

# An Examination of the Principles of the Rule of Law and Their Application in Islam

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Received: 11 Apr 2023; Received in revised form: 12 May 2023; Accepted: 20 May 2023  
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## Abstract

*A lot of works written on the Rule of Law are without Islamic connotations. The ones with Islamic viewpoints are limited. This article is therefore written to supplement the existing literature on the concept. The paper adopted a qualitative approach and its data was based on secondary sources and content analysis of relevant documents. The article harnesses the available information in the Shar'ah to justify the respect that Islam has for the Rule of Law. In doing this, the researcher examined the various clarifications of law and the Rule of Law, the principles of the Rule of Law and the extent to which these principles are applicable in Islam. It was found out that despite the efforts of Shar'ah and various scholars to sustain the ideal application of the Rule of Law, the concept is still facing numerous challenges, among which are poverty and ignorance, immunities to certain individuals and lack of independence of the judiciary.*

**Keywords— Examination, principles, Rule of Law, application, Shar'ah.**

## I. INTRODUCTION

For any given society to function well, there must be the existence of laws that regulate the activities of its members, and such laws must be put into operation by the agencies appointed, elected or inspired to run the affairs of the society. It is to be noted that there is no single universally acceptable definition of law. Each scholar defines the concept on the perspective in which he or she understands it. The concern of this paper is not to define law but to explain the components of law. Njiri (2020) says that law consists of four components. These are:

1. Law is a Social Science.
2. Law comes to implementation after validation by the concerned authority.
3. It originates from the society
4. It imposes sanctions either expressed or implied.

On the bases of the above four items, he says that law is a Social Science that has secured validity and controls any member of a given society upon the consideration of the interest of such a society. Gul and Othman (2021) opine that three legal systems are in existence in the World today. The three can be in existence in a given country or one or two of them. These are

1. The Common Law
2. The Civil Law
3. The Islamic Law system.

They state that the Islam Law System has a lot of influence on the Civil and Common Law systems. On the basis of this, Myren (1988) opines that law is a command of the sovereign relating to the general conduct of the subjects, to which command such sovereign has given legal obligation by annexing a sanction or penalty in case of neglect. Sovereignty of a nation as fetched out from the article of Ridwan (2020) could originate from God, king or leader, the nation itself, the people, or supreme law or constitution of the land. However, in Islam, sovereignty rests with *Allah* (God). Maksimovic (2018) and Khan *et al* (2022) opine that sovereignty in Islam belongs to Allah. The sovereignty of Allah is also stated in *Qur'an* 4:59, 32:5, 43:85 and 57:5.

Law, from the Islamic point of view is nothing other than the *Shar'ah* and *Shar'ah* according to Noibi (1988) is no more than the Muslims' way of life. It is the embodiment of the laws of the *Qur'an* and the *Sunnah* of Prophet Muhammad (S.A.W.) which are meant to guide the Muslims to success in this world and in the hereafter. The other major sources of *Shar'ah* are the *Qiyas* (Analogical deduction) and *Ijma* (Consensus of opinions).

In the same vein, Sodiq (1986) sees the Islamic law as the law of *Allah*, which He enacted for human beings in their belief, religion and moralities to regulate their affairs in all spheres of life for the purpose of achieving success in this world and the hereafter.

In the *Shar'ah*, according to Doi (1984), there is an explicit emphasis on the fact that Allah is the Lawgiver (Qur'an 45:18) and the whole *Ummah* (the nation of Islam) is merely His trustee. He goes further to say that it is because of this principle that the *Ummah* enjoys a derivation rule-making power and not absolute law-creating prerogative. In other words, laws in Islam is provided by *Allah* but expanded by the Muslims to cover the silent areas in the *Qur'an* and *Hadith*.

The essence of law to any given society according to B. Scholarly (n.d.) and Stoken-Huberty (n.d.) include the followings:

1. Laws set a broad measure for acceptable and non-acceptable behaviour in a given society.
2. It gives everybody living in a given country access to justice in all ramifications.
3. It is a means of saving the lives and property of every citizen in a country.
4. Laws protect the less privilege people in the society from oppression and other negative treatments in the society.
5. Laws give room for political and civil engagement.
6. Laws allow variety of career opportunities for a lot of people throughout the world.
7. It is through laws that peace and harmony can be maintained in the society.
8. Laws give room for progress in the society.
9. It is through laws that a person can claim his rights in a given country.
10. Laws have both positive and negative functions in term of apportion of fines on an individual or a group of individuals or institutions. It is positive for the receiver of the fine and negative for the payer of the fine.
11. Laws modify economic system of a given country for better.
12. Laws make a person to succeed in the world and if *Shar'ah* is adhered to, they give room for Muslims to enter Paradise in the hereafter.

It is when laws are made and permitted to perform the above functions or any other functions that are stated in the laws of a given society that we can talk of the Rule of Law.

## II. CLARIFICATION OF CONCEPT

### 2.1 The Rule of Law

Efforts by different scholars to simplify the Rule of Law for the purpose of its understanding and utilization, even by the layman, right away from the time of the Greek Philosophers-Aristotle and Plato as at 350 B.C has resulted in a variety of definitions. Sharma (2020) opines that Edward Coke is the originator of the concept of the Rule of Law. He says that Edward Coke pointed out three major points on the Rule of Law. These are:

1. The Rule of Law safeguards the authoritarian rule of the king or the leader
2. It safeguards the arbitrary authority of the Government.
3. It protects the individuals and their Rights.

Sharma also says that Dicey propounded three principles of the Rule of Law as the Supremacy of the law, equality before the law and predominance of legal spirit. Shafritz (1988) tailored his own definition on equal application of the Rule of Law by saying that it is a governing system in which the highest authority is a body of law that applies equally to all as opposed to the rule of men in which the personal whims of those in power could decide any issue. The Rule of Law, according to Justice Cardozo of the United States, is a principle or rule of conduct so established to justify prediction which with a reasonable certainty that it will be enforced by the court if its authority is challenged (Olawale 1979).

The Federal Republic of Nigeria (1987) and (1999) is also of the opinion that the Rule of Law implies the supremacy of law (constitution) over any person or group of persons in the society and that no one is above the law and no one can tamper with the process of its application. This definition in relation to Nigeria is questionable especially under the incessant violation of the principles of the Rule of Law by the former military administration of which that of late Sanni Abacha (1993-1998) is a case in point. For example, during his regime, many people were arrested and detained for months without trial. Some of those arrested even died in detention among whom were the late Major General Shehu Musa Yar'dua and M.K.O Abiola, the acclaimed winner of 1993 President Election (Sani 2022, Abubakar 2022).

It may be because of this incessant violation of the Rule of Law under the military in Nigeria that made Nwanko (1987) to say that the Rule of Law, even under the military dictatorship, stipulates that all Nigerians are equal before the law, and that the law must be promulgated and known. The civilian government is not left out in Nigeria. In the February 25, 2023 election which produced Asiwaju Bola Ahmed Tinubu as president elect, 109

Senators and 325 out of 360 members of House of Representatives, and the March 18, 2023 Governorship and Houses of Assembly elections (Adeagbo 2023, Akinwale 2023), despite the fact that cashless policy was introduced in the country, money were transferred to electorates to motivate them to vote for particular candidates of a given political party without any penalty against them. Electoral boxes were hijacked and ballot papers destroyed with impunity. There were violent in many parts of the country without any charge against the violators. There were unlawful demonstrations across the length and breadth of the country. Some people went to the extent of calling for the cancellation of the election and installation of interim government without judicial procedure (Godwin2023). Tribalism and religious inclination were introduced during the campaign and the elections (Tijani 2022, Akhaine 2023). These among others constitute anti Rule of Law in Nigeria.

In a further explanation of the Rule of Law, the Federal Republic of Nigeria (1987) is of the view that the concept is alien to the Nigeria society because it is hardly understood by the ordinary person except the professionally trained legal minds and few other privileged persons in the society, and that the language in which laws are written is usually very difficult to understand, hence the general ignorance of the law. If it is true that the Rule of Law is alien to the Nigeria society and cannot be understood by them, least of all practicing same, then the whole existence of Nigeria is in danger because the application of the concept acts as checks and balance among the citizens of the country. One believes that the Rule of Law can be understood by every Nigerian, especially through public enlightenment, campaigns and compulsory mass education programmes.

One of the problems that Nigeria is facing today as regard the application of the Rule of Law is that most of our leaders want to keep the masses in darkness so as to perpetuate themselves in office. If the Rule of Law is alien to the Nigeria society, then they have no moral justification to legitimize their holding on to power through the same law which is alien to the country.

Cejie (2022) divides the Rule of Law to narrow (thin) and broad (thick). He states that the elements of the narrow definition consist of the followings:

1. The law must be prospective
2. It must be public and accessible
3. It must be applicable in the society
4. It must be cleared and not ambiguous
5. It should be stable and certain
6. It must also be consistent
7. It must also be enforceable in the country

8. It must be transparent and ensures the principle of equality amongst the citizens of a given country.

His broad definition comprises elements of political morality like certain forms of government, economic systems or conceptions of Human Rights. He goes further to give the meaning of the Rule of Law as expressed by the World Justice Project (WJP) as a durable system of laws, institutions, norms and community commitments that delivers accountability, just laws, open government, and accessible and impartial dispute resolutions. He states that these four principles are divided into eight factors of laws thus:

1. Constrains on government powers
2. Absence of corruption
3. Open government
4. Fundamental Human Rights
5. Order and Security
6. Regulatory enforcement
7. Civil Justice
8. Criminal Justice

Cejie (2022) also explains the United Nations definition of the Rule of Law as a principle of governance in which every person, institutions and entities, private and public, including the state itself, are accountable to the laws that are formally made public, equally implemented and independently adjudicated, and which are consistent with the International Human Rights, Norms and standard. The Rule of Law requires measures to make sure that people adhere to the principles of supremacy of the law, fairness in the application of the law, separation of powers, participation in decision-making, legal certainty, avoidance of arbitrariness, and procedural and legal transparency.

The essence of these postulations is to save the lives and property of individuals and to make sure that the laws are above everybody irrespective of the positions of such a people in the society.

The Rule of Law according to Syed (2021) is the bedrock of Islam. Without the Rule of Law, Islam cannot progress across the length and breadth of the World. The primary sources of the Rule of Law in Islam are the *Qur'ān* and *Hadīth*. The *Qur'ān* as the first primary source of the Rule of Law gives details about how to sustain the Rule of Law for the benefit of every Muslim irrespective of the positions or ranks in the society (Qur'ān 16:89). The second primary source is the *Hadīth* of Prophet Muhammad (S.A.W.). Allah says in Qur'ān 4:59 thus: "O you who believe! obey Allah and obey the Apostle and those in authority from among you; then if you quarrel about anything, refer it to Allah and the Apostle, if you believe in Allah and the last day; this is better and very good in the end."

The two other major sources of the Rule of Law are the *Ijma* and *Qiyas*. In Islam, there is no injunction forbidding the innovation, extension, and interpretation or re-interpretation of the existing laws of Islam as long as it does not contradict the sources of Islam. This gives room for *Ijtihad* (Independent Interpretive Jurisprudence) which Allah has given to the Muslim Jurists to make provisions for the developing circumstances, and prove Islam as a system of life practical for all times (DAWN 2008).

## 2.2 Basic principles of the Rule of Law

The core principles of the Rule of Law according to Stein (2019 and Sharma (2020) include the followings:

1. Supremacy of the law
2. All things should be done in compliance to the law of the land and not according to the whims and fancies of those in authority
3. Nobody should be punished except with the breach of the law
4. Absence of arbitrary use of power because the Rule of Law is the heart and soul of law
5. Fair and just procedure of justice
6. The discretionary use of powers by those in authority should be exercised within the limit set by law
7. There should be check against the abuse of powers by the executive
8. There should be equal application of the law
9. Laws must be able to protect persons and their property
10. Separation of powers
11. Independent and impartial Judiciary
12. Equality before the law
13. Speedy trial of any case
14. The law must be known and predictable by ordinary persons
15. The law must be just, robust and enforceable
16. Citizens have the right to participate in the process of the making of the law.
17. The law must give room for disputes resolution without excessive cost and delay
18. It must be in compliance with the International Rule of Law.

Numbers 1-9 are under the supremacy of the law and it shall be treated as such here.

## 2.3 The Islamic viewpoint on the principles of the Rule of Law

### 2.3.1 Supremacy of the law

The supremacy of law is the fundamental principle of Islam. The concept is stretched in Qur'an 4:135 where Allah maintains that laws must be maintained

irrespective on one's position or status in the society. Prophet Muhammad (S.A.W.) is reported thus:

'A'isha, the wife of Allah's Apostle (may peace be upon him), reported that the Quraish were concerned about the woman who had committed theft during the lifetime of Allah's Apostle (may peace be upon him), in the expedition of Victory (of Mecca). They said: Who would speak to Allah's Messenger (may peace be upon him) about her? They (again) said: Who can dare do this but Usama b Zaid, the loved one of Allah's Messenger (may peace be upon him)? She was brought to Allah's Messenger (may peace be upon him) and Usama b. Zaid spoke about her to him (interceded on her behalf). The colour of the face of Allah's Messenger (may peace be upon him) changed, and he said: Do you intercede in one of the prescribed punishments of Allah? He (Usama) said: 'Messenger of Allah, seek forgiveness for me. When it was dusk. Allah's Messenger (may peace be upon him) stood up and gave an address. He (first) glorified Allah as He deserves, and then said: Now to our topic. This (injustice) destroyed those before you that when any one of (high) rank committed theft among them, they spared him, and when any weak one among them committed theft, they inflicted the prescribed punishment upon him. By Him in Whose Hand is my life, even if Fatima daughter of Muhammad were to commit theft, I would have cut off her hand. He (the Holy Prophet) then commanded about that woman who had committed theft, and her hand was cut off (Muhammad n.d).

The religion has no immunity to the Rule of Law as it is done in the western legal system to those in the constituted authority. Anybody in the state can challenge the authorities in both official and private capacity in the law court while in office (Dawn 2008).

### 2.3.2 Separation of powers

At the early stage of Islam, there was no separation of power. The legislative, executive and the judiciary powers rested with Prophet Muhammad (S.A.W.). The three powers were equally combined by his appointed Governors as it was the case with Muadh ibn Jabal when he was appointed by the Prophet as the Governor of Yemen. The Prophet tested his capability thus:

When the Messenger of Allah (ﷺ) intended to send Mu'adh ibn Jabal to the Yemen, he asked: How will you judge when the occasion of deciding a case arises? He replied: I shall judge in accordance with Allah's Book. He asked: (What will you do) if you do not find any guidance in Allah's Book? He replied: (I shall act) in accordance with the Sunnah of the Messenger of Allah (ﷺ). He asked: (What will you do) if you do not find any guidance in the Sunnah of the Messenger of Allah (ﷺ) and in Allah's Book? He replied: I shall do my best to form an opinion and I shall spare no effort. The Messenger of Allah (ﷺ) then patted him on the breast and said: Praise be to Allah Who has helped the messenger of the Messenger of Allah to find something which pleases the Messenger of Allah (Sunnah.com).

As the time goes on, the three powers were separated but they complement each other. Today, the Muslims countries uphold the principle of separation of power and it is being implemented across the length and breadth of the Muslim world.

### 2.3.4 Independent and impartial Judiciary

This principle is summarized in *Qur'ān* 5:44-50, wherein three out of the four mostly recognized books of judgment in Islam were mentioned. These are Torah, the Gospel and the *Qur'ān*. The books were revealed to prophets Musa, Isa and Muhammad (S.A.W) to guide human beings both in secular and religious matters, and to judge in accordance with the principle of impartiality. Every law-abiding citizen is expected to follow the footsteps of these prophets by being impartial in wherever position he or she finds himself or herself. This is possible by sticking to the injunctions that are contained in the *Qur'ān* and the precedents lay down by the early Muslim leaders. The above *Qur'ānic* verses further regard those who fail to judge in accordance with the law of *Allah* as unbelievers, wrongdoers and rebellious.

One of the laws of Allah is the principle of impartiality which could only be realized if justice is allowed to reign. This is the reason why *Qur'ān* places a lot of emphasis on justice. It enjoins justice, the doing of good and liberality to kith and kin. It also forbids all shameful deeds, injustice and rebellion (*Qur'ān* 16:90). In another verse, Allah commands the Muslims not to conceal or evade the truth and to be maintainers of justice, bearers of witness for Allah, even if it is against oneself, parents, near relatives, the poor or the rich (*Qur'ān* 4:135). Allah also enjoins the Muslims not to allow the hatred of others

to make them swerve to wrong and depart from justice because justice is next to piety (*Qur'ān* 5:9). Finally, *Qur'ān* wants Muslims to judge with justice between men (*Qur'ān* 4:58, 105). The essence of these injunctions is to maintain the principle of impartiality so as to eradicate hatred, injustice, rebellion, shameful deeds and all acts of indecency that could jeopardize the peaceful co-existence of human race.

Apart from sticking to the injunctions of the revealed books, one of the prophets whose precedents are recommended to be followed is Prophet Muhammad (*Qur'ān* 33:21), who was both religious and political leader in Islam. In his administration and judgment, he maintained the principle of impartiality as indicated on the issue of a woman who committed theft in the above *Hadīth*. He also upheld the principle of impartiality in *Qur'ān* 5:38.

The same principle of impartiality was also administrated by Abu Bakr, Umar, Uthman and Ali, who were his four rightly guided Caliphs of Islam. For example, from Caliph Umar to Abu Musa al-As Shari, on the eve of his appointment as a judge, it was stated that Abu Musa al As'hari should consider everybody equal before him in the court and also consider them equal in giving attention to them so that the highly placed people might not expect him to be partial and humble might not despair of justice from him (Doi, 1984).

On this note Ajijola (n.d) is of the opinion that whenever a person is in a position to have a say in the matter of appointment to the functions of government, his duty is to select the best men to handle the affairs of the state with integrity, forbearance, sagacity and strength. He went further to say that those who are appointed to these offices of trust should guard against partiality for or against particular individuals, classes or nations, for partiality creates severe heart-burning and deep-seated hatred which make peace impossible to attain except for brief and uncertain periods.

### 2.3.5 Equality before the law

This principle is also more of international law. The Islamic law that is applicable in Nigeria is equally applicable in any other country where Islamic law is allowed to operate with minor differences in cases where there are no definite answers in the *Qur'ān* and *Hadīth*. The basis of equality in Islam comes from the fact that all human beings are created by *Allah* from a male and a female-Adam and Eve, but made into different nations and tribes so as to recognize one another (*Qur'ān* 49:13). Apart from this, *Allah* sent messengers to different nations and tribes to warn and judge between them with equity (*Qur'ān* 35:24, 10:4). The last of the messengers of *Allah*

was Prophet Muhammad (*Qur'ān* 30:40), who was sent to all mankind (*Qur'ān* 21:107, 33:45:28). In his farewell sermon, he dealt unequivocally with the issue of equality. He said that no Arab has any superiority over a non-Arab, nor did a non-Arab has any superiority over a black man or the black man has any superiority over the white man, and that all human beings are the children of Adam and Adam was made from clay (Muhammad n.d).

Equality from the Islamic point of view, according to Abdalati (1986), is not to be confused or mistaken with identicalness or stereotype, because all men are equal before *Allah*, but not necessarily identical. He accepts that there are differences of abilities, potentials, ambitions, wealth, colour, race, bodily proportion, prestige or social status, but these are incidental and do not establish the superiority of one man or race over the other. The only distinction which is recognized by *Allah* is piety (*Qur'ān* 49:13), which could be attained by anybody who conforms to His laws.

The principle of equality, according to this man, is not simply a matter of constitutional right or gentleman's agreement of condescending, but an article of faith which the Muslims take with seriousness and sincerely adhere to, and it comes from the following basic principles:

1. That all men are created by one and the same Eternal God who is the Supreme Lord of all.
2. That all mankind belongs to the human race and share equally in the same common parentage of Adam and Eve.
3. That God is just and kind to all creatures. He is impartial to every race, sex, age or religion.
4. That all human beings are born equally, because nobody brings any possession with him and none will take back worldly belongs when he dies.
5. That God judges everybody on the basis of his own personal merits and not according to his own deeds.
6. That God confers on every man a title of honour and dignity.

It is the fundamental right of everybody to be given fair and equal treatment in accordance with the law, whether the person is rich or poor, powerful or weak (Lemu 1993). Lemu states further that there was a time when Umar, the second Caliph of Islam was called before Zayd Ibn Thabit, a judge in Madinah. Zayd wanted to stand up for Umar as a mark of respect for his position but the caliph told him that was his first unjust behavior, which means that the judge is to be completely impartial towards the people that appear before him. The Caliph thereafter took his seat beside the complainant. The complainant

wanted Umar to take an oath which the judge wanted to spare him of due to his position as the Caliph. The Caliph finally told the judge that he would not be a just judge until a common man was equal to Umar before him. That is, a common man is equal to the person in the position of authority.

All men, according to Doi (1984) are equal before the law in Islam, and if a person chooses not to follow the religion of Islam, he or she has every right to live in peace and tranquility in a Muslim state or where the Muslims are in majority as honourable citizen with every right and privilege. Abdalati (1986) says that if the principle of equality in Islam is fully implemented, there would be no room for prejudice or persecution, oppression or suppression, concept of chosen and Gentile people, and words or expressions like privileged and condemned races, social castes and second class citizens which many countries are witnessing today.

### 2.3.6 Speedy trial of cases

Speedy trial of cases is an indispensable aspect of legal system in Islam. It has been in existence for a long time and it is the right of every individual of a given country (Pandey 2018). Speedy trial according to Berega (2018) connotes that the defendant is tried for the alleged offence within a reasonable period of time after being alleged. The complainant is also given the opportunity to secure justice without delay. If a case is delay for a long time, negative things such as the disappearance or death of witness, lost of evidence and forgetfulness may happen. Faith in the judicial system of any nation is the ability of the court to provide accessible, speedy and cost effective justice to everybody equally.

### 2.3.7 The law must be known and predictable by ordinary persons

The law of a given country must be known and predictable by every citizen of the country. The essence of this is to allow every citizen to know the consequence of his or her action and inaction. The government of the day must ensure the application of the law in its totality to every case irrespective of the status of the concerned person in the society. Equal application of justice was maintained by Prophet Muhammad (S.A.W.) as seen in the above quoted *Hadīth* on the issue of theft.

### 2.3.8 The law must be just, robust and enforceable

Added to the above point is a reasonable law that takes care of the interest of the citizens and non citizens living in the country. Any law or policy that contradicts the interest of the people living in the country is unreasonable and can retard the progress of the country. For example, the redesign policy of the Nigeria naira notes

of 200, 500 and 1,000 by the Federal Government of Nigeria before the February 25, 2022 was nullified in the Supreme Court of Nigeria on Friday, March 3, 2023 because there were no adequate information on it and its period of cancellation was too short. The Nigeria Supreme Court ruled that the old naira notes remain legal tender in Nigeria until December 31, 2023. The judgment sets aside February 10, 2023 announced by the Federal Government of Nigeria (Adesomoju 2023). The Supreme Court of Nigeria nullified the redesign policy since it is not just and enforceable.

**2.3.9** Citizens have the right to participate in the process of the making of the law

The process of making of law in Islam is of two dimensions. The *Qur'ān* which is the revelations from *Allah* and the subsidiary ones by man. That of man include the *Ḥadīth* and other sources of Islamic law. *Ḥadīth* makes people to know that Prophet Muhalmmad (S.A.W.) participated actively in the making of laws in Islam. The same thing is applicable to the rightly guided caliphs and other leaders of Islam. Today, the means by which Muslims can participate actively in the law making include their representatives participation in the making of laws in the parliaments and allow the masses to express their opinions on a given law and the correction is carried out before the final passage of the law and the assent of the concerned authority.

**2.3.10** The law must give room for disputes resolution without excessive cost and delay

Dispute resolution is an indispensable aspect of Islam. This has been demonstrated in the earlier quoted verses of the *Qur'ān* and *Ḥadīth*. Any law or policy that fails to give room for dispute resolution is against the law of nature and the general interest of the populace. Any given law should give the masses the opportunity to seek for redress in the law court without expensive cost. Hiring of a lawyer by an aggrieved person on a particular case may be difficult for a poor man, hence, the denial of justice. The government of Nigeria should make lawyers available to the poor people to be able to get justice. Other means of dispute resolution without cost such as the public complaint commission should be made known to the populace through public enlightenment programmes. Dispute resolution is highly recommended in *Qur'ān* 3:104 and the fighting of the person that refuses to abide by the resolution until he or she complies is contained in *Qur'ān* 49:9.

**2.3.11** Rule of Law of a given country must be in compliance with the International Rule of Law

International Rule of Law is the yardstick for measuring the compliance of any country to the principle

of the Rule of Law. Any law made be a given country that is at variance with the international Rule of Law indicates the non compliance of such a country to the international law and the administrators of such a country may not get the support of the advance countries of the world. Any law made by the Muslims that are not in compliance with the *Qur'ān*, *Ḥadīth* and other major sources of *Shar'ah* is void and of no use.

**2.3.12** Problems associated with the Rule of Law

Among the problems that are associated with the full implementation of the Rule of Law, most especially in the developing countries are:

1. The notion of alien nature of the Rule of Law: Some states believe that the Rule of Law is an alien concept which many citizens are ignorant of and as such could not be practiced effectively in their countries. An example of such states is Nigeria.
2. Abject poverty and ignorance: Many people are so poor to the extent that they consider going to court to seek redress for their grievances as additional financial burden which they cannot bear. People also do not know that bail in the Police Station is free. Therefore, rather than taking their cases to court, they pay huge money to the police for bail instead of hiring lawyers. Apart from that, many Africans believe in the slogan that there is no friendship after returning from the court, meaning going to court to seek redress against another person makes them to become enemies to each other. This being the case, they remain in silence whenever their rights are violated, more so when they consider the violator as their superior officer.
3. Privileges and Immunities to individuals or groups: In some countries, President, Vice President, Governors, Judges, member of diplomatic corps, officials of international agents and certain government officials are exempted from the due process of law, thus placing them above the law. Likewise the trade union leaders are immuned as regard the crimes committed while seeking for better condition of service.
4. Lack of independence for the judiciary: In some states, the Judges are only independent in theory but not in practice. If the Judges are gagged, the interpretation of the law would be ineffective and this would have devastating effects on the full implementation of the Rule of Law.

### III. CONCLUSION

The Rule of law, as can be deduced from the above discussion, connotes every means of making life

easy and better for everybody at both states and national levels. It is a concept that leads to far reaching beneficial results, among which are justice, fair play, impartiality, equality before the law and fundamental human rights, which are essential to the peaceful co-existence of every society and the world at large. A society that operates without the Rule of Law would face series of problems such as oppression, suppression and gagging of the Judiciary. Also, there would be severe heart-burning and deep-seated hatred which make peace impossible to attain except for brief and uncertain periods. The necessity for uninterrupted peace throughout the world makes it mandatory on every society to embark on full implementation of the Rule of Law which is devoid of besetting problems like poverty and ignorance, immunities and lack of independence for the judiciary. The Judges should also understand that they would incur the wrath of man and *Allah* if they judge unjustly. On this note, the following suggestions are hereby made to ameliorate the principle in every country of the world.

1. Every country, especially the developing ones, should try as much as possible to eradicate poverty and ignorance by improving the condition of living of their citizens so as to live above the poverty level and provide free and qualitative education.
2. The Rule of law, which is very important to the development of human race should be made compulsory for every facet of education and it should be part and parcel of the curriculum of every institution and it should be obligatory for all students.
3. There should be public enlightenment campaign on the importance of the Rule of Law and the masses should be made to be aware that there are other avenues apart from the court such as the Public Complaints Commission where they could be helped to secure their rights without financial involvement.
4. The immunities granted to certain rulers and certain governmental officials by some countries should be withdrawn to enable justice to prevail whenever their actions contradict the Rule of Law.
5. The independence of the judiciary should be maintained by every government so as to allow the Judges to judge cases with a free and fair mind and in accordance with the *Shar'ah* or the laws of the country.
6. The legislators should make laws in the interest of the society and the masses should be given the opportunity for adequate participation in the process of law making. There should be adequate publicity of the law before signing and implementation.

7. The principle of the impartiality should be adhered to by those in authority and the judiciary.
8. The principle of separation of powers should be sustained by every country, especially the developing ones.
9. The clamour for interim government and military takeover of the governmental power in Nigeria by the aggrieved people on the 2023 elections in Nigeria is anti Rule of Law and should be discarded.
10. Apportion of punishment, especially in the developing countries should be in accordance with the Rule of Law. The whims and caprices of those in authority should be jettisoned.
11. Speedy trial of cases should be done by the judiciary and if Judges are not enough, the concerned countries should employed more Judges to fast track the cases in the law courts. If judgment is delay, there could be a lot of negative development on a given case.

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