

**UNSECULAR NIGERIA: THE PARADOX AND
PARALOGISM OF THE SECULARISM AND
SECULARIZATION OF NIGERIA**

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ABSTRACT

Secularism is an old concept with intense and continuous debate even in the so-called secular democracies. Even in Nigeria, the recent debates on constitutional rights issues of religious Laws and practice have helped to reignite, the old discussion about whether Nigeria is Secular or not. This raises questions and provokes new research particularly legal research into the doctrine of secularism and secularization. Though the term secularism is not written anywhere in the Nigerian constitution, the argument that is usually recited by the proponents of secularism is that by virtue of section 10 of the 1999 constitution, Nigeria is secular. As demonstrated in the trial case of miss Asiyat Abdulkareem V. Lagos State Government, in which the trial Judge claimed as a product of her reading of section 10 of the 1999 constitution, to the extent of equating Nigeria to Turkey. Similarly, a Bill to redact the term ‘personal’ to read Islamic law within the constitution was rejected by the senate of the Federal Republic of Nigeria on claims of secular considerations. However, such paralogisms particularly contradicts many outstanding examples of legal, public policy and the Nigerian constitutional reality. This paper critically examines the key differences between secular and unsecular nation. It analyzes the assertions or assumptions of Nigeria as a secular state, whether it has legally undergone secularization. The findings seem to indicate that to term Nigeria secular is paradoxical. Therefore, it is unsecular. Secularism as neutrality is also a ruse. The approach is basically doctrinal with critical presentation and analysis.

Keywords: Secularism, Secularization, Paradox, Paralogism, Unsecular Nigeria, Religious Law

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1.0. Introduction

The concept of secularism is profoundly contentious and oxymoron even in the so-called secular democracies. In Nigeria, it is hard to deny that both social and political life are heavily mired with religious practices, observances and sentiments from all factions (The recent presidential election was a typical example). However, despite the fact that key elements of Nigerian state stand on the opposite end of the spectrum of secularism many authors, speakers, lawyers, judges, and others upheld the existence of secularism in Nigeria. Some have even equated Nigerian structure to that of Turkey. This has led to the resurrection of the old argument that by virtue of section 10 of the 1999 Constitution, Nigeria is secular. This is deeply problematic, such readings is the main cause of the confusions in the overall understanding of the position and nature of Nigeria- This is a kind of a reverse approach, considering the constitutional concept of unity and diversity, legal pluralism and the Nigerians religious sense of identity. The objective, therefore, is to explore the realities on the ground, thus, the actual relation between religion and secular state and to determine whether Nigerian legal and public policy is influenced by secularism. This is with a view to pointing out areas where secularism and neutrality ideology are at variance with the Nigerian legal structure. The starting point therefore, is to high light the meaning, nature and historical roots of the concept of secularism and secularization. To also outline the different modes of secularism. Secondly, to critically examine the nature of the Nigerian state. Whether Nigeria has undergone secularization, through the analysis of the constitution. The section explains further how the Nigerian constitutional structure is influenced and interwoven with religion. This will therefore, necessitate the determination of the intent of section 10 of the 1999 Nigerian Constitution as well as discussion on the similarity between Turkey and Nigeria. This will be followed by discussion on the politics of secularism and neutrality ideology in some democracies and the Nigerian state. In summation, the reality is that the proponents or agents of secularism in Nigeria has nothing to lose- This justifies their ardent and histrionic but paradoxical supposition of Nigeria as secular.

2.0. Overview of the Concept of Secularism, Secularization and its Development

The English term secular derives from the Latin word *saeculum* means “this age” or “the present time”, and it also means “contemporary events”. This spatial-temporal connotation conveyed in the concept of

secular is derived historically out of the experience and consciousness born of the fusion of the Graeco-Roman and Judaic traditions in western Christianity.¹ But even in the western context the term is not limpid and misleading.² The term “secular” has come to be synonymous with atheism.³ Hence, if something is secular, it merely means that its values are not derived from religion.⁴ Thus, not connected with religious or spiritual matters.

The concept of ‘the secular’ today is part of the doctrine call secularism.⁵ But, confusion reigns regarding the definition and the place of secularism.⁶ Secularism is a word which (has been associated with other terms, like ‘secular’, ‘secularization’, “neutrality” and “*Laicite*”) address the basic idea of separation between churches and state. Merriam-Webster Dictionary, described secularism as a doctrine that rejects or excludes religion and religious considerations.⁷ As a concept, secularism refers to the separation of public affairs from the realm of religion or the non-involvement of the church in the public affairs of the state. As it relates to a polity, secularism is built on the twin pillars that (a) there shall be separation between church and the state and (b) that religion shall and must of necessity be confined to the private life of citizens. Consequently, religious precepts shall in no way be invoked to influence public affairs.⁸

According to Shorter and Onyancha, Secularism is a world view which, in theory and/or practice denies the immanence of God.⁹ That,

¹ M.N. At-Attas, (1993). Islam and Secularism, ISTAC, Kuala Lumpur. P16. At: www.google.com Retrieved 2025

² C. Taylor, “Meaning of Secularism” The Hedgehog Review/fall 2010, p.25

³ L. Winocour, “Competing Visions of the Modern Secular State in Law and Policy World Wide. Research Gate, p. 3. at. <https://www.researchgate.net/publication/304930995>. Retrieved 2025

⁴ Ibid

⁵ T. Asad, ‘Secularism, Nation state, Religion.’ P. 192. At pdfwww.google.com.ng Retrieved 2025 pdf

⁶ T. H Weir “Secularism and Secularization: Post-Colonial Gynealogy and Historical Critique. Center for Religion and Modernity Queens University Belfast,2015.7, p.1 At: , <https://www.uni-muenster.de>, Revisited March 2025

⁷ Merriam-Webster Dictionary, Mobile Version

⁸ H. A. Yadudu, “The separation of church and state: Nigeria’s constitutional contrivance” Lawyers Bi – annual Journal of The Nigerian and Comparative Law, Vol, No.2, October, 1994

⁹ See C.C. Nweke, ‘Secularism, Secular State and Religious Freedom’ P.86 at: <http://www.ajol.info/inde/php/jrhr/article/download/1/9663>. Retrieved 2025

Secularism stem from explicit unbelief, the denial of the existence of God or of any religious dimension to human life.¹⁰ To put it simply, the term secularism describes an ideology that is, and has been since its inception, anti-religious.¹¹

In this sense, “separation of church and State means that non-secular bodies shall not exercise secular power, not even by the grace of the sovereign. Vice versa, secular bodies shall not exercise ecclesiastical power.”¹² In a 1997 decision, the Turkish constitutional court defined secularism as the separation of “social life, education, family, economy, manners, dress codes, among others, from religion”.¹³ According to Bilgrami, the popular definition has been that, secularism is a stance to be taken about religion, because secularism, in some sense, defines itself against religion.¹⁴ In fact, according to Asad, although religion is regarded as alien to the secular, the latter is also seen to have generated religion.¹⁵ Secularism, thus, denotes an ideological worldview.¹⁶ In essence, secularism is a political concept implying the separation of civil society from religious society (in which) the state exercises no religious power and the church no political order.¹⁷ Subjective secularism happens when the mind becomes secular and when religion becomes meaningless for a person. Subjective secularism is, thus, a stronger force for establishing secular society, secular politics, and finally, secular religion.¹⁸

Secularization, on the other hand, refers to the transfer of persons, things, meaning, among others from ecclesiastical or religious to civil

¹⁰ Ibid P.89

¹¹ R. Palomino, “Legal Dimensions of Secularism: Challenges and Problems”. P3-4 at: <https://dx.doi.org/10.2139/ssrn.176645>

¹² Ibid Pp4-5

¹³ A.T. Kuru, ‘Secularism in Turkey: Myths and Realities’ vol. 10 No 3 2008 At: <http://file.insightturkey.com/files/pdf/insight-turkey> vol. 10 No 3 2008 Kuru Pdf. Retrieved 2025

¹⁴ A. Bilgrami, ‘Secularism: Its Content and Context SSRC Working Papers, Columbia University, Oct 2011

¹⁵ T. Asad, (Supra) P.193

¹⁶ M.N. Al-Attas, (Supra) P.19

¹⁷ J. W Scott ‘Sex and Secularism (2018), Princeton University Press, Princeton and Oxford. P5

¹⁸ A. Jan, The End of Democracy, (2003) Pragmatic Publishing & Distributions, Canda Pp 103-104

or lay use, possession, or control.¹⁹ As a concept, the term “secularization” (*saecularisatio*) points to the empirical and historical process of the world becoming increasingly secular.²⁰ Secularization also refers to the privatization of religion, where religion is characterized as a matter of private belief and does not make up part of public and political discourse. The separation of church and the state uses the secular/religious binary to limit religious authorities from roles in the governance of the nation-states. In the discourse of modernity, Casanova have identified three contemporary connotations of secularization thus; the decline of religious beliefs and practices, the privatization of religion (as a precondition for modern liberal democratic politics) and the differentiation of the secular spheres (state, economy, science) usually understood as “emancipation” from religious institutions and norms. Thus, Secularization includes such changes as 1. The separation of church and state 2. The privatization of religion 3. Changes in individual beliefs and practices. ‘The structural meaning of secularization means that religion should be isolated from all social institutions, politics, family, law, art, education, and even language. Structural secularization is politely putting religion and faith in prison.’ Secularization also refers to decrease in personal beliefs, religion, and people's decrease in participation in religious practices.²¹ In essence, the term secular, secularity, secularism and secularization refers to non-religious ideology that endorses non-religion, activities or process of reducing the influence of religion and the outcome of that process.²² Now let's turn to the historical roots of secularism in order to find out its origin and development.

Secularism originated at a point when religion and social and political life were not separated. It originated around the 14th century A.D when political, economic and religious changes occurred within the Christian

¹⁹ J. Casanova, ‘Rethinking Secularization: A global Comparative Perspective- Essays the Hedgehog Review/spring & Summer 06 vol.8 P.7-8 at: www.isasc.culture.org. Retrieved

²⁰ N. Gerolami ‘No Faith in The Library: Challenging Secularism and Neutrality in Librarianship’ *Canadian journal of Information and Library of Science*, Vol 43, No2, October 2020, University of Toronto Press, at: <https://muse.jhe.edu/article/772365>. P.178

²¹ Ibid P. 178

²² B. A Kosmin ‘Old Questions and New Issues for Organized Secularism in The United States’ 2017 De Gruyter, Sacred Heart University. At: <https://digitalcommons.sacredheart.edu> Retrieved July,2025

culture.²³ Although, it was claimed that the earliest expressions of what could be considered an articulation of secularisms comes from the Bible. “Render unto Caesar that which is Caesar’s, and unto God that which is God’s”.²⁴ However, before 1648 the term secularism had been used to denote one side of Christian distinctions between sacred and mundane. In the Catholic Church secular priests were those serving society at large rather than a religious order. Secularization was referred to the dispersion of priests from their vows. After the 1648 Treaty of Westphalia which ended the European wars of religion, the secularization was used to describe the transfer of territories held by the church to the control of political authorities.²⁵

Hence, according to Smith, the historical account of the emergence of secularism begins with the Middle Ages. The Middle Ages was seen as the golden era for Christianity. It is from this position that the Church has declined and society become secular. The explanation for the decline of Christianity began with the Enlightenment. During this period, atheism and anti-clericalism emerged as serious intellectual, social and cultural forces. The arrival of reason and science pushed Christian religion out of the public square and into the realm of private opinion.²⁶ That way, in the 16th and 17th century, began the age-long process of separation of State and church. Thus, since the European enlightenment, stretching from the 17th to the 19th centuries, and with the concomitant rise to reason and empiricism and scientific and technological advances in the west, the idea of secularism became widespread among intellectuals.²⁷ In the third world, secularism is seen as the imposition of western preferences in politics, governance and morality and as a legitimizing principle for suppression of indigenous political thought and practice.²⁸ Secularization became globalized with

²³ C.C. Nweke, (Supra) P.86

²⁴ Matt: 22:21, King James Version as quoted in L. Winocur, (Supra) P.4

²⁵ F.J. Lechner, (Supra) P.1

²⁶ G. Smith, (Supra) Pp7-8

²⁷ Nieuwenhuis, A. ‘European Court of Human Rights: State and Religion, Schools and Scarves, AN Analysis of the Margin of Appreciation as used in the Case of Leyla Sahin V. Turkey, Decision of 29 June 2004, Application Number 44774/98.’ European Constitutional Law Review 1 (2005) P. 499. At: <http://internationalhumanrightslaw.net/wpcontent/upload2ol/01/pdf>.

²⁸ A. Mustapha, ‘Implementation of shariah in Nigeria: Ideal, Reality and challenges’ Inaugural lecture series 2006/2007 Session, University of Maiduguri. P.18

the expansion of European colonialism and to modern ideologies of secularism.²⁹

2.1. Models of Secularism

Secularism, however, has developed in various forms or models at different levels and in different realms.³⁰ Many modern nations that are typically described as “secular” differ significantly in how they approach religion and its relationship to the public. The nature of a nation’s secularism is reflected in its public policy. The different manifestations of secularism offer important insight into a country’s level of commitment to removing religious influence.

Numerous scholars have offered frameworks for distinguishing among the various manifestations of the secularism. For example, Kuru distinguishes manifestations of secularism into two.³¹ Bhargava classified secularism into three³², Singh divide secularism into Five³³, Morini³⁴ and Barry³⁵ founds two main dimensions although Barry recognizes in between the two dimensions an intermediate position. While Berger describes three typologies of secularism. For example, extreme secularism which is also understood as hard, hostile, assertive, radical, absolute or strict exclusion can be associated with Weber’s transformation of consciousness.

A precursor can be found in the writings of Hobbes, who claimed that those who followed the light of reason are bound to discard faith as intellectually unreliable and therefore morally dangerous. Today’s spoke men include Richard Dawkins, Paul Kurtz and Michael Newdow. They all take strict/extreme secularism to its logical conclusion, atheism- the belief in the meaningless and irrationality of

²⁹ J. Casanova, (supra) P4

³⁰ B.A. Kosmin, “Contemporary Secularity and Secularism.” *Secularism & Secularity: Contemporary International Perspectives*, Barry A. Kosmin and Ariela Keysar Ed. Hartford, CT: Institute for the Study of Secularism in Society and Culture (ISSSC), 2007, At: <https://welib.org/md5/26a0c5ca2a2ea301800055755a8042e7>

³¹ See L Winocur, Ibid P 7

³² R. Bhargava, (Supra) Pp9-13

³³ B.P. Singh, ‘Comparative Study of Freedom of Religion under Various Constitutional Frame Works’ *National Monthly Referred Journal of Research in Arts & Education*. Vol. III, January, 14 Pp2-8. At: www.abninar.journal.com

³⁴ C. Morini, (Supra)

³⁵ B.A. Kosmin, (supra)

theism.³⁶ Thus, in nutshell, the separation of church and state and the privatization of religion happen together in varying degrees depending on the country. But the understanding of the content of secularity diverges between distant meanings: Some societies require that political life or public authority remain completely blind to the existence of religion. While others conceive secularity primarily as reduction of religion to private spheres.³⁷ However, according to Palomino none of them is an optimal model and the balance between freedom and equality is not always reached.³⁸ However, religion has not only refused to disappear or limit itself to the private realm, it is effectively challenging the ideology that has sought to limit its operational space in many societies. In fact, in Nigeria, even the Pentecostals within Christianity reject secularism.

3.0. Unsecular Nigeria: The Nature of Nigerian State

Within the context of diversity, Nigeria has a heterogeneous collection of religion, culture, ethnicity and legal pluralism. Religious values, morality, ethics and ethos are much more appealing to Nigerians. In fact, religion plays a central role in the processes of Nigerian politics and public life. Many authors, speakers, judges and others who upheld the existence of secularism in Nigeria either do not comprehend secularism and secularization including the dimensions of secularism or knowingly overlook them. Now one would like to turn to a critical discussion of secularism in Nigeria. Confining ourselves to Nigeria, the following historical and structural arguments are important for debates on whether and if Nigeria is a secular state. The relevant provisions of the constitution and other applicable laws are examined in contrast with secularism.³⁹

³⁶ Ibid P6

³⁷ D. Rakitic ' Secularity and Religious Neutrality in the Context of Democracy'- Origins and Concepts Annals FLB- Belgrade Law Review Year LX111, 2015, No.3 P.214. At: <https://www.researchgate.net/publication/3144486214>

³⁸ Palomino(supra) P. 5

³⁹ Democracy in Nigeria: Continuing Dialogue(s) for Nation-Building (2000) capacity Building Series No. 10 International IDAR IIIDE, Sweden.

3.1. Lack of Constitutional Declaration and Affirmation of Secularism

“The argument is that if one finds any of the features of secularism missing, then it has changed the subject from secularism to something else that deserves another name”.⁴⁰

Secularism is one of the key issues that usually attract constitutional force. Where a state is secular, the practice is for the constitution of the state to, in explicit terms, make a declaration of the state to be secular and/or even to go further by mandating the separation of religion from the state. In respects to the arguments of Ahmad⁴¹, Sampson,⁴² Oloyede⁴³ and a lot others, there was no time, constitutionally Nigeria was ever regarded as secular state. If one examines all the Nigerian constitutions of the past together with the laws, one cannot find any provision which says Nigeria is a secular state. In fact, Ahmad examined that a common feature of almost all the constitutions of the world is to make clear and explicit provisions on all issues that have been considered as fundamental. Ahmad further gave some instances of 15 African countries which have been characterized as secular states by the explicit proclamation of their constitutions, however with respect to Nigeria there is no such explicit constitutional declaration of secularism.⁴⁴ In a similar argument, Durham after studying the practice of constitutions of the nations of the world on secularism concludes that a state can only be characterized as secular by the express declaration of its constitution and therefore, categorically there is no provision in the Nigerian constitution specifying that Nigeria is a secular state.⁴⁵

From historical background, in 1977 – 78, when the constitution drafting committee was inaugurated to produce a draft constitution for the nation, article 17 of the committee’s draft categorically prescribed

⁴⁰ Bilgrami, A. ‘Secularism: Its Content and Context SSRC Working Papers, Columbia University, Oct 2011

⁴¹ N. A Ahmad, (2011) Administration of Islamic Criminal Law under the Nigerian Constitutional Democracy, ABU Press Ltd, Zaria, Pp87 - 90

⁴² I.T Sampson, ‘Religion and the Nigerian State: Situating the de-facto and de-jure Frontiers of State-Religion Relations and its Implications for National Security, Oxford Journal of Law and Religion, Vol.3, No.2 (2014), Pp311-339

⁴³ I. Oloyede, ‘Theories and Realities of Religious Liberty in Nigeria’

⁴⁴ N A. Ahmad, (supra) p87

⁴⁵ W.C. Jr. Durham Nigeria’s “State Religion” Question in comparative perspectives, Quoted in Ahmad, N. A p87 and p90 at footnote 260.

that Nigeria was to be a secular state. This proclamation was however deleted during the debates of the Constituent Assembly. And in its place section 11(now section 10) was introduced. Similarly, in 1998, another national constitutional debate was constituted to prepare a new constitution. At the end of the exercise, the committees report concluded that most Nigerians had opted for the 1979 modeled constitution. The 1999 constitution which came thereafter reproduced the provisions of the 1979 constitution and it neither use the word secularism or its derivatives.⁴⁶ Thus, even the term ‘secular’ or ‘secularism’ did not appear in the early and existing constitutions. Meaning, the term secularism did not enter the Nigerian constitution, and, at the same time, it was a contested idea when the constitution was framed, provoking acrimonious debates in the discussion.⁴⁷ So, the designers of the Nigerian constitution were not ignorant of the term ‘secular’ or ‘secularism’ but still choose not to even use it. In essence, the constitution of Nigeria does not contain the word ‘secular’ in any of its provisions and there is also no mischievous interpretation of any provision of the constitution to mean secularism.⁴⁸ This is the first and most important reason why Nigeria is unsecular.

3.2. Trifurcation of the Nigerian Legal System

The second important reason why Nigeria is unsecular is that the source of law under the Nigerian legal system are tripartite – the 1999 Nigerian constitution recognizes the common law , the Islamic law and customary law as the source of Nigerian law with judicial powers – all of which have something to do with religions of Christianity, Islam and Custom. These courts have been established by several sections of the constitution and have been practically institutionalized. Chapter VII of the Judicature part 1 and 2 covering section 230-296 of 1999 Constitution are the establishment, appointments, jurisdictions, constitutions, practices and procedures of these courts. Pragmatically, therefore, the constitution officially allows legal pluralism to exist in Nigerian legal system.

Other sections of the constitution which are contradicted by secularism are section 17(3)(b) on social objectives as the section has made it clear

⁴⁶ N. A Ahmad, (supra) Pp. 89-90

⁴⁷ A. H Yadudu (supra) P.8

⁴⁸ M. I Iyawa ”The Conundrum and Moral Distress of the Nigerian Christians Towards the legality of the use of Hijab: A Critical Reflectio”, Al-Hadarah Journal for Islamic Civilization Vol. 1, Dec, 2023 CICID, B.U.K Nigeria Pp190-191

that government can promote religious and moral affairs. Section 23 of the constitution and section 38 of the constitution are contradicted by secularism.⁴⁹ There are indeed many other sections of the constitution which are contradicted by secularism. The other point is that when one critically observed how far the state governments affirmatively promote religion in the public sphere, religious practice and observance in Nigeria is not merely exercised individually or privately but with collective dimensions including group and the state. So also, the constitution allows religious instruction in public schools, but no person is obliged to receive religious ceremony or observance other than his/her own religion not approved by his/her parent or guardian.⁵⁰ The constitution also call for religious tolerance and. brotherhood. Basically, in Nigeria, there is no clear constitutional attributes of the concept of secularism. Above all, this argument is more convincing particularly as long as Nigeria does not categorically endorse secularism and its continuous engagement with religion. In fact, the active involvement of government in religious matters portray the government as more of religious government than secular one.⁵¹

In the same vein, some Nigerian laws included a variety of religious rules. To give an example, the Penal code Act, has significant Shariah injunctions, while the enactment of laws like Same Sex Marriage (prohibition) Act 2013 were influenced by religious arguments. Infact, the act under section 7 recognize marriage in Nigeria only in accordance with the marriage Act, Islamic law or customary law. And section 2 of the same Act state that same sex marriage shall not be solemnized in a church, mosque or any other place of worship in Nigeria.⁵² This shows there is a strong religious influence on the Nigerian legal system generally as was further pointed out by Sampson.⁵³ Moreover, there are laws establishing religious institutions which are wholly funded by government. The Muslim National Hajj commission of Nigeria is established by law and the Christian pilgrim commission established by an Act of the National Assembly.

⁴⁹ See the 1999, Nigerian Constitution, sections 17(3) b, 18, 38

⁵⁰ A. Bilgrami, 'Secularism: Its Content and Context' Columbia University, October 2011 SSRRC Working papers, NY 11201/wwsrc.org

⁵¹ S. M Kanam, 'Is Nigeria a Secular State?' Journal of Islamic and Comparative Law Vol. 26(2006), J.L.C.L Vol.20, April 2006, IILS, Zaria P.122

⁵² Same Sex Marriage (Prohibition) Act 2013

⁵³ I.T. Sampson, (Supra)

One can argue, therefore that from the totality of the aforementioned analysis; the trifurcation of the Nigerian legal system and other positive inclusions of religious Acts and the religious character of the Nigerian people do warrant a description of the Nigerian country as Unsecular. Infact, as tightly observed by Yadudu, that government officials have consciously eschewed describing Nigeria as secular.⁵⁴ Therefore, the religious neutrality requisite for characterizing a state as secular is obviously lacking in Nigeria. Some other grounds for the justification that Nigeria is unsecular is made here under

3.3. Explicit Recognition of God in the Preamble

The practice of constitutions of the overwhelming nations is to begin with a preamble. The preamble usually contains what a nation considers to be its fundamental objectives and ideas which are to be pursued. The Nigerian constitution in following this worldwide pattern, has a preamble wherein the fundamental goals of the nation are set out.⁵⁵ Of course, however, if one consulted the Nigerian constitutions past and present the preamble contains explicit reference to God.

We the people of the federal Republic of Nigeria, having firmly and solemnly resolved to live in unity and harmony as one indivisible and indissoluble sovereign nation under God.....⁵⁶

Having been included in the preamble that Nigeria is under God, this declaration by all necessary implications forms part of the fundamental objectives and ideals of the Nigerian nation, this therefore clearly rules out the contention that religion and State are completely separated. On the other hand, this same preamble positions Nigeria as a Godly nation, and by implication it has to deal with religions.⁵⁷ Thus, the preamble placed Nigeria and Nigerians under the authority and supremacy of God.

It is also a constitutional requirement that the oath of allegiance and oath of office should be administered on certain elected and/or appointed public officers including the president, vice president, governors, and deputy governors. Ministers, commissioners, special

⁵⁴ A.H. Yadudu, (Supra) P.23

⁵⁵ N. A Ahmad, (Supra) p91

⁵⁶ The Preamble of the Constitution of the federal republic of Nigeria

⁵⁷ N. A Ahmad, (Supra) p91

advisers, members of the national and state houses of assemblies, judicial officers and so on. The taking of these oaths is condition precedent to the assumption of office by these public officers. The format of each of these oaths has been provided by the seventh schedule to the constitution. Each of the prescribed format of this oath ends with the phrase and prayer; ‘*So help me God*’⁵⁸

And no Nigerian has ever protested the religious allegiance pledged to God in all this circumstances mentioned above.⁵⁹ This clearly shows that our ground norm, the constitution does not contemplate a secular society for our country but a multi-religious society.⁶⁰ Moreover, Oyewo, unwittingly admitted that other provisions of the constitution and how the Nigerian state relates to religion generally negates a secular intention or objective in Nigeria.⁶¹ Therefore, Nigeria is unsecular from a clear and pragmatic language of the constitution.

4.1. The Paradox and Paralogsism of the Secularization of Nigeria: Examination of Section 10 of the 1999 Nigerian Constitution

“...The history of secularism is the history of a story we told, not a thing that happened.”⁶²

Due to the provisions of section 10 of the 1999 constitution (as amended) which provide thus; The Government of the Federation of a State shall not adopt any religion as a State Religion. Proponents of secularism, continuously insist that Nigeria has under-gone secularization. To them Section 10 of the 1999 Constitution means that Nigeria is secular to the extent of equating Nigeria to Turkey. Thus, the section is often wrongly interpreted to mean Nigeria is a secular state. For instance, as pointed out by Yadudu that this section since its adoption has come to acquire several strands of meanings and connotations. It has also been claimed that with its adoption, Nigeria’s polity has been thoroughly secularized by constitutional fiat.⁶³ To illustrate this point, the Nigerian Christian leadership in general

⁵⁸ Constitution of the Federal Republic of Nigeria, 1999. Sections 26(1), 27(2), 52, 94, 135, 140, 142, 149, 180, 185, 187 and 290 as quoted in N. A Ahmad, (Supra) p92.

⁵⁹ I Oloyede, (Supra)

⁶⁰ Ibid P.132

⁶¹ O, Oyewo Constitutional Law in Nigeria (2019) Wolters Kluwer, The Netherlands P.214

⁶² Ibid P.9

⁶³ A. H Yadudu, (supra) p15

strongly believes that the multi-religious nature of Nigeria imposes the necessity of secular, non-religious laws. They have argued that the interpretation of this provision is that the country is secular. Hence, in their view the major instruments that need to be promoted are democracy and secularity.⁶⁴ That, we are obliged to accept a secular constitutional framework as our passport to a peaceful future.⁶⁵ However, they failed to say which brand of secularism Nigeria belongs to or what type of neutrality Nigeria is playing.

From a perspective that links Section 10 to secular assumption of Nigeria, Oyewo also theorized that, section 10 is a call for a rigid separation of state from church or religion. He went further to argue that the aim and objective of section 10 and the first amendment to the United States constitution are the same. Even though, he himself acknowledged that, there is textual difference between the two.⁶⁶ But Sambo saw it as a sign of ignorance of the 1999 constitution to claim that Nigeria is secular.⁶⁷ Exactly said Kawu, the provision of Section 10 of the 1999 Constitution does not qualify the country as a secular state.⁶⁸ Oloyede also reiterated that, the provision of section 10 did not constitute a provision necessary to identify or to ensure that Nigeria is a secular state or an abstract notion of secularism. In fact, Amadi, convincingly argued that section 10 of the Nigerian constitution does not seek to erect a wall of separation between religion and politics or state, rather it attempt to hold out a fair balance between religions. This means of course that everybody is at liberty to practice a religion of his/her own choice with government assistance where necessary without showing a favour to any particular religion.⁶⁹

According to retired Grand Khadi Shehu, the misconception of giving Nigeria a secular status has adversely affected even the judiciary.⁷⁰ It is still same section 10 that some Judges relies upon as a constitutional basis to make arguments in favour of the secular nature of Nigeria. For instance, as demonstrated by Justice Onyeabo's discretion in the trial

⁶⁴ Ibid Pp81-83

⁶⁵ Ibid P.85

⁶⁶ O. Oyewo (supra) P.214

⁶⁷ B sambo

⁶⁸ S. D. Kawu

⁶⁹ S. Amadi, 'Religion and Secular Constitution: Human Rights and the Challenges of Sharia'.

⁷⁰ M. Justice Shehu (Former Grandkhadi, FCT Abuja) in his paper 'A Memorandum on the 1999 Constitution to the Government and National Assembly Abuja.

case of miss Asiyat Abdulkareem where the trial Judge claimed that S10 of the 1999 constitution made Nigeria a secular state as intended by the framers of the constitution. And that, Turkey though reportedly predominantly Muslim is by its constitution, a secular state like Nigeria.⁷¹ However, such an understanding is at odds with the constitution of Nigeria. Although on appeal, Justice Gumel questions the claims move in the name of secularism. He concludes that judges have no authority to adopt arbitrary departures from basic doctrine. He added that, 'it is not within the vires of a court of law to read into the provision of our constitution a meaning that it ordinarily cannot bear in any given circumstances.'⁷² Ogbu retrospectively reports that, retired justice of the Supreme Court, Justice Niki Tobi, held that, 'there is the general notion that section II of the 1989 Constitution (similar to Section 10 of 1999 Constitution) makes Nigeria a secular nation. That is not correct. What section II is out to achieve is that Nigeria cannot, for example, adopt either Christianity or Islam as a state religion. But that is quite different from secularism.'⁷³ However, speaking disapprovingly of his lordship, Ogbu, histrionically claimed that his lordship conclusion verged on misconception.

On the constitutional acknowledgement of Shariah, Ogbu contested that, the most controversial issue relating to the question of secularity of Nigeria is the provision for Sharia Court of Appeal in the constitution. Therefore, to remove any doubt about the secularity of Nigeria, Prof Ewelukwa suggested that such court should be abolished and thus expunged from the constitution.⁷⁴ Vishigh openly stated that the Shariah system of law is not for the modern states. Therefore, the secular nature of the constitution be pursued like Turkey.⁷⁵ A more recent development which illustrates in part a strategic purpose and a particular opposition to Islamic standerdization of its system (are so easily dragged under the carpet) is the refusal to redact the term personal in the constitution claiming that the redaction will allow Islamic law accommodates more issues and that Nigeria is secular. Thus the bill, if allowed, would expand the application of Shariah

⁷¹ Miss Asiyat (Supra) P26

⁷² Miss Asiyat Abdulkareem (supra) P37

⁷³ O. N. Ogbu, Is Nigeria a Secular State? Law, Human Rights and Religion in Context' The transnational Human Rights Review, 2004 Vol 1 NIALS, Abuja P.178

⁷⁴ Ibid P. 169

⁷⁵ I. R Vishigh" The Seperation of Church and State: Nigeria's Constitutional Contrivance another View" Current Jos Law Journal Vol 4 No.4 (1998).

beyond the intent of the framers of the Constitution. On this basis the house ended up not supporting the bill and it was eventually dropped. Such arguments are not logical, accurate, and constitutionally rich. Such restrictions are costless to those that are not important. It is also costless for people who have nothing to offer as a basic principle of their religion. Meaning, if others are directly or technically barred from adhering to their religiously justified position, simply because others have nothing to offer as the standard or equal footing from their religion, then the law ceased to be neutral and fair. In fact, Gunn, rightly pointed out that, what adherent of some religion might perceive to be trivial issues, adherents of others may see as absolute command worthy of martyrdom.⁷⁶ Here, it can be disagreed conceptually and theoretically that Nigeria is a secular state. If one calls Nigeria secular, one has to justify this or one has to explain why. Indeed, is not a self-explanatory value, justifications have to refer to the values promoted by legal institutions and policies. The Nigerian constitutional historical record does not make any pretext to secularism.⁷⁷ The statutory marriage laws in Nigeria has been greatly influenced.⁷⁸ In fact, Alhaji Sa'ad Abubakar, Sultan of Sokoto make a categorical statement that;

Anyone saying Nigeria is a secular nation does not understand the meaning of the word secular. There is nothing secular about the Nigerian nation since whatever we do will always put Islam and Christianity in the fore front.⁷⁹

Moreover, the 50 “Wise Men” who drew up the constitution gave no hint at all as to their rational(s) for introducing the section. Hence, they have not mentioned that section 10 means secularism as claimed by proponents of secularism in Nigeria.⁸⁰ And the claim that section 10 of the 1999 constitution means secularism and thus separation between state and religion are contradicted by the constitutional reality. Therefore, none of these can be said a good constitutional argument. In fact, Iyawa deductively contended that, in a true and meaningful sense,

⁷⁶ T. J Gunn (supra) P.190

⁷⁷ Ishaq, Olarewaju, Oloyede, Shariah Versus Secularism in Nigeria, Islamic Publications Bureau, Lagos(1955) P.64

⁷⁸ Ibid P.35

⁷⁹ Sampson, I.T. (Supra) P.325

⁸⁰ A.H. Yadudu, (Supra) P.23

section 10 of the 1999 constitution is a call for non-preferential and protection on equal.⁸¹

4.2. The Analogy between Turkey and Nigeria

‘It turned out to be misleading to call principles of values of decent democratic politics ‘secular’ and, most importantly, to call these states and their constitutions ‘secular’ instead of indifferent.’⁸²

The question of an analogy between the Nigerian and Turkish situations also requires some analysis on the principle of secularism. This comparison is contradictory to the Nigerian constitutional reality as highlighted earlier and it is not only unjust, it is also uncritical and ironic. Firstly, Durham who compared the Nigerian constitution and those of French and Turkish with respect to the practices of secularism, concludes that there is nothing in the Nigerian constitution calling for the harsh separation of French and Turkish secularism. The reason for this difference is certain, while the constitutions of French and Turkey have explicitly declared their states as secular, there is no such express declaration in the Nigerian constitution and that the Nigerian approach to religious freedom radically differs from that of Turkey or any secular states.⁸³ Secularism as has been one of the ideological pillars of the Turkish republic since its foundation and Turkey fierce protection of secularism can be traced to a total rejection of the Islamic religion not only in the government but also sought to rule out religion not just in the polity, but in a much more general way, intruding into the cultural life and the intellectual and artistic productions of their citizens. In doing so, they were not merely enforcing secularism in authoritarian fashion, they were enforcing secularization as a broader social process.⁸⁴

⁸¹ M Y Iyawa(supra) P203

⁸² V. Bader, ‘Secularism or Democracy? Associational Governance of Religious Diversity’ IMISCOE Research Amsterdam University Press 2007, Electronic book atP.18

⁸³ N.A. Ahmad, (Supra) P

⁸⁴ C.D Lovejoy, ‘A Glimpse into the Future: What Sahin V. Turkey means to France’s ban on Ostensibly Religious Symbols in Public Schools’ Winconsin International Law Journal Vol. 24. No.2 Pp553-664

In other words, despite the fact that Turkey is principally a Muslim populated country, the State sought to create a religiousless state.⁸⁵ Unlike Nigeria, upon its independence, Turkey made secularism the official ideology of the state and enshrined secularism in Article 2 of its constitution. Thus, there is categorical and clear statement provision in the Turkish Constitution. The framers of Turkey's original constitution saw secularism as the hallmark of Turkey's status as a modern nation and as a way to abolish the empire governed by Sharia. Several early laws dealing with clothing in Turkey, including the law on the wearing of the fez, and a law prohibiting religious officials from wearing religious garments in the public sphere. In secular states such as France and Turkey, for example, according to Exposito secularism (or laicisme) has often represented a distinctly anti-religious seeking to control all religious expressions and symbols and abolish them from the public sphere. Thus, the mixing of religion and politics is regarded as necessarily abnormal, irrational, dangerous and extremist.⁸⁶ Bhargava argued that in a secular regime, no official status is given to religion. No religious community in such a state can say that the state belongs exclusively to it. No one is compelled to receive religious instruction. No grants to religious institutions are available.

A secular state has free standing ends, substantially, if not always completely, disconnected from the ends of religion. They break away completely, refusing to establish religions or if already established, formally disestablishing them by withdrawing privileges.⁸⁷ These constitutes the crucial distinction between secular state and unsecular state. Hence, by contrast, to the Nigerian law, Turkey adopted a secular legal framework explicitly separated religion from the state. The Turkish constitution ensures that the state remains secular. This is contrary to what has happen and is still happening in Nigeria. Thus, there is no denying that Nigeria makes a difference to secularism. All the features of secularism are not obtainable in Nigeria. The Nigerian constitution does not embody separation of religion and state. It permits

⁸⁵ M Saxena, 'The French Headscarf Law and the Right to Manifest Religious Belief 20(i7, The Selected Works of Mukul Saxena, Harvard Law School. Masschuseiis P61 Available at: <http://worksbeepress.com/mukul-saxena/2>

⁸⁶ L.J. Esposito, 'Rethinking Islam and Secularism' ARDA, Guiding Papers Series. At www.theARDA.com P.3

⁸⁷ R. Bhargava, 'Political Secularism' Published in a Handbook of Political Theory. John Dryzek, B. Honning and Anne Philips (ed). Oxford University Press, Oxford 2006, Pp636-655

the state to participate in religious affairs and conduct activities associated with religious practices.⁸⁸

Clearly, therefore, the principal challenges confronting the so-called advocates of secularism in Nigeria are the lack of constitutional basis of secularism, legal pluralism, or constitutional reference and grounding of religious laws as well as religious intermingling with politics. Lack of serious engagement with the concept of secularism and secularization as a whole is also a challenge to them. Particularly in the Nigerian context.

5.1. The Politics of Secularism and the Neutrality Ideology

“The attempt to establish a wall of separation between “religion” and “politics” is both unjustified and probably counterproductive for democracy itself.”⁸⁹

Today, the general assumptions that modern societies are ‘secularized’ has recently started to show more serious cracks. Western researchers, academics and Christian theologians and lots others are now contesting the idea of secularism even in the so-called secular democracies. This criticism of secularism was worldwide. Secularism is characterized by hostility towards religion, limiting the roles of believers in public life. Secularism combats religion and seeks to introduce freedom from religion.⁹⁰ Several western scholars claimed that by enjoining believers to leave behind religious convictions when they step into public life, secularism shows hostility to believers, inhibits diversity and homogenizes the public domain. Others claim thus secularism is a parochial doctrine with universalistic pretensions. Meanwhile, others believe that it purports to fight religious hegemony but attempts to establish itself as the sole, authoritative basis of adjudication in public life.⁹¹ According to anthropologist Talal Asad, secularism became “entangled with projects of total social reconstruction by means of

⁸⁸ Kawu, S. D (supra) P.4

⁸⁹ J. Casanova, ‘Rethinking Secularization: A Global Comparative Perspective. Essays the Hedgehog Review/spring & summer 06 vol 8 at: www.isasc.culture.org. Retrieved P. 20

⁹⁰ P. Japtonska, Children’s Right to Freedom of Religion, Warszawa, UKSW(2024) P.17

⁹¹ R Bhargava, (Supra) p3

legislation.⁹² Secularity as a constitutional principle is prone to generating confusion.⁹³ There is a tendency to link processes of secularization to processes of modernization. Thus, the assumed correlation between secularization and modernity as progress and development. However, Scott disagreed with the Charles Taylor's progressive narrative that secularism is synonymous with progress, emancipation and modernity.⁹⁴ Quoting Assad, Scott added that the idea of secularism as liberalism is a myth.⁹⁵ By and large, social theorist, Ashis Nandy badly dismissed secularism as a false ideology designed in the west.⁹⁶ These assumptions were never left even in the hostile secular states like Turkey and France.⁹⁷ In Turkey, recent political trend under President Recep Tayyip Erdogan has seen a resurgence of Islamic values in public life.⁹⁸ Secularist fail to realize that every society needs a strong moral code to survive. Behind every moral code there is an established religion and religious truth, no matter how perverted and misinterpreted.⁹⁹

Moreover, Esposito point out that even the notion that secularism is 'neutral' regarding religion is itself a contested issue today.¹⁰⁰ Zellentini states that what it means for the state to be neutral, is often unclear and controversial. Quoting Rawls, some of its connotations are highly misleading, others suggest altogether impracticable principles.¹⁰¹ Gerolami also challenges the assumed neutrality of secularist ideologists. No state can function free of ideology, even the seemingly

⁹² T. H. Weir, 'Secularism and secularization post-colonial genealogy and historical critique p.3

⁹³ J W Scott (supra) P 233

⁹⁴ Ibid P.5

⁹⁵ Ibid P. 6

⁹⁶ As Quoted in Weir P.3

⁹⁷ R Bhargava, 'Political Secularism' Published in a handbook of Political Theory, John Dryzek, B: Bonning and anne Philips (ed Oxford university Press, Oxford. 2006, Pp2-3)

⁹⁸ M. I Ahmad 'Islamic Law and Modernity' Comparative Analysis of Secular and Majority Muslim Countries. At: <https://malikimtiaahmad.academia.edu> Retrieved 2025

⁹⁹ Ibid P.102

¹⁰⁰ J.L Esposito, 'Rethinking Islam and secularism' the ARDA Guiding Papers series www.theARDA.com Pp.26-27 Delhi King - Islam

¹⁰¹ A. Zellentini 'Neutrality as a Twofold Concept' A Multidisciplinary Journal on the Normative Challenges of Public Policies and Social Practices, Vol. 4 No. 2 2009. At: <http://creativecommons.org/licenses/by-nd-nd12-5/legalcode> Pp1-2

neutral secularism is itself a weltanschauung.¹⁰² Indeed, as can be observed in secular states, the rejection of religion is itself a pseudo-religious ideology.¹⁰³ Critics of the principle of neutrality suggest that neutrality is not neutral at all, but rather a specific worldview.¹⁰⁴ Even in Nigeria there is no such balance. Secularists/secular forces however, turned secularism into a cornerstone of democracy. They consider the establishment of democracy as impossible without secularism.¹⁰⁵

5.2. Proponents of Secularism in Nigeria have nothing to Lose

“We are witnessing this denial of the majority’s will in country after country in a bid to defend the principle of the separation of church and state.”¹⁰⁶

Advocates of secularism usually defend their approach by arguing that it represents a neutral rational and objective platform. Secularism and neutrality are often treated as synonyms.¹⁰⁷ However, Secularism has always been critiqued as a form of ideology which presents itself as neutral and masks the manner in which it delegitimizes certain worldviews.¹⁰⁸ Certainly, Far from delusion, secularism and secularity not only have roots in Christian political doctrine but have developed in political communities held together by Christian values and identity.¹⁰⁹ Similarly, Bhargava emphasized that secularism is not just a Western idea, but it is certainly a Christian doctrine.¹¹⁰ Even the so-called democracy has grown on the foundations of Christianity.¹¹¹ Therefore, seeking to be imposed upon Muslim directly or indirectly. Indeed, as pointed out by Esposito that too often, discussions on

¹⁰² Ibid Pp106-107

¹⁰³ Ibid P. 107

¹⁰⁴ N. Georama’ No Faith in the Library: Challenging Secularism and Neutrality in Librarianship’ *Canadian Journal of information and library Science*, vol 43, No.2, October 2020, University of Toronto Press, at: <https://muse.jhu.edu/article/772365>. P.175

¹⁰⁵ Ibid P. 102

¹⁰⁶ A Jan, *The End of Democracy*, (2003) Pragmatic Publishing & Distributions, Canada. P. 96

¹⁰⁷ Monograph five: the Neutrality Equation, *Social theology* at: sociotheology.com. Retrieved Oct, 24

¹⁰⁸ Ibid P. 177

¹⁰⁹ Ibid P232

¹¹⁰ Bhagarva P *Supra* P.23

¹¹¹ A D Rakitici (*supra*) P232

secularism are “about them”, failing to sufficiently listen to, consider or reflect diverse Muslim voices.

According to NILs Holtug, even neutrality is compatible with the existence of an established church as long as it is justified politically as a way of promoting social cohesion in ¹¹² this indicates that, in whatever sense of secularity or neutrality, it is still in conception with Christian ideals. Therefore, they have nothing to lose. Thus, the neutrality claims seem to tilt the balance in favor of the Christians. Smith testifies that, secularism is a new manifestation of Christianity, but one that is not immediately obvious. Thus, secularism is the latest expression of the Christian religion because Christianity has always been a religion with a fluid, evolving identity¹¹³.

Secularism, therefore, is not neutral. It makes specific ontological claims and derives political ambitions from it. This is not neutrality, but rather coercion in the realm of religion, imposing a particular worldview on others and ultimately silencing other religious voices.¹¹⁴ Here in Nigeria, Sundays and Saturdays are free working days, which are more or less in conception with Christian ideals. In fact, Oloyede argued that religious neutrality is not maintained in a country where the sabbath of a religion is, as in Nigeria, officially imposed on all citizens of a multi-religious nation.¹¹⁵ This means promoting one ideology against another or treating one faith as the favored religion, which may lead to a deliberate division and confrontation, directly or indirectly. Thus, Nigeria is far from being a neutral system.

6.0 Conclusion

This paper ascertained key difference between secular and unsecular state, especially with regard to the requirement that the state and law be secular. Particularly, consideration is given to understanding the relationship between Nigerian state and religion, as well as to the question whether Nigeria has undergone secularization. In summation, the following conclusions can be drawn. There is simply no historical foundation for the preposition that the framers of the Nigerian

¹¹² Nils Holtug ' Nationalism, Secularism and Liberal Neutrality: The Danish case of judges and Religious Symbols' The Ethic Forum, Vol 6. No.2, 2011. At: <http://www.erudit.org/apropos/utilization.html> Retrieved October 2024. P.113

¹¹³ Smith G 'A Short History of Secularism', I. B TARIS, London. New York Pp2-9

¹¹⁴ Ibid P. 181

¹¹⁵ Ibid Ishaq Oloyewe P.34

constitution intended to build the “Wall of separation between state and religion” Meaning, Nigeria did not categorically endorse secularism or any semblance of a secular nature. Moreover, the central characteristics of secularism and secularization comes into open conflict with Nigerian structure and legal circumstances. Thus, by definition or action Nigeria cannot be described as secular state due to the fact that, there’s no clear constitutional attributes of the concept of secularism or secularization. Infact, the direct and continuous involvement with religion are constitutionally grounded. Clearly, therefore, Nigeria is far from being a neutral system or secular but unsecular Nigeria. Therefore, the secular minded Nigerians must accept the reality of the composition and diversity of Nigeria that is multi-cultural, multi-ethnic, multi-religions with legal plurality as enshrined and recognized by the constitution of Nigeria. Moving forward, we have to plan and expect differences with neither whip nor sword. What defines tolerance, unity, and diversity is representation, collaboration, conversation, equality and justice. The policy of non-interference, non-imposition and non-hegemonisation.