

REGISTERED TRUSTEES OF AMORC VS. AWONIYI AND 3 OTHERS: A JUDICIAL REVOLUTION AGAINST SECRET CULTS IN NIGERIA?

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1.0 INTRODUCTION

The right to freedom of worship, thought, conscience and religion is guaranteed in the Nigerian Constitution.¹ This right is further re-enforced by the guarantee of the right to freedom of peaceful assembly and association for the protection of the interests of persons belonging to that assembly or association.²

The emergency of secret cults in recent times has poised a great challenge to the exercise of the above stated Constitutional rights. The most dangerous challenge however has been the debut of diverse secret societies in our villages, towns, cities, educational institutions,³ professions, offices and calls. These secret societies have an outlook of a regime of cultocracy that is associated with rituals, mysticism, and occultism, etc.

These secret societies or cults have metamorphosed from mere fringe and eccentric organisations to cruel and nefarious groups, causing grave concern by their activities which are inimical to the legitimate expectations of the larger society, and should therefore be clamped down as nobody would oppose a general clamp down on such dangerous secret cults. We however have another specie of non-violent secret societies or cults which are mere groups of people who share and propagate peculiar secret beliefs divulged only to member and whose activities do not manifestly constitute any danger to society.

The question is, should such secret organizations be looked upon with disdain and stigma as the cruel and satanic cultocratic societies we have witnessed in our University Campuses, towns, villages, and cities recently? The Case of Registered Trustees of Amorc Vs. Awoniyi & Three Others⁴ is a land mark decision of the Supreme Court which has seemingly nailed the coffin on all forms of secret societies in Nigeria... whether violent or non-violent but which as will be seen in the ensuing analysis and review of the case has left more questions as the answers it had provided.

FACTS OF THE CASE:

This was a case on appeal from the Enugu Division of the Court of Appeal. However for the purpose of easy identification the parties will be referred to as plaintiff and defendant respectively.

The plaintiff being the registered trustees of the Rosicrucian Order also known as Amorc is an incorporated body in Nigeria under the Land (Perpetual Succession) Act Cap. 98, Laws of the Federation of Nigeria 1958 now repealed and subsumed by part C of the Companies and Allied Matters Act, Cap 59 Laws of the Federation of Nigeria 1990.

The first defendant, Mr. Awoniyi wrote three articles in three different issues of a magazine called "Today's Challenge" which portrayed Amorc as:

- a. A satanic, devilish and evil body.
- b. A secret cult.
- c. A body not fit and proper to maintain incorporation status in Nigeria
- d. A body engaged in witchcraft or voodooism.
- e. A body which engage in dangerous activities which are punitive and not good for modern civilised society.

The second, third and fourth defendants were the Editor, the publisher and printer of the said magazine respectively. The plaintiff got judgement at the Calabar High Court in the sum of N1,000,000 in 1988. The defendants appealed and won at the court of appeal. Dissatisfied, the plaintiff then appealed to the Supreme Court.

The fundamental issue for determination in this appeal inter alia was whether or not Amorc was a secret cult.

FINDING OF THE COURT

In order to arrive at a decision on whether or not Amorc was a secret cult in Nigeria, the Supreme Court extensively reviewed the evidence before it and the followings were some of the very pertinent findings revealed by Wali JSC who read the lead judgement.

- (a) On whether Amorc is an occult organisation:
One of the witnesses admitted that, "In Amorc we have teachings of occult laws".

The PW9 said "within Rosicrucian hamnology, you will be correct to say that resicrucians is a secret organizations."

In the course of the review of Evidence Wali JSC said

"As to whether the plaintiff is associated with occult power one only need to refer to exhibit 16, the Rosicrucian digest Vol. 62 of February 1994. At page 35, it is advertised "write for a free discourse-invoking occult powers..... The dictionary (Oxford University dictionary illustrated, reprinted 969 Vol. II) defines occult at page 1355 as follows:- not apprehensible by the mind mysterious, of the nature of or knowledge or use of the supernatural (as magic, alchemy, astrology and the like magical or mystical"⁶

The PW4 while under cross examination stated that Amorc Lectures "Contain metaphysical and Mystical teachings" and that they (Amorc members) "believe in astral projection and teach it."⁷ PW4 continued that "Amorc has secret signs, secret pass words and secret handclaps."⁸

PW8 in his evidence testified that

"as a Rosicrucian, I practice communication with the dead" Under cross examination he stated, that "we have teachings of occult laws."⁹

In summing up, His Lordship¹⁰ said:-

"It is difficult not to associate Amorc with mysticism, Astrology ... and the use of astral projection... It is said that astral projections involves the conscious separation of the spiritual body from the physical body... it is known that such experiments are not done in scientific laboratories ... I think even members of Amorc to be fair must have felt so before they joined.

What people take to be a violation of natural laws would be regarded by them as occultic, magical, demonic, satanic, devilish and evil."¹¹

Contributing to the above finding, IGUH JSC in his concurring judge in the same matter said:

"I agree entirely with the majority judgement of the Court of Appeal that it is extremely difficult in the circumstances not to associate Amorc with mysticism".¹²

- (b) On whether Jesus Christ was a member of secret cults, as was advocated by Amorc in their evidence.

Iguh JSC Contributed thus:-

"Clearly to assert as the plaintiff unequivocally did that Jesus Christ was a member of secret societies and that he was an advocate of Occult teachings is speaking for myself, satanic, sinister, blasphemous and entirely unacceptable."¹⁴

Based on the above evidences among others, the Supreme Court in a unanimous judgement dismissed Amorc's case and held that the defendants were justified in their description of Amorc as a secret cult.

3.0 ANALYSIS OF THE CASE

3.1 CONSTITUTIONALITY OF SECRET CULTS

Section 35(4) of the 1979 constitution clearly states that for the avoidance of doubt, the right to freedom of worship thought or conscience and the freedom to propagate same does not extend to nor confer the right on people to form and operate secret societies in Nigeria. So, in effect, secret societies are illegal and unconstitutional in Nigeria.

The question to be asked then is, what are the types of secret societies that are prohibited under the Constitution?

The Supreme Court in this case under review gave the definition and description of secret societies that are prohibited by the Constitution as follows:-

- a) A society or association not being a solely cultural or religious body that uses secret signs, oaths, rites, rituals or symbols.
- b) Whose meeting or other activities are held in secret
- c) Whose members are under Oath, obligations or other threat to promote the interest of it's members or to aid one another under all circumstances without due regard to merit fair play or justice.¹⁵

After having reviewed the evidence before it, part of which have earlier on in this review been reproduced, the Supreme Court concluded that Amorc is a type of the societies or associations which are regarded as secret cults or societies under the constitution. The conclusion therefore is final, that this case, leaves us in no doubt that Amorc has judicially being sanctioned as one of the secret societies prohibited by law in Nigeria.

Section 35(4)¹⁶ adds that as part of the identification, marks of secret societies, they should be such that their activities are detrimental to the legitimate expectations of those who are not its members.

3.2 ACTIVITIES OF AMORC WHETHER DETRIMENTAL TO NON-MEMBERS

The question this provision raises is whether Amorc as a secret society qualifies as an association whose activities are detrimental to the legitimate expectation of the larger members of the society who are not its members, and therefore is an association to be avoided and frowned at with all vehemence?

This question finds answers in this same case under review. The Supreme Court clearly stated that Amorc falls within the meaning of Secret Cults contemplated by section 35(4).

The said section of the Constitution prohibits secret societies from enjoying the constitutional rights to freedom of worship and the propagation of their teachings as well as the freedom of association. It is no doubt evident that Amorc is not solely a cultural or religious body since from the evidence already analysed earlier on in this review, Amorc is a metaphysical body that practices accultism which is purely mystical in nature. The organisation also uses secret signs, pass words and secret hand claps.¹⁷ Its members are also sworn to observe an Oath of secrecy.¹⁸ The body also has ritualistic initiation ceremonies as approved by the Imperator of Amorc, these ceremonies are usually secret.¹⁹ The issue of Amorc meetings being held in secret is not in question as this was not denied by the chain of witnesses Amorc called.

When one considers the fact that Amorc's witnesses admitted to communicating with the dead, engaging in soul or astral travel, which are activities quite outside the comprehension of the human mind and can only be explained by attributing same to magical, Occultic, demonic, satanic, develish and evil powers,²⁰ It is safe to conclude that the activities of Amorc can be regarded as being detrimental to the legitimate expectations of those who are not its members, being that they could validly and properly be associated with magic, occult, demons, satan etc.

3.3 LEGALITY OF AMORC'S INCORPORATED STATUS IN NIGERIA

The question that now arises is as to the legality of the incorporation status of Amorc in Nigeria seeing that it is a secret cult and under our Constitution it lacks the legal capacity to enjoy freedom of worship, thought and conscience and the right to propagate its teachings, or the right to association. Amorc was incorporated in Nigeria under the Land Perpetual Succession Laws 1958 which has been repealed by section 694 of Part C of the Act²¹ and by Section 695 thereof, they come under the operation of Part C of the said Act.

Section 679(3) of the Act specifies that certificates of incorporation granted under the Act shall be prima facie evidence of compliance with all requirement for incorporation.

The prima facie nature of the evidence of incorporation opens it to review where it is discovered that the incorporation granted was not according to law. By Section 35(4) of the 1979 Constitution it is illegal to form and operate a secret society in Nigeria. Amorc has being identified as a secrett society this fact was judicially or legally recognised by the Supreme Court in this case under review.

3.4 AMORC CANNOT ENJOY CONTINUED LEGAL RECOGNITION

Now that it is known that Amorc has no legal right to operate in Nigeria, it cannot therefore be given legal recognition or allowed continued legal existence. It is open therefore to have its incorporation quashed.

Since the Companies and Allied Maters Act comes under the sole legislative competence of the Federal Government, the Federal Attorney-General can now bring an action in the Federal High Court by way of a writ of certiorari to quash the registration or Amorc in Nigeria because the Corporate Affairs Commission lacks the jurisdiction to incorporate or keep incorporated, a body which has been declared to the illegal by law.²²

CONCLUSION

While conceding to the rights of citizens to freedom of worship, thought and conscience and of the propagationn of such worship, thoughts or conscinece, such must be practiced within the limits of the law that granted the said freedom as this right does not and should not form the basis for the formation of secret cults.

Based on the above therefore, secret cults must be clamped down because they are illegal associations which are detrimental to the legitimate expectations of the larger members of the society and it is the function of the State to regulate these cults for purposes of ensuring a peaceful, orderly, and decent society. Besides, freedom of religious beliefs or of association cannot be allowed to override the interests of peace, order, or morals of the society and to this extent, these freedom are subject to the reasonable and legitimate check or control of the state.

REFERENCE NOTES

1. *Section 35 of the Constitution of the Federal Republic of Nigeria as amended herein after referred to as (CFRN 1979).*
2. *CFRN 1979.*
3. *See "the Guardian" of Sunday 28th January, 1998 at P.A.S.*
4. *(1994) 7 NWLR Pt. 355, p. 154.*
5. *At P. 186 Paragraph F - G Ibid.*
6. *At Page 184 Paragraphs A - E Ibid.*
7. *Page 185 Paragraph G. Ibid.*
8. *Page 186 Paragraph H. Ibid.*
9. *Page 186 Paragraph E. Ibid.*
10. *Wali JSC Delivering the Lead Judgement.*
11. *Page 185 Paragraph B - D Ibid.*
12. *Page 193 Paragraph F. Ibid.*
13. *Page 186 Paragraph G. Ibid.*
14. *Page 193 Paragraph G. Ibid.*
15. *See Section 35(4) CRFN 1979.*
16. *CFRN 1979.*
17. *Page 185 Paragraph H. Ibid.*
18. *Page 183 Paragraph H. Ibid.*
19. *Page 183 Paragraph F. Ibid.*
20. *Page 185 Paragraph A - D Ibid.*
21. *Companies and Allied Matters Decree 1990 - Cap. 59 Laws of the Federation of Nigeria 1990.*
22. *Bowurman V. Secular Society (1917) AC 406, R. Vs. Registrar of Companies, Exparte Esal (Commodities) Ltd. (1985) 1 All ER 79.*