

LOCATION OF MOSQUES AND TOWN PLANNING LAWS IN NIGERIA: IMPERATIVES FOR INTEGRATION

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Abstract

This paper focuses on the interface between planning and religiosity of the Nigerian people with particular reference to the location of the mosque. It examines the ways in which the mosque intersects with the town and country planning laws of Nigeria and identifies means of improvement for sustainable development. It highlights land use planning and management policies and regulations of the city, discusses their implications for the uncoordinated land use management in relation to the mosque and suggests how to improve on the present inefficient practice. It suggests how the symbolic construction of mosques should be located within the deliberative processes of urban planning in the country arguing that this is in tune with the teachings of Islam. The paper draws on a systematic survey of land use mechanisms to establish an interaction of the Nigerian Muslim community with their surroundings, with the teachings of their religion and with the planning process.

Introduction

Land appears to be the most precious possession of mankind. This is because every other thing that man has – gold, bitumen, petroleum, all of which make man who he is today, is a by- product of the land. The way man relates with land therefore becomes important if he is to take full advantage of it. According to Enoh¹, as man uses land, environment alterations and abuses are bound to occur. Inyang² also writes that both over-utilization of land by man and its symptoms or outcomes are clear indicators of man-land related problems. Conscious of this fact however, man has for long, regulated his interaction with the land. He has addressed the questions of who has access to it, for what purpose and under what circumstance, and has consequently come up with a profound land use technique technically called “town planning”. Town planning in modern usage, is a process of controlling the use of land, and the character and

arrangement of building so as to achieve economy and secure convenience and beauty³. It ensures easy access to places of work, schools, markets and other places and as well ensures best utilization of land in the interest of all. According to Oyebanji, such agglomerations usually help activities to reduce the cost per unit of production.⁴ They also help to reduce the total distance that people travel for them to satisfy many purposes with little efforts. Town planning also ensures safety of the citizens by the provision of pedestrian ways and easy access to and from dwelling houses. Thus, unlike before when land use types were restricted mainly to residential, transportation, markets, king's palace, farmlands and shrines⁵, major urban cities across the world today are characterized by high degree of areal differentiation into land use types like industrial, commercial, residential, recreational, administrative, transportation, religious etc.

Many studies have shown how active the practice of development control is, particularly in the modern world cities as compared to the traditional areas.⁶ The beauty of cities with such a real differentiation is not in doubt. As Simone observes: "In many situations, powerful individuals flaunt various land and building regulations at will, putting up poorly designed structures in areas not appropriate or zoned for residential use."⁷

The significance of town and country planning can be seen in the repeated massive demolition of buildings which did not conform with the building patterns of the capital city of Abuja and other major cities in Nigeria. In fact, the decision of the authorities of the Federal Capital Territory (FCT) to ensure that development in Abuja conforms with the stipulated building patterns of the city has earned its former minister, Mallam Naisr el-Rufai, the name "mad – man of Abuja". This is because people believe except that person is mad, nobody could enforce building regulations in Nigeria on the one hand, and on the other, demolish so much buildings including churches and mosques in the already built-up areas as done by el-Rufai. Similar efforts are also being made in other urban cities in the country to restore planning order to the towns, though with lesser casualties.

The efforts of the Nigerian government to give her cities a touch of this areal differentiation through planning is however, also being thwarted with the proliferation of worship centres in the country particularly the churches and the mosques. In the words of Akintola, "on every street, churches and mosques spring up daily"⁸ without recourse to town planning policies. Kawu, Ahmed and Usman opine that disorderly

development of a country has both cost and health implications.⁹ Sampson believes that one of the numerous implications of such disorderly development with regards to worship centres in Nigeria is religious conflict which is triggered by blockages of roads during services and pervasive media coverage.¹⁰ Although, by their very nature and functions, these worship centres are supposed to be within the reach of the worshippers, the distance at which they are to each other on the one hand, and to one another on the other, has serious implications for town planning.

Our contribution to solving this problem is by making a wake – up call to the government and the governed to work toward planning the Nigerian cities for Nigerians. Nigerians are deeply religious people and this must be taken into consideration in the planning of their cities. In other words, the development plans of the Nigerian cities must be prescribed in terms of the ascertained needs of the people and the cities themselves. Such an effort will solve problems of discomfort and danger experienced on the Lagos – Ibadan express way where motorists spend days in traffic lock-jam caused by the worshippers attending religious programmes in the worship centres that are highly concentrated on the road. As Ola puts it, “the plan ought to grow out of the city naturally.”¹¹ He continues:

A city is not an inanimate object upon which any plan can be imposed nor can it with impunity be hacked about or messed up by any kind of haphazard development that can be got away with. It has to be thought of and treated as a highly organized and sensitive organism where every part of its body reacts to and is affected by the conditions of the whole and vice – versa. In a nutshell, the city is “human”- as we are.¹²

However, the intention here is not to discuss the technicalities and intricacies involved in the ever complex patterns and inter – relationships of land uses in general as these are normally of interest to spatial analysts – geographers, regional and urban planners. Rather, this paper seeks to stimulate the cooperation of the populace particularly Muslims, toward removing religious obstacles to town planning process in Nigeria. This is done by suggesting reasons why the mosque must be integrated into the town planning process in the country without, in any way, undermining the important place and role the mosque has been instituted to play in the

lives of Muslims and in Islam.

Mosque Building in Islam

A cardinal principle of Islam which is the religion of many Nigerians is the observance of the five canonical prayers – *As salat*. *Salat* is observed in the mosque according to the Glorious Qur'an (11:114), and it is the best form of remembering God. Hence, the Qur'an says:

Did not God check one set of people by means of another, there would surely have been pulled down monasteries, churches, synagogues and *mosques in which the name of God is much remembered* (Qur'an 22:40)

Stressing the significance of remembrance of God particularly in relation to the mosque, Ali writes: "All religious buildings are resorted to generally once in a week but the mosque is visited five times a day for the remembrance of God's name."¹³ To further concretise his argument, he writes:

In fact, if any house on earth can be called God's house on account of its association with the Divine name, that house is the mosque which pre-eminently deserves the name, all other religious houses seeming neglected in comparison with it.¹⁴

The significance of remembering God's name perhaps accounts for why Islam is so liberal about the nature and characters of its prayer house – the mosque – so that it can be within the reach of the people. To Islam, in as much as a place performs the function for which the mosque has been instituted, which is the remembrance of God, it can be called a mosque. Thus, according to Prophet Muhammad (S.A.W), *As-Salat* (Prayer) can be observed in the sheepfolds¹⁵, camel folds,¹⁶ and even in the church provided there are no statues in it¹⁷. A portion of one's house can also be dedicated as mosque¹⁸ with the condition that such a house is not also used as graveyard¹⁹. In fact, Prophet Muhammad (SAW) is reported to have said: "The mosque is a house for every person and Allah provides everyone whose house is the mosque with comfort, leisure and a path to Allah's paradise."²⁰ Again, he said: "...the earth has been made sacred and pure and mosque for me, so whenever the time of prayer comes for anyone of you, he should pray wherever he is ..." ²¹ Such is the

liberality of Islam about the nature and character of the mosque expressly to ensure that the ‘mosque’ is within the reach of the faithful. It is however prohibited to observe *Salat* in dunghills, slaughter houses, middle of the road, bathrooms and generally, places of impurities.²²

Though, Islam is liberal about the observance of the Ritual Prayers (*As Salat*) anywhere as explained above, it does not totally frown at putting up structures for that purpose. The Qur’anic verse about pulling down “monasteries, churches, synagogues and *mosques*” quoted above suggests that structures can be put up for prayer purposes because it is only a structure that can be “pulled down”. Besides, the holy Prophet Muhammad is reported to have said: “whoever built a mosque, intending Allah’s pleasure; Allah would build for him a similar place in paradise.”²³. Caliph Umar is also reported to have ordered the building of the mosque saying: “Protect the people from the rain”²⁴. Apostolic approval is also given that mosques be named after some people or individuals²⁵ which also suggests that structures can be put up for prayer purposes. To demonstrate that mosques were built in the early days of Islam, Abdullah ibn Umar gave an account of how the mosque looked like in the lifetime of Prophet Muhammad. He said: “In the lifetime of Allah’s Apostle, the mosque was built of adobes, its roof of the leaves of date – palms and its pillars of the stems of date – palms.”²⁶

Tradition has it that Caliph Abu Bakr did not alter this prophet’s mosque but both ‘Umar and ‘Uthman did, obviously to cope with the increasing number of worshippers. While ‘Umar expanded it on the same pattern as it was in the lifetime of Allah’s Apostle by using adobes, leaves of date – palms and changing the pillars into wooden ones, Caliph ‘Uthman changed it by expanding it to a great extent and built its walls with engraved stones and lime and made its pillars of engraved stones and its roof of teak wood.²⁷ Today, the Prophet’s mosque in question has been greatly expanded with a touch of modern building materials and facilities as well as state of the art equipment. It is indeed a sight to behold for pilgrims across the world who visit the mosque in Madinah annually as part of the pilgrimage exercise in Saudi Arabia.

It needs be added, however, that Muslims are warned as to the proliferation of and type of decorations that could be given to the mosque. For example, while talking about building of mosques, Caliph Umar is reported to have said: “Beware of red and yellow decorations for they put people on trial.”²⁸ Ibn Abbas also said: “You (Muslims) will surely decorate your mosques as the Jews and the Christians decorated (their

churches and temples)”²⁹ Cautioning on the proliferation of the mosque, the Prophet Muhammad himself is reported to have said:

The hour of doom will not come till people vie with one another in the building of) mosques³⁰ rather than coming frequently to them for offering prayers.³¹

Islam also condemns the idea of building mosque for hypocritical or rival purposes. This is called *masjiduldirar* (i.e injurious Mosque) in Islam. The Qur’an speaks of this in verses 107 of its 9th chapter thus:

And there are those who put up a mosque by way of mischief or infidelity – to disunite the Believers – and in preparation for one who warred against God and His Apostle aforetime. They will indeed swear that their intention is nothing but good but God doth declare that they are certainly liars.

According to Opeloye,³² reference in the passage is to the mosque built by Abu Amir and his agents among the hypocrites for the purpose of concocting plans to frustrate the moves of Prophet Muhammad. Abu Amir was said to be a Christian monk who always supported every move made by the pagans of Makkah to bring Islam down. In order to have a safe place for planning and organizing their attacks on the Prophet Muhammad and his mission under the garb of religion, he collaborated with the hypocrites to build a mosque in Qubaa, pretending to advance Islam.³³ In the words of Opeloye, “the mosque was also to serve as an ambush for the agents of Abu Amir who could stay in it as travellers and mendicants without raising any suspicion that they were spies for the enemies of Islam.”³⁴ The Prophet was said to have turned down the request to officially commission the mosque by leading them in prayer. The need and justification for pulling down the mosque by the Prophet became obvious when while the Muslims were engaged in the expedition of Tabuk, the preparation for which the Prophet used to turn down the commissioning of the mosque, the hypocrites remained in their mosque planning their strategies against the Muslims.³⁵ This experience forms the basis for which the Qur’an warns Muslims not to pray in such a mosque but rather extols the virtues of mosques built on the basis of piety. Verses 108-110 of the same chapter (9th) read further:

Never stand you forth therein. There is a mosque whose foundation was laid from the first day on

piety; it is more worthy of thy standing forth (for prayer) therein. In it are men who love to be purified; and God loveth those who make themselves pure. Which then is best? - He that lays his foundation on piety to God and His good pleasure? - Or he that lays his foundation on an undermined sand-cliff ready to crumble to pieces? And it does crumble to pieces with him, into the fire of hell. And God guides not people that do wrong. The foundation of those who so build is never free from suspicion and shakiness in their hearts, until their hearts are cut to pieces, and God is All-Knowing, Wise.

Mosque Building in Nigeria

Obviously, responding to the call of Islam promising a house in paradise for whoever builds a mosque, Nigerian Muslims have severally and collectively put up structures of different sizes, designs and magnitude which they consecrated for prayer purposes. Doi³⁶, Agbetola³⁷ and Adekilekun³⁸ each gave an account of the origin, development and administration of mosques in (parts of) Nigeria. Agbetola, in his account, writes that the early Muslims merely chose clean spots to spread their animal skins (usually ram) and mats to say their prayers³⁹. Later, he said a marked off area with fenced sandy enclosure emerged. "This is the *Musallah* (Hausa: *Masallaci* or Yoruba: *Giigii*").⁴⁰ When the number of Muslims gradually increased, he concludes:

the *Giigii* gave way to a small permanent structure known as the real *Masjid* (English: Mosque) because it had structures and a few facilities. The development of simple form of thatched roof hut resting on four or six forked sticks similarly gave way to one supported with mud walls. This was a real building, but with design of open window and door ways of no security....This structure also with time developed into modest architectural design with facilities such as modest minarets. They carried simple designs of Muslim traditional slate (Arabic: *Lawh*) on the roof or minaret as sign for Muslim place of worship⁴¹

Doi however, writes on the decorations given to the mosques by the

Nigerian Muslims thus:

The decoration in the mosque buildings is simple but most eye – catching, restrained according to the principles of Islamic fine art, avoids the use of icons or even the slightest resemblance to any living animal or insect....⁴²

He continues:

The mosques are planned with such great dexterity that at a given time, one can see only one or two decorations because of the contrast of light and shadow in the total scheme of the construction.⁴³

Despite the above, Doi still observed that some mosques were decorated with icons contrary to Islamic teachings. To substantiate his submission, he gave the pictorial view of a mosque in Ijebu – Ode with two decorative elephants on the top.⁴⁴ He also remarked that the icons had been removed thereafter.

Like Doi, Agbetola also gave pictorial views of some mosques. However, Adekilekun’s account contains over fifty pictures which cut across central, *ratibi* (or community), institutional, organizational and government house mosques. The pictures reveal more impressive structures than were described by Agbetola and Doi, some with up to three floors. A study of the pictures shows some mosques with tall stone – built or concrete cast minarets. Others have minarets carrying domes against the flat head of the mosques. The demand of modern time such as parking space, social hall, library, committee room etc. could be seen in some, while many, particularly the early ones do not have space for such facilities. Some are built within compounds obviously for family use. Others are built close to roads and lined up in the streets, leaving barely treckable distance to one another. Hardly could some be distinguished from residential buildings. In fact, the distinguishing factor between a part of a building used as mosque and that used as residence is the loudspeakers which, as in other mosques, are erected on top (of the mosques) and besides or within its walls. Interestingly, some of these mosques which could best be described as “*mai guard*” (security) mosques (because they are used mainly by security guards on duty) also carry loudspeakers, the use of which, according to Mala⁴⁵, has generated contention between Muslims and non – Muslims who feel that the

loudspeakers are being abused by Muslims. Because some of the mosques are converted from existing structures, they do not face the *qiblah*, the direction of the Ka'bah which Muslims must face while observing the canonical prayers. In short, today in Nigeria, it does not require that a building is constructed for expressed purpose of prayer before it is called a mosque. As Ali puts it, "all that is required is that the builder should declare his intention to have that building used as a place of prayer",⁴⁶

Town Planning Laws in Nigeria

According to Oyesiku and Alade, one form of arrangement of land use or the other existed in many cities in Nigeria especially around the palaces before colonial administration.⁴⁷ Indeed, as customary laws vary from one locality to another, so also are land use patterns. Although there were no professional planners then, physical development and growth even in the villages were coordinated and regulated by considering the relationship of any proposed development to the existing structures and making adequate provisions for movement and the conveniences. However when colonialism came, the British government introduced various legislative planning frameworks for the country. Planning at this time was skeletal and restricted to towns and localities where the colonial administrators and European expatriates resided.⁴⁸ Legislation started in Nigeria with the Lagos Town Planning improvement Ordinance of 1863. At the National level, it was the Lord Lugard's Law Proclamation 1900. There were also series of legislations after 1900 that guided planning across the country. These included:

- i. The Cantonment Proclamation of 1904 which created the European Reservation Areas in few selected urban centres.
- ii. Ordinance No 9 of 1914 enacted for the purpose of Government acquisition of land compulsorily for public use.
- iii. Township Ordinance No 29 of 1917 enacted to classify urban settlement into different grades of cities as well as established broad physical layout of towns as well as the furtherance of the segregation tendency of major Nigerian cities along ethnics and colour lines i.e European Reservation Areas for the expatriates
- iv. Lagos Town Planning Ordinance of 1928 enacted in response to the fundamental drawback of 1917 Township Ordinance. This Ordinance for the first time made town planning a government activity.
- v. Nigeria Town and Country Planning Ordinance No. 4 of 1946

which provided for planning and implementation of schemes by Town Planning Authorities. It was perhaps the first comprehensive Urban and Regional Planning legislation that covers the entire country. It was modelled after the British 1936 town and country planning Law.⁴⁹

The Town and Country Planning Law, Cap 155 (Ordinance NO 4 of 1946) was promulgated to make provisions for the planning, improvement and development of different parts of Nigeria by means of planning schemes and planning authorities. It was operated for about 50 years only to be replaced by the Urban and Regional Planning Decree No 88 of 1992.

Although there were National Development Plans, physical planning was not addressed. So, regional governments of the post-independence Nigeria continued to use the 1946 Town and Country Planning Law with the town planning units becoming the town planning departments and making policies for the urban and rural planning in the regions, preparing master plans for specific towns and regional plans for some areas. Due to the capital intensive nature of physical planning, the regional governments could not adequately give urban and regional planning the priority it demanded in the face of rapid urbanization. The non-existence of physical planning administration at the national level made it difficult to initiate planning proposals that cut across regional boundaries.⁵⁰

When states were created from the regions in 1967, many rural towns became state capitals and there was the need for spatial re-ordering of urban centres in the country. The 1946 Planning Act perhaps, as the only legal framework for urban and regional planning activities was also adopted by the states in one form or the other. The third National Development Plan of 1975-1989, unlike the previous ones had some policies that related to the physical planning activities such as environmental and rural development, the establishment of the Federal Ministry of Works and Housing and Federal Ministry of Social Development and Cooperatives⁵¹.

The Federal Government Promulgated the Land Use Decree in 1978 as a policy to provide easy access to land for its numerous housing and other social services projects and this also rubbed on the states and the Local Governments. There is also the Federal Capital Territory Act No 6 of 1976.

The fourth National Development Plan (NAP) gave rise to State Housing Corporations and Town Planning Authorities at the state level with the power to undertake long-term urban development programmes

through the master plan preparation for facilities. Though the fourth NAP did not run its course due to military intervention, however, like ones before it, there was lack of commitment to its detailed implementation and therefore the development of the country.⁵²

Many states in the federation have had several legislations that have guided Urban and Regional Planning from time to time⁵³. Using Lagos State as an example, the legislations include the following: Cap 133 Lagos State Laws of Nigeria -Town and Country Planning Law; Lagos State Law of Nigeria No. 42 of 1980-Town Planning Fees Order; Lagos State Law of Nigeria No.5 of 1982-Town Planning Fees Order; Lagos State Law of Nigeria No.6 of 1983-Guidelines for Approval of Layouts and Lagos State of Nigeria Law No. 14 of 1983 on the same subject. Describing the briefs of these legislations, Cap 133 of Lagos State Law of Nigeria for example, provided for control of Town and Country Planning activities throughout the state and the Law put together six previous planning laws as applicable to Lagos state. These other laws include: Western Region Law No.41 of 1959-Town and Country Planning (Amendment Law 1959); Lagos Local Government Acts 1959-1964 cap 77 section 126; Lagos Town Planning (Compensation) Act 1964; Lagos Executive Development Board (Powers) Act 1964; Lagos Town Planning (Miscellaneous Provision) Decree 1967; and Town Planning Authorities (Supervisory Powers) Edict 1971⁵⁴.

The Lagos State Law of Nigeria No. 42 of 1980 provided for fees paid on all applications, approval for new development or *alteration to existing ones*. The law had its commencement date as 22nd of April 1980. Similarly, the Lagos State Law of Nigeria No.5 of 1982 was in respect of regulations for processing application on building plan approval with the commencement date of 1st January 1981 and has 48 sections that dealt with the applicant, the planning authority and the developer as well as conditions for approval in respect of setbacks, zoning, height, nature of land and the need for every approved plan to bear the seal of the Ministry.⁵⁵

Another important Urban and Regional Planning legislation that the State Government promulgated was the Lagos State Law of Nigeria No.6 of 1983 that was in respect of guidelines for approval of layout. The law took effect from June 1983 with 23 sections and dealt with the guidelines for the application of private developers and contents of the scheme, processing of application and minimum standard for the provision of educational community facilities. In addition, colour choice for land

uses and provision of infrastructure, preliminary approval, final approval and allocation of plots in the schemes were the main features of the Law⁵⁶.

The 1979-1983 periods in planning history in Nigeria was remarkable at the state level. This was a period of numerous planning legislations and focus on planning as public service activity. The civilian governments had so much to do planning wise but cut short again by another military intervention. Two planning laws were enacted by the government of Lagos State in 1986: Lagos State Edict No. 1 of 1986- the Town and Country Planning Edict 1985 Planning Activities, Planning Commission etc; and Lagos State Law of Nigeria No. 15 of 1986-Town and Country Planning (Building plan) Regulations 1986. An important framework for Urban and Regional Planning activities in Lagos State was the Town and Country Planning edict of 1985 also known as edict No. 1 of 1986. The edict with commence date of June 1985 has forty-eight sections and six schedules dealt with virtually all aspects of planning activities ranging from the establishment of the state planning commission and its membership, technical committee and its membership, processing, publication, objections to master plans, establishment of town planning authorities, outline of developed plans and functions and matters to be dealt with in planning briefs.⁵⁷

The Lagos State Law of Nigeria No.15 of 1986 which is on Town and Country Planning (building plan) regulation with a commencement date of 1st of January 1986 has 43 sections dealing with applications and conditions governing the submission by the developer, *setbacks and plot coverage and density*, permissible height of building plans and overall *conditions for granting building approval*. It is important to note that the 1986 Law also provided for the establishment of the new towns development authority which also carries out functions related to physical planning activities in the state⁵⁸.

In 1992, the Federal Government of Nigeria promulgated the Nigerian Urban and Regional Planning Act No.88 (URP Act No. 88) as a major advancement aimed at overhauling the old laws and clearly defining the roles of the three tiers of government in the planning process. Considering the range of plans to be made as stipulated by the URP Act No.88, there is a wide scope of services for professional planners to contribute to the planning of human settlements. However, since governments at all levels in Nigeria are yet to fully implement all the tenets of the Act, the situation has some serious side effects. Thus far, except in Lagos State and the Federal Capital Territory, Abuja, Planning

and Plans in the country are yet to be properly organized along the lines of the enabling legislations⁵⁹.

The new millennium was said to have ushered into the annals of physical planning in Nigeria a number of developments. These include the creation of an independent Ministry responsible for Housing and Urban Development. The policy is a lucid exposition of all that is bad and ugly on and about Nigerian cities and urban agglomerations with well thought out strategies on how to make the cities work again.

Illegal development and conversion is another perspective from which planning in Nigeria can also be viewed. The term “Development” as defined in the Nigerian URP Decree 88 of 1992 is “the carrying out of any building, engineering, mining and other operation in, or, over or under land or the making of any environmentally significant change in the use of any land or demolition of building, including the falling of trees and the placing of free standing erections used for the display of advertisement on the land.” Whenever a particular operation or change of use falls within the definition of development, it should require planning permission. Any development that therefore does not have the planning permission of the relevant Town Planning Agency(ies) is classified as “illegal development.”⁶⁰ The indiscriminate sitting of temporary structures – used for residential purpose or for commercial purposes (kiosks) and the more recently metal containers all constitute illegal development. These illegal developments pose serious problems to the environment in form of pollution, blockage of drains, and congestion to mention a few. Findings indicated that the most violated aspects of building regulations are plot coverage, setback stipulations, room size, provision of utilities, as well as a change of use from a wholly residential use to the incorporation of home-based enterprises and that both the public and Government are guilty of indiscriminate change of use⁶¹.

Land Use Planning in Islam

Islam, as a religion for all ages, is not unaware of spatial organization and land use techniques and development control. For example, Prophet Muhammad (SAW) in one of his numerous statements aimed at enhancing and promoting harmony between Muslims and their neighbours calls for control on the character and arrangement of buildings. He said inter alia: “...do not raise your building so as to prevent the wind blowing to his (i.e your neighbour’s) house unless he grants permission to you to do so.”⁶² This statement of Prophet Muhammad is to achieve

development control as it is in congruence with the legal maxim which says: “he who owns land owns what is permanently attached to it.” Jamiu classifies this ownership into vertical and horizontal ownership.⁶³ He then concludes:

It follows that aside both the natural and artificial attachment to land which belongs to the owners, sunrays, air, clouds, which are in their natural conditions are regarded as part of the land. Any artificial modification of them could be considered as incursion of the right to use and enjoy the land.⁶⁴

To drive home his points, he writes:

For example, a neighbour may be held responsible for the emission of harmful odour which is spread to the airspace of another’s land, compound or room, or a country may maintain an action against another for intruding into her air space, or an individual may be liable for invading the air space of another.⁶⁵

From the above, one can see that Islam goes beyond seeing the intruding of one into the air space of another as an incursion of his right to use and enjoy his piece of land but goes as far as seeing even the prevention of the natural attachment to the land such as the air, as constituting incursion of his right. That is why it urges Muslims not to raise their buildings in such a way that they will prevent wind blowing into the neighbours’ buildings. According to Ola, buildings include a house, any permanent erection or structure and any part of a structure, erection or building.⁶⁶ By inference therefore, the Prophet also meant mosques when he said “your building”. What is thus being advocated here is “type designs” which is a tool for controlling development. Such development control is what town planning is all about. Ola again writes:

Development control regulates the orderly planning and growth of a country, town or city by stipulating adequate standards for all aspects of planning. It ensures that there will be, for example, adequate light, ventilation.... open spaces for relaxation and recreation. It also ensures that residential, commercial, industrial, educational and agricultural areas are properly and carefully zoned to prevent

conflict and promote harmonious activities of landowners by ensuring that they do not develop their property as they like and to the detriment of public interest.⁶⁷

He continues: “If development control is not enforced, landowners....will build anywhere, and anyhow, causing the chaotic and disorderly growth of the town.”⁶⁸ He, however, concludes:

The height, bulk, area, use, character and appearance of buildings need to be regulated. One building or site should not interfere with the safety, convenience, privacy and efficiency of another building or site⁶⁹.

Integrating the Mosque into Land Use Planning in Nigeria: A Pragmatic Approach

An analysis of the existing town and country planning laws in Nigeria reveals that to date, development for religious purposes is not a term or definition that is evident in government planning controls. Except in Lagos State where there are certain restrictions on the use of loudspeakers by religious centres to which compliance is still at the very low level, nature, scale and location of development for religious purposes are taken care of within the general frameworks for exercising spatial control in the country. Some of these frameworks include the various laws relating to (i) alteration to existing buildings, (ii) conditions for approval in respect of setbacks, (iii) setback and plot coverage and density, and (iv) illegal development. Others include publication of proposed building project for people to react, submission of planning briefs and objection to master plans. The contravention of planning in these regard include developing without approval, inadequate space provision, non-conformity with approved plans, change of use, building in stream setbacks, lack of access roads inadequate setbacks among others. The result of the ineffective use of these planning instruments is, among others the emergence of these worship centres, particularly the mosques. If Islam would say something about planning through its prophet as shown above, it follows therefore that indiscriminate building of mosques without recourse to adequate planning will not be in the spirit of Islam. Even though, Islam says the whole earth has been made a place for praying for Muslims, it does not in anyway, mean that every piece of land be turned into mosque. According to Siddiqi, this only “signifies that there is no

impurity attached to it....”⁷⁰ That Islam also encourages its adherents to build mosques, assuring whoever does, of a place in paradise, does not also mean every individual Muslim should build a mosque or that every household should have one. Rather, what it means is that every individual Muslim should strive to contribute to the building of the mosque though individuals who could avoid it could also undertake it.

In the days of the Prophet Muhammad (SAW), not every Muslim had a mosque; not even each of his companions. Instead, all of them including the Prophet contributed and participated in the building of what is today referred to as the Prophet’s mosque in Madinah notwithstanding their small population compared to those of today’s Muslims.⁷¹ The one that was built by the hypocrites among the Muslims to rival the Prophet’s mosque was ordered to be raised down by the Prophet, to among other things, demonstrate control of the leadership of the Muslim Community over such an issue.⁷²

The phrase “seeking the pleasure of Allah” added to the Hadith that encourages building of the mosque also has serious implications for purpose for which it must be built. The fact that most of the mosques are at stone throws to one another and are not filled to the brim each time a prayer is observed shows not only how wishful people are in building those mosques but also that some of them can be rightly regarded as *masjiduldirar* (Injurious mosque) built either out rivalry or for show off. Hence, Prophet Muhammad said: “they will boast of them, rather than coming frequently to them for offering prayers”. That some of them do not face the direction of the Ka’bah as stipulated by the *Shari’ah* also puts to question the validity of the prayers observed in them.

Again, the fact that Islam urges Muslims to observe their prayers in congregation promising twenty seven (27) rewards for every prayer observed with a congregation in the mosque, in comparison to one observed individually⁷³ further confirms that mosques should not be built in every household. This may suggest that Islam assumes that mosques would and should be of some distances away from individual’s residence on the one hand and from one another on the other. In fact, the Holy Prophet Muhammad (SAW) is reported to have said: “The one who gets the greatest reward for a prayer is the one who walks the farthest distance,”⁷⁴ the availability and use of modern day travelling instruments like cars, bicycles etc notwithstanding. Again, he is reported to have discouraged the people of Salamah from occupying an area around the mosque which became vacant saying:

It has reached me that you want to move closer to the mosque” They said: “Yes! O Messenger of Allah, we desire that.” The Prophet (then) said: “O tribe of Salamah, your dwellings will record your steps”⁷⁵

This no doubt means that where they stayed would determine how many steps they would take to the mosque which is of significance to the amount of rewards they would get for the religious rite. Although Islam requires the presence of just two (2) Muslims for a congregational prayer to be valid, (and twelve (12) for the *Jumah* prayer)⁷⁶, its intent is to have as many Muslims as possible gathered together for the prayer at one time or the other. Thus, building of mosques in individual’s household is not in the spirit of Islam at least if one considers the social significance of congregational prayers in Islam.

The need for Muslim women to pray at home does not justify the building of mosques in every household. Even, where this is achievable within the plan of every piece of land own by the Muslims, it is not at all advocated or encouraged in Islam. The Prophet said: “If anyone purifies himself in his house and then walks to one of the houses of Allah to fulfill one of the obligations laid down by Allah, then (each one) of his steps will erase one of his sins and the next will raise his degrees”⁷⁷. If every household should have a mosque, where then do people walk to for them to enjoy forgiveness of sins through walking to the mosque mentioned by the Prophet. Besides, the social significance of unity and harmony both of which occupy central themes in Islam and among Muslims through congregational prayers will be undermined if mosques are built in every house. Neither the Hadith that allows a portion of one’s house to be consecrated mosque nor the one which talks about Allah’s pleasure for one who makes his house a mosque aims at undermining this social essence of congregational prayer to which Islam attaches so much importance. Rather, they are meant to allow people with one excuse or the other stay at home and offer their prayers. Even at that, the prayer should be observed in congregation which goes to say that people from the neighbourhood should come together (not just in twos) and pray. The Hadith reads:

Narrated Itban bin Malik...I came to Allah’s apostle and said: “O Allah’s Apostle, I have weak eyesight and I lead my people in prayers. When it rains, the water flows in the valleys between me and my people

so that I cannot go to their mosque to lead them in prayer. O Allah's Apostle! I wish you would come to my house and pray in it so that I could take the place as a *Musalla*." Allah's Apostle said: "Allah willing, I will do so". Next day, after the sun rose high, Allah's Apostle asked for permission to enter. I gave him permission and he did not sit on entering the house but said to me: "Where do you like me to pray?" I pointed to a place in my house. So, Allah's Apostle stood there and said: *Allahu Akbar*" and *we all got up and aligned behind him* and offered a two – *rakah* prayer and ended it with *Taslim*⁷⁸

The above hadith indicates that it was not just Itban bin Malik and the Prophet who observed the prayer. There were other people with them. Hence, he said "we all got up and aligned behind him". Thus, instead of every individual Muslim or organization building his/its own mosque, two or more could come together to build (a befitting) one, all in the name of unity and togetherness so cherished by Islam. In fact, the whole essence of what is being said has been beautifully put together by Ali when he writes:

The service of prayer is divided into two parts, one to be said in private and the other to be performed in congregation preferably in a mosque. While the private part is meant simply for the development of the inner self of man, the public part has other ends as well in view; ends, indeed, that make the Islamic prayer a mighty force in the unification of the human living in the same vicinity five times daily in the mosque, is a help to the establishment of healthy social relations⁷⁹

He continues:

In the daily services, these relations are limited to a narrow circle i.e. only to members of the same neighbourhood, but the circle becomes wider in the weekly Friday service which gathers together all Muslim members of a particular locality and still wider, in the two great 'Id gatherings. Thus, prayer promotes social relations between the different sections of the Muslim country⁸⁰.

This social relation of *As – Salat* may be undermined if mosques are built in every house.

Recommendations

From the discussion so far, this paper calls for proper integration of mosques into the mainstream of the town and country planning. The paper is therefore anchoring its integration proposal from three perspectives. One is by calling for the establishment of purpose- built community (*ratibi*) mosques at about 200 meters radius to one another while the *Jumah* (central) mosques could be built at about one kilometer to one another. The distances could be lesser in Muslim populated areas, say at about 100 and 500 meters for community and central mosques respectively but each of the mosques must be purposely built. According to Cheong, the building of the Jame *Masjid* on Birchfield Road at the South Wales was conceived in that manner⁸¹. He writes:

The use of houses as mosques and *madrasas* was of considerable concern to the City Council at this time, giving rise to concern over ‘noise’ and ‘disturbance’ caused to neighbouring residents. The construction of a purpose- built mosque was conceived as a way of counteracting the diffusion of smaller mosques across the residential areas as it was believed this would concentrate the activities associated with such ‘unofficial’ sites within a single designated facility⁸²

Such an amalgamation of prayer – house groups across the cities will help overcome the problem of unlawfulness with regards to building of mosques and that way, the planning of the Nigerian cities as it concerns the building of mosques will be enhanced while at the same time, the mosques will still be within the reach of the Muslims in such a way that Islam envisages. The best of the planning procedure of mosques as proposed above can be achieved with the engagement of Muslim leadership in the states and across the various communities in the planning procedure by asking for its recommendations before approval is given for the establishment of any mosque. The country’s planning laws permit this in Sections 13 and 15 of URP Law of 1992 as amended by Act 18 of 1999. Section 13 requires the Planning Commission to, during the preparation of physical development plans made provisions for public involvement. It shall call for submissions from all relevant government agencies, NGOs

and interested members of the public whose contributions will serve as part of the input towards the preparation of the draft plan. Section 15 allows any member of the public, government agencies, NGOs and professional bodies during the exhibition of the draft plan to submit to the Commission, written statement of objection to aspects of the plan and suggest alteration and amendment to be made to the objection. The Commission is mandated by Section 15 (2) of the Decree to acknowledge receipt of any objection in writing. All these show the extent of citizen participation in efforts in the planning process in Nigeria and could be harnessed in ensuring proper location of the mosque in the country. However, adequate care through subsequent laws and amendments must be taken to ensure that religious enthusiasts do not take advantage of this to deny Muslims the right to have mosques within their reach. This becomes necessary because cooperation of the populace is essential to any form of planning on the one hand and on the other because planning is for the planned and not for the planner. Failure to ensure this may lead to religious riots with which the country is very famous.

The second perspective is for government to translate policies into action. Although, as noted above, development for religious purposes is not particularly addressed in the town and country planning laws in Nigeria, it can be well accommodated within the existing law framework of (i) alteration to existing buildings, (ii) conditions for approval in respect of setbacks, (iii) setback and plot coverage and density, and (iv) illegal development (v) publication of proposed building project for people to react, (vi) submission of planning briefs and (vii) objection to master plans. The contravention of these planning laws by way of developing without approval, inadequate space provision, non-conformity with approved plans, change of use, building in stream setbacks, lack of access roads, inadequate setbacks among others particularly with regards to building of mosques are the result of the ineffective use of these planning instruments. All that is required therefore is for the concerned agencies of government particularly the inspectorate divisions to be pro-active by identifying and stopping contraventions.

The usual practice of marking such contravening buildings with red paint without anything coming out of it is not good for the process of city management in Nigeria. However, this should not be selective but holistic as such contraventions do not concern building of mosques alone but affect all manners of development in the country. According to Aribigbola and Ebhikhalu, changes in land use pattern are the results of a

series of *ad hoc* situations and both the public and Government are said to be guilty of this⁸³. According to Agbola *et al*, residents in Lagos Metropolis are presently being suffocated by extensive illegal development and contravention⁸⁴. In May 2011, the Commissioner for Physical Planning and Urban Development lamented on the huge number of illegal structures that have sprung up in the last four years in Lagos State while also indicating the relatively small percentage that had been demolished. The Lagos State Environmental Protection Agency (LASEPA) once observed that many churches in the Lagos metropolis use residential plots, uncompleted buildings, makeshift shanties, shops/garages, flats, corridors and passages within tenements as worship centres, which clearly violate town planning laws⁸⁵. In a similar situation, it was reported in March, 2011 (according to a district officer) that 50% of buildings in the Gwagwalada District Area Council of the FCT were illegal⁸⁶. It is in the implementation of laws generally and particularly town planning laws that some countries become advanced and are seen as such. In London for example, Town and County Planning Order of 1995 requires local residents to seek planning permission before doing so much as painting their house or even installing a satellite dish and the officials of the planning authorities see to the implementation of these laws.⁸⁷

The involvement of town planning authorities in the building of religious/worship centres particularly the mosques in these developed countries is not also only great but also professional. Gale writes that the design of the Birmingham Central Mosque in United Kingdom conceived in 1950s and opened in 1975 was subject to the Council's representation of space in terms of what they conceived to be integrated urban regeneration⁸⁸. According to him, it was approved on the notion that "the development would not only enhance the facilities available for the Muslim Community and also further promote the significance of the Central mosque" but also that "the mosque performs an important symbolic role for the city".⁸⁹ The Planning Authorities in those countries were involved in the planning and building of the mosques to the extent of giving permissions for the assimilation of domes, minarets, balconies, sound reproductive systems or amplifications and even Islamic Evening Schools⁹⁰. They even specify the colours to use by the planners to blend in and ensure that design conditions are strictly adhered to⁹¹. The application for the inclusion of minaret in the Birmingham Central Mosque in United Kingdom which was not part of the original plan was said to be approved after some petitions were addressed with the encomiums that "the design

was elegant and well positioned’⁹². According to Gale, ‘‘the mosque is considered a celebrated landscape icon’’ and also as ‘‘an interesting addition to the skyline’’,⁹³. Such are the involvement, professionalism and dexterity of the planning authorities in the developed countries with serious implications for those of Nigeria whose activity of marking perceived contraventions with red paint do not stop such perceived illegal buildings and contraventions from completion. Experience has shown that exchange of money between hands is responsible for this and a change of attitude in this direction is what is being called for in addition to professionalism in handling town planning laws generally in relation to worship centres and particularly as they relate to the location of mosques.

Lastly, there is need to create zones for development for religious purposes in major cities in urban planning in Nigeria. Development for religious purposes has progressed beyond traditional definitions. The increase in the level of religious diversity and activities in the country which is manifest in the regular congregational *tahajjud* (vigil prayers), *laylatulqadr* (Night of Majesty), crusades, vigils etc and the auxiliary use of the places of worship for activities such as counselling, social events, instruction and religious training has meant that development for religious purposes be specified in the planning laws of the country. Hence, the suggestion for the application of land use zoning policy in respect of religious/worship centres. According to Stein, the purpose of land use zoning is to invest an area or a district with a certain predominant character and to protect it from avoidable invasion or erosion of that character.⁹⁴ A zone aggregates uses of land that have a common form or function. The Federal Capital Territory (FCT) land use projections do not take care of this as evident in the land use projections of 1998-2000 presented below:

Land Use	Total (ha)	Percentage
Residential	12,486	48.67
Commercial Business Districts	561	2.19
Institutional	891	3.44
Industrial Research/Training	920	3.59
Transportation	1,705	6.65
National Government	500	1.96
Sports & Recreation	160	0.62
Parks & Open Space	8,435	32.87
Total	25,658	100.00⁹⁵

The emergence of camp sites of many religious groups and denominations along express ways particularly that of Lagos-Ibadan also shows that the states also do not have such zones in their land use projections on the one hand and how compelling the need for such zones is on the other. The official creation of such zones in major cities will eliminate the problems associated with its unofficial creation along express ways such as we have on the Lagos-Ibadan Express way.

Conclusion

Town and country planning has become an integral part of governance in modern times. Nigeria as a country has also made significant efforts at planning her cities. The challenge of attaining great success in this is however great with proliferation of religious centres also contributing significantly to it. Efforts are however repeatedly on to continue to plan until a degree of success is recorded. It is in contributing to these efforts that this paper seeks the integration of mosques into the country's plan. The extent to which the mosque can form an appropriable symbol for the city can be made possible by the practical commitment to and investment of meaning in the building by both the Muslims and the town planners. The signification of the mosque must be played out within deliberative consequences for the configuration of the mosque as an architectural design and not just a set of building materials hacked together in places across the cities and at stone throws at one another.

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