

CONSTITUTION, CULTURE, DEMOCRACY

This chapter deals with three questions about the new sharia set-up: (a) the constitutionality of the move and related issues, (b) its cultural appropriateness and (c) its democratic nature. These are some major hot buttons in the sharia struggle. The constitutional question takes up the lion's share of the chapter.

▲ CONSTITUTIONAL ISSUES

1. ZAMFARA GOVERNOR AND GOVERNMENT

The first question is whether or not Sani's initiative is within Nigeria's constitution. No better place to start than the Zamfara Governor and Government themselves. Shortly after the "Gusau Declaration," the Zamfara Government published "Our Final Stand on Sharia,"¹ in which it outlined the constitutional provisions that allowed the state to enshrine an expanded sharia. The issue of constitutionality immediately became a major focal point. As far as Governor and Government were concerned, the issue was so clear that there was no need for debate. Alas, the hurricane of

strong opposing opinion soon demanded vigorous defense and frequent repetitions on the part of the Government.

Governor Sani has repeatedly insisted that his move is completely within the constitution. It guarantees freedom of religion as provided for under section 38, sub-section [1], which states, “Every person shall be entitled to freedom of thought, conscience and religion, including freedom to change his religion or belief, and freedom (either alone or in community with others, and in public or in private) to manifest and propagate his religion or belief in worship, teaching, practice and observance.” This is what we have done, he declared. He added that the constitution also allows the states to create courts.²

In his speech to the Meeting of the Magistrate Association of Nigeria, partially reproduced as Appendix 18, he again insisted on the constitutionality of his action. He said, “Let me once again remind all and sundry that our establishment of [the] sharia legal system is based on the provisions of the 1999 Constitution. And since it is a legal document, we have challenged those against sharia to go to court instead of dissipating their energy in the pages of newspapers.”³

Sani was very sure of the constitution issue and, unlike many Muslims, was prepared to adhere to the constitution. If the Federal Government (FG) were to rule his operation of sharia to be unconstitutional, he would obey the government and not push any further. Instead, he would resign, “go home and implement sharia in my family. That means I will try and obey God to the best of my ability. I will ensure justice, be honest to my family, my friends and my relations.” He concluded, “The FG is over and above everybody. So, the decisions of the FG are binding on all states.” According to the title of an article by Austine Odo, Sani also said, “If the Muslim *ummah* faults [the] constitutionality of sharia, I will resign.”⁴

However, a little over a month later, Sani reportedly said that “a decision by the Supreme Court not favourable to sharia would not be binding on the proponents.”⁵

He did not feel threatened from the Federal side. Though it was widely reported that President Obasanjo at first publicly declared the Zamfara sharia to be unconstitutional, that was not his final word. Sani had only read it in the press. It is the same press, he stated, that subsequently reported the President saying, "It is constitutional." Obasanjo even said on television "that each state is free to adopt the sharia system, provided it does not affect non-Muslims."⁶ Even the Attorney General (AG) was on the air affirming it.

Justice Sambo vigorously affirmed the constitutionality of the sharia move by Zamfara in his speech at the launching, saying,

It is by virtue of this federal system that Zamfara State Government is able today to enact laws that will satisfy the aspirations of its people. The Zamfara State Government has utilized the provision of section 14 (2)(a) and (b) to make sharia to be the law which will govern the lives of the Muslims in Zamfara State. Zamfara State Government has clearly answered the yearnings of the people to whom the sovereignty belongs by giving them sharia which will be the instrument of security and welfare of the citizens of the state. Section 14 (2)(a) and (b) says: 14(2)(a)—"Sovereignty belongs to the people of Nigeria from whom government through this constitution derives all its powers and authority." 14(2)(b)—"The security and welfare of the people shall be the primary purpose of government." The provisions of section 14(3) and (4) which deal with Federal, State and Local Government characters, have further strengthened the powers of Zamfara State Government to give the Muslims of Zamfara State the right to have their lives governed by the sharia as their share of the constitutional federal character designed for the peace and stability of the nation.

It is necessary here to advise those critics among the lawyers and laymen who doubt the powers of the Zamfara State Government to enact laws to make sharia govern the

*lives of the Muslims of Zamfara State, to study soberly the provisions of section 4, 5, 6, 14, 15, 38, 277 and 278, in order to see for themselves that the Zamfara State Government has full Executive and Legislative powers to enact sharia to govern the lives of the Muslims in Zamfara State.*⁷

In February 2000, a group of Muslim and government leaders met in Zamfara to thoroughly examine the constitution issue. At the occasion, Sani, “the high priest of sharia,” as Nmodu calls him, repeated “amidst applause” that “sharia is possible under the constitution; it has always been. Democracy gives an opportunity for its implementation.” In a defiant spirit he offered, “Zamfara is ready to contribute whatever it will cost to spread sharia in the southern part of Nigeria.”

Sani’s offer may have been his response to a remark made by Lateef Adegbite. Adegbite had complained, at a conference in Zaria held in November 1999, that “the southern part of the country is abandoned to fight sharia battle alone. The time has come for the political mobilisation of the southern states, or significant Muslim populations, towards the establishment of the sharia system.”⁸ But in view of the poverty of Zamfara State and Sani’s denial of foreign financial aid, I wonder how he hoped to fulfill this promise, a question also asked rhetorically by Nmodu. Or was this a slip of the tongue implying that there were some donors lurking in the shadows after all? The Muslim businessman, Abdul Mumuni, is convinced that the entire sharia issue is all about Arab money.⁹

Ali Alkali wrote an authoritative report on the sharia episode and the various reactions to it, including that of President Obasanjo. He reported that Sani argued that the constitution of Nigeria promotes federalism, a perspective that emphasizes differences within a greater unity. Ibrahim Sulaiman noted that under such a system the central government is “not to impose unitary laws on the state, but to find ways of managing the different yearnings and aspirations of

the different units of the federation.” That being the case, the Governor wondered, “Why, if we choose to live this way rather than that way in Zamfara, why should a man in Akwa-Ibom fear? We clamoured for federalism; now we are running away from it.” Alkali explained that the many years of military rule moved the country away from federalism towards centralization. That is the reason the FG “looked so powerful and attractive.” However, there are indications the centre “is relaxing” and allowing the constitution to operate once again. “Maybe that’s why the sharia issue was not even on the agenda of the Council of State meeting in Abuja this week, as expected by many people. Instead, those who are aggrieved were ‘advised to go to court.’”

Sani also challenged his opponents to take him to court. He maintained that “since Zamfara lawmakers, who are duly elected by the people, have endorsed sharia in accordance with the wishes of their people, no secular policy should bend the wishes of the people,” for “the matter is constitutional. If anybody has any issue to raise, why not face the constitutional court? We are ready for that.” Sani told newsmen that he was waiting to meet the President “to explain the constitutionality of what we have done.” It became a long wait.

2. MISCELLANEOUS MUSLIM OPINIONS

While the previous section presents the opinions of government and officials, this section presents us with an array of opinions from other Muslims, sometimes in interaction with government.

To begin with, Ibrahim El-Zakzaky, the leader of the Islamic Movement we have met in earlier volumes, denies Governor Sani the right to declare sharia. The Governor, he explained, is himself under the nation’s common law’s constitution. That would disqualify him from such a declaration.¹⁰

Banu Az-Zubair wondered why the constitution cannot accommodate both sharia and “secular” law. What, after all, is a constitution and what is it supposed to do? He then proceeds to describe

and define “constitution” and its place and function in government. Nigeria’s is a federal type that gives a high degree of autonomy to the states, so that “each region could develop its own constitution reflecting its values, customs and even religion.” “There is no reason,” he concluded, “why our separate regions could not develop their own constitutions.” Therefore, Nigeria “should have a secular Supreme Court as well as a sharia Supreme Court. It is a travesty of justice that a legal matter initiated in a sharia court should end, on appeal, in a secular court.” If currently such a sharia court does not properly fit in the system, then it must be amended to “make room for the sharia, if it is not to oppress a very large section of the population.”¹¹ In other words, don’t stare yourself blind on the constitution: It can be changed; it is not immutable.

Abdulkadir Orire, Grand Khadi of Kwara State, expressed his disappointment that “sharia has been politicised.” In a paper delivered to the Constitution Review Committee in Ilorin, he warned, “To think now that sharia shall not exist looks like a daydream and a way of inviting trouble in the nation.” “He regretted that a system of law, recognised for a very large percentage of this country from the beginning of the 16th century, is being regarded as unconstitutional.”¹²

The voice of the Council of Ulama is an important one. Hence I have attached a press statement of theirs as Appendix 26. The Ulama quote the same Section 38 of the Federal Constitution of Nigeria. The statement affirms that “all the measures taken to introduce sharia in Zamfara fall within the constitution’s orbit.”¹³

Bello Alkali, referring to those who claim Sani’s sharia to be unconstitutional, responds that these “hurried submissions are predicated on the secularity provision in the constitution. Secularity is all about freedom of worship.” The constitution “empowers state authorities to make laws that satisfy the aspirations of their peoples.” The “freedom of thought, conscience and religion” in the constitution for the Muslim includes sharia, since that is the essence of Islam.¹⁴

Kurawa picks up on some statements of Hamed Kusamotu, a constitutional lawyer, from the *Guardian*. This constitution expert described Sani's sharia as fully constitutional. Sani "borrowed some fundamental principles of Islamic law. He codified it and made it law of Zamfara. And that is what the constitution says: that any law in this country must be known, must be codified." Kurawa concludes happily that "there is no doubt that the sharia enacted by Zamfara and followed by other states is constitutional."¹⁵

Suleiman Kumo, former director of the Institute of Administration, ABU, and described as a "legal luminary," declared that the adoption of sharia "is constitutional." Nothing that has been done so far in Zamfara "infringes on any provisions of either the constitution or other relevant laws." However, care should be taken in applying the new system, for "the majority of the present area court judges in all the northern states are neither qualified nor competent to apply sharia."¹⁶ The very next day, Kumo is interpreted basically as saying, "Who cares?" Zamfara has only to do "a little tidying up of the existing statutory provisions. And if in the process constitutional amendments are required, then so be it. Let the constitution be amended to accommodate the wishes of the Muslims of Nigeria." He added, "Remember that the current constitution of 1999 was only made by the Military Ruling Council and it therefore can not claim any sacrosanctity."

But what do you do when even the highest legal experts in the land disagree on the issue? Kurawa tells of one former Justice of the Supreme Court who "described the action of the Zamfara Governor as treasonable." A former Chief Justice of the Federation, on the other hand—was it Chief Justice Muhammad Bello? Kurawa is not clear here—said "there is no doubt" that Zamfara has the power.¹⁷ We all can tell stories about contradictory interpretations and sentences on the part of our honourable justices. Nothing new here, but that does leave us in a quandary. How do you decide? On basis of contradictory interpretations? Or is there

a better way? Maybe Kumo's carefree "who cares" is closer to a solution than all this constitutional wrangling?

Besides, according to Kumo, the issue should not be decided on constitutional grounds. After Muslims have had their rights trampled upon for so long, "all fair-minded Nigerians should support the Zamfara experiment and insist on their rights even if this would necessitate amendments to the current constitution." And since the constitution is presently under review, "Muslims must now speak with one loud, clear, orderly and non-ambivalent voice, demanding and insisting on their right to have the sharia implemented."¹⁸ Unfortunately, Kumo's wish was not fulfilled, as will be clear especially from Chapter 6.

In a private letter to me, Sani Aminu of the U.K. wrote, "Sharia has been in Nigeria for a long time; it is in the constitution. It has also predated colonialism. The people requested it from their leaders." He admits that the implementation can be improved upon. The most objective way of deciding its impact is for one to compare the security situation in states that implement sharia and those that don't.¹⁹ Unfortunately, Chapter 4, its appendices and other related articles on the *Companion CD* indicate that security in most sharia states leaves something to be desired. They continue to have more than their share of the unrest that marks all of Nigeria. If that's the objective test...Aminu can draw his own conclusion. He can be forgiven if he was not aware of the problems described in Chapter 4. After all, he was abroad.

Lateef Adegbite, General Secretary of NSCIA, a respected Yoruba Muslim lawyer and about the only southern Muslim who regularly participates in the sharia discussion at national level, similarly insists that the new Zamfara sharia is in keeping with the constitution, but he warns that the constitution places limits on the powers of the state. Zamfara may not pass laws that "infringe on the fundamental rights of the people," for if they do, the victims will initiate court procedures that will end up squashing the Zamfara law.

The arguments of opponents about lack of constitutionality he dismissed as “sheer fallacy” and “preposterous.”²⁰ Many opponents, including “notable non-Muslim lawyers,” claim that the new sharia goes against the constitution. Allegedly Section 10 outlaws sharia and prevents any state from enacting religious laws, since doing so would amount to the adoption of a state religion. “This,” declared Adegbite, “is a preposterous argument.” The states have “residual powers” that allow them to act in matters “not included in the Exclusive or Concurrent Lists” that are reserved for the FG. It is this “provision that Zamfara has seized upon to expand the application of sharia.” He also rejects the argument that according to the constitution, sharia has nothing to do with criminal offences. According to Adegbite, the constitution simply does not have such a restriction. The constitution requires that the offence be defined and the prescribed penalty spelled out by law. Zamfara meets those requirements. However, this is not to say that all of the Zamfara provisions are constitutional. He is of the opinion that Zamfara’s sharia can be challenged in the courts, but, he warns, “not in a vacuum.” It is not the set-up itself that should be challenged in general, but any aggrieved individual or organization can challenge the “constitutionality of the specific crimes introduced under the new law as it affects them.” It would then be determined

whether the law infringes on the constitution or whether the prescribed penalties are cruel and inhuman. Cruelty or inhumaneness of penalties would remain contentious [issues] for as long as both the Penal Code and the Criminal Code retain corporal punishment and death penalties for such crimes as armed robbery and hoarding of petroleum products. The abolition of public sale or consumption of alcohol may also raise constitutional questions.

Then Adegbite raises some challenging questions. “Is the state not competent to prohibit activities injurious to the health of its citizens?” If slavery can be abolished and the “sale and consumption of

hard drugs are severely punished,” what is wrong with placing “a ban on goods and activities likely to impair health or well-being of the society”?²¹

There are certain actions recognized as crimes by the sharia but that were not so recognized by the secular penal code. Sani now inserted those into the penal code and declared them as offences. Thus, sharia offences like prostitution and alcohol consumption have now become penal code offences as well. The constitution has given states the power to do that. “If the people, through democratic means, feel they want to punish certain offences, it is within their constitutional rights.” But these new crimes, according to the constitution, have now to be defined carefully and their penalties spelled out. Unwritten offences will not be punished. In all of this, Zamfara “is obliged to keep within the limits of the constitution.”²² Elsewhere, Adegbite said that the federal structure of Nigeria has “made it easier to operate legal pluralism.”²³

Adegbite serves as a transition in this section from full support of the constitutionality of the Zamfara action to principial sympathy mixed with recognition of problems. Retired Chief Justice of Nigeria, Muhammad Bello, is a prominent Muslim jurist whose voice needs to be heard. Though Bello was sympathetic towards the adoption of the sharia, he did point out three problems. The first is the “legal supremacy of the 1999 constitution.” The second, a crime by definition has to be “defined and the penalty prescribed in a written law.” This “written law” must meet the requirements of the constitution and the common law. Until sharia laws are properly codified as per above instruments, the sharia is unconstitutional. The third, the constitution grants the right to change religion, while that is a capital offence under sharia.²⁴

Danlami Nmodu’s report expands on Bello’s stance. Though he does not accuse the governors of politicking, Bello’s interpretation “should make some of the governors put on their thinking caps.” According to Bello,

though some sections of the constitution empower a state to make laws, the law cannot contravene the supremacy of the constitution. Section 1 of the 1999 constitution is emphatic that the constitution is supreme and any law inconsistent with its provisions, void. Thus, constitutional provisions do not allow for the enforcement of sharia. He adds that it is the prerogative of the National Assembly to codify the laws of the Federation and clarify the issue of sharia. So long as the constitution guarantees freedom of thought, conscience and religion, the enforcement of sharia, as presently construed by the states clamouring for it, is practically impossible.²⁵

Kharisu Sufian Chukkol of the faculty of law at ABU agreed with Bello. “There is nothing legally wrong,” he explained, “for any state to enact its code of crimes different and distinct from those handed down by the colonial masters, but under the present 1999 constitution, Islamic law is not a written law.” And so, he warned, “the enactment of an Islamic penal code for any state may still face some constitutional and other limitations.” The constitution considers stoning an adulterer to death or amputating the hand of a thief as “inhuman and degrading,” and hence unconstitutional. Same issue with the freedom to change religion. And then there is a difference in the area of different concepts of evidence. Hence, Chukkol advised advocates of sharia to “suggest far-reaching amendments to the present constitution.”

Ameen Al-Deen Abubakar, agreeing with the above explanations, suggested that the “final hope” for the solution to these problems is the FG. It needs to provide a constitution that “reflects the ways of life of each of the parties involved,” so that “national unity, progress, peace and stability” can be built on that heritage.²⁶

Kurawa, reporting Bello’s stance via reports in the *Guardian*, counters that Bello’s statements make clear that Zamfara House of Assembly “can pass a law codifying the punishment of the sharia

and once that has been done, the law becomes constitutional within Zamfara State. Kurawa allows that not all sharia laws can be codified, since the constitution actually disallows them. One example is that of *ridda* or changing religion from Islam to another (apostasy), an offence under sharia that calls for capital punishment—death.²⁷

Kurawa conveniently does not address this one further, for he is more interested in demonstrating how this story is treated in an anti-Muslim spirit by the *Guardian* than in the problem of *ridda* itself.

Many people and organizations, Muslims and others, wanted the sharia issue taken to court, including the giant players, President Obasanjo and Governor Sani, but I know of only a few who actually did. The Human Rights Law Service sued the Zamfara government. It asked the High Court to declare sharia unconstitutional. Kurawa reports that CAN planned to do so, but changed its mind. Instead, it took the President and the Federal Attorney General (AG) to court for not stopping sharia. However, the AG, Godwin Agabi, explained that the FG “had no constitutional right to do so.” “There is nothing in the constitution which enables the FG to do so.” “Sharia is part and parcel of the Nigerian constitution.” CAN ended up withdrawing its suit, but Christians continued to argue the constitution issue.²⁸

3. THE FG STANCE

The Federal stand on the constitutional question remained unclear for the first couple of crucial months. President Obasanjo’s reactions to the constitutional issue were apparently muddled by the media. Some newspapers reported that during a lecture he delivered at Harvard, he had declared the move unconstitutional. The *New Nigerian* version had it that the President declared as unconstitutional the adoption of sharia by the Zamfara Government. In response to a question at Harvard, the President stated that the Nigerian constitution does not allow any part of the

country to adopt a state religion or any law that would go against the national constitution. Though he did not indicate whether the FG would take any legal measures to annul the action, the President said that what the state government had done would not last. "People have their own way of doing things, but I don't think it will last. People should not hit their heads against the wall," he said. He explained that as a federation, the Nigerian constitution allowed the lower levels of government to apply sharia in personal matters like marriage and inheritance.²⁹

Then *ThisDay*, a prominent national that later found itself in the eye of the Miss World cyclone, explained that the report on the Harvard statement came from the News Agency of Nigeria that misquoted the President. He actually said, "The adoption [of sharia] poses a constitutional problem" and added, "While the constitution makes provision for common law, it also makes provision for sharia and customary law. This is one of the contradictions of the constitution." He also expressed the hope that "the controversy will soon fizzle out." Abuja explained that "those who felt aggrieved by the Zamfara move should go to court"—the very challenge voiced earlier by Sani. Beyond that, "the President kept mute," wrote Ali Alkali. "But eager to make him act, some newspapers reported that the presidency 'summoned' the governor to ask for an explanation and to caution him. Governor Sani denied ever being summoned and the presidency did not confirm it."³⁰

In view of the Kaduna riots of 2000,³¹ the AG, Godwin Agabi, disclosed that the Government would soon "make its views known." In the meantime, he canvassed his state counterparts to bring a proposal on the issue to the centre. "We need to let the public know the right interpretation of the constitution as it affects sharia," he declared, "for the survival of the country depends on it."³² Then came those infamous meetings with the sharia governors at Aso Rock reported in Chapter 3, where all hell broke loose almost literally. In response to that fiasco, the Senate asked

Obasanjo to order Agabi to obtain a ruling from the Supreme Court within seven days. The Senate also promised the President they would approve his proclaiming emergency laws for any state that threatens the unity of the nation.³³

As the national and international outcries about women sentenced to death by stoning became more adamant, Agabi wrote a letter to the sharia governors, declaring their sharia system “discriminatory and unconstitutional.” “A court which imposes discriminatory punishments is deliberately flouting the constitution,” he wrote. Muslims should not be subject to penalties more severe than those meted out to others. Hundreds of Muslims from the sharia states had allegedly sent letters of protest against sharia. He asked the governors to create a workable solution so that all members of the public will receive the same penalty for the same crime. He encouraged the governors not to allow their zeal to “undermine the fundamental law of the nation, which is the constitution.”³⁴

Reported Minchakpu, “Muslim governors are unmoved, saying the statement has no legal force in their states.” Sani of Zamfara said belligerently, “Nobody has the right or power to stop us. As far as Zamfara is concerned, sharia is a foregone conclusion. There is no question of dialogue any more.” His earlier more congenial stance had vaporized; a hard line had replaced it. Abdulkhadir Kure, the Niger State Governor, responded, “The honourable cause to take, if you feel strongly about our action, is to lay the issue before the court”—which is exactly what almost everyone wants Agabi to do.³⁵

In the meantime, two Lagos-based lawyers filed suit. Obinna Obiaka challenged the failure of the FG “in seeking the interpretation of the provision of sharia in the 1999 constitution and its adoption by some states.” He also wanted the High Court to force the Government to take legal action against all sharia states. The other suit was by Olisa Agbakoba on behalf of the Human Rights Law Service. He wanted the Supreme Court to rule on the constitution issue as well as to declare whether Zamfara did not in fact establish

a state religion—exactly what many Nigerians of both religions wanted done. Lateef Adegbite said that those opposed to sharia “should seek redress in the court.” This was better than resorting to violence.³⁶ With such wide agreement, it would almost seem that, as a Canadian TV travel ad slogan used to put it, “Now we’re gettin’ somewhere.” Sorry, don’t hold your breath! Not yet, anyway.

One day in 2002, Agabi explained why the Government “would not go to court over sharia.” Those rights “that are violated by sharia are rights vested in private persons. So, it is for those whose rights are violated to sue.” These are not rights embedded in the penal code. For example, if Jangebi, whose hand was amputated, felt his rights had been violated, he should sue. That is how the issue could eventually appear before the highest court of the land. However, if the FG were to take Zamfara State to court over sharia, “it would be dismissed.”³⁷ The advice about Jangebi was, of course, most cynical. Can the poor afford to go to court, especially common law court?

President Obasanjo told BBC that it would be inconsistent with his responsibilities to adjudicate on the sharia issue. He also contended that those unhappy with the adoption of sharia should go to court as any intervention at his level would be deemed unconstitutional. He described himself as

*neutral in the sense that there are certain things I disagree with, but which I understand in the context of Nigerian diversity and the federalism we practise. My disapproval, yes—but the states concerned have the power and constitutional right to do it. Sharia law is one such thing. With my stand on human rights, I would not want to see anybody’s hand amputated and anybody being stoned to death. I thank God nobody has been stoned to death and I know for sure that nobody will be stoned to death.*³⁸

Safianu Rabiou defended the hesitance of Obasanjo and his government to tackle the sharia issue. The President’s critics, he

suggested, “do not comprehend, or, probably, choose not to appreciate the separation of powers and operations of government by constitution.” It was this separation of powers that prevented him. Even though the AG “muttered something of a challenge,” he “has been reticent of the courts.”³⁹

Things do get ugly at times. Aliyu Umar wrote a letter to the AG in response to the latter’s letter to the sharia governors. A major complaint of his was the AG’s charge that sharia discriminates against Muslims who must submit to laws that do not apply to others. In Umar’s words, “Your grudge is that the law discriminates against me.” He responds, “Please remember that you have not received any complaint from me.” Then he offers some of his own grudges against the AG and “the system you represent.” His major grudge is that the FG wants to treat Islam according to the government’s interpretation of Islam and not that of Islam’s self-interpretation. Umar charges that the government has accepted the verdict of Okogie, the Catholic Archbishop of Lagos, and of Western governments, who in turn have taken over the interpretation of Orientalists, who regard sharia as no more than “customs and traditions of a particular people” that are not transferable. In other words, the AG expects Muslims to adopt the interpretation of Islam concocted by Catholic bishops and their ilk! Muslims thus have only the right to practice the Islam defined by Christians. Umar concludes, “I look forward to meeting you in Court or you just shut up and let Muslims in this country be!”⁴⁰

4. SHARIA AND THE POLICE AND MILITARY

One issue that is causing confusion is the relationship of the armed forces, including and especially the Nigerian Police Force (NPF), to the sharia from the constitutional perspective. All the armed forces are federal institutions over which the states have no control, even though the NPF are obliged to enforce compliance with state laws. You may remember from Chapter 4 that

Governor Sani intended to provide the police with copies of the sharia code to help them deal with sharia cases. He also planned to increase their effectiveness by providing them with more cars.⁴¹ Those seemed to be attempts to blur the lines of authority and involve the police in sharia.

There were also attempts to have the tentacles of sharia penetrate police barracks in Zamfara. An unnamed police spokesman insisted that the police enjoy the same immunity as the other armed forces and thus allow alcohol on their premises. He said, "The Zamfara State government cannot single out only the police barracks to effect the ban on the sale of alcoholic drinks. The mess laws that govern the military also govern the police." Victor Chilaka, an Assistant Superintendent based in Lagos, warned Zamfara against enforcement of prohibition in the police officers' mess.⁴² Apparently, no similar attempts have been made to enforce prohibition on the other forces.

These attempts were not restricted to Zamfara. Alex Otudor reported in 2001, "Police and the sharia states are heading for a showdown as the Force Headquarters warned sharia enforcers to keep off its formations in the northern states." The controversy was triggered by Niger State, when its Chairman of the Liquor Board, Mohammed Awal Bida, "threatened to send its sharia enforcers to invade police barracks where alcoholic drinks were being sold or consumed." According to Bida, only the military formations are exempt, not the police. Haz Iwendi, as Assistant Commissioner, insisted that the NPF is "not under Niger State" and that the state therefore "could not interfere with the internal running of police facilities." According to Iwendi, "Only the Inspector-General of Police can order the stoppage of sale of alcoholic drinks in police officers' mess." Headquarters said, "Its men and officers have the right to consume alcoholic drinks in their barracks." The states "lack the constitutional powers to dictate to police officers on what to drink in their mess."⁴³

Another police issue arising from its Federal authority is that sometimes police will take Muslims to a magistrate court, that is, the secular court, instead of a sharia court. After all, the FG does not recognize the new sharia courts. Abdurrahman Shehu, a Muslim lecturer in the Federal College of Education, Bichi, Kano State, reported that a fellow Muslim was taken to court for stealing Shehu's "hand set." The police took the thief to the magistrate court, that is, common law court. Shehu concludes that "the greatest problem now facing sharia implementation is how to direct cases to the sharia courts." This is a "huge and gigantic" problem, for there is a "deadlock." It is often the police that take people to court and they do not support sharia. How to get out of this impasse? The sharia governments have their work cut out for them!⁴⁴

There are a number of other friction points between the NPF and sharia institutions. Please refresh your memory about disagreements and confrontations with *hisba* groups described in Chapter 4. I also remind you of the argumentation by Abubakar Warra in Chapter 3 about whether or not the police are obligated to pursue sharia cases and whether or not a Christian police could serve in sharia courts. I wrote there that in 2005, Governor Shekarau of Kano was still having problems with the police along these lines.

5. SHARIA UNDER OR ABOVE CONSTITUTION?

A sensitive issue for many is the question which law has or should have supremacy—sharia or the constitution. At the dawn of the new sharia era, Sani declared,

You see, the constitution of this country is in agreement. If you read the opening chapters, it says, "We, the people of Nigeria, agree to live together under God." You see, it says under God, not over God. The constitution is under the Bible and holy Qur'an. So whatever the Christians believe, should not be

*seen as a contradictory position to the constitution. And whatever the Muslims are implementing based on their own belief, should be over and above the constitution. What I am saying is that there will be no clash between the Federal and State governments, because the FG is fully aware of the norms and values of Islamic principles.*⁴⁵

The Zamfara AG, Ahmed Bello Mahmud, explained that Zamfara had declared sharia *in a peaceful and constitutional manner*. Mahmud's ministry was instructed to devise a way in which the new sharia could fit within the constitutional framework. Both Zamfara and Kano governments recognized the necessity of developing the new situation so as to indicate respect for the constitution and federal laws. All of this has already been discussed in Chapter 3. In other words, there was an early insistence on a sharia within the framework of the constitution.

It is difficult to judge whether the initial public deference to the constitution on the part of Zamfara was merely a strategic gimmick or a principial stance. At any rate, it did not stand the test of time. Sharia proponents increasingly insisted that the divine sharia should simply disregard the constitution as a human construction. Others felt that if the constitution stands in the way of sharia, the former should be amended to make space for the latter. The bottom line for many became "sharia *uber alles*."

Sule Gambari explained that in common law "law is made for man and not man for law," whereas in Islam "it has been neither the nation nor the people which has made the law; it is the law which has made and moulded the nation and the people. In Islam, therefore, sharia is but one law and it is the religious law. In other words, it is supreme because it emanates from God, who decreed its main basis in the Qur'an." Even the former "radical" NEPU governor of Kaduna, Balarabe Musa, insisted that sharia is above the constitution.⁴⁶

Kurawa reports on a news story in *The Guardian*, where Muhammad Bello, the retired Chief Justice of Nigeria, allegedly “faulted the adoption of sharia by some states.” In addition, he was to have “affirmed that the 1979 constitution was superior to sharia,” an opinion he based on the constitution, which says, “This constitution is supreme and its provisions shall have binding force on all authorities and persons throughout the federation.” Hence, any law inconsistent with the constitution is invalid. These and other statements attributed to this Muslim legal luminary made it clear—and now I am not sure whether this is Kurawa himself speaking or *The Guardian*—“that a law for the enforcement of sharia criminal code must be passed by the legislature before it becomes constitutional.” This the Zamfara House of Assembly can do. Once done, “the law becomes constitutional and binding on all within the area of jurisdiction.”⁴⁷

6. ZAMFARA AN ISLAMIC STATE?

Another aspect of the constitutional question is whether Governor Sani’s action has turned Zamfara into an Islamic state. Though most sharia opponents insist that it does, most advocates deny it. This is not to say that they would not actually *wish* to establish an Islamic state if they thought they could succeed. Scattered throughout this book you will come across statements, sometimes uttered carelessly in other contexts, that leave the impression that if possible...*Da so samu ne!* Some striking comments from Tobs Agbaegbu’s pen about sharia developments in Kano could be construed to represent the secret ideal that political correctness causes most proponents to deny. Muslim groups, he wrote, placed Governor Kwankwaso “under intense pressure to declare Kano an Islamic state.” This could simply be a wrong inference drawn from sharia by an ignorant non-Muslim journalist. However, Agbaegbu also quotes “a source from government house” who told him that “formal declaration of Kano as an Islamic state

will seal hopes of critics who think a reversal is possible.” The last quotation marks, it should be understood, are original.⁴⁸

Like so many of these issues, this one had already been hashed over during the pre-Sani era. Yadudu wrote earlier against the notion that “sharia courts would dilute the secular polity of Nigeria.” This claim confuses the issue, he stated. “The enthronement of the High Court of Justice, which essentially deals with the English Common Law system, does not make the state Christian any more than the sharia court will make it an Islamic state.” He continued, “If the establishment of a sharia court by Katsina State amounts to the adoption of Islam as its state religion, then the observance of Sunday as a public holiday has equally made it into a Christian state.” At the same time, he cautioned—and this is important!—“Non-adoption of a state religion is a notion which does not feature in the Islamic vocabulary!”⁴⁹ Now, *that* one needs further explanation, please, *Mallam* Yadudu.

A statement offered by Aliyu Dauda, a lecturer at BUK, also a decade before the current sharia controversy, is another example. He wrote, “The whole purpose of life for mankind as a whole is the establishment of an Islamic order—a comprehensive and all-encompassing life.” Muslim youth is “to gallantly face the contemporary twentieth century, topple it and replace it with an Islamic social order.” The youth, “the vanguards of the Islamic Revolution,” must be “politically conscious and be very well socio-politically mobilized and militarily ready for the tasks ahead. The spirit of *shabada* must be revived in their hearts, so that the love to die in the cause of Allah shall override whatever considerations.”⁵⁰

To ensure we realize what is being advocated here, please understand the explanation of *shabada* as offered in *Shorter Encyclopaedia of Islam*. Its primary reference is to the Muslim profession of faith that is uttered at every ritual prayer: “There is no god but God; Muhammad is the Prophet of God; and by extension it is the testimony one gives in fighting for Islam, and, more particularly, in

dying for it in the holy war. The Muslim who falls on the battlefield is called *shahid*, witness or martyr.” Dauda’s article closes with the prayer, “May Allah bless us with the opportunity of helping towards the realization of the establishment of the sharia as the only law governing the totality of our societal lives.”⁵¹ I am in no way suggesting that all or even most Nigerian Muslims would take this interpretation to its extreme, as many are doing in the Middle East today. However, mainstream Islam in the country has done little to resist or reject this spirit clearly and openly—except in the current sharia discussion. Taken out of the charged sharia atmosphere with the guards let down, it easily slips in here and there.

Just prior to the 1988 CA, *The Pen* featured the concluding part of a book written by one Muhammad Asad. He wrote, “the fundamental sharia principles must find their expression in the constitution of a state that is to be Islamic not only in name, but also in fact.”⁵² In the heated atmosphere of the Sani era where this issue is central, this demand would have been phrased in more circumspect politically correct language.

The Zamfara Government published “Our Final Stand on Sharia,” in which it flatly denies the charge that it has turned Zamfara into a Muslim state. First of all, the constitution forbids such a move. Secondly, the common law courts would have been dismantled, as would the churches. Sani himself repeatedly rejects the charge. The new regime “should not be misconstrued to be the Islamisation of the state,” he insists. Such a step would mean the demise of the secular court system in the state. Furthermore, the new sharia is applicable only to Muslims. “The establishment of the sharia or any other legal system is not tantamount to declaring either Islam or any other religion as a state religion.”⁵³

Bello Alkali insists that the constitution “precludes the adoption of any state religion.” Zamfara has not declared Islam a state religion. If it had, so Alkali and others with him argue, then the common-law courts would have been abolished, but they continue to

operate alongside the sharia system.⁵⁴ Suleiman Kumo also flatly denies that Zamfara has become an Islamic state. For one thing, the Governor has strongly rejected the charge. Furthermore, Zamfara remains within Nigeria and is not an “international entity.”⁵⁵ His fellow “most learned” friends agreed. The Kano State Chapter of the National Muslim Lawyers Forum “debunked the insinuation that the establishment of the sharia was tantamount to declaring Islam as a state religion.”⁵⁶ Safianu Rabiū argued that if the sharia states had proclaimed “sharia governments,” “Christians and other non-Muslims would not have been exempted from its judicial reach.”⁵⁷

There is a problem in this last argument. Muslims universally insist that Islam is pluralistic and tolerant of other religions. That characteristic is said to be central to both its history and essence. Muslims continually boast about it. And now we are suddenly told an Islamic state would *not* be pluralistic. It has no room for other religions and makes no provisions for it? They would not exist in an Islamic state? I am at a loss! Is this merely a pragmatic argument, one that trades principle for a momentary advantage? Is this merely an inconsistency or is this an attempt at hiding some inconvenient truths that are not at the moment politically correct or convenient? Muslims, please help me out here.

Sule Ibrahim Gambari reminded us that the Nigerian constitution clearly states that “the government of the federation or a state shall not adopt any religion as state religion.” He argued, “The state can have no religion of its own. It should treat all religions equally.” In examining the question of state religion, “it should be clear that there is a distinction between adopting Islam as a religion and adopting sharia as a law.”⁵⁸

Warisu Alli similarly disputed the Islamic state theme. If having an Islamic president does not make a state Islamic, then neither does the adoption of sharia make a state Islamic.⁵⁹

Ibrahim Sada commented that Muslims do not take sharia implementation to be a declaration of an Islamic state. An Islamic

state is “neither a theocracy nor a democracy. In fact, there is no common or agreed postulation of the Islamic state.” Classical scholars “all have different ideas of the nature and structure of an Islamic state. However, they all agree that such a state can take any form or shape, as long as the sharia principles relating to government are being implemented.”⁶⁰

Lateef Adegbite also rejected the charge that the adoption of sharia amounts to establishing an Islamic state. There is no such hidden agenda, he assured his audience in Oshogbo. Zamfara is an “Islamic society,” not an “Islamic state.” The national constitution does not allow an Islamic state, whether at federal or state level. There is no reason for fear on the part of non-Muslims, for even in an Islamic state “non-Muslims are duly protected” and “have access to their own law.”⁶¹

This statement seems contradictory to those who left me with the problem I described a few paragraphs earlier. I expect at least apparent contradictions in religions and disagreements between religious leaders, but Nigeria does need an explanation for this one. Which claim should Christians accept and work with? Muslims, what you do among yourselves is up to you, but when you get the nation involved and Christians, then we demand that you be clear and highly unanimous.

Unless this matter be laid to rest, argues Adegbite, “the ensuing controversy and crisis will persist.” Yes, indeed! There are three stages that can help determine whether a country or state is Islamic or not. There is an Islamic Community where Islam is practised by most people, but “its environment is not overwhelmingly Islamic. Non-Islamic institutions and practices are dominant.” Then there is the Islamic Society, where the dominant environment is Islamic but still falls below the status of an Islamic State, where the environment is wholly Islamic and all affairs, including government, “are regulated by sharia exclusively.” If these measurements are applied to Zamfara, it may be close to “attaining the status of an Islamic

Society, but it is still very far from attaining the status of an Islamic State, since it has not adopted Islam as State Religion.” After all, there still are conventional non-sharia courts in the state.⁶²

Now, wait a minute! Do I hear Adegbite say after all that a state with non-Muslim courts catering to Christians is *not* an Islamic State? The contradiction shows up again. In addition, here we have a place where Muslims and Christians are talking alongside each other. If a government adopts sharia for its point of legal reference and the dominant court system is sharia, Christians will consider the state Islamic. The two religions do not mean the same by the concept. Now add that contradiction to the mix and you end up in a really murky swamp that cannot possibly provide a solid foundation for nation building. Here serious dialogue is the dire need with the major onus on Muslims, the propagators of contradiction. Of course, Christians have their own contradictions, as we have seen in other monographs in this series.

The question of an Islamic state is closely associated with that of Islamisation, at least in the mind of Christians. Sharia advocates may deny turning their states into Islamic states, but they do speak of Islamisation. In fact, in 2001, a public lecture was organized that openly referred to the subject: “The Challenges of Islamisation: The Experience of Sudan.”⁶³ The speaker was a Sudanese and some of the things he said referred to his own country, not Nigeria—except between the lines... The fact is, this was a public event about the Islamisation of Nigeria. No one tried to hide the issue. Muslims may need to explain this one. Did someone let the cat out of the bag?

One member of Sani’s government seems to have let the cat out. The Commissioner for Justice of Zamfara, Mohammed Sani Tahore, is described as “straightforward and truthful” when he admitted that “the agitation and subsequent introduction of sharia in Zamfara State was aimed at making the state completely a Muslim *Ummah* state.”⁶⁴ If that does not quite amount to an

admission for a Muslim state, the line is awfully thin, especially if you remember the comment from that Kano official a few pages back. However, with apologies to Thompson, the author of my source article, I must confess that in my mind the fact that I have seen no other reference to this potentially explosive admission puts a question mark behind the accuracy of this statement in this otherwise thoughtful article.

Adegbite is puzzled that, in spite of clear arguments by Muslims against the assertion that Zamfara has adopted a state religion, it keeps popping up among sharia opponents. What is so offensive from the religious point of view, he wonders. Is it “the religious *origin* of the new Zamfara law or the *content* of the law” that offends? “Would the situation have been different if the laws being introduced had not been given an Islamic label? What if a predominantly Christian state in Nigeria had adopted the same law without any reference whatsoever to Islam? Does the enforcement of Christian or Muslim public holidays under the Public Holidays Act make Nigeria a Christian or Muslim state?”⁶⁵

▲ CULTURAL APPROPRIATENESS —————

Our concern in this section is the relationship between sharia or law to culture. Muslim opinion places a very close relationship between the two. They need to be in sync with each other. Law developed in one culture will not work satisfactorily in another. Of course, when one talks sharia, notions of religion and human rights are part of the package.

John Witte Jr., Professor of Law and Religion at Emory State University in Atlanta, U.S.A., presented the following material. Though it is not focused directly on our subject, with a minor change it is so apropos to our current question and so well put that I share a short section with you. It deals with human rights, the subject of Chapter 7. If you replace references to human rights with

“sharia” the point is clear. I will help you by inserting “[law]” every time Witte uses the term “human rights.”

These paradoxes of the modern human rights [law] revolution underscore an elementary, but essential, point—that human rights [law] norms need a human rights [sharia] culture to be effective. Declarations are not deeds. A form of words by itself secures nothing. Words pregnant with meaning in one culture may be entirely barren in another.

Human rights [laws] are not artifacts to be imported wholly formed from abroad; they must be sown and grown in local cultural and constitutional soils and souls. Human rights [laws] have little salience in societies that lack constitutional processes that will give them meaning and measure. They have little value for parties who lack basic rights to security, succour, and sanctuary, or who are deprived of basic freedoms of speech, press, or association. They have little pertinence for victims who lack standing in courts and other basic procedural rights to pursue apt remedies. They have little cogency in communities that lack the ethos and ethic to render human rights [law] violations a source of shame and regret, restraint and respect, confession and responsibility, reconciliation and restitution.⁶⁶

The point is that a foreign legal system cannot be effectively imposed on a people any more than can a system of human rights. This point was already well understood during the pre-Sani decades. An anonymous author wrote in *Radiance*, a short-lived magazine of the Muslim Student Association, that the foreign system just was not working in Nigeria. At independence the people of Nigeria were saddled with arrangements that had “neither roots in the society nor represent the true aspirations of the people.” Various systems were tried over the decades, but none worked. The writer asked, “Has there been any nation in history which flourished under thoughts, ideas, institutions and political culture

which are not only alien but hold in contempt the history, culture and convictions of a great majority of its people?”⁶⁷

Various writers in Rashid’s compilation, 1988, were quite upset about the estrangement between Nigeria’s justice system and its culture. Ahmad Beita Yusuf, a sociologist, was well aware of the problem. It is, unfortunately, a fact that legal education in Nigeria tends to ignore that reality.⁶⁸ Haliru Binji, once a Grand Khadi of Sokoto State, affirmed that “the present status of Islamic law in this country is unjust and quite divorced from the social realities of our society. We may like to be governed more by our own sharia,” he suggested, “than by some little known principle of Common Law.” Sharia, he insisted, “as the law governing a majority of the population of this country has got great social relevance. If our legal education claims even the least of proximity to social relevance, then Islamic law should be taught.”⁶⁹ Though Islam or any other religion becomes distorted when aspects of the local culture are identified with the essence of the religion, religion, including sharia, does need to be embedded in a culture to be meaningful and effective. Ibrahim Sulaiman put it strongly:

Most of our judges and lawyers today can best be described as social and cultural misfits, while our courts are simply islands of British culture and British hypocrisy within Nigeria. In some courts the wearing of a full “national dress” amounts to a contempt of the court, which may land the victim in jail! Thus anything that goes contrary to British tradition is unacceptable to the courts, even though it may be deeply rooted in our culture. Our lawyers and judges, by virtue of their training, are incapable of appreciating the values which the sharia uphold, because they cannot see any good beyond English law. They all have to be reoriented and directed towards sanity.⁷⁰

These are not flattering words for the profession that considers itself the “most learned.” A few years later, Sulaiman again addressed

the same problem in a press release from the Centre for Islamic Legal Studies at ABU. "Nigeria must face the truth that no nation can hold itself together by denial of right, by forceful stifling of people's aspirations or by wrongful obliteration of ways of life and civilisation."⁷¹ Secular law has done just that to Muslims.

Governor Sani was acutely aware of the problem and insisted on the cultural appropriateness of his move. Though Nigeria, he argued, is culturally diverse, the culture of Zamfara is Islamic. Hence, the reintroduction of the sharia legal system "is a clear reflection of our peoples' culture." Any objective, critical or honest person "knows that sharia is an integral part of Muslim life," no matter what country he lives in.⁷²

We have returned to complaints heard in volumes 2 and 4 of this series, where education and the colonized nature of the Nigerian elite were decried as totally foreign without any base in the local culture. Even President Obasanjo agreed with that description of the situation and berated it as wrong. At a conference on education organized by the Catholic Church, he "expressed regrets that education, as it is presently offered in the country, has led to the rejection of the nation's cultural and traditional values." He rejects "any approach which compels the country to learn everything from the Western world," while students "know little or nothing about ours."⁷³ The President probably did not make the connection, but that is precisely the complaint of sharia proponents. There were probably no Muslims in this Catholic conference to call him on it.

▲ A DEMOCRATIC MEASURE

Sani and his supporters insist strongly that their sharia initiative is a legitimate democratic development. It was an important campaign promise of his to the people. The Governor said, "This is now a democracy and the people essentially have given me a mandate to decide."⁷⁴

He claimed,

the overwhelming population of Zamfara state had told him that they want sharia to govern their lives if the Almighty makes him the governor. Therefore sharia was not sponsored by any individual but by the collective effort of the Zamfara population. They have indeed the rights to their wishes and aspirations under the present people-oriented democratic dispensation and have pledged overwhelming support and allegiance to the governor on the sharia.

Indeed, it is in the national interest and also that of democracy that the Zamfara people are encouraged to continue to practice a system which they feel suits them. Any attempt to reverse the Zamfara initiative from any quarters is certainly bound to fail and will mean that the meaning of democracy has been turned upside down.⁷⁵

Governor Sani became very popular with his own people. A major indication is the crowds he drew to his two separate launchings. For a people thoroughly tired, deceived, disappointed and cynical, the attendance of such hordes speaks volumes. His popularity grew beyond Zamfara as well and has not yet faded. In April 2005, moves are afoot to persuade him to run for President in 2007. The following newspaper article presents the picture:

Many groups have continued to put pressure on Zamfara state governor, Sani Ahmed, to contest for the 2007 presidential election. One of such groups was recently launched in Katsina under the leadership of Sule Jibiya. Jibiya described Sani as the best candidate who has the feelings of people in his mind and is willing to serve them. Jibiya explained that Sani has displayed good leadership qualities as governor of Zamfara and works hard to ensure the unity of all Nigerians. He

explained that it was the governor who first introduced sharia in the country, managed it to the extent that the legal system has now been adopted in most parts of the north despite pressure and campaign of calumny against him. He advised General Babangida and Atiku Abubakar⁷⁶ to drop their presidential ambitions and join hands with Sani. Meanwhile, posters of Governor Sani have taken over the streets of Funtua in Katsina State, calling on him to contest the presidency.⁷⁷

Ejiga argued the democratic angle from the demographic perspective. "People should realize," he stated, "that the population of Zamfara is 99 percent Muslim. If we must allow everybody to freely practice his or her religion, we should applaud the decision to adopt the sharia, instead of ignorantly and jealously attacking the Zamfara Muslims on the pages of newspapers. Perhaps the attack would be justified if a small segment of the Muslim population resented the idea."⁷⁸ That segment, as we will see in Chapter 6, is fully represented.

Auwalu Yadudu similarly insisted on the democratic push behind sharia. "It was intense public agitation and struggle that forced the unwilling governors of many of the twelve states to champion or join the bandwagon of the implementation," he argued. In other words, "The sharia is being implemented not by military decrees or fiat, but within the context of and constrained [forced?] by democratic and legislative processes and in response to popular demand and/or agitation."⁷⁹

The Kano State Chapter of the National Muslim Lawyers Forum in a press conference described the democratic nature of the sharia move several times without using the term itself. "The application of sharia could be the only avenue [instead of "alternative"] to the fulfillment of the yearnings and aspirations of the populace," it stated. The move "is in conformity with the yearnings and aspirations of the Muslim community."⁸⁰ When

Ibrahim Shekarau replaced Kwankwaso as governor of Kano in the 2003 elections, Garba Isa alleged that his election “was anchored on the popular tide of sharia, of which he was a known advocate.” He “came to power with the mandate of sharia implementation.”⁸¹

In Kaduna, the Chairman of the Sharia Committee appointed by the House of Assembly, Ibrahim Ali, declared that the establishment of the sharia is “an opportunity for Nigerian Muslims to know that it is only in a democratic setting that they can fully practise their religion. This could only increase Muslims’ commitment to democracy, rather than weaken it.”⁸²

Adegbite talked of the “far-reaching consequences” of Nigeria’s return to democratic rule. It means among other things “the need to give full weight to the right of Nigerians to democratically choose the kind of society they wish to have” at both state and national level. Thus, “once a state in matters within its competence has democratically established an institution or adopted a way of life, its choice should be respected, subject to the condition that the choice does not trample on the right of the minority.” “Tyranny or persecution of any type is unacceptable,” he insisted, “whether perpetrated by the majority or minority.” As far as the choice of sharia is concerned, “it would be very odd for Nigerians to acclaim democracy, only to turn around to annul it, either because the relevant decision does not favour a vocal group, or it is deemed by the latter to confer a benefit on the others for which its class could not be a beneficiary.” “The Zamfara issue provides a classic test for the efficacy of the Nigerian democratic dispensation.”⁸³

▲ CONCLUDING REMARKS

One might ask why all this sharp disagreement about what is or is not constitutional. Sule Gambari, Emir of Ilorin, suggests that

perhaps time is needed to test these questions. That may yet prove to be the best piece of advice in this heated atmosphere. Eventually, he predicted in a spirit of hope not often expressed, “we will establish mutual respect and accommodate each other’s religion and practices, which will in turn assist in securing peace and security under a truly democratic dispensation.”⁸⁴

Well, it would be nice!

▲ NOTES

¹ Zamfara State Government, 9 Nov/99. Appendix 1.

² O. Director, 15 Nov/99, pp. 14, 19.

³ S. Ahmed, 10 June/2001. Appendix 18.

⁴ D. Oladipo, 6 Mar/2000, p. 17. A. Odo, 16 Feb/2000. Appendix 19. Unfortunately and strangely, the issue is not further discussed in Odo's article.

⁵ A. Akinkuotu, 17 Apr/2000, p. 16.

⁶ D. Oladipo, 6 Mar/2000, p. 16. For Obasanjo see also T. Asaju, 6 Mar/2000, p. 18.

⁷ M. Sambo, 3 Nov/99, pp. 6-7. J. Boer, vol. 4, Appendix 8, pp. 219-228.

⁸ D. Nmodu, 6 Mar/2000, pp. 23-24.

⁹ A. Soyinka, 17 Apr/2000.

¹⁰ O. Director, 15 Nov/99, p. 15.

¹¹ B. Az-Zubair, "Secularism..." Appendix 58.

¹² D. Nmodu, 6 Mar/2000, pp. 23-24.

¹³ Council of Ulama, 7 Nov/99. Appendix 26.

¹⁴ A. Alkali, 4 Jan/2000. Appendix 10.

¹⁵ I. Ado-Kurawa, 2000, pp. 371-372. *Guardian*, 5 Apr/2000, p. 8.

¹⁶ I. Modibbo, 8 Nov/99.

¹⁷ I. Ado-Kurawa, 2000, p. 367.

¹⁸ I. Umar, 9 Nov/99.

¹⁹ S. Aminu, 22 Feb/2003.

²⁰ O. Director, 15 Nov/99, p. 15. L. Adegbite, "The Constitutional and Legal..." 2000, p. 6; "Sharia in the Context..." 2000, p. 61.

²¹ L. Adegbite, "The Constitutional and Legal..." 2000, pp. 14-15; "Sharia in the Context..." 2000, pp. 65-66, 78-79.

²² M. Mumuni, 15 Nov/99, p. 16.

²³ L. Adegbite, "The Constitutional and Legal..." 2000, p. 8. T. Asaju, 6 Mar/2000, p. 19.

- ²⁴ K. Kolade, 19 Feb/2000.
- ²⁵ D. Nmodu, 6 Mar/2000, p. 24.
- ²⁶ K. Kolade, 19 Feb/2000.
- ²⁷ I. Ado-Kurawa, 2000, pp. 368-369. *Guardian*, 11 Feb/2000.
- ²⁸ I. Ado-Kurawa, 2000, pp. 370-372. *REC*, Mar/2000.
- ²⁹ *NN*, 2 Nov/99, p. 1. Osa Director reported the same (15 Nov/99, p. 18). Ado-Kurawa, *Sharia and the Press...*, p. 365.
- ³⁰ A. Alkali, 13 Nov/99, pp. 5-6. Appendix 10.
- ³¹ J. Boer, vol. 1, 2003, pp. 63-79.
- ³² A. Isibor, 28 Feb/2000.
- ³³ D. Oladipo, 13 Mar/2000, p. 28.
- ³⁴ O. Minchakpu, 21 May/2001. *REC*, Apr/2002.
- ³⁵ O. Minchakpu, 21 May/2001.
- ³⁶ D. Oladipo, 13 Mar/2000, p. 28. See also B. Phillips, 22 Mar/2000.
- ³⁷ L. Okenwa, 18 June/2002. E. Onwubiko, 22 Aug/2002.
- ³⁸ *The Pointer*, 18 Feb/2003. *Guardian*, 19 Sep/2000.
- ³⁹ S. Rabi, "On Obasanjo..."
- ⁴⁰ A. Umar, 27 Mar/2002.
- ⁴¹ S. Obassa, 13 Feb/2000.
- ⁴² *The Anchor*, 23 July/2001.
- ⁴³ A. Otudor, 23 July/2001.
- ⁴⁴ A. Shehu, 2 May/2005. Appendix 23.
- ⁴⁵ D. Oladipo, 6 Mar/2000, p. 16. For Obasanjo see also T. Asaju, 6 Mar/2000, p. 18.
- ⁴⁶ S. Gambari, 16 Feb/2000. Appendix 6. O. Director, 15 Nov/99, p. 14.
- ⁴⁷ I. Ado-Kurawa, *Sharia and the Press...*, pp. 370-371.
- ⁴⁸ T. Agbaegbu, 27 Dec/99, pp. 19-20.
- ⁴⁹ A. Yadudu, 18 Nov/88.
- ⁵⁰ A. Dauda, 27 Oct/89.

- ⁵¹H. Gibb and J. Kramers, 1961, p. 513.
- ⁵²M. Asad, 15 July/88, p. 5.
- ⁵³Zamfara State Government, 9 Nov/99. Appendix 1. O. Director, 15 Nov/99, pp. 13-14. L. Azare, 7 Nov/99.
- ⁵⁴A. Alkali, 4 Jan/2000. Appendix 10.
- ⁵⁵I. Umar, 9 Nov/99. I Modibbo, 8 Nov/99.
- ⁵⁶L. Azare, 7 Nov/99.
- ⁵⁷S. Rabi'u, "On Obasanjo..."
- ⁵⁸S. Gambari, 18 Feb/2000. Appendix 6.
- ⁵⁹W. Alli, "Commentary," p. 64.
- ⁶⁰I. Sada, "Commentary," p. 176.
- ⁶¹R. Akamo, 1 Feb/2000.
- ⁶²L. Adegbite, "The Constitutional and Legal..." 2000, p. 11; "Sharia in the Context..." 2000, p. 71.
- ⁶³R. Shaban, 3 July/2001. L. Usigbe, 4 July/2001.
- ⁶⁴*TD*, 6 Oct/2004. Unfortunately, the digital copy of the article in my possession does not clearly indicate the author of this article. The last name is Thompson, someone from Lagos, but the first name is missing.
- ⁶⁵L. Adegbite, "The Constitutional and Legal..." 2000, p. 12; "Sharia in the Context..." 2000, p. 74.
- ⁶⁶J. Witte, 13 May/2003.
- ⁶⁷*Radiance*, no. 4, 1983, p. 7.
- ⁶⁸S. Rashid, 1986, p. 91.
- ⁶⁹H. Binji, 1986, p. 216.
- ⁷⁰I. Sulaiman, in Rashid, 1986, p. 73.
- ⁷¹K. Sanni, 18 Nov/99, p. 18.
- ⁷²A. Sani, 10 June/2001, p. 21. Appendix 18.
- ⁷³B. Auta, 13 Feb/2006.
- ⁷⁴R. Nweke, May/2001, p. 6.
- ⁷⁵A. Alkali, 4 Jan/2000. Appendix 10.
- ⁷⁶Babangida is a former military dictator. Abubakar is the current

Vice-President. Both are political heavyweights awaiting their chances at a civilian presidency.

⁷⁷ M. Idris, 19 Apr/2005.

⁷⁸ B. Ejiga, 13 Nov/99. Apparently, the opinion of “a small segment of Muslims” would weigh more than the alleged 1 percent non-Muslims? Ejiga pretends not to be aware of the considerable Muslim opposition to Sani’s sharia. We meet them throughout this book. Nuhu Kura, a Muslim scholar in Gusau, was right: “Many people from the beginning refused to support it” (S. Maradun, 16 Jan/2006), even though, as we have also seen, the vast majority did.

⁷⁹ A. Yadudu, “Commentary,” p. 140.

⁸⁰ L. Azare, 7 Nov/99.

⁸¹ G. Isa, 24 May/2005.

⁸² S. Misau, 31 Jan/2000.

⁸³ L. Adegbite, “The Constitutional and Legal...,” 2000, p.10; “Sharia in the Context...,” 2000, pp. 70-71.

⁸⁴ S. Gambari, 18 Feb/2000. For Gambari, see J. Boer, vol. 3, 2004, pp. 110, 140.

