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BETWEEN CONFLICT AND COMPROMISE: LESSONS ON SHARIA AND PLURALISM FROM NIGERIA'S KADUNA AND KEBBI STATES

*Eyene Okpanachi**

INTRODUCTION

The revitalized implementation of Sharia law and its expansion from the personal to criminal aspects in twelve northern states in the wake of Nigeria's return to democratic rule in 1999 represents one of the most turbulent cases of intergroup relations in the contemporary history of Nigeria.¹ The development was set in motion by the formal adoption of stringent Sharia codes by Ahmed Sani, the governor of Zamfara State, on October 27, 1999, and thereafter by eleven other northern states—Sokoto, Kebbi, Niger, Katsina, Kaduna, Kano, Jigawa, Bauchi, Yobe, Gombe, and Borno.² In reintroducing Sharia into the domains of criminal justice, these states evoked the “somewhat ambiguous clause [in the 1999 Nigerian Constitution] that empowered a state assembly . . . to confer additional jurisdiction on the Sharia Court of Appeal.”³ A key consequence of this development was an increase in the politics of identity both in relation to the re-introduction of Sharia and the reactions to it.

Extant discourses on Sharia by Western scholars tend to oversimplify a complex issue.⁴ One such oversimplification is the depiction of Sharia as a unified, monolithic project. For instance, in a 2002 report entitled *The Talibanization of Nigeria: Sharia Law and Religious Freedom*, Paul Marshall details ways in which Sharia violates human rights and religious freedom,

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¹ ROTIMI SUBERU, FEDERALISM AND ETHNIC CONFLICT IN NIGERIA 135–37 (2001).

² Philip Ostien, *Preface to Volumes I–V of SHARIA IMPLEMENTATION IN NORTHERN NIGERIA 1996–2006: A SOURCEBOOK*, at vii–viii, x–xi (Philip Ostien ed., 2007). These states argued that the implementation of “full Sharia” is the restitution of the right to do so, which was aborted with the commencement of British colonial rule in 1900. *Id.* at ix.

³ Rotimi Suberu, *Religion and Institutions: Federalism and the Management of Conflicts over Sharia in Nigeria*, 21 J. INT'L DEV. 547, 551 (2009).

⁴ Jan Michiel Otto, *Preface to SHARIA INCORPORATED: A COMPARATIVE OVERVIEW OF THE LEGAL SYSTEMS OF TWELVE MUSLIM COUNTRIES IN PAST AND PRESENT* 11, 11–15 (Jan Michiel Otto ed., 2010) [hereinafter SHARIA INCORPORATED].

especially the rights of non-Muslims in the Sharia-implementing states.⁵ The report concludes that, with the introduction of Sharia, Nigeria could slide into lawlessness and terror, like Afghanistan under the Taliban.⁶ Yet this report, written ostensibly to protect the U.S. national interest, not only denies non-Muslims agency, but also sees the issue of power in the Sharia question as a zero-sum game without giving adequate reference to the multiple sites of power and the contestation that this dispersion of power between both Muslim and non-Muslim groups can provoke.

Keeping in mind the understanding of power as an ongoing process, as a way in which certain actions modify others, and as an intermediary between freedom and domination,⁷ this Essay uses the comparative case studies of Kaduna and Kebbi States to contribute to an understanding of the Sharia issue in Nigeria and to uncover the conflict and compromise involved. The argument herein is that by contextualizing the issue and placing it in its historical specificity we can better capture the ebbs, flows, and complex nuances involved in the Sharia debate, especially the “divergent perspectives, strategies, and practices regarding Sharia implementation [that] have developed from state to state in the Muslim north,” and which have thereby helped “to quarantine the Sharia issue at the level of each state.”⁸

Utilizing documentary sources and interviews carried out in Kaduna and Kebbi States between 2008 and 2009,⁹ this Essay asks the following questions: what forms of discord or compromise emerged over the Sharia policy and what were the implications of these transformations on the dynamics of these states? What is the nature of the citizenship, identity contestations, and conflicts that have ensued over the Sharia policy in these states and how have they been

⁵ PAUL MARSHALL, CTR. FOR RELIGIOUS FREEDOM, *THE TALIBANIZATION OF NIGERIA: SHARIA LAW AND RELIGIOUS FREEDOM* 62–66 (2002).

⁶ *Id.* at 8. Several years later, it would appear that this conclusion was hasty and not well-tempered, and that rather than the “Talibanization of Nigeria,” the Nigerian Sharia, despite of the challenges it poses to intergroup relationships, could in fact serve as a model for moderation in Sharia in Afghanistan. Yet, moderation in Sharia in Nigeria did not come from the adoption of a foreign policy by the United States “to deal with the spreading jurisdiction of *sharia* law in Nigeria” as Paul Marshall recommends, but rather from social and political dynamics within Nigeria. *Id.* at 13.

⁷ This insight is drawn from Michel Foucault, who characterizes power as “multiplicity of force relations” eliciting a whole field of responses, reactions, and possible interventions, instead of limiting the conception of power to a homogenous or unilateral construct depicting domination. See MICHEL FOUCAULT, *THE HISTORY OF SEXUALITY* 121 (Robert Hurley trans., Vintage Books 1990) (1978); Michel Foucault, *The Subject and Power*, 8 *CRITICAL INQUIRY* 777–95 (1982).

⁸ Rotimi Suberu, *The Nigerian Federal System: Performance, Problems and Prospects*, 28 *J. CONTEMP. AFR. STUD.* 459, 463 (2010).

⁹ Fieldwork was supported by the French Institute for Research in Africa (IFRA-Nigeria).

managed or mismanaged? What are the mechanisms instituted or utilized to accommodate differences arising over the implementation of Sharia in these two states, and how does Sharia in these two states interface with the secular state? An analysis of these issues will help us to dispel crude generalizations and totalizing narratives over the Sharia question.

This Essay is structured¹⁰ as follows: Part I provides a rationale for the choice of Kaduna and Kebbi States as comparative cases for this Essay. Part II highlights some issues in the implementation of Sharia in the two states. This is followed by subsequent Parts that examine and provide reasons for similarities and variations in implementation in the two cases, highlighting the contestations, the modes of accommodation utilized, and the inter- and intra-group politics and power relations over the Sharia issue.

I. CONTEXTUAL COMPARISON OF KADUNA AND KEBBI STATES

There are good reasons for the choice of Kaduna and Kebbi States as case studies. Both states fall within the northwestern geopolitical zone of Nigeria, which is the core of the former Sokoto Caliphate, an Islamic state and government that existed before the colonial period. However, these two states also have a significant number of non-Muslim indigenous ethnic groups, which are in fact the majority in some local government areas¹¹ and which have always fought and resisted Hausa-Fulani¹² overlordship and Islamization. These groups are located in areas that include southern Kaduna in Kaduna

¹⁰ Due to lack of space, this Essay takes for granted the history of Sharia in Nigeria because this is dealt with by some of the contributors to this Symposium.

¹¹ ONIGU OTITE, *ETHNIC PLURALISM AND ETHNICITY IN NIGERIA* 52–53 (1990).

¹² The Hausa-Fulani are Nigeria's most populous ethnic group, accounting for about twenty-nine percent of Nigeria's population. JOHN PADEN, *FAITH AND POLITICS IN NIGERIA: NIGERIA AS A PIVOTAL STATE IN THE MUSLIM WORLD* 6–7, 39–40 (2008). They are spread all over the north of the country, but are concentrated more in the western part of the north. Hausa-Fulani is a fusion of the Hausa and Fulani people. Though historically the Hausa-Fulani are two distinct groups, they are increasingly seen as the same in Nigeria. The Hausa consists of a collection of West African peoples that was integrated through immigration and conquest into the indigenous populations that inhabit what is now called Hausaland while the Fulani are a nomadic pastoralist group that came to Hausaland from the Senegal River valley in the thirteenth century. A key watershed in the integration of the Hausa-Fulani ethnic groups and the emergence of their "shared" identity in Nigeria was the jihad that began in 1804 under the leadership of the Fulani scholar, Usman dan Fodio, against what he considered the practice of a lax form of Islam in Hausaland. The jihad led to the conquest of the Hausa states, the establishment of the Fulani theocratic system under the Sokoto Caliphate in most of the Hausa states, and large-scale conversion of Hausa (as well as Fulani) people to Islam. Also in the ensuing relationship, the Fulani settled more among the Hausa people, intermarried with them, and adopted the Hausa language.

State and Zuru¹³ in Kebbi State. In southern Kaduna, historian Toure Kazah-Toure observed that “with the imposition of British colonialism, there was a transformation in ethnic relations . . . Colonial policies—and indeed British pragmatism—with a racist ideology, absorbed the dominant old ruling circles of the Hausa-Fulani emirates into the system, while excluding the other ethnic groups in the zone.”¹⁴ There were similar experiences in Kebbi State.

Yet, despite these similarities, there are compelling differences between the two states. First, there is a huge difference in the population of the states and the percentage of Muslims and non-Muslims. While it is estimated that Muslims in Kebbi State make up eighty-four percent of the state’s current population, the Muslims are estimated to be fifty-six percent of Kaduna State’s population. This means that non-Muslims in Kebbi State constitute sixteen percent of the population while non-Muslims in Kaduna State constitute forty-four percent of the population.¹⁵ Secondly, Kebbi is a new state created in 1991 that served during the precolonial period as the twin headquarters of the Sokoto Caliphate. In contrast, Kaduna is an old state established in 1976, whose capital, Kaduna, was the capital of the former northern region and later the capital of the former north-central state. Given this character, the two states differ with respect to the nature of their ethno-religious diversity, with Kaduna being the more heterogeneous and cosmopolitan state, where the state’s Hausa-Fulani and southern Kaduna communities, as well as migrants from all over Nigeria, are heavily represented, especially in Kaduna.¹⁶ Thirdly, unlike Kebbi State, which has been relatively peaceful, Kaduna State has had a history of violent ethno-religious conflict and a radicalized civil society. Such conflict has often “pitted the state’s Muslim Hausa-Fulani politicoeconomic power group, which is based mainly in the northern portions of the state, against a constellation of non-Muslim southern Kaduna minority tribes.”¹⁷ Grasping

¹³ Zuru is one of the four emirates in Kebbi State. *Kebbi State*, NIGERIA NAT’L, <http://www.nigerianational.com/-states/109-kebbi-state> (last visited Sept. 14, 2011). Geographically, it is embedded in the heart of the Muhammadan Emirates. See generally S.J. HOGBEN, *THE MUHAMMADAN EMIRATES OF NIGERIA* (1930).

¹⁴ Toure Kazah-Toure, *The Political Economy of Ethnic Conflicts and Governance in Southern Kaduna, Nigeria: [De]constructing a Contested Terrain*, 24 AFR. DEV. 109, 139 (1999).

¹⁵ See *Some Demographic Data: Nigeria’s Sharia States*, in Ostien, *supra* note 2, at xix.

¹⁶ Kaduna, according to the 2006 national census, has a population of 1,563,300, and it is the fourth-most populous city in Nigeria. Troy Lloyd-Jones, *Analysis of Economic Development in Kaduna State and City* (Univ. of Westminster, Working Paper No. 170211, 2011), available at http://www.westminster.ac.uk/_data/assets/pdf_file/0007/81169/Working-Paper-Economic-development-in-Kaduna-State-and-City-170211V3.pdf.

¹⁷ Rotimi Suberu, *Nigeria: Dilemmas of Federalism*, in *FEDERALISM AND TERRITORIAL CLEAVAGES* 327, 337 (Ugo M. Amoretti & Nancy Berneo eds., 2004).

these differences will help observers come to terms with the pattern of diversity and the contexts that characterize or condition the manifestation of conflict and the management strategies employed.

A. *Sharia in Kaduna State*

The Kaduna Sharia question started on December 14, 1999, when the Kaduna State Assembly constituted an eleven-person, all-Muslim committee to collate views of the people on the need to introduce the Sharia legal system in the state.¹⁸ This single action created division in the House of Assembly along religious lines. The Christian members of the House of Assembly argued that the motion was not properly passed and accused the Muslim members of having a hidden agenda. The Muslims, in turn, argued that Sharia is purely a Muslim affair that had nothing to do with Christians. The Muslims also maintained that, in any case, the two Christian members nominated to participate in the committee declined their nominations.¹⁹

As Hussaini Abdu and Lydia Umar documented, given the controversy over the constitution and membership of the legislative committee, which heightened the suspicions of a hidden agenda to “Islamize Kaduna State,” the Christian community refused to appear before the committee, while Muslims from various local governments in Kaduna State trooped to the House of Assembly to present their memoranda and express solidarity with the legislators. At the same time, both Muslims and Christians organized rallies and lectures to educate their adherents on their differing positions on Sharia. While this was occurring, the Kaduna State government formed two interreligious committees consisting of equal numbers of Muslim and Christian leaders in an attempt to ease the political tension.²⁰

After the legislative committee of the State House of Assembly rounded off the public hearing, the Christian Association of Nigeria (“CAN”) Kaduna State branch organized a public protest on February 21, 2000, against what they called the “planned introduction of Sharia in the state.”²¹ The peaceful protest later turned violent: Muslim youths clashed with the Christian protesters, and fighting between Christians and Muslims spiraled out of control, spilling over

¹⁸ Hussaini Abdu & Lydia Umar, *Ethnic and Religious Crisis in Kaduna*, in HOPE BETRAYED: A REPORT ON IMPUNITY AND STATE-SPONSORED VIOLENCE IN NIGERIA 83, 88 (2002).

¹⁹ *Id.*

²⁰ *Id.* at 89.

²¹ *Id.*

to outlying local government areas (“LGAs”), with massive violence and destruction on both sides. Another incident of violence soon followed in May 2000, while the Judicial Commission of Inquiry set up to probe February’s clashes had yet to complete its work. It took the intervention of armed soldiers before tentative peace was restored to the city.

B. Sharia in Kebbi

The Governor of Kebbi, Alhaji Muhammad Adamu Aliero, in October 1999, formed the Committee on the Implementation of Sharia Law to, among other functions, “advise the Government on how best to entrench Sharia in the State legal system” and “identify and review relevant State laws, so as to bring them in conformity with the Sharia legal system.”²² Having received the report of the Committee, and the White Paper Drafting Committee, the Kebbi State government issued a White Paper in June 2000, and formally launched Sharia in December 2000. At the launch of the Sharia legal code at the Haliru Abdu stadium in Birnin Kebbi, the state capital, Governor Mohammed Adamu Aliero defended Sharia and underscored its democratic legitimacy.

Under the re-established Sharia law, the state’s Sharia and Upper Sharia Courts were newly established with the competence to apply the full range of Islamic law, including civil law (ranging from marriage to land law) and criminal law (ranging from homicide to apostasy) on Muslims and non-Muslims who opt to subject themselves to the Sharia law.²³ Appeals from the Sharia Courts in all matters have been directed to the state Sharia Courts of Appeal. A vital piece of legislation in this regard was the Executive Bill presented by the Kebbi State government to the state House of Assembly to confer additional jurisdiction to the Sharia Court of Appeal of the state to cover civil and criminal matters in all aspects of Sharia in accordance with the provisions of Section 277 of the 1999 Constitution. The government also accepted the Sharia Committee’s recommendation that a Sharia Court should be established in each district of the state and in such other places where it is necessary, while an Upper Sharia Court should be established in each local government headquarters, with powers to make judgments on all capital offenses.²⁴ In addition, a wide range of other legislation was directed at the prohibition of particular “social vices” and “un-Islamic behaviour” such as

²² *White Paper on the Report of the Committee on the Implementation of Sharia in Kebbi State*, in SHARIA IMPLEMENTATION IN NORTHERN NIGERIA, *supra* note 2, at 177 [hereinafter *White Paper*].

²³ *See id.* at 178–79.

²⁴ *Id.* at 179.

traditional boxing (*dambe*), gambling, prostitution, unedifying media, and excessive mixing together of unrelated males and females.²⁵ The implementation of Sharia provoked apprehension and opposition from non-Muslims in Kebbi State. In December 2000, Christians in the state petitioned Nigeria's Senate over plans by Governor Adamu Aliero to introduce Sharia law in the state.²⁶

II. A COMPARISON OF SHARIA IN KADUNA AND KEBBI STATES

In both states, Sharia redefined perceptions of ethno-religious identity and interests and increased rhetorical discourses involving the interpretation and re-interpretation of events and history. In both states, there were also similarities in the recourse to cultural registers of groups' history, collective memory, symbols, and myths. This is consistent with the literature on identity. As political scientist Crawford Young stated in his penetrating analysis of the politics of cultural pluralism, "Historical parameters defined the bounds of subsequent crystallization of social identities. But the basic units of contemporary cultural conflict, themselves fluid and shifting, are often entirely novel entities, in other instances substantially altered and transformed, in most cases redefined versions of cultural groups."²⁷

While it posed new challenges, the expansion of Sharia in the two states brought to the fore extant issues in the National Question,²⁸ especially concerning majority-minority relations. Some of these issues include representation, fair distribution, and religious freedom. Fear of Sharia by non-Muslims in both states emanated, largely, from the perception that their full citizenship rights would further be denied them as a result of Sharia. Sharia therefore provided the opportunity for these groups to mobilize and draw attention to their predicament as minority groups. As political scientist Georges Nzongola-Ntalaja noted, while it has often been portrayed as religious hostility between Christians and Muslims, these confrontations are surface manifestations of issues relating to "the full exercise of citizenship and its

²⁵ *Id.* at 184–85.

²⁶ *Nigeria: Christians Petition Senate over Sharia*, IRIN GLOBAL (Jan. 4, 2000), <http://www.irinnews.org/report.aspx?reportid=11510>.

²⁷ CRAWFORD YOUNG, *THE POLITICS OF CULTURAL PLURALISM* 34 (1979).

²⁸ Generally, the National Question in Nigeria refers to the challenges of peaceful coexistence between the country's diverse ethnic groups. See Abdul Raufu Mustapha, *The National Question and Radical Politics in Nigeria*, 37 REV. AFR. POL. ECON. 81, 82–83 (1986).

implications for contemporary economic and political life” between these groups.²⁹

The history of state formation through the precolonial to the colonial period, and the administration and politics of the state in the present era entrenched a particular form of politics that has provoked subnationalism and a cultural context of hostility and hatred against the Hausa-Fulani especially in Kebbi and Kaduna States.³⁰ Given the long history of hostility as well as unease and mutual suspicion between the non-Muslim ethnic groups and Hausa-Fulani Muslims, the non-Muslims based their opposition to Sharia not only on their conviction that Islamic values would be imposed more rigorously on their everyday lives, but also on their belief that their suffering in the states would be intensified in light of their already extant marginalization. In Kebbi State, the non-Muslims complain of marginalization in government political appointments, employment and promotion in the civil service, economic marginalization (especially the control of the local market in Zuru by the Hausa-Fulani) the imposition of the Islamic emirate system on the indigenous chieftaincy system in Zuru, and conscripted space for Christian evangelism, a point underscored by the inability of Christians to get land to build churches.³¹ In Kaduna State, non-Muslims have also complained of neglect and marginalization, particularly in the execution of projects and appointments; incorporation of some of the non-Muslim populations into the emirate system and their cultural, economic, and political domination by the Hausa-Fulani power group; preferential treatment given to traditional rulers of the Islamic emirates over those of non-Muslim communities; and their exclusion from the governorship of the state since its creation in 1976.³²

In both states, mobilization against Sharia culminated in street protests, particularly in Kaduna and Zuru. As a result of the protests, administrators in both states became more conscious of and responsive to the challenges of diversity and the need to avoid zero-sum exclusionary politics with regard to Sharia. Specifically, responding to the above challenges, administrators in both states demonstrated political dexterity by crafting out some pluralistic

²⁹ George Nzongola-Ntalaja, *Citizenship, Political Violence, and Democratization in Africa*, 10 GLOBAL GOVERNANCE 403, 407 (2004).

³⁰ *Id.*

³¹ According to some Christian religious leaders interviewed in Zuru, such intolerance to Christianity was reflected in the stoppage of a film on Jesus in November 2000, a month into the formal adoption of Sharia in Kebbi State.

³² Interview with Father Matthew Kukah in Kakuri, Kaduna State (July 29, 2009).

frameworks that assuaged the fears of the non-Muslim groups. This led to the carving out of “Sharia-free zones” in both states—parts of Zuru in Kebbi State, and parts of Kaduna as well as southern Kaduna communities. Thus, while under Sharia, “religious leaders, and more generally religious thinking, have increasing influence over politics,”³³ the perceptions, actions, and techniques of state governors and legislators were also central factors in stoking or managing the outbreak of Sharia-related conflict or violence in both states.

As in the other ten “Sharia-compliant states,” in both Kaduna and Kebbi States there has been an increasing tendency to “shift focus away from the criminal law aspects of Shari’a law to its tenets of social justice and charity for the poor.”³⁴ In explaining this trend, political scientist Rotimi Suberu has alluded to the “features of Nigeria’s evolving federalism” that have diffused the “Sharia bomb” rather than allowing the “bomb” to extinguish Nigeria or derail its Fourth Republic.³⁵ Suberu further argues that these features “hold considerable promise for the continued mediation and sublimation of” the Sharia issue.³⁶ They include the implementation of Sharia reforms within, rather than outside, the framework of a liberal consitutional democratic system; the decentralization of Sharia implementation through the Nigerian federal framework; the principle of inter-segmental accomodation and national integration as encapsulated in the federal character doctrine; judicial review and surveillance of Sharia by Sharia appellate courts, which have overturned some of the more draconian sentences emanating from lower Islamic courts; and the fact that the Sharia controversy has been partially mediated by its assimilation into the wider, ongoing debate about constitutional reform in Nigeria.³⁷

Another key reason why the emphasis on the criminal law aspect of Sharia has dwindled is what Father Matthew Kukah has decribed as the “sufficient safety mechanisms” within the Sharia legal system.³⁸ One such safety net is the provision in the Sharia criminal codes that stipulates that no judgments on offenses falling under *hudud* and *qisas* “can be executed unless and until the

³³ INT’L CRISIS GRP., NORTHERN NIGERIA: BACKGROUND TO CONFLICT 9 (2010).

³⁴ One example is alms to the poor (*zakat*). BUREAU OF DEMOCRACY, HUMAN RIGHTS & LABOR, U.S. DEP’T OF STATE, NIGERIA INTERNATIONAL RELIGIOUS FREEDOM REPORT (2004), available at <http://www.state.gov/g/drl/rls/irf/2004/35376.htm>; see also Richard Joseph & Darren Kew, *Nigeria Confronts Obasanjo’s Legacy*, 107 CURRENT HIST. 167 (2008).

³⁵ Suberu, *supra* note 3, at 558.

³⁶ *Id.*

³⁷ *Id.*

³⁸ MATTHEW KUKAH, HUMAN RIGHTS OFFICE, PONTIFICAL MISSION SOCIETY, HUMAN RIGHTS IN NIGERIA: HOPES AND HINDRANCES 27 (2003).

state governor expressly consents.”³⁹ As a consequence, while the Sharia courts have passed judgments for criminal cases in both states with harsher punishments ranging from hand amputation to stoning,⁴⁰ these have not been executed because the governors have not consented to the judgment by the Sharia courts. Given that the governors of the Sharia-implementing states harbored political ambitions for federal offices, they have, to portray themselves not as fundamentalists incapable of holding national offices, “been induced to tone down their advocacy of Sharia and emphasize its moderate rather than punitive elements.”⁴¹ The fact that most of the governors that implemented Sharia in northern Nigeria became senators is a testimony to this fact; this includes the governors of Zamfara State, where Sharia was first implemented, and Kaduna and Kebbi States.

There were also divergent intra-group views expressed in relation to the Sharia debate. Underlying the unified positions on Sharia that are often projected are the different and sometimes conflicting viewpoints and multiple interpretations that reflect the politics of hyphenation characteristic of fragmentation within identity groups. This contradictory group identity construction and projection is poignantly reflected in the perception of Muslims in the two states. To start with, while many Muslims showed support for the proposed reintroduction of Sharia in Kaduna State, the radical Shia cleric and leader of the Islamic Movement of Nigeria (“IMN”), Sheikh Ibrahim el-ZakZaky, had expressed reservation on the implementation of Sharia. He argued that what was being implemented cannot be “full” Sharia because it was introduced by politicians⁴² and also because Nigeria is not a Muslim state. Also, with the implementation of Kaduna State’s modified version of Sharia, some Muslims, especially prominent members of the Supreme Council for Sharia in Nigeria (“SCSN”), a group that tries to coordinate Sharia laws across the twelve Sharia-implementing states⁴³ and that has hitherto been at the vanguard of moves by Muslim civil society in Kaduna State to implement

³⁹ Philip Ostien & Albert Dekker, *Sharia and National Law in Nigeria*, in SHARIA INCORPORATED, *supra* note 4, at 553, 590–92 (2010).

⁴⁰ AMNESTY INT’L, AMNESTY INTERNATIONAL REPORT 2003: NIGERIA AI INDEX: POL 10/003/2003 (2003), available at <http://www.africanreview.org/forum/docs/ai/nigeria.pdf>.

⁴¹ Joseph & Kew, *supra* note 34, at 172. As Ostien and Dekker noted, however, this has led to the unfortunate situation where those who have been sentenced to capital punishment, but have their sentences deferred as a result of the refusal of the governors to consent to the executions, being left “indefinitely in prison waiting (often for years, for small offences) for someone to do something about them.” Ostien & Dekker, *supra* note 39, at 593.

⁴² See *Nigeria Falls Apart Again?*, ECONOMIST, Mar. 2, 2000, at 18.

⁴³ PADEN, *supra* note 12, at 34.

Sharia without the government, accused governor Makarfi of betraying them by “not implementing ‘proper Sharia’ and of being more Christian than some Christians.”⁴⁴ Other Muslims believe that even though the half, rather than “full,” implementation of Sharia was not what Muslims were looking for, it was necessary given the multicultural nature of the state. As Umar Ibrahim, an auto mechanic, noted, the “arrangement is only part of what is desired by Muslims, but given the nature of the state, there is a need for compromise.”⁴⁵

There are also critical voices against the implementation of Sharia from within the Islamic community, which, even though limited and censored, have nevertheless stimulated some debate over the rule of law, equality, and social justice. A prominent critic is Shehu Sani, the leader of the Civil Rights Congress, a human rights organization in Kaduna State. Shehu Sani’s stance on Sharia not only pitted him against the state government, but also against some Islamic groups in the state.⁴⁶ For example, in his play, *The Phantom Crescent*, Shehu Sani describes how politicians use Sharia “as a tool for looting the public treasury with impunity and for stifling opposition,”⁴⁷ and argues that Sharia’s punitive provisions are applied only to the poor while the rich, who can move with ease to other parts of the country where there is no Sharia law to violate, are able to evade the law.⁴⁸ More recently, in 2010, Shehu Sani’s Civil Rights Congress initiated a debate on Facebook and Twitter on the propriety of the judgment of the Sharia court in Zamfara State that sentenced Mallam Bello Jangebe to hand amputation after he was found guilty of cow theft.⁴⁹

⁴⁴ HUMAN RIGHTS WATCH, THE “MISS WORLD RIOTS”: CONTINUED IMPUNITY FOR KILLING IN KADUNA 6 (2003).

⁴⁵ *Arrests Follow Kaduna Clashes*, BBC NEWS (Nov. 4, 2011), <http://news.bbc.co.uk/2/hi/africa/1638674.stm>.

⁴⁶ HUMAN RIGHTS WATCH, POLITICAL SHARIA? HUMAN RIGHTS AND ISLAMIC LAW IN NORTHERN NIGERIA 87 (2004).

⁴⁷ *Nigerian Sharia Court Bans Play*, BBC NEWS (Oct. 8, 2007), <http://news.bbc.co.uk/2/hi/africa/7033502.stm>.

⁴⁸ The public performance of the play was stopped by the Upper Sharia Court in Kaduna State, which issued an injunction, preventing anyone from “selling or in any way circulating” the manuscript. See Elizabeth Dickenson, *Sharia Court Bans Satirical Play*, ALLAFRICA (Oct. 28, 2007), <http://allafrica.com/stories/200710280013.html>.

⁴⁹ The Association of Muslim Brotherhood of Nigeria, a pro-Sharia group in Kaduna State, instituted a case in the Sharia court in Kaduna State against the discussion; the judge ruled in the group’s favor, arguing that “Muslims[] had no right under the law to question or review any judgment given by the Sharia Court as doing so would be tantamount to questioning the laws of Allah.” Ademola Bello, *Who Will Save Amputees of Sharia Law in Nigeria?*, HUFFINGTON POST (Apr. 11, 2010, 1:12 PM), http://www.huffingtonpost.com/ademola-bello/who-will-save-amputees-of_b_532949.html.

As in Kaduna State, there were also internal criticisms in Kebbi State against the absence of a socio-economic environment conducive to the implementation of Sharia and the use of Sharia to hoodwink the people and pilfer the public resources. According to a Muslim cleric in Birnin Kebbi:

The Sharia in Kebbi is not being practiced correctly. Sure governor Aliero tried his best to put in programs that will lead to the spiritual and moral upliftment of Muslims, but he left himself and his executive out in the process. Using Sharia as a cover, these politicians, led by the governor, have amassed stupendous wealth, acquiring properties here and there, including a gigantic mansion owned by governor Aliero in Birnin Kebbi. This is contrary to the life of moderation and selflessness that Sharia advocates.⁵⁰

The Kaduna and Kebbi State examples point to the fact that, beyond the projection of seemingly unified identities—“Christians against Sharia” and “Muslims in favor of Sharia”—there is a cacophony of voices that dispute what seems to be the dominant group position. As Ismail reminds us with regard to Islam:

[Muslims] do not engage, in a uniform manner, in the construction of Muslim selves. Nor do they reproduce a monolithic Muslim identity. Rather, their engagement in identity construction informs us of the power struggles that are embedded in material local conditions and global processes, and that make use of a multiplicity of registers and frames of reference.⁵¹

Despite the similarities, there are divergent political, legal, and social responses to the reintroduction of Sharia in Kaduna and Kebbi States. While mobilization against Sharia was reflected in public protests in Kaduna State (Kaduna) and Kebbi State (Zuru), the outcome of the protests differ, in that they were peaceful in Zuru, but turned violent in the city of Kaduna. The Kaduna riots reduced the city and some other parts of the state (such as Kachia) to rubble, left at least 2,000 persons dead,⁵² and led to the displacement of over 63,000 people within Kaduna and its surroundings.⁵³ The

⁵⁰ Interview with Mallam Attahiru Jega in Birnin Kebbi, Kebbi State (May 2, 2008).

⁵¹ Salwa Ismail, *Being Muslim: Islam, Islamism and Identity Politics*, 39 *GOV'T & OPPOSITION* 614, 630–31 (2004).

⁵² *See Violence Erupts in Northern Nigeria*, BBC NEWS (Nov. 5, 2001, 2:21 PM), <http://news.bbc.co.uk/2/hi/africa/1638282.stm>.

⁵³ INTERNAL DISPLACEMENT MONITORING CTR., NIGERIA: NO END TO INTERNAL DISPLACEMENT 5 (2009), available at [http://www.internal-displacement.org/8025708F004BE3B1/\(httpInfoFiles\)/2AE6C08BF7379B75C1257673005A715D/\\$file/Nigeria+-+November+2009.pdf](http://www.internal-displacement.org/8025708F004BE3B1/(httpInfoFiles)/2AE6C08BF7379B75C1257673005A715D/$file/Nigeria+-+November+2009.pdf).

Kaduna violence also led to a major restructuring of the city with people increasingly moving to areas where their religious faith had a majority of inhabitants so much so that “[b]y 2002, residents were describing particular areas of Kaduna town as ‘100 per cent Christian’ or ‘100 per cent Muslim.’”⁵⁴ At the heart of the violence in Kaduna are issues related directly to the planned implementation of Sharia, but they are also connected to other issues such as the historical context of violent conflict in the state.

Another difference is that despite the existence of “Sharia-free zones” in the two states, Sharia was more vigorously implemented in Kebbi State than Kaduna State. Unlike in Kebbi State, where freedom from application of Sharia was restricted merely to parts of Zuru (headquarters of Zuru Emirate), the freedom from Sharia in Kaduna State was greater and it covered the predominantly Christian areas of Kaduna and the various southern Kaduna local governments.⁵⁵ This divergence is also reflected in the legal system. Under the Kaduna model

the pre-existing Area (local or native) courts have been abolished and replaced with Sharia and Customary courts designed to apply Islamic and customary laws to Muslims and non-Muslims, respectively. These two systems of parochial courts co-exist with the federation-wide common law court system, including the magistrate courts and the High Court.⁵⁶

In Kebbi State, on the other hand, the Area Courts and Upper Area Courts have been abolished and replaced with Sharia Courts and Upper Sharia Courts as part of a comprehensive agenda of Sharia implementation, and their jurisdiction is now limited to “all the Muslims in the State and on all those who, though non-Muslims, opt to subject themselves to the Sharia law.”⁵⁷ The common law Magistrate and High Courts would serve the non-Muslims in the state.

The divergence in the vigor with which Sharia is implemented in the two states is further reflected in the differential impact of Sharia in instilling

⁵⁴ HUMAN RIGHTS WATCH, *supra* note 46, at 5.

⁵⁵ This sensitivity to the relatively higher level of ethno-religious heterogeneity in Kaduna State was achieved through “the devolution of limited powers on local government councils to make, as [bylaws], according to the desires of their more homogeneous local populations, laws that would not be accepted throughout the state.” Philip Ostien, *Ten Good Things About the Implementation of Shari’a in Some States of Northern Nigeria*, 90 SWED. MISSIOLOGICAL THEMES 163, 173 (2002).

⁵⁶ Suberu, *supra* note 3, at 553–54.

⁵⁷ *White Paper*, *supra* note 22, at 178.

Islamic values in the Muslim population or society in general. While in Kebbi State there is what sociologist Bryan Turner calls the “pietization of the everyday world”⁵⁸ as a result of Sharia, this was not so in Kaduna State. With the launching of Sharia in Kebbi State in December 2000, Sharia laws were used to “stringently establish the boundary for acceptable/moral and unacceptable/immoral sexual desire, behavior, and identity.”⁵⁹ The outcome of these rigid regulations, however, affected both Muslims and Christians in the state. In this context, “all ‘unholy alliance[s]’ between sexes in public places, all sexual activities (e.g. adultery, fornication, and homosexuality)[,] are considered not only sexual deviation, but also revolt against Allah.”⁶⁰ To avoid this situation, coeducational, public secondary schools were segregated along gender lines through the introduction of the shift system, whereby girls attend schools during the morning session and boys in the afternoon, or vice versa. Brothels and disco houses were dismantled and the sale of alcohol was also prohibited.⁶¹ To police morality following the introduction of the new Sharia legislation, the Kebbi State government established a Hisbah Committee in 2001. The committee’s main role is to monitor and ensure observance of Sharia among the population, report any breaches, and engage in mediation and conciliation within the society.

In Kaduna State, on the other hand, the role of Sharia in ridding society of immoral behaviors and in setting acceptable moral codes has proved daunting as a result of the diversified moral system in place in the state. Under the modified Sharia system, implementing any form of religious law was explicitly foreclosed in the mixed parts of Kaduna and other principal towns. In Muslim-majority areas, the eventual application of Sharia laws, such as restriction of the sales of alcohol, was ceded to the local governments. However, while immoral behaviors are prohibited in Muslim-dominated areas, the potency of this prohibition is rendered tenuous by the easy availability of alternative moral codes (available in areas where some of the “immoral” acts are not prohibited) from which many Muslims can easily draw. Consequently, Muslims who do

⁵⁸ Bryan Turner, *Introduction: The Price of Piety*, 2 CONTEMP. ISLAM 1, 2 (2008).

⁵⁹ Eyene Okpanachi, *Ethno-religious Identity and Conflict in Northern Nigeria: Understanding the Dynamics of Sharia in Kaduna and Kebbi States* (IFRA-Nigeria, e-Paper No. 7, 2010), available at http://www.ifra-nigeria.org/IMG/pdf/OKPANACHI_2010.pdf.

⁶⁰ *Id.*

⁶¹ This is not to suggest that the “sanitation of society” that came with Sharia led to total eradication of the prohibited behaviors. To be sure, just like in many Sharia-implementing states, federal government establishments such as military and police barracks became “safe havens” for those who sought to practice behaviors prohibited by Sharia.

not want to practice the Islamic moral code practice what could be described as identity-switching to benefit from the “freedom” the other moral code holds. It is this flexibility that led a Human Rights Watch interviewee to conclude, “Generally, it is as if there is no Shari’a in Kaduna.” The report explains:

Kaduna is divided into “Shari’a-compliant” and “non-Shari’a-compliant” areas; residents of the former, predominantly Muslim areas, are expected to comply with the requirements of Shari’a, whereas those of the predominantly non-Muslim or mixed areas are not. However, residents of Shari’a-compliant areas can simply cross over into a non-Shari’a compliant area, where they can buy and consume alcohol and where prostitution is common, then return to the Shari’a areas without any consequences.⁶²

Given this background, the fact that “Shari’a in Kaduna exists in one street but not in another,”⁶³ Muslims will have to “ultimately rely on their consciences to chastise them rather than the society’s moral strictures.”⁶⁴ And in any case, unlike in Kebbi State where there is a Hisbah that is centrally organized and coordinated by the government’s Department for Religious Affairs, the Kaduna State government foreclosed the formation of an overarching moral police such as the Hisbah. Indeed, Governor Makarfi made clear, in the proposal he announced in 2000 for a compromise version of Sharia in the state to be implemented in 2001, that “the state government would not condone or allow any individual or organization to impose or implement any law in the state. This is the exclusive preserve of the police.”⁶⁵

Thus, as evidenced above, the role of government in the implementation of Sharia is more pronounced in Kebbi State than in Kaduna State, where Muslim civil society organizations play the preponderant role in organizing Islamic activities. Given the ethno-religious diversity of Kaduna State, which is more pronounced than that of Kebbi State, the government was careful not to give the impression that it favored one group above the other. As a result, the role of government in Sharia was tentative and reduced. For instance, unlike Kebbi State—where Sharia was formally launched by the State with fanfare—the coming into effect of Sharia in Kaduna State was done without such

⁶² HUMAN RIGHTS WATCH, *supra* note 46, at 17.

⁶³ *Id.*

⁶⁴ Interview with an Islamic cleric in Tudun Wada, Kaduna State (Aug. 25, 2008).

⁶⁵ *Nigerian Riot City Proposes Compromise on Islamic Code*, AGENCE FRANCE-PRESSE, Oct. 10, 2000, available at http://faculty.fullerton.edu/jsantucci/africa_articles.htm. Consequently, Hisbah in Kaduna State is more organized by the Islamic civil society organizations or religious sects without much government coordination as is common in Kebbi State.

celebration. Also, while in Kebbi State the government created and funded a State Department of Religious Affairs specifically for Islamic Matters (encompassing the Hisbah Committee, Preaching Board, and Zakat and Sadaqat Board) under the supervision of a Special Adviser for Religious Affairs or Sharia to the Governor, the Kaduna State government established a Bureau of Religious Affairs with separate branches for Muslim Matters and Christian Matters. Each arm of this Bureau is headed by a Permanent Secretary that coordinates its group's activities while at the same time working in collaboration with the other arm in matters of common interests or challenges such as Muslim-Christian conflict.⁶⁶ Also, the Kaduna State government declined to "creat[e] or commit[] funds to some Sharia-related institutions or programmes" that were instituted in Kebbi State, including the "intensification of religious programmes like the *Sharia Rayuwar Muslimi* (Sharia the prosperity of Muslims); the enlightenment of the general public on issues relating to the Sharia . . . ; the building of mosques," the payment of allowances to Islamic clerics, and "the expansion of Arabic and Islamic schools."⁶⁷

III. SHARIA COMPROMISE: THE KADUNA MODEL AND THE CHALLENGE OF PEACE-BUILDING IN A PLURALISTIC DEMOCRACY

In Kebbi State, Christian and Muslim civil society groups did not collaboratively design the framework for peace, but relied more on the governor's goodwill and patronage and the adaptive responses by Muslims and Christians to ease the tensions of religious coexistence. Similarly, in Kaduna State, the government played a critical role in engendering peace. One aspect of government involvement was the creation of institutions that recognized a pluralist version of Sharia law, including the Bureau of Religious Affairs (to implement religious issues for Muslims and Christians) and a bipartisan body—the Kaduna Peace Forum—with membership from both the Muslim and Christian communities. Beyond the pluralist version of Sharia law, the governor also created independent districts and chiefdoms for the non-Muslim communities in southern Kaduna and upgraded some of the chiefs representing these communities to first-class status. Through the process, the governor eased the resentment (and sometimes violent resistance) of the southern

⁶⁶ According to interviews conducted in Kaduna State, the two Bureau arms have an early warning signal of conflict areas. Joint personnel are therefore sent to these conflict zones to settle the differences or nip the conflict in the bud before it reaches a crisis stage.

⁶⁷ Okpanachi, *supra* note 59, at 40; see also PHILIP OSTIEN, SHARIA IMPLEMENTATION COMMITTEE REPORTS AND RELATED WHITE PAPERS 218 (2007), available at <http://www.sharia-in-africa.net/pages/publications/sharia-implementation-in-northern-nigeria.php>.

Kaduna communities that have persistently complained of their subjugation to emirate rule under the arrangement that previously existed.

However, the ultimate task of peace-building in Kaduna State was deflected to civil society, which has proven to be a relatively positive force in generating local capital, trust, and consensus building. A key part of this peace-building has been the collaborative effort of civil society groups such as the Interfaith Mediation Centre (“IMC”) founded by James Wuye, a pastor, and Muhammad Ashafa, an imam who once led opposing community militias and suffered personal losses during some of the violent conflicts in the state. The IMC organizes projects and workshops advocating peace, dialogue, and open communication in schools and local communities. Some of these interventions are done in collaboration with international institutes such as the United States Institute of Peace (“USIP”) or other NGOs, such as the Federation of Muslim Women Association of Nigeria (“FOMWAN”).

The high point of the activities of the IMC was when twenty-two Islamic and Christian leaders convened before a crowd of about 25,000 people in August 2002 to sign a “Peace Declaration” that would “create a platform of collaboration between religious stakeholders and government to foster greater understanding between religious adherents and the State.”⁶⁸ Through the peace declaration (now known as the Kaduna Peace Declaration (“KPD”)), the Islamic and Christian leaders pledged to “work with all sections of the community for a lasting and just peace” based on the injunctions of their religion; sought to “create an atmosphere where present and future generations will co-exist with mutual respect and trust in one another”; condemned “all forms of violence” as well as “incitement and demonization”; and sought to “aid spiritual regeneration, economic development and inward investment.”⁶⁹ The religious leaders also announced the establishment of a joint committee (known as the Kaduna Peace Committee (“KPC”)) “to implement the recommendations of their declarations and encourage dialogue between the two faiths.” Modeled on the Alexandria Declaration of January 2002, reputed to be “the first time[] representatives of all the faith traditions in Israel and Palestine signed a declaration calling for a religiously sanctioned cease-fire and an end to both violence and demonization of the ‘other,’”⁷⁰ the KPD was

⁶⁸ See Muhammad Ashafa & James Wuye, *Warriors and Brothers*, in PEACEMAKERS IN ACTION: PROFILES OF RELIGION IN CONFLICT RESOLUTION 247, 272 (David Little ed., 2007).

⁶⁹ *Id.*

⁷⁰ Andrew White, *Bringing Religious Leaders Together in Israel/Palestine*, in RELIGIOUS CONTRIBUTIONS TO PEACEMAKING: WHEN RELIGION BRINGS PEACE, NOT WAR 9, 10 (2006).

also signed by Stephen Shekari, the deputy governor, on behalf of Governor Mohammed Makarfi.⁷¹ To demonstrate publicly their agreement to renounce violence, these leaders unveiled a centrally located plaque displaying their agreement for all community members to read and celebrate.⁷²

The KPC has not only mediated among the interreligious groups, but has also collaborated with the state government to foster peace. A specific example was during the riots that broke out during the Miss World pageant in 2002 over a southern newspaper columnist's insinuation that the opposition of conservative Muslims to the hosting of the event in Nigeria during the Muslim holy month of Ramadan was misplaced as Prophet Mohammed himself in all honesty, "would probably have chosen a wife from among [the contestants]."⁷³ While violence did break out in Kaduna leading to the death of about 250 people,⁷⁴ it has been argued that the violence would have been worse had the KPC not intervened to calm people and coordinate security movements.⁷⁵ Another example was the swift reaction by the KPC to mobilize Christian leaders to denounce the provocative Danish cartoons of the Prophet Mohammed in 2005, a move that may have helped Kaduna State avoid the violence and loss of life that occurred in some states where Muslims protested against the cartoons. Also, given its success in Kaduna State, IMC has been replicating the Kaduna Peace Model in some parts of the country where there has been violent communal conflicts, such as Plateau and Bauchi States, and bringing warring communities in these areas together to converse and create pragmatic solutions to their conflicts.

The democratic opening since 1999 has allowed the many divisions between Nigerian Muslims and Christians, such as the debate over Sharia, to be discussed locally. This decentralization of conflict has provided more opportunities to defuse incipient conflicts locally before they escalate into national crises, as poignantly demonstrated especially by the Kaduna example where the ingenious solutions by the government and civil society played important roles in managing these local conflicts relatively well. At the same time, however, the contestations associated with democracy have challenged

⁷¹ Interview with James Wuye, Pastor, in Kaduna State (Oct. 12, 2009).

⁷² Ashafa & Wuye, *supra* note 68, at 272.

⁷³ HUMAN RIGHTS WATCH, *supra* note 46, at 7.

⁷⁴ *Id.* at 7–9.

⁷⁵ See Judith Asuni, Security and Conflict Transformation in the Niger Delta (Apr. 2, 2009) (unpublished manuscript), available at <http://www.sais-jhu.edu/academics/regional-studies/africa/pdf/Asuni-Security-and-Conflict-Transformation.pdf>.

the local peace initiatives, drawn religion into politics, and widened the Muslim-Christian rift. This was the case with the April 2011 presidential elections, which played out with disastrous consequences for Kaduna State (and some other states in the north), polarizing the civil societies and weakening their ability to stand above partisanship and to abide by their commitment to peaceful intergroup harmony. This recent violence demonstrates that conflicts in Kaduna State are underpinned by political and socio-economic, not just religious, factors, such as Sharia, and the intermingling of these complex issues can make the role of civil society in peace-building difficult.

The recent escalation of violence in Kaduna State that was part of the April 2011 post-election rioting that swept eleven northern states⁷⁶ is partly a reflection, but also a consequence, of the power realignment that took place at the federal level with the death of President Umaru Yar'Adua (a Muslim from the north) on May 5, 2010, and the ascension to the presidency of Vice President Goodluck Jonathan (a Christian from the minority ethnic group in the oil producing Niger delta region).⁷⁷ With his ascension to the presidency, Goodluck Jonathan picked Namadi Sambo, a Muslim and Governor of Kaduna State, to serve as the country's vice president. This cleared the stage for Patrick Yakowa, the deputy governor, to step in as the Governor of Kaduna State. While the Christians, who have strenuously complained of a Muslim scheme to keep Christians from the governorship of the state since its creation in 1976, welcomed this "miraculous" turn of events that elevated Yakowa to governor, and hence the first Christian to occupy the position, some Muslims were not comfortable with the development. This group of Muslims hoped to revert to the status quo by voting in the Muslim gubernatorial candidate of the Congress for Progressive Change ("CPC") instead of Yakowa, the gubernatorial candidate of the Peoples Democratic Party ("PDP") in the April 2011 gubernatorial election. Given this realignment, the PDP was wrongly seen by many as a Christian party (despite the fact the party controls all the governorship positions in the north) while the CPC was perceived as a Muslim party.

⁷⁶ There was rioting in eleven out of the twelve states that implemented Sharia. Riots did not take place in Kebbi State, the comparative case in this Essay.

⁷⁷ See Adam Nossiter, *An Accidental Leader Stirs Hopes in Nigeria*, N.Y. TIMES, Feb. 19, 2010, at A1 (discussing the circumstances surrounding Jonathan's accession to the presidency).

Thus, prior to the elections, there were allegations and counter-allegations of “intimidation and campaign of calumny”⁷⁸ by politicians, especially from the PDP and CPC. Also, religious leaders were alleged to have instructed their followers to vote for particular persons and parties.⁷⁹ The governor himself drew religion into the conflict when he visited Christian religious leaders to solicit their votes and prayers for his elections,⁸⁰ a move some Muslims interpreted to mean that the state governor recognized only Christians in the state. This action of the governor was countered by a text message sent to Muslims, allegedly sponsored by a group that calls itself the Nigerian Muslim League (“NML”), which accused Governor Yakowa of implementing a Christian agenda and calling on Muslims to vote the governor out of office. In the text message, the NML argued that “[i]nstead of soliciting for our support, Yakowa people have distributed countless leaflets, sending [short message service (“SMS”)] to their members, abusing our religion and exposing his agenda against us and our religion if elected.”⁸¹ The group then urged Muslims to reject Yakowa at the polls:

Muslims are not divided. Christians have unit (sic) us more. What (sic) our majority votes, we can change the conspiracy of only 700,000 southern Kaduna votes. We urge Muslims to be peaceful. We will not split our votes. Muslims should mind such SMS and vote wisely in both elections. Vote Yakowa out.⁸²

Before the gubernatorial elections scheduled for April 26, 2011, the presidential elections were held on April 16, 2011. On April 18, 2011, as results of the presidential elections started indicating victory for the PDP’s candidate—Goodluck Jonathan—over his major challenger—CPC’s General Mohammed Buhari—there were violent demonstrations by supporters of the CPC over what they perceived as the fraud that characterized the elections. During the protests, the CPC supporters burned PDP campaign offices as well as the homes and businesses of local PDP leaders and traditional rulers (most of whom were of the same Islamic faith as the protestors) who were accused of colluding to commit electoral fraud. The protests, however, took an ethnic and

⁷⁸ Segun Olatunju, *Polls: PDP, Opposition at Loggerheads over Violence in Kaduna*, PUNCH (Nigeria), Mar. 26, 2011, <http://www.punchng.com/Articl.aspx?theartic=Art20110326126531>.

⁷⁹ See *Nigeria Imam and Pastor in Kaduna Urge Unity*, BBC NEWS (Apr. 19, 2011), <http://www.bbc.co.uk/news/world-africa-13129572>.

⁸⁰ See Isaiah Benjamin, *Nigeria: Yakowa Takes Campaign to Churches*, LEADERSHIP (Abuja), Apr. 14, 2011, <http://allafrica.com/stories/201104140505.html>.

⁸¹ Segun Olatunji, *Anxiety in Kaduna over Inciting SMS*, PUNCH (Nigeria), Apr. 14, 2011, <http://www.punchng.com/Articl.aspx?theartic=Art201104142102750>.

⁸² *Id.*

religious turn, attacking Christians and burning churches. This led to reprisal attacks on Muslims and mosques in the Christian-dominated areas of southern Kaduna. By the time violence was suppressed by the military and a twenty-four-hour curfew imposed on the state by the government, more than 680 people were reportedly killed (out of a total of 800 victims of the post-election violence in the eleven northern states),⁸³ several injured, and no fewer than 26,000 displaced persons⁸⁴ were settled across 100 centers in the state.⁸⁵ The situation has led to fears of further separation of the state along ethno-religious lines, with Muslims and Christians moving to places where they predominate, as happened during the Sharia crisis. It has also led to a blame game and a bitter war of words between Christian and Muslim groups, which has further polarized the state (and the country) along ethnic and religious lines. For example, the SCSN and the Kaduna Council of Ulama have described the situation as the implementation of “planned genocide” against Muslims, facilitated and worsened by the governor’s neglect and delay extending the curfew declared in Kaduna metropolis and sending security agents to the warring areas in southern Kaduna where Muslims were killed and “in some places not even a single soul or child was spared.”⁸⁶ For their part, CAN in northern states and the Southern Kaduna Peoples Union (“SOKAPU”) described the violence as premeditated and planned attacks⁸⁷ by the Hausa-Fulani Muslims of Kaduna State who think it is their birthright to rule the non-Muslim population of southern Kaduna.⁸⁸

The post-election violence therefore shattered the relative peace that Kaduna had hitherto enjoyed since the Miss World riots in 2002. Yet, given the degree of mutual antagonism between the Christian ethnic groups of southern

⁸³ See *Nigeria: Post-Election Violence Killed 800*, HUM. RTS. WATCH (May 16, 2011), <http://www.hrw.org/en/news/2011/05/16/nigeria-post-election-violence-killed-800>.

⁸⁴ According to relief agencies, 65,000 people have been displaced in the post-election violence in the affected states in the north. Ikechukwu Amaechi, *In Defence of Muhammadu Buhari (1)*, IYKE (May 24, 2011), <http://ikechukwu.wordpress.com/2011/07/16/in-defence-of-muhammadu-buhari-1>.

⁸⁵ See Scott Stearns, *Nigerian Human Rights Group: At Least 500 Killed in Post-Election Violence*, VOICE AM. (Apr. 24, 2011), <http://www.voanews.com/english/news/africa/Nigerian-Human-Rights-Group-At-Least-500-Killed-in-Post-Election-Violence-120579459.html>.

⁸⁶ See Segun Olatunji, *Muslim Leaders Blame Yakowa for Violence*, PUNCH (Nigeria), Apr. 27, 2011, <http://www.punchng.com/Articl.aspx?theartic=Art201104276563578>.

⁸⁷ See Blessing Olaifa, *CAN Wants Post-election Violence Perpetrators Punished*, BUSINESS DAY (May 3, 2011), <http://www.businessdayonline.com/NG/index.php/news/111-politics/20821-can-wants-post-election-violence-perpetrators-punished>.

⁸⁸ See Tonye Akowe, *Southern Kaduna Residents Advocate National Conference, Military Base*, NATION (Lagos State) (May 19, 2011), <http://www.thenationonlineng.net/2011/index.php/news-update/6727-southern-kaduna-residents-advocate-national-conference-military-base.html>.

Kaduna and the major supporters of the governor's election and Hausa-Fulani Muslims and main supporters of the CPC candidate that existed before the election, it was not surprising that the violence occurred when it did. But the explanation for the violence, just like the Sharia violence of 2000 in the state, can be found not just in the issue of religious and ethnic identity, but also the patterns of exclusion and inclusion associated with these identities, the manipulation of these identities by politicians and civil society organizations in political contestations, the failure by government to manage more effectively the contests for political power, and the high returns on political power that has transformed electoral and political competition into "low Intensity Armed Struggle."⁸⁹ The escalation of violence is also explained by state irresponsibility, reflected in the inability of the security apparatus in Nigeria to guarantee law and order in society, the high number of unemployed and frustrated youths, and the high poverty level in the country that, as the Secretary General of Nigeria's Catholic Secretariat put it, "has assumed the moral character of war."⁹⁰ These challenges have made civil society's peace-building task daunting in Kaduna State and elsewhere in the country.

CONCLUSION

This Essay demonstrates that, on its own, the Sharia issue has potential for provoking bitter intergroup relations and conflict, as it did in Kaduna and Kebbi States; however, the key to better understanding the controversy, its transformation to violence, and its impact on peace mediation efforts is found in the interaction of the Sharia issue with the historical dynamics; ethno-religious configuration and its impact on identity mobilization; the character and role of political and religious leaders; nature of governance; complexion of civil society; degree of religious politicization; and different states' local politics regarding access to the state and its resources. These issues account for why, despite some similarities, there are also remarkable differences in the processes and outcomes of Sharia law in Kaduna and Kebbi States. Thus, while in Kebbi State, which is predominantly Muslim, Sharia implementation and non-Muslims' protests against it passed largely peacefully, the story was different in Kaduna State, a state with an almost balanced demography

⁸⁹ ENVTL. RIGHTS ACTION, ELECTION MONITORING REPORT ON THE ONGOING NIGERIA FEDERAL AND STATE GENERAL ELECTIONS, APRIL/MAY 2003 (2003), available at http://www.nigerdeltacongress.com/earticles/election_as_a_low_intensity_ame.htm.

⁹⁰ HUMAN RIGHTS WATCH, "THEY DO NOT OWN THIS PLACE": GOVERNMENT DISCRIMINATION AGAINST "NON-INDIGENES" IN NIGERIA 2 (2006).

between Christians and Muslims. Here, the remarkable efforts by the state's political leadership as well as civil society to peacefully mediate and manage interreligious and inter-ethnic conflict over the Sharia have been hobbled at times as a result of the state's complex web of politically salient identities and history of chronic and seemingly intractable conflicts and instability, which has earned for it the designation of the "Lebanon" or "East Timor" of Nigeria.⁹¹

Furthermore, partly due to its history as a relatively advanced, urban conglomeration accommodating various groups and institutions, when compared to other states in the north, and partly as a result of its recent history as a state known for violent ethno-religious antagonism, Kaduna State has a diversified (pluralized) civil society that has been the site for construction of normative consensus for peace-building. At the same time, however, these same dynamics have led to a highly radicalized and politicized civil society that engages political contestations with exclusivity that has inflamed the fissures of the state's plural society and unraveled the success of the peace mediation efforts. These factors could also account for why Kaduna State, which implemented a partial version of Sharia, was engulfed in violent conflict in light of the 2011 elections, while Kebbi State, which applied a more stringent version of Sharia, did not.

⁹¹ Suberu, *supra* note 17, at 337 (citing Ezra Yakusak, *Southern Kaduna: Nigeria's East Timor*, GUARDIAN (London), Oct. 20, 1999, at 53).