to them. Thus, the terms ‘forgiveness and reconciliation’ imply the presence of conflict and conflict is part of our human situation. The demands of forgiveness and reconciliation, therefore, bring us face to face with the reality of sin and guilt.

Closely allied to forgiveness, then, is reconciliation. Reconciliation is the outcome, an off-shoot of forgiveness. To reconcile is to bring together once more severed parts of a whole. I really think that to forgive, to reconcile is an integral part of who I am and want to be as a Christ - ian, another Christ. It has to do with my basic identity as a disciple of Christ. This, in my view, is the kernel of what it means to be a Christian. This perception comes across in the teachings of Christ as remembered by the men and women who gathered in Christ’s name in the earliest communities of believers. For instance, in Luke we find this instruction:

Love your enemies, do good to those who hate you, bless

those who curse you ... If you love [only] those who love you, [is there anything remarkable about that]? Those who do not go to Church, who do not invoke the name of Christ, do as much. Do they not? Instead, love your enemies. Help those who hurt you without expecting any returns. In this way you will be children of the Most High who causes rainfall and sunshine to come down on both the deserving and undeserving alike ... Be compassionate as your heavenly Provider is compassionate” (Luke 6: 36+).

These sentiments about forgiveness capture what following Christ is all about. They express the heart of Christianity. The first followers of Christ appreciated this fact as Paul succinctly captured it in his second letter to the Corinthians:

We have been reconciled to God through Christ; and have been entrusted with the ministry of reconciliation. God was in Christ reconciling the world to the God’s self, not holding humanity’s faults against them and has entrusted to us the news that they are reconciled. So we are ambassadors for Christ. It is as though God were appealing through us, and the appeal we make in God’s name is: Be reconciled to God (2 Corinthians 5: 18-19).

This appeal was echoed throughout the year of the great Jubilee 2000, when there was a continuous call for reconciliation. It was not only for “the cancellation of debts, but also primarily, for an end to conflicts, for healing of wounds and for restoration of unity, respect and love among the people of all nationalities, races and religious convictions” (Van der Poel, 2001, p.24).

In response to this call, many people, religious and lay, did reach out in honest gestures of forgiveness to others who were separated from them. It is only hoped that this circle of reconciliation would continue to widen and deepen, become and remain a permanent experience.

### **The root cause of conflicts**

The root cause of the disaffections that ultimately lead to clashes and conflicts possibly lies in the principle and practice of subordination of persons on account of ethnicity/race, religion,

gender, socio-economic status or other factors. Actions, words and omissions that arise from this principle of who is greater than who devalues people and instills into them a sense of fear and low self-esteem. It draws out from those so devalued a compensatory reaction by way of self-defense mechanism and a siege mentality, which may be retaliatory in nature. In short, subordination of persons breeds violence. I venture to say that most of the conflicts in our world today and especially in West Africa are rooted in one type of subordination or another. Thus, we as Church are faced with the challenge of doing away with all the various barriers within Church and society, which make out some people as less than others. Moreover, we must match our fine words about the equal dignity of all persons with actions that confirm this.

Reconciliation and forgiveness cannot happen in the abstract. There must be a substratum for peace and reconciliation. It is impossible to hope for peace when people's basic rights, human rights have not been respected but have rather been denied and flagrantly abused. Peace and reconciliation can only flourish in a situation where nobody is subordinated as a second class citizen on any pretext or context whatsoever, whether secular or sacred. So if we want peace we must be fair and just in our dealings with people. We cannot justifiably ask people to forgive when the necessary conditions have not yet been met or set in place, namely, the demands of social justice to find out the truth about a conflict situation; to give voice to all sides and to redress whatever injustice is at play. Thus, we cannot talk about reconciliation outside of ecumenism and social justice.

### **A way forward: imaging God**

The call to deepen our humanity and our Christian discipleship requires a primary disposition of the heart. That "I must forgive" is the starting point. This is unlike the attitude of: "*O biri n' aja ocha*," meaning in Igbo language, "this matter can only be settled six feet deep under the red earth," that is in the grave. Such an attitude is incompatible with Christianity. There must be

that basic inclination to want to forgive. To forgive is an integral implication of who I am as Christ - ian, another Christ. It is against this kind of background that we should discuss the Church's role or rather Christians' role in resolving the many conflict situations in West Africa. It is in this kind of terrain that we are called to be imitators of Christ and it is not easy, for quite often, we are very involved as well.

Forgiveness is the prerogative of God. Thus, it becomes possible for us humans only by the power of the One who asks us to forgive the hurts we sometimes sustain. This is where the sacraments come handy, especially, the Eucharist and Reconciliation. They are like fuel. One does not fuel a car and park it. It is supposed to take us on a journey. In the same way, we do not receive the sacraments to bank up grace as in a savings account. We are supposed to spend it, burn it to take us on a journey, our journey to God; our journey into becoming more like Christ. True, we are made in God's image and likeness but the greater truth is that we are not yet. We are in the process of becoming. Thus, our call to forgive is rooted not just in our Christian call but in our very humanity. We are to become in God's image and likeness through living out our human and Christian call to forgiveness and reconciliation.

The God we are invited to image is the God presented in the parable of the prodigal son, which Wilfrid Harrington prefers to call the Prodigal Father (1982). This God is more like a Mother than a typical father. There are so many images of God in the scriptures – and they sometimes conflict – but this is clearly the inclusive God of Jesus Christ whom we are to imitate. Actually, no human is like the father in this story. In reality, in our lived experience, it is a mother who acts like this, unconditionally, towards an erring child and in fact would do it, hiding from the father, in case she is accused of spoiling the child. The point being made here is that this is how our God is; like a fatherly-Mother and a motherly-Father. This is the God we are to imitate in inclusiveness and loving forgiveness.

The next question, then, is how do I practicalize this forgiveness in my life? How do I shift it from theory and notional ideal to practical reality? Can I think of at least one instance when I consciously mediated forgiveness for somebody who hurt me deeply? What steps were involved and how long did it take to happen? What did I struggle with? What helped me to forgive? What assured me that it was real and not fake? Similarly, can I recall a moment when I experienced healing and forgiveness at the hands of a person I hurt severely? Can I remember what helped me or this person to effect or experience reconciliation?

### **A psycho-spiritual approach to conflict resolution**

A primary prerequisite for peace and reconciliation is dialogue, meaning a sharing of feelings, viewpoints and preferences; an ecumenical approach. This is an approach whereby everybody's values are respected, in their own right, and not from an already decided standpoint. A listening forum is very essential to such dialogue. Likewise, a facilitator is necessary. This author has experience of this kind of process of reconciliation. It combines insights from modern transpersonal psychology with the best of primal Igbo approach to reconciliation.

The Igbo approach basically recognizes the equal right to self-expression of each party in the conflict. After listening to all the parties concerned, the person in the wrong is identified and required to make amends to the one offended. Depending on the nature of the offence, it may entail an apology in kind, by way of material penalties awarded, to the person offended or to the host community, as the case may be. In marital cases and land disputes, it gets more complicated than this and gender bias is entrenched in the system of settlement of marital disputes.

However, in the creative psycho-spiritual reconciliation process already referred to, no one is victimized and no one points out the offender. By the end of the sharing session, those involved are often able to see the part they contributed and voluntarily admit their fault; and willingly offer and receive the necessary apologies

to and from others.

The reconciliation process provides a space where someone who has been hurt deeply can speak freely without being interrupted or judged by others. The person is listened to until his/her strong feelings are spent. As already said, a facilitator is usually needed, and the ground rules laid down from the outset. A person's outpouring is respected regardless details that others involved in the case may have seen or experienced differently. When the person has finished expressing himself/herself, no one may comment on the sharing or dispute any point of it in self-defense. One may, however, ask clarifying questions, though not indicting ones. Everyone directly involved in the incident takes turns to share his/her own side of the story. Each person is given the space and the respect to speak freely without being interrupted. In this way, the reconciliation session is prevented from degenerating into arguments and further hurts.

This has proved very effective. It has worked repeatedly in small community and parish groups where it has been applied. The process usually takes a long time but it is very rewarding in bringing about a very deep and lasting experience of healing and reconciliation. On each of the occasions it has been used, the conflicts were successfully resolved and the session usually ended with meaningful reconciliatory gestures and rituals. Often, it made sacramental reconciliation a celebration, indeed, because the persons involved have already experienced a felt-sense of healing, peace, forgiveness and reconciliation.

### **Pope John Paul II's message of forgiveness and reconciliation**

Pope John Paul II, in his Lenten message for 2001, particularly emphasized the importance of reconciliation. He said that the experience of receiving God's forgiveness "encourages us to live in love, considering the other not as an enemy but as a sister or a brother." Pointing to the serious conflicts throughout the world, he also declared: "For nations in search of reconciliation and for those hoping for peaceful coexistence among individuals and

peoples, there is no other way than forgiveness received and offered” (John Paul II, 2001). Moreover, “in places where conflict has left an enduring animosity among peoples, accepting and offering forgiveness is the only way forward. Forgiveness “interrupts the spiral of hatred and revenge and breaks the chains of evil, which bind the hearts of rivals” (John Paul II, 2001).

### **Conclusion**

So far, this work has highlighted the fact that forgiveness is part of our identity as Christians. The root cause of conflicts has been linked to the principle and practice of subordination of persons on the basis of ethnicity, religion, gender, socio-economic status etc. For this reason, every effort at conflict resolution must also address and promote the concept and practice of respect for everyone and equality of opportunities for human self-expression and for advancement of all peoples – irrespective of their ethnicity, gender, religion and so on. Otherwise, the reconciliatory efforts may be empty, self-serving and doomed to fail. This paper also surfaced some of the practical challenges we often encounter in our struggle to achieve reconciliation. These are inherent in the complexity of our human nature as persons and the reality of systemic evil in the way society is organized. We must match a complex situation with a complex package of solutions. The practice of true dialogue, social justice and an ecumenical disposition is essential to conflict resolution. Above all, our call to forgiveness and reconciliation is a call to grow into the image and likeness of God modeled on Christ, the *Imago Dei*, par excellence. Occasionally, we may find a fellow human being who visibly mirrors this Christic model to us as illustrated in the following true story which concludes this paper.

### **A story of reconciliation**

This author was deeply touched by a story sometime ago in the IMU Report, a quarterly newsletter circulated to Irish missionaries all over the world. Well, she got a loan of the

November 2001/January 2002 edition from one of them I know. It carried the story of Rufus Halley, an Irish missionary priest who was murdered in recent years at the hands of Muslim extremists in the Philippines. He belonged to the Congregation of the Columban Fathers who were and are still engaged in a special ministry called a dialogue of life, which entailed dialogue with the Muslims. People were only assigned to this ministry if they volunteered for it. Rufus volunteered. In preparation for this work of Christian dialogue with the Muslims, he moved out of his parish residence and went to live among the Muslims in order to learn their language and understand their way of life better. He took a job in a grain store where he could be in closer contact with the people.

Initially, it was very difficult for him as some of the people routinely hauled insults at him, thinking he was a fake and a spy. He heard cryptic remarks from both Christians and Muslims daily. He was often very deeply hurt in his heart. As his personal friends later testified, he often brought these wounds to Christ in prayer for healing. However, he managed to persevere in this ministry of presence, non-violence and mediation between the Christian and Muslim communities. He ran a school on a fifty-fifty basis for Christian and Muslim children.

After a long, long while, the people gradually began to trust him and to invite him to settle disputes for them; and he resolved many conflicts not only between Muslims and Christians but also among Muslims themselves. They devised a fond name for him. So highly did they hold Rufus in esteem that they saw him as their special friend.

Then one day, tragedy struck. A group of Muslim extremists assassinated Rufus. Everybody was heart-stricken. Women and men, old and young; Muslim and Christian alike wept openly, unabashed. Some of the Muslims denounced those who did this thing as evil and said they were utterly shamed of them. Then, something most spectacular happened.

While the body of Rufus was lying in state in the parish Church, the Muslims trooped to the Church to mourn their

deceased friend. A delegation from the Muslim community approached their Christian counterparts and requested if they could “borrow the body.” They carried the body in procession through their streets, holding a canopy over it – an honour reserved only for sultans! They brought the body to the school compound where they chanted the Koran for three hours. Four hundred and fifty (450) of them traveled together in 37 vehicles on a six-hour journey for the funeral Mass and burial. Christians and Muslims kept vigil together that night. They took turns and slept side by side on the benches in the Church. Thus, at his death, Rufus accomplished his mission of reconciliation of the two communities as he had done in his life. Although the trouble in the Philippines has not yet ended, this story certainly inspires hope for the many serious conflict situations in the world today. Reminiscent of the mission of Christ, it is a promisory note towards the full and final realization of Isaiah’s dream of the new reign of God (Isaiah 11:6) where the lion lives with the lamb, side by side, doing no hurt, no harm on all God’s holy mountain.

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## **THERAPEUTIC SYSTEMS IN AFRICAN INDIGENOUS CHURCHES**

**David Tuesday Adamo, Ph.D and Felix Ehimare Enegho, Ph.D**

### **Introduction**

In our contemporary global village people are becoming more interested in the whole concept of indigenization and Nigeria is not an exception. In the early period of the advent of Christianity to Nigeria and other countries in Africa, anything indigenous was seen as fetish, pagan oriented, barbaric, magic superstition, animism, sorcery, witchcraft and primitive. The indigenous people were often times not allowed to express themselves. They were made to feel that they had nothing worthwhile to contribute to human development. In the light of all these, African indigenous medicine was subjected to all forms of ridicule by the foreign missionaries, colonialists and even by many of the African educated elites who did not see anything good in anything indigenous. Those who were engaged in indigenous medicine were regarded as native doctors, witch – doctors, magicians and were called other derogatory names.

It is no longer news that there are in our world today some diseases that have defied all known orthodox medication. Many are going back to nature. This is where the African indigenous medicine becomes very imperative. In Nigeria for instance, the fact that indigenous medicine is now being recognized by the National Agency for Food and Drug Administration Commission (NAFDAC), the agency responsible for drug administration in Nigeria is a sign that indigenous medicine is no longer relegated to the background. The thrust of this paper is to x- ray therapeutic medicine among African indigenous Churches. This is assessed via the lens of two Nigerian Christian scholars.

### **What is Therapeutic Medicine?**

Therapeutic medicines are procured from herbs, leaves, barks and roots of trees, animal parts, juice, palm oil and kernel, water and so on. The mixture of these materials bring forth recipes or medicaments for the treatment of one form of illness or another. Those who practice this form of indigenous medicine are known as herbalists. For this reason, we have herbalism, 90% of which is made up of herbs and vegetables. These medicaments are utilized for the treatment of biological diseases such as arthritis, diarrhea, asthma, pneumonia, cholera, malaria and many other diseases (Byaruhanga – Akiki 1991:23 -33). Even Hippocrates who is regarded as the father of medicine made use of herbal remedies in the treatment of ailments. (Ubrurhe, 2003: 43, Ubrurhe, Eghwubare, 2004:350).

Healing among traditional Africans is a corporate activity. It has a lot to do with the totality of the individual, the family and the community. The idea of good health among traditional Africans differs considerably from the western concept. The World Health Organization for instance conceives of good health as the absence of diseases or infirmity. But the African concept talks about the condition of total physical, mental, social – well being due to the maintenance of good relationship and harmony with nature, divinities, spirits and fellow human beings. (Silis, 1972: 95, Adamo, 1997:82).

Another therapeutic system among traditional Africans is massaging which is effective for the treatment of nervous, muscular systems and especially the treating of gynecological problems. (Ubrurhe, 1994: ) Hydro-therapy involves the use of cold, hot water. Compress and steam vapor baths are used for various ailments such as headache, fever, rheumatism and general pains. Hot water relaxes the skin capillaries and the activity of the sweat glands. It has been established that water increases the consumption of oxygen up to about 75 % and it eliminates about 85 % of carbon dioxide from the body. (Ubrurhe, 1994, Adamo, 1997: 83 )

There are some occultic strengths displayed by some herbal medicines. Some others are antidotes that counteract diseases caused by some supernatural forces. Some can be used telepathically to summon a missing person. There are some herbal medicines which can assist in the extraction of bullets or thorns from the body without subjecting the patient to any form of surgical operation. There are some herbal medicines when administered that can assist in diverting bullets from the targeted person or spot. Also merely chewing some herbal medicine can help to fortify a person against cutlass or machete, knives, bullets or any sharp object. Some render the individual invulnerable to enemies' attack. What this entails is that enemies cannot raise up their hands to fight the users of such herbs. There are some herbal medicines that are natural antiseptics which fight against microbes in the body. Herbal antiseptics not only heal the body but also assist in building up new cells. (Ubrurhe, Eghwubare, 2004:350 - 351).

In traditional African societies, another important aspect of indigenous therapeutic methods is fasting. There are some ailments that require a patient to abstain from the intake of food for a certain period of days or week. This method is usually used for curing obesity, indigestion, overweight, mental and some chronic diseases (Adamo, 1997: 83).

Marriage and child bearing are very important in the African culture and the inability to procreate is also regarded as a catastrophe which leads to break down of marriages and invariably polygamy, ridicule and general unhappiness. The Yoruba people of Nigeria, the Esan people of Edo State Nigeria and other tribes scattered all around Nigeria always try to know the causes of such bareness in women and in some cases in men and the medicine to cure such diseases. The most serious of these diseases is known as *eda* (leucorrhoea) among the Yoruba people. This is serious because the disease does not respond quickly to treatment. (Dopamu, 1982: 34 – 42, Adamo, 1997: 85). Part of the medicine used by the Yoruba people of Nigeria in the curing of *eda* disease

prior to the coming of the missionaries include: A fresh (*segirri or tagi iri*) *adenopus brevifloris*, spring onions, sulphur and local pap (*eko*). After the coat of the *adenopus brevifloris* has been scrapped off and cut into pieces, it will be mixed and burnt together with the spring onions in a broken pot. After the sulphur powder has been mixed with the ingredients earlier mentioned, the husband and the wife will drink the pap (*eko*) with it thrice daily. They are expected to have sexual intercourse in the very day of use, but must wait for a period of three days before another intercourse. (Dopamu, 1982: 34 – 42, Adamo, 1997:85).

There is yet another disease identified by the Yoruba people which is associated with catatonia discharge of women. Women who missed their menstruation for many months even when they are not pregnant (*amenorrhoea*) are counseled to make use of indigenous medicine known as *alase obinrin* which will eventually enable her to experience her menses and subsequently get pregnant. Such disease can get treated through the following method: Potash (*konwun*), leaves of the herb *uraria picta papilionacae* (*alupayida*), the stalk of white guinea – corn (*poroporo baba funfun*), red parrot feathers (*ikoodo*), stalk of white guinea corn potash, cam wood (*osun*), one bottle of coco- nut water, one bottle of palm kernel oil, one bottle of lime juice. A very hot fire – heated stone must be put in the medicine while still very hot and must be drunk in the morning. (Dopamu, 1982: 34 – 42, Adamo, 1997:85).

Another disease in women which can successfully be taken care of by therapeutic medicine is fibroids. The mere mention of the word fibroid throws fear and panic to several women. In 99 % of the cases, the fear of the surgery is more than the fear of the fibroids itself. This fear cuts across race, country or financial and social status. Women in Europe, Asia, U.S, and Australia and so on experience the same fear as those in Africa. People want to avoid surgery as much as possible if there is any other alternative. Fibroids are abnormal growths associated with the womb of a woman. They can be found either inside the womb, within the walls or outside the womb, but attached to its walls. They can be

single or multiple, but, usually multiple. They can be as small as an orange seed or as big as the head of a newly born baby. They can grow slowly or grow rapidly. They can be totally symptom less, which means that they may not be a source of disturbance to the patient or can be so worrisome as to become an emergency. They can and usually do contribute to infertility in the woman. Fibroids can be treated via the use of herbal medicine rather than undergoing a surgical operation. According to a medical practitioner, Fadeyi Taiwo, he has managed fibroids cases through the use of traditional herbs. You can also visit the PAX Herbal Clinic and Research Laboratories of the Benedictine Monastery in Ewu, Edo State, Nigeria for confirmation. (Fadeyi, 2006: 48). Visit also [www.theherbaldoctor.net](http://www.theherbaldoctor.net) for more details).

### **Indigenous Medicine and the African Instituted Churches (AICS)**

Orthodox medicine is practiced in western scientific cosmology with its emphasis on the pathological condition of the sick person. Consequently, the African medical system, which is based on the African paradigm, is essentially religious with its cosmological values. Worldview underlines a people's perception of diseases and their methods of treatment. The variance and the ineffectiveness of the orthodox medical system created what looked like a sense of deception in the minds of Africans in the early era of Christianity in Sub-Saharan Africa. The African Christians in the era of foreign missionaries had a sense of disappointment and frustration in the missionaries in the area of health care. Some of the missionaries preached to Africans against the use of medicine while privately they were taking quinine and other malaria medicines. This motivated the Africans to reread the Bible with the African worldview and values adapting the African medical treatment methods and causal factor of health diminution. Thus the armamentaria of the African Independent Churches were holy water, holy olive oil, fasting, confession of sins, sacrifice, herbs, potent words, candles of all colours and invocation of the various

appellations of God, and the missionaries' Bible, which they made use of hermeneutically. This hermeneutical approach towards the Bible by the adherents of African Independent Churches enabled them to identify some Psalms as therapeutics and others for prevention and protection against the activities of witches, sorcerers, evil eyes of enemies, while others could be used in enhancing one's life as well as meeting one's aspirations. (Ubrurhe, Eghwubare, 2004:357 – 358).

In traditional Africa, water, leaves, oil and other objects are just ordinary objects. But the holy water is ordinary water into which the prophet/ prophetesses of the African Independent Churches communicates potency through their use of potent words/prayers as well as invocation of therapeutic power of God. During the blessing of the ordinary water into holy water, various appellations of God are mentioned and powerful Psalms are read over them. Oftentimes, adherents of the African Independent Churches are seen carrying various containers of water to their places of worship and some evangelical crusades. The sick are usually requested to bring olive oil, fanta, water and peppermint into which potency and efficacy are communicated. Various types of diseases have been healed and the users protected from enemies' attacks based on the testimonies of the adherents of African Independent Churches. (Ubrurhe, Eghwubare, 2004: 359)

The foreign missionaries in the past instructed African Christians to dissociate themselves from indigenous medicine as they were considered paganistic. But the African Christians were not given alternatives to the indigenous medicine used for protection, healing, success and other useful purposes. This prompted the African indigenous Churches to find ways of taking care of the perennial and peculiar problems faced by their members. These problems include protection against enemies, success at work, love and healing. The indigenous Christians could not understand why the western missionaries who have special powers in their countries could not bring such to bare in Africa to replace their so – called magic that has been condemned and

forbidden. In order to discover this power, such Africans turned their attention to the Bible and African indigenous culture. Although the AICs make use of the entire Bible, the book of Psalms seems to be the most frequently used. The reason is the fact that the book of Psalms has content that is similar to the content of the incantations in the African indigenous religion. These Psalms are mainly the imprecatory Psalms which discuss the death of enemies. The following Psalms are identified as protective Psalms: Psalms 5, 6, 28, 35, 37, 54, 55, 83, and 109. These Psalms are made use of in conjunction with certain ritual actions with repetition of words. (Adamo, 1997: 91).

Ogunfuye, (Nd: 7) prescribes Psalm 109 for use against enemies. According to him, one will need to go to an open field in the middle of the night or 1 AM. Three candles should be lit, one in the north, one in the east, and one in the west, while the petitioner stands in the middle. The Psalm is to be read with the name of El, the name of the enemy and that of his or her mother in mind. The prayer should be said thus:

Almighty God (name your enemy), the son or daughter of (name his or her mother) is after me to destroy me. Oh Lord of host, I beseech in thy mercy.... Ogunfuye, (Nd: 7)

According to Adeboyejo, Psalms 1, 2 and 3 are unique Psalms for the treatment of stomach pain. These Psalms to be effective, must be read into water with Holy name Walola Asabata Jah 84 times, and the patient is to drink a little of fried oil, potash, small salt and one egg. The intake of the above is expected to heal the sufferer. (Saint Michael Prayer Book, 1988: 21, Adamo 1997:92). For swollen stomach, he recommends Psalms 20 and 40. One is required to get water from a flowing river into a new pot. A complete palm front and three new grown up palm leaves should be put together in a pot, while reading Psalms 20 and 40 with the holy name Eli Safatan 62 times. The patient is expected to light nine candles, bath with water for nine days. Alternatively, the patient is

required to read the above Psalms into mixed fried oil, coconut oil, some cow urine and cheer oil. The holy name above could be read over it for drinking, bathing and should be rubbed on the body. (Adamo, 1997: 92).

According to Oshun, (1983: 40 -59), members of the Pentecostal Churches refute the assumption that their use of water, olive oil and other elements is based on African traditions. To them the use of water for healing has biblical legitimation. The Pentecostals even point to the healing of Naaman the leper (2 Kgs5) as an example of the use of water for healing in the Bible. Nevertheless, there are reasons to hold the view that the use of water and oil along with psalms for healing depicts the African context of traditional medicine. This is because it has resemblance with the preparation and use of concoctions among the various African tribes. (Ademiluka, 1995:223 – 224)

### **Conclusion**

The above analysis so far is simply a microcosm of how the African Indigenous Churches make use of what people may regard as simple therapeutic methods in the treatment of several ailments. What this suggests is that the place of therapeutic systems in African Indigenous Churches cannot be over emphasized. This paper is a simple contribution to the whole debate of the necessity of the African traditional medicine in health care delivery in Africa. It is quite unfortunate that African traditional medicine has continued to occupy an ambiguous legal position which undermines effort to define its proper function within our society.

It is no longer news that it is easier for any government to provide funds to build hospitals or clinics and buy expensive orthodox drugs, than to make money available for research into the development of traditional medicine. In many African societies, it is quite true that sophisticated equipments that are usually non – functional and expensive to maintain are procured. Ironically, many Africans live in rural areas where they have been able to fashion out for themselves how to prevent illness and promote health based

on their indigenous knowledge. This indigenous knowledge was adopted at the Earth Summit 1992 in Rio De Jenerio, Brazil as a critical agent for development.

Finally, there is the need at this juncture to appreciate the efforts of the African Indigenous Churches for their contributions in the area of health care services in Africa. Some of the mission churches are beginning to braze the train in this regard as more Roman Catholic priests and priests of non – Roman Catholic Churches as well as lay faithful are beginning to get involved in traditional medicine practice in Nigeria. However, for better results to be achieved in traditional health care delivery in the sense of putting medicine in proper historical and cultural perspectives there is the need for codification of traditional medicine, which has been achieved by the Chinese. The ability to achieve this fit will assist African countries in the development of effective health care system that is affordable, accessible, acceptable and quite appropriate to the majority of Africans.

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## CASTE SYSTEM AND WITCHCRAFT DEGENERATION OF AFRICAN INSTITUTIONS

**Augustine C. Obi, Ph.D**

### **Abstract**

*There is no doubt that change is an integral aspect of the nature of things. Since human society occupies a peculiar position within the existential framework of the cosmic order, it necessarily expresses the phenomenon of change by exhibiting a dynamism that is always directed to the welfare of the individuals it represents. Societies map out traditions and customs which its members are required to observe and compliance with these regulations is meant to enhance the happiness of the citizens and usher in a period of peace and prosperity. But it does happen that sometimes customs or traditions which were enacted with the best of intentions may over the years become a burden on the people. When situations like this occur, such regulations must either be changed or abrogated because they no longer guarantee the welfare of the members of the community. But there appears to be a very important omission in the context of changing or abrogating a law or custom that has outlived its usefulness. The question is scarcely posed concerning the reason behind the degeneration of customs and traditions that were originally instituted for the upliftment of the members of the community. From history, it has always been the abuse of erstwhile genuine*

*intentions of the pioneering protagonists of traditions and customs that brings the latter into disrepute. This situation obtains on account of factors within and without the community. From this background, an attempt will be made in this paper to examine two outstanding African institutions, namely, caste system and witchcraft that have degenerated in order to discover the original principles that underlie their foundations. The Igbo of Nigeria will be used as a case study.*

**Keywords:** caste system, witchcraft, change, tradition, degeneration

### **Introduction**

Culture thrives through its own internal dynamics. Through the process of acceptance and rejection, culture grows and refines itself. Whenever there is need for renewal, the community as the custodian of culture rises to the challenge. It provides a clear assessment of the issue at stake so that it can be established whether the same is still serving its purpose. By questioning its own customs, traditions and institutions, the community continues to make itself functional and is able to remain relevant not only for its members but also for other communities with which it associates. For communities to remain authentic, they must have reflective members within their ranks. It is the role of these individuals to determine why and how things that have held the community together have fallen apart.

### ***Osu caste system***

Apparently, what is regarded as the *osu* caste system is the greatest challenge to Igbo traditional ethics. The frustrations of western anthropologists who tried to explain it and attempted to trace its origin are recorded. Leith Ross, the most forthright on the system states that *osu* in its present form is an enigma among the

extremely democratic Igbo where no classes let alone caste exist...one thinks they may be of a different and enemy tribe, or of criminal descent marked forever on account of their ancestry but one is told that they are of ordinary Igbo stock and their forefathers held authority and commanded respect...an explanation of a situation so full of contradictions and so foreign to be the general trend of Igbo tribal life” (1937,207). Despite the problem encountered in situating the *osu* system among the traditional Igbo, a breakthrough may be achieved if it is studied within the religious context of Igbo traditional culture. The various traditions of *osu* origin point to its essentially religious basis (Uchendu 1965, 89).

### **Origin of Osu**

The term, *osu* appears to be a vestige or contraction of the statement, *ogu esu* (conflict ensues) which is part of an Igbo proverb devoid of its hypothetical antecedent, *Enyero muo ife ona eli, ogu esu*. The proverb taken as a whole is then rendered as follows: “if the gods or spirits are denied their rightful dues, conflict ensues”. From this derivation, the term *osu* would mean “someone who on account of his offence has lost his rightful place in the community and deserves to be handed over to the gods for appropriate punishment”. The handing over of the individual in question is imperative in order to avert impending calamities or even the extinction of the community.

The conflict, which the prospective *osu* generates, is generally understood as a crime or a serious breach of Igbo traditional ethics. That is why an *osu* necessarily carries a criminal history and tradition. Reputable accounts on the origin of *osu* confirm this position. C. K. Meek holds that “the shrine of *odo* was an asylum for persons who had rendered themselves liable to be sold as slaves on account of a serious offence. The refugee becomes a servant of *odo* and as such his person was sacrosanct...persons who thus become servants of the gods formed a special caste of their own, into which it was taboo for anyone not belonging to the caste to marry” (1970,98). G. T. Basden remarks

that “a person who has committed an atrocious crime was normally liable to immediate punishment by capital sentence in some Igbo towns. Such a man saved his life by running into a shrine and declaring himself publicly as an *osu* (1968, 247). From the account of S.N.Ezeanya, “the murder of a stranger who enters somebody’s house for shelter will call down the anger of the gods. Whenever such a crime was committed the offender was offered to the outraged divinity to placate its anger and ward off grave calamity. Such a victim becomes an *osu* (1970, 37).

As against the “ignoble theory” of origin which holds that an *osu* necessarily carries the burden of a criminal charge is the theory that the system is of noble origin (Basden 1966,250). Several accounts in support of this theory underscore the following facts:

*Osu* system is an institution going back not more than three or four generations and that at its initiation, the *osu* held an honourable position until the slave trade brought it into degradation, and caused it to degenerate to its present unhappy condition...These first *osu* appear to have enjoyed many privileges and ere long became subjects of envy. There were many obligations attached to the office. An *osu* under the original constitution must be of an upright character, and live an orderly pious life acceptable to the god he served. Any infringements or failures would bring disaster upon his head. There were no restrictions to his movements; he was at full liberty to move at will, protected from violence by virtue of his office (Basden 1966, 249-251).

The problem with the “noble origin” theory of the *osu* system is that it is not verifiable but rather appears to be a result of an evolution within the society itself. Members of the society were making genuine efforts to integrate themselves into Igbo traditional

community. The dire situation of an *osu* was understandable because “outside the *osu* village, his privileges were nil” (Basden 1966, 248) The “*osu* are a people with a status dilemma: a people hated and despised; a people whose achievements are spurned by society which is aggressively achievement-oriented” (Uchendu 1965, 89). Arguing from pressure to the problem of integration faced by members of the *osu* system, Basden holds that “it is difficult to give much credence to the statements (concerning the noble theory of origin), though, for the sake of many friends who are members of the *Osu* confraternity, one would like to think of their forefathers as men respected and honoured by virtue of their office. One fears, however, that the desire to give the cult the benefit of bygone pre-eminence, or even equality, had very little to support it. The wish to rehabilitate those who are under the *osu* ban seems rather to be uppermost in the arguments used above” (Basden 1966, 251-252).

Apart from the “ignoble” and “noble” theories, there is what is regarded as the “scapegoat” theory of *osu* origin. Victor Uchendu articulates this theory: “Although the *osu* tradition claims that their ancestors were pro-Aro priests who were highly respected until they were supplanted, the *diala* tradition is a scape-goat theory. In that view, a village, a lineage, a family, or an individual dogged by illness, bad luck or calamities and misfortunes would consult a diviner to find out what was wrong. In such a case, the diviner would recommend the dedication of a slave who would then become the deity’s servitor and carry the sins of the dedicator. Such a servitor became an *osu*. He is feared because the *diala* do not know how to interact with him without offending the deity. He is hated because the *osu* remind the *diala* of their guilt” (1965, 89).

From this account, Uchendu does not provide the moral history of the prospective *osu* whom he just calls “a slave”. He does not demonstrate why this individual qualifies to be an *osu*. This lack of necessary information on the individual at stake raises a cloud of ambiguity over the scape-goat theory. Uchendu provides the categories of persons who cannot be *osu*. According to him,

“neither a *diala*, nor an *ohu* nor a pawn is *osu*. To refer to them as *osu* is the greatest of all insults” (1965, 89). Having furnished this information, one would also expect him to indicate specifically the individuals or groups who qualify to be dedicated as *osu*. Furthermore, Uchendu appears to be caught in a contradiction because the “slave” who appears in the dedication is also included as *ohu* one of those that cannot be *osu*. Another proponent of the scape-goat theory is Arinze. In his account of *igo nmadu osu* (consecrating a person as *osu*) at Awka, he merely provides the rites of consecration and nothing is said concerning the ethical status of the prospective *osu* (1970, 91).

### **Justification of *Osu* System**

From the accounts of its origin the popular and apparent justification for the *osu* system is the satisfaction of the just demand of the enraged gods and spirits and the desire to avert an impending calamity on the community. The *osu* system finds rationalization in Igbo religious belief and dogma. The Igbo believe that to fall out of favour with the deities is to lose ritual status – a state of uncleanness that can be purged by the sacrificial lamb, which in this case happened to be a human being (Uchendu 1965, 89). But the fundamental justification appears to go beyond the appeasement of the gods if the *osu* system is situated within the tenuous environment proto Igbo found themselves as they struggled with the dynamics of an emergent society.

One of the major disasters that hit the Igbo in the course of their evolution as a political group was the great world drought (800-1000 A.D) which resulted in the further dessication of the Sahara desert. Societies that were in former grasslands collapsed. Affected people poured into the forests seawards. So came Eri and his people to the Anambra valley, Oduduwa and his people to Igbomokun and Ogiso and his people to Iduu. These migrants came like all myth making empire builders, with complicated stories, which the autochthonous Igbo concluded were fairy tales. The apparent reason for rejecting these tales was that they presented a

strange worldview to the Igbo. These foreigners introduced man-god kings which the Igbo considered abominable. They brought secret cults that contradicted the open, populist Igbo paradigm. This was in order to protect and project their fables and the political and economic powers inherent in them. They also brought the tribal mark which implied hierarchy and discrimination which are alien to the traditional Igbo (Osuagwu 2004, 11).

From the foregoing standpoint, the *osu* system appears to have been instituted to guarantee the ultimate survival of an evolving community or race as a political and moral body. Uchendu argues in this direction with his position that the social isolation of the *osu* is intended to safeguard the community from ritual contamination and complications (1965, 89). By isolating apostates and criminal elements from its midst, the bond of kinship among the Igbo was strengthened and the moral and political authority of the group could be legitimately passed from one generation to another. This apparent primordial function of the *osu* system appears to be later appropriated by oracles (when the former degenerated) because the latter equally “served as a means of eliminating persons considered as undesirables by the local group and thus made for smoother functioning of the group” (Ottenberg 1958,311). In the words of Uchendu, “there is a correlation between the powerful oracles of central Igbo – Igwekala of Umunneoha in Owerri, Amadioha (Kamalu) of Ozuzu in Ikwere and Agbala of Awka – and the incidence of *osu*” (1965,89).

An important event that contributed immensely to the degeneration of the *osu* system was the Slave Trade because it provided an easy mode of disposing those individuals unwanted by the community. The *osu* “system became bound up with the Slave Trade and while some victims were sold as slaves, others were devoted to the local gods...the slave trade brought it into degradation and caused it to degenerate to its present unhappy condition” (Basden 1966,249-252). According to Elizabeth Isichei, “another institution which underwent similar distortion and corruption was that of *osu*, cult slavery. The service of a god

entailed many arduous and difficult conditions, so the practice developed of delegating the service to a slave. Henceforward, the slave and his descendants belonged to the god...In the nineteenth century their numbers expanded and their status deteriorated dramatically, so that they became outcasts, feared and despised” (1976,47-48). While traditional Igbo society hitherto accommodated the *osu* and allowed them to “build huts to meet their family needs, cultivate farms, marry and bear children” (Basden 1966, 248), at the onset of the Slave Trade, they were denied all these privileges and exiled permanently from their homeland.

The degeneration of the *osu* notwithstanding, what ultimately underlies the system may be resolved as the principle of moral and political survival of the Igbo as a cultural group. The repugnance which attends the present state of the *osu* system in Igbo land should not be allowed to becloud what appears to be the original and pragmatic principle that underlies its foundation.

#### ***Amosu* (witchcraft)**

For the traditional Igbo, the *amosu* cult in its present form remains the most dreaded cult because of its ability to either drastically reduce the quality of life or extinguish it. But is this the primary objective of the cult? The qualification of *amosu* as good or bad which is obvious from the contemporary use of the term already provides some kind of answer to the question. For the traditional Igbo, the cult of witchcraft can either be good or bad depending on its application. In its positive application, Parrinder recounts that “witchcraft can be used for personal advantage and it inspires humans to particular feats of talent” (1963, 136). But when negatively applied, it creates “a wizard who fails to use his knowledge, his verbal power, in the service of the community, but misuses it maliciously and for his own gain...a wizard who has succumbed to the lust for power who disturbs and destroys the life force of his fellow humans and spreads terror for its own sake...and purposely disturbs the harmony and frame of the world

order” (Jahn 1990, 130). This negative application of the power of witchcraft is apparently an abuse of a neutral force nature has made available for the enhancement of the human person.

### **Amosu and wisdom**

Despite the negative and dreadful image the traditional *amosu* person exudes, no traditional Igbo denies the fact that members of this group belong to the “cult of the wise” or the “people of extraordinary powers”. That is why with reference to anyone specially gifted the Igbo say, *olilu amosu* (he is special) or *oliwelu anya* (he has far seeing eyes). The interpretation of these Igbo renditions of an *amosu* person indicate a relation between *amosu* cult and wisdom. But what kind of wisdom is involved in *amosu* cult?

There appears to be three kinds of wisdom in Igbo traditional society, namely, the wisdom of articulating and producing on demand the unwritten history of the community or town; the wisdom of the diviner who determines the cause of events in personal lives and the wisdom of understanding and influencing events outside one’s immediate environment. The last kind of wisdom appears to be the highest and the least understood. This is the level of wisdom to which the *amosu* cult belongs. The traditional Igbo articulate expressions that particularly refer to the members of the *amosu* cult. These expressions which represent the kind of wisdom that is the peculiar property of this group include the following:

*Okuku ocha no na akpa fu nkwo* (a white cock that sees the kite from inside the bag).

For the traditional Igbo, whiteness or white colour is a symbol of power (Obi 2003, 94)

*Ono na uno malu ife zulu na afia* (one who remains at home and yet knows what happens at the market)

*Okwukaojelu* (one who recounts events as someone present)

*Amosu and dynamics of self*

The relation between *amosu* and the African theory of self is informed by the necessary dependence of the former on the latter. To make room for the possibility of witchcraft, the African notion of self differs radically from the Western concept of the same. From the account of M.D.W. Jeffreys, “the Ibo, like many other African peoples, conceive of the human being as composed of three parts: the *chi*, shadow, soul, spirit; the *muo*, the ghost or “revenant”; the *aru*, or the physical body (1949, 25). The position of Jeffreys confirmed by Dominique Zahan (1979, 8-9) indicates that the human person is not an indissoluble entity. Not only is there a dichotomy between the physical body and the soul but also a fissure within the soul which gives room for its apparent double, ghost, which he appropriately refers to as “revenant” on account of its mobility. Paradoxically, “man is one, but the self is multiple...Man can exist in his material body or out of it without being split. When out of the material body, man can be described as a spiritual body” (Metuh 1985, 96).

From the foregoing analysis, it appears that if a serious study of African ontology is undertaken focusing particularly on the analysis of the self, there would be no anomaly not only in adopting the position that one’s body can be alienated from oneself but also that the soul can do the same. The traditional Igbo have expressions that validate these positions like *obi ifepu madu* and *muo madu inata* for someone who is shocked by an experience and *igbu muo madu* for someone who receives an ugly treatment or a serious undeserved rebuke or humiliation from another person. According to Meek, “if a man is suddenly frightened, it is said that his *obi* or his *muo* has taken temporary flight” (1970, 54). Achebe recounts in *Arrow of God* that when Ezeulu, incarcerated at Government Hill heard the children welcoming the new moon “his heart flew out” (1974, 163) and in *Things Fall Apart* he records that “Okonkwo knew how to kill a man’s spirit” (1958, 19).

According to African ontology, the human being does not appear to possess the unity which we usually attribute to it, and the

individual soul is not the undivided whole we think that it is. Among the component principles of the soul, there exists an element which allows the human person to double itself at certain moments of life. This idea is very widespread in Africa if it is not universal (Zahan 1979, 8). Among the Thonga, this fundamental concept is represented as *chitjhouti* or as *dya* among the Bambara and *muo madu inata* among the traditional Igbo. The self normally and naturally possesses a point of fission probably situated at the border of the conscious and the unconscious, and this characteristic guarantees the human person a wide range of para-human possibilities, for example, the ability to be in two places at once, clairvoyance and metamorphosis (Zahan 1979, 8). The possibility of metamorphosis which has many skeptics is recorded in personal encounters by Bloomhill (1962, 164) and Basden (1966, 286-287). The many possibilities the human soul allows the individual confers on the African notion of self a broader and richer content than the Western classic treatises on the soul. The same possibilities make the African define himself not as totally separate from the other but by that which he receives from others at any moment. From this position, the individual does not constitute a closed system in opposition to the outside world in order to secure his substance and limitations. The African personality and his environment copenetrate each other so that between the two entities there is a regular communication, a kind of exchange which demands a posture of permanent listening on the part of the individual to the rhythm of the world. There is in the African person some kind of fluidity that is accompanied by plasticity or malleability which an observer who does not have the required perception will overlook. It is this peculiar elasticity that makes the African define himself in terms of becoming than of being (Zahan 1979, 8).

The fluidity of the African self is possible because of the plane of cleavage within the spiritual principles which constitute the human being. This cleavage opens up in the soul an element which apparently is strange which is its double. The double is a sort

of mobile principle which has the capacity to leave its owner temporarily to roam the world (Zahan 1979, 8). The context of its trips is mostly serene environment, during sleep and often times in dreams. The person whose double is absent finds himself in a state of prostration and lethargy because the will and intellectual faculties appear to have failed. This idea is also reflected in the notions of absentmindedness and daydreaming. The state under consideration appears to be one level of meaning of the Igbo saying, *inodu madu madu na esi muo muo* (to be present yet absent). The trips of the mobile self is real because the places visited and the activities undertaken can be identified.

#### **Amosu as science**

From the intricate relationship between *amosu* and the dynamics of the self, the fundamental character of *amosu* can be established as the ability to know and influence events outside one's immediate environment. The human person is able to achieve this objective if that individual is somehow present to that other environment in question. But what appears to be the feasible mode that guarantees this presence is some kind of self projection. Therefore, the wisdom of *amosu* cult is to be understood as an application of the science of human projection. In the words of William Conton "we in Africa learned a long time ago something the people of Europe are only discovering: that the human mind has illimitable powers over the body that houses it. For example, we know – we don't merely believe, but know from personal experience – that it is possible for one person to bring sickness and death to another without recourse to physical or chemical means" (1960,115).

From the researches conducted among the Igbo, Elizabeth Isichei asserts that "it is possible that the *dibia* of Igbo land were developing real skills or sciences in the sphere of what we would now call extra sensory perception. The imposition of colonial rule has basically put an end to these skills and deflected Igbo intellectual energies into modern spheres as medicine and physics.

It is possible that in doing so it cuts off real and original advance of the human mind and impoverished the total development of human knowledge” (1976,124). With the aid of his/her soul’s double, the traditional Igbo like any other traditional African can project him/her self from his/her body toward any object or location in the universe and influence events at these destinations (Zahan 1979,8). The science of human projection explains from the Igbo traditional perspective both the principle of remote control and bilocation – the capacity to influence events at a distance and the ability to be in two places at the same time.

This interpretation agrees with the position of reputable researchers on witchcraft in traditional Africa. Evans-Pritchard holds the position that “an act of witchcraft is a psychic act” (Pritchard 1937, 21) and Margaret Field who has the best account of witchcraft in West Africa articulates witchcraft as “simply projected at will from the mind of the witch” (Field 1937, 135). For the African, the science of human projection becomes possible because of the nature of the self in African ontology. In the words of Zahan, “the self normally and naturally possesses a point of fission, probably situated at the border of the conscious and the unconscious, and this assures the human person a wide gamut of para-human possibilities, for example, the ability to be in two places at the same time” (1979,8). It is interesting to note that the principle of remote control which underlies the science of witchcraft is applied by space technology in controlling objects on scientific missions in outer space. The production of instruments used in this enterprise appears to be fundamentally inspired by the African dynamics of the human person.

### **Conclusion**

From the exposition of Igbo caste system and witchcraft examined in this paper, it is obvious that plausible justifications can be provided for the presence of these institutions in Igbo traditional religion. The *osu* caste system has been shown to be initially an attempt of a society facing trying times of survival to maintain the

authority of that group as a moral and political body. But the system somehow survived and necessarily degenerated because the society had to pass that crucial stage in its development. Witchcraft in its current state provides an instance of abuse with regard to a noble cult which was meant to enhance the best in the human person and possibly serve as one of the transition points from the traditional to the scientific way of thinking. The fate of the Igbo caste system and the enviable witchcraft cult typifies the degeneration that caught up with other ancient and remarkable institutions across traditional Africa.

### **Recommendation**

From the foregoing attempts to provide the original foundations of caste system and witchcraft, certain concrete steps or actions can be suggested in order to make the best of this research since both systems seek the upliftment of the human person and society.

Caste system should be taught and understood as a noble institution that served its purpose at a lower level of civilization but is now outdated. For the fact that caste system dies hard in many parts of Africa, it appears that laws against caste system may not be as effective as conviction borne out of honest research.

As a way of unfolding the ultimate in the human person, witchcraft should be studied as a science. This approach will systematically deal with the pre-logical orientation of witchcraft that has held Africans captive for many generations and has currently played into the hands of spurious religionists who use it to perpetuate their power over the illiterate. As a science, witchcraft can afford a much needed meeting point between Africa and the global world of science and technology.

African philosophers and scientists should include in their programme of investigations research into other African traditions and institutions because at their foundations lie principles which prove that Africa still have a stake in the world of science and knowledge.

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**SOME CRITICAL CONSIDERATIONS  
ON WOMEN'S RIGHTS UNDER THE SHARIA LAW:  
THE NIGERIAN PERSPECTIVE**

**Ikenga K. E. Oraegbunam**

**Preamble**

Gender issues especially those concerning the place and the role of women in societal development are increasingly assuming positions of prominence in our world today<sup>1</sup>. Most socio-economic, religio-cultural and political discourses in recent times are agog with issues related to the rights, empowerment, dignity and duties of women *vis-à-vis* those of their male counterparts. Questions are often raised on whether or not women can enjoy equal dignity and status with their male partners given the fact that women are equally human beings.

Yet, sociology and anthropology of different cultures and religions even till today reveal that the disdain of women is not

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<sup>1</sup>The 1960s witnessed the rise of feminist movements especially in Europe and the United States of America. So many international conventions, treaties, and conferences are agreed that the dignity of women must be respected, that women should be empowered and not discriminated against, and should not be victims of violence any more. Efforts are being made by women activists of different persuasions to ensure recognition of women's equality with men.

merely occasional but widespread. For instance, according to Indian theories of reincarnation and Karma, a woman cannot enter into paradise (nirvana) unless she is reborn in a man. And if a man leads a wicked life, Hindu-Buddhist thought expects him to reincarnate into a woman by the next life. The dualism of Persian religion too associates men with the good and women with the evil.<sup>2</sup> In ancient Greco-Roman tradition and Jewish thought, women are regarded as religious and legal minors; and in some mainline Christian sects, they are denied the power of the pulpit for reasons that seem to be mainly of tradition, among other things, rather than of divine injunction.<sup>3</sup>

In Nigeria, the problem of women is multi-dimensional. It is religious, cultural, legal, socio-political and economic. Various Nigerian cultures in their ethnic diversities have more or less relegated women to associate positions.<sup>4</sup> In some, women are generally looked upon as labourers and child bearers in marriage institutions that look like mere baby factories. In others, perhaps until recently, they were generally denied opportunity for education and employment attendant to such educational opportunities. They had little or no leisure nor do they have recreation and control of their own lives. Politically, “women are looked down upon by a worldview which sees them as a mere property of the man expected to be available at every beck and call in the midst of a thorough -

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<sup>2</sup> Cf. K.H. Peschke, *Christian Ethics*, Vol. 2, Bangalore: Theological Publications in India, 1994, P. 404.

<sup>3</sup> G.O. Ehusani, *A Prophetic Church*, Ibadan: Intec Printers Ltd., 1996, p. 129.

<sup>4</sup> In Igbo culture, for instance, men are always taken to occupy the position of a boss while women are seen as subordinates. Men dominate joint meetings; women are not allowed to break kola nuts. Often, women are not credited for their achievements. Even till today, they are not allowed in some parts of Igboland to take part in certain festivities, or participate in certain meals, etc. For a detailed study of this problem, see R.N. Uchem, *Overcoming Women's Subordination*, Enugu: Snaap Press Ltd, 2001, pp. 89-99.

going patriarchal society”<sup>5</sup>. Unfortunately too, the mindset still survives that a woman cannot rule over a man in the entire gamut of traditional Nigerian political life.

Be that as it may, this paper is particularly aimed at investigating into the provisions of Sharia, the Islamic Law, with a view to determining whether or not women’s rights are guaranteed in that legal system. Our essay also seeks to know to what extent these rights, if any, are enforced *vis-à-vis* the male dominated practice of Islam in Nigeria. Finally, our discourse will be capped with suggestions that may belie the ache of the *feminic* predicament in Nigerian Islam.

## **The Concept of Sharia**

### **Meaning and Nature of Sharia**

There is no gainsaying that a genuine treatment of our topic will certainly demand a proper delineation of the nature and sources of Sharia law. This will enable us to appreciate our study. Therefore, in what immediately follows, our paper is turned to this direction.

Ever since the foundation and spread of Islam, the question of the meaning of sharia has become an object of investigation by scholars of many persuasions. Literally, the word ‘sharia’ or ‘shariah’ connotes “the clear path to be followed”. It is also at times technically referred to as the cannon law of Islam”<sup>6</sup>. Many Islamic scholars refer to sharia as a “way of life”. It contains “the totality of Allah’s commandments as revealed in the *Quran* and elaborated in the *Hadith* and *Sunna* and interpreted by *Ijma*”<sup>7</sup>. The *Shorter Encyclopaedia of Islam* edited by Gibb and Kramers

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<sup>5</sup> I.K.E. Oraegbunam, “Women Empowerment and Participation in Politics: An Important Index of Nigerian Democracy” in *Koinonia*, Vol. 1, No 3, June, 2002, p.37.

<sup>6</sup> J.P.C. Nzomiwu, *The History and Message of Islam*, Awka: Meks – Unique Publishers, 1989, p. 117.

<sup>7</sup> *Ibid.*

defines sharia as “the road leading to a watering place, the clear path to be followed”.<sup>8</sup> For Nzomiwu, “Sharia is like a network of injunctions and attitudes which govern the life of a Muslim in its totality.” He further notes that it covers every aspect of human conduct and every possible human contingency from the cradle of a Muslim to his grave”<sup>9</sup>. In the same manner, Ahmad maintains that Sharia is the “code of behaviours which is to decide the rightness or otherwise of any particular thing. It is given by God through the prophet”.<sup>10</sup> Aliyu underscores the comprehensiveness of sharia in Islam thus:

Shariah is a comprehensive system of life. It covers all actions, dealings, relations and transactions of a Muslim. It involves all his worldly and other-worldly pursuits. It covers all his activities from profane to the mundane. Indeed for the individual, the shariah has a cradle-to-grave application.<sup>11</sup>

But for Ozigbo, Muslims have tended to arrogate to the sharia system in Islam more than it deserves. He writes:

The shariah in its systemized form is largely a human production, having been put together by a long process of theologizing and screening by eminent Muslim theologian and jurists.<sup>12</sup>

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<sup>8</sup> H.A. Gibb & J.H. Kramers (eds.), *Shorter Encyclopaedia of Islam*, Leiden: E.J. Brill, 1953. pp. 524 – 527.

<sup>9</sup> Nzomiwu, *Op. Cit.*, p. 117.

<sup>10</sup> K. Ahmad, *Islam: Basic Principles and characteristics*, Leicester: The Islamic Foundation, 1974, p. 9.

<sup>11</sup> B.B. Aliyu, *The Shariah: Its Place in Islam and Application in Nigeria*, A Paper read at Spiritan International School of Theology Symposium, Enugu, 23 March, 2001, pp. 3-4.

<sup>12</sup> I.R.A. Ozigbo, *An Introduction to the religion and History of Islam*, Enugu 1988, p. 136.

One therefore observes from the above views of scholars that in Islam, Sharia law governs the entire life of the Muslim. The religious, cultural, political, economic, and social dimensions of his life are guaranteed by sharia.

### **Sources of Sharia Law**

There are no less than eight sources from which sharia originated. These are classified into primary, secondary and subsidiary sources.

### **Primary Sources**

These include the Koran and the Sunna.

### **The Koran**

This is the first and the most important source of Islamic law. Any law that is directly derived from the Koran is regarded as permanent. It is considered as the direct commandment of Allah, who is all-knowing, all-wise, and all-powerful. Therefore, its jurisdiction is claimed to be timeless.

### **The Sunna**

This embodies the teachings, examples and the practices of Mohammed. The sayings of Mohammed (Hadith) are the most important aspect of the Sunna. These are followed by those acts practised by Mohammed himself, and then finally those acts done in his presence and which he seemed to have approved. As a major source of law, the Sunna laws are regarded as permanent and binding on all Muslim societies at all times without modification. Commenting on the importance of the Sunna, Hughes says:

The Sunna law proves that although the Quran contains much that binds the Muslim, it does not contain all; hence the life style of Muhammed comes into consideration.<sup>13</sup>

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<sup>13</sup> J.P. Hughes, *Dictionary of Islam*, pp. 285 – 292.

## Secondary Sources

### **Ijma (Consensus of Opinion)**

This is the consensus of opinions of Muslim jurists, within the provisions of the Koran and the Sunna on any particular legal question that is not clear from either the Koran or the Sunna. In other words, it is the art or science of legal interpretation of problematic passages or issues from the Koran or the Sunna.

### **Qiyas (Analogical Deduction)**

This is a deduction from a clear text of the Koran, Sunna or Ijma to a problem that has no clear guidance from any of the mentioned sources. But the deduction and application will be guided by the general principles of sharia. Byang gives an example of how Ijma legislates with how the punishment of 80 lashes for drunkenness was arrived at. Thus, while the Koran 24:4 holds that the offence of false accusation attracts the punishment of 80 lashes, the jurists agreed that the same punishment should apply to a drunkard who is likely to commit the offence of false accusation when drunk.<sup>14</sup>

### **Subsidiary Sources**

The subsidiary sources include *Istihsan* (Juristic Preference), *Istislah*, *Istidlal* (reasoning), *Urf* and *Adat* (custom and usage). All these are legislating means by which those things on which the primary and the secondary sources are silent and those about which there is no explicit injunction or prohibition are guaranteed. Some are also as a result of custom or usage. They must not however conflict with the provisions of the main sources of sharia.

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<sup>14</sup> D. Byang, *Sharia in Nigeria: A Christian Perspective*, Jos: Challenge Publ., 1988, p. 40.

A discussion on the nature and origin of sharia would certainly be incomplete without mentioning that there are four schools of Islamic Jurisprudence within the *Sunni* sect of Islam, which is the largest. They include the Hanafi, Shafii, Hambali and Maliki schools that were founded by the four great sharia jurisconsults after whose names the schools were named respectively. The findings and opinions of these schools are not homogenous. Not only do they always say different things, some of them contradict one another, and even in a few cases, the primary sources. It is however beyond the scope of this essay to go into the details of the similarities and peculiarities of each school. But it suffices to state that the basic areas of differences are perhaps the differences in the traditions that each school has used the liberty of *Qiyas* in legislating.<sup>15</sup> Be that as it may, by virtue of section 14 of *Sharia Court of Appeal Law*, Cap 122, Laws of Northern Nigeria, 1963, the sharia personal law that has been operative in Nigeria is the Maliki Law “which is opposed to *Qiyas* but stresses the Koran, Sunna and Ijma.”<sup>16</sup>

### **Women’s Rights in Sharia Law**

#### ***Perception of Human Rights Issues in Sharia Islam***

Generally, the idea of human rights in Islam is a subject of controversy. This is because not all the sources and interpretations of sharia as adumbrated above are in sympathy with the guarantee of specific human rights. A reminiscence of our discourse would portray not less than eight sources of Islamic Law whether it is revelations to and traditions of prophet Mohammed (Koran and Sunna), or immediate consensus and deductions from the primary sources (Ijma and Qiyas), or by way of juristic reasoning, preferences and usages in the case of subsidiary sources. As are equally mentioned, there are not less than four schools of Islamic

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<sup>15</sup> D. Byang, *Op. Cit.*, p. 24.

<sup>16</sup> C.O. Ubaka, *Sharia in Nigeria: Its Implications for Non-Muslims*, Enugu: Fourth Dimension Publishers, 2000, p. 18.

Jurisprudence. All these individual sources and schools of sharia are not unanimous with regard to the question of human right. A.E. Mayer observes thus:

I do not pretend to know what should be deemed as the 'present' version of sharia or what constitutes the definitive Islamic doctrines in the area of human rights. I look at what Muslims say and on matters relating to human rights, I observe that there is nothing like an Islamic consensus. There is no one authoritative version of Islamic law that can be said to qualify in all Muslim's eyes as the correct form of sharia, only competing interpretation of Islamic requirements. Some are compatible with human rights and some are not.<sup>17</sup>

The effect of this lack of unanimity in connection with human rights issues in Islam is not difficult to see. Varieties of experience in various Islamic Jurisdictions and among scholars can be quite illustrative. At one extreme, the Taliban in Afghanistan holds that "Sharia requires the most repressive and cruel abuses: stoning adulterers, flogging any woman caught without being swathed in a concealing *burqa*, depriving girls of all education, and precluding women from obtaining health care or working outside the home, etc".<sup>18</sup> But at the other extreme, there are "Muslim human rights activists who see human rights as natural outflowings of the teachings of the Quran and who support human rights as complementary to their Islamic faith".<sup>19</sup>

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<sup>17</sup> A.E. Mayer, "An Exclusive Interview" in D. Ibrahim, *Human Rights and Islamic Law: Are they Compatible?* <http://www.geocities.com/capitolHill/Parliament/3251/Spring> 99/Mayer? 200618.

<sup>18</sup> *Ibid.*

<sup>19</sup> *Ibid.*

Perhaps the reasons for these divergences of attitudes to human rights are, according to Uwais, “as a consequence of the intellectual efforts of Islamic scholars to relate the basic principles enunciated therein, to their peculiar realities and in the context of their times”.<sup>20</sup> In practice, therefore, one can argue that there is no monolithic and one authoritative version of Islamic law that dictates how Muslims respond to human rights issues.

### **Women’s Rights under the Sharia Law as Victim of Historical Distortion**

It is worthy of note that the above observation in relation to human right attitude in Islam is no less relevant to the question of women’s rights in particular under the sharia. Hence, recent discussions on the challenging topic of the dignity and rights of women in Islamic law would always contrast the presently perceived and limited rights yielded to women under the patriarchal perception of Islamic law against the rights which Muslim women could and should have under the primary sources of sharia, namely, the Koran and the Sunna.

Uwais has argued that “it is important to make the above distinction primarily because in the development of Islamic law (Fiqh), women’s rights have been whittled down tremendously, mainly as a consequence of the intellectual efforts of Islamic scholars to relate the basic principles enunciated in the primary sources to their peculiarities and in context of their times.”<sup>21</sup> Consequently, much of what even women themselves believe and accept today to be women’s rights under the sharia although derived from these primary sources, are doctored and influenced by the backgrounds, experiences, and even customs of the scholars of Islamic law in their own times. This underscores the reason why, according to Mayer, recent developments have consisted of ‘challenges to the authority of the medieval Jurists,

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<sup>20</sup> M. Uwais, “A Search for Decency and Human Dignity: Women’s Rights under Islamic Law” in *Vanguard*, 27<sup>th</sup> August, 2004, p. 26.

<sup>21</sup> *Ibid.*

combined with a return to the text of the Quran and the example of the Prophet are the true sources of Islamic law, and the growth of new interpretations of Islamic requirements by Muslim women and enlightened scholars”.<sup>22</sup> These challenges are no doubt directed *inter alia* to the beliefs and dogmas which convey rigidly-held anti-women positions which according to Uwais, are especially glaring in Northern Nigeria where culture and religion are intermingled and intertwined.”<sup>23</sup>

Fortunately, new perspectives in the understanding of Islam now point to compatibility between sharia and human rights. In particular, feminist interpretations are showing “that there is much in the sources that supports the notion that Muslim women were intended to be equal with their male co-religionists”.<sup>24</sup> These proponents argue that the medieval Jurists were strongly influenced by patriarchal traditions when they interpreted the Islamic sources and that they thereby corrupt the original egalitarian message of Islam. This predominance of patriarchy in the interpretation of sources of sharia is largely due to the reality that it has been developed over the centuries mainly from the viewpoints of men.

Thus, in the present section, we shall delineate, in the light of a thorough study of the primary sources (the Koran and the Hadith), the rights of women.

### **An Outline of Women’s Rights in Sharia**

The Supreme Court of Nigeria has defined the term “human rights”:

A right which stands above the ordinary laws of the land and which in fact is antecedent to the political society itself. It is a primary condition to a civilized existence and what has been is to have the rights enshrined in the constitution so that the rights could

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<sup>22</sup> A.E. Mayer, *Op. Cit.*

<sup>23</sup> Uwais, *Art. Cit.*, P. 26.

<sup>24</sup> A.E. Mayer, *Op. Cit.*

be immutable to the extent of non-immutability of the constitution itself.<sup>25</sup>

In the same manner, Ladan writes:

The fundamental rights and freedoms are neither obtained, nor granted through any human actions. They may not be recognized or respected in these actions, but they still belong to each individual. The rights, which derive from inherent dignity, are also inalienable. Nobody can deprive anybody of these rights and nobody can renounce these rights by herself or himself. Legal norms do not establish fundamental rights and freedoms but only guarantee them.<sup>26</sup>

It is thus noted that the term “human” in ‘human rights’ is inclusive of both men and women and it is therefore assured that these standards provide automatic protection to women in the same way that they do to men. Therefore, in our discussion of the women’s rights under the sharia, we shall begin with human rights generally.

### **Basic Rights of all Human Beings under the Sharia**

Under the sharia, every person irrespective of his/her country of origin, religion, race, sex, age or colour, has some basic human rights simply because he or she is a human being, which should be respected by every Muslim. These rights include:

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<sup>25</sup> *Ransome Kuti Vs.A.G. Federation* (1984) 2 NWLR, Pt. 6. p. 211.

<sup>26</sup> M.T. Ladan, “Women’s Rights and Access to Justice under the Sharia in Northern Nigeria” in *Sharia & Women’s Human Rights in Nigeria: Strategy for Action*, Conference Proceeding edited by J. Ezeilo & A.K. Afolabi, Abiya, 27-30<sup>th</sup> October, 2002, P. 37.

### **The Rights to Life**

The first and the foremost basic right is the right to live and respect human life. The Koran lays it down:

“Whoever kills a human being for any reason like manslaughter or corruption on earth, it is as though he had killed all mankind.”<sup>27</sup>

On yet another note, the Koran says:

“Do not kill a soul which Allah has made sacred except through the due process of law....”<sup>28</sup>

And in the Hadith, it is read:

“The greatest sins are to associate something with God and to kill human beings”.<sup>29</sup>

Thus, save in the due process of law, the life of any person should not be taken by anybody. Indeed to underscore the sacredness of life, the Koran says: “And whoever saves a life, it is as though he had saved the life of all mankind”.<sup>30</sup>

### **The Right to Justice**

This is a very important and valuable right, which the sharia has given to every person as a human being. The Koran lays it down: “Do not let ill-will towards any person incite you so that you swerve from dealing justly. Be just, that is nearest to heedfulness”.<sup>31</sup> It further says: “you who believe stand steadfast before God as witness for truth and fair play”.<sup>32</sup>

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<sup>27</sup> Koran 5:32.

<sup>28</sup> *Ibid*, 6:15.

<sup>29</sup> *Hadith*.

<sup>30</sup> Koran, 5:32.

<sup>31</sup> The Koran, 5:8.

<sup>32</sup> The Koran, 4:135.

### **Right to Equality of Human Beings and Freedom from Discrimination**

The sharia not only recognizes absolute equality between persons irrespective of any distinction of sex, colour, race or nationality, but also makes it an important and significant principle, a reality. Hence in the Holy Koran, Allah says:

O mankind, we have created you from a male and female. And we set you up as nations and tribes so that you may be able to recognize each other.<sup>33</sup>

This has also been exemplified in one of the sayings of the Prophet: "...You are all the children of Adam, and Adam was created from clay".<sup>34</sup> Therefore no person should be discriminated against on the ground of the colour of skin, place of birth, gender, race or the nation in which he/she was born.

### **Right to Freedom from Slavery and Inhuman Treatment**

In this connection, the prophet says:

There are three categories of people against whom I shall myself be a plaintiff on the Day of Judgment. Of these three, one is who enslaves a free man, then sells him, and eats this money.<sup>35</sup>

Therefore, save in the case of prisoners of war, the sharia has clearly and categorically forbidden the primitive practice of capturing a free man or woman to make him/her a slave or to sell him/her into slavery.

### **Right to co-operate and not to co-operate**

The sharia has also prescribed a general principle of paramount importance and universal application saying: Co-operate with one another for virtue and heedfulness and do not co-operate

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<sup>33</sup> *Ibid*, 49:13.

<sup>34</sup> Reported by Al-Bayhaqi and Al-Bazzaz.

<sup>35</sup> Reported By Al-Bukhari and Ibn Majah.

with one another for the purpose of vice and aggression”.<sup>36</sup> This means that one irrespective of gender, race, colour or nationality has the right to or not to the co-operation of a fellow Muslim depending on the rightness or wrongness of his/her act.

### **Right to Freedom from Want and Deprivation**

Under the sharia, the needy and the destitute have the right to freedom from want and deprivation. The Holy Koran says: “And in their wealth, there is acknowledged right for the needy and destitute”.<sup>37</sup> Therefore, according to these wordings, without discrimination any one who asks for help and anyone who is suffering from deprivation has a right in the property and wealth of the Muslim.

### **Rights of Citizens in an Islamic State**

While the above-discussed rights belong to all human beings irrespective of religion, the rights of citizens are restricted to Muslims in an Islamic state. Thus, sharia guarantees to all citizens, including children and women, certain fundamental rights in an Islamic state. These are:

### **Right to Security of Life and Property**

In his *Farewell Hajj Address*, the Prophet of Islam says: “Your lives and properties are forbidden to others till you meet your Lord on the Day of Judgement”.<sup>38</sup> Again, the Holy Koran says: “Anyone who kills a believer deliberately will receive as his reward to live in Hell forever. God will be angry with him and curse him, and prepare dreadful torment for him”.<sup>39</sup> And concerning property, the Koran says: “Do not devour one another’s wealth by false and illegal means.”<sup>40</sup>

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<sup>36</sup> Koran 5:2.

<sup>37</sup> Koran, 51:19.

<sup>38</sup> Prophet’s *Farewell Hajj*.

<sup>39</sup> Koran, 4:93.

<sup>40</sup> Koran 2:188.

### **Right to Protection of Honour**

The Prophet's address also prohibited any encroachment upon the honour, respect and chastity of all citizens regardless of age, sex, or colour. The following verses of the Koran are also quite illustrative:

You who believe, do not let one (set of) people make fun of another set; Do not defame one another; Do not insult by using nicknames; and do not backbite or speak ill of one another.<sup>41</sup>

### **Right to Privacy of Life**

Sharia prohibits undue interference or encroachment on the privacy of his/her life. The Koran says: "Do not spy on one another".<sup>42</sup> And "do not enter any house except your own homes unless you are sure of their occupant's consent".<sup>43</sup>

### **Right to Personal Liberty**

Sharia prohibits unlawful arrests or detention of anyone. It is thus related in the Hadith that once, the Prophet was delivering a lecture in the Mosque, when a man rose during the lecture and said: "O Prophet of God, for what crime have my neighbours been arrested?"<sup>44</sup> The Prophet heard the question and continued his speech. When the man rose and repeated the question twice, the Prophet ordered that the man's neighbours be released. The reason for this, as reported, is that the Police officer present in the Mosque at that time did not furnish any reason for the arrests.

### **Right to Freedom of Expression**

In this connection, the Prophet says:

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<sup>41</sup> *Ibid*, 49:11-12.

<sup>42</sup> *Ibid*, 49:12.

<sup>43</sup> *Ibid*; 24:27.

<sup>44</sup> Hadith

If anyone of you comes across an evil, he should try to stop it with his hand using reasonable force, if he is not in a position to stop it with his hand, then he should try to stop it by means of his tongue (meaning he should speak against it). If he is not even able to use his tongue, then he should at least condemn it in his heart. This is the weakest degree of faith.<sup>45</sup>

### **Freedom of Association**

The sharia also guarantees the right to freedom of association, formation of parties or organization.

This is however exercised for propagating virtue and righteousness and not for mischief. Thus, the Koran says: “let there be a community among you who will invite people to do good, command what is proper and forbid what is improper, those will be prosperous”.<sup>46</sup>

### **Freedom of Religion**

The Koran guarantees freedom of religion. It says: “There should be no coercion in the matter of faith”.<sup>47</sup>

### **Specific Rights of Women under the Sharia**

Under the sharia, women are guaranteed the following specific rights because of their special responsibilities and status in the eyes of Islam:

### **Right to Equal Dignity and Value**

It is a teaching of the Koran that women and men are all creatures of Allah, existing on a level of equal worth or value. Thus, according to the Koran, “male and female are created *min nafsini wahidatin* (from a single soul or self) to complement each

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<sup>45</sup> Reported by Imam Muslim.

<sup>46</sup> Koran 3:104.

<sup>47</sup> *Ibid.*, 2:256.

other.”<sup>48</sup> And also in terms of religious and ethical obligations, women and men are clearly equal. The Koran thus provides:  
And who so does good works, whether male or female, and he or she is a believer, such will enter paradise and they will not be wronged the dint in a date-stone.<sup>49</sup>

### **Right to Education**

Ladan observes that “although the more specific commands for the equal rights of women and men to pursue education can be found in the Hadith literature, the Quran does at least imply the pursuit of knowledge by all Muslims regardless of their sex”.<sup>50</sup> Hence, the Koran repeatedly commands all readers to read, recite, to think, to contemplate, as well as learn from the signs of Allah in nature. Therefore, it is the duty of every Muslim and every woman to pursue knowledge throughout life. The Prophet even commanded that the slave girls be educated and he asked Shifa bint Abdillah to instruct his wife Hafsa bint Umar. Besides, audiences of both men and women attended lectures of the Prophet; and by the time of the Prophet’s death, there were many women scholars.<sup>51</sup>

### **Right to Own and Dispose of Property**

The Koran proclaims the right of every woman to buy and sell, to contract and to earn, and to hold and manage her own property and money. The Koran provides:

Unto men a fortune from that which they have earned, and unto women a fortune from that which they have earned....<sup>52</sup>

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<sup>48</sup> Cf. *Journal of Islamic and Comparative Law*, Vol. 15-17 (1985-87). C.I. L.S., ABU. Zaria. P. 10.

<sup>49</sup> Cf. Ibn Quidama, *Al-Mughni, Ba ‘b al-Hijr*, Vol.4.

<sup>50</sup> M.T. Ladan, *Op. Cit.*, p. 61.

<sup>51</sup> Abd al’Ati, *The Family Structure in Islam*, Islamic Publ. Bureau Lagos, 1982, p.198.

<sup>52</sup> Koran 2:256, 18:29; 14:46.

### **Right to Inheritance and Dower**

The Holy Koran grants a woman a share in the inheritance of the family, warns against depriving her of that inheritance, specifies that the dower (mahr) of her marriage should belong to her alone and never be taken by her husband unless offered by the woman as a free gift. The Koran reads:

O you who believe, it is not lawful for you to inherit forcibly the women of your deceased kinsmen nor that you should put constraint upon them that you may take away a part of that which you have given them... But consort with them in kindness, for if you hate them it may happen that you have a thing wherein Allah has placed much good.<sup>53</sup>

#### **3.3.3.5. Right to Maintenance**

The Koran recognizing the importance of complementary sexual roles, grants a woman right to maintenance in exchange for her contribution to the physical and emotional well being of the family and to the care that she provides in the rearing of children.<sup>54</sup>

Thus, despite the fact that a woman has full legal capacity in proprietary matters, and the possibility that she may even be wealthier than her husband, the sharia provides that the husband has to maintain her to a reasonable standard taking into account her social position, the husband's means and all other relevant circumstances. That is to say, this woman's right to maintenance is absolute and does not depend on the wife's means. If the husband becomes so indigent and unable to maintain her, then she becomes entitled to a divorce on that ground.

Moreover, even when the marriage is dissolved, sharia requires the wife to wait for a period generally of three months before she remarries. During this period as a general rule, her

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<sup>53</sup> *The Guinness Book of Records*, 1988, p. 15

<sup>54</sup> Koran 31:34; 46:15

former husband continues to maintain her and right to inherit him subsists so that if he dies before the end of the waiting period she can inherit him.<sup>55</sup> The purpose of the three-month waiting is to know whether the woman is pregnant for the husband. If so, maintenance continues until delivery.

### **Right to Custody of Children**

Dissolution of marriage immediately raises the question of the right to the custody of the minor children of the marriage, if any. The rule under the sharia law is that the right belongs to the wife subject to certain conditions. If the wife is disqualified or if she dies, then the right is transferred to her mother, and failing, to her grand mother. In short the right belongs to the woman and her female relatives. The husband's mother, grandmother and the husband himself are only resorted to as the last resort.<sup>56</sup>

### **Right to be Treated Justly**

With respect to polygamy, the Koran stipulates: "...Marry women of your choice, two, three or four, but if you feel you may not be able to deal justly with them, then only one.... That is nearer to prevent you from doing injustice".<sup>57</sup>

Thus, even though Muslims are permitted to marry as many wives as four, yet the condition precedent is that justice must not only be done but also seen to be done.

### **Right to Respect to Chastity**

Under the sharia, every woman has the right to protect her chastity from being violated. A woman's chastity has to be respected and protected under all circumstances and without distinction as to race, colour, religion, age or nationality. All promiscuous relationship has been forbidden to a Muslim, irrespective of the status of the woman, or whether the woman is

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<sup>55</sup> M.T. Ladan, *Op. Cit.*, p. 63.

<sup>56</sup> Cf. Kasani, *Bidai wa Sanai*, Vol. 3, p. 211.

<sup>57</sup> Koran 4:3.

a willing or an unwilling partner to the act. The Koran says: “Do not approach adultery.” In fact, violation of chastity of a woman is a crime punishable under the sharia.<sup>58</sup>

The above discussion represents the bundle of rights given to a woman under the sharia legal system whether by virtue of being human, being citizen of Islamic state, or being specifically woman. Because of this, many Muslim scholars believe that the Koran not only recommends, but also is even insistent upon the equality of women and men as an essential characteristic of Islamic society. They equally argue that the claim of Muslim and non-Muslim critics that Islam denigrates women and takes them as religiously, intellectually and ethically inferior to men is denied by the Koran.

Be that as it may, it still remains for us to demonstrate that some aspects of Islamic legal system are not in accord with the basic tenets of human dignity and respect in relation to women.

## **Women’s Rights and Sharia Praxis in Nigeria Today**

### ***1999 Constitution and Jurisdiction of Sharia Courts***

Despite several recent Islamic attempts to widen the scope of Sharia application and consequently the jurisdiction of Sharia Courts in Nigeria, the 1999 constitution has confined it only to limited aspects. Outlining the constitutional courts, section 6 (5) of the constitution mentions, *inter alia*, the Sharia Court of Appeal of the Federal Capital Territory, Abuja (para. f) and Sharia Court of Appeal of a State (para. g) respectively. Again, sections 260 and 275 of the constitution provides for the establishment of the above respective Sharia Courts of Appeal. The constitution is equally explicit in delineating the jurisdiction of the Sharia Courts of Appeal. Hence, in very similar wording, both sections 262 (2) and 277 (2) provide for the jurisdiction thus:

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<sup>58</sup> Cf. M.T. Ladan, *Op. Cit.*, p. 50.

...the Sharia Court of Appeal shall be competent to decide –

- (a) any question of Islamic personal law regarding marriage concluded in accordance with that law, including a question relating to the validity or dissolution of such a marriage or a question that depends on such a marriage and relating to family relationship or the guardianship of an infant ;
- (b) where all the parties to the proceedings are Muslims, any question of Islamic personal law regarding a marriage including the validity or dissolution of that marriage, or regarding family relationship, a foundling or the guardianship of an infant;
- (c) any question of Islamic personal law regarding a wakf, gift, will or succession where the endower, donor, testator or deceased person is a Muslim,
- (d) where all the parties to the proceedings, being Muslims, have requested the court that hears the case in the first instance to determine that case in accordance with Islamic personal law, any other question.

This jurisdiction is however set out for the purpose of subsection 1 of section 262 and 277 respectively. The subsection states:

The Sharia Court of Appeal of the Federal Capital Territory (or of a state) shall, in addition to such other jurisdiction as may be conferred upon it by an Act of the National Assembly (or a law of the state), exercise such appellate and supervisory jurisdiction

in civil proceedings involving questions of Islamic personal law<sup>59</sup>

The implication of the above provisions is that the jurisdiction granted to the Sharia Courts of Appeal by the constitution is restricted not only to civil justice but further to its personal aspects such as matters of marriage, divorce, inheritance, gift, custody of infants, etc. The whole realm of criminal and penal justice is therefore excluded.

It is again needless to argue that the entire gamut of the provisions must be read together with section 10 which provides that “the Government of the Federation or of a state shall not adopt any religion as state religion”. Hence, the clause, “in addition to such other jurisdiction as may be conferred upon by Act of the National Assembly or law of a state”, as the case maybe must be so read. Otherwise, according to Nwabueze ‘if the meaning is such that the state can at random add to the jurisdiction of the Sharia Courts of Appeal without any restriction, then the provision in section 10 would virtually be rendered nugatory’.<sup>60</sup>

Moreover, Nwabueze observes that the words in subsection 2 of both sections 262 and 277 to the effect that “for the purpose of subsection 1 of the sections the Sharia Court of Appeal shall be competent to decide” only those matters from (a) to (e) constitutes a further limitation of jurisdiction.<sup>61</sup> However, it has been argued that pursuant to the doctrine of *existing laws* as provided for under section 315 (3) of the constitution, other aspects of Islamic civil law may be entertained by the Sharia Courts of Appeal, but certainly not criminal justice which practice have long

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<sup>59</sup> Cf sections 262 (1) and 277 (1) of the *Constitution of the Federal Republic of Nigeria, 1999*.

<sup>60</sup> B. Nwabueze, “Freedom of Religion: The Religion Neutrality of the state under the constitution and the Sharia Controversy” in *Bulletin of Ecumenical Theology*, Vol. 13, 2001, p.

<sup>61</sup> *Ibid.*

since been abolished in Nigeria in relation to Sharia and Customary jurisprudence.<sup>62</sup> This means that any legislative body that adds the criminal and penal aspects to the jurisdiction of the Sharia Court of Appeal of its enclave is clearly acting *ultra vires*, and that legislative act is bound to be unconstitutional, and consequently null and void.

Yet in 1999, Zamfara state of Nigeria in contravention of this constitutional provision extended the jurisdiction of its Sharia Courts and Sharia Court of Appeal to include criminal proceedings.<sup>63</sup> And by virtue of section 1 (3) of the 1999 constitution, the *Sharia Courts Law of Zamfara State 1999* ought to be declared unconstitutional, null and void to the extent of its inconsistency with the constitution. Instead, the courts have declined their function of judicial review in this regard, which irresponsibility has led to many other Northern Nigerian States joining the Sharia chorus. The *domino* effect is that such penal practices as amputation of hands, *haddi* lashes, stoning to death, often meted to Muslim women, as a consequence of criminal proceedings in Zamfara and some other Northern States constitute a menace to Nigerian constitutionalism.

### Section 55 of Penal Code

There is no doubt that the enactment of the *Penal Code*,<sup>64</sup> the major legal framework governing substantive criminal jurisprudence in the Northern Nigeria, is traceable to Sharia sentiments. This is because according to Okonkwo, the *Penal Code Law 1959* which displaced the criminal code application in the

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<sup>62</sup> Cf. C. O. Okonkwo. *Criminal Law in Nigeria*, Ibadan: Spectrum Books Ltd., pp.4-12.

<sup>63</sup> Cf. sections 5 (1) (b), 42 & 43 of *Sharia Courts Law No. 5 of 1999 of Zamfara State of Nigeria*.

<sup>64</sup> Cf. the *Penal Code*, cap 89, laws of the Northern Nigeria, 1963.

North was based on the Muslim code of the Sudan.<sup>65</sup> Section 55 of the *Penal Code* provides:

Nothing is an offence, which does not amount to infliction of grievous hurt upon any person which is done by a husband for the purpose of correcting his wife, such a husband or wife being subject to native law or custom in which such correction is recognized as lawful.

It goes without saying that this provision contravenes section 34 of the constitution which prohibits inhuman and degrading treatment. The case of *Uzoukwu V. Ezeonu II*<sup>66</sup> is relevant in the definition of the key words of section 34. In this case, the court of appeal defines ‘torture’ to include mental harassment as well as physical brutalization while ‘inhuman treatment’ characterizes any act without feeling for the suffering of others. Again, ‘degrading treatment’ was articulated as the element of lowering the societal status, character, value or position of a person. Section 55 of *penal code* is therefore inconsistent with section 34 of the constitution. This is particularly true as it is trite that motive, even if that of correcting a wife, is irrelevant in law.<sup>67</sup> Besides, the section 55 of *penal code* discriminates against women since it does not confer on them the same legal rights of chastising their husbands. This is despite the fact that the Koran (49: 13) commands equality of human beings and freedom from discrimination. Thus, the freedom from discrimination envisaged also by section 42 of the constitution is kept at bay by the *penal code*.

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<sup>65</sup> C. O. Okonkwo, *Criminal Law in Nigeria*, Ibadan: Spectrum Books Ltd., 2002, p. 9.

<sup>66</sup> (1992) 5NWLR, pt.475, p.60.

<sup>67</sup> Cf section 6. of *Anambra State Torts Law, Cap.135* Laws of Anambra State of Nigeria (Revised Edition) 1986.

### **Poverty of Muslim Women**

Women as many in the North-West zone of Nigeria (Sokoto, Kebbi, Zamfara, Kano, Jigawa and Kaduna State) otherwise known as the Sharia compliant states, are among the people in Nigeria who are abjectly poor. Bande observes thus:

.... The incidence of poverty, ignorance, disease, squalor, poor diet and poor shelter is more pronounced in this zone than in all other zones of Nigeria. The poverty level is also striking.... Unemployment figure is also high while majority of the inhabitants of the zone are peasant farmers with many not actually able to produce enough for their subsistence....<sup>68</sup>

There is no gainsaying that gender disparities in economic power sharing are an important contributing factor to the poverty of women in the zone. While poverty affects households as a whole, because of gender division of labour and responsibilities for household welfare, women bear a disproportionate burden, attempting to manage household consumption and production under conditions of increasing scarcity. Therefore, poverty is particularly acute for women in this zone. This *feminic* poverty is clearly directly related to the absence of economic opportunities and autonomy, lack of access to economic resources including credit and land ownership.

All these go to show that even when the Koran provides for everyone's right to freedom from want and deprivation (51: 19), what really obtains in practice is quite different. But this also

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<sup>68</sup> T. Bande cited in M. T. Ladan, "Women's Rights and Access to Justice under the Sharia in Northern Nigeria", in *Sharia and Women's Rights in Nigeria*, p. 78.

contravenes section 16 of the constitution, which provides for equal economic opportunity for men and women. Hence, one of the elements of the multiplier effects of women poverty is that apart from the consequent discrimination meted against women in this regard, they cannot also have access to justice for the enforcement of their rights.

### **Muslim Women and Right to Inherit**

It is true that the Koran secures for Muslim women the right to inherit. Verse 4: 7 states that “there is a share for men and a share for women whether the property be small or large”. Indeed, it has been argued that, contrary to many dissenting views, the Koran and Islam recognize more than any other holy book or religion the right of women to inherit. Yet, the mode of distribution of the property of the deceased between male and female inheritors is far from equitable. Verse 4: 11 of the Koran states: “God directs you as regards your children’s (inheritance), to a male, a portion equal to that of two females”. Sometimes, this unfair practice is defended with the argument that men should inherit more property because of their greater responsibilities in the family and the society. This may be sustainable in the Mohammedan era but not in the modern society of today when economic responsibility is determined by many factors and variables other than the needs of the family. Therefore, it can rightly be argued that the inequitable inheritance in the Koran based on gender is clearly opposed to freedom from discrimination on the basis of sex as enshrined in sections 17 (1) (2) & (3) and 42 of the constitution. It is equally no thanks to gender discrimination in the question of inheritance that the court decision in the case of *Muojekwu V. Muojekwu*<sup>69</sup> prohibits the denial of inheritance to women under the Nnewi customary law, a

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<sup>69</sup> (1997)5 NWLR, pt.542, p.283. Cf. also *Muojekwu v. Ejikeme* (2000)5 NWLR, pt. 657, p.402; *Muojekwu V. Iwuchukwu* (2004) 11 NWLR, pt. 883, p.196.

practice which is manifestly incompatible with the plain wordings of section 42 of the constitution and article 2 of the *African Charter on Human and Peoples Rights* which has been domesticated and incorporated into our body of laws.

### **Muslim Women and Rules of Evidence**

A clear reading of verse 2: 282 of the Koran reveals that the general tradition imposed on all testamentary evidence in Islam is that the evidence of a woman is half the evidentiary value of one man. The verse states:

When you contract a debt for a fixed period, write it down... and get two witnesses out of your own men... and if there are no men available, then a man and two women so that if one of them errs, the other can remind her....

It has however been argued by scholars that this evidentiary rule is primarily restricted to cases of business transactions, civil debts and contracts. These constitute areas where women in those days were regarded as lacking in experience and requisite skills. Yet it is the truth that in modern society, Muslim women desire and indeed find themselves in the labour market where they can no longer be described as inexperienced and completely lacking in skills. Therefore, the Islamic practice in this regard which has continued up till today is at variance with the provisions of not only section 42 of the constitution which prohibits gender discrimination but also of section 17 (2) (a) thereof which provides for “equality of rights, obligations, and equal opportunity before the law”. By extrapolation, this practice perhaps degrades the human status of women folk albeit by making two women equal to one man. Hence, this unfair gender equation collides with the provisions of section 34 of the constitution that prohibits human degradation. Besides,

our adjectival laws regard everybody equally irrespective of gender as a competent witness in court proceedings except in the consideration of the court one is prevented from understanding the questions put to one, or from giving material answers to those questions by reason of tender years, extreme old age, disease whether of the body or mind, or any other cause of the same kind.<sup>70</sup> Thus, nowhere is the court's consideration based on gender.

### **Muslim Women and Political / Domestic Authority**

Plain wordings of the main sources of sharia law forbid women from assuming positions of authority and leadership in a Muslim community (ummah). The Koran says: "men are in charge of women".<sup>71</sup> Prophet Mohammed also declares: "verily, that nation would not prosper which hands over the reins of its government to a woman".<sup>72</sup> All these indicate that Muslim women are denied an important aspect of their constitutional right to be appointed or voted to a position of leadership. This is inconsistent with the provisions of section 42 of the constitution. Again, nowhere in all the sections<sup>73</sup> of the constitution on qualification and disqualification for respective elective offices is it provided that women are not eligible. Further more, this prohibition is against the spirit of national integration which according to section 15 (2) of the Constitution shall be encouraged by shunning all forms of discrimination including that on the basis of sex. No doubt, this attitude of political disenfranchisement of the female gender in Muslim enclave ought to be declared null and void for being inconsistent with the supreme law of the land.

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<sup>70</sup> Section 155 (1) of *Evidence Act*, Cap112. L. F. N. 2004.

<sup>71</sup> Koran 4: 34.

<sup>72</sup> *Bukhari al – Sahih*.

<sup>73</sup> Cf. sections 65, 66, 106, 107, 131, 137, 177, 182, etc of the *Constitution of the Federal Republic of Nigeria, 1999*.

Again, in Islamic family law, men exercise their full authority on women and on their children as long as they are married. In Islamic marriage, a wife and her co-spouses owe their husband submission and fidelity (4:19) that also has the right to punish them for disobedience when necessary. In practice and in most interpretations of Koran and the sharia, it means that many constitutional rights, namely, the rights of women to economic, political and social participation as provided for in chapter two of the constitution are, under a religious garb, trampled upon. It means also that the rights for physical integrity as well as reproductive and sexual rights of women depend on men's approval. More so, a legal system that permits men to marry as many as four women without a reciprocal guarantee to women is clearly not only discriminatory but also regards women as mere chattel (4: 33).

### **Muslim Women and Denial of Marriage Consent**

Although it is claimed that many are the hadith depicting Mohammed's insistence on the consent of the female in marriage,<sup>74</sup> yet the Sharia dogma that had persisted in many jurisdictions is that the male guardian, in the exercise of the power of *Ijbar*, may give her away in marriage without her consent irrespective of her age. The case of *Kekurah vs. Matthew*<sup>75</sup> is quite illustrative. In the instant case, Mr. Matthew is the father of a girl called Keturah. He was a Christian in Tiwugu in Niger state. Before Keturah reached puberty, she had been betrothed to a Muslim called Mohammed Jiya. When she reached the age of maturity, Mohammed made moves to marry Keturah. She refused on the grounds that as a Christian, she would not marry a Muslim in keeping with the

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<sup>74</sup> M. Uwais, "A Search for Decency and Human Dignity: Women's Right under Islamic Law" in *Vanguard*, Sept, 3, 2004, p.

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<sup>75</sup> (1984) Reported in D. Byang, *Sharia in Nigeria: A Christian Perspective*, Jos: Challenge Press, 1988, pp 10-12. See also

*Ndakotsu V. Yakafa*, all reported in D. Byang, *Op. Cit.*

biblical injunction of 2 Corinthians 6: 14-18. But because her father, Mr. Matthew, was bent on giving her away to Mohammed, she filed a suit against him in Area Court at Bida. The court ruled in favour of her father, that he had the right to give her away in marriage to any man of his choice. It was the Sharia personal law that was applied in judging the case. On appeal to the Upper Area Court at Bida, the decision of the lower court was overruled. However, in subsequent appeal by the father to the Sharia Court of Appeal in Minna, the verdict of the court of first instance was returned thus denying Keturah the marriage consent that should belong to her as a fundamental right. It was only by extra – judicial circumstances that Keturah later married another Christian of her own choice.

From the above facts, it is crystal- clear that even though Mr. Matthew professed to be a Christian, he was largely a Muslim at heart insisting as he did to exercise his power of *ijbar* under Sharia personal law. In our considered view, this Muslim denial of the female marital consent tantamount to an infringement on the female's right to freedom of thought, conscience and religion as enshrined in section 38 of the constitution. This is particularly true as consent has to do with thought and conscience, which are often moulded by one's religion. Therefore, in *Keturah* as in many other cases where Sharia personal law was applied, females were often denied of their inalienable rights to self-determination in marital life. Clearly, under section 3 (1) (d) (i) (ii) (iii) of the *Matrimonial Causes Act, 1970*, a marriage is void if the consent of either of the parties is not a real consent.

### **Muslim Girl-Child Early Marriages**

There is no doubt that under Sharia compliant jurisdictions as in Northern Nigeria, many young girls are married off from ages between 7 and 16 years. The notion that marriage to a girl-child is permissible stems from the fact that Prophet Mohammed is

believed to have married a girl of tender years Aisha, and his second wife Umm Rumann, a fact which Muslims regard is part of the practices of the prophet which constitute an important aspect of the sources of Sharia, namely, the Sunna.

It goes without saying that apart from the consequent emasculation of the girl-child's educational opportunities in contravention to section 18 of the constitution, practice of girl child marriages is often dangerous to the psycho-somatic health of the child. In addition to being mentally unprepared to take on the onerous duties that attach to the matrimonial caring, the child bride has no knowledge of family planning and is under pressure to become pregnant immediately. Again, many of these unfortunate child brides are prone to the horrible VVF (vesico-vaginal fistula) condition not only because of the relatively immature size of their pelvis, but also because of the lack of adequate nutrition and basic health care at the actual time of delivery. The continued practice of this would be inconsistent with section 17 (3) (d) of the constitution that enjoins adequate medical and health facilities for all persons.

### **Muslim Women as Victims of Procedural Irregularities in Sharia Courts**

Assuming without conceding to the constitutionality of criminal jurisdiction of Sharia courts in Nigeria, yet in all the notorious criminal cases decided by the Sharia trial court judges since 2000 in respect of adultery or fornication (zina)<sup>76</sup>, women have always been victims of judicial disregard to the constitutional safeguards on fair hearing as provided in section 36 of the constitution. These constitutional safeguards or procedural guarantees are mainly the basic rights of an accused person before, during and after trial. Hence, in the cases of *The State V. Safiyatu*

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<sup>76</sup> Cf. Sections 126 & 127 of *Shariah Penal Code Law* (2000) of Zamfara State.

*Tudu*<sup>77</sup> and *The State V. Amina Lawal Kurami*,<sup>78</sup> the procedural guarantees were not observed in favour of the accused persons, thereby resulting to denial of justice and violation of fundamental rights. Ikpeze observes too that in the judgement of the trial courts, the male partners in the adultery / fornication cases were not found guilty.<sup>79</sup> One wonders whether the court decisions conformed to the equality cause of section 14 of the constitution and non-discrimination provision of section 42 thereof. It took only the judgment of the Sokoto State Sharia court of Appeal in the case of *Safiya Husseini V. A. G. Sokoto*<sup>80</sup> to enunciate the importance of procedural guarantees. In the instant case, the court unanimously allowed the appeal of Safiya and quashed her conviction of stoning to death on grounds of procedural irregularities. Ladan observes that this miscarriage of procedural justice is partly due to the absence of Sharia Criminal Procedure Codes in many Sharia states.<sup>81</sup>

Moreover, most sharia court judges were appointed to man these Sharia courts without any training in comparative human rights and administration of justice in Nigeria. The effect is that the patriarchal propensity inherent in these untrained judges is allowed to bear on their judgments thereby resulting to denial of justice and violation of human rights generally and women's right in particular.

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<sup>77</sup> Cited in O. Ikpeze, *Position of Women in Shariah Jurisdictions*, An Unpubl. Lecture on Women and Minority Rights Law, Faculty of Law, Unizik, Awka, 2005.

<sup>78</sup> Cited in *Ibid.*

<sup>79</sup> *Ibid.*

<sup>80</sup> Unreported suit (25-3-2002), cited by Ladan, *Op. Cit* p. 80.

<sup>81</sup> *Ibid.* p 81.

### **Muslim Women and Dissolution of Marriages**

Dissolution of marriages is allowed under the sharia as it is under the Nigerian *Matrimonial Causes Act, 1970*. There is however a major difference between the two provisions. By virtue of section 15 (1) of the latter law, either of the parties to a marriage can initiate proceedings for dissolution of marriage under relevant facts enunciated in sub-section 2 thereof. But under the sharia, men only are given the right to unilaterally invoke divorce, an act that clearly violates section 42 of the constitution that prohibits discrimination on the basis of sex. Thus, divorce in Islam could be invoked in various ways: by *talaq* (unilateral repudiation by husband), by *khul* (a discharge by the husband at his wife's request), by *mubara'ah* (mutual agreement), and by *faskh* (judicial order). In all these ways, experience shows that men have an upper hand. It has been argued that men are granted this right and advantage most probably because at the inception of marriage and within the family construct, the man pays the dower, maintains and supports the woman who is thus expected to act more cautiously in times of crisis.<sup>82</sup>

However, from experience, even in respect of the attempted invocation of *khul* by the woman following unbearable hardship experienced in the duration of a marriage, the husband has been known to withhold his consent as continued punishment. In some occasions, unless the woman pays the husband an agreed sum of money called the *khulil*, the divorce will not take place as decided in the unreported case of *Kachalla V. Kachalla*.<sup>83</sup> Hence, women have thus been placed in a precarious and unfair situation by a strict, self-centred adherence to the letter of the *koranic* law without regard for the spirit of treating the wife in kindness and with equity. In our considered view, this unilateral right to divorce rested only on husbands with its attendant ill-treatment to wives at the event of irretrievable breakdown of marriage is inconsistent

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<sup>82</sup> M. Uwais, *Art. Cit.*, Sept. 17, 2004, p. 26.

<sup>83</sup> Suit No. F C A / K / 85 / 82 (Kaduna Federal Court of Appeal).

with humane treatment and right to liberty as guaranteed by sections 34 and 35 of the constitution. This is true as unreasonable withholding of consent to divorce by the husband is equal to the denial of the wife's right to liberty.

### **Muslim Women and Rights to Movement and Association**

In many sharia jurisdictions including Nigeria, men's guardianship of women can amount to infringement on women's rights of movement and association by giving men a more or less high degree of control over women's public activities. In Sudan, for instance, the right of women to freely travel and more is limited by the institution of the *muharram* whereby women are always accompanied by a man with whom they have blood relations who accompanies them and acts as their guardian.

In the same vein, sharia is opposed to men and women mixing up in public places which practice is difficult in the modern globalized world. This makes it impossible for women to have professional jobs in the civil service or in the private sector, as well as to participate in national political affairs. This is also the effect of the *puddha* system which confines Muslim women and secludes them from public life. Furthermore, another provision of the Koran and of Sharia that has significant implications for women's right and status in Islam is the notion of *hijab* or veiling. Although this practice is for the purpose of modesty and chastity, yet further interpretations maintain that *hijab* means more than the fact of covering ones face or body in a public place. Most of the verses of the recommending *surah* address women specifically and enjoin them to be reserved and to stay at home, that is, to abstain from public life.<sup>84</sup> All these result to the denial of women's fundamental rights to movement and association as provided for in sections 40 and 41 of the constitution.

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<sup>84</sup> Cf. Koran 33. Verses 30, 31, 51, 53 address women specifically.

### **Muslim Women and Law of Monetary Compensation (Diya)**

Under the law of retaliation demanding that the author of a violent crime pays compensation to the victim's surviving relatives, the required compensation is smaller when the victim is a woman.<sup>85</sup> It is on the basis of such a principle that in some Arab countries such as Yemen and Iran, insurance companies pay half of the premium when victim of an accident is a woman.

### **Recommendations and Conclusion**

The implementation of Sharia law has caused much controversy worldwide because of perceptions that it has the potential of violating certain human rights especially those of women and minors. In Nigeria, this impression has been created in the minds of many with regard to many recent sharia court decisions involving women. Our study has revealed that even when the primary sources of Sharia guarantee several rights to women, interpretations of these have often been coloured and doctored by patriarchy and male chauvinism. Thus, the Nigerian women have faced many forms of sex discrimination in the name of religion, a product of the patriarchal society that has insidiously shaped gender relations in Nigeria over centuries.

We have also in the course of our study looked at the present Nigerian constitution to see how much of human rights are guaranteed in the interest of women. It is discovered that while some provisions of the constitution are favourable to women's rights, others are clearly not in sympathy with their welfare. However, it is via the lens of the constitution that we considered the propriety or impropriety of the Sharia provision on women's rights. Our recommendations will cover the inadequacies of both legal systems with respect to women's rights. We take them *seriatim*.

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<sup>85</sup> Cf. Koran 2: 173.

## Recommendations

### *Islamo-Legal Reforms*

Muslims regard sharia as immutable divine law that should guide their lives from cradle to grave. But the truth is that some of the provisions are no longer *in tandem* with modern living. Sharia and Islam should be in urgent need of modernization and reform. Socio-historical change and evolutionary spirit make it inevitable for Sharia Islam to read the ‘signs of the time’. In pursuance to this, Islam needs to reform its laws in line with the modern needs.

An Egyptian judge, Mahammed Saidel – Ashnawi advises his fellow Muslims on Sharia. He claims that Sharia is more a spirit than a letter, a programme of social change aimed at progress and liberation, not at preserving the *status – quo*.<sup>86</sup> According to him, at the time of Prophet Mohammed, laws were made with regard to the circumstances of those times. Today, different circumstances call for different legislations. Therefore, if Sharia emanated from the socio-religious needs of the time, nothing prevents the modern day Islam from reinterpreting Islamic laws along democratic principles. This event will no doubt address those Sharia provisions that not only relegate women to inferior positions but also those that keep their dignity down. Some areas need be mentioned.

Marriage comes first to our mind as an important institution among peoples of diverse cultures and religions. A valid marriage establishes certain essential rights and responsibilities on spouses. We advocate that Muslims in Nigeria should imitate many sharia-practising jurisdictions today in which marriages are registered with the marriage contract reduced into writing. This practice affords the wife the opportunity to document her preferences in a

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<sup>86</sup> Cited in H. A. Adigwe, “The Rights of Muslims in Nigeria to Sharia” in *German Alumni Newsletter*, vol. 7, Sept 2000, p. 26.

legal document with terms that could be enforced if the need arises. According to this, women have been known to stipulate conditions in their contract such as monogamy, separate accommodation in the event of polygyny, the right to work, the right to invoke a divorce where the marriage becomes unbearable for the woman, all of which are legitimate and considered enforceable in the Sharia courts. This is highly needed in Nigeria where Muslim women have been the victims of many injustices within the institution of marriage.

Again, the question of Islamic polygyny needs to be reappraised. The Sharia permits polygyny when Koran says to men: "...marry women of your choice, two, three or four..."<sup>87</sup> But the verse quickly adds: "...but if you feel you may not be able to deal justly with them, then only one..." The obvious implication of these verses is that they do not confer an unrestrained licence to men to take to polygamy. Yet many women suffer untold hardships at the hands of their husband consequent upon the formation of polygamous family. It should therefore be appropriate for a regulatory law to be passed that controls and checks abuses of the *Koranic* permission. Such a law should take care of the circumstance and capacity in which subsequent wives are to be taken by men. It should also stipulate the liability of a husband at the event of breach of terms and obligations of the marriage contract.

Besides, a Family Code which could assist a Muslim woman assert her rights against whom the woman should have a right of action on grounds of lack of maintenance is quite germane. This is needed because for a man to be able to retain the advantages envisaged for him as head of the family by the letter of the law, he should adhere to the spirit of supporting and maintaining the women in the letter as well as in the true essence.

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<sup>87</sup> Koran 4: 3.

Furthermore, the rampant phenomenon of child marriages in Muslim enclave *inter alia* should be prohibited in codified form. This is to ensure that the girl-child is given the opportunity to educate and prepare herself for the onerous responsibilities that marriage entails. This will also protect her from the vagaries of childbirth and the attendant health implications.

Finally, the issue of unilateral divorce by husbands should be looked into. It is suggested that Islamic legal system in Nigeria should join the several Sharia implementing jurisdictions in the world today that prohibit divorce outside the court of law. The unilateral right of men has obviously been abused in many instances. Therefore, judicial control of divorce is needed to ensure that all divorces are for justifiable reasons. This act is no doubt justified under the doctrine of *maslahah* (public welfare) or the doctrine of *hisbah* (the state to be seen as encouraging good and discouraging evil). Nigerian Muslims should too consider the practice in countries like Morocco, Syria, Algeria and Iran where the courts are empowered to order the husband for compensation where divorce (*talaq*) is for no just cause. In Pakistan, divorce only takes effect ninety days after it has been reported to Arbitration Council, which seeks to reconcile the couple.

The Muslims in Nigeria should be courageous enough to effect the above reforms and more since they are still within the ambient of Sharia 'personal law' which constitutes the confines of the jurisdiction of the Sharia courts as provided for in section 262 (2) and 277 (2) of the constitution.

### **Constitutionalism and Observance of the Rule of Law**

There is the need to respect the constitution as the fundamental law of the land. The constitution should be superior to

any other law in force in any nation. In Nigeria, by virtue of section 1 (3) of the constitution, “if any law is inconsistent with the provisions of the constitution, the constitution shall prevail, and that other law shall to the extent of the inconsistency be void”. This provision is apt for the realization of the common good of the nation. It is along this line of thought that those Sharia laws in force in Nigeria which detract from the enhancement of fundamental rights of women should be reappraised in the light of multi-religious and pluralistic posture of the nation. Therefore it is recommended that Sharia laws just as customary laws should be subject to the validity tests to ensure that those laws which are inconsistent with the constitutional provisions especially of the bill of rights are rendered unenforceable.

Again, the principle of the rule of law demands that the so-called ‘Sharia states’ should restrict the jurisdiction of their Sharia courts to the provisions of the constitution, namely Sharia personal law. This adherence will certainly shield women from the degrading punishments which they frequently face at the determination of criminal proceedings that often trample on their fundamental rights especially that of fair hearing.

### **Avoidance of Fanaticism**

The word ‘fanaticism’ derives from the Latin *fanaticus*’ meaning an inspiration from the deity that targets excess. Chidili observes that all sheds of fanaticism share common characteristics. They include “rigidity of beliefs and behaviours followed with lack of openness to other possibilities, a sense of exclusiveness and absolutism, personal pride and antagonism, or hostility towards alternate views or ways”.<sup>88</sup> There is no doubt that these features of fanaticism are still prevalent in Nigerian Islam and its Sharia. Islamic religion therefore needs to soften and be open to the

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<sup>88</sup> B. Chidili, “Religious Fanaticism” in *West African Journal of Ecclesial Studies* (WAJES), Vol. 4, 1998, p. 82.

experience in other religions where rationality and adequate flexibility become privy to the respect for human rights.

### **Avoidance of Fundamentalism and Literalism in Islam**

Although fundamentalism is found among some members of many religions, Kukah holds that “recently it has become a suitable term for referring to those Muslims who preach that unless you are born again in the light of Quran, you risk perdition”.<sup>89</sup> In the same way, Islamic legal literalism means following strictly the letters of the primary sources of Sharia without reference to their spirit. Certainly, these attitudes have enormous adverse implications to the rights of women.

As a panacea to this anomaly, it is strongly suggested that application of Sharia law in Nigeria, as in other parts of the world, must adhere to the principles of interpretation and exegesis that take into consideration the contextual factors. This will make the applications of Sharia law consistent with principles of freedom, justice and equality.<sup>90</sup>

### **Need for Muslim Women Activists**

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<sup>89</sup> M. H. Kukah “The Politicization of Fundamentalism in Nigeria” in P. Gifford (ed.), *New Dimensions in African Christianity*, Ibadan: Sefer Books Ltd., 1993, p. 216.

<sup>90</sup> ‘Context’ for instance, refers to the specific situation in which a part of the Koran was revealed. It also refers to the specific situation in which the prophet took action, made a statement or gave tacit approval. Context also has to do with the larger picture of the environment, culture, tradition, knowledge base and experience of the people during a specific era or in a geographical area. Exegetical considerations of these contexts will aid a genuine application of the intentment of any Sharia law within the demands of instant context in our world today. (Cf. A. Abdalla, “Principles of Islamic Conflict Intervention” in S.G. Best (ed.), *Introduction to Peace and Conflict Studies in West Africa*, Ibadan: Spectrum Books Ltd, 2005, p. 155.

In order to improve the lot of Muslim women whose human rights are constantly put in jeopardy, there is a genuine need for the rise of activists who will confront the forces that trample upon the dignity of women in the name of religion and its laws. These activists will among other things, work out a more feminist interpretation of the Islamic texts with a view to changing the vision of women in Islam. International associations and non-governmental organizations should be formed for more effective united front against male chauvinism. This must however be accompanied by proper education and creation of awareness on the part of women themselves who often are oblivious of their fundamental rights.

### **Respect for Women's Fundamental Rights and Easy Access to Justice**

There is an urgent need to cultivate the attitude of respect to women's right and see to it that women are allowed access to justice system. But one greatest obstacle to this is poverty and illiteracy. It is therefore suggested that cultural and psychological barriers to access to justice should be removed. There should also be a review and adoption of macro-economic policies and development strategies that address the needs and efforts of women in poverty. Laws and administrative practices should also be revised to ensure women's equal rights and access to economic resources. It may also be necessary to promote the use of public interest litigation by advocacy groups, and paralegal schemes offering legal aid and advice to poor citizens like women who out of poverty may not be able to afford legal representation. This need may also be assuaged by encouraging the use of alternative dispute resolution methods such as mediation, conciliation and arbitration in the resolution of some family and commercial disputes.

### **Safe Separation of Religion from Culture**

It is often observed that those who come from culture where Islam is deeply embedded are unaware of the distinction between Islam, its Sharia and the culture itself. They may believe that many traditional practices are part of Sharia. This is the case in Nigeria where even when the Sharia grants so many rights to women, women are still subjected to constant violation of their rights by a patriarchal culture and interpretation that regard them as inferior. A proper study need be carried out to sift the Islamic tenets from all too-patriarchal culture in order to enhance the respect for women's dignity.

### **Adherence to State Secularity Principle**

Secularity means neutrality of the government in matters of religion. It does not mean irreligion. It only enjoins the government not to adopt and favour any particular religion as the state religion. The Nigerian constitution provides at section 10 thus:

The government of the federation or of a state shall not adopt any religion as state Religion.

Observance of this is necessary to ensure that right and obligations of one in any part of the federation are governed by democratically enacted laws that consider the modern trends rather than the adoption of the laws of any religion that are often regarded as immutable and unchanging. The rights of many including women are already being violated by those states who contravene this principle by enforcing Sharia laws with state machinery.

### **Conclusion**

In the above consideration, we did not set out to evaluate Islam as a religion. Rather, we were concerned with its Sharia with a view to evaluating the guarantee and extent of the enforcement or

infringement of the women's rights under the legal system. In the course of this study, we observe that the problems with the rights of women in Sharia are not so much with the nature of Islamic law as they are with its interpretation by the judges of Sharia courts. It has to be noted that although religion and its laws set the guidelines for society to follow, yet how society applies and interprets these guidelines is a function of economics, politics, social behaviour and culture. Hence, in a democratic and human rights culture of our time, it is highly necessary that Sharia is interpreted along the principles that recognize and respect the rights and dignity of women by adhering to our recommendations above.

## NOTES FOR CONTRIBUTORS

The editor welcomes the submission of original manuscripts in English language for publication in the *African Journal for Mission in Context*. They should be typed in Times New Roman, font size 12, double-spaced, 15 pages, including the references. Manuscripts should be submitted by email attachment. Articles that are really contextualized and with a mission focus will be prioritized.

### **Abstract**

The manuscript should include an abstract immediately after the title page.

**Title** of article, full names and e-mail address of the author are to appear on the abstract page only.

**All headings:** must be in font size 12 and bold. All sub-headings: must be in font size 12, bold and italics.

**Sources:** Sources used for the paper should as far as possible, include African authors as well as others; likewise male and female authors.

**Use of Inclusive language** is encouraged. In referring to men and women, it is better to say 'people' rather than 'men'; his/hers, her /him rather than his/him unless one is referring only to men.

**Style sheet:** The American Psychological Association (**APA**) style sheet and reference guide is recommended.

Further guidance can be obtained from the editor on request.