

A HERMENEUTICAL STUDY OF LEVITICUS 19: 15 AND ITS IMPLICATIONS FOR JUDGES IN NIGERIAN DEMOCRATIC CONTEXT

Peter Olanrewaju Awojobi

PhD., Department of Religions, History & Heritage Studies, Kwara State University, Malete, Kwara State, Nigeria

ABSTRACT

Justice is one of the attributes of Yahweh. Judges were appointed in ancient Israel by Yahweh for the Israelites to live in peace and harmony with one another. However, it was observed that the Judges in ancient Israel did not live to expectation. Leviticus 19: 15 was chosen as a text of investigation to determine the response of Yahweh to the Judges and its implications for Judges in Nigerian democratic Context. Historical and Phenomenological methods were used for the research. It was discovered that one of the organs that is expected to play crucial roles in governance is the judiciary. The study revealed that Judges and leaders in ancient Israel failed Yahweh. Also, since the inception of Democracy in Nigeria, the Judiciary has played and is playing important roles to protect the system. One of the major roles of the Judiciary is justice and equity for all and sundry in all election petitions, disputes in political parties, removal and reinstatement of elected officer. It was observed that some members of the judiciary are not living to the expectation of the law and the people. Some of them compromise justice for pecuniary gains. Some Nigerians opined that Judiciary has been compromised and as such cannot be trusted in the events of manipulations of electoral process or results by the politicians and the electoral body that has the responsibility of conducting elections. In view of this, many Nigerians no longer have trust in the Judiciary and this has brought the vocation in to disrepute.

KEYWORDS

Judiciary, Democracy, Yahweh, Justice, Equity & Nigeria.

INTRODUCTION

Justice is one of the attributes of Yahweh. Judges and leaders in ancient Israel and Nigeria are expected to be God's representatives in both contexts but reverse is the case. In Nigeria, the judiciary is expected to play roles as enshrined in the constitution. The role of the judiciary in electoral process cannot be over emphasized as it is a stabilizer in the political system and has the extra duty of the protection of the constitution. This study considers Leviticus 19: 15 and its implications for Judges in Nigerian Democratic Context. Historical and Phenomenological methods were used for the research.

It is pertinent at this juncture to examine the word democracy and judiciary that form the fulcrum of this

study. Democracy is a system of government under which the people are expected to exercise the governing power either directly or through representatives periodically elected by them (Alaya, 2016: 136).

Abraham Lincoln gave what has since become the most famous definition of democracy as government of the people, by the people and for the people (Ajayi & Ojo, 2014: 108) The Black's Law Dictionary defines judiciary as the branch of government responsible for interpretation of the laws and administering of justice (Garner, 2009: 294).

The term judiciary designates a judicial system, comprising structure and jurisdiction of courts, appointment and tenure of judges and judicial proceedings. In current usage, the term judiciary specifically refers to the function of the judges in judicial process (<http://wwwmartinlibrary.blogspot.coming/2013/01>). The term judiciary, therefore embraces judges of superior courts and those of the junior courts, magistrate and district judges (<http://wwwmartinlibrary.blogspot.coming/2013/01>).

The judiciary is the instrument of government against tyranny and oppressive hands. It has to ensure that the state is subject to the law; that government respects the right of the individual under the law. The courts adjudicate between citizens inter se and also between the citizen and the state. The courts therefore, have to ensure that the administrators conform to the law; they have also to adjudicate upon the legality of the exercise of executive power. The importance of the judiciary, in a free and democratic society, cannot, therefore be over emphasized (Enaruna, 2014: 93).

Hermeneutical Study of Leviticus 19: 15

Text in Hebrew

לֹא-תַעֲשֶׂוּ עֹלָל בְּמִשְׁפָּט לֹא-תִשָּׂא פְנֵי-דָל וְלֹא תִהְדָּר פְּנֵי גָדוֹל בְּצִדְקַת תִּשְׁפֹּט עַמִּיתְךָ:

(Lev 19:15 WTT)

Translated Text in English

"Do not pervert justice; do not show partiality to the poor or favouritism to the great, but judge your neighbor fairly" (NIV)

The phrase 'Do not pervert justice' לֹא-תַעֲשֶׂוּ עֹלָל בְּמִשְׁפָּט (Lev 19:15) should be noted. It is a command from Yahweh to the congregation of Israel especially the leaders. The word 'do not' indicates something that is prohibited. עָשָׂה verb qal imperfect 2nd person masculine plural homonym 1 Aside from the numerous occurrences of the meaning "do" or "make" in a general sense, עָשָׂה±do not' is often used with the sense of ethical obligation. The covenant people were frequently commanded to "do" all that God had commanded (Exo 23:22; Lev 19:37; Deut 6:18, etc.). The numerous contexts in which this concept occurs attest to the importance of an ethical response to God which goes beyond mere mental abstraction and which is translatable into obedience which is evidenced in demonstrable act. The word is often used in specialized expressions such as "make war" (Gen 14:2), "deal kindly" (Jud 1:24), "show faithfulness" (Gen 32:11), "do folly" (Deut 22:21), "offer sacrifice" (Exo 10:25), "keep the Passover" (Exo 12:48), "execute vengeance" (Jud 11:36), and many more.

In Hebrew the basic meaning of this root ±do not' means to deviate from a right standard, to act contrary to what is right. The root occurs sixty times, with forty of these found in Job (sixteen times); Psalms (thirteen times) and Ezekiel (eleven times): The rest are distributed throughout the prophetic and legal literature. When used in the sense of the word also connotes the concepts "commit," when used of wrong (Hos 6:9), "to deal with one" (Zech 1:6), and "to follow" in the sense of following advice (2Sam 17:23). "make," the emphasis is on the fashioning of the object (Gen 8:6; Gen 33:17; Exo 25:10-11, 13, 17, etc.).

On the other hand, the Hebrew שָׁפַט 'justice' is very crucial. The primary sense of שָׁפַט is to exercise the processes of government. However, the ancients did not always divide the functions of government, as most modern governments do, between legislative, executive, and judiciary. The word, judge, as שָׁפַט is usually translated, in modern English, means to exercise only the judicial function of government. Unless one wishes in a context of government, civil, religious, or otherwise consistently to translate as "to govern or rule," the interpreter must seek more specialized words to translate a word of such broad meaning in the modern world scene. Yahweh in this context warned against justice being perverted by the leaders. There is no justice until the scales of the balance swing even (Barker & Kohlenberger III, 1994: 148). A parallel to this instruction is found in the words of King Jehoshaphat to the civil judges in his reign (2 Chron. 19: 7). The same command is found in Deuteronomy 27: 19, where Moses mandated that the 'alien', 'the fatherless' or 'the widows' be treated fair because they are the ones that gets the small end of justice. Equity and justice for all and sundry. These group of people are susceptible to injustice because they not have people that will fight for them.

In the same vein the phrase 'do not show partiality to the poor' לֹא-תִשָּׂא פָנֶיךָ לַעֲנִי (Lev 19:15) is a command from Yahweh. In other words, partiality to the poor is also not justice. The Hebrew word עָנִי poor, or one who is low. This root connotes lowness as a state or a goal. It occurs sixty-two times. Used metaphorically, the verb describes a state of deprivation which in its extremity issues in a cry to God. It sometimes refers to physical distress (Jud 6:6). This root occurs most frequently in the adjectival form. It represents those who lack rather than the destitute. We might consider עָנִי as referring to one of the lower classes in Israel (cf. 2Kings 24:14; 2Kings 25:12). In עָנִי the idea of physical (material) deprivation predominates. Compare, also, דָּלָה denoting the opposite of fatness (Gen 41:19), and the poorest and lowest of Israel whom the Babylonians left behind (2Kings 24:14).

Also, Yahweh warned on '... favouratism to the great' וְלֹא-תִהְיֶה פָנִי גָדוֹל בְּצִדִּיק (Lev 19:15). Due to the influence of this class of people in the society, there is the possibility of showing them some favour but Yahweh warned against such. The Hebrew word גָּדַל means grow up, become great or important, promote, make powerful, praise, (magnify), do great things. The root is used for physical growth of people and other living things as well as for the increase of things tangible and intangible whether objects, sounds, feelings or authority. It is combined with the divine name to form personal names, the most frequent from being Gedaliah meaning "the Lord is great" (2Kings 25:22-25). In 1Sam 26:24 the word means to set a high value on one's life. In Job 2:13 it is used for expressing intense grief while in 1Kings 10:23 it refers to the importance (greatness) of a king. It often speaks of God's greatness (2Sam 7:22) and Messiah is described as one who "will be great unto the ends of the earth" (Mic 5:4).

The expectation of Yahweh is expressed in the phrase 'but judge your neighbor fairly': תִּשְׁפֹּט עִמִּיתְךָ (Lev 19:15). Equity and justice for all and sundry is expected from those saddled with the responsibility of justice. The Hebrew word עִמִּית means associate, fellow, relation (e.g. Zech 13:7). In this context it means that humans are associate, fellow and relations. By reason of the fact that humans are colleagues or brothers and sisters equal treatment is expected.

Implications of Leviticus 19: 15 for Judges in Nigeria

Nigerian is commonly called 'the Giant of Africa' by reason of her population that was estimated at 133, 88,700 in 2003 (Microsoft Encarta Encyclopedia, 200 4), but a little above 200,000,000 The History of Nigeria can be traced to settlers trading across the Middle East and Africa as early as 1100 BC. The place known as Nigeria today hosted numerous ancient African civilizations such as the Kingdom of Nri, the Benin Empire, and the Oyo and Songhai Empires to mention but a few. Nigerians were adherents of African Traditional Religion before the coming of Islam (through the Borno Empire in 1068 AD) and the Hausa States (1385 AD) during the 11th

century. Christianity arrived Nigeria in the 15th century through Augustinian and Capuchin monks from Portugal.

The transatlantic slave trade that started in Nigeria in the late 15th century had adverse effects on Nigeria because the British and the Portuguese used Badagry as a coastal harbor for slave trading. Slave trading business brought conflicts among the ethnic groups in this part of the region. Lagos was invaded by the British in 1851 and finally conquered in 1865. Nigeria became a British protectorate in 1901. The period of colonization lasted until 1960, when Nigeria got her independent and became a republic in 1963. Three years later, Nigeria suffered a coup d'état. In 1967, Nigeria had three years civil war which led to the formation of Republic of Biafra. Nigeria became a republic once again after a new constitution was written in 1979. However, the republic was short-lived, as the military seized power again and ruled for ten years. The military continued to rule Nigeria for about three decades before democracy was reintroduced in 1999.

For there to be an effective administration of justice in a democratic setting, the judiciary has definite and decisive roles to play. The judiciary plays complimentary roles within the principle of separation of powers. It is an indispensable organ that balances the exercise of powers in the polity of any nation (Oluwadayisi, 2016: 138). The judicial arm of government, resolves conflicts involving individuals, organizations, government and political parties. The judiciary also has the power to review the actions of both the executives and the legislature. It has been playing pivotal roles in the dispensation of justice for a sustainable democracy. In every civilized country, the judiciary is the last hope of the common man. The judiciary as a term applies to judges collectively. As the third arm of government, it protects democracy as well ensures administration of justice (Gbolagunte, www.linkedin.com).

An independent, impartial and informed judiciary holds a central place in the apprehension of good, transparent and accountable government. This is necessarily made possible by the provision that charges the judiciary with the function and responsibility to determine all matters between persons, or between government or authority and any person in Nigeria, and to all actions and proceedings relating to the determination to any question as to the civil rights and obligations of any person (Constitution of Federal Republic of Nigeria, 1999, Section 6)

The primary function of the judicial arm of government is that of adjudication, whereby a court determines the liability or otherwise of anyone who has breached the law (Constitution of Nigeria). Interpretation of the law is another function performed by the judiciary. Legal interpretation goes hand-in-hand with adjudication. This is because whenever a matter is brought before the court for adjudication, the essence of finding the true meaning of law is made apparent, and whenever this is done, a judicial precedent is set, and it affects all future court decisions, thus, the judicial arm becomes actually engaged in law making through the process of the interpretation and consequent setting of judicial precedent.

Furthermore, judicial review is a function of the judiciary. This ensures that actions and activities of other arms of government and administration are in accordance with the law and constitution. Judicial review is the power of the court in appropriate proceedings before it, to declare a legislative or executive act either contrary to, or in accordance with the constitution with the effect of rendering the act invalid or vindicating its validity and thus putting it beyond challenge in future. It is the power of a court to examine the acts of the other branches of government, lower courts, public or administrative authorities and uphold them or invalidate them as maybe necessary (Melami, 1999: 290).

The Implications of Leviticus 19: 15 for Judges in Nigerian Context shall be discussed under the following headings:

1. “Do not pervert Justice”

Yahweh commanded the Judges or leaders he appointed for Israel not to pervert the course of justice for any reason. Many Nigerians are of the view that one of the banes of our judicial system is corruption. They claim that justice in the contemporary Nigeria is for the highest bidder. In Nigeria, it is very common to see those who loose in an election filing petitions in the Courts. In their petitions they alleged foul play, manipulations and the likes during the electoral process. The petitioners therefore pray the courts to intervene in the matter. The Judiciary is expected to set up election petition tribunals to look into the issues raised and either uphold or reject election results earlier announced electoral umpire. Some Nigerians hold that some electoral candidates ‘settle’ or bribe the judges so that judgment can be given in their favour. In this case justice is given to the highest bidder. They alleged that some judges in Nigeria pervert justice for pecuniary gains and this has made some people to lose confidence and trust in the judgment of the judiciary. It is widely held that the Nigerian Judicial system is subject to manipulation because judges are corrupt, they take bribe and may not want to listen to the poor. This is an indication that the poor citizens of this country are denied justice (Akinotu, 2012: 4-5).

Corruption is the misuse of public powers for private profit (Garner, 1997: 348). A similar definition was adopted by the World Bank which describes corruption as an abuse of public power for private benefit. It is the act of doing something with the intent to give some advantage inconsistent with official office to procure some benefit either personally or for someone else contrary to the right of others. It is further defined as the act of soliciting or accepting promises, gifts offer to accomplish or to abstain from accomplishing an act or office or employment that is not subject to a salary. Again, Bairaman, in *Biobaku v Police* defined the word corruption as; receiving or offering of some benefit as a reward or inducement to sway or deflect the receiver from the honest and impartial discharge of his duties (Deihim, 2003: 42).

According to Adeyemi, the term corruption means; an offence which aim mainly at the conduct of public officials who take advantage of their position within public administration for the purpose of private gain (Adeyemi, 1988: 19). Literally, Hornby sees corruption as dishonest or illegal behaviour especially of people in authority (2010: 328) He also sees the concept as the act of making somebody change from moral to immoral standards of behaviour (Hornby, 2010: 328). The term corruption is more widely used by Doig to describe any use of official position, resources or facilities for personal benefit, or possible conflict of interest between public position and private benefit (Doig, 1996: 36-56). Corruption has also been defined as efforts to secure wealth, or power through illegal means, private gain at public expense or a misuse of public power for private benefit (Lipset, 2000:112). It has also been defined to include all forms of improper or selfish exercise of power and influence attached to a public as well as private office. According to the Black’s Law Dictionary corruption is;

An impairment of integrity, virtue or moral principle; especially the impairment of a public official’s duties by bribery or the act of doing something with an intent to give some advantage inconsistent with official duty and the rights of others; a fiduciary or official use of a station or office to procure some benefit either personally or for someone else, contrary to the right of others (Garner, 2009: 397)

In all, corruption as a term means a dishonest and immoral conduct (Itua et al, 55-56). There is no doubt Corruption is one of the challenges facing the judiciary in Nigeria, and this act can come in its various forms. Corruption in Nigeria is said to be the commonest disease that has eaten deeply into the different facets of life in the country. Speaking on the issue of corruption, the former vice president of Nigeria Professor Yemi Osibanjo (sunnewsonline.com/corruption-in-the-judiciary-facts-or-fiction accessed on 31 August, 2017.) opined that corruption is endemic in all sections of our society, including the three arms of the government. He asserted that corruption is discernible even in the judiciary. Allegations of corruption in the Nigerian judiciary have been

mounting from as far back as 2005 and earlier. In that year the then Chief Justice of Nigeria, Justice Mohammed Uwais, warned light-fingered judges against corrupt practices. At the opening of the All Nigeria Judges Conference, Uwais observed that corrupt practices had blemished the character of judges and amplified public misgivings relating to the moral character of members of the judiciary. In the same vein at a special session of the Supreme Court to commemorate the start of the 2011/2012 legal year the then president of the Nigerian Bar Association (NBA) Joseph Bodunrin Daudu, unequivocally spoke on the issue of corruption in the judiciary. He said there was “a growing perception backed up by empiric evidence that justice is purchasable on several occasions in Nigeria. We are reaching the point in time where accusations of corruption in the system will be at its loudest (Obijiofor, 2005). It is not surprising therefore that one hears of reports of High Court judges and magistrates dismissed, disciplined or suspended because they compromised their high office and sold their professional integrity for financial gratification. The most recent allegations of corruption raised against some judges by the Federal Government, has indeed showed how low the judiciary has sunk with regards to the issue of corruption. Although the cases against most of the accused judges have not been concluded, some of the evidence elicited during the trial of some of them on the list, are extremely perturbing. While a court may not see fit at this time to conclude that the evidence tendered at trial so far, reaches the thresholds to convict for a criminal offence, the evidence non-the-less creates deep impressions about the weakness of the Nigerian Judiciary in the minds of reasonable observers of the trial (Akinseye-George, 2000: 9).

2. “Do not show favouritism to the great”

The ‘great’ in this context are the wealthy and the influential persons in the society. In Nigeria, this class of people are feared and favoured. Sometimes it appears that they are above the law of the land. The judiciary is usually faced with the challenge of persons and authorities refusing to obey court order. Sometimes the executive arm of government fails to obey judicial orders. This is one of the major challenges that pose a threat to independence of judiciary in Nigeria. This can take a variety of forms ranging from disobedience of court orders to non-compliance with due process. There should be respect for orders of the court as it was stated in the case of Governor of Lagos State v Ojukwu where the court held that the decision or orders of the court is to be obeyed except it is unjust, illegal or contrary to the rules of law in which case such a person can appeal (Nigeria Constitution, 1999, 84(2)(7) & 121(3)).

3. “Judge your neighbor fairly”

Humanity is one big family. The judiciary must be independent or free from interference from external The United Nations’ Declarations on the Basic Principles on the Independence of the Judiciary, 1985 stipulates that: The judiciary shall decide matters before them impartially, on the basis of facts and in accordance with the law without any restrictions, improper influences, inducements and interferences, direct or indirect from any quarter for any reason (Adeleke, 299).

In confirming this position, the Court of Appeal held in the case of Denton West v Muoma (NWLR, 2008: 451-452) that the importance of the competent, independent and impartial judiciary in preserving and upholding the rule of law cannot be over-emphasized. There is no doubt that public confidence in the independence of the court, in the integrity of judges that man such courts, and in the impartiality and efficiency of the administration of justice as a whole, play a great role in sustaining the judicial system of nation. Independence of judiciary can be said to mean the ability of a judge to decide a matter free from pressures or inducements (Umar, 2006: 85-89). The principal role of a judiciary is to uphold the rule of law and to ensure the supremacy of the law (Abdulahi, 2014: 56). Therefore, independence of the judiciary is often measured or described in relation to the amount of control (undue, inappropriate or illegal) internal or external influence exerted over the judges

(Randall, 2008: 3).

The performance of the judiciary determines to a great extent the stability of both the polity and other branches of government. Independence of the judiciary is an indispensable prerequisite of a civilized and developed society under the rule of law. Such independence implies freedom from both the executive and legislative excesses and interference. The concept of independence of judiciary means that judicial officers can never be put to pressure directly or indirectly in the performance of his or her duty. They cannot receive orders from anybody or authority no matter how highly placed officers should be free to give orders or judgment that must be respected by the executive, legislature and entire society.

Justice Oputa eulogized the judiciary as follows:

Who can doubt the primacy of the judiciary in the social experiment? It is only the judiciary which can in the final result and as the last resort, translate the dreams of Nigeria, dreams inscribed boldly in her constitution, her dreams for national unity, for domestic tranquility, for individual freedom and personal happiness through the full release of her citizens from prejudice and oppression, through the full utilization of all her human and natural resources and potential, towards the creation of a great nation characterized not by power alone but respect for the human dignity and by the assurance of equal justice under the law for all... (Maduagwu, 2016: 4-5)

Independence of the judiciary is guaranteed under the Constitution as opposed to the 1963 Republican Constitution which had the judiciary as an appendage of the executive (Nigerian Constitution, 1999: 17, Section 17, 1). The vesting of judicial powers in the courts established by the 1999 Constitution imposes onerous responsibility on judicial officers whose primary function is to administer justice according to law and the constitution. The nature of the office and functions of judicial officer's call for a high sense of duty, responsibility, commitment, discipline, great intellect, integrity, probity and transparency.

In the execution of its mandate of interpretation of law and administration of justice, the judiciary is not tied to the apron string of any political party, pressure group, religious, racial or ethnic group, sex, geo-political entity. This means that, the judiciary is to dispense justice to all manner of people without fear or favour, attention or ill-will. Lord Atkins put the above position clear when in the case of *Live Sidge v Anderson*, he held that: It is principle of liberty... that the judges are no respecter of persons and stand between the subject and any attempted encroachment on his liberty alert to see that any coercive action is justified in law.

Absence of independence of judiciary has been a threat to Nigeria nascent democracy and its sustainability. The ways in which judges are appointed and subsequently promoted are crucial to their independence. Judicial officers must not be seen as political appointees, but rather for their competence, political neutrality and legal ability. In the words of Chief Afe Bablola SAN giving a lecture on the role of the judiciary in the sustenance of Democracy in Nigeria; it is stated that when appointment of men and women to the bench is premised on extraneous considerations such as god-fatherism political connections, religious learning, federal character (without any regard for merit and competence) and monetary inducements, the ultimate victim is Justice (Abdulah).

CONCLUSION

- From the foregoing, it is clear that the judiciary in Nigeria has played and it is still playing significant roles in the Nigeria democratic process. Nigeria has witnessed series of political events that ordinarily would have led to a return to military rule but for the intervention of the judiciary. As the masses regard the judiciary as the last hope of a common man, they have indeed been the last hope of the Nigerian democracy in the events of serious

political threats to democracy. These threats happened in so many facets of the democratic governance beginning from constitutional loopholes in the electoral process. Sometimes the courts have adopted the doctrine of necessity to save the nation from a return to military rule instead of the literal rule of interpretation which focuses on the ordinary grammatical meaning of the words used. This study concludes that, the judiciary though has its shortcomings, as mentioned in the study, has done wonderfully well to protect and sustain democracy in Nigeria. For our Democracy to stand the test of time and corruption reduced to the barest minimum, appointment of judicial officers should be left in the hands of the National Judicial Council without the involvement of the executive arm of government. To build a strong democracy, the Judiciary in Nigeria must adhere strictly to the Nigerian Constitution and the electoral Act without fear or favour and make justice and equity their watchword. The Judiciary should stand up to their responsibilities by judging rightly and sanction anyone who is culpable irrespective of his status in the judicial society or Nigeria and listen to the cases of the poor without receiving bribe or inducement.

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