

# SHARIA DEVELOPMENT IN NIGERIA

The purpose of this chapter is to present a sketch of the history of sharia in Nigeria, beginning with the revival of Usman Danfodio in the early 19th century. From there we move through colonialism and its aftermath into the new sharia era introduced by Governor Sani of Zamfara State.

At the outset I emphasize that Sani did not introduce anything really new. Throughout this and other chapters I emphasize that the ideas, arguments and discussions generated by Sani's Gusau Declaration<sup>1</sup> were, with few exceptions, already in vogue prior to that event. It will be shown in various places throughout this book that, apart from the decision itself and related government reorientation exercises, the Gusau Declaration is significant only in that it speeded up developments and cranked the debates and activities up to a new level. Two NIREC speakers emphasized that sharia had been around for many centuries.<sup>2</sup> Many of the participants in the movement were aware of its long history, including Governor Sani himself. It is good to keep in mind that the Declaration did not introduce anything new but it *was* a breakthrough in response to

pressures that had been mounting for about two decades. Sani himself belittled the change. In describing the sharia, he claimed that 90 percent of sharia is personal and civil, while the criminal aspect, the one he resuscitated, covers less than 10 percent.<sup>3</sup>

What *was* new in the Gusau Declaration was the courage it required. Sani himself chided his people at the launching for their weakness and passiveness. A decade earlier, Omar Bello from the Usman Danfodio University of Sokoto publicly “observed with dismay the way Muslim leaders are intimidated from unfolding the tenets of their religion so as to avoid being regarded as fundamentalists or conservatives in the West.”<sup>4</sup> That fear largely evaporated in the heat of the new sharia.

### ▲ PRE-ZAMFARA SHARIA DEVELOPMENTS—19TH AND 20TH CENTURIES<sup>5</sup> \_\_\_\_\_

Muhammad Bello helps us with a concise orthodox summary of the origin of sharia itself:

*Almighty Allah revealed in the Holy Qur’an, the law, the sharia. He prescribed for mankind and ordered that all shall be judged by it. The Qur’an only laid down the basic principles of sharia, which was supplemented by Sunnah, defined as “a way, course, rule, mode or manner of acting or conduct of life practice approved by Prophet Muhammed..., which are found in the Hadith.” Within the first three centuries after the Hijra,<sup>6</sup> the sharia was further strengthened by the consensus of opinions among the learned Muslim jurists on particular issues in which there were no express solutions in the Qur’an or the Sunnah. The sharia was further reinforced by Qiyas, which is analogical reasoning. In a letter Caliph Umar Bin Khallab wrote to Kadi Abu Musa, he stated in respect of “analogy” as follows: “Use your brain about matters that per-*

*plex you which neither the Qur'an nor Sunnah seem to supply. Study similar cases and evaluate the situation through analogy with those similar cases.”<sup>7</sup>*

## 1. DANFODIO REVIVAL—19TH CENTURY

Sanusi wrote a succinct summary about developments from Danfodio right down to the Gusau Declaration.<sup>8</sup> Though I do not quote from it, I do highly recommend your reading it. Hence I have attached it as Appendix 7. Sanusi, a complex Muslim thinker with a Marxist orientation but working for a capitalist bank, places the entire story within the context of economic developments, an aspect that does not always receive the attention it deserves in this series. Though I reject an outright economic reconstruction of this history, I am fully aware of the role of economic factors. And though I occasionally express reservations about Sanusi's writings, I consider this one particularly lucid and helpful. The reason the economic aspect does not always get full attention in these pages is that I concentrate on the religious background to the events under discussion.

The major initial point of reference with respect to sharia is the revival of Uthman Dan Fodio in the early 19th century. Note the term “revival.” It means a renewal of what was already there but in corrupted form. Hence the afore-mentioned frequent Muslim insistence that the current demand for yet another revival of sharia is not a demand for something new. It was there even before Dan Fodio. It is the established opinion of Muslim scholars that Islam had fallen upon hard times in what is now far northern Nigeria. Saleh Maina explained:

*The adoption of sharia in Zamfara has a precedence in history. It may be recalled that Zamfara is part of the Sokoto Caliphate, the nucleus of the 1804 Islamic Jihad led by Sheikh Usman Dan Fodio, the objectives of which were to purify the practice of Islam and to emancipate the peasantry*

*from the misrule of the feudal aristocrats led by emirs in 19th century Hausaland. The Usman Dan Fodio Jihad came at a time the empires and kingdoms in Northern Nigeria were afflicted by social ills and anti-Islamic practices.*

Then Maina added, “For the avoidance of any doubt, the objective conditions that prevailed in the land before the 1804 jihad are similar to what currently prevails today.”<sup>9</sup>

As per Abubakar Gwandu,

*What remained of Islamic learning and practice in most of Hausaland was no more than a shadow of real and true Islamic teachings and practice. Committed Muslim scholars decried the flagrant abuse of the sharia by the venal scholars, the greedy, oppressive and ignorant nominal Muslim kings and the populace for the majority of whom knowledge of true teachings of Islam was almost non-existent.*

Further according to Gwandu,

*Syncretism was the order of the day and Islam was almost entirely confined to dry rituals. In the social, political and economic spheres Islam was not allowed to interfere. The rulers and their cronies among the so-called ulama<sup>10</sup> conspired to erect a thick wedge between the masses and the true Islamic teachings in these spheres of their lives. In the administration of justice, Islamic law was resorted to only where it happened to serve the interest of the rulers. The total picture, in the eyes of any serious-minded and dedicated Muslim, was very dark.<sup>11</sup>*

Kurawa supports the allegation that the Ulama, “in return for patronage, were prepared to justify whatever” the rulers did. He also agrees that syncretism was a major cause of the deformation of Islam at the time.<sup>12</sup>

Dan Fodio and his immediate successors established a regime,

known as the Sultanate or Caliphate of Sokoto, that Muslims often describe as the very embodiment of Islam with justice as its hallmark. Omar Bello comments: "The establishment of religion, justice and the welfare of the people was the main objective of the Sakkwato Caliphate." Muhammad Bello, son of and successor to Dan Fodio, "likened an unjust leader to an animal in a green pasture, which brings about its own destruction through fattening itself to the point that it is slaughtered and eaten." Bello established various agencies to promote justice and accountability at various fronts, including even the emirs and the Sultan himself. "There were controls on arbitrary levying of taxes, inadequate remuneration for workers, confiscation of property and deviations from the sharia." Non-compliant officials could be dismissed. One agency was designed to "stop the exploitation of people by traders and craftsmen. He protected public paths and property from being grafted on to the private properties of greedy people." That same office "was also responsible for preventing immoral acts in public." A British explorer, Clapperton, travelling through the area, commented that the laws of Islam were so strictly enforced "that the whole country, when not in a state of war, was so well-regulated that it is a common saying that a woman might travel with a basket of gold upon her head from one end of the...dominion to the other."<sup>13</sup> It is a story Muslims love to relate.

Another eyewitness about the purity of sharia administration in Kano of the same era comes from Muhammad Zangi, paternal great-grandfather of the assassinated Military Head of State, General Murtala Muhammed, and later to become *Alkalin Kano*. He wrote of Emir Ibrahim Dabo that

*he established justice, instructed people to do good and prevented them from doing evil. He killed the rebels and highway robbers, amputated the hands of thieves and destroyed the*

*houses of the fornicators. There was tranquility to the extent that men no longer closed their doors at night and animals moved without shepherds, except during the rainy season. Allah opened the routes during this period. A lady could travel alone from Kukawa to Kwara without any harassment.*<sup>14</sup>

There are also witnesses to the classic simple life style of Muslim leaders, encouraged by sharia. One European traveller by the name of Staudinger wrote appreciatively about a certain Amir al-Muminun of Sokoto:

*According to the standards of the country, the income of the Commander of the Faithful may be quite considerable, but despite this fact, he lives comparatively simple. The puritanism of his forebears is still alive in him; he is accessible, affable and not proud. Even the poorest man is granted audience. He uses the bulk of his income for gifts to rich and poor, as rewards to officials, as well as in the exercise of his generous hospitality.*<sup>15</sup>

## 2. COLONIAL PHASE—1900-1960

Various writers describe the religious situation Lugard found upon his arrival. Abdulmalik Mahmud wrote that Lugard found an Islam with “sharia and Islamic religion well entrenched” in the lives of the people. Nowhere, in all their colonies, did the British find Islam observed as thoroughly as in Northern Nigeria. The Emir’s courts were “filled with learned and pious jurists” who always based their decisions on basis of Qur’an, *hadiths* and other authoritative sources. Even though a lot of wrangling took place between the emirs, the judges were doing their jobs.

Lugard soon recognized the folly of interfering with this system and entered into a treaty of non-interference in religion with the emirs. A blatant exception to the non-interference policy was to replace laws that Europeans considered “repugnant” with measures that seemed more “civilised” to “refined” European taste. The

replaced provisions included slavery, amputation, stoning and retribution. However, while Lugard made his promise, the colonial regime in general was never at peace with it. It has been a major point of contention that you will read more about in these pages.

Adegbite acknowledged that sharia was given recognition by the colonial regime as part of the indirect rule system. However, the repugnancy doctrine led to “its progressive subjugation to English law” with the latter eventually declared superior to sharia. The regime ignored the sharia pockets in the south and restricted its operation to the north, which they designated as “Muslim,” while the south was dubbed “Christian.” At the end of the colonial phase, “the application of sharia in the north was total, extending to civil and criminal law.” However, that was overtaken by new developments on the eve of independence.<sup>16</sup>

Muslim historiography has it that colonial officials really wanted to impose the Christian religion on the people, for which purpose they worked hand-in-hand with missionaries.<sup>17</sup>

This allegedly led to frequent discrimination against Muslims and to preferred treatment of “pagans,” as adherents of ATR were called. While the latter were provided with customary courts, even where they constituted the minority population, where Muslims were the minority they were not given their sharia courts. Furthermore, British colonial officers were recruited from among those that had served in Arabic-speaking countries. With that kind of experience behind them, they were able to devise various devious ways to introduce “poison pills” or “viruses” –Boer’s terms—that would slowly undermine sharia in favour of secular law.

As time went on, the British slowly undermined education in Arabic so that younger generations began to lose their interest in the language not only, but also in the sharia. Muslims were not allowed to set up Muslim schools, so that they had no choice but to send their children to European schools, which were often missionary

schools that tried to convert the children. Mahmud described how education was used to slowly squeeze the life out of Islam.<sup>18</sup>

Not only were Muslims denied their full religious rights in terms of courts and schools, but colonialism also introduced that pernicious secular separation of religion and politics.<sup>19</sup> *Under this pretext they would introduce laws that were hostile to Islam. Examples of such secular laws were freedom of religion, freedom to change religion and the prohibition of “discrimination on ground of illegitimacy.”* Mahmud then proceeded with a lengthy account of how sharia was gradually reduced and, eventually, abolished altogether with respect to criminal law.

Mahmud also provided a summary of how criminal matters were removed from the sharia courts. This happened at a constitutional conference in London in 1958, during the dying years of colonialism. The attendees included Nigerians from both south and north. A motion removing the criminal section was tabled and “quickly supported by southern representatives.” The top northern representatives, Sir Abubakar Tafawa Balewa, the Sardauna Ahmadu Bello and Sir Kashim, given their general stance, must have been opposed to the measure in principle. The surprising thing is that they “could not do anything but to support the proposal.”<sup>20</sup>

And so, according to Adegbite, “on the eve of independence certain crimes and penalties known to sharia were incorporated into the Penal Code,” an arrangement that went into effect on October 1, 1960, the day of independence.<sup>21</sup> This was the result of a combination of the 1958 conference and a blue ribbon committee that studied sharia arrangements in other countries.

Of course, even withdrawing criminal issues from sharia did not satisfy the colonialists. Their long-term aim was to undo sharia and its courts altogether. Another was to vilify the sharia as “an unjust, biased and discriminatory system that had no laid-down rules and regulations.” They also alleged that it was an



inequitable system of law, whose interest was only punishment. Accusations of bribery and corruption were rife. That is how “the seed of discord” was allegedly planted between Muslims and others in Nigeria, the bitter fruit of which Nigeria has been struggling with ever since.<sup>22</sup>

Yadudu had his own spin on colonial sharia developments. When Lugard imposed colonialism,<sup>23</sup> he allowed “unqualified recognition” to the system in place and pledged he would never interfere with their religion. However, a memo to his officers indicates that his recognition was merely tactical: He confided that he “had no desire to interfere *too hastily*<sup>24</sup> with the custom in force.” The sultan and emirs would appoint judges in sharia courts. In short, everything was done to make the transition to colonialism as painless as possible.<sup>25</sup> That, according to Yadudu, was phase one.

The second phase kicked in when Lugard and his successors felt more secure of their position. They had become familiar with the existing system and began to introduce incremental steps towards controlling it. They began to appoint and remove judges, review their decisions and limit their powers. They also began to introduce the “repugnancy and incompatibility test,” which meant that any Muslim principle or procedure could be set aside if found offensive to the British. Eventually, this process led to “the wholesale ouster of areas of Islamic law” in criminal matters and to their replacement with the penal code of the British tradition. At the end, independence was greeted with British law entrenched.

Yadudu’s third phase of “independence” commenced with a kind of coexistence of the two systems, but with the sharia and customary law existing “at the mercy and under the shadow” of common law, as appendages of the latter. Sharia “does not exist as an autonomous and self-regulating system. It is defined in terms of common law. It [is] subject to the standards of common law. Its

courts are established and its personnel trained and appointed in the same way and using virtually the same criteria as those of common law courts and justice.” Today—1986—“we see how the English legal ideas affect the thinking process of policy makers, judicial officers and the legal profession as a whole.”<sup>26</sup>

According to Justice Mohammed Bello, the British

*found that the Emirates had [a] well-organized and efficient judicial system and administration of justice. Sharia law was the prevailing law in both civil and criminal matters administered by the Emirs’ courts and Alkali Courts. Dogarai [royal guards] performed the functions of the police. The British did not interfere with civil law at all. However, with respect to criminal law, they substituted the following: death by hanging for the offence of homicide and for adultery, beheading and stoning to death, imprisonment as punishment for theft instead of amputation of hands, and payment of diya [compensation] in lieu of capital punishment was abolished.*

In addition to these, there were changes in the court system too technical to describe for our purposes. Bello seems to downplay the nature and scope of changes that others decry as a radical betrayal of the sharia. He commented, “Indeed, with the exception of matters which are within the exclusive jurisdictions of federal and state High Courts, our mode and conduct of life have always been governed by sharia.”<sup>27</sup>

Others are more negative towards colonial changes. Juwayriyya Badamasuyi of Bayero University hurled some sharp accusations at the British.

*Initially, the British, as part of their great design, accommodated the already-established system of judicial administration in northern Nigeria. The sharia was allowed to be*

*applied in all cases appearing before the courts, as the colonial government claimed that it was not their desire to introduce any change which might possibly offend any emir or alkali. But gradually, the colonial government introduced the “repugnancy and incompatibility test” in order to overhaul and limit the application of sharia.*

*Under this test, any provision or verdict of the sharia which in their reasoning is repugnant to “natural justice, equity and good conscience” or is incompatible with colonial laws, becomes null and void and is struck out. This set the pace for the gradual displacement of the sharia and its replacement with the English common law.*

*In 1957, a panel of jurists was set up to study the judicial system as it operated in Pakistan and Sudan. The cover-up plan was to effect a reform which would not raise the sensitivity of the Muslims. That panel came up with the “Penal Code” and the “Criminal Procedure Code.” But the fact is clear that the two codes were not only drawn from sources other than the Qur’an and Sunna, but were deliberately planned to go against their provisions.<sup>28</sup>*

An anonymous writer in the Hausa-language magazine *Nasiha* wrote repetitively but with considerable passion about the coming of the British:

*They came among the Muslims; they treated them harshly and with contempt. They did away with the Muslim sharia. They took over the economy and established their own companies that undermined local business. At the same time, as they did away with sharia, they replaced it with their own system of law. They also humiliated Ahmadu Bello by scaring him that the North, where the majority is Muslim, would not make any economic progress unless they agreed to British law. Hence, they replaced sharia with the Western*

*Penal Code. That is the one that is still operative today without Muslims trying to return to sharia.*

*Thus they left Muslims with a justice system that was meaningless, except in so far as it concerns marriage, inheritance, contracts and minor squabbles between them, but the (reduced Muslim) system did not cover criminal matters. Even the little that was left to them was designed to conform to Christo-European law—that of the colonialists. The judges they appointed to operate the system were not qualified. None of them could operate the system to conform to sharia and ensure justice. Amongst them were some who engaged brazenly in oppressive bribery, especially in the villages. It is this process that reduced the value of sharia in this country. It also reduced its honour and prestige even among Muslims themselves.*

*The above development led to the prestige that British common law now has among the people. However, this common law has no real foundation in Western culture, let alone in Christianity, for Christians borrowed from Roman law, because Christianity does not have a legal system of its own.*

*The common law system, as every one knows, is not known for its justice but for pretence and treating people like dirt. It is confusing to those who do not understand English, not to speak of humiliating those without means.<sup>29</sup>*

Another anonymous author from another Muslim magazine, *Radiance*, wrote that to secure the colonial regime, the British established a secular education system for Muslims. Its “sole objective” was to “de-Islamise and persuade the Muslim to forget about his Islam” to the point where Muslims would agree “to live under the English law instead of the sharia and to subscribe to Western, Euro-Christian thoughts and ideas.”<sup>30</sup>

Suleiman Kumo from Ahmadu Bello University (ABU) wrote, “The sharia not only ceased to be the ultimate legal basis and the sole test of legitimacy, but its very application became dependent on the laws introduced by the conquerors.” The authority of sharia was severely curtailed and no longer ultimate, subject to the secular British legal system.

To make matters worse, sharia was now lumped together with native customary law. Imagine: The sharia of Allah Himself put on the level of Pagan law! A greater insult is hardly feasible. In addition, the British devised a “repugnancy” clause, whereby everything in sharia that was considered repugnant to the British—and thus contrary to what the latter considered “natural” justice—was replaced. Kumo asks, “On what principles must natural justice, equity and good conscience be judged? A person’s view will depend upon his cultural milieu.”<sup>31</sup> These provisions have infuriated many a participant in the campaign to restore the sharia regime.

Hamid Adam asserted, “With the establishment of colonial rule began an era of mental servility among the ‘Natives,’ who were told of the supremacy of English and worthlessness of ‘native’ laws and customs in which came to be included Islamic laws by virtue of perverted interpretation.” Islam came to be seen as a “reactionary religion whose teachings have become out of tune with modern times.” Colonialists led Muslims to think that “Islamic law is no more than a customary law, which should deal with personal status.” They “saw in Muslims an enemy which could be defeated only if the power of Islamic faith could be drained out of them. So [they] established an educational system which was un-Islamic in character and which methodically eliminated all aspects of Islamic teachings from the curriculum. It was done in the name of separating the ‘secular’ from the ‘religious’ activities.”

Adam went on about the mental slavery and servility of

Muslims to British colonial culture as detailed in volumes 2 and 4 that does not need repetition here. However, all this “posed the greatest danger to sharia.”<sup>32</sup>

Syed Rashid complained that colonial legal education was also largely restricted to

*“personal matters,” whereas such important branches of law as of crimes, contracts, business transactions, international affairs, etc., are not considered even worth an academic discussion. The whole wealth of legal material having great contemporary relevance has thus been left un-utilized. This is a clear case of academic apathy and dishonesty.*

*Could and should anybody assume that the whole wealth of Islamic knowledge does not have any solution to offer to contemporary social problems? Is it not academically incumbent on universities to undertake serious studies of Islamic disciplines? It would only be arrogance to assume that the fourteen centuries of accumulated Islamic learning have nothing of contemporary relevance.*

Rashid turned for support to Joseph Schacht, a secular Western scholar in Islam whom Rashid does not consider “a friend to Islam.” Schacht asserted that the sharia is “one of the most important bequests which Islam has transmitted to the civilised world. It is a phenomenon so different from other forms of law that its study is indispensable in order to appreciate adequately the full range of possible legal phenomenon.” Then, like any Muslim, he affirmed the centrality of sharia for Islam and its comprehensive nature. Schacht then went on to indicate its historical influence on other peoples, including non-Muslims, in a way that is well worth summarizing:

*Several of its institutions were transmitted across the Mediterranean to medieval Europe and became incorporated*

*in the law...Another significant influence occurred in Islamic Spain. At the opposite end of the Mediterranean, Islamic law has exerted a deep influence on all branches of law of Georgia. There is finally the effect of Islamic law on the laws of the tolerated religions, the Jewish and the Christian. It is certain that the two great branches of the Oriental Christian Church, the Monophysites and the Nestorians, did not hesitate to draw freely on the rules of Islamic law.*<sup>33</sup>

Kurawa has presented us with a fine eight-page history of colonial sharia developments. It is too long for our purposes here. However, one thing that has not yet been brought out is the deliberate attempts by the British to have the emirs, who were in charge of sharia, to deliver corrupt sentences and to mix sharia up with politics. Based on some examples of British manipulation of the semi-sharia system, Kurawa claims that a certain ruling “had nothing to do with logic or universal sense of justice. The purpose of the judgment was to undermine the sharia and present it in bad light, since the court’s objective was to fulfill the colonial objective of promoting Western Christian civilization.”<sup>34</sup> The purpose was to undermine sharia in favour of common law. Support for this situation is supplied by H. G. Farrant, a long-time executive of the SUM, who wrote that the colonial government reappointed the corrupt emir of Kano after they had defeated him.<sup>35</sup> If you wish to get to the roots of corruption, here is one important source. British effectiveness on this score can be measured by the hue and cry about corruption that has bedevilled the sharia system for many decades, not to say, a century.

In fact, one feature of colonial sharia court that, as we will see in Monograph 7, turned Christians against the sharia more than anything else, is this very corruption. Its practical application breathed little of the generous spirit that many Muslims insist characterizes true sharia.

According to Justice Bello, by the mid-50s, “there were loud protests regarding the manner in which the *Alkalis* [judges] were administering sharia criminal law.” In view of the fact that the original sources of sharia did not spell out exact punishments for many offences, it was left to the discretion of judges to determine punishment. “This lacuna resulted in abuses and miscarriage of justice by some judges.” For example, “several leaders of political parties were imprisoned because of their political activities under the guise of sharia.” A pre-independence conference demanded the inclusion in the 1960 constitution of the provision that “a person shall not be convicted of any offence unless the offence is defined and penalty therein is prescribed in a ‘written law.’”<sup>36</sup> Unfortunately, this provision did not stop the practices against which it was aimed. This important feature is usually glossed over by proponents of sharia and tends to undermine Christian confidence in the system and in Muslim intentions as a whole. It fuelled Christian resistance.

In the above paragraph, I included the clause, “that the original sources of sharia did not spell out exact punishments for many offences.” That was an early objection to sharia, but it may not be entirely correct. Kurawa indicates that, in fact, it was all written down in the books, but not necessarily in the style and language common-law lawyers can understand.<sup>37</sup>

Justice Bello wrote about legal preparations for Nigeria’s independence. In 1958, the government of Northern Nigeria appointed an international blue ribbon commission of jurists. Members included Professor Anderson of the School of Oriental Studies in London, a highly respected scholar, as well as Sir Kashim Ibrahim and Alkali Musa Bida, respected Muslim leaders in Nigeria. The Commission recommended “the enactment of a criminal law which would apply uniformly to all persons living within Northern Nigeria and which would not discriminate against any section of the community. Since the majority of the people in Northern Nigeria are Muslims, the



criminal law should not be in conflict with the injunctions of the Holy Quran and *Sunna*.”

In 1959, a code was drafted that was based on the penal code of a number of Muslim countries as well as India's. It was “scrutinized and vetted” by Nigerian sharia jurists, including Malam Junaidu, “who was reputed to be the greatest jurist in Northern Nigeria at the time.” These “jurists guaranteed that the draft code conformed with the tenets and injunctions of the sharia before the Northern House of Assembly passed it into law with effect from October 1, 1960,” the day of independence. The sharia did not apply to the *sabon garis* in four northern cities, the strangers' quarters populated mainly by southern Nigerians and their companies.<sup>38</sup> It was under this legal sharia regime that northern Muslims greeted independence with apparent satisfaction. However, there was an element of compromise. According to Warisu Alli, northern leadership “agreed to drop some aspects of the sharia in deference to the clamour of minorities and pressure from the British.”<sup>39</sup> Kurawa indicates that the key figure of the day, the Sardauna Ahmadu Bello, was not happy with it, but “was pressurized by the departing colonialists to adopt the Penal Code. They made it a condition for granting independence.”<sup>40</sup>

Badamasuyi wrote the following about the colonial purposes for and effects on sharia:

*...with the conquest by the British at about 1903, the sharia was subjected to systematic and drastic reforms. By the time the colonialists made their ceremonial handover of “independence,” what they left was a maimed sharia which had been dispossessed of its spirit and its all-encompassing nature. They were then quick to point out to their successors that the sharia had lost its usefulness in practical life and must therefore be strangulated to death.*<sup>41</sup>

Muhammad Salisu Abubakar of Kaduna wrote an article that expressed the classic stance of the Islamicist and mainline Muslim

communities in Nigeria. I attach it as Appendix 9, because of its strongly representative status. His views on the role and intentions of colonialism with respect to Islam and on the role of Nigerian Christians are so typical that I strongly urge you to read it, even though there is nothing in it that has not already been said in this and earlier volumes.<sup>42</sup>

### 3. POST-COLONIAL PHASE—1960-1977

It is often argued, as I did myself,<sup>43</sup> that the basic situation did not change after “independence.” The people in charge of the country, including Muslims, were mentally colonized and continued to carry on in colonial secular fashion. They did “not venture to think outside the Western Euro-Christian frame of reference.” Their programme included making sure “Muslims are not given the chance to live as Muslims, i.e., under the sharia. They made the supremacy of the English law a prerogative for independence and for Nigeria’s entry into the United Nations. Such blackmail was aimed at forestalling the likelihood of Muslims reverting to Islam, which by its very nature and mission, would mean the end of imperialism.”<sup>44</sup>

The efforts of colonialists were largely successful, according to Mahmud. By the time the CA was inaugurated by General Obasanjo in October 1977, the prestige of sharia had fallen dramatically among the people, including Muslims. Out of sheer ignorance, they started debunking it with allegations too frivolous to merit response. This group even included Muslim lawyers who had read British law. By so doing, according to Muslim tradition, they had turned themselves into “hypocrites” in danger of hell itself.

Abdullahi Mustapha described those who took over at independence as “fed and trained in Western education and political culture, people who became mere robots and who were culturally dislocated from their own rich culture, history and religious belief.” Colonialism left in its wake a set of “Muslim intellectuals whose world view and intellect have been so disfigured and secularised

that they see nothing scholarly or deserving of intellectual attention in their own history, culture and religion.”<sup>45</sup>

Ibrahim Sulaiman reserved very harsh words for Nigeria’s educated elite, the main thrust of which has been reproduced in Monographs 2 and 4. He described them as emerging from colonialism “dejected, mentally deranged and schizophrenic.” This, he alleged, “is the natural consequence of colonialism.” Quoting one Abdur Ibn Khaldun, he asserted, “The vanquished always want to imitate the victor in his distinctive characteristics, his dress, his occupation and all his other conditions and customs.” Sulaiman quotes Sir Clifford, a former colonial governor of Nigeria, who described the Nigerian lawyer as learned “in the laws of England.” Thus that lawyer has his “eyes fixed, not upon African native history or tradition or policy, or upon their own tribal obligations and the duties to their natural rulers which immemorial customs should impose upon them, but upon political theories evolved by Europeans to fit wholly different circumstances.” This “enslavement of Nigerians,” asserted Sulaiman, “is most complete and thorough in the Nigerian lawyer.” And so it is no surprise that “lawyers did not take effective steps after independence to provide the country with laws which bear any stamp of originality, but rather continued to perpetuate the application of laws which are English in essence and substance.” It is clear that judges adhere to this system “not out of unavoidable necessity but rather out of utmost conviction that English law is the last word of wisdom.” They fear that pronouncing more Nigerian-based judgments will cause them to be “branded as unlearned.” The “learned” judges and lawyers “are the most loyal slaves to the Europeans.”<sup>46</sup>

Making the same point, Kurawa adduced the example of Professor Ben Nwabueze who, according to Kurawa, is a perfect example of how William Blyden described the colonised Nigerian—“the part of the slave, ape or puppet.” The professor wrote, “The effect of Christianity has been to sharpen the individ-

ualism of the southern converts by emancipating them from the grip of custom and its tribal sanctions, and by infusing into them ideas about progress based on superior civilization of Europe.” Nwabueze then proceeded to contrast the alleged “utter darkness, conservatism and intolerance of northern Islam with the equally alleged southern progressive outlook, his radicalism, his adaptability to new ideas and an eagerness for progress and change.” There you have it, exclaimed Kurawa with some glee. “The cultural agenda of the British was successful.”<sup>47</sup>

#### 4. CONSTITUENT ASSEMBLIES PHASE—1977-2000

An important new phase in sharia development started in 1977, when a CA was held to create a new constitution for the country. From that Assembly until the Zamfara declaration of 1999, a number of such assemblies was held and in all of them the discussion around sharia was a prominent feature. A considerable amount of heat and emotion was released from all sides. Basic to it all was the issue of secularism that was dealt with in the previous two monographs. With reference to the 1977 Assembly, “the question was whether the sharia, the Muslim concept of justice and system of courts, should receive a place in the federal court system alongside, parallel with and at a level equal to the secular system inherited from Britain.”<sup>48</sup>

Mahmud discussed the developments that eventually led to the CA as well as the proceedings themselves in details too many for our purpose. However, it is good to realize the exact point at stake as he saw it. It was not whether or not sharia should be applied to Muslims, but whether Muslims should have a Court of Appeal based on sharia. To Mahmud, this was a secondary issue. It was far more important for Muslims to have the right to apply the full sharia. Shifting the issue to an appeals court was mere deception, a ruse.<sup>49</sup>

The attempt to create a constitution went fairly smoothly, wrote Director, until the sharia issue came on the table. The debate

turned into “a fist of fury” and ended in a deadlock. The whole endeavour “came to a halt when, on April 6, 1978, Kam Salem read the formal notice of withdrawal by eighty three Muslim members.”<sup>50</sup> All the media participated with great fervour in the shouting match. The country was brought to the brink of disaster.<sup>51</sup>

The Muslim arguments for sharia during the 70s included the following: (a) A majority cannot have its rights suppressed.<sup>52</sup> (b) In a diverse nation unity can only be assured when it is unity in diversity, a unity that embodies and gives legitimacy to diversity, including legal diversity.<sup>53</sup> (c) “Islamic sharia and Islamic religion are one and the same thing.” You cannot separate them from each other.<sup>54</sup> In addition, there were arguments on basis of the comprehensive, anti-secular nature of Islam, but they have been treated in Monograph 4.<sup>55</sup>

We have met Lawan Danbazau in earlier monographs.<sup>56</sup> Mudi Sipikin, author of the Introduction to Danbazau’s monograph, described him as a man who “saw a lot of what he recounts with his own eyes.” He wrote, you may recall, from the semi-Marxist perspective of NEPU, the defunct party of Aminu Kano and Yusufu Bala Usman. Danbazau resorted heavily to the manipulation thesis. He explained that all Christians and some Muslims opposed the attempt to establish a Federal Sharia Court of Appeal at the CA of 1977. Though the provisions would not affect Christians, the standard argument Danbazau shared with his fellow Muslims, Christians “strongly opposed the proposal, even if this might lead to the breakup of the country. Muslims insisted on the establishment of the court, even if this leads to the disintegration of the country.” Some Christians and Muslims “were not carried away by the rhetoric of the promoters and the opponents.” They saw that neither side were acting out of “genuine religious conviction.” Opponents were insincere, for it would not affect them; the promoters were insincere, because the proposal fell far short of the desires of the Muslim community. “The issues at stake were not

important enough to be used to threaten the breakup of the country.” As to the issues that later so vexed the world, namely those of amputation and stoning, these were not at issue either.

The conclusion that people drew was that “both sides were merely self-seekers: with no one “serving the interest of their religions, but merely using religious sentiment to get cheap popularity to enhance their political positions.” Some were of the opinion that Muslims should await a more favourable time, when the community “might be ready for the establishment of a comprehensive and independent sharia. This was in order to arrest the looming threat of disintegration.” Some Muslims boycotted the proceedings, “not because of the relevance of the controversy, but because of their genuine fear of being accused of being less devoted to their religion.” When the furor subsided and political parties formed, politicians from both sides joined with each other in the various parties “without any suspicion or bitterness,” Danbazau gratefully reported.<sup>57</sup>

Another assembly was held in 1987-1988, this one called by President Babangida. Again, the sharia issue brought it to the brink. The debate “rocked the assembly to its foundations,” according to Director. The assembly chairman, Anthony Aniagolu, was physically threatened “by some young turks in the north who insisted that sharia must be enshrined in the constitution.”<sup>58</sup> Again, sharia proponents decried the outcome. Common law remained supreme. Ibrahim Sulaiman subsequently argued that “to confine the sharia to a particular area is to mutilate it and create a fertile ground for its eventual death, as no legal system can operate successfully without its social, political, economic and administrative arrangements supporting it.” The secular ideal is not only to subordinate sharia to common law, but to have the latter replace sharia altogether. Such fading away would, of course, be consistent with the classic expectation of secularism that religion as a whole will wilt away as “enlightenment” conquers the

hearts and minds of more people. If sharia will be allowed to continue at all, it will be in a restricted sense that the secular mind does not consider repugnant.

However, a legal system cannot operate successfully where the culture does not support it. "How then do we expect the sharia to operate in a society which is totally subjected to English customs and values? And how can the sharia operate successfully when it is imprisoned in the narrow cell of personal status?" It was never meant to be so marginalized; it will shrivel up. This arrangement amounts to paving "the way for its eventual elimination in favour of the English system." Both assemblies committed "fraud against Nigeria by re-imposing on Nigerians the legal system of those who had come to plunder, victimise and humiliate us." "The position given to the sharia is totally unjustifiable. The sharia will die out and the whole Muslim society will eventually be de-Islamised. What will happen is the Europeanisation of our country."<sup>59</sup>

Muhammad Gashua reflected on the 1977 and 1988 assemblies and concluded that the predictions of the "cynics and pessimists" had come true about the "upgrading of the sharia to be at par with the common law courts at the Federal level." When that issue became too hot to handle in 1977, the assignment was abruptly concluded. Gashua feared that there would be a "repeat performance" at the 1988 assembly.<sup>60</sup> He was not far off the mark.

Hassan Sani Kontagora, a politician, publisher of *Hotline* magazine and member of the second CA of 1988, was more upbeat. He "vowed to see the sharia entrenched into the constitution." This time around, he declared, "nobody would deny them that right." He announced he would fight for its inclusion, because Muslims have a right to it. But he added the common provision that it "would be exclusively for Muslims."<sup>61</sup>

Brave language, that—but the FG closed the Assembly. Muslim organisations expressed satisfaction with the government's intervention in this CA and thus stopping the acrimonious debate

that was leading nowhere except to dangerous division. The Fellowship of Muslim Women's Organisations of Nigeria (FOMWAN) approved the measure, as did the United Muslim Congress and *Cibiyar Nazarin Harshen Larabci ta Nijeriya*,<sup>62</sup> but none without hoping that the issue would be taken up again in due time. They were not about to let up on sharia, while they did not want it to lead to a breakup or violence.

The Bureau for Islamic Propagation, the publishers of both *The Pen* and *Alkalami*, similarly approved of the government's closing the assembly. They published a statement of approval, claiming that the people as a whole agreed with the move. Even Christians were said to be happy, since the issue threatened to divide the country. The Bureau regretted that the problems were caused by religious leaders. It called on Muslim and Christian leaders to seize the present opportunity to establish fellowship with each other before the government would announce its decision about the future.<sup>63</sup>

The editor of *The Pen* gave a sigh of relief that the Assembly was over and a cooler atmosphere returned. The editor was ambivalent about the results, but recognized a plus in the provision "to give equal treatment to all religions without undue patronage to any." He confidently asserted that "we are now certain that the nation will no longer live under Christian tutelage to the detriment of other religious groups, while Christian elements inherent in our body politics will be quickly disposed of." "Muslims will also rest assured that sharia will have a permanent and undoubtable position in our constitution."<sup>64</sup>

The 1988 conference had heard many complaints about sharia courts, their inefficiencies, their corruption and the frequent forcible subjection of Christians to the system. Hence the pressure to reform grew. Complaints and accusations by Muslims were many, but mostly not very specific. Even before the 1977 CA, Lateef Adegbola admitted "that the application of sharia in Nigeria and elsewhere has not been flawless. Some judges, especially the



*alkalis* of yesteryears, have used the law for ulterior motives, political and personal. The law is therefore seen by less discerning observers as only that which incompetent judges declare. Such a tarnished image should be a thing of the past.”<sup>65</sup> I do remind you that this corruption was originally said to be of purposeful design by the colonial regime.

One specific example is provided by Muhammad Ibn Muhammad of Malali quarters in Kaduna city. In his letter to the editor under the Hausa title “*A Canja Mana Alkalin Kotun Malali*,” he complained bitterly about a new judge who allegedly knew no shame. He openly collected bribes and, as a result, delivered unjust sentences time and again. If you wanted a favourable sentence, you must bribe the judge. If you had no money, tough. Muhammad even provided details of some derailed cases. In one case, a poor man took a rich man to court. The judge used the simple device of constantly setting new dates for judgment until the rich man was tired and paid the judge. These kinds of things, according to Muhammad, happened so frequently that he did not have the space to record them all. Then, in the name of the people of Malali, he requested the authorities to remove the man from his position, not merely transfer him, for then he would simply continue elsewhere. Muhammad explained why this kind of situation develops. In short, the people are no longer faithful to the sharia and to Islam. The solution is equally simple: re-establish proper sharia.<sup>66</sup>

Another specific example of the deteriorated situation was that the now defunct Gongola State Government ran twenty-five two-week sharia seminars to help the judges become “more conversant with the interpretation of sharia.” These seminars would also serve to enable judges to read original sources in Arabic. There was the expressed need for the courts to earn a better “reputation, respect and the confidence of the people.” There would also be an emphasis on the keeping of effective records to enhance efficiency.<sup>67</sup>

It is obvious by now that popular sharia pressure was strong

long before it was enacted. At the end of 1989, the Council of Ulama of Nigeria published a communiqué in which it “reiterated the Muslim demand for the complete sharia, including *hudud* (criminal laws), and separate courts to operate it.” It added that “sharia is never an issue to be trivialised or bargained with on any political platform.” The Council declared that “Muslims in the country will never accept any diluted form of sharia.” In keeping with the sharia spirit, they called for the closure of “all breweries in the country as the abundant grains produced go to the breweries for the production of alcohol.”<sup>68</sup>

The well-known Muslim preacher Abubakar Tureta strongly expressed his demand for sharia. “Preventing Muslims from sharia is more dangerous than preventing them from breathing,”<sup>69</sup> he declared. With the disbanding of the assembly, he said, Muslims will watch closely the steps the government will take in the matter. He used various Hausa-language literary devices in a series of pithy statements in the course of his speech that added up to strong sharia stuff. Muslims always say (a) “Sharia is their life.” (b) “If we’re doing *sallah* (prayer), we do sharia.” (c) “No sharia, no *sallah*; no *sallah*, no sharia. They come together.” There is no choice, really, for (d) “this is on the orders of our Creator.” With the Muslims in the majority, the government had better know the wisest course to pursue if it wants to ensure peace. The situation has gone beyond that of the first CA. The demands of Muslims now are three-fold: a Sharia Court of Appeal, sharia courts in every state and allowing Muslims to have *all* their cases heard in sharia courts, not merely the traditional ones of marriage, family and inheritance issues. The constitution allows for sharia courts in each state, since Muslims have the right to live anywhere in the country. There is no justification for having Christian courts (common law courts) in a Muslim-majority state like Kano, while there is no sharia court in Akwa-Ibom, a southern Christian-dominated state. Sharia is necessary everywhere in the country, for it is

against Islam for Muslims to take their problems to non-Muslim courts. In closing, he warned that if Muslims do not get their sharia, they will turn their mosques into courts.<sup>70</sup> Muslims may have approved closing off the cantankerous debates; they were not about to ease up on sharia. The pressure was not released.

As in the case of the CA a decade earlier, Danbazau commented that Christian members “once again refused to compromise, and the Muslim members rigidly stuck to their guns.” In addition, religious leaders intervened and helped blow up the issue beyond its real significance so that other important issues of government were forgotten or ignored. Some members who knew better but who were afraid of being blackmailed by their co-religionists “joined the bandwagon.” Again, there were those who recognized that the rhetoric on both sides was political showmanship “to enhance their political image.”

Danbazau seemed afraid of blackmail himself and thus felt constrained to defend his take on the issue. His explanation was not to be regarded as “an attempt to mock the efforts of Muslims towards establishing Islam Law all over the world, especially in the country of my birth. As a Muslim, I strongly believe that a Muslim’s life is incomplete until it is completely guided by the sharia.”<sup>71</sup>

I close the discussion surrounding the 1988 assembly with a plea from an ordinary citizen of Kano, Usman Sabo Koki. In a letter to the editor, he pleaded with the government to give Muslims a chance to conduct all their affairs under sharia. A sharia limited to civil but excluding criminal affairs won’t cut it.<sup>72</sup> It is the voice of the people. In the same year, Danjuma Maiwada of Bayero University expressed the widespread Muslim desire for sharia in its comprehensive form. “Muslims have long prayed for the sharia to be implemented in all its ramifications in their localities. We want Islamic education as the main, not minor curriculum in our schools; we want Islamic

governments in states where we are the majority; we want Islamic economic principles to govern our practices.”<sup>73</sup> This is the prayer of the people. But do note that the prayer goes beyond the demands of the sharia campaigners in the new century. 1988 is still the age of innocence when the guards are still down far enough for people to freely speak of “Islamic Government” and Islamic everything.

Shortly after the 1988 assembly, Badamasuyi warned, “Today, things are changing. The Muslims are awakening from their deep slumber. There is a general understanding and feeling of ‘back to Islam.’”<sup>74</sup> The struggle and debates continued, but it still took another decade for someone to take the awaited step.

Another assembly in 1994 followed suit by getting stuck on the sharia issue. As Osa Director put it, it “ran into a *cul de sac*.” The FG simply pronounced the sharia a “no-go area” for the Assembly.<sup>75</sup> After all was said and done and, not to forget, written, the nation faced the new millennium in 1999 with a constitution that was, in Adegbite’s words, “almost a carbon copy” of the 1979 version. “The snake has been scorched but not killed.”<sup>76</sup> Clearly, the sharia issue has been a tough nut to crack for Nigeria.

The Governor of Zamfara finally decided to usher in a new era by taking the bull by the horns—but not without creating another crisis.

### ▲ NEW MILLENNIUM REVIVAL—2000–2006 ———

The general attitude of Nigerians with respect to common law at the time Zamfara made its move was not much different from the colonial mentality described earlier. Abdulkareem Albashir wrote,

*Unfortunately, Nigerians have come to regard the common law with more esteem than the sharia or the customary law, while today and tomorrow sharia and customary law are*

*more relevant to the Nigerians than the common law. One has no reason, therefore, to elevate the common law at the expense of the sharia and customary law. Other people are more comfortable with sharia and customary law. And as Lord Denning rightly said, "The people must have a law which they understand and which they will respect."*<sup>77</sup>

This was the situation in which Governor Ahmed Sani made his debut.

#### 1. GOVERNOR SANI OF ZAMFARA, THE PIONEER GOVERNOR AND STATE

Maina begins the story as follows: "Wednesday, October 27, 1999, will remain important in the annals of the history of the people of Zamfara State. On that date Governor Ahmed Sani, in fulfillment of the democratic and spiritual aspirations of his people, formally declared the adoption of the sharia as the basis for the laws and way of life of the people of Zamfara State."<sup>78</sup>

From the capital Gusau of Zamfara State, Governor Sani caught the entire country by surprise and threw it into turmoil and confusion with his announcement about making sharia the law of his state on January 27, 2000. Dele Omotunde dubbed Sani's announcement the "Gusau Declaration." He characterized the move itself as "the Zamfara debacle."<sup>79</sup> Throughout this volume you will find piecemeal discussions about Sani's action, but a number of appendices give you a more complete picture of the situation, the motivation and the method followed, some of it in the words of the Governor himself.

Before I go into the details of Sani's revival, I want to give you some impressions of the man himself. I have little to go on. One source is a journalist who interviewed the Governor in London, where he had gone to attend a sharia conference. The main thrust is a measure of simplicity and modesty, two supreme

Muslim virtues. Nigerian governors tend to travel with sizable entourages and grandeur. Sani moved around London apparently with only two people. At the end of the interview, he took “not a stretch limo with escorts, but a London Black Cab, with four others sharing the same.”<sup>80</sup> Oghogho Obayuwana painted Sani in a very favourable light. “Even if he wanted to act tough, his simple ambience as a rather unassuming posture gives him away as one who will probably find it difficult to hurt a fly. And this was how he also appeared when he granted audience to visiting journalists in Gusau last week.”<sup>81</sup> A third source, somewhat different from the second, is a write-up by Dotun Oladipo about Sani’s apparent temper. In two days of meetings at Aso Rock, seat of the Presidency, he reportedly stormed out a total of five times!<sup>82</sup> I see a combination of modesty and temper—and perhaps a tendency to manipulate? And then I discover here and there inconsistencies and other anomalies that call into question the governor’s integrity. You will find these stories scattered throughout these pages.

The announcement in Gusau, on October 27, 1999, was attended by “an unprecedented crowd of about two million people,” according to Osa Director.<sup>83</sup> Abdul-Rahman Hassan-Tom described the great throngs that gathered.

*Sani did not have to convince anybody that his was not a rented crowd, because that crowd could not have been rented. Neither did he have to convince anybody that most of the peasants that attended the ceremony did so at the expense of their struggle for daily bread without any form of monetary compensation from the Governor. Most of those that attended did so with the innermost conviction that an end to their 20th century economic and political enslavement has come with the arrival of the Just System of governance.*<sup>84</sup>

Governor Sani was in his glory at the occasion as he delivered his

speech from which I will be quoting here and there. The launching, he predicted, “will be marked in the annals of not only Zamfara State but throughout our beloved country, Nigeria, as the culminating point in the actualisation of the hopes, ideals and aspirations of the majority of our citizens, the Muslims.” They have “long yearned for the freedom to exercise their full rights since they were invaded and colonised by the British. We only partially achieved victory with independence, but our neglect of planning has robbed us of the fruits of our struggles.” “The struggle has not gone in vain, for the Islamic order we envisaged has now emerged.” Sani “reminded his audience that he is not only a chip off the old block, but was prepared to go a step further” with his statement, “What we have embarked upon now is the continuation of the struggle started by our farsighted leader, the late Sardauna of Sokoto, Sir Ahmadu Bello of blessed memory.” Director suggested that by his action Sani sought to surpass that popular hero.<sup>85</sup>

On January 27, 2000, Governor Sani once again stood before a huge crowd, this time to actually inaugurate the new regime. In his article covering the second event, Labaran Abdullahi described the size and enthusiasm of the crowds—the second time they turned up *en masse* to celebrate sharia.

*As early as 8:00 a.m., people had started trooping in. Initially security operatives had stopped people from entering the Government House, but later the cheering crowds of men, young and old, overpowered the security men and opened the gate to let everybody through. Even before this day, people’s enthusiasm had reached the breaking point. And when it came finally, traders, school rector, government functionaries, traditional rulers, indeed all and sundry left all what they were doing to witness the event.*<sup>86</sup>

Standing before this crowd, an elated Governor introduced the new sharia regime. The official version begins as follows:

**SHARIAH PENAL CODE LAW**  
**JANUARY 2000**

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I assent this 27th day of January 2000

Alhaji Ahmed Sani (Yariman Bakura)

Governor

Zamfara State of Nigeria

**A Law to Establish a Shari’ah Penal Code**

**For Zamfara State**

**Law No. 10, 2000**

Made at Gusau, this 27th Day of January 2000 <sup>87</sup>

The process of installing sharia and making it effective continued after the double launching. One of the next steps was for Governor Sani to empower chiefs and emirs—“traditional rulers”—“to try cases under the new sharia before transferring them to sharia courts.” At a seminar organized for these rulers, Sani said that they are the “custodians of the society’s esteemed values” and as such are “expected to play a greater role in the implementation of sharia.” He commended them for “their unparalleled roles in maintaining law and order,” far beyond that achieved by any other government machinery.<sup>88</sup> Sani’s praise for these “fathers of the people” does not seem to agree with the perception of many people who regard them as traitors.<sup>89</sup>

Like so many others, Osa Director interviewed Governor Sani and asked him, “What influenced this decision? Is it because you have completed and fulfilled all your electoral promises or simply because of your piety?” Sani answered:

*It is both. In the first place, I joined the gubernatorial race in order to improve the welfare of my people. You cannot influence*



*the welfare of the people without affecting their religious life. We, as Muslims, believe that God created us to worship only Him. Therefore, if the purpose of creation is worship, then one must first influence reforms in their religious way of worship, to ensure that they are worshipping God as He directed. And in the process, you will achieve whatever development programmes you want to. For example, poverty alleviation. If there is no stealing, you will have abundant resources to achieve the development programme. Secondly, because of this intention, I tried to use this as a campaign weapon that, if they elected me, I would want to reform their religion to ensure that everything they are doing is in conformity with the dictates of our religion.*

Director then asked whether sharia was a campaign focus for Sani. The Governor affirmed that it was. He would start his speeches with chanting *Allahu Akbar* three times. Then he would “always say, ‘I am in the race not to make money but to improve on our religious way of worship and to introduce religious reforms that will make us get Allah’s favour. And then we will have abundant resources.’”<sup>90</sup> A kind of “health and wealth gospel”?

There is a question as to the involvement of foreign powers in the Zamfara sharia development. Soon after Sani’s declaration, ambassadors from a number of countries, including Saudi Arabia, Sudan, Pakistan, Syria and Palestine, allegedly “visited and egged [him] on.” Some regarded this as undue foreign interference in Nigerian affairs. An editorial in *The Comet* “urged the FG to take appropriate sanctions against these governments whose ambassadors were in Zamfara for the launching of the sharia.”

The foreign presence naturally led to the question of foreign money. Oladipo asked Sani point blank whether or not he is getting support for implementing sharia. Sani replied in the negative, but if anyone makes an offer, “we’ll take, not only from the Muslim community, but also from Western countries.” You see, this is

democracy in action that should be supported by all countries. “We are doing this because our people are interested.”<sup>91</sup>

During a visit to Niger State, Sani “refuted media insinuations that he was teleguided by international sponsors.” He insisted that “the state had not received any financial assistance nor loan from the Islamic Development Bank.”<sup>92</sup> But what of his publicly expressed thanks to Saudi’s “support for his administration since the implementation of sharia”? He expressed this in a workshop for Muslim clerics organised and attended by Saudi embassy officials.<sup>93</sup> No answer. Later we will hear about further sharia legislation that definitely gives the impression of kowtowing to Saudi especially. In the meantime, Zamfara sent a five-man committee to Saudi Arabia “to learn and understand how they were able to overcome the initial difficulties in the application of sharia.”

Though there was a large crowd at the launching that included many eminent Nigerians, deputy governors from other states, emirs, prominent imams and even foreign dignitaries, there were also some conspicuously absent. Neither the President nor the Vice-President attended, nor the Sultan of Sokoto. Sani refused to read opposition into their absence. The President and the Sultan were both abroad. The Vice-President had to attend to his duties of state in the absence of the President.

Director pursued the subject of Sani’s relationship to the President and his Vice. Did he ever discuss sharia with them or did they ever invite him for a discussion? Sani responded, “At all, *walahi*. Nobody. Nobody has invited me, nobody has spoken to me on this sharia.”<sup>94</sup>

Since Sani made such a big deal out of his intentions to reform religion and society, it is only natural that people were wondering about his own ethics and finances. So Director queried him about his money in the bank and related issues. Sani admitted he had money in interest-bearing accounts, something forbidden by sharia. However, he defended himself by claiming that he was using

this interest to help the people. That was the reason they voted for him. Furthermore, he was in the process of transferring his funds to Habib Bank, since they had started interest-free Islamic banking. Besides, he only had N3 million.<sup>95</sup> How then, challenged Director, could he have declared assets worth N200 million? Sani corrected the figure to N80 million. That figure included the value of his houses. How did he get so much money? asked Director. Sani answered that he came from a wealthy family. "My family has never been a pauper."<sup>96</sup>

One of the more quaint but also more disquieting aspects of the Governor's programme is his sporting a new beard. According to Director, during his campaign, Sani was clean-shaven. Why, Director asked, did he start wearing "this gargantuan beard? Of what symbolism is this to sharia?" Sani's response is interesting:

*I was not in the position to follow my religion the way it is supposed to be followed. I had the feeling, I had the belief and I had the interest to do it, but I tried as much as possible to behave the way other people were doing, so that I can carry other people along, so that I can get to this position. Now, I've got to this position and I want to do everything that is required by my religion and this is part of it. Prophet Mohammed said wearing a beard is very important. It's not compulsory, but once you grow it, you have additional reward from God and what I am after now is reward from God.*

Director associates this feature with the Taliban and fears that the beard has a connection to extremism.<sup>97</sup> He quoted Sani as follows: "I enjoin Zamfara youths to grow beards. From today, I myself will start to grow it. Whoever wants contracts from the state government must grow a beard. Those without beards will not be considered. Beard is wealth from Allah. Even if you want to marry and are looking for government assistance, it will be given to you only if you have a beard."<sup>98</sup>

Austine Odo of the weekly *AM* interviewed Sani. Again they discussed the beard issue. I reproduce the entire beard part of the interview:

*Abuja Mirror: Sometime ago, you were reported to have directed people in Zamfara to start growing beards. When we look around you, only you and one or two others are wearing beards. What is happening, Sir?*

*Gov. Sani: I never directed. This issue of beards, you see in the Holy Quran, which we believe in. Allah said we should follow the teachings of the Prophet Mohammed to the letter. Growing beards is just one of the practices which cost you nothing. If you are going to be a good Muslim, you should as much as possible try to follow to the letter the practices of the Prophet. Just like Jesus, if you are a good Christian, you will do what Jesus did and willingly follow what He did. It is not harmful to you and nobody says you must grow beards. It is just a statement and I said that I am advising my Muslim brothers to grow beards so that it can be seen as an identity card because that is the essence.*

*Abuja Mirror: Not for contracts?*

*Gov. Sani: No. That gentleman (pointing to somebody in the corner of the room) is a friend. Mr. Gbenga is a contractor and we patronize him. One, he is a Christian and secondly, he doesn't have a beard. People are exaggerating what sharia is all about and what I said. All I am going to say is that if Muslims can follow Islam and Christians follow Christianity to the letter, there will be peace.<sup>99</sup>*

The new sharia regime was attacked from the beginning by Muslims who argued that sharia was going to be applied too legalisti-

cally, without taking any conditions or situations into account. Stole? Amputate! Done deal! A woman committed adultery? Stone to death! Done deal. It never went that way, but that is a common criticism we will hear more about in Chapter 6. Though it may sometimes have worked out that way due to ignorant judges or to the youthful exuberance of the militia, Sani appeared fully aware of these issues. No militia will amputate; it can happen only under a judge's supervision. Furthermore, the *alkali* or judge will not order amputation if there are any extenuating circumstances that led to the crime. Was there a mental problem? Was it need or greed? If an employer does not take good care of his employee and then accuses the latter of stealing, the employer is likely to be punished, not the employee who has "stolen."

In spite of all the opposition, of which we will hear much more in Chapter 6, Sani was determined to push on. During the launching, he promised, "Our decision is irreversible and non-negotiable. No amount of deceit, falsehood, intimidation or kangaroo judgments will deter or even slow us down."<sup>100</sup> He was so sure of his approach that he "believes that it is the duty of every Muslim to help him succeed," for if he were to fail "my image will be dented and the image of fellow Muslims will also be dented."<sup>101</sup> To Oladipo's question why he introduced the sharia, Sani answered that it is compulsory for any Muslim governor "to administer the state according to sharia. It is a directive by God and so I try as much as possible to operate my life according to the directive and dictates of my religion."<sup>102</sup>

After all is said and done, Sani could with a straight face refute "allegations that he mixes politics with religion."! Reacting to the charge of mixing the two on the part of a speaker on BBC, he explained "that at no time did he mix politics with religion." After all, his political party "draws its membership from the two major religions." When asked about the open support he was receiving during his campaign from Muslim clerics, he explained they were doing so on their own initiative, possibly because they like his way of governing. But mixing the two? Not me! Well, I

did draw your attention to the occasional contradiction!<sup>103</sup>

Sani's daring earned him much praise and support from many quarters. Ray Nweke wrote, "This man commands a large and unqualified support of his constituents, unprecedented in its size and diversity. His declaration was received with such warmth and enthusiasm, encouraging him to make good his pledge to adopt the penal code enshrined in Islamic law."<sup>104</sup> One journalist wrote that he "has been commended for playing the leading role in the implementation of sharia." One such commendation was from one Ibrahim Adamu Shanono, who was happy with the move, since sharia "is the only weapon" for sanitizing the country.<sup>105</sup> Some referred to him as the "Othman Dan Fodio of the 21st century."<sup>106</sup>

On January 1, 2000, when the new sharia regime had not yet taken effect, *NN Weekly* was already jubilating: "Several governmental policy issues—minimum wage, probes, scrapping of PTF [corrupt government pension scheme], charged public debate in 1999, but sharia was the mother of them all. Zamfara's youthful Governor Ahmed Sani was the one who blazed the trail. Many Muslims now see him as the Mujaddid of the new millennium—but a lot of Nigerian Christians frowned."<sup>107</sup>

The Council of Ulama of Nigeria began a press statement by directing its praise and gratitude "to almighty Allah, Who out of His infinite benevolence and mercy paved the way for the reintroduction of sharia in Zamfara after about a century of deprivation. The Council prays that Muslims, wherever they may be found in Nigeria, will enjoy the religious freedom of belief, worship, practice and observance as entrenched in the Federal Constitution."<sup>108</sup>

The Attorney General and Commissioner for Justice of Zamfara State, Ahmed Bello Mahmud, delivered a paper on the adoption and implementation of sharia. In his introduction, he stated,

*Post-independence governments continued to maintain the laws and policies which effectively prevented the adoption of*

*full sharia. Constitutional conferences and debates were frustrated as relates to sharia and attempts by some radical Islamic sects to demand for sharia were violently suppressed. It was not until about 100 years later that God wished and guided the Zamfara State Government to successfully adopt sharia in a peaceful and constitutional manner.*

Mahmud explained that there was great need for this step. Crime and moral decadence had reached unacceptable levels. “It became necessary to try another alternative legal system that is divine, comprehensive, universal and complete code of practice covering social, economic, political, spiritual and legal conduct of a Muslim from cradle to grave, including aspects of the hereafter.” Besides, “the adoption of sharia by any person or state that professes the Islamic faith is not a question of choice. It is compulsory, especially with the advent of democracy, constitutionalism and a federal system of government that provide the opportunity.” “Muslims in Nigeria have sacrificed enough by compromising the fullest observance of their religion over the years.”

Mahmud then proceeded to outline all the steps followed to establish the new regime, beginning as follows: “The Executive Governor of the State, Ahmed Sani, desirous to fulfil his campaign promises and the wishes of the people to adopt sharia, established an eighteen-member committee.” The Committee was to investigate some basic issues to open the way for the great step. In its report, the Committee “made crucial observations especially on constitutional provisions relating to fundamental human rights.” The government accepted the report and instructed Mahmud’s ministry to devise the “one best way to adopt the legal system peacefully, without violating any provisions of the constitution.”

While the ministry was working on the assignment, the government declared its intention to “curb all social vices, moral decadence and check the rising crime wave by serving notice” that it

would ban prostitution and brothels, gambling, and consumption of and dealings in liquor. This move, according to Mahmud, “drastically reduced the level of crime and consequently made the courts and police stations less busy.” Among the sharia penalties to be included in the new regime were amputation and stoning, two that subsequently became very controversial. The offence of apostasy received a different treatment. Provisions were made either to counter, prohibit or promote corruption, collection and distribution of *zakat*, marriage expenses, traditional drumming and praise singing, standard weights and measures, prayer observance by civil servants during office hours, dress code for women, including the *hijab* or headdress, rehabilitation of *almajirai* or Quranic school pupils. A transition period of six months was envisioned to prepare further and for public enlightenment.

The launching itself was of “merely symbolic significance.” It drew “an imaginary line between the past and the new beginning under sharia.” It also “gauged the response of the people and the level of their commitment, sacrifice and acceptance of the legal system.” Both Zamfara and, soon afterwards, Kano had peaceful launches, thus allegedly disproving the association of sharia with violence. Respect for both the constitution and for federal laws as well as “peace and orderliness” were identified amongst the “necessary conditions.” Among the anticipated problems were issues of apostasy, uncooperative federal police force, the need to restrict sharia application to Muslims, and human rights.<sup>109</sup>

Suleiman Kumo wanted all fair-minded Nigerians, both Muslims and others, to support the Zamfara experiment, as he called it. The sharia debate that had been going on for over two decades has shown that “if a group of people allow their rights to be trampled upon for a long time without complaining about it, they can only get back their rights by asserting themselves.” This is the time to do that with “one loud, clear, orderly and un-ambivalent voice demanding and insisting on their right.” Zamfara has



done the right thing at the right time. Support it.<sup>110</sup>

Of course, there were immediate problems that required attention. The Zamfara House of Assembly fully supported the sharia, but they were doubtful about the quality of the judges the administration had appointed. They recalled them for proper certification. The report reads:

*Zamfara House of Assembly has called on the twenty-seven sharia judges appointed by the government to stop work till they are properly screened by the Council of Ulama (Islamic Jurists). The Majority Leader, Muntaka Rini, said that the judges were not properly screened before they were appointed. The laid-down procedures were not followed by the government, stressing that the judges were supposed to be interviewed by the Council and their list sent to the House for approval. The House resolved that the Council of Ulama screen them. After the screening, the list of the successful candidates should be sent for approval by the Judicial Service Commission and for ratification and approval by the legislature. The Assembly had invited the state Chief Judge, Muhammad Garba, to explain the procedure adopted by the government in appointing the judges.*<sup>111</sup>

Another immediate problem was the posture of the Nigeria Police Force (NPF). Abubakar Warra, said to be an Islamic scholar, made a statement regarding the police that was either not heard or disregarded. At the very dawn of the sharia era he declared that “it was the constitutional obligation of the Nigeria Police to enforce the sharia.” The police, according to Warra, “had the constitutional duty to uphold and enforce any legal framework passed into law by all levels of government,” whether common or sharia. Zamfara government had passed sharia into law and thus its enforcement has become a police obligation. True, some policemen are not Muslims, but “it would not be un-Islamic to engage the services of non-Muslim police for the purpose of enforcement and prosecution.” After all, the same police force was

used in the former *Alkali* court (also based on sharia). A non-Muslim police prosecutor “can prepare charges and prosecute suspects based on written Islamic laws.”<sup>112</sup> This later became an issue when non-Muslim lawyers were defending Muslim women in sharia courts.

Warra’s opinion received support from Femi Oyeleye, the Deputy Force Public Relations Officer, in an interview with him by the News Agency of Nigeria. Oyeleye declared that the police have the “constitutional responsibility to enforce laws enacted by the states, including the sharia law adopted by the Zamfara Government.” He explained that “since state governments were empowered by the constitution to enact laws, it is the responsibility of the police to follow the letters of the constitution which gives the states such powers to make laws.”<sup>113</sup> We will see later that there was a snake in the grass when conflicts of authority arose between the police and some state governments and their sharia militia.

Five years later, Governor Shekarau of Kano was still having problems with the police. They were “yet to come to terms with sharia and have remained a bottleneck and obstacle” to sharia implementation.<sup>114</sup>

## 2. SHARIA IN SELECT NORTHERN STATES

Zamfara started the long-awaited ball rolling. It quickly turned into an avalanche as eleven other states soon followed suit. Asaju and Oladipo described the dynamics as it unfolded before their eyes. While the Kaduna crisis of 2000 was at its height, Muhammed Kure, Governor of Niger State, and Dalhatu Bafawara, Governor of Sokoto State, fixed May 4, 2000, and May 29, 2000, respectively for the sharia take off in their states. Mala Kachalla of Borno State said sharia was a must, since the majority in his state had chosen for it. Abba Ibrahim of Yobe had already appointed a new Grand Khadi in readiness for the takeoff. In Bauchi, a bill was read by the House of Assembly for approval. Ahmadu Mu’azu, the Governor, said the bill would soon be law,

since his was a Muslim-majority state. The Kano story follows below as an interesting case study of its own. There is no telling whether any more states will take the step in the future, but at the time of this writing, six years later, no additional states have joined.

In this section I will focus on the same three states that also received detailed attention in Volume 1, namely Kano, Kaduna and Bauchi.

### **i. Kano State**

Zamfara had barely released the “sharia bug”<sup>115</sup> on October 27, 1999, when the Kano State Chapter of the National Muslim Lawyers Forum “called on all states with a predominant Muslim population to adopt sharia.” It was, affirmed the Forum, “the only way of guaranteeing peace, harmony and unity among the citizens.” The Forum noted the Zamfara step “with pleasure” and “commends the efforts of the Governor and other functionaries of the State.”<sup>116</sup>

The next day, November 8, 1999, a group requested Governor Rabi'u Musa Kwankwaso to declare Kano a sharia state as a matter of urgency.<sup>117</sup> The group consisted of “Islamic scholars, chief imams, Ulama's, Muslim lawyers and politicians.” They had expected it would be an easy and quick process to achieve their aim. Not quite. The Governor viewed the request as politically motivated and did not wish to succumb to such pressure. Neither did he like the tone in which the request came to him. Besides, he wanted to wait till the reaction of the FG was clear. Kwankwaso was said to be “reluctant to enforce sharia in a city as cosmopolitan as Kano.” Besides, his primary interest was in rural development.<sup>118</sup>

Azare stated that the people suspected Governor Kwankwaso of not being interested in sharia and of dragging his feet. The process was slow and he failed to show up at a sharia rally. Adamu explained that this Governor was thorough and wanted to make sure all was in order before signing the sharia bill. “We will not do a rush job,” for that will create problems. “People are

putting pressure on us, but this will not bother us.”<sup>119</sup>

When the group noticed the delay, they began to apply pressure tactics on the Governor, with no apparent holds barred. They soon had the Governor on the defensive. I reproduce Agbaegbu’s account of the campaign:

*On November 9, a Lagos-based daily published a front page story quoting Kwankwaso as calling sharia advocates “hypocrites.” Although the Governor denied making such a remark, his critics made it an instrument of propaganda.*

*In less than an hour after the newspaper landed in the city, the public was alerted. A Kano resident told Newswatch that all copies sold out. He said the propaganda that followed reduced all that the Governor did since inception to naught. It took a quick refutation by the Governor for him to escape open jeers, boos and possible attack by the angry populace.*

*The sharia lobby later changed tactics and moved to solicit the support of all the forty-four local government chairmen in the state. The tactic was so successful that all the chairmen publicly spoke in support of sharia eighteen days after it was launched in Zamfara. The forty-four chairmen said Kano cannot be an exception after Zamfara had done so. They argued that with its predominant Muslim population, sharia would promote and protect the interest of Muslims. “Sharia is binding on all Muslims, whether he likes it or not.” Prior to the action of the chairmen, the state’s council of Islamic scholars, the council of Ulama and other Islamic groups had urged the Governor to toe the sharia push.<sup>120</sup>*

Finally the Governor succumbed.

On December 11, 1999, Kano State signified its interest in sharia. The Governor said the move was “in the overall interest of the state” and announced, “The executive and legislative arms of

government, the Council of Ulamas, traditional rulers, the business community and political as well as community leaders in Kano, have unanimously agreed to adopt sharia in totality.”

Because of its popularity, it was expected that the bill to legalize it would pass promptly in the House of Assembly, but it was not to be. There were conflicts and disagreements that needed to be dealt with. The place of Christians was a point, with the Ulamas wanting “an all-encompassing implementation,” something the House-appointed committee rejected. The question of the hotel industry and alcohol also brought problems. The Committee wanted solutions that would not jeopardize the economy of the state by flight of business people and capital.

When the House finally produced a sharia bill and forwarded it for signing by the Governor, the latter held it up. He recognized certain problems and thus sent it for scrutiny to the Implementation Committee and finally returned it to the House with some improvements. The Special Adviser on Religious Affairs, Muhammad Tahar Adamu, assured the press that the Governor would sign the bill as soon as the House had agreed with the corrections. He insisted the delay was not due to any opposition on the part of the Governor. He was committed, but needed to ensure all was done properly. The people were asked to “exercise restraint,” since “there was no going back on the sharia. Sharia has come to stay in Kano and we are certain that it will be implemented successfully.”<sup>121</sup>

Various groups became impatient with all the delays, for they were aware of the key position of Kano as the state with the largest Muslim population in the country. “Formal declaration of Kano as an Islamic [sharia?] state will seal hopes of critics who think a reversal is possible” and the push for it will dissipate.<sup>122</sup>

The pressure for sharia and the fear of a spillover from the Kaduna sharia-related violence made both the people and the authorities nervous. The police organized special twenty-four-hour patrols throughout the city. A stampede occurred that halted all normal activities in

the city. People were “running helter-skelter.” Somewhere between March 3, 2000, and the week before, Kwankwaso signed the final version of the sharia bill passed by the House of Assembly. Finally, the people of Kano had spoken. According to Ibrahim Ahmed, the people said, “There was no going back on the full sharia implementation” and “the FG has no legal right whatsoever to deny them their rights.” Yusuf Baita, Commissioner for Information, declared that “the sharia adoption was in line with the popular demand of the people of the state.” The date of the actual launching was yet to be announced.<sup>123</sup>

When the long-awaited day came, it was a great celebration. Crowds, the likes of which had not been seen for decades in Kano, gathered at dawn, chanting Islamic slogans. Streets were congested with excited youth. But Kwankwaso warned that it would still take some months before actual implementation due to some hiccups.<sup>124</sup>

This story is included in detail in order to present the background wranglings that preceded the eventual declaration of Kano as a sharia state. Everyone seemed in favour, but there were a lot of disagreements to be discussed about important issues. The story is also included to demonstrate that, though politics was an important component of the campaign, it was not necessarily the primary motive for the move. Initial motivations were more religious and democratic than political or economic—and that needs to be recognized.

During the elections of 2003, Kwankwaso was replaced by Ibrahim Shekarau. Kwankwaso was of Obasanjo’s party, which may at least partially explain his hesitation over sharia as well as Obasanjo’s hesitant reactions. Shekarau was of Buhari’s party, which has the reputation with many that it is a sharia party, though it often denies that perception. Under this new regime “shariafication” went full steam. On June 20, 2003, the Kano House of Assembly decided to “rectify all policies that contradict Islamic and Hausa cultures” that were inherited from the previous administration and to promulgate only sharia-compliant policies. One of these sharia policies was to make it compulsory for all girls attending state public schools,

Muslim or not, to wear the *hijab* or Islamic headscarf.<sup>125</sup>

Some four years later, Kurawa, Kano resident and self-made expert in contemporary Nigerian Islam, reported with approval that the sharia had been established in that state. He was happy that the current Governor was emphasizing the “social aspects” of sharia. He was following a wholistic approach that includes “accountability and transparency.” Furthermore, the government “welcomes constructive criticism.” It has also “consistently expressed its willingness to learn from and correct its errors.” Therefore he welcomed the 2004 International Conference on Comparative Perspectives on Sharia in Nigeria in Jos and sent a strong delegation that was expected to defend sharia and challenge the foreign organizers and lecturers.<sup>126</sup>

## ii. Kaduna State

It appears that Governor Makarfi of Kaduna was having his doubts about sharia. Various writers have commented on his hesitation, not to speak of opposition, Ibrahim Sulaiman being one of them. He referred to Makarfi as condemning Zamfara State on the allegation that it is both “unconstitutional and unrealistic.” Sulaiman chides Makarfi in no uncertain terms for his attitude, since, according to Sulaiman, Zamfara government has “the right to administer laws that are acceptable to Zamfara people who voted him [Governor Sani] into office.”<sup>127</sup>

The next day, Makarfi explained himself. He said, “He would have preferred adequate public enlightenment and education on sharia before its implementation.” This might have erased misunderstandings now surrounding the subject. People were misinformed, with some thinking it would be practised as in Saudi Arabia and some other countries. Sharia, including the relevant constitutional issues, needs “to be understood by everybody.” Nevertheless, in spite of his misgivings, he opined that “since sharia is in the constitution, its operation should not be disputed.”<sup>128</sup>

Kaduna State and city did, of course, have serious sharia problems, including a bitter riot in the year 2000. The state is divided about equally between indigenous Christian ethnic groups in the south with a more Muslim north, including the indigenous ancient city of Zaria. Tunde Asaju and Dotun Oladipo described the riots of 2000 in great detail.<sup>129</sup> They predicted that the Kaduna turmoil was not finished, because Governor Ahmed Makarfi had “vowed to implement sharia no matter the opposition.” He apparently had a change of heart. During a Hausa-language programme on *Deutsche Welle*, a German radio station, he had insisted that sharia is in the constitution and it is the only thing that will bring peace to his state.<sup>130</sup> He did not have much choice in the matter, actually, suggested Obassa. The riots of 2000 were forcing Makarfi to

*decide for or against sharia as soon as possible, so that people once again can face the more serious challenges of poverty, hunger and disease. It is politically naïve for the chief executive of a state like Kaduna, ironically referred to as the liberal state, to be running with the hound and the hare at the same time.<sup>131</sup> The gains and losses of such a move are too much to be contemplated. Perhaps, it is better to call a spade by its name and stop postponing the evil day.*

Continuing, Obassa commented, “If sharia is an idea whose time has come with its vision of freeing humanity from the clutches of poverty, hunger, disease and illiteracy, nobody would stop it.”<sup>132</sup>

However, Governor Makarfi did not just plunge in. The State Government launched a ten-day public debate on the issue in February 2000. The editor of the Sunday issue of *NV* decided to hold his own debate and invited the public to submit articles that were to the point and would not use “intemperate language.”<sup>133</sup> In addition, the State House of Assembly had appointed a committee that was to publicize public debate to be held in Lugard Hall. The Committee was to tour all the local



governments in the state to receive oral and written testimonies.

Unfortunately, the Christian members of the House refused to participate in the Committee, so that all members were Muslims. The reason for this situation, according to Chairman Ibrahim Ali, was that when the issue was discussed in the House, CAN had filled the public galleries with anti-sharia elements, so that Christian members of the House were intimidated not to join the Committee. Ali also revealed that some Christian members sat with the Committee when they received an Ulama delegation.<sup>134</sup> In the meantime, the people also added their weight to it. The BBC reported that on February 14, 2000, “thousands of Muslims staged a rally, calling for the introduction of sharia.”<sup>135</sup>

The Committee’s work turned out to be rather difficult. I reproduce the report by Shittu Obassa as the best way to share this with you.

*The people of Kaduna State are sharply divided over whether or not to implement sharia, making it difficult for the committee to sample opinions to favour either the protagonists or antagonists of the Islamic legal system. The Chairman, Ibrahim Ali, noted that both the Christians and Muslims were adamant about their positions on the Islamic legal system. While the Muslims were agitating for the full implementation of sharia as a matter of their fundamental human rights, the Christians were not disposed towards the system on the grounds that the state was not a predominantly Muslim environment.*

*Ali said that at the conclusion of its sitting, over 5,000 memoranda were submitted from the twenty-three local government areas. Apart from local government delegations, various groups, including human rights organisations, made their presentations. The chairman assured that the members would do all within the committee’s powers to reflect the rigid positions of both Christians and Muslims to enable the entire House to take in the overall interest of the state.*

*He said that the non-involvement of Christian members of the assembly was owing to the fears expressed by them that their constituencies would not lend them the necessary support to do so, but added that when the committee would go round the state, such members would help the committee have the true feelings of their respective communities.*<sup>136</sup>

The issue remained sensitive, capable of inflaming the atmosphere at the slightest initiative. Apparently the southern newspaper *Tribune* reported that the Kaduna State Police Commissioner, Hamisu Isah, had told one of their reporters that the Kaduna government “had concluded plans to implement sharia.” Given the situation described above, you can understand that such a report could indeed inflame the atmosphere. T. S. Bindawa, the Police Public Relations Officer, was quick to describe the story as “not only false, mistaken and mischievous, but capable of creating confusion in the state.” He denied that Isah had ever spoken to any *Tribune* reporter.<sup>137</sup>

On October 11, 2000, Governor Makarfi announced over television and radio that, given the nature of his state’s population, he would not apply “full sharia.” Sharia courts would be introduced in the Muslim dominated areas and customary courts for Christians and others. That was an arrangement that some appreciated,<sup>138</sup> while others rejected it, some with vehemence. Umar Ibrahim, a Muslim mechanic who had lost a brother in the violence of 2000, told BBC that “the arrangement was only partly what Muslims wanted, but was acceptable, given the violence in the state.”<sup>139</sup> Among sharia states, the approach was unique, but, from my point of view, it was a smart move that reflects the composition of the state’s population. Mukhtar Sirajo, the Governor’s advisor, explained that the system was designed to make everyone happy, probably an unrealistic expectation.

Finally, in August 2001, Governor Makarfi announced that his state had “put the finishing touches to the take off of sharia,” but

it would not be “before the end of the year.” Some committees were still working on various modalities, including the question of the composition of both sharia and customary courts. Christians and Muslims would both have “the option to choose a court of their own choice.” The new system would be characterized by “quick dispensation of justice,” a change from the old system that was so full of delays. It would also encompass a “rapid response unit” that would “track down criminals at strategic locations.” In addition, there will be a mobile court to boost security, while a legal aid programme had already been established “to provide free legal services to low-income earners.” According to Leon Usigbe, it was precisely this arrangement that brought a sense of unity to the state and improved Makarfi’s chances for re-election.<sup>140</sup>

But it was not until the end of 2003 that the first sharia penalty was decided on. Two men were sentenced to amputation. According to Maccido Ibrahim, Kaduna State Grand Khadi, this judgment “signalled the effective takeoff of the sharia in Kaduna.” To ensure that justice be done, Ibrahim “announced the constitution of a three-member panel of judges” who would study the judgment. They would begin sitting within the week. In addition, not being eager to carry out the sentence, he had also ordered the registrar at the court where the judgment took place to meet with the convicts “for additional information as well as caution them on their right to appeal.” He did not inform the press, for the government “does not believe in celebrating the punishment of any offender.”<sup>141</sup>

### **iii. Bauchi**

Bauchi State also got into the sharia act, but apparently Governor Mu’azu was dragging his feet. However, there was clear evidence that the people wanted to proceed. There was democratic pressure to move forward. Danlami Takko got into the act by writing what amounts to an open letter to the Governor that I have attached as Appendix 16. Typical of a Nigerian request to a “big

man,” the letter is one of open flattery, but it is also an expression of the democratic pressure on the governor for “moving it.” According to Takko, prior to the Governor’s stepping aboard, he had already taken wonderful measures that people associated with the sharia and that greatly endeared him to the people. There was now only one more thing for the Governor to do: Adopt sharia. That would constitute the “golden crown to your marvellous and fantastic achievements.” Takko argued that the Muslims of Bauchi State

*cherish nothing dearer to their hearts other than the sharia issue. This is clearly evident, judging by the huge attendance witnessed during the visit by the presidential committee for the review of the constitution at the sports hall in Bauchi. The Muslims made good of his visit by prompt and massive attendance and by presenting their collective views for the application of sharia in total in [a] future constitution.*

*Today, in Bauchi State, there is hardly any mosque in which the sharia is not discussed. There is no Muslim forum, whether big or small, in which the sharia is not discussed. The general opinion and consensus among the Muslim Ummah is that the state should not only have sharia, but should join those states that have so far taken the lead.*

However, there was one problem; while the people clamoured for sharia and the State House of Assembly had been making verbal comments about their intention to implement the sharia, it was rather disturbing to Takko that “we are yet to hear a word from our dynamic governor. As a leader who has started on a good footing, the impression should not be created that you do not want sharia. Don’t give room for your enemies to strike. Sharia is what the Muslims of Bauchi State dearly and fundamentally need at the moment.”<sup>142</sup> The pressure was all there on the Governor—and a thinly-veiled threat.

Takko was not the only unofficial sharia advisor. Mu'az Dadi presented a lengthy list of "to-dos" for the successful implementation of sharia in Bauchi. He wrote, "My concern here is on advising the government to immediately provide a sweeping ground towards a successful adoption of the Islamic legal system." In the same article he provided a summary of Mosaic and other laws in the Old Testament that seem to be parallel to sharia provisions. The article as a whole is so sweeping that I attach it as an appendix.<sup>143</sup>

### 3. SHARIA IN SOUTHWESTERN STATES

The sharia is usually regarded as a northern issue. However, there have long been pockets of both sharia and sharia campaigns among the Yoruba States of the southwest. Noibi reminded us that in southern Yoruba land Islam had a firm foothold prior to the arrival of the "Christian colonialists." He reported that "Muslims in places like Lagos, Ijebu-Ode, Ibadan, had for a very long, long time called for the revival of the sharia law" after the British had "contrived and abolished" it in Yoruba land. He cited the instance of the Oba or Chief Ogunju of Ede, who "applied sharia fully in his domain during the second half of the 19th century." Noibi concluded, "The present call is not new; it only shows that no matter what you do to suppress the desire of a people, that desire will persist and may even grow stronger." Kurawa referred to "agitation of Muslims for sharia" among Yoruba that was suppressed since 1881. The British even established a court in that town in 1913, whose judge, one Alfa Sindiku, wrote the proceedings in Arabic. Kurawa's record of sharia history among the Yoruba indicates that their agitation continued well into the 20th century. In 1938, an Ibadan Muslim community sought but was refused sharia. The same thing happened to the Muslim Congress of Nigeria of Ijebu-Ode. Kurawa concluded, "Muslim demand for sharia in Yorubaland has remained consistent."<sup>144</sup>

Mahmud wrote how things have gone in Yorubaland more

recently. The Muslims in southern Nigeria have always had customary courts forced on them. Somewhere along the line—Mahmud gives no date—the Muslim Congress of Nigeria wrote a letter of objection to the FG about the repugnant laws to which they were subjected. This, they argued, was a violation of their human rights. The government did not bother replying, but after some years in 1948, it set up the Brooke Commission to study the efficacy of the existing customary court system. The Congress wrote the Commission a letter requesting the establishment of sharia courts to handle marriage and inheritance cases. The Commission rejected the plea and responded that “customary law was firmly rooted in the society and that people were used to it.” It also stated that “courts are established for the whole of society and not for one section.” The introduction of sharia courts might “bring about religious uprisings and affect the smooth application of customary and English laws” that had been in force for so long. According to Mahmud, even in 1988, southern Muslims, under the leadership of the very powerful and very rich M. K. O. Abiola, President of ITT Nigeria and future presidential candidate, continued to push for sharia, but no government paid attention to the demand.<sup>145</sup>

Various efforts towards sharia in Yorubaland started in response to recent developments in the north. Already in December 1999, right after the Gusau Declaration, we read about “agitation by southern Muslims for the introduction of sharia” in Ogun State.<sup>146</sup> Femi Awoniyi reports that, in the presence of Ibrahim Ahmad, National President of the Supreme Council for Sharia in Nigeria, Ishaq Kunle Sanni, leader of the National Council of Muslim Youths (NACOMYO), held a press conference in Ibadan on April 30, 2002, at which he launched the “Oyo State Independent Sharia Panel.” This was in response to the refusal of the Oyo State Government to adopt sharia, which action was interpreted as a denial of the right of Muslims to practise their religion. At this point, the arrangement would cover only civil cases. These

would be brought before a “panel of Islamic scholars” who would only judge cases that Muslims would “voluntarily” bring before them. Sanni warned that

*Muslims who refuse to abide by the verdict of the panel may be ostracized by the Muslim Ummah; their children may not be given names of Mallams; their marriages may not be contracted by the Mallams and they may not be prayed for in their graves by the Mallams. There could be other extra-legal punishments as may be determined by the Imam in Council of Oyo State.*

That very day in the very same city, a meeting took place of a group of state governors, but they were so pre-occupied with their own re-election that they were completely silent about the sharia announcement. The same article by Awoniyi informed us that early January 2003, Ibrahim Ahmad announced “that he had been invited by Muslims in Kwara and Oyo States to bring sharia to them.”<sup>147</sup> Magashi Ibrahim, a Nigerian resident in Moscow, Russia, though very angry at the tenor of Awoniyi’s article, apparently accepted the factual aspect of this sharia story and was fully in support of Sanni’s action. He wrote, “Brother Ishaq Kunle Sanni proved to be a man of courage and his effort to bring the aspiration of his ummah into a reality is in conformity with his right guaranteed him by the constitution.”<sup>148</sup>

Dati Ahmed, President of SCIN, described the lack of sharia in the south in general as “unfair.” As the northern sharia states also have common law courts for non-Muslims, so should southern Christian states make allowance for sharia to serve their “minority Muslim population.” Ahmed revealed that the SCIN “had reached an advanced stage of the adoption of sharia” in the Yoruba states of Lagos, Oyo, Osun and Ogun.

Lateef Adegbite reported that the National Joint Muslim Organisation submitted a memorandum to the Constitution

Drafting Committee in 1976. The memo called “for the extension of the application of sharia” to the new “O-States” in the south-west. The Constitutional Drafting Committee “proposed the establishment of sharia courts” in all states and Federal Sharia Court of Appeal for the entire nation. It was this call that “triggered off the sharia controversy in 1978—and which has continued to rage till this day” [2000].

Adegbite declared, “In the spirit of fairness and religious tolerance, the civil application of sharia should by now be nation-wide and not confined to the northern states. Southern Muslims are as entitled to sharia as their northern counterparts.” A couple of years later, he repeated the same demand. Evidently, not much progress had been made throughout 2002. He promised the Muslim Student Society that during 2003 his organization will “constitute a high-powered committee” to do the planning.<sup>149</sup>

Almost at the same time, the Supreme Council for Sharia in Nigeria (SCSN) inaugurated an independent sharia panel in Lagos. This was an ordinary “non-governmental committee like any other mosque committee.” Though it had no government backing, it was not against the law and thus not illegal. Its purpose was to “adjudicate on civil matters like marriage, divorce, land dispute, contract, succession, inheritance and similar cases, which have no criminal implications.” It would not be forced on anyone and would not have the authority to deliver jail terms. “The panel is not a court of law. Its actions and powers lie in the Muslim community of Lagos State, who may totally boycott affairs concerning those who reject the panel’s decision.” Is that a threat? The panel members include lawyers, Isykil Lawal and Trimidh Adisa, as well as Ibrahim Sulaiman. They began sitting December 19, 2002, but only weekly for the time being. This arrangement became necessary, because the people were going to neighbouring Oyo State for the service.<sup>150</sup>

Waziri Gwantu wrote a report on the newly-established Islamic



Democratic Progressive Party, another sharia advocate in the south-western states. Gwantu described it as “a politically-based association to further their struggle for the establishment of sharia in states where Muslims are in the majority.” The National Chairman was Mansur Al-Mansoor Williams, who announced that the party had a “fourteen-point agenda” that included:

*Giving every Nigerian citizen the right to participate in running affairs of the state; ensuring that rulers were not above the law, everyone is equal before the law; providing every Nigerian with all basic necessities of life; protecting every Nigerian from arbitrary arrest and imprisonment; protection of religious sentiments; freedom of conscience and conviction; freedom of association; freedom of expression; the right to protest against tyranny; the security of personal freedom and sanctity; freedom of private life; protection of honour and security to life and property.*

This one was to become a multi-religious effort. The aim of the party was to form “an ideal government which will be subservient to the Creator of mankind and the whole universe as demonstrated by both Holy Prophets Muhammad and Jesus.” It was to include “wise and intellectual men and women of both divine religions (Islam and Christianity)” who would together “establish a uniform regime based on the principles of the Qur’an and divine teachings of the Bible” in order to “lead humanity to happiness in this world and in the hereafter.” Chairman Williams stressed that his party “would expectedly be the only dynamic force for the 21st century and beyond” and added, “We are committed to bringing back spiritual values in the world that is daily becoming godless, materialistic and arrogant.” Apparently not lacking in self-confidence, Williams “believed” that his party was “the only force and political umbrella under which all Nigerians can unite. It would also be the only one capable of creating a real spirit of love, brotherhood and peaceful

coexistence irrespective of religious affiliation.”<sup>151</sup>

Whether there is/was any relationship between these groups and their respective efforts, I do not know, but it is unlikely that they were unaware of each other. Plenty of intention; much hope. The last one, especially, is typical of the Yoruba mentality that tends towards religious inclusivism, more so than the north that is more antithetical in attitude.

#### 4. NATIONAL COVERAGE

It was almost natural that, once the sharia fever had set in, its proponents would begin a national campaign. We were not disappointed. Less than a month after the initial Zamfara declaration, the National Conference on Sharia and Constitutional Process (NCSCP), meeting for its sixth annual conference, at ABU in November 1999, called on the FG “to make sharia accessible to all Muslims, because it is their fundamental right.” The conference also called on major Muslim organizations like the Supreme Council for Islamic Affairs and JNI “to intensify efforts in spreading the knowledge and understanding of sharia throughout the country.” Zamfara and the other sharia states came in for praise. The Conference suggested that “a body be established to coordinate the initiatives of various organs working for the full implementation of sharia and it urged all Muslims to work hard for the realisation of all the goals and objectives of sharia.” Every effort should be made “to remove whatever legislative and constitutional obstacles are encountered.” It also “advised Muslims not to dominate or allow others to dominate them in the realisation of sharia.” The Conference “regretted that a lot of controversy was unnecessarily generated on sharia, while unwarranted pressures from within and outside of the country were mounted to subvert the process.” This subterfuge caused crisis and confusion in the country. Finally, it “advised all concerned to allow sharia to take its due process as Nigeria was a multi-religious and multi-cultural society

recognised by the constitution.”<sup>152</sup>

A lot of encouraging lectures were delivered. The content of some of them will appear under their appropriate headings in other chapters. However, it is always worthwhile to listen to Lateef Adegbite, the Yoruba Secretary-General of the Nigeria Supreme Council for Islamic Affairs (NSCIA). He cautioned that Zamfara’s initiative

*had brought great challenges to the state, FG, to non-Muslims and Muslims. Since Zamfara had become the pioneer in the pursuit of a noble cause, the government should be alive to its enormous responsibilities by striving to make the state a haven for excellence, a place with which any Muslim in any part of the world would want to be associated. To achieve this objective, the state government would be required to be honest and faithful in the implementation of sharia and create an environment for stronger spiritual and economic life for the people.*

He further emphasized “that the unity manifested by the people in ushering in the new era should be exploited by the government to full advantage in the economic sphere by mobilising the people to be more productive, honest and upright as demanded by sharia.” In addition, he urged the state government “to provide welfare programmes such as interest-free banking, purposeful and qualitative education to raise the standard of the people.” Turning to the FG, Adegbite advised it “to be neutral and fair to all concerned, pointing out that it should not succumb to pressure from any quarter that would pitch it against the majority of the states and people of this country in the exercise of its constitutional powers.”<sup>153</sup>

## ▲ FEDERAL GOVERNMENT REACTIONS

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The severe Kaduna riotous reaction to sharia<sup>154</sup> led President Obasanjo to call an emergency meeting of the state governors on February 23, 2000, under the name of “Council of State.” This

meeting was said to be significant, because FG had previously adopted a policy of non-interference. Chuba Okadigbo, Senate President, announced the formation of a committee to consider the implications of sharia. At a second meeting on February 27, it was reported “the governors all agreed to revert to the original penal codes.” Vice-President Atiku Abubakar, a Muslim, made the announcement. “To restore normalcy and to create confidence among all communities, the Council of State decided that the nation will revert to the status quo.” It was also reported that Sani, the Zamfara Governor, appeared alongside Abubakar at the news conference and said that “he would abide by the council’s decision. That is the decision we took.” He reportedly added, “I have no objection.” This, in spite of the fact that Sani had declared earlier that “nothing would stop him from implementing sharia.”<sup>155</sup>

A day or so later, the President delivered a speech to the nation in which he corroborated the report. The bloodshed and violence were too horrendous, he explained. Besides, the difference between Penal Code and the sharia are just too minimal to carry all this weight. Hence, “the Council unanimously agreed that all states that have recently adopted Sharia should in the meantime revert to the *status quo ante*.”<sup>156</sup>

The report about the suspension caused much confusion and rejection. JNI apparently disbelieved the decision to withdraw sharia and asked all emirs to check with their respective governors as to what had actually transpired at that meeting.<sup>157</sup> Most of the sharia states rejected it outright, especially since some had already signed sharia into law. Former President Shagari threw his weight behind the rejection, arguing that the FG was acting against the constitution. Only the courts are competent to interpret the constitution, he insisted.<sup>158</sup> Former Military Head of State Muhammed Buhari denied that the matter had even been discussed!<sup>159</sup>

The saga is explained more fully in Hussaini Tukur’s report:

*The FG yesterday reacted to a statement by two former Nigerian heads of state over the decision of the National Council of State to suspend the expanded implementation of the sharia, saying the issue was actually discussed at the meeting and was unanimously accepted.*

*Former Head of State Muhammadu Buhari said in a BBC Hausa interview that the decision to suspend the implementation of sharia was never discussed at the council meeting. Also, former President Shehu Shagari said the National Council of State is an advisory body that cannot force a decision on states. The FG was not competent to direct state governments to suspend or rescind any law enacted through democratic processes, Shagari said. "The only way it could do so is by taking the matter to court, which is the only body competent to interpret the constitution and give its ruling that must be obeyed in a democratic system." He frowned at the FG's announcement that sharia's expanded application had been suspended indefinitely.*

*Reacting to the two leaders' comments, Special Assistant to the President, Doyin Okupe, said last Tuesday's meeting discussed national security issues of which the sharia featured as a prominent issue. He explained that Vice-President Abubakar's comment at the meeting on the suspension of the new sharia implementation was made on behalf of seventeen governors of the northern states. The Council meeting, Okupe said, unanimously accepted his position based on "patriotic considerations." "If there was no objection on the floor, it implies that it has been adopted," Okupe said. Though the National Council is an advisory body, neither the FG nor the Council "instructed or ordered any state on what to do." The Council, he said, "did not muzzle any state governor to shift position. It came out with patriotic considerations to ensure an indivisible country."*

*Okupe said former President Shagari's comment was correct, since the Council is just an advisory body. However, he*

*said, the Council advised the states on the matter and that they have the right to accept or reject the advice. “This matter is done. There is no order or compulsion in this matter.” According to Okupe, Niger State Governor Kure has already accepted the Council’s advice. Explaining what Government means by suspending sharia for the meantime, Okupe said, “It is for now, as politics is dynamic. Things may change, but at the moment, this is the position.”<sup>160</sup>*

Dotun Oladipo also presents us with a version of the Council of State fracas. During the course of the meetings, Vice-President Atiku Abubakar had a rough time as Sani, “sporting his new legendary beard, stormed out of the venue a couple of times, sending his colleagues and friends scampering after him. He refused to heed pleas that he should stand down the implementation of sharia. The meeting had to be rescheduled to continue on Tuesday, when it dragged on late into the night.” During the actual meeting, attended by past heads of state as well as Obasanjo himself, Sani again stormed out three times. While Abubakar announced that all states would withdraw sharia, Sani told the BBC that “the agreement was that all those who had not introduced the system yet should put it on hold, while those who had should keep practising it.”

The reaction of Usman Jubril, leader of JNI, was negative with respect to Atiku’s announcement. The President should “have waited for the tension to calm down before taking the decision,” he advised. The announcement could create a Muslim backlash. Kwankwaso of Kano promptly signed his sharia bill into law after those stormy meetings.<sup>161</sup> NaAllah Mohammed Zagga, a public commentator in Abuja, wondered why the government waited so long to take a stand. The government, he said, is “swapping horses” midstream. By now the sharia has a “firm emotional grip” on northern Muslims.<sup>162</sup> This was not the first time the FG stance was bemuddled. In Chapter 5 we will read about the alleged presidential prediction at Harvard

University that the sharia would soon “fizzle out.” This time, it would appear, the media rather than FG beclouded the issue.

The following month, the northern governors held their own meeting in Kaduna in which sharia was once again discussed. Afterwards, Attahiru Bafarawa of Sokoto reported to the press that, “pending a final resolution of the matter, the new sharia would be harmonised with the Penal Code of the northern states.” This meant, in effect, that “the *status quo ante* would subsist for now.” Igiebor wondered, “Has the needless confrontation over sharia ended, or has it merely been suspended?”<sup>163</sup> A communiqué was issued that said among other things, “We have resolved to constitute a committee made up of Muslim and Christian leaders to dialogue on those aspects of sharia not included in the Penal Code and arrive at a consensus for adoption.”<sup>164</sup>

## ▲ NEW SHARIA? \_\_\_\_\_

Throughout these chapters I emphasize continuity with the past, especially with the period of constitutional assemblies. The *Zamfara decision* is new; all the sentiments, emotions and ideas associated with it are basically a continuation from the immediate past. Sharia advocates emphasize continuity with the past reaching all the way beyond Danfodio even, while simultaneously insisting on discontinuity from the Penal Code.

One statement of continuity that would hardly pass muster today is by Haliru Binji, Grand Khadi for Sokoto and Niger States, in a lecture entitled “How Islamic Are Nigerian Laws?” This lecture was delivered just prior to the first CA in 1977, during a time of relative calm and innocence when positions had not yet hardened and emotions overheated. The continuity he emphasized is between sharia and the colonial Penal Code. He said, “Almost all the offences in Islamic Law are also offences in the Penal Code. It is only in the punishment that they sometimes differ”—sometimes,

not even all the time. Murder calls for the same punishment in both sharia and Penal Code. Robbery calls for different punishments: under sharia, ranging from death to amputation; under Penal Code, imprisonment ranging from ten years to life. Federal law agrees with sharia. In the case of adultery, sodomy, treason, theft, defamation, alcohol consumption, hurts, apostasy, prescribed punishments differ in the two systems. A major difference is that where the Penal Code has prescribed punishments, sharia gives room for discretion on the part of the judge. Some sections of the Penal Code even give special consideration to sharia. The former states somewhere, “Offenders who are of the Muslim faith may in addition to the punishments specified be liable to the punishment prescribed by Muslim law.” Binji concluded his lecture as follows: “The law binding between the Muslim parties is, of course, Islamic law. The law prevailing in most of the northern states is Islamic law. Even non-Muslims adopt a lot of Islamic law in administering their civil cases. By this, one will conclude that Islamic law is widely spread and administered in this part of the country in both criminal and civil cases—and it is most ideal.”<sup>165</sup>

This statement would not pass the political correctness test in the new millennium, for this is not the type of continuity sharia advocates want to see emphasized. Here they insist on antithesis, opposition. Sanusi, however, freely acknowledges that “the Penal Laws were based substantially on Islamic Law with the exception of bodily punishments.”<sup>166</sup>

The continuity sharia advocates prefer to emphasize is not between the two systems but the fact that sharia has always been a major factor in northern Nigeria and that the new sharia regime really just picked up from where colonialists left off. It has historical roots; it is nothing new; it stands in the tradition of Danfodio and beyond.

In this context, Governor Sani tends to flip-flop. At times he emphasizes continuity; at other times, discontinuity, depending on the point he wants to make. In an interview, he stated, “Sharia law



has been in existence for a very long time and in fact before I was born. Zamfara was part of Sokoto State. From the days of the colonial masters, sharia has been in place, except for the fact that we could not exercise the criminal aspects. So we decided to introduce this aspect.” The conference at which the above interview was held expressed it stronger. It aimed “to highlight the fact that the sharia has existed in the West African region, albeit to varying degrees or comprehensiveness, for over a thousand years in various empires, states, sultanates, etc.”<sup>167</sup>

However, at other times Sani would emphasize the break this represented with the colonial regime and its aftermath. Of course, both have an element of truth to them. The discussion is somewhat akin to the New Testament referring to the law as both old and new, depending on the context and the point being made.

Sharia opponents often insist that Muslims have introduced a novelty into Nigeria and that it is primarily a political rather than religious project. This has been heard from President Obasanjo down to the rank and file. Abubakar Muhammad interprets the objection. Opponents claim that “re-enacting the sharia is something the Muslims have ‘concocted’ for political reasons.” Obasanjo has called it “political sharia, whatever that means.” Muhammad explodes, “Never mind all this crap is happening in a country, where the fact remains the constitution has fully endorsed and allows Nigeria the freedom of choice, freedom of expression, and above all the freedom to practice one’s religion without fear or hindrance.” He then delves into pre-Nigerian sharia history that far predates even the Danfodio revival and that sharia opponents “deliberately refuse to understand.” The reason for his historical summary is “to put to rest the too familiar propaganda of the forces of evil that depict the sharia as a new phenomenon among Muslims.”<sup>168</sup>

Lateef Adegbite denied that Zamfara has introduced a new sharia. “No, sharia has always been part and parcel of the legal system of Zamfara State and also the legal system of nineteen states in the northern part of the country. What the Zamfara

State government has done is to extend the application.”<sup>169</sup>

Justice Bello agreed, at least, with respect to civil law. “When the current clamour for the adoption of sharia began last year, many people pointed out that it was wrong to talk of adopting or introducing sharia, because it has always been with us. This is true with respect to sharia civil law. The prevalence of sharia civil law and its application in the northern states is the same as it has been since pre-colonial times...” Again, “with the exception of matters which are within the exclusive jurisdictions of federal and state high courts,” he wrote, “our mode and conduct of life have always been governed by sharia.” Yes, but a major point of contention was the restriction to civil law and the exclusion of criminal law.<sup>170</sup>

## ▲ CLOSING COMMENTS

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This chapter tells the basic story of the ongoing struggle for sharia; the remaining chapters deal with various aspects of the struggle.

I reproduce some of the closing words Mahdi Adamu of the University of Sokoto presented to a national workshop on teaching Islamic law in Nigeria held in the early 1980s. He talked of the failure of sharia advocates at the CA of 1977 and explained why they lost:

*It is my contention that the Muslim community was not solidly behind them, because the majority of the people did not fully understand the real seriousness of Muslims living under a legal system which is not Islamic. It is the duty of those who fully grasp the seriousness of the situation to educate those who do not understand the position. Once all the Muslims in this country have understood the position, they will use the democratic process to bring out the change—an event we all pray for. Since Muslims in Nigeria now constitute the largest religious group in the country, and since it is a democratic system of government, one should expect that*

*one day Nigerians will use the constitutional provisions and amend the constitution and entrench the sharia in the society. When this is done, the un-Islamic—or are they anti-Islamic?—acts of such common law agencies as the Nigerian Law Reform Commission will be swept away. It is the duty of the teachers of Islamic law to work out ways and means through which the total revolution of Muslims in the real position of the sharia could be achieved so that the non-violent legal revolution could one day take place in Nigeria.*<sup>171</sup>

Sharia in Nigeria, according to Mohammed Tabi'u, "is the case of a colonized people trying to reclaim their values in the post-colonial period."<sup>172</sup>

## ▲ NOTES

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<sup>1</sup> The term “Gusau Declaration” is an unofficial term referring to the fact that the new sharia era was launched with a public declaration in Gusau, the capital of Zamfara State. “Zamfara Declaration” is another term used.

<sup>2</sup> L. Adegbite, “The Constitutional and Legal...,” 2000, p. 6. A. Orire, 2000, pp. 2, 3.

<sup>3</sup> R. Nweke, 1 May/2001, p. 5.

<sup>4</sup> O. Bello, 7 Apr/89.

<sup>5</sup> See Anonymous, “Sharia and Islamic Revival...,” for a concise thirteen-page summary on this history. Appendix 5. Also L. Adegbite, “Sharia in the Context...,” 2000.

<sup>6</sup> *Hijra* refers to the migration of Mohammad from Mecca to Medina, an event considered the starting point of Muslim history in A.D. 622.

<sup>7</sup> M. Bello, 2000, p. 5. See also I. Ado-Kurawa, 2000, Chapter 1. S. Gambari, 16 Feb/2000. Appendix 6.

<sup>8</sup> S. Sanusi, 22 June/2005. Appendix 7.

<sup>9</sup> S. Maina, 4 Nov/99.

<sup>10</sup> Group of theologians found in almost all Muslim communities and usually wielding significant political clout, often very conservative.

<sup>11</sup> A. Gwandu, 1986, pp. 10-14. See also O. Bello, 1986, pp. 29-31.

<sup>12</sup> I. Ado-Kurawa, 2000, p. 279.

<sup>13</sup> O. Bello, 1986, pp. 37-39. I. Ado-Kurawa, 2000, p. 280. A. Orire, 2000, pp. 2-3.

<sup>14</sup> I. Ado-Kurawa, 2000, p. 280.

<sup>15</sup> I. Ado-Kurawa, 2000, p. 282.

<sup>16</sup> L. Adegbite, “Sharia in the Context...,” 2000, pp. 57-58; “The Constitutional and Legal...,” p. 2.

<sup>17</sup> Though I have been very critical of missions’ attitude towards colonialism, the claim that colonialists and missionaries worked “hand-in-hand” in a common plot against Islam may be a frequent theme in Muslim historiography, but it is simply false. Missions definitely *wanted* a common front against Muslims, but that never materialized. Instead, missions found themselves opposing colonial policy with respect to Muslims precisely because the

government would have no part of it. See J. Boer, 1979, pp. 141-143, 160-161, 163, 205-211, 293-295, 305, 316-319, 397, 495, 499-505; 1984, ch. 4; 1988, entirely, especially the appendices. Appendix 65.

<sup>18</sup> A. Mahmud, 1988, pp. 1-3, 6-9.

<sup>19</sup> This is the main topic of vol. 4 of this series.

<sup>20</sup> A. Mahmud, 1988, pp. 5, 23.

<sup>21</sup> L. Adegbite, "Sharia in the Context..." 2000, p. 58.

<sup>22</sup> A. Mahmud, 1988, pp. 23, 26.

<sup>23</sup> For more on this history see J. Boer, vol. 2, 2004, pp. 19-21; 1979, pp. 50-71; 1984, pp. 9-16.

<sup>24</sup> Italics mine.

<sup>25</sup> For more on the Lugardian promise, see Boer, 1979, pp. 69, 212, 287, 397.

<sup>26</sup> A. Yadudu, 1986, pp. 4-6.

<sup>27</sup> M. Bello, 2000, pp. 6-8.

<sup>28</sup> J. Badamasuyi, 1989, p. 4.

<sup>29</sup> *Nasiba*, p. 16. Translation from Hausa my own.

<sup>30</sup> *Radiance*, Jan/83, p. 9.

<sup>31</sup> S. Kumo, 1986, pp. 42-48. The repugnancy issue is examined further in Chapter 6.

<sup>32</sup> H. Adam, 1986, pp. 117-119.

<sup>33</sup> S. Rashid, 1986, pp. 88-89. The Schacht material is drawn from Joseph Schacht, "Islamic Religious Law," in J. Schacht and C. E. Bosworth (eds.), *The Legacy of Islam*, 2nd ed. Oxford, 1979.

P. 392. For additional discussion on the influence of sharia on Western law, see J. Boer, Vol. 7, 2006.

<sup>34</sup> I. Ado-Kurawa, 2000, pp. 290-297, 311-313.

<sup>35</sup> J. Boer, 1979, p. 501; 1988, p. 56; Vol 7, Appendix 1, Second Document.

<sup>36</sup> M. Bello, 2000, pp. 8-9.

<sup>37</sup> I. Ado-Kurawa, 2000, p. 299. Kurawa's interpretation receives surprising support from R. V. Bingham, one of the founders of SIM, who in a speech probably delivered around 1929 recounted that Lugard was welcomed with open arms by the people of Kano, who were tired of the

oppression by their emir. Then the British promptly reinstated that oppressive emir (J. Boer, 1979, p. 501; Vol. 6, Appendix 1, 2007). Such an emir would be all too ready to do the colonialists's bidding, including playing tricks with sharia.

<sup>38</sup> M. Bello, 2000, pp. 9-10. See also A. Alkali, Appendix 10, for a very summary history that shows that "some bits of sharia have been existing in our law books even before independence." He also goes into some details about the different punishments sharia and common law provide for adultery. S. Gambari, 16 Feb/2000. Appendix 6.

<sup>39</sup> W. Alli, "Commentary," p. 61.

<sup>40</sup> See also I. Ado-Kurawa, 2000, pp. 11 and 382-384 for a concise summary of this development. Also Z. Kazaure, 22-28 Mar/2000 and P. Marshall, 2005, pp. 113-114.

<sup>41</sup> J. Badamasuyi, 1989, p. 3.

<sup>42</sup> M. S. Abubakar, 13 Jan/89. Appendix 9.

<sup>43</sup> J. Boer, 1979, pp. 325ff, where I put apostrophes around "independence."

<sup>44</sup> *Radiance*, Jan/83, p.9. For further corroboration about this post-colonial situation, see J. Boer, 1979, pp.332-333; 1992, pp. 116-119.

<sup>45</sup> A. Mustapha, 1986, pp. viii-ix. See J. Boer, 1992, pp. 116-118, for a similar description of Nigeria's elite.

<sup>46</sup> I. Sulaiman, 1986, pp. 54-61.

<sup>47</sup> I. Ado-Kurawa, 2000, pp. 108-109.

<sup>48</sup> J. Boer, 1979, p. 478; 1984, p. 142.

<sup>49</sup> A. Mahmud, 1988, pp. 28-43.

<sup>50</sup> O. Director, 15 Nov/99, p. 14.

<sup>51</sup> See A. Mahmud, 1988, pp. 37-42 for further details about the events leading up to the 1977 Assembly and about the wranglings at the Assembly itself.

<sup>52</sup> A. Adamu, 22 Nov/77. A. Ciroma, 28 Sept/77.

<sup>53</sup> A. Gumi, 11 May/78. F. Williams, 4 Nov/77. A. Yusuf, 23 Sep/77.

<sup>54</sup> S. Minjibir, 23 Sept/77. A. Sani, 22 Nov/77.

<sup>55</sup> J. Boer, 1979, pp. 478-479; 1984, pp. 142-143; Monograph 4, 2005.

- 56 J. Boer, vol. 2, 2004, pp. 109-114; vol. 4, 2005, p.143.
- 57 L. Danbazau, 1991, pp. 19-21.
- 58 O. Director, 15 Nov/99, p. 14.
- 59 I. Sulaiman, 1986, pp. 55, 58.
- 60 M. Gashua, 2 Dec/88. J. Boer, 2005, vol. 4, Appendix 14 (on *Companion CD* only ).
- 61 G. Udeagwu, 28 Apr/88.
- 62 *Alkalami*, “*Tsai da Muhawara...*,” 9 Dec/88.
- 63 *Alkalami*, “*Sanarwa...*,” 23 Dec/88, pp. 1-2. See also in same issue “*Ra’ayin Alkalami*,” p. 3.
- 64 I. Ali-Agan, 16 Dec/88.
- 65 L. Adegbite, Apr/76, p. 15.
- 66 M. Muhammad, 14 July/88.
- 67 *The Pen*, “*Judges in Gongola...*,” 7 Apr/89.
- 68 I. Bello, 13 Jan/89.
- 69 I. Bello, 23 Dec/88. Original Hausa: “*Hana Musulmi sharia ya fi hatsari daga hana su numfashi.*”
- 70 I. Bello, 23 Dec/88. Appendix 11. Original Hausa: (a) “...sharia ita ce rayuwarsu baki daya.” (b) “*Matsawar za a yi sallah, to, dole a yi sharia.*” (c) “*Im ba sharia, to, ba sallah; haka in ba sallah, ba sharia. Tare suke tafiya.*” (d) “*Wannan umarnin Mahalliccinmu ne Allah.*”
- 71 L. Danbazau, 1991, pp. 28-30.
- 72 U. Koki, 23 Dec/88.
- 73 D. Maiwada, 1988, p. 33.
- 74 J. Badamasuyi, 1989, p. 5.
- 75 O. Director, 14 Nov/99, p. 14.
- 76 L. Adegbite, “*The Constitutional and Legal...*,” 2000, p. 3; “*Sharia in the Context...*,” 2000, p. 59.
- 77 A. Albashir, 8 Nov/99.
- 78 S. Maina, 4 Nov/99.
- 79 D. Omotunde, 15 Nov/99, p. 11.
- 80 R. Nweke, 1 May/2001, pp. 1, 4.

81 O. Obayuwana, 27 Apr/2003. Appendix 12.

82 D. Oladipo, 13 Mar/2000, p. 27.

83 O. Director, 15 Nov/99.

84 A. Hassan-Tom, Apr/2003, "Re-Visiting..."

85 O. Director, 15 Nov/1999, pp. 13-14.

86 L. Abdullahi, 29 Jan/2000. Appendix 13; 31 Jan/2000. See also G. Isento, 30 Jan/2000, for additional information on this launching.

87 [www.ZamfaraOnLine](http://www.ZamfaraOnLine).

88 L. Abdullahi, 9 Feb/2000.

89 J. Boer, 2004, vol. 2, pp. 32-36.

90 O. Director, 15 Nov/99, p. 19.

91 D. Oladipo, 6 Mar/2000, p. 17.

92 B. Bitrus, 9 Nov/99.

93 O. Minchakpu, 26 Aug/2002.

94 O. Director, 15 Nov/99, pp. 18, 21.

95 That amounted to around \$23,000 at the rate of N130 to \$1.

96 O. Director, 15 Nov/99, p. 21.

97 Director's association of the beard with the Taliban is not far sought. In the same issue of *TELL*, Dele Agekameh, describes the following scene in Taliban Afghanistan: "As for men, you may not walk the streets without growing beards. And even such beards must conform with a stipulated length as decreed by the Talibans. Otherwise you are treated as an infidel and could even disappear without a trace." D. Agekameh, 15 Nov/99.

98 O. Director, 15 Nov/99, pp. 21, 18.

99 A. Odo, 16 Feb/2000. Appendix 19.

100 O Director, 15 Nov/99, pp. 18, 20.

101 E. Ochigbo, 10 Jun/2001, p. 18.

102 D. Oladipo, 6 Mar/2000, p. 14.

103 A. Ali, 22 Jan/2003.

104 R. Nweke, May/2001, p. 3.

105 *NN*, 3 Jan/2000, p. 19.

106 G. Isento, 30 Jan/2000.



107 *NN Weekly*, 1 Jan/2000, p. 5

108 Council of Ulama, 7 Nov/99. Appendix 26.

109 A. Ahmud, 6 Jul/2000, pp. 1-5, 9. Appendix 14.

110 I. Umar, 9 Nov/99.

111 *NN*, 29 Feb/2000.

112 *NN*, 1 Nov/99.

113 *NN*, "Police to Enforce...", 24 Nov/99, pp. 1-2.

114 M. Yakasai, 21 June/2005.

115 Term borrowed from Agbaegbu, 27 Dec/99, p. 19.

116 L. Azare, 7 Nov/99.

117 L. Azare, 9 Nov/99. Though Agbaegbu writes "Islamic state," I suspect the call was for a sharia state. That is a significant difference for sharia advocates. Zamfara State and sharia supporters, as we will see, often reject the term "Islamic State." A. Alkali, 4 Jan/2000, Appendix 10.

118 AllAfrica.com, Sept/2003.

119 L. Azare, 26 Feb/2000.

120 T. Agbaegbu, 27 Dec/99, pp. 19-20.

121 L. Azare, 23 Feb/2000; 26 Feb/2000.

122 T. Agbaegbu, 27 Dec/99, pp. 19-20.

123 L. Azare, 27 Feb/2000, 3 Mar/2000. Appendix 15.

124 BBC, 21 Jun/2000.

125 AllAfrica.com, Sep/2003.

126 I. Ado-Kurawa, 2004, pp. x, 5.

127 I. Umar, 2 Nov/99.

128 R. Eyube, 3 Nov/99.

129 J. Boer, vol. 1, 2003, pp. 63-78. See Index entries on Kafanchan, Zangon-Kataf and Kaduna in vols. 2 and 3 as well.

130 T. Asaju, 6 Mar/2000, p. 17.

131 The simile is badly chosen. A good politician *will* run with both hound and hare if he has them both in his constituency. It is his challenge to bring them together.

132 S. Obassa, 26 Feb/2000.

<sup>133</sup> *NV*, 30 Jan/2000.

<sup>134</sup> S. Misau, 31 Jan/2000. K. Kolade, 5 Feb/2000.

<sup>135</sup> BBC, 17 Feb/2000. J. Boer, 2003, vol. 1, pp. 63-78; 2004, vol. 2, pp. 86-88, 102-105.

<sup>136</sup> S. Obassa, 20 Feb/2000.

<sup>137</sup> O. Alao, 3 Mar/2000.

<sup>138</sup> BBC, 12 Oct/2000. *REC*, Nov/2000.

<sup>139</sup> BBC, 2 Nov/2001.

<sup>140</sup> *DT*, "Sharia Takes Off...", 7 Aug/2001. BBC, 2 Nov/2001. L. Usigbe, 7 Apr/2003. A. Suleiman, 12 Apr/2003.

<sup>141</sup> A. Madugba, 10 Nov/2003.

<sup>142</sup> D. Takko, 16 Feb/2000. Appendix 16.

<sup>143</sup> M. Dadi, 15 Mar/2000. Appendix 17.

<sup>144</sup> D. Noibi, 1988. I. Ado-Kurawa, 2000, pp. 270, 282-285.

<sup>145</sup> A. Mahmud, 1988, pp. 3-5. L. Adegbite, "Sharia in the Context..." 2000, pp. 58-59.

<sup>146</sup> F. Anawo, 9 Dec/99.

<sup>147</sup> F. Awoniyi, "Sharia in..." Mar/2003. If the dates in this paragraph are not correct, this should be blamed on Awoniyi's impreciseness.

<sup>148</sup> M. Ibrahim, "In Response..." Mar/2003.

<sup>149</sup> L. Adegbite, "The Constitutional and Legal..." 2000, p. 2; "Constitution in the Context..." 2000, p. 78. A. Madugba, 28 Jan/2002. T. Suleiman, 30 Dec/2002. B. Olajuwon, 12 Dec/2002.

<sup>150</sup> B. Olajuwon, 12 Dec/2002. B. Nwabuwe, 20 Dec/2002.

<sup>151</sup> W. Gwantu, 22 Dec/99, p. 1.

<sup>152</sup> I. Adamu, 22 Nov/99.

<sup>153</sup> *NV*, "...Christians Told..." 22 Nov/99, p. 2.

<sup>154</sup> J. Boer, vol. 1, 2003, pp.63-78.

<sup>155</sup> *REC*, Mar/2000. *REC* gleaned the information from various Nigerian sources, including the *Guardian*. See also BBC, "Nigerian States..."; "Analysis..." 1 Mar/2000.

<sup>156</sup> O. Obasanjo, 2 Mar/2000, p. 3.

<sup>157</sup> *NN*, 2 Mar/2000, p. 1.

<sup>158</sup> BBC, 2 Mar/2000.

<sup>159</sup> N. Igibor, 17 Apr/2000.

<sup>160</sup> H. Tukur, 3 Mar/2000.

<sup>161</sup> D. Oladipo, 13 Mar/2000, pp. 27-28.

<sup>162</sup> M. Dan-Ali, 22 Mar/2002.

<sup>163</sup> N. Igiebor, 17 Apr/2000.

<sup>164</sup> A. Akinkuotu, 17 Apr/2000, p. 12. See M. Aluko, 22 Mar/2002, for a summary of FG reactions to sharia.

<sup>165</sup> H. Binji, 15 Apr/77. For a table of comparing the two systems, see P. Ostien, 2001.

<sup>166</sup> S. Sanusi, 22 June/2005.

<sup>167</sup> R. Nweke, 2001, pp. 4, 9. The page numbers to the Nweke articles are assigned by me, Boer, not by the original publisher.

<sup>168</sup> A. Muhammad, Aug/2003.

<sup>169</sup> M. Mumuni, 15 Nov/99, p. 16. Nevertheless, you find many writers talking about the "introduction" of the sharia. It sometimes depends on the point they wish to make. More often it is a matter of sloppy expression.

<sup>170</sup> M. Bello, 2000, pp. 6-8. See also pp. 38-39 for further Bello material relevant to the current discussion

<sup>171</sup> M. Adamu, p. 220.

<sup>172</sup> I. Ado-Kurawa, 2004, pp. 15-16.

